

Farmers seek attorney fees in Oregon GMO litigation

Plaintiffs successfully sued to overturn county GMO ban

By MATEUSZ PERKOWSKI
Capital Press

Farmers who won a lawsuit invalidating a ban of genetically engineered crops in Oregon’s Josephine County are now seeking \$29,000 in attorney fees from the ordinance’s supporters.

A state judge struck down the county’s prohibition in May, holding that Oregon law pre-empts local governments from restricting biotech seeds.

Voters in Josephine County approved the ordinance in

2014, which was challenged last year by Robert and Shelley Ann White, who wanted to grow genetically modified sugar beets.

While the county government took a neutral position in the litigation, supporters of the ordinance — Oregonians for Safe Farms and Families, a nonprofit, and Siskiyou Seeds, an organic farm — intervened in the case to defend the ban on genetically modified organisms.

The intervenors claimed

that the Whites lacked standing to file the lawsuit because they were “hobby farmers” who didn’t have a financial stake in growing GMOs.

Supporters of the ordinance also argued that Oregon’s pre-emption law was unconstitutional because lawmakers created a “regulatory void” by disallowing local rules for GMO crops without imposing their own regulatory scheme.

Josephine County Circuit Judge Pat Wolke rejected those arguments and overturned the

GMO prohibition, finding that the conflict between state law and the local ordinance “could not be more clear.”

The plaintiffs’ attorneys are now seeking \$29,000 from the intervenors, but not the county, because several of their legal claims “had no objectively reasonable basis.”

For example, the intervenors cited no legal precedents from Oregon to support their argument that the pre-emption statute was unconstitutional and instead pointed to a ruling from Ohio, the petition said.

Though the amount represents less than 20 percent

of the plaintiffs’ legal costs, they’re seeking the award in part to deter similar arguments in a future case, according to the petition for attorney fees.

“An award of fees in this case will discourage those similarly situated to abandon meritless claims and to concentrate on those issues which they might impact in a responsible way,” the petition said.

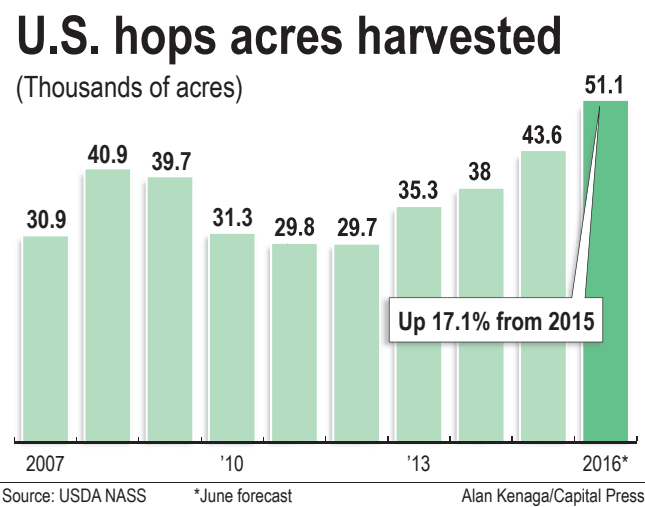
Mary Middleton, executive director of OSFF, said it “would very negatively impact us to pay attorney fees for the other side,” but her attorneys don’t think such an order would have legal precedent.

The group is still deciding whether to appeal Wolke’s ruling but doesn’t think it will impede others from seeking GMO-free zones.

“The movement is growing across the country,” she said.

As for the petition for attorney fees, Middleton said it’s likely an attempt by biotech developers to thwart such efforts.

“I can only speculate, but the way it looks on the surface is they’re trying to scare counties and scare people who object to their agenda,” she said.



Hop acreage records may be broken

By DAN WHEAT
Capital Press

YAKIMA, Wash. — Pacific Northwest hop acreage increased 17 percent this year putting Washington, Idaho and the United States on track for new record levels, according to USDA’s National Agricultural Statistics Service.

U.S. acreage is forecast at 51,115, up 7,482 from 43,633 in 2015 and besting a record of 44,653 set in 1915.

Of the U.S. total, Washington is estimated at 37,475, up 5,317 from its record of 32,158 in 2015. Washington accounts for 73 percent of the total U.S. acreage.

Oregon is estimated at 7,669 acres, up 1,057 from 6,612 in 2015. Oregon is 15 percent of the U.S. total. Oregon’s record was 26,000 acres in 1935.

Idaho is estimated at 5,971, up 1,108 from a record 4,863 in 2015. It is 12 percent of the U.S. acreage.

In late April, Hop Growers of America in Moxee, Wash., predicted 51,275 U.S. acres for 2016. It is including lesser acreage in states outside the Northwest that NASS is not tracking.

Acreage increases continue to be driven by the increase in craft breweries, Ann George, administrator of Hop Growers of Ameri-



Dan Wheat/Capital Press

Hop harvest at Roy Farms, Moxee, Wash., Sept. 24, 2013. Washington, Idaho and the United States likely will harvest record hop acreage in 2016.

ca and the Washington Hop Commission, has said. That trend is expected to continue to 2020, she has said.

In April, the International Hop Growers Convention in Paris estimated fall 2016 U.S. hop production at 97 million pounds, up from 80.2 million in 2015. Global production is expected to increase from 190.4 million pounds to 232 million pounds.

