



Courtesy Bureau of Land Management

Livestock grazing on BLM lands near Price, Utah.

Ranchers wary of proposed BLM handbook change

By JOHN O'CONNELL
Capital Press

WASHINGTON, D.C. — Cattle industry leaders fear ranches throughout the West stand to lose value and access to potential rangeland if the Bureau of Land Management implements a proposed change to its grazing handbook.

BLM bases grazing densities on animal unit months — the amount of forage a cow would need to subsist for a month. Dustin Van Liew, executive director of the Public Lands Council, explained most grazing permits include a percentage of AUMs that still exist but have been suspended based on poor grazing conditions. Those AUMs may be reactivated once conditions improve.

In the draft version of the BLM's updated handbook, which offers guidance on how BLM rules should be implemented, the agency has proposed to give field managers authority to remove suspended AUMs that are unlikely to be active in the foreseeable future when they reissue grazing permits.

Van Liew said ranchers consider permits property, and even suspended AUMs are taxed and carry weight with lenders. He worries it would be more difficult for a rancher to get new land added to a permit than to demonstrate recovery of suspended land.

"Our biggest concern is those suspended AUMs are part of the overall value of a permit to our members," Van Liew said.

He believes suspended AUMs provide the BLM flexibility to adjust for improved rotations and watering practices and cost nothing to maintain on the books.

Van Liew advises members to be vigilant of suspended AUMs when they renew permits. He knows of a few cases in which BLM offices have stripped suspended AUMs from permits, apparently anticipating the likely change to

the handbook. The ranchers all succeeded in getting their suspended AUMs restored.

Idaho Cattle Association Executive Vice President Wyatt Prescott said some of those suspended AUMs were removed from Idaho permits.

"Technically a suspended AUM is still an AUM, and in the right conditions, can be reinstated," Prescott said.

Dick Mayberry, BLM's rangeland management specialist, said the proposed handbook update is now under review by state BLM offices, and the agency hopes to release the final version during the summer. He said a public comment period isn't required to update the guidance document.

Mayberry said the grazing management handbook was last updated in 1988, based on rules from 1978, and the new handbook will align the guidance with 1995 rules, which make no mention of suspended AUMs. Mayberry said BLM managers would still have the ability to retain suspended AUMs, provided that they list a reason, and ranchers could appeal decisions to the U.S. Department of Interior's Office of Hearings and Appeals.

Mayberry said suspended AUMs have been carried forward for more than 40 years in many cases. BLM had no figures available on suspended AUMs but Van Liew estimated they could represent up to a quarter of U.S. grazing land.

"From the bureau's viewpoint, if there are additional AUMs of forage available, we can always allocate those back, and we have a history of who used AUMs, whether they're suspended or not," Mayberry said.

An official with Western Watersheds, based in Hailley, Idaho, said he's unfamiliar with the proposal but supports the concept, noting suspended AUMs are inactive for good reason.

Opponents of Oregon's 'right to farm' law can revive lawsuit

Previous complaint dismissed on jurisdictional grounds

By MATEUSZ PERKOWSKI
Capital Press

Opponents of Oregon's "right to farm" law can file a new complaint against the statute by Jan. 23 after a previous constitutional challenge was recently dismissed.

The dispute relates to a 2013 pesticide incident in Curry County in which several rural residents claimed they suffered from medical problems after an aerial applicator sprayed 2,4-D and triclopyr on their properties.

The Oregon Department of Agriculture issued a \$10,000

civil penalty against the company, Pacific Air Research, but 17 plaintiffs filed a lawsuit against the applicator and related firms last year.

The plaintiffs asked Circuit Court Judge Jesse Margolis to declare that Oregon's "right to farm" law, which prohibits nuisance and trespass lawsuits over common farming practices, is unconstitutional because it prevents people from seeking a legal remedy for an injury.

Such a ruling would have widespread consequences for Oregon's farm and forest industries, which have faced previous legal attacks on the law that ultimately proved unsuccessful.

Margolis dismissed the Curry County lawsuit last month but will allow the plaintiffs to submit an amended complaint by Jan. 23.

The judge threw out their

original complaint without prejudice — potentially keeping the fundamental legal question alive for the future — because the constitutional challenge is currently premature.

The plaintiffs want the "right to farm" law declared unconstitutional but they have not yet filed a lawsuit actually seeking damages for nuisance or trespass against Pacific Air Research or the other companies, Margolis said.

At this point, it's merely hypothetical that the defendants would use the "right to farm" statute as a defense in such a case, the judge said.

Without a "justifiable controversy" underlying the constitutional challenge, the complaint must be dismissed, he said.

The plaintiffs are still deciding whether to file an amended

complaint seeking to resolve these jurisdictional issues, said Chris Winter, their attorney.

Bradley Piscadolo, attorney for the defendants, said he could not comment on the case without permission from his clients.

In court documents, the plaintiffs argