



HUMANE VOTERS | OREGON

Testimony of Humane Voters Oregon on Senate Bill 583 Senate Committee on Energy and Environment

March 31, 2021

Chair Beyer, Vice Chair Findley and Members of the Committee:

Humane Voters Oregon is a nonprofit organization that works in Oregon's political process and elections to promote humane treatment of animals. We are not affiliated with any other state or national organization.

Humane Voters Oregon supports Senate Bill 583.

SB 583 would put a moratorium on industrial-scale dairies (2,500 cows or more) “until the impacts of these facilities, including impacts to air quality, climate, water quality, water supplies, small- and medium-sized dairies, community and worker health and animal welfare, have been adequately studied and addressed through laws and rules.”

Humane Voters Oregon supports SB 583 because, in addition to the other negative consequences industrial dairies, they are bad for animal welfare. With thousands and thousands of cows (the proposed Easterday Dairy near Boardman would have about 30,000 cows), industrial dairies are more likely to treat cows like machines instead of conscious living things. That means less space, no access to pasture, and more intense production demands, leading to a shorter “productive” life and a quicker trip to the slaughterhouse.

The previous industrial dairy on the proposed Easterday site, Lost Valley Farm, raised numerous animal welfare concerns. For example:

- In July 2016, the Morrow County Court told the Oregon Department of Agriculture: “The Morrow County Sheriff has raised concerns that the Morrow County Court shares, concerning the potential for animal mistreatment * * *”
- In May 2017, inspectors from the Oregon Department of Agriculture (“ODA”) found cows standing in hoof-deep manure. (Attachment 1.) The East Oregonian newspaper in Pendleton called it: “[U]nhealthy, inhumane and dangerous for the aquifer and the people who depend on it. Not to mention stinky, smelly and plumb gross.” (Attachment 2.)
- In October 2017, an ODA inspector “viewed the mortality management area and observed that the trailer used for mortality storage and transport was full and leaking liquid.” (Attachment 3.)

- In April 2018, our visit to the dairy (during a creditor's auction preview) showed cows crowded into small, dirty spaces. (Attachment 4.)

Thus, for the sake of animal welfare as well as clean air, clean water, and family farms, we urge you to support a moratorium on new and expanded industrial dairies.

Thank you for considering our comments.

Brian Posewitz

Brian Posewitz

Director

















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March 23, 2018

A kick in the pants to the terrible scene at Lost Valley Dairy, shared Thursday by the Oregon Department of Agriculture.

Photos taken by their inspectors back in May show dairy cows standing hoof-deep in manure and waste – unhealthy, inhumane and dangerous for the aquifer and the people who depend on it. Not to mention stinky, smelly and plumb gross. We published the photos online Thursday morning.

Source: Our view: Tips and kicks – Editorials – East Oregonian

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BEFORE THE OREGON DEPARTMENT OF AGRICULTURE

In the Matter of Greg teVelde,)
dba Lost Valley Farm)
Registrant to OREGON CAFO NPDES)
Individual Permit No. OR995129,)
Master Address No. 1000184.)
NOTICE OF NONCOMPLIANCE
AND PLAN OF CORRECTION
#1727781
Sent via certified and regular mail.

I. BACKGROUND

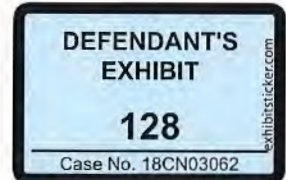
Pursuant to its authority, the Oregon Department of Agriculture ("ODA" or "department") has adopted General Permit No.1 for Confined Animal Feeding Operations ("CAFOs"). Oregon Revised Statute (ORS) 468B.035. ORS 468B.217. Oregon Administrative Rule (OAR) 603-074-0014. Any person owning or operating a CAFO must seek coverage under the Oregon CAFO National Pollutant Discharge Elimination System (NPDES) General Permit No. 01-2016, an Individual NPDES CAFO Permit or, the Oregon CAFO Water Pollution Control Facilities (WPCF) General Permit No. 01-2015 and must comply with the permits terms, ORS 468B.050. OAR 603-074-0014. ODA, as the administering agency, is charged with enforcing the terms of permitted operations so as to protect the public against animal wastes discharged into the waters of the state. ORS 468B.217. No person shall violate the conditions of any waste discharge permit issued under ORS 468B.050. ORS 468B.025. A Notice of Noncompliance (NON) informs the owner or operator of a violation, including a reference to a particular statute, administrative rule, or order involved, the location of the violation and the consequences of the violation or future violations. OAR 603-074-0040(1)(a).

The department herein finds that Greg teVelde ("registrant" or "permit registrant"), dba Lost Valley Farm, is in violation of the Oregon CAFO NPDES Individual Permit No. OR995129 for failing to operate and maintain waste storage facilities consistent with the operation's Animal Waste Management Plan (AWMP). Permit registrant is in violation of the permit's special conditions S2.E.1 Waste Storage Facilities, S2.E.2 Waste Storage Facilities, S2.G Handling of Animal Mortalities, S2.H Proper Operation and Maintenance, S4.B Facility Inspection Requirements, and S4.D Reporting Requirements.

II. NOTICE OF NONCOMPLIANCE ("NON")

A. Findings of Fact

- 1. Greg teVelde operates a Large Concentrated CAFO at 73956 Homestead Lane, Boardman, Oregon, in Morrow County, under the Oregon CAFO NPDES Individual Permit No. OR995129, administered by ODA (CAFO Permit No. 01-2015) registration of Greg teVelde, dba Lost Valley Farm, is under Master Address No. 1000184.
2. The CAFO Permit No. OR995129 contains the following special conditions:
S2.E.1, Waste Storage Facilities, which reads in part:
All manure, process wastewater and contaminated stormwater must be stored on impermeable prepared surfaces.
S2.E.2, Waste Storage Facilities, which reads in part:
The permittee must site, design, construct, operate, and maintain all waste facilities to contain all manure, process wastewater, and stormwater runoff and direct precipitation from a 25 year, 24-hour rainfall event for the storage period established in the ODA-approved AWMP.



S2.G, Handling of Animal Mortalities, which reads in part:

The permit registrant must handle animal mortalities in such a way as to prevent discharge of pollutants to waters of the state (surface water and groundwater).

S2.H, Proper Operation and Maintenance, which reads in part:

The permit registrant must at all times properly operate and maintain all facilities and systems used for process wastewater collection, storage and utilization, and correct any deficiencies found as soon as possible

S4.B.1 (a), Inspection Requirements, which reads in part:

1. The permit registrant must conduct the following inspections:
 - (a) Stormwater diversion devices, runoff diversion devices, Manure and wastewater conveyances, waste storage structures, treatment systems, and liquid impoundments for manure and wastewater.

S4.D.3 Reporting Requirements, which reads in part:

3. The permit registrant must notify ODA within 24 hours of any permit noncompliance that may endanger public health or the environment

3. On **October 31, 2017**, an ODA representative conducted a routine CAFO inspection at the Lost Valley Farm with Travis Love. **The representative viewed the mortality management area and observed that the trailer used for mortality storage and transport was full and leaking liquid** onto an unprepared surface (photo # 1). The representative then viewed ponded water in a swale adjacent to the silage storage pad not approved for wastewater storage. Silage had caused a blockage on the silage pad causing water to runoff into the swale during a rain event. This had occurred approximately ten days prior to the inspection, and ODA was not notified of the system failure and unauthorized discharge as required by the permit (photo #2). The representative also viewed the manure solids composting area and observed ponded water in the area caused from a rain event. The orientation of the composting rows was not allowing storm water to drain into the approved collection point (photo #3). The representative deferred the outcome of the inspection with a FIRP (#1727616) and consulted with the program manager prior to final determination. On November 1, 2017, a second ODA representative was onsite conducting groundwater monitoring observations and observed overflow of lagoon number one into a ditch where a manure transfer line was being installed on the center lagoon berm. Elevated wastewater levels combined with wind action was causing wastewater to overflow into the ditch which was an unprepared surface. The permittee did not notify ODA of the violation (photo #4). This was reported to the CAFO inspector and CAFO manager, and incorporated into the NON-POC

B. Ultimate Findings of Fact

1. Permit Registrant, Greg teVelde, is operating a Large Concentrated CAFO, Lost Valley Farm registered to the Oregon NPDES Individual Permit No. OR995129 under Master Address No. 1000184.
2. On **October 31, 2017**, the permit registrant failed to comply with the approved AWMP when handling of animal mortalities to ensure that there was no discharge from the animal mortality storage facility. The storage and transport equipment was full and leaking liquid onto an un-prepared surface.
3. On **October 31, 2017**, the permit registrant failed to properly operate and maintain waste collection and transfer structures at the silage pad and associated collection vaults and transfer pipes at the North end of the silage pad. Leachate from stored silage and feed materials and contaminated stormwater had collected in a swale adjacent to the silage pad that was not approved for liquid waste storage. This area was not routinely inspected by the permittee. ODA was not notified of the permit noncompliance as required.

Photo #1: Mortality trailer filled and leaking liquid waste onto the ground surface.



Photo #2: Ponding on swale between silage pad and lagoons.