The 2016 Northwest crop looks good with normal pest pressure but erratic weather causing higher disease pressure of downy and powdery mildew, NASS said in a June 10 news release. Water supply is expected to be adequate with junior water right holders in the Yakima Basin, where most U.S. hops are grown, to receive 86 percent of normal irrigation water.

Thresher shuts down for safety training

By JOHN O’CONNELL
Capital Press

IDAHO FALLS — Buried up to his knees in grain, Thresher Artisan Wheat employee Lamont Benford said he could feel the pressure against his legs intensifying amid a June 9 engulfment exercise at the company’s local grain elevator.

For two days, Thresher shut down its seven Eastern Idaho facilities to run 95 seasonal and full-time workers through rigorous safety training, exercises company officials vow to continue annually. The company also intends to offer a fall training for regional growers.

After Benford’s colleagues pounded rescue tube panels around him, Thresher Safety Manager Eric Neibauer quizzed the trainees on the proper tool to dig him out. He explained a shovel would be too cumbersome, given the limited space within the tube, and a spark from a vacuum could cause the grain dust to explode.

Before long, an employee shouted the correct answer: “His hard hat!”

Neibauer explained a panel from the tube could also double as a gurney.

In addition to engulfment training, Thresher covered safety topics including fall protection, working in confined spaces and first aid. Thresher also tested employees’ hearing and plans to work with its insurance carrier to assess which areas of its facilities could benefit from new hearing protection requirements.

“Especially in the ag business, safety is becoming a bigger and bigger issue. Every company is looking at zero injuries,” said Thresher CEO Don Wille. “Our people need to get home in the same shape in which they came to work every day.”

Wille said the temporary workers had never been through such a training.

“This is a time when we’re not worried about the customer,” Wille said. “At the moment, we’re worried about ourselves and getting back into those good practices and good habits.”

Neibauer, whose position was created in November, told the workers a quarter of fall-related deaths that occurred in 2015 happened under 10 feet, according to the Bureau of Labor Statistics. Thresher, which purchased the regional General Mills facilities in April 2014, has implemented a new requirement for fall protection to be used at its Moreland, Idaho, elevator.

“We will not have anybody on a rail car without the proper equipment,” Wille said.

To limit the risk of grain engulfment, Neibauer explained, Thresher has a prohibition on workers making top entries into grain bins, though he stressed walls of bins may still rupture or grain carts may tip.

Neibauer said Thresher has avoided major accidents but has taken precautions to mitigate the risk of workers slipping on ice due to a couple of recent injuries. Thresher now spreads salt at its facilities in winter and makes rubber



John O’Connell/Capital Press

Workers with Thresher Artisan Wheat pound panels of a rescue tube around their colleague, Lamont Benford, during a June 9 engulfment training in Idaho Falls. Thresher closed its seven Eastern Idaho facilities on June 9-10 for a comprehensive safety training.

cleats available workers.

Neibauer said employees are encouraged to stop any operation if they have a safety concern, and the company has a policy of addressing reported safety hazards within 30 days.

Corine Kingzio, who works at Thresher’s Blackfoot facility, told superiors one of the catwalks was too narrow, making her uneasy while taking inventory. The company quickly remedied the problem.

“I feel so much safer,” Kingzio said.

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PGG sells grain assets to United Grain Corporation

By GEORGE PLAVIN
EO Media Group

Pendleton Grain Growers might be a thing of the past, but its upcountry elevators and Columbia River terminal will remain open under new ownership.

United Grain Corporation, based in Vancouver, Washington, has agreed to buy all of PGG’s grain assets including facilities, contracts and inventory. The deal was announced Tuesday, though terms were not disclosed.

PGG announced it would try to sell its grain division in October 2015, foreshadowing the co-op’s final collapse and dissolution on May 2. Negotiations continued with United Grain, whose vice president of business development, Tony Flagg, used to head up Pendleton Flour Mills.

United Grain is one of the West Coast’s largest grain exporters, owned by the Mitsui Group of Japan. Mitsui is one of the largest corporate groups in the world, with a market value of \$22.5 billion, according to Forbes. Rick Jacobson, PGG general manager, said United Grain will invest “a significant amount of money”



Kathy Aney/EO Media Group

Pendleton Grain Growers has agreed to sell its grain division to United Grain Corporation.

upgrading facilities around Pendleton, something PGG wasn’t able to do in recent years.

“They will be looking for speed and space to meet the changing needs of the growers,” Jacobson said. “I think this is going to be a step in the right direction.”

Flagg did not return calls Tuesday for comment. United Grain is in the process of opening local offices and has retained a majority of PGG employees, according to a press release from the co-op. The sale comes about a month ahead of wheat harvest for most Eastern Oregon farms.

Tim Hawkins, chairman of the PGG Board of Directors, said the deal with United Grain is the best possible outcome for growers and the community.

“Through the negotiated agreement, (United Grain) has voiced a commitment to maintaining crucial operations as well as investing in the long-term viability of grain facilities,” Hawkins said in a statement.

For PGG, it’s another step forward in dissolving the 86-year-old cooperative, which had been synonymous with the region’s agriculture. Members voted to dissolve PGG on May 2 following a string of devastating financial losses that pointed to a crisis of confidence among growers.

In 2012, the U.S. Department of Agriculture suspended PGG’s grain warehouse license for 44 days due to auditing discrepancies. The license was restored, but the co-op discovered it had overstated earnings in 2010 and 2011 by a combined \$7.5 million. The East Oregonian has requested public records from the Farm Service Agency pertaining to the case.