

County's economy was knocked flat when mill closed in the late '70s

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Benefits abound

There is potential for a cascading economic and environmental impact that goes beyond Derby, a load of juniper and a struggling sawmill.

In much of the rural West, juniper sucks up water, crowds out sage and native grasses and provides perches for hawks and other predators. It's an pervasive presence. Oregon alone has an estimated 9 million acres of juniper.

Wildlife biologists have identified the juniper infestation as one of the problems afflicting greater sage grouse, which is a candidate for listing under the federal Endangered Species Act in 2015.

If there is a market for juniper products, the thinking goes, ranchers and other landowners will cut more of it, which will improve habitat for greater sage grouse. In turn, that might keep the bird off the endangered species list. Which would be good for cattle ranchers, farmers, miners and energy developers in 11 Western states, who worry deeply about the restrictions and regulations that come with the ESA.

But that's national issue stuff. The rise or fall of Derby's juniper sawmill is a big concern locally. Wheeler County is Oregon's least populated county, with more square miles, 1,713, than people, 1,430. Fossil, the county seat, has 475 people.

The county's economy was knocked flat when the Kinzua mill closed in the late 1970s and hasn't gotten back up.

The situation is such that June Rollins, owner of the Kountry Kafe in Fossil, has an informal arrangement with RJ's, the restaurant across the street. Kountry Kafe serves breakfast and lunch, RJ's serves lunch and dinner. That way, they split the trade between them.

Derby has one employee helping him. A couple jobs in Wheeler County, former county Judge Jeanne Burch said, are the equivalent of a couple hundred in Portland.

"Two jobs won't turn the economy around, but it makes an impact," said Burch, who was judge for 18 years. "Every dollar goes to the grocery store, to the gas station, to the restaurants."

Selling juniper makes sense, she said. People in the



Kendall Derby, left, oversees the unloading of juniper landscape timbers at Sustainable Northwest Wood in Portland. The specialty lumber yard is 170 miles from Derby's one-man sawmill in Fossil.



Kendall Derby, left, discusses the juniper market with Ryan Temple, president of Sustainable Northwest Wood in Portland.

county admire Derby for what he's doing and wish him well, she said.

"It's a bright way to go if he can just hang in there," Burch said.

Urban market

Ryan Temple, president of Sustainable Northwest Wood, arrives on a blue Salsa bicycle as Derby's trailer is being unloaded.

The business, in Portland's inner east side warehouse area, is a specialty lumber yard. It's a for-profit spinoff of Sustainable Northwest, a nonprofit that mediates environmental and rural economic concerns.

Sustainable Northwest

Woods is the organization's effort to "walk the talk," Temple said. The business buys wood from 45 small Pacific Northwest mills such as Derby's and sells to people looking for unusual decking, butcher block, fences, flooring, timbers, posts and other items.

Temple acknowledges the difficulty Derby and other rural producers face in reaching consumers.

"The reality of it is, the purchasing power exists in dense urban areas," he said.

In October, Sustainable Northwest received a \$65,000 USDA grant to certify western juniper's structural characteristics. The testing will be

done by Oregon State University and West Coast Lumber Inspection Bureau. Certification is necessary to get broader use of juniper.

But even without certification, demand is not the problem.

Tamra Rooney, operations director for Sustainable Northwest Wood, said juniper sales are growing at 50 percent a year and approached \$500,000 in 2014. "We can sell juniper all day long," she said.

Organic vineyards want juniper posts at the end of their rows of grapes, because juniper is naturally rot-resistant and doesn't have to be treated with preservatives. Derby is filling an order of 800 posts for a new organic vineyard.

Meanwhile, parks departments and transportation divisions want juniper for signposts, guardrails and trail beams. The University of Washington ordered juniper timbers for a retaining wall.

The most unusual application may be in Sweden, where a distiller ages gin in barrels made from juniper staves cut by Derby.

Derby believes a lack of logging infrastructure is holding back the juniper market. Two other small Oregon mills cut juniper, but they're also

struggling to get logs.

Two Baker County men who have worked on the issue say large-scale juniper logging doesn't appear feasible. Josh Uriarte, who splits time between the local Soil and Water Conservation District and the Natural Resources Conservation Service, and Logan McCrae, with the state Department of Forestry, say juniper is difficult to cut and de-limb.