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COUNTY COURT

July 27, 2016

William Matthews
Oregon Department of Agriculture
Confined Animal Feeding Operation Program
635 Capitol Street NE
Salem, Oregon 97301-2532

TERRY K. TALLMAN, Judge
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Boardman, Oregon

Dear Mr. Matthews,

The Morrow County Court appreciates the opportunity to comment on the Confined Animal Feeding Operation (CAFO) permit that is under consideration by the Oregon Department of Agriculture (ODA) for the Lost Valley Ranch in Morrow County, Oregon. Many of the concerns expressed last year by Planning Director Carla McLane in her August 18, 2015 letter attached to the Land Use Compatibility Statement continue to trouble the County Court. Those concerns are repeated here, as well as, other items that we would ask the ODA to require and monitor at this location and in the affected area.

Compliance with all Applicable Local Land Use Requirements: As stated before, if the only activity being evaluated is the use (a dairy) within the Exclusive Use Zone (EFU) then yes, the proposal is in compliance. Necessary land use approvals have been obtained. The ongoing concern is the applicant's apparent disregard for the CAFO permit process as construction has been initiated and substantial progress has been made, prior to issuance of the CAFO permit. The County Court is concerned that this development is being done outside of ODA and other state agency requirements. Does that mean the applicant and operator will continue to disregard the requirements?

Development of a Dairy in the Lower Umatilla Basin Groundwater Management Area: The use (dairy) is proposed in the Lower Umatilla Basin Groundwater Management Area, or LUB GWMA, an area designated for high levels of nitrogen in the groundwater. The original designation happened in the mid-1990s and a local Citizen's Advisory Committee has been working on implementing the first Action Plan and is currently drafting the second Action Plan. The location of the dairy structures, including the holding pens and milking barn, are within the LUB GWMA and with the addition of 30,000 cows has the ability to significantly contribute to the nitrogen loading of the LUB GWMA.

The fact that there are already two dairies and a beef CAFO within a three or four mile radius, with some significantly closer, only increases the concerns about the development of another, much larger dairy within the LUB GWMA.

Development of a Dairy in the Ordinance Basalt, Ordinance Gravel and Buttercreek Critical Groundwater Area: The entire area of the proposed dairy is within one or more Critical Groundwater Areas (CGWAs), designations by the Oregon Water Resources Department for areas with declining groundwater. Many of these designations are decades old and have impacted not only junior water right holders, but also senior water right holders, limiting, and in some cases, completely restricting use of groundwater for agricultural purposes. Umatilla County, the now disbanded Umatilla Basin Water Commission, and others have worked diligently to find new water sources and to replenish depleted and reduced groundwater aquifers. There is

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significant concern that this activity, including the exempt stock water provision, will do further harm to groundwater, negatively impacting other farming and ranching activities using this limited water supply.

The County Court would like assurances that not only senior, but also junior, water right holders will not be harmed by this operation, including the exempt stock water provisions. Inherent in this concern, is impact to adjoining and nearby farming operations, their water supply and the ability to maintain farming in Morrow County. Agricultural production is the life blood of Morrow County and it cannot be harmed. The County Court respectfully asks that the ODA, through issuance of this permit, not harm water reserves, increase groundwater contamination, or negatively impact agricultural production by issuing this permit.

Impact to Adjacent Canal Operations: On occasion, holding ponds and lagoons have been known to fail and cause harm to adjacent land uses and impact water quality. The Columbia Improvement District canal is immediately to the north of the dairy facility and could be negatively impacted should the holding ponds and lagoons fail. The County Court would like assurances that the holding ponds and lagoons are built to an adequate standard, that failure would not be likely, that a maintenance and replacement program be required to assure stability of the installation now and into the future, and a bond or other mechanism be required that would protect other Columbia Improvement District members should a failure occur that impacts the canal.

Fugitive Dust and Other Construction and Operation Impacts: Morrow County has concerns that fugitive dust could impact adjacent farming operations and would like to see conditions and requirements in any permits issued that would regulate those impacts. Adjacent farming operations should not be limited in their crops or growing cycle based upon a dairy operation.

Animal Treatment and Mistreatment: The Morrow County Sheriff has raised concerns that the Morrow County Court shares, concerning the potential for animal mistreatment and has requested assurance that access to the property to investigate claims of neglect or mistreatment is available. The County Court would like to request that any permit issued be conditioned to allow and facilitate local government access to the operation to investigate any claims of concern and to assure that operations and facilities meet local requirements now and into the future.

Conclusions and Recommendations: Morrow County thanks ODA for holding a public hearing so that these concerns and others can be fully discussed and disclosed prior to the issuance of any permits. The County Court also thanks ODA, based on the proposed location of this facility within both the LUB GWMA and several CGWAs, for requiring an Individual Permit in lieu of participation in the General Permit.

Thank you for accepting this comment as part of the Oregon Department of Agriculture CAFO permitting process.

Cordially,


Terry K. Tallman
Judge


Leann Rea
Commissioner


Don Russell
Commissioner

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