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February 15, 2019

VIA ELECTRONIC FILING

Attention: Filing Center
Public Utility Commission of Oregon
201 High Street SE, Suite 100
P.O. Box 1088
Salem, Oregon 97308-1088

Re: Docket UM 1818 – Columbia Basin Electric Cooperative Inc.’s Status Report

Attention Filing Center:

Attached for filing in the above-captioned docket is Columbia Basin Electric Cooperative, Inc.’s Status Report.

Please contact this office with any questions.

Sincerely,

Alisha Till
Paralegal

Attachment

**BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON**

UM 1818

COLUMBIA BASIN ELECTRIC
COOPERATIVE, INC. an Oregon
cooperative corporation,

Complainant,

v.

UMATILLA ELECTRIC COOPERATIVE,
INC., an Oregon cooperative corporation,

Defendant.

Regarding Willow Creek Dairy

COLUMBIA BASIN ELECTRIC
COOPERATIVE'S STATUS REPORT

1 Pursuant to the Commission's memorandum, dated January 15, 2019, ("Memorandum")
2 Columbia Basin Electric Cooperative, Inc. ("CBEC") files this status report in this proceeding.
3 The Memorandum notes potentially changing circumstances underlying the basis of CBEC's
4 complaint and invites CBEC to file a status report.

5 The Memorandum provides that CBEC has several options including: (i) to withdraw or
6 dismiss its complaint due to a lack of an existing justiciable controversy for the Commission to
7 resolve; (ii) to request to supplement the record to incorporate new facts; and (iii) to hold this
8 matter in abeyance until such time as events fully unfold regarding the near-term status of the
9 property in question, and the operations of the current or future property holders are known. The
10 Commission also instructed CBEC to confer with Umatilla Electric Cooperative ("UEC") prior
11 to the filing.

12 This status report is, in large part, based on information that CBEC has obtained from
13 pleadings filed in the bankruptcy proceedings of Gregory John te Velde, in the United States
14 Bankruptcy Court Eastern District of California Fresno Division, Case No. 18-11651. te Velde

1 is the owner of the Willow Creek Dairy. CBEC's complaint in this proceeding objects to UEC's
2 utility service to the Willow Creek Dairy. UEC is the only named defendant in this proceeding.

3 Pursuant to the options set forth in the Memorandum, CBEC would like to supplement
4 the record in this proceeding to incorporate relevant facts that have occurred after the conclusion
5 of the briefing that occurred on December 22, 2017. For the reasons addressed below, CBEC
6 would like additional time to collect and review information regarding the bankruptcy of te
7 Velde and the prospective operation and ownership of the Willow Creek Dairy.

8 CBEC believes it would be in the best interest of the parties and the Commission to have
9 current, relevant facts before the Commission makes any determination regarding the issues in
10 this proceeding. te Velde filed for bankruptcy in the latter part of 2018, after the parties in this
11 proceeding completed and filed their briefing in this proceeding. The Willow Creek Dairy is part
12 of te Velde's assets that are involved in the bankruptcy.

13 Recent pleadings from the te Velde bankruptcy proceedings indicate that the bankruptcy
14 trustee filed a Sale Motion for approval of the sale of assets. The Sale Motion was set for hearing
15 on or around February 6, 2019, along with an auction of certain assets, including the Willow
16 Creek Dairy assets. Furthermore, the closing of the sale of the Assets to the auction winner shall
17 occur no later than March 31, 2019. *See* attached "Order Approving Motion For Order
18 Approving Bidding and Sale Procedures."¹ In short, the final disposition of the Willow Creek
19 Dairy assets, its operations and ownership may not occur until sometime in March 2019. The
20 terms of the sale and future ownership of Willow Creek Dairy may have some bearing on
21 CBEC's claims against UEC and on the issue of whether UEC is providing utility service in
22 CBEC exclusive service territory.

¹ *See* Attachment A.

1 Given the current uncertainty regarding the status of the Willow Creek Dairy, its future
2 ownership and operations, CBEC requests additional time to supplement the record in UM 1818
3 with current, relevant facts. CBEC requests an additional period, until March 18, 2019, to
4 supplement the record if the sale of Willow Creek Dairy assets closes by March 10, 2019.

5 CBEC's attorneys did contact UEC's attorneys regarding the proposed schedule to
6 supplement the record. UEC objects to any additional process at this point and UEC indicated it
7 will respond formally to any procedural motion and/or request CBEC files.

DATED this 15th day of February 2019.