Mechanized faller-buncher machines would make logging more efficient, but don't do well cutting gnarly juniper, the men say. In addition, larger juniper trees usually grow at higher elevations, which are difficult to reach. A lack of roads in rangeland means logging trucks can't get to where the trees are.

Many ranchers and land management agencies are cutting juniper, but are either letting trees lie or burning them, Uriarte and McCrae said.

Derby, the juniper mill operator, acknowledges the difficulties cause him some sleepless nights. But he hasn't fallen off the edge yet. For now, he's an "artisan sawyer," as he jokes, hauling loads to Portland.

"I don't expect it to be easy," he said, "but I expect it to be possible."

Associations seek help in piece rate lawsuit

By DAN WHEAT
Capital Press

YAKIMA, Wash. — The Washington Farm Labor Association and Washington State Tree Fruit Association are urging tree fruit growers to defend their practice of including worker rest breaks in paying piece-rate wages.

The associations are asking growers to contribute \$1 for every worker they paid piece rate in 2014 to raise approximately \$50,000 for friend of the court briefs the associations will file in a case to be heard before the state Supreme Court on March 17 in Toppenish.

The case stems from a federal class-action lawsuit filed on behalf of berry pickers against Sakuma Bros. Farms in Skagit County. The company denied wrongdoing but paid \$500,000 in claims to more than 400 workers. The mediated settlement left unresolved the issue of paid rest breaks for piece-rate pickers. A federal judge approved referring that question to the state high court.

Farmworker organization attorneys argue denying piece-rate pickers paid breaks is at odds with labor regulations and court rulings giving other workers the right to take paid breaks.

Ten-minute breaks every four hours should be paid piece-rate workers according to how much fruit they could have picked in the 10 minutes, the plaintiffs say.

That is complicated by the fact workers don't always pick the same amount of fruit during any given day and that the piece rate varies depending on the variety of fruit picked, said Dan Fazio, director of the Farm Labor Association in Olympia.

State law requires agricultural employers to "allow" workers to take 10-minute, paid breaks for each four hours of work but does not force breaks, Fazio said. Paid breaks are calculated into the piece rate, and often piece-rate workers choose to not take breaks because they earn more money if they keep picking, he said.

Most Washington growers pay piece rate for harvest and some pay piece rate for other jobs such as pruning.

Growers who use piece rate need to make sure they tell workers — on their WH-516 Migrant and Seasonal Farm Worker Disclosure form or some other notice — that piece rate compensation is intended to cover rest breaks and other tasks associated with piece rate jobs, Fazio said. That should insulate growers in case the court rules farmers must provide extra pay for piece-rate rest breaks, he said.

Farmworker attorneys are seeking a retroactive ruling enabling piece-rate workers to claim back pay for several past seasons, he said. That would be hard to calculate but could reach tens of millions of dollars, he said.

Employers need to allow and document rest breaks, said attorneys for the law firms of Jeffers, Danielson in Wenatchee, and Stokes Lawrence in Yakima, working on the associations' briefs.

"The law is on our side but there is no way to predict how the court will rule. Whatever the outcome, this case will affect many employers and workers in Washington state," said Kristin Ferrera, an attorney at Jeffers, Danielson.

To assist with the case, growers may contact the Washington Farm Bureau Legal Foundation, Attn: Piece Rate Amicus, 975 Carpenter Road NE, Lacey, Wash., 98516. Checks may be payable to "WFB Legal Foundation" and should be noted "labor" or "piece rate amicus."

Obama 'has been supportive of a new guestworker program'

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will address the illegals who the president's action doesn't include, Cunha said. The president's program only pertains to those with children who are legal residents.

Obama will sign a bill if it has those things and is not just border enforcement, he said. "He has been supportive of a new guestworker program. I've never heard him say he would veto that," Cunha said, while admitting some unions oppose guestworker programs.

Dan Fazio, director of the Washington Farm Labor Association in Olympia, said he's optimistic the House will address immigration.

Jeff Stone, executive director of the Oregon Association of Nurseries in Wilsonville, is hopeful but not necessarily optimistic. He said it depends

on if Republicans eyeing presidential runs figure out whether a pro-immigration outlook helps them win the White House.

