



PROTECTING NATURAL FLOWS IN OREGON RIVERS

Testimony of WaterWatch of Oregon on Lost Valley Farm

By Brian Posewitz, Staff Attorney

SENATE COMMITTEE ON ENVIRONMENT AND
NATURAL RESOURCES (May 21, 2018)

WaterWatch

- Founded in 1985
- Protect and restore stream flows
- Advocate for sound, sustainable groundwater policies (often connected to surface water)
- Participate in coalitions that advance our goals with others

Lost Valley Farm

- Joined coalition of groups concerned about impacts of Lost Valley Farm (November 2016)
 - Conservation, animal welfare, family farms
- Potential water impacts:
 - Irrigation of crops to feed cows and absorb waste (seasonal)
 - Drinking water for 30,000 cows (year-round; approx. 1MGD)
 - Industrial operations (washing barns, operating machines, etc.) (year-round)
- Critical groundwater area

Water Resources also concerned



Oregon

Kate Brown, Governor

February 5, 2016

Greg te Velde
5850 Avenue 160
Tipton, CA 93272

Water Resources Department
North Central Region
116 S.E. Dorion Avenue
Pendleton, OR 97801
Phone (541) 278-5456
Fax (541) 278-0287
www.wrd.state.or.us

Any new appropriation from the basalts, such as stock water for 30,000 head of dairy cattle, will represent a significant new use within the CGWA that will likely injure senior users.

* * * * *

This amount of additional use is not sustainable which could cause us to look at re-opening the Ordnance basalt CGWA order and consider regulation of the most junior uses, including exempt uses.

Water plan for Lost Valley

- Irrigation: Columbia River surface water rights that came with the land (delivered via irrigation district canals)
- Stockwatering/dairy operations:
 - Trade portion of surface water rights for groundwater rights of nearby dairy (Sage Hollow Ranch)
 - Move wells about a mile and change use from seasonal irrigation to year-round dairy
 - Requires approval from OWRD of a “transfer”
- Says won't use stockwatering exemption

Transfer not a sure thing



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the Department will have to do an analysis of the transfer to determine if the proposed change can be done without injury or enlargement. Additionally, transfer applications are subject to protest by the public. So, there is a lot of uncertainty on whether a transfer can be approved until the transfer goes through the entire review process required by law and rule.

Cc: Greg Silbernagel – Watermaster District 5, via e-mail
Scott Fairley – Governor’s office, via e-mail
William Mathews, ODA, via e-mail
Eric Nigg, DEQ, via e-mail
Carla McLane, Morrow County, via e-mail
Ivan Gall – Field Services Division, via e-mail
Wayne Downey, IRZ Consulting, via e-mail

ODA/DEQ approve CAFO permit 3/31/17 (before water right transfer approved); Lost Valley Farm begins operations



Proposed transfer contested

- Coalition files protest 3/30/17 (day before CAFO permit approved)
 - Impacts to critical groundwater area
- Neighboring dairy (Meenderink) files protest 4/7/17
 - Injury to its own wells
- Protests still pending (transfers not approved)

“Limited License” strategy fails

- Lost Valley seeks two “limited licenses” – permits for short-term use up to five years – for operations and stockwatering
- Issues:
 - Impacts to CGWAs
 - Whether use is “short-term”
 - Whether use is in “the public interest”
- One license issued but then withdrawn; application for second withdrawn

Water supply issues lead to other problems



From: Kevin P Coughlin <kcoughlin@oda.state.or.us>
Subject: Re: Dairy
Date: June 5, 2017 at 8:02:42 AM PDT
To: Frank A Barcellos <fbarcellos@oda.state.or.us>
Cc: Wym Matthews <wmatthew@mail.oda.state.or.us>

Thank you, this slight backup of sludge is an issue that they are fighting due to a lack of water for flushing.

