

# \$18M fine against foodmakers a record

GMA and AG blast each other

By DON JENKINS  
Capital Press

A Washington judge's \$18 million penalty against the Grocery Manufacturers Association apparently far exceeds any fine ever issued in the U.S. for running afoul of campaign disclosure laws.

The judgment, likely to be appealed, is less than half the amount sought by Attorney General Bob Ferguson. But it towers over the record \$3.8 million settlement in a case involving the Federal Elections Commission or the \$1 million involving the California Fair Political Practices Commission. No previous Washington case had topped six figures.

California and Washington are the states most likely to impose large campaign fines based on their laws and enforcement history, said David Keating, president of the Center for Competitive Politics, a nonprofit in Washington, D.C., that opposes what it considers overly burdensome disclosure requirements.

"I don't recall anything in that range," he said. "It seems disproportionate."

The ruling Nov. 2 by Thurston County Superior Court Judge Anne Hirsch was another record-smashing figure related to Initiative 522. The 2013 measure would have required labels on many products with genetically modified ingredients, but was defeated in a close vote.

Some \$42.5 million was spent to sway voters — \$10 million more than any other



Don Jenkins/Capital Press

Thurston County Superior Court Judge Anne Hirsch, upper left, listens as Washington Assistant Attorney General Garth Ahearn delivers closing arguments Aug. 30 in Olympia, Wash., in a non-jury trial to determine the Grocery Manufacturers Association's penalty for not reporting the companies that contributed \$11 million in 2013 to defeat a GMO-labeling initiative. Hirsch on Nov. 2 fined GMA \$18 million, reputed to be the largest penalty ever in the U.S. for campaign finance violations.

campaign in state history.

GMA contributed \$11 million to the "no" campaign, a fact timely disclosed. GMA was found guilty of not naming about three dozen companies that supplied the money.

GMA contended that it relied on legal advice and that it believed it was acting within the law, a claim Hirsch found not credible.

Crucially, Hirsch concluded GMA schemed to shield processed food companies from criticism, threats and boycotts.

The finding that GMA intentionally broke the law tripled the \$6 million penalty that Hirsch said was appropriate.

She stated the "sophistication and experience of GMA executives" argued for a stiff penalty. She noted that GMA failed to timely file 60 reports and that the case involved a large amount of money. She

didn't detail how she calculated the penalty.

Keating said he doubted the fine, if upheld on appeal, will have an effect outside Washington.

"It would probably further bolster Washington's reputation as a dangerous place to speak," he said.

Washington's disclosure law requires campaign contributions and expenditures be fully disclosed. "Secrecy is to be avoided," according to the law.

During this election season, the PDC is currently reviewing more than 40 complaints against candidates, according to its website.

At a trial in August to determine its penalty, GMA presented testimony by a political scientist who said his research suggests public disclosure laws are not helpful to the public.

Hirsch said the testimony was directly at odds with the intent of Washington's disclosure law. "The court did not find his testimony helpful," she wrote.

Shortly before the election in 2013, GMA identified the donor companies under the threat of a fine.

GMA lashed out at Attorney General Ferguson for taking the case to Superior Court and seeking a fine far above the maximum possible by the Public Disclosure Commission.

GMA's decision to report itself rather than its members as the contributor was "at most an inadvertent technical violation of the state's vague and complex disclosure law," the association said in a written statement.

GMA's case was "being handled as a routine matter by the Public Disclosure Commission until Attorney General Ferguson seized control shortly before the 2013 election to further his personal political ambitions."

Ferguson said in a statement issued by his office that he took GMA to court because it "needed to be held accountable for their arrogance and willful disregard of Washington state campaign finance laws."

His office asked Hirsch to fine GMA \$43.8 million, three times the amount GMA deposited into a fund in 2013 for political activities nationwide.

Hirsch didn't go that far. But PDC Executive Director Evelyn Fielding Lopez praised the outcome on a Facebook post. "PDC has the most awesome attorneys!" she posted.



