

March 20, 2019

Dear Senator Hansell:

Thank you for your request to provide additional background on the current status of Lost Valley Farm, as well as a bit of history of what has transpired there in the past year. I am the current manager of Lost Valley Farm and have been working there since late September 2018.

As you are aware, the Confined Animal Feeding Operation (CAFO) permit that was issued to Lost Valley Farm is the most stringent in Oregon. The Oregon Department of Agriculture (ODA) and Oregon Department of Environmental Quality (DEQ) jointly issued the permit, which set strict monitoring and application requirements to protect the waters of the state. Lost Valley was built in a groundwater management area that has pre-existing elevated levels of nitrate in the groundwater. Unfortunately, the former owner of Lost Valley Farm was unable to maintain compliance with the CAFO permit terms.

The former owner, Greg Te Velde, filed for chapter 11 bankruptcy in April 2018. After repeated requests from the US Trustee's office and creditors, Mr. te Velde was removed as the trustee of his Estate in September 2018 and a new Trustee was appointed. The Trustee, Randy Sugarman, hired me to act as the new General Manager on September 25, 2018. When I was hired my primary objective was to get the dairy in compliance with the CAFO permit terms. We made improvements to the manure management system, changed daily management practices, and within 45 days of taking over management of Lost Valley Farm, we were able to bring the dairy into substantial compliance with the CAFO permit and conditions of court ordered sanctions imposed against Lost Valley as a result of a court-action by ODA. We then managed the dairy in compliance with the CAFO permit and the court orders until the cattle and dairy were sold in February and March 2019. During this time, we also worked extremely hard with ODA and DEQ to prepare a clean-up and closure plan for the dairy that would provide the State with assurance that the CAFO's closure would protect water of the state.

During this time, we monitored and confirmed that former and current practices at Lost Valley Farm had not resulted in harm to waters of the state or environment. We can say this with a high level of assurance because of the extensive monitoring that is required under the LVF CAFO Permit - For example:

- 1) The CAFO Permit requires 11 ground water monitoring wells, which were installed before the dairy was operational. These wells were monitoring before the dairy began operations and have been and continue to be checked on a quarterly basis by an independent contractor. The results are reported to ODA, and samples show that there has been no effect to the ground water. Some of the wells actually show a decrease in the nitrate level, which the dairy does not take credit for, but it reinforces the fact that

activities at LVF did not reach groundwater or impact the environment. The water samples are tested for various elements the most important of which are of nitrogen, phosphorus, and E. Coli.

- 2) At each crop rotation, the CAFO Permit requires Lost Valley Farm to take soil samples of each field to depth of 5 feet. These samples were taken in the fall of 2018 and will be taken again in the Spring of 2019, and are analyzed for nutrient and pathogen content at 1"-12", 12"-24", 24"-36", 36"-48", and 48"-60" intervals. This is 2-3 feet deeper than other dairies in Oregon and Washington are required to test. The results of these samples are on file and show that no nutrients were excessively applied and that nutrients did not migrate below 12 inches. This means that nutrients were utilized by crops, as required and intended by the CAFO Permit and normal crop growing conditions when manure is applied as organic fertilizer.
- 3) The CAFO Permit also requires that soil moisture meter probes be installed in every field to a depth of 5 feet. These are and have been installed and are monitored weekly and before any nutrient or fresh water (irrigation) application. The probes further confirm that water and nutrients have been applied at appropriate rates, meaning that water and nutrients have not been applied beyond what crops are able to utilize. This ensures that groundwater is protected from nutrients that would otherwise migrate below the root zone and eventually could reach the groundwater.
- 4) Lysimeters are another type of monitoring equipment used to ensure that water is not being over applied, which could cause nutrient leaching to groundwater. Three are installed in fields where crops are being grown and irrigated. They are moved to new fields after a crop rotation to monitor for E. Coli and nitrogen content and composition levels. The results from the lysimeters support and confirm that water is being applied properly.
- 5) Lagoon levels, process water use, and cowherd size is recorded weekly and all information is available to ODA at all times on a shared drive. Weather is also recorded and provided to ODA as requested.

It is public knowledge that there were incidents of manure spilling onto compacted dirt surfaces and other non-approved manure storage and handling areas at the farm. Most of these were related to poor facility design but also the problems associated with opening a new facility and having to learn the system. These incidents were documented by the farm and by inspectors from ODA, but what may not be common knowledge is that they were also cleaned up, including removal of impacted soil where necessary, and these areas were sampled and tested after cleanup to assure thorough cleanup had occurred. The records on file with ODA and provided during court proceedings confirmed that no manure or contents of manure contaminated, impacted or reached the groundwater, surface water, or other waters of the state.

At the time that the Trustee was appointed to oversee Lost Valley Farm, ODA and DEQ had initiated a process to revoke Lost Valley's CAFO Permit. There are two types of revocation processes for CAFOs. One provides notice and an opportunity to contest the revocation. The other allows ODA and DEQ to immediately shut down a facility if there is an imminent threat of harm to the environment. The agencies did not have evidence of an imminent threat of harm at

Lost Valley Farm, however, because of ODA's concerns about the former owner's lack of ability to comply with the terms of the CAFO permit, ODA had invoked the revocation process. While the Trustee had hoped that bringing the dairy into compliance with the CAFO Permit would lead ODA to rescind that process, ODA and DEQ were not willing to do so. Therefore, we worked with the agencies to determine the best plan for an orderly cleanup and closure of Lost Valley Farm.

At present, we are cleaning up the facility and continuing to work with ODA in accordance with an Order and Mutual Agreement issued by ODA and DEQ. This Order has been filed and approved by the federal bankruptcy court and requires the Estate to clean up the dairy to the satisfaction of ODA. Under the Order all remaining liquid and solid dairy manure must be applied on the growing crops at appropriate agronomic rates or exported from the dairy, and the waste management system must be cleaned to pre-determined standards by October 31, 2019. The terms of the Order are extremely detailed and specific. We are also required to comply with all of the sampling and monitoring terms of the CAFO Permit and the Trustee remains responsible for cleanup and closure of the dairy until those terms have been complied with to ODA's satisfaction.

From our perspective and experience at Lost Valley we believe the current CAFO regulations and enforcement authority are adequate to ensure compliance and protect the environment. The ODA and DEQ have the authority to close down a facility like Lost Valley if the CAFO operator does not comply with the terms of the CAFO and to ensure it is done well before environmental impacts occur. The situation at Lost Valley confirmed that existing CAFO regulations allow for increased oversight from the Agencies in sensitive areas and that the Agencies have a full suite of authorities that can be employed when a problem is discovered or an operator is habitually unable to comply and to demand corrective action be taken to protect the waters of the state and environment.

I trust this information will be helpful as you and other lawmakers are evaluating whether new laws and rules are necessary to regulate CAFOs in Oregon.

Sincerely,

Joel Edmonds, Manager  
Lost Valley Farm