Lost Valley resorts to “stockwatering” exemption

- We were told:
 - Buying water from Port of Morrow
 - Then (January 2018) using groundwater without a permit for stockwatering and claiming exemption
 - In a critical groundwater area where no new permits allowed
- OWRD has taken no action to reopen GGWA order to regulate exempt use

Dairy and owner have other problems

- Repeated non-compliance with water quality/CAFO permit
- Owner arrested for soliciting prostitution and drug possession
- ODA sued to enforce CAFO permit and seeks injunction to stop operations, then settles
- Numerous contractors and suppliers sued for non-payment of bills
- Dairy owner filed for Chapter 11 bankruptcy protection (4/26/18)

Water quantity questions raised by LVF

- Should CAFO permits be issued before water supply is certain?
- Should “stockwatering” exemption have a volume limit?
 - Exempt uses seen as de minimis
 - Water use by large, industrial CAFOs is not de minimis and should require the review and conditioning of a permit system
 - Possible threshold: same as “[a]ny single industrial or commercial purpose” - 5,000 gallons a day. ORS 537.545(1)(f)

Attachments

- 2/5/16 Letter from Oregon Water Resources to dairy owner Greg te Velde
- 6/5/17 Photos of cows at Lost Valley Farm and emails re same
- 3/22/18 Salem Statesman Journal article re water use at Lost Valley Farm
- 3/24/18 Salem Statesman Journal article re stockwatering exemption



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February 5, 2016

Greg te Velde
5850 Avenue 160
Tipton, CA 93272

Re: Groundwater development for dairy operation and stockwater

Dear Mr. te Velde:

I'd like to provide some background information about the local groundwater resource in the area around your new proposed dairy located in Section 16 of T3N/R26E, Morrow County, Oregon. The subject site is located within the Ordinance Basalt Critical Groundwater Area (Ordinance Basalt CGWA), and less than one mile from the Ordinance Gravel Critical Groundwater Area. These groundwater management areas were established by Special Order Vol. 27, pp 40-86 in 1976, because significant groundwater level declines indicated annual consumptive use exceeded natural recharge of the groundwater systems. The order specifies control provisions that prohibited new permitted uses in the Ordinance Basalt CGWA and curtailed existing permitted uses in the Ordinance Gravel CGWA to protect senior groundwater users.

Your current water right transfer T-12248, currently in process with the Department, proposes to change places of use, types of use and points of appropriation (well locations) authorized by Certificates 49726, 55317, 49727, 55316. These rights currently authorize irrigation use from two basalt wells, MORR 595/590 and MORR 591, both located in the Ordinance Basalt CGWA. Please note that drilling new wells before the transfer is reviewed and approved carries a big risk. It is likely well construction conditions will be specified by a Department hydrogeologist to ensure the proposed wells will access the same aquifer as the existing wells, MORR 595/590 and MORR 591. Also, the Department will have to do an analysis of the transfer to determine if the proposed change can be done without injury or enlargement. Additionally, transfer applications are subject to protest by the public. So, there is a lot of uncertainty on whether a transfer can be approved until the transfer goes through the entire review process required by law and rule.

Department groundwater use data indicates that average combined use at these two wells is on the order of 1000 acre-feet per year. The four certificates noted above allow up to 1029.3 acre-feet per year of groundwater use. Total annual groundwater use within the Ordinance Basalt CGWA was approximately 3000 acre-feet in 2014. At this level of use, groundwater levels in the basalt are currently declining at a rate of about 2 feet per year. This indicates that the groundwater resource is beyond its capacity, is sensitive to overdraft, and that a sustainable new use is not available without injury to senior groundwater users. The most viable water supply option for the dairy project is a combination of surface water and basalt groundwater resulting from the proposed transfer of existing water rights.



Any new appropriation from the basalts, such as stock water for 30,000 head of dairy cattle, will represent a significant new use within the CGWA that will likely injure senior users. A rough estimate of dairy cattle drinking water use, assuming 20-50 gallons per head per day, is 672 to 1680 acre-feet per year. This represents approximately 22% to 56% increase in pumpage from the Ordnance Basalt CGWA, a resource that is already declining at the current level of use. This amount of additional use is not sustainable which could cause us to look at re-opening the Ordnance basalt CGWA order and consider regulation of the most junior uses, including exempt uses.

I am happy to participate in a meeting with you and your consulting team to discuss this matter further, and look for possible solutions. But I felt it prudent to share this information with you given the scale of your proposed project. Please call me at 541.278.5456 or email me at michael.f.ladd@wrд.state.or.us if you have any questions or would like to arrange a meeting.

Sincerely,



Mike Ladd, Region Manager

Cc: Greg Silbernagel – Watermaster District 5, via e-mail
Scott Fairley – Governor’s office, via e-mail
William Mathews, ODA, via e-mail
Eric Nigg, DEQ, via e-mail
Carla McLane, Morrow County, via e-mail
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Cc: Wym Matthews <wmatthew@mail.oda.state.or.us>

Thank you, this slight backup of sludge is an issue that they are fighting due to a lack of water for flushing. This is the low point on either side of slope of the barns, and they will have to continue to scrape and clean until/if they get the ability to flush using water. The main issue is that they keep up on managing the solids as to not clog the pipe that flows from the barns to the sand lanes on the northern side...

-Kevin

On Jun 1, 2017, at 9:49 AM, Frank A Barcellos <fbarcellos@oda.state.or.us> wrote:

Kevin,

I thought I would forward to you the pictures our dairy inspectors took yesterday while at the Lost Valley Dairy for your information.

Frank

Frank A Barcellos, Program Manager
Food Safety Program
Food and Animal Health
Oregon Department of Agriculture
[635 Capitol St NE](#)
[Salem, Oregon 97301](#)

Salem Office 503-986-4720
w phone: 503-986-4724
c phone: 503-807-7210

e-mail: fbarcellos@oda.state.or.us

Begin forwarded message:

From: Janice E Chellis <jchellis@oda.state.or.us>
Subject: Dairy
Date: June 1, 2017 at 7:18:53 AM PDT
To: Frank A Barcellos <fbarcellos@oda.state.or.us>

















State officials let mega-dairy use loophole to tap endangered Oregon aquifer

Tracy Loew, Statesman Journal

Published 4:01 p.m. PT March 22, 2018 | Updated 5:28 p.m. PT March 22, 2018



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(Photo: MOLLY J. SMITH / Statesman Journal)

A year after it opened, Oregon's second-largest dairy has not secured rights to the nearly 1 million gallons of water per day it needs for its thousands of cows and to process milk.

Instead, Lost Valley Farm near Boardman moved ahead without the necessary permits, using a loophole in Oregon law to pull water out of an underground aquifer that's been off limits to new wells for 42 years, alarming neighboring farmers who say their water supplies are now at risk.

Documents obtained by the Statesman Journal show Gov. Kate Brown, her staff and the directors of three state agencies knew the dairy would fall back on the loophole if a proposed water trade was challenged.

But with [dairy owner Greg te Velde \(/story/tech/science/environment/2017/08/24/oregon-mega-dairy-owner-greg-te-velde-prostitute-meth-possession/597963001/\)](#) rushing to meet a deadline to receive bank financing and move his 8,000 cows — and with the promise of 150 jobs for rural Morrow County — state officials allowed the dairy to open anyway.

“The proposed dairy is in the best economic interests of the region,” the Oregon Department of Agriculture, Department of Environmental Quality, Water Resources Department and governor's office wrote in a joint memo before announcing they were giving the dairy the go-ahead on March 31, 2017, the same day te Velde's previous lease expired.

The state's approval came after a year of violations by the Tipton, California-based businessman, who is supplying milk to the Tillamook County Creamery Association.

In 2016, the dairy drilled three wells into the already-dwindling aquifer without telling the state, as required by law, and refused to register them for months after state officials found out.

When conservationists challenged a proposed water rights transfer on March 30 — the day before the [state approved the dairy \(/story/tech/science/environment/2017/03/31/proposed-oregon-mega-dairy-wins-key-permit/99851734/\)](#) — te Velde told state officials he would truck in water while pursuing other options.

But records show he brought in little water.

Instead, Water Resources officials discovered months later that te Velde actually drew most of the water from one of the wells, claiming an exemption for watering stock — just as the earlier memos among the governor's staff and state agencies had predicted.

And when ordered to install a monitoring device on the well, te Velde put in one with an unauthorized reset button, according to Water Resources officials.

Now, the state's water officials say they have no idea how much water the dairy is taking out of the aquifer, which was protected in 1976 as a “critical groundwater area” because pumping levels were declining so rapidly.

Oregon law allows exempt wells for uses such as: less than a half-acre of lawn and garden watering; industrial use of up to 5,000 gallons per day; or domestic and drinking uses of up to 15,000 gallons per day.

There is no gallon limit for stock watering.

Water Resources officials said Oregon law only requires that the water is put to a beneficial use. "Livestock watering is considered a beneficial use," spokeswoman Diana Enright told the Statesman Journal.

But Brian Posewitz, a lawyer for the water protection group [WaterWatch Oregon \(http://waterwatch.org/\)](http://waterwatch.org/), says the exemption should be allowed only for small-scale uses that don't impact water resources.

