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June 29, 2020

VIA EMAIL ONLY: kevin@farmpower.com

Kevin Maas
603 W. Blackburn Rd
Mount Vernon, WA 98273

Re: Petition for Public Records Disclosure Order
Oregon Department of Environmental Quality
DOJ File No.: 340410-GA0060-20

Dear Mr. Maas:

This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Oregon Department of Environmental Quality (DEQ) to disclose certain records relating to Solid Waste Permit #1550. For the reasons that follow, we respectfully deny your petition.

On April 16, 2019, you requested DEQ provide you with all records from December 17, 2019 to April 16, 2020 related to the inspection, modification, and construction of structures at the anaerobic digester site regulated under the permit. You also requested all records from December 27, 2019 to April 16, 2020 related to the revised Operations Plan for the site. DEQ completed its response to you on May 11, 2019. DEQ disclosed the permittee's revised Operations Manual as well as DEQ's correspondence with the permittee relating to recent revisions to its Operations Plan. DEQ also disclosed the report of an inspection of the anaerobic digester site that was conducted by DEQ on March 12, 2020. DEQ advised you that it had not received any other records from the permittee regarding the inspection, modification or construction of structures at the site.

Your petition explains your belief that the Operations Plan for the site contains additional information that was not included in the Operations Manual, and that this additional information was not disclosed to you in response to your records request. Your petition asks us to order DEQ to disclose the missing information. We contacted Audrey O'Brien, DEQ's Northwest Region Environmental Partnerships Manager, regarding your petition. She explained that the only

information in the Operations Plan that was not included in the Operations Manual is a list of cooperating dairies that send manure to the anaerobic digester. She explained that DEQ had provided you with the list of cooperating dairies in response to a previous records request and noted that another copy of the list was provided to you subsequent to your petition. She advised that DEQ has not withheld any other records relating to the Operations Plan.

Regarding the second part of your request for any records relating to the inspection, modification, and construction of structures at the site, you state that "despite highly visible demolition and construction work" at the site, DEQ did not provide any responsive records beyond the inspection report. Your petition suggests that you believe there are additional records responsive to this part of your request and you ask us to order DEQ to disclose those records. Regarding this part of your request, Ms. O'Brien advised us that DEQ does not have any additional records beyond the inspection report because the construction work at the site does not require DEQ's review or approval.

We have no reason to second-guess DEQ's representation that there are no additional records responsive to your April 16, 2020 request. And on the record before us, it does not appear that DEQ has otherwise denied any aspect of your request. Therefore, we must respectfully deny your petition. *See* ORS 192.411 (in general, the Attorney General may order disclosure only when a records request has been denied).

Sincerely,

Frederick M. Boss

Frederick M. Boss
Deputy Attorney General

FMB:pjn/DM10309488
c via email only: Audrey O'Brien (DEQ)