EO Media file photo

Potatoes ride a conveyor belt into a cold storage facility outside Hermiston, Ore.

## Columbia Basin's potato farmers happy with harvest

Minimal impacts from October rain

By GEORGE PLAVERN  
EO Media Group

HERMISTON, Ore. — Whether mashed, baked, scalloped or fried, there should be no shortage of locally grown potatoes to serve up at this year's Thanksgiving dinner.

As fall potato harvest wraps up around the Columbia Basin, farmers are expecting above-average yield and quality thanks to an exceptional growing season.

Bill Brewer, CEO of the Oregon Potato Commission, said early spring conditions helped to jump-start the crop's growth, while summer cooled off enough to avoid stifling the plants. Most farms finished harvesting ahead of schedule, Brewer said, with only minimal delays from October's record rainfall.

"The weather was actually very cooperative," Brewer said. "It ended up working out well."

According to the National Weather Service in Pendleton, Ore., 1.9 inches of rain fell last month at the Hermiston Municipal Airport, making it the wettest October on record. Downtown Pendleton also received 2.32 inches of rain, making it the third-wettest October there since 1900.

Soggy weather can make for a difficult time harvesting potatoes — especially spuds bound for the storage shed. If there's too much mud, it could block airflow to the plants and cause them to rot before they can be sold to supermarkets or food processors.

Fortunately, the early start allowed most growers to avoid that issue, Brewer said. The Columbia Basin is also home to sandy, well-drained soils that dry out quicker, meaning farmers don't have to wait long after it rains to get back out into the fields.

"I really don't think it was an issue," Brewer said. "Most people were done by the time the moisture really started coming."

Greg Harris, farm manager for Threemile Canyon Farms near Boardman, said they finished harvesting storage potatoes by Oct. 10, which was a few days ahead of schedule. The farm grows 7,000 acres of spuds — including several varieties of russets — which are sold to processors such as french fry giant Lamb Weston.

"Because most of the rain came during the second half of October, most people had the bulk of storage done," Harris said. "Otherwise, it definitely would have been a problem for us."

Along with storage, Threemile Canyon delivers potatoes directly from the field to customers through early November. That's where having sandy, absorbent soils comes as a benefit, Harris said. In particular, processing plants around the Tri-Cities leaned heavily on the farm during the late October rains.

"They were almost doubling our output out of here for three or four days to get potatoes to those plants," he said.

The early season growing conditions have made for an excellent crop, Harris said. He estimates production to be about 2 tons per acre more than usual.

"We're happy with how it turned out," he said. "Certainly, it was one of our better crops."

Statewide, Oregon farmers grew nearly 1.22 million tons of potatoes in 2015, worth \$176.45 million. Brewer said the region from Hermiston to Boardman averages 30-plus tons per acre, mostly for processing into products such as fries, potato chips and potato flakes.

Basin Gold, a cooperative of Oregon and Washington growers, also specializes in producing and marketing fresh market potatoes, such as the ones on supermarket shelves.

Bud-Rich Potato, of Hermiston, is part of that co-op.

Most farms should be producing at or above average throughout the area, Brewer said.

## Easement close for cherry orchard expansion

By DAN WHEAT  
Capital Press

WENATCHEE, Wash. — After years of effort, it appears the world's largest sweet cherry producers are another step closer to gaining more high-elevation orchards.

However, opponents of the expansion say they question the state's authority to help with the expansion.

The Mathison family, which does business as Wheeler Ridge LLC and owns Stemilt Growers in Wenatchee, Wash., is getting an easement from the state Department of Natural Resources to install a water pipeline in a Chelan County road right-of-way.

The right-of-way is in Section 16 of the Stemilt Basin south of Wenatchee. DNR plans to sell the land to the Washington Department of Fish and Wildlife.