"Allowing Lost Valley Farm to use the stock watering exemption in a critical groundwater area for what is expected to be up to 30,000 cows illustrates an abuse of the exemption, a need to change it, or both," he said.

Gov. Brown's press secretary, Bryan Hockaday, refused to answer the Statesman Journal's questions about the staff memos and emails describing the state's concerns about approving the dairy before it had water rights.

Ban on assault weapons?: Oregon initiative would ban assault weapons, require some owners to surrender guns ([/story/news/politics/2018/03/21/oregon-initiative-would-ban-assault-rifles-require-owners-surrender-weapons/444530002/](https://www.statesmanjournal.com/story/news/politics/2018/03/21/oregon-initiative-would-ban-assault-rifles-require-owners-surrender-weapons/444530002/))

Fighting fires: Budget fix for fighting wildfires included in federal spending bill ([/story/news/politics/2018/03/22/budget-fix-wildfire-fighting-oregon-included-federal-bill-jeff-merkley-ron-wyden/447471002/](https://www.statesmanjournal.com/story/news/politics/2018/03/22/budget-fix-wildfire-fighting-oregon-included-federal-bill-jeff-merkley-ron-wyden/447471002/))

Snow this weekend: Spring snowstorm expected to hit Oregon mountains and foothills ([/story/news/2018/03/22/oregon-snow-snowstorm-expected-hit-oregon-mountains-and-foothills/450841002/](https://www.statesmanjournal.com/story/news/2018/03/22/oregon-snow-snowstorm-expected-hit-oregon-mountains-and-foothills/450841002/))exp

One of those memos (<https://www.documentcloud.org/documents/4417742-Aunan-Letter.html>) was drafted by the governor's natural resources adviser, Lauri Aunan, who also communicated directly with the dairy's lawyers about the timeline for approving the water rights transfer. Hockaday said Aunan's only role was to ensure state agencies coordinated with each other.

"This is not a situation where the governor can intervene on a permitting process, nor did she," Hockaday said. "It's not a matter of politics."

Yet documents obtained by the Statesman Journal show several members of Brown's staff were directly involved in discussions about ways to allow Lost Valley Farm to operate and the possible consequences if such actions were challenged by opponents.

As governor, Brown oversees all three agencies and has sole authority to hire and fire the directors.

Brown and Aunan did not respond to the Statesman Journal's requests for comment. Te Velde declined to comment.

Controversial beginnings

Lost Valley Farm has been mired in controversy since 2015, when te Velde bought about 7,000 acres of the former Boardman Tree Farm and announced [he would move \(/story/tech/science/environment/2016/07/25/second-mega-dairy-proposed-oregon/86951016/\)](https://www.statesmanjournal.com/story/tech/science/environment/2016/07/25/second-mega-dairy-proposed-oregon/86951016/) his existing, leased dairy 14 miles, expanding it from 8,000 to 30,000 cows.

In addition to being within a designated critical groundwater area, the new dairy also is in the Lower Umatilla Basin Groundwater Management Area, so-designated because there are high levels of nitrogen pollution in the groundwater. And its close to the state's largest dairy, Threemile Canyon Farms, which has 70,000 animals.

More than 4,100 individuals and a dozen state and national health and environment organizations [objected to te Velde's proposed dairy \(/story/money/business/2016/10/05/comments-pour-plan-big-eastern-oregon-dairy/91602770/\)](https://www.statesmanjournal.com/story/money/business/2016/10/05/comments-pour-plan-big-eastern-oregon-dairy/91602770/) during a public comment period on its wastewater permit, which regulates how it must manage the 187 million gallons of manure it will produce a year. The state received 15 comments in support of the dairy.

Opponents raised concerns about air and water pollution, water use and health impacts on nearby communities.

Te Velde started construction on the dairy in early 2016, more than a year before he had the wastewater permit. In response, a [dozen advocacy groups filed a formal complaint \(/story/tech/science/environment/2017/01/10/complaint-says-oregon-mega-dairy-construction-illegal/96376352/\)](https://www.statesmanjournal.com/story/tech/science/environment/2017/01/10/complaint-says-oregon-mega-dairy-construction-illegal/96376352/) with multiple state agencies arguing starting construction before getting the permit violated the law.

But the state allowed the dairy to proceed, granting te Velde two temporary permits to use groundwater for construction.

