



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

June 27, 2006

Mr. Bradley Miller
National Director
The Humane Farming Association
PO Box 3577
San Rafael, CA 94912

RE: Threemile Canyon Farms

Dear Mr. Miller:

Recently, several state government agencies or sub-parts of an agency received complaints about Threemile Canyon Farms in Morrow County, Oregon. Many of the complainants refer to allegations made by the Humane Farming Association (HFA). In this letter, we will attempt to summarize the State of Oregon's response.

Oregon Department of Justice (DOJ)

A. Description of complaint & current status: Criminal laws. The Attorney General recently received a copy of the publication developed and distributed by the HFA titled *Petition for Enforcement of Oregon Animal Cruelty Statutes at Threemile Canyon Farms Dairy Operation – Morrow County, Oregon*. The publication is dated June 2006. It purports to be an abridged version of a larger report previously filed with the Attorney General of Oregon.

The *Petition* and correspondence directed to the Attorney General urges him to conduct a criminal investigation and prosecution of Threemile Canyon Farms. The alleged offenses include:

- ORS 176.315 Animal abuse in the second degree
- ORS 167.320 Animal abuse in the first degree
- ORS 167.322 Aggravated animal abuse in the first degree
- ORS 167.325 Animal neglect in the second degree
- ORS 167.330 Animal neglect in the first degree

In Oregon, local law enforcement agencies have the primary responsibility for conducting criminal investigations and district attorneys elected county-by-county are responsible for evaluating and prosecuting alleged criminal offenses. With very rare exceptions, none of which are relevant here, the Attorney General of Oregon does not have front-line criminal prosecution authority. To the extent that HFA demands that the Attorney General prosecute Threemile Canyon Farms, we respectfully decline.

Three facts are worth noting as background to HFA's current demand that the Attorney General prosecute Threemile Canyon Farms.

First, we have conferred with Morrow County District Attorney David Allen. He informed us that in 2003 his office evaluated allegations of alleged animal cruelty at Threemile Farms. No criminal charges were filed as a result of that investigation.

Second, we recently were contacted by Morrow County Sheriff Sergeant Terry Harper. He informed us that in March 2006, he investigated an anonymous complaint referred by an organization called Pet Rescue of Hermiston, Oregon, concerning mistreatment of cattle at Threemile Canyon Farms. His investigation included unannounced and unrestricted visits to Threemile Canyon Farms. Sergeant Harper concluded that the anonymous complaint was unfounded based on the available evidence and witnesses.

Third, although the HFA's original report was not retained by this department, we have confirmed that Kevin Neely, then the Executive Assistant to the Attorney General, upon receipt of the full HFA report, did contact a representative of the HFA. Mr. Neely referred that representative to local law enforcement. The assertion made by many of our correspondents that HFA received no response to its prior communications with this office is not accurate.

B. Description of complaint & current status; consumer protection laws. Two persons apparently associated with the HFA wrote directly to the Financial Fraud/Consumer Protection Section of DOJ. Our primary consumer protection law is the Unlawful Trade Practices Act (UTPA), ORS Chapter 646. The UTPA generally prohibits false marketing practices; the UTPA provides no legal remedy for allegedly abusive animal husbandry. Accordingly, DOJ's Financial Fraud/Consumer Protection Section referred both complaints to the Oregon Department of Agriculture (ODA).

Oregon Department of Agriculture (ODA)

Among other responsibilities, the ODA exercises "general sanitary and disease control supervision over the livestock of this state, and as far as possible, protects the livestock of this state from disease." ORS 596.020. The State Veterinarian, an official within the ODA, shall be the "chief livestock sanitary official of the state." ORS 596.210(1). At the request of a local law enforcement officer, the state veterinarian will assist in investigations.

The ODA also licenses and regulates milk production in Oregon and enforces laws governing the testing, grading and sale of milk and dairy products.

Description of complaint & current status. After receiving your *Petition*, DOJ conferred with the ODA. According to the ODA, ODA records reveal that Columbia River Holsteins, Columbia River Jerseys and Willow Creek Dairy, all divisions of Threemile Canyon Farms, are inspected three times per year by the department and are classified as Grade A dairies. The records reveal that milk samples are taken at the required frequency of four times every six months. The ODA reports that all three farms are currently in compliance with the standard plate

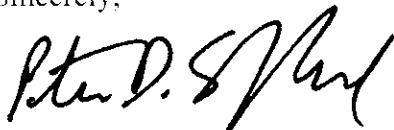
count and the somatic cell count that is required by the Interstate Milk Shippers (IMS) conference. According to the ODA, violations noted on inspection reports are routine in nature and have not required enforcement action by ODA. All three dairies were IMS check-rated by the U.S. Food and Drug Administration (FDA) in January 2006 and found to be in compliance.

Conclusion

The appropriate state and local enforcement officials have examined your allegations, with the results described above. We have examined the most recent correspondence. We do not perceive that HFA is making any new allegations.

If HFA wishes to renew its request for criminal law enforcement action, we encourage you to cooperate fully with Sgt. Harper, including freely sharing access to your own sources of information about your allegations. If HFA has new information relevant to the responsibilities of the ODA, then the HFA is free to submit it to that agency.

Sincerely,



Peter D. Shepherd
Deputy Attorney General