Respectfully submitted

By /s/ Raymond S. Kindley

RAYMOND S. KINDLEY, OSB 964910

KINDLEY LAW, PC

Email: kindleylaw@comcast.net

Tel: (503) 206-1010

Of Attorneys for Columbia Basin Electric
Cooperative, Inc.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1818

Columbia Basin Electric Cooperative, Inc.

Attachment A to Status Report

February 15, 2019

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- 11 WALTER WILHELM LAW GROUP
A Professional Corporation
- 12 Riley C. Walter #91839
205 East River Park Circle, Ste. 410
- 13 Fresno, CA 93720
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- 14 Facsimile: (559) 435-9868
E-mail: rileywalter@W2LG.com
- 15
- 16 Special Counsel for Randy Sugarman, Chapter 11 Trustee

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

<p>In re</p> <p>GREGORY JOHN TE VELDE,</p> <p style="padding-left: 40px;">Debtor</p> <p>Tax ID #: xxx-xx-7505 Address: 5850 Avenue 160 Tipton, CA 93272</p>	<p>CASE NO. 18-11651</p> <p>DC No.: WW-37</p> <p>Chapter 11</p> <p>Date: January 9, 2019 Time: 10:30 a.m. Place: 510 19th Street Bakersfield, CA</p> <p>Judge: Honorable Fredrick E. Clement</p>
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ORDER APPROVING MOTION FOR ORDER APPROVING BIDDING AND SALE PROCEDURES

RECEIVED
January 14, 2019
CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
0006427400

for Order Approving Bidding and Sale 1-

MIS-Ute VeldePleadingsWWW-37 Motion re Bidding and Sale
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1 10
 2 MacCONAGHY & BARNIER, PLC
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 9
 10 Attorneys for Chapter 11 Trustee,
 11 RANDY SUGARMAN

8 UNITED STATES BANKRUPTCY COURT
 9 EASTERN DISTRICT OF CALIFORNIA
 10 FRESNO DIVISION

11 In re	}	Case No. 18-11651
12 GREGORY JOHN TE VELDE,	}	(Chapter 11)
13 Debtor.	}	DC No. WW-37
14	}	
15	}	
16	}	

17 **NOTICE OF ENTRY OF ORDER APPROVING BIDDING AND SALE PROCEDURES**
 18 **To: ALL PROSPECTIVE BIDDERS, CREDITORS, AND OTHER PARTIES IN**
 19 **INTEREST:**

20 PLEASE TAKE NOTICE that on January 14, 2019, the Hon. Frederick E. Clement,
 21 United States Bankruptcy Judge, entered an "Order Approving Motion for Order Approving
 22 Bidding and Sale Procedures" with respect to the real and personal property commonly known as
 23 the "Lost Valley Farm". Copies of the Order and Sale Procedures are attached.

24 Dated: January 16, 2019

MacConaghy & Barnier, PLC

26 /s/ John H. MacConaghy
 27 By John H. MacConaghy,
 28 Attorneys for Randy Sugarman,
 Chapter 11 Trustee

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1 At Fresno, in the Eastern District of California.

2 The Motion of the Chapter 11 Trustee, Randy Sugarman, for an Order approving
3 Bidding and Sale Procedures came before this Court for its consideration pursuant to an
4 Order Shortening Time entered on December 17, 2018.

5 All appearances were entered on the record. John MacConaghy appeared for
6 the Chapter 11 Trustee as General Counsel and Riley C. Walter appeared for the
7 Chapter 11 Trustee as Special Counsel.

8 The Court, having reviewed the Motion for Order Approving the Bidding and Sale
9 Procedures (the "Motion"), the supporting Memorandum of Points and Authorities, the
10 Declaration of Randy Sugarman, and the proposed Bidding and Sales Procedures
11 attached to the Randy Sugarman Declarations, noting that the Motion has been duly
12 and properly served, and having determined that good cause exists for granting the
13 Motion and for approval of the Bidding and Sales Procedures proposed by the Trustee,
14 and designation of Canyon Farm, LLC as Stalking Horse:

15 NOW THEREFORE,

16 IT IS HEREBY ORDERED ADJUDGED AND DECREED AS FOLLOWS:

- 17 1. The objections filed by Diversified Financial Services, LLC; Sineco
18 Construction, LLC; Oregon State Agencies; and IRZ Consulting, LLC are
19 overruled.
- 20 2. The Motion be, and hereby is, granted with the following modifications:
21 a. the Court's electronic system shall create and serve as the official
22 transcript of the hearing;
23 b. the Court, not the Trustee, shall determine recesses from bidding; and
24 c. the reasonable Termination Fee payable to Canyon farm, LLC shall be
25 established by a separate order of Court.
- 26 3. Canyon Farm, LLC is designated as the Stalking Horse.
- 27 4. The Court adopts and orders that the Trustee follow the Bidding and Sales
28 Procedures attached hereto as Exhibit 1 as the bidding and sales procedures pursuant

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1 to which the Trustee will solicit bids for the purchase of the Assets described in the
2 Bidding and Sales Procedures and conduct the auction and sale of Assets, specifically
3 including the provisions of the attached Bidding and Sales Procedures that authorize
4 and authorize the Trustee to pay the Stalking Horse Bidder a "Termination Fee" and
5 expense reimbursement.