In late March 2017, as state officials prepared to grant the wastewater permit, they unsuccessfully [sought a waiver \(https://www.documentcloud.org/documents/4417747-Waiver-to-Move-Cows.html\)](https://www.documentcloud.org/documents/4417747-Waiver-to-Move-Cows.html) that would allow te Velde to move his cows in before the permit's effective date 20 days after its issuance.

"Greg te Velde would like to immediately move cows onto the facility and begin completing the lagoon construction, as early as April 1, in line with the schedule we set up with Rep. Smith," Don Butcher, DEQ's eastern region water quality permit manager, wrote Aunan and Department of Agriculture officials, referring to state Rep. Greg Smith, R-Heppner. "But it seems that may not be possible."

State agriculture officials say the cows were moved onto the new property on April 20.

Since then, the dairy has repeatedly violated its wastewater permit, allowing manure to overflow storage lagoons and seep into soil, endangering nearby municipal and private drinking water wells.

Agriculture officials said te Velde has repeatedly ignored orders to operate according to its permit. It has cited the dairy four times and fined it more than \$10,000,

Last month, the state [filed a lawsuit \(/story/tech/science/environment/2018/02/28/oregon-sues-shut-down-new-mega-dairy-citing-repeated-manure-spills/381225002/\)](#) seeking an immediate and permanent injunction prohibiting the dairy from creating any more wastewater and effectively shutting it down.

On Wednesday, [the state settled \(/story/tech/science/environment/2018/03/21/oregon-mega-dairy-accused-polluting-groundwater-wont-shut-down/446168002/\)](#) the lawsuit, allowing the dairy to remain open on a limited basis until it can prove its wastewater storage and treatment system is fully functional.

The creamery association, which makes Tillamook Cheese, last month said it would terminate its contract with Lost Valley Farm because of its problems.

Tillamook spokeswoman Tori Harms said the association has ended the contract, but is temporarily continuing to buy milk from the dairy. "We are mindful of the animal welfare and environmental risk of abruptly shutting down a dairy farm," Harms said.

Additional testing is being done to ensure the milk is safe, she said.

Lost Valley also is breaking promises it made about air quality protections, said Sen. Michael Dembrow, a Portland Democrat who heads the Senate Environment Committee.

Unlike California, Idaho and Washington, Oregon has no regulations covering air pollution from dairies. But in its application, Lost Valley vowed it would exceed industry best practices. Instead, it's barely meeting them, Dembrow said.

Maneuvering for water

[Fullscreen](#)

Lost Valley Farm's new property came with rights to Columbia River water, but that water can only be used for crop irrigation and only in the summer. The dairy needs potable water year-round for cows' drinking water and for processing milk.

Mega dairy gets state exemption to use off-limits aquifer

Since no new wells are allowed in the area, the dairy came up with a plan to trade some of its Columbia River rights for some of a neighboring dairy's groundwater rights. The neighbor would stop using his wells, and Lost Valley would drill wells on its property.

Internal communications show the governor's office and state agency heads questioned whether they should give the dairy the go-ahead by issuing the wastewater permit before water rights were secured.

"Should Oregon issue the (operating) permit if (Lost Valley) has not secured the water it needs for dairy operations?" Aunan wrote in a March 6, 2017, [briefing memo \(https://www.documentcloud.org/documents/4417745-Aunan-Briefing.html\)](https://www.documentcloud.org/documents/4417745-Aunan-Briefing.html). "If the permit is issued but the dairy does not secure the water it needs, this puts the dairy at risk and may intensify pressure to allow new groundwater withdrawals."

If the public got wind of the water transfer and filed objections before it was final, the Water Resources Department noted, the deal could get held up in the courts for as long as five years.

That's exactly what happened.

A coalition of conservation groups filed an objection the day before the state issued the wastewater permit.

Nearby Meenderinck Dairy, worried about its water supply being harmed, filed a second objection a week later.

But Lost Valley Farm had a backup plan.

It applied for two limited well licenses, meant for short-term uses such as construction, and good for five years. The state granted one license that was challenged. In September 2017 the dairy said it stopped using the water, and withdrew its application for the other license.

The dairy had a third plan.

In March 2017 te Velde told the state that until the water rights swap was approved, or he received limited licenses, he would buy water from the Port of Morrow and truck it to the dairy. He provided the state with a copy of a contract with the port, signed March 21, showing it would purchase up to 926,041 gallons per day.

That works out to about nearly 28 million gallons per month, although use would fluctuate slightly with seasons.