The Mathisons are paying more than \$9,000 for the easement, which enables them to get water farther uphill to Section 17, where they plan to

test the survivability of cherry trees at 4,200 feet of elevation. If all goes well, they plan to plant an orchard there.

Jerry Gutzwiler, president of the Wenatchee Sportsmen's Association, said a lot of area residents are disappointed because enabling more orchard "flies in the face" of the whole concept of the community group, Stemilt Partnership, to preserve and protect the area for wildlife and recreation. The association opposes more development as detrimental to habitat for the 6,000-head Collockum elk herd.

The Mathisons have unsuccessfully tried to buy or lease Section 16 from the DNR in the past for orchard development.

The easement has been "very secretive" and may not be legal since Public Lands Commissioner Peter Goldmark, head of the DNR, and the director of WDFW signed a sale and purchase agreement for Sections 16 and 21 that did not include any pipeline easement, Gutzwiler said.

Goldmark decided "to hold

WDFW hostage" to the easement and WDFW went along with it because its funding to purchase the land expires at year's end, Gutzwiler said.

"I can't say I'd do anything differently, but it will open up major access through that section (16) that was bought for habitat, and road access degrades habitat," he said.

DNR typically grants easements as long as they don't impede land uses. The DNR-WDFW agreement is silent on easements, so DNR has the authority to grant it, said Bob Redling, DNR spokesman.

WDFW wanted the easement granted before it got the land "so it didn't have to manage that process," Redling said.

The easement will be signed soon because the land is to be sold by the end of January, he said.

James Brown, regional director of WDFW in Ephrata, said the Stemilt Partnership wants WDFW to buy Sections 16 and 21 to save them from development.

## USDA: Midsize farms hold their own

Numbers drop slightly, but shifts larger in other categories

By MATEUSZ PERKOWSKI  
Capital Press

The number of midsize growers in the U.S. has dropped slightly but the category hasn't experienced as much change as other farm sizes, according to USDA.

Farms in the midsize category, with roughly \$350,000 to \$1 million in annual revenue, declined in number by 5 percent between 1992 and 2012, according to a recent USDA study.

To compare, large farms with more than \$1 million in revenue more than doubled in number, while small commercial farms — those with revenues between \$10,000 and \$350,000 — declined in number by 22 percent.

Midsize farms also had smaller net exit rates from the industry than large or small commercial farms between 2007 and 2012, the study found.

"They do stick around," said Chris Burns, an economist for USDA's Economic Research Service who co-wrote the report, "The Changing Organization and Well-being of Midsize U.S. Farms, 1992-2014."

Burns said he decided to study the characteristics of midsize farmers to see what traits caused them to succeed and grow.

For example, increasing farm income over time was strongly correlated with a willingness to lease more acreage, he said.

Younger farmers intent on growing their operations were likely renting more acreage while those approaching retirement were downsizing, Burns said.

"Midsize farms will probably include both of those groups," he said.

Beginning farmers in the midsize category were more likely to exit the industry than those who have operated for more than 10 years, he said.

"If you have experience farming, you're more likely to succeed," Burns said, adding that such factors are significant as the overall farming population ages.

Over time, the number of farms in the midsize category may shift due to variations in income, either because they grow to large farms or shrink to small commercial operations, he said.

"They can bounce around just because of changes in prices and yield," Burns said.

However, larger operations can often better afford labor-saving technologies and reduce their costs, he said. "I think we'll probably see more production on large farms."

While Burns' report focused on midsize farms, the data also showed a dramatic shift among smaller farms: Those with low sales — under \$10,000 — increased in number by 400,000, or 61 percent, between 1992 and 2012.

Meanwhile, small commercial operations with incomes between \$10,000 and \$350,000 fell in number by 245,000, or 22 percent.

It's unclear whether small commercial farms are simply earning less revenue or if another reason is responsible for this shift, Burns said.

"It definitely makes me curious as to what's driving that," he said.

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