6 5. The Trustee shall file a Sale Motion for approval of the sale of the Assets
7 which hearing will be held on February 6, 2019 at 10:30 a.m. in Bakersfield. The said
8 Sale Motion shall be filed and served pursuant to LBR 9014(f)(1) on no less than 28
9 days' notice to all creditors with responses to said Sale Motion, if any, to be filed no later
10 than 5:00 p.m. on January 23, 2019, and replies, if any, to be served by January 30,
11 2019.

12 6. Nothing in this Order precludes any creditor from exercising its rights to
13 object the Sale Motion.

14 7. There shall be a continued hearing on January 23, 2019 at 1:30 p.m. in
15 Fresno solely on the issue of establishing a reasonable Termination Fee. The Trustee
16 shall file and serve his supplemental authorities and evidence by January 16, 2019.
17 Any replies shall be filed and served by noon on January 18, 2019.

18 Presented by:


19 MACCONAGHY & BARNIER

20 and

21 COLLINS & COLLINS, LLP

22 and

23 WALTER WILHELM LAW GROUP,
24 a Professional corporation

25
26 By: 
27 Riley C. Walter
28 Special Counsel for Randy Sugarman,
Chapter 11 Trustee

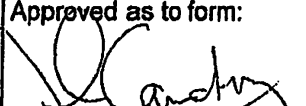
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Approved as to form:


Jeffrey D. Cawdrey for
Canyon Farm, LLC


Sara Chenetz for
Boardman Tree Farm, LLC

IT IS SO ORDERED.

Dated: Jan 14, 2019


Fredrick E. Clement
United States Bankruptcy Judge

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EXHIBIT 1

SALE PROCEDURES

1. The following bidding procedures ("**Sale Procedures**") shall govern the sale of all Oregon land, buildings, fixtures, and improvements consisting of approximately 7,300 acres +/-, South of Homestead Lane and East of Bombing Range Road commonly known as the Lost Valley Farm, including without limitation all existing pivots and irrigation equipment, all dairy barns and equipment and milling equipment and other buildings, all water and irrigation rights, all planted and growing crops, all mineral and gas rights, all easements of any kind, and substantially all feed inventories on the land on the date of closing and rolling stock/motorized equipment and implements attachments, tools, and fixtures currently installed or in use (the "**Assets**") and the related assignment and assumption of certain Executory Contracts. The Assets and Executory Contracts shall be sold and assigned by Randy Sugarman, Chapter 11 Trustee of the Estate of Gregory J. te Velde, ("**Trustee**") pursuant to the provisions of Bankruptcy Code Sections 363 and 365.

2. **The Assets and Executory Contracts will be offered at an auction ("Auction") which will take place on February 6, 2019 commencing at 10:30 a.m. PST in the Courtroom of the Hon. Fredrick E. Clement, United States Bankruptcy Court for the Eastern District of California, Fresno Division, 510 19th St., Bakersfield, CA.** In the event of a change in the time or location of the Auction, the Trustee will use its reasonable best efforts to notify all Qualified Bidders who have timely submitted Qualified Bids by the Auction Deadline (as such terms are defined below).

3. Canyon Farm, LLC ("**Initial Bidder**") has entered into an Asset Purchase Agreement, as Amended ("**APA**") with the Trustee to acquire the Assets and Executory Contracts for \$66,879,000.00. Initial Bidder is a "Stalking Horse" bidder, whose offer may be outbid at the Auction. However, if this occurs, Initial Bidder will receive a termination fee yet to be set by the Court (the "**Termination Fee**") if it is not the successful competing bidder ("**Competing Auction Winner**") and the transaction to the Competing Auction Winner closes. The Termination Fee shall be earned by and payable to the Initial Bidder upon consummation of a sale of the Assets and Executory Contracts to a Competing Auction Winner from the purchase price paid by the Competing Auction Winner. In the event the Initial Bidder is not the Auction Winner, no other fees, commissions, or expense reimbursement shall be payable to the Initial Bidder in addition to the Termination Fee. The Trustee has agreed that obligations to pay the Termination Fee shall survive termination of the Stalking Horse Purchase Agreement, and to the extent owed by the Estate, be allowed as an unsecured super-priority administrative expense claims under sections 503(b) and 507 of the Bankruptcy Code and shall not be subordinate to any other administrative expense claim against Estate. The Stalking Horse Bidder shall have standing to appear and be heard on all issues related to the Auction, the sale of the Assets, and related matters, including the right to object to the sale of the Assets or any portion thereof (including the conduct of the Auction and interpretation of these Sale Procedures).