But purchase receipts from the port show the dairy bought a small and declining amount each month, ranging from 4.3 million gallons in May to 346,800 gallons in October.

In November 2017, the Oregon Water Resources Department learned the dairy was operating with water pumped from the protected aquifer using one of the wells it illegally drilled in 2016.

As the dairy was drilling the first well, Mike Ladd, the Water Resources Department's Eastern region manager, wrote te Velde (<https://www.documentcloud.org/documents/4419402-Deq-Well-Warning.html>) saying it was uncertain whether a water rights transfer would be approved. He also warned that even if it was, a state hydrogeologist would specify construction standards to ensure the wells were accessing the same aquifer.

"Any new appropriation from the basalts, such as stock water for 30,000 head of cattle, will represent a significant new use within the critical groundwater area that will likely injure senior users," Ladd wrote.

Ladd sent a copy of the letter to the Department of Agriculture, which passed it on to Aunan, Brown's adviser.

Water Resources officials did not penalize the dairy for failing to report the wells.

Finally, on Feb. 9, 2018, the department ordered the dairy to install a monitoring device on the exempt well or stop using the water.

On Feb. 22, officials checked on the meter and discovered it did not meet standards: It recorded gallons instead of acre-feet; it was supposed to include decimal places but did not; and it had a reset button, which is not allowed. The department signed off on a replacement meter that was to begin measuring water use this month.

Ivan Maluski, policy director for the statewide independent agriculture advocacy group Friends of Family Farmers, said it appeared the state "seemed to be bending over backward to get this operation up and running despite all the warning signs."

"The next time a big mega-dairy wants to come to Oregon," Maluski said, "we should seriously scrutinize the proposal and protect our groundwater, instead of trying to find a way to say yes at any cost."

Legislator wants answers

Rep. Smith, who represents Morrow County, said he backed the dairy because his goal is to create jobs in his district.

"I was a huge advocate of trying to advance this project," Smith said. "That was based upon the assumption they would follow the rules."

An internal document (<https://www.documentcloud.org/documents/4417746-Weekly-Update-to-Rep-Smith.html>) dated two weeks before the dairy's approval is titled, "Weekly update to Rep. Smith," and lays out the approval timeline.

But Smith said he does not remember getting weekly updates, was not involved in the approval timeline and did not weigh in on whether the dairy should open before it secured water rights.

"My role as a legislator was to get the company and the agencies together to communicate," Smith said.

Dembrow, the Senate Environment Committee chairman, said he has been working on air quality issues connected with the dairy, but was not aware of the water rights issues.

He said was not briefed on the water supply problems before the dairy was approved.

"I didn't know about the agency perhaps being complicit with an alternative route," he said.

5/19/2018

Lost Valley mega-dairy allowed by state officials to tap restricted aquifer

Dembrow plans to hold a Senate hearing on the dairy when lawmakers meet in May for their regularly scheduled Legislative Days.

Posewitz, the WaterWatch lawyer, said the state shouldn't allow the dairy to continue to draw from the aquifer.

"The Water Resources Department has a number of tools for preventing Lost Valley Farm's exploitation of the stock-watering exemption, including amendments to the critical groundwater order," he said.

Those could include ordering the dairy to stop using the well on the basis that it will unduly interfere with other wells.

"We think the department should use those tools to protect the ... aquifer for the benefit of all users," Posewitz said.

tloew@statesmanjournal.com, 503-399-6779 or follow at Twitter.com/Tracy_Loew

Previous coverage on Lost Valley: [Oregon sues to shut down new mega-dairy, citing repeated manure spills](http://www.statesmanjournal.com/story/tech/science/environment/2018/02/28/oregon-sues-shut-down-new-mega-dairy-citing-repeated-manure-spills/381225002/)
(/story/tech/science/environment/2018/02/28/oregon-sues-shut-down-new-mega-dairy-citing-repeated-manure-spills/381225002/)

More about Lost Valley Farm: [Oregon mega-dairy, accused of polluting groundwater, won't be shut down](http://www.statesmanjournal.com/story/tech/science/environment/2018/03/21/oregon-mega-dairy-accused-polluting-groundwater-wont-shut-down/446168002/)
(/story/tech/science/environment/2018/03/21/oregon-mega-dairy-accused-polluting-groundwater-wont-shut-down/446168002/)

