

Material Misrepresentations by HDF

Major misrepresentations by Pierre Omidyar's Hawaii Dairy Farm's (HDF) appear below. If HDF is willing to falsify information even before the State has issued a permit for the dairy to operate, how can HDF be trusted not to falsify their operating reports for State required testing. HDF would be required to test water quality, soil, and grass crop (for excessive nitrates, phosphorus and other manure nutrients)? Can HDF be trusted to accurately report test results? Dairies are self monitored. What is the likelihood HDF will accurately record the results of required milk testing? If a proposed dairy propagates false claims to secure their permits, how can they be trusted to make honest disclosure about anything? 10 HDF misrepresentations follow:

1. **“NRCS Permit-Completed”**. [See HDF Fact Sheet 02/26/2014](#)
Natural Resource Conservation Services, a division of the USDA, developed to help land owners. The NRCS does not issue **any** permits or regulate farming. HDF stated on their website and in The Garden Island, **“We’re following our NRCS approved agricultural Plan”**. FOM’s attorney received a letter from the Director of the NRCS office on Oahu, confirming **the NRCS does not “approve”** agricultural plans. [Letter from Bruce Petersen](#).
2. **For more than 2 years, HDF claimed its Plan was based on the “New Zealand (NZ) Model”**. HDF, however, never disclosed the nationwide pollution and water degradation problems in NZ. <http://www.pce.parliament.nz/assets/Uploads/PCE-Water-quality-land-use-web-amended.pdf> (Entire 82 page report of the Parliamentary Commissioner for the Environment (PCE) 2013). Now, HDF has filed a “Plan Update” with DOH Waste Water Branch, 6/1/16 and summarily states they are no longer relying on the “New Zealand Model”. They don’t offer any explanation for their decision to abandon the “New Zealand Model”. Rather, they refer to a “Cornell Model” without specifics as to what that is or where it can be found. They also refer to an “Ideal Island Model” whatever that is. HDF disclosed its decision to abandon the New Zealand Model to the DOH Wastewater Branch Chief but **failed to include and inform the public of that significant change when HDF filed its Draft EIS**, just 8 days later, 6/8/16, with the DOH Office of Environmental Quality Control.
3. **HDF falsely claimed to have consulted with U of H grass crop specialist, Chin Lee, PhD**. That was “NOT” true and was contradicted by an [email received from Dr. Lee, dated 4/4/2014](#):
“Hawaii Dairy Farm (HDF)
Although I am aware of this new venture, I am NOT involved. The only involvements are dated below:
a) Aug. 19, 2013 - 9:25 am a msg. left by Mr. Jim Garmatz (?)
b) Aug. 21, 2013 - 10:25 am I left a msg. to him as a return call.
c) Aug. 26, 2013 - talked with Jim G who was in a rush. Was informed he is from Tx and is the project lead for HDF. Wanted to plant Kikuyu grass. Current site had guinea grass. Was told the recommendation came from their consultants. I had said guinea grass would be hard to eliminate. He had a flight to catch and will call again after his return. Since the brief conservation, there has been no further contact or communication. Frankly, I do not even know how he looks like. I am aware that my name had been mentioned on numerous occasions.”
4. **HDF claimed their: “Waste Management Plan was prepared by Group 70 International”**.
Group 70 International is an architectural firm on Oahu, specializing in resort and large residential developments. There is no record of Group 70 International developing any other Waste Management Plan.
5. **HDF claims all milk will stay in Hawaii**. HDF is planning to sell its milk to Meadow Gold. HDF Plan pg. 23 and communication with Sanitation branch report “milk pumping needs to comply with international industry hygiene standards...” (Mr. Kagawa of DOH sanitation branch informed FOM that if the milk was sold in Hawaii, there would be no need for HDF to comply with “International Industry Hygiene Standards”. That standard is only necessary when selling the milk internationally, i.e. military, overseas, etc.).

6. **Another claim made by HDF in print - “First Grass Fed Dairy in Hawaii”**, Kauai Family magazine:

• Located in Maha'ulepu, the farm will be Hawaii's first grass-fed dairy. It will be unlike any previous dairy farm in the islands, utilizing a method that is better for the cows and the environment.

At the time the above ad appeared in Kauai Family, HDF knew their operation was not a grass fed operation as their WMP of May and July 2014 called for daily supplementation of their herds feed with at least 30% grain. Grass Fed Dairy is not a term that can be used when the dairy intends to supplement with grain. See “*Grass Fed Marketing Claims Standards*” USDA

Grass Fed Marketing Claim Standards

Claim and Standard:

Grass (Forage) Fed – Grass and forage shall be the feed source consumed for the lifetime of the ruminant animal, with the exception of milk consumed prior to weaning. The diet shall be derived solely from forage consisting of grass (annual and perennial), forbs (e.g., legumes, Brassica), browse, or cereal grain crops in the vegetative (pre-grain) state. Animals cannot be fed grain or grain byproducts and must have continuous access to pasture during the growing season. Hay, haylage, baleage, silage, crop residue without grain, and other roughage sources may also be included as acceptable feed sources. Routine mineral and vitamin supplementation may also be included in the feeding regimen. If incidental supplementation occurs due to inadvertent exposure to non-forage feedstuffs or to ensure the animal's well being at all times during adverse environmental or physical conditions, the producer must fully document (e.g., receipts, ingredients, and tear tags) the supplementation that occurs including the amount, the frequency, and the supplements provided.

Grass (Forage) Fed Marketing Claim Standard (October 16, 2007, Federal Register Notice (72 FR 58631)) - PDF

FOM forced HDF to abandon their “grass-fed” claim. FOM challenged HDF and proved its claim completely false. Please see page 90 of their [current plan](#). Because of FOM, HDF now claims their herd will be “pasture based” vs. “grass fed” HDF website, FAQ page.

7. **HDF filed its current WMP 7/23/14 without disclosing or incorporating findings of the NRCS in their “Custom Soil Resource Report” of 6/5/14.** [NRCS findings](#) not shared with DOH or the public included the fact that on evaluation of HDF's specific site, the NRCS concluded that 33 of 51 sectors were found to be “very limited” (would not tolerate animal waste on the ground without a “High Risk” of runoff) because the soil's heavy clay content leads to pooling and runoff where 52.9% of the farm's soils are saturated after 0.0-0.2 inches (Ksat level). An additional 30.4% of HDF's site is also saturated after 0.0-0.6 inches (Ksat level) and at high risk for runoff of the 2 million pounds of manure that would be produced monthly. Contrary to the NRCS findings, HDF had claimed to the State and to the public that:

“The soil type is free draining volcanic soil and therefore its rest period from rain can be as little as six hours before we can irrigate...” [HDF Original Plan](#) (pdf) pg. 51 and 93.

8. **In 3 separate documents filed with DOH, HDF has claimed 3 different average annual temperature ranges for Maha'ulepu without any explanation for the temperature differences.** Each was claimed to be "ideal for Kikuyu" grass crop yield.

a) On page 59 of their Redacted Plan filed with DOH, 5/12/14, HDF stated "**The average local temperature is in the ideal 43 and 70° F range for Kikuyu.**"

b) Again on page 59 of their Current Plan filed with DOH, 7/23/14, HDF stated: "**The average local temperature is in the ideal 60 and 104°F range for Kikuyu.**"

c) In its Draft EIS, HDF claims a 3rd average annual temperature range of "**64 to 86 degrees Fahrenheit**" at Maha'ulepu: HDF's Draft EIS, pdf page 95, filed with DOH, 6/8/16.

9. **HDF's Plan of 7/23/14 falsely claims that "The Koloa F well is located over 1/2 mile away from the dairy facility site."** In fact, Kauai County Water Department records reveal that Koloa F well is less than 750 feet away from HDF's site (much closer than the 2,600+ feet or 1/2 mile claim). In their Plan, HDF does not describe any distance for Koloa C well, Koloa D well, or the Gillin House well. Per Kauai County Water Department records, Koloa C well is just over 750 feet from HDF's site, per Water Department Engineer, Roman Silvestre. Koloa D well and the Gillin House well also provide potable water for the South Shore, but are not discussed by HDF in any of their Waste Management Plans.

10. **In their recent Draft EIS, HDF further misrepresents Koloa F Well as the only nearby County well: HDF DEIS Volume 1 pages 145, 148, 151, 153, 173, 181, 190, 199, 274 and 294.** It is not until Volume 2 that HDF finally identifies all 3 potable County Wells (C, D, and F). While not stated in the DEIS, these are the sole source of drinking water for Poipu and most of Koloa per Kauai Water Department. HDF still fails to acknowledge the Gillin House, its well and their distance from the manure laden pastures. That well and the County wells are all recharged by the Koloa aquifer, located beneath the pastures where all the manure and urine will be deposited either by grazing cattle, effluent irrigation or pumping of manure sludge solids from the effluent ponds (de-sludging, planned for every 4-5 weeks). While HDF reports that their effluent ponds will hold weeks worth of waste and are therefore only at risk from a 100 year storm or greater (Amy Hennessey, 9/12/16, Hawaii News Now), HDF doesn't disclose that the effluent ponds only hold/contain 10% of the herd's total waste. The other 90% will be left to lay in the pastures where it falls, totally uncontained and at risk for runoff into HDF's extensive ditch network with any rainfall or irrigation. Because of the joint site inspection with FOM experts, HDF was forced to admit that all their drainage ditches ultimately empty into the Waiopili before crossing the sandy beach at Maha'ulepu and entering the "marine environment", aka ocean:

"Spread across the pastures on the valley floor are numerous straight agricultural ditches that serve the purpose of draining runoff from various pasture areas." DEIS Volume 2, Biological Surveys, page 19.