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4. In order to participate in the bidding process, each person (each a "**Potential Bidder**") must deliver to the Trustee at the address set forth in Paragraph 8 below, the following:

a. an executed Asset Purchase Agreement in substantially the form executed by the Initial Bidder, including all amendments and supplemental agreements relating thereto ("**Form APA**"), with the purchase price equal to or in excess of the Minimum Bid Amount (defined herein);

b. a deposit in good funds in an amount equal to Four Million Five Hundred Thousand Dollars (\$4,500,000.00) ("**Deposit**") to be submitted to Trustee in the form of a cashier's check or wired funds;

c. financial statements showing that the Potential Bidder has ample and present ability to timely close on the Assets and Executory Contracts and perform all of the post-closing obligations of the Buyer pursuant to the terms of the completed Form APA; or, if the Potential Bidder is an entity formed for the purpose of acquiring the Assets and Executory Contracts, current financial statements or other financial information of the equity holder(s) of the Potential Bidder, or such other form of financial disclosure acceptable to the Trustee, demonstrating such Potential Bidder's ability to timely close;

d. a signed statement acknowledging the prohibition against collusive bidding, and disclosing any connections or agreements with the Trustee, the Debtor, any creditor and/or any officer, director, member, counsel, or equity security holder of any such person or entity.

e. except for the Initial Bidder, a written disclaimer of any right to receive a break-up fee, expense reimbursement, termination fee, or any other similar form of compensation or reimbursement of expenses. For the avoidance of doubt, no Potential Bidder (other than the Stalking Horse Bidder) will be permitted to request, nor be granted by the Seller, at any time, whether as part of the Auction or otherwise, a break-up fee, expense reimbursement, termination fee, or any other similar form of compensation, and by submitting its Bid agrees to refrain from and waive any assertion or request for reimbursement on any basis.

5. No overbid will be accepted if it contains contingencies.

6. The Trustee shall use its best efforts to immediately provide Potential Bidders any and all due diligence information regarding the Assets and Executory Contracts that he has in his possession. Further the Trustee shall provide access to all Potential Bidders to the Assets upon twenty-four (24) hours notice.

7. A "Bid" is a completed Form APA from a Potential Bidder stating that: (i) the Potential Bidder offers to purchase the Assets and accept assignment and assumption of the Executory Contracts that are the subject of the APA upon the same or better terms and conditions as set forth in the Form APA, with the completed Form APA marked to show any and all

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amendments and modifications from the Form APA, including, but not limited to, purchase price and contact information of the purchaser; (ii) the Potential Bidder agrees to purchase the Assets and accept assignment and assumption of the Executory Contracts that are the subject of its APA for at least the Minimum Bid Amount relating to such Assets and Executory Contracts (as set forth below); (iii) the Potential Bidder is prepared to enter into and consummate the transaction by the Closing Date; and (iv) the offer is irrevocable until the later of the date that (a) the Auction has taken place and it is not selected as the Auction Winner, in which case the Deposit will be refunded, or (b) the sale of the Assets and Executory Contracts to it has been consummated if it is the Auction Winner. If a Potential Bidder is represented by a licensed real estate broker, an acceptable Bid may include a provision that one percent (1%) of the gross sales price may be paid to such broker as its share of the total commission otherwise payable by the Trustee to his broker, as allowed by the Court.

8. Bids are due and must be actually received by the Trustee no later than **January 30, 2019, 5:00 p.m. PST (“Auction Deadline”)**. Bids shall be submitted to: John H. MacConaghy, Esq., MacConaghy & Barnier, PLC, 645 First St. West, Ste. D., Sonoma, CA 95476 for the Trustee if sent via regular or overnight mail or personal delivery. Bids may be submitted via electronic mail to macclaw@macbarlaw.com, and sugarmanco@gmail.com. The deposit, if wired, shall be wired to Trustee’s counsel per the following wiring instructions: Bank: Wells Fargo Bank, N.A.; Address: 420 Montgomery St., San Francisco, CA 94104; ABA# 121000248; Account Number: 545046401; Account Name Credit to: MacConaghy & Barnier, PLC Attorney Client Trust Fund CA IOLTA Account – Please reference Bidder Name and Telephone Number. If the Trustee does not receive any Qualified Bids by the Bid Deadline, the Trustee will report the same to the Bankruptcy Court.