Lost Valley owner: [Oregon mega-dairy owner charged with patronizing a prostitute, meth possession](http://www.statesmanjournal.com/story/tech/science/environment/2017/08/24/oregon-mega-dairy-owner-greg-te-velde-prostitute-meth-possession/597963001/)
(/story/tech/science/environment/2017/08/24/oregon-mega-dairy-owner-greg-te-velde-prostitute-meth-possession/597963001/)

Read or Share this story: <http://stjr.nl/2GddxkT>



State should slam shut loophole that allowed dairy to tap aquifer

Statesman Journal Editorial Board

Published 8:49 p.m. PT March 24, 2018 | Updated 8:51 p.m. PT March 24, 2018



(Photo: MOLLY J. SMITH / Statesman Journal)

Water is a finite natural resource.

So Oregon taxpayers should never have to read that state officials have no idea how much water a commercial operation is taking out of an endangered aquifer.

A [Statesman Journal investigative story](#) ([/story/tech/science/environment/2018/03/22/lost-valley-mega-dairy-oregon-used-loophole-tap-aquifer-allowed-state-officials/426738002/](#)) by reporter Tracy Loew revealed the state fell down on its job of managing precious groundwater by allowing a dairy to exploit a loophole in state regulations.

Loew's investigation shows that Lost Valley Farm near Boardman has been using a loophole in Oregon law to pull water out of an underground aquifer that has been off limits to new wells since 1976.

Oregon law allows exempt wells for limited use, and requires that the water is put to a "beneficial use." Lost Valley Farm is using the exemption comfortable in the knowledge that livestock watering is such a beneficial use.

The insolence shown by California businessman Greg te Velde, who owns the dairy, screams for Oregon to take action now, close the loophole, and ensure that it's not manipulated again.

Doing so may be of little comfort to neighboring farmers who are now fearful that their water supplies are at risk because pumping levels were in decline before te Velde tapped the aquifer.

It's time to slam this loophole shut.

Investigation: [State officials let mega-dairy use loophole to tap endangered Oregon aquifer](#) ([/story/tech/science/environment/2018/03/22/lost-valley-mega-dairy-oregon-used-loophole-tap-aquifer-allowed-state-officials/426738002/](#)).

Lost Valley owner: [Oregon mega-dairy owner charged with patronizing a prostitute, meth possession](#) ([/story/tech/science/environment/2017/08/24/oregon-mega-dairy-owner-greg-te-velde-prostitute-meth-possession/597963001/](#)).

Dairy not shut down: [Oregon mega-dairy, accused of polluting groundwater, won't be shut down](#) ([/story/tech/science/environment/2018/03/21/oregon-mega-dairy-accused-polluting-groundwater-wont-shut-down/446168002/](#)).

A little background: Lost Valley Farm, the second-largest dairy in the state, made promises it didn't keep, and has not secured rights to the nearly 1 million gallons of water per day it needs for thousands of cows to drink, and to process milk.

It's problematic, too, that many in state government, from the governor's office to state agencies such as the Oregon Department of Agriculture, the Oregon Department of Environmental Quality, and the Water Resources Department, questioned whether the water-rights transfer would go through but approved the dairy anyway.

Was it because te Velde promised to bring more than 100 jobs to the rural community? Improving the economy of a rural area is good; drying up wells and ignoring senior water users' rights is bad.

The dairy was approved despite te Velde's already proven pattern of violating state regulation. For instance, in 2016, the dairy drilled three wells into the already-dwindling aquifer without telling the state, as required by law. And he refused to register them for months after state officials found out.

Next, when conservationists challenged the proposed water-rights transfer, te Velde told state officials he would truck in water, but records show he brought in little on his own.

Rewarding someone who misleads is problematic.

Sen. Michael Dembrow, D-Portland, is chairman of the state senate's Environment and Natural Resources Committee. He said it's too soon to tell if a statutory fix is needed, or if the state agencies already have the authority to take any necessary steps to close the loophole.

But Brian Posewitz, a staff attorney for the water-protection group WaterWatch of Oregon, said, "in light of Lost Valley Farm's use of the "stockwatering" exemption for what could be up to 30,000 cows, we hope to see widespread interest in closing this loophole in Oregon's water permitting requirements. We believe the Oregon Water Resources Department, as stewards of the public water supply, should make this part of its legislative agenda for 2019."

Protecting the state's resources requires vigilance and transparency. We'd hope the state would practice both.

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