"Surface waters draining the project site meet Waiopili Ditch, and will eventually reach the ocean." DEIS Volume 2, Surface Water and Marine Assessment, page 2.

"Hydrologic Assessment for the Pasture Areas, Hawai'i Dairy Farms May 9, 2016
Runoff from the east side of the valley, similarly, sheet flows or is conveyed via shallow concentrated flow through the various system of ridges and valleys along the east side of Māhā'ulepū Valley. Runoff concentrates into several ditches, cut from agricultural operations, before ultimately collecting into one of the major ditches that runs mauka to makai along the central or east side of the farm. This ditch conveys both water collected from the various tributary ditches, but also sheet flow from the central and eastern areas of the farm, to the makai boundary of the farm along Māhā'ulepū Road, before leaving the site and ultimate discharge into the ocean. The flows from these two ditches converge beyond the boundary of Hawai'i Dairy Farms before discharge to the ocean." DEIS Volume 2 pg. 709 of 732

Per HDF's 6/1/16 "Plan Update", their startup herd will produce 35 tons of manure each day. After one

month, 2 million pounds of manure and urine will be deposited on HDF's 469 total grazing acres via direct deposit or effluent spraying and de-sludging. HDF's DEIS, 6/8/16 and Wastewater "Update", 6/1/16, document their commitment to expand their milking herd to 2,000 cows. With that expansion, nearly 6 million pounds of manure and urine will collect on their 469 acre site each month ([Per the EPA](#), that waste load equates to that of a city of 328,000).

11. In HDF's Draft EIS, and after having evaluated the site in conjunction with FOM's Geo Hydrologist, Dave Erickson, PhD, HDF was forced to abandon their claim of "Zero Discharge". "Surface waters draining the project site meet Waiopili Ditch, and will eventually reach the ocean." DEIS Volume 2, Surface Water and Marine Assessment, page 2. HDF now admits at least 2% of the nutrients (waste) will discharge into the environment. FOM's expert feels the failure to contain the land based application of waste will lead to an even greater discharge. HDF now claims that runoff from their site will amount to 10,000 lbs of nitrates and 4,000 lbs of phosphorus discharged. That amount alone will destroy the healthy reefs at Maha`ulepu. Also, HDF offers **nothing to support its claimed retention of nearly 98% of their waste.**
12. On the hurricane risk, HDF had the audacity to state in their Draft EIS: "However, natural variability in ocean circulation and atmosphere has allowed potentially destructive storms to reach Hawai'i from the east. Hurricanes Dot (1959), Iwa (1982), and Iniki (1992) all approached from the south and **passed near Kaua'i.**" HDF, DEIS Volume 1, pg 4-22 (Emphasis Added) As the public knows, these hurricanes each struck Kauai and a simple review of weather records establish that Iniki with its eye passed directly over Kauai. Iniki is described as the strongest hurricane on record to have hit the State of Hawaii. It is a blatant lie by Ulupono, HDF, Group 70 and their agents to claim Iniki "**passed near Kaua'i.**" Iniki made its landfall on Kauai. Hundreds of millions of dollars of damage were done by the time the hurricane passed. HDF's proposal is nothing short of a "Fukushima" waiting to happen. The proposed industrial dairy should not be at sea level any more than a nuclear reactor. Both have long term, devastating contamination consequences.
13. Grass Mat: Another obvious untruth is HDF's contention that the manure and its nutrients will be absorbed by the thatched based kikuyu grass within a day after the cow excretes the manure. Anyone who has ever gardened knows that fresh uncured manure is more likely to burn than feed the plant on which it falls. Uptake and use of manure before bacterial breakdown will not happen in one day as the following falsehood contends:

"...thatch, nutrients are incorporated into what is effectively an organic net. Due to the high moisture and moderate temperatures, the microbial activity in the thatch is very high and the excreted manure and effluent will be largely broken down by microbial activity within 24 hours. Microbes such as bacteria, protists, and fungi will break down the manure and effluent through decomposition into its nutrient components to make these readily available for uptake into the grass crop and plant matter. Even with the applied manure and effluent nutrients," HDF DEIS, Volume 1, pg 1-10 (pdf pg 28)

A breakdown of manure in 24 hours...fantastic break through... If this were true, why does HDF need dung beetles?

Prior to the Draft EIS, HDF never disclosed that they would have to have a sizeable offsite herd (nearly 800 cows - bulls, calves, dairy cows at rest and those awaiting impregnation) to support a milking herd of 699. As pointed out by FOM attorneys and the Hyatt's legal team, HDF has not disclosed where the offsite herd will be or how their waste will be managed in the undisclosed location. When 2,000 cows are producing milk, an even greater offsite herd will be required.

Based on all of the above, most of which was discovered by concerned community members, Ulupono and HDF has very little, if any, credibility.