9. For a Bid to be deemed a “Qualified Bid” it must comply with the requirements of Sections 4, 5, 7, and 8 above. The Trustee shall forward all Bids to counsel for the principal secured creditors [Boardman Tree Farms, LLC, Rabobank, N.A., and J.D. Heiskell Holdings, LLC] and the Official Committee of Unsecured Creditors immediately on receipt, and any Potential Bidder shall be deemed to authorize this disclosure and the disclosure of all of the Potential Bidders qualifications. A “Qualified Bidder” is a Potential Bidder that submits a Qualified Bid.

10. If the Trustee, after consultation with the principal secured creditors and Official Committee of Unsecured Creditors, determines that a Potential Bidder is not a Qualified Bidder, the Deposit will be returned to the Potential Bidder within a period of five (5) business days of such determination.

11. At the Auction, only Qualified Bidders shall be entitled to bid on the Assets and Executory Contracts. The Minimum Overbid bid(s) shall be Sixty Nine Million Dollars (\$69,000,000.00) for the Assets (“**Minimum Bid Amount**”). No bid will be accepted if it contains contingencies, including without limited to, as to financing or due diligence.

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12. The Auction shall be conducted by the Court as follows:

a. At the Auction, bidding will begin at the Minimum Bid Amount or such higher amount that a Qualified Bidder has bid prior to the Auction. Qualified Bidders may bid in minimum increments of Five Hundred Thousand Dollars (\$500,000.00) higher than the Minimum Bid Amount (the "**Minimum Bid Increment**"). The Minimum Bid Increment may be in increments higher than Five Hundred Thousand Dollars (\$500,000.00). Bidding at the Auction shall continue until such time as the highest and best bid is determined.

b. The Auction will be conducted as follows: (i) Qualified Bidders and/or their representatives may make a bid at the auction in person or via telephonic conferencing through Court Call with bidding starting at the amount of the highest Qualified Bid received for the Assets and Executory Contracts; (ii) the Court's electronic system shall create the official record of the Auction; (iii) the Auction will be an open bid process, with all bids stated orally and on the record; (iv) the Trustee may recess the Auction at any time; (v) Qualified Bidders may ask for a reasonable time for a brief recess during the bidding, which requests will be considered by the Court in its discretion.

c. In the event that the Stalking Horse Bidder overbids, its Bid shall be credited in an amount equal to the Termination Fee; provided however in all cases any overbid shall conform with the established Bid Increments and such overbid shall result in a net increase to the bankruptcy estate.

13. Upon completion of the Auction, the highest and best Qualified Bid shall be selected that maximizes the value of the Assets and is in the best interest of the Trustee, its bankruptcy estate, the Committee and its creditors ("**Successful Bid/Auction Winner**"). The Trustee will then submit the Successful Bid for approval by the Bankruptcy Court for entry of an order by the Bankruptcy Court approving the sale ("**Sale Order**").

14. At the conclusion of the Auction, the Trustee may designate a "Back-Up Bidder" or multiple Back-Up Bidders, with the consent of the entity(ies) submitting such bid(s). If the Auction Winner does not close the transaction per the terms and conditions of the Successful Bid, the Trustee may elect, in its business judgment, to move forward with the next Back-up Bidder to take the place of the Auction Winner upon the terms of the Back-Up Bidder's last and highest bid at the Auction. The proceedings related to these selections shall be approved in the Sale Order. If selected as a Back-Up Bidder, such bidder's Deposit shall be released upon the later to occur: (a) the closing of a transaction with the Auction Winner or other Back-Up Bidder, or (b) thirty (30) days from the date of the Auction.

15. The closing of a sale of the Assets to the Auction Winner ("**Closing**") shall be held in the offices of the duly licensed Title Company specified in the Form APA, or such other location as is agreed to by the parties, as soon as practicable following the date the Sale Order becoming final and no longer appealable ("**Closing Date**"), but in no event after March 31, 2019.

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The Closing Date specified in a given Bid shall be one factor considered by the Trustee in determining the highest and best bid.

16. Nothing herein shall be construed to modify the terms and conditions set forth in the APA executed by Initial Bidder.

17. Nothing herein shall be deemed to bar any creditor from exercising whatever rights it may have pursuant to Bankruptcy Code Section 363(k).

18. Any disputes related to these Bidding Sale Procedures, including whether a Bid constitutes a Qualified Bid, shall be resolved by the Bankruptcy Court.