Lee Wicker, deputy director of the North Carolina Growers Association, Vass, N.C., said a deal on immigration is unlikely and that it will be a big issue in 2016.

"We need to get something, but it's critical it's workable and sustainable. This issue is so difficult that we only see action every generation or so. It's critical we get it right," Wicker said.

"If we get it wrong it could hasten the decline of labor intensive agriculture and production of fresh fruits and vegetables in the U.S.," he said.

North Carolina leads the nation in usage of H-2A visa foreign guestworkers at 14,500 and has been steadily

increasing for labor intensive tobacco, fruits and vegetables.

Whether or not illegals come forth to sign up for temporary legal status granted by an executive action that could be rescinded by the next president, depends on what happens in the next few months in Washington, D.C., Wicker said.

"If there's a lot of negativity the numbers will be smaller," he said.

Obama's program, announced Nov. 20, defers deportation of illegals who have been in the U.S. more than five years, have children who are legal residents, pass a criminal background check and are willing to pay taxes. It does not grant citizenship.

Fazio said it grants Social Security cards, unemployment eligibility and three-year work authorization.

"I think people will sign up

for it. I would if I were undocumented," he said.

Some people may be afraid to sign up but Congress has never rescinded an immigration order of such magnitude, Cunha said.

Stone said he doesn't know if people will come forward or not but that he thinks people want to do things the right way, get authorization and pay taxes.

Obama's order is suppose to be implemented within 180 days of its announcement which is May 15, Fazio said. Cunha, who has advised Obama on immigration issues, said the program could be operational before the end of March.

Cunha and Wicker fear the executive order will accelerate migration of workers away from agriculture to less strenuous and more certain work in other sectors.

that power once the crop is deregulated by federal officials.

State legislation could establish that ODA may still create or retain "control areas" even after USDA lifts its own restrictions on biotech crops, said Maluski.

For example, such state control areas could require biotech farmers to maintain "isolation distances" to mitigate the risk of cross-pollination with non-GMOs, he said.

"It's going to be on a case-by-case basis, as it should be," Maluski said.

Another concept involves compensating organic and conventional growers if their crops are contaminated by pollen from biotech plants,

said Chris Schreiner, executive director of Oregon Tilth, an organic certification agency.

There should be a way to compensate non-GMO farmers for damages from cross-pollination that wouldn't require them to buy insurance policies, he said.

Proponents of biotechnology say farmers who grow biotech, conventional and organic crops can work out their differences without interference from the government.

"Farmers have learned to coexist for years," said Paulette Pyle, grass roots director for Oregonians for Food and Shelter, an agribusiness industry group.

Decades ago, a conflict

between cherry growers and wheat farmers over drift from 2,4-D herbicides threatened to spur legislation or erupt into litigation, but neighbors were ultimately able to resolve the issue through communication, Pyle said.

The potential for biotech varieties to pollinate organic crops isn't actually a problem under USDA organic rules, which regulate farm practices but don't set up standards for genetic purity, she said.

"The organic folks have put themselves in that market box," Pyle said. "They can advertise their product any way they want, but they've got to accept responsibility."

Bills that would increase government oversight of bio-

tech crops would actually impede coexistence by limiting crop choices for farmers, said Greg Loberg, manager of the West Coast Beet Seed Co.

"It sounds threatening," he said. "There will be winners and losers in a situation where government intervention occurs through legislation."

Voluntary coexistence measures for biotech, conventional and organic crops would be preferable to those mandated by regulators, he said.

For example, seed growers in Oregon's Willamette Valley are already able to reduce the chances of cross-pollination among related crops through a voluntary mapping system, Loberg said.

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"All eyes are going to be on the legislature and what the governor is planning to do," said Ivan Maluski, executive director of Friends of Family Farms, which wants stronger biotech regulation. "This task force marks the beginning of the process, not the end."

One subject of debate will probably be the Oregon Department of Agriculture's "control area" authority over biotech crops, said Maluski.

Currently, ODA can restrict where genetically engineered crops are planted as long as the USDA retains jurisdiction over them, but the state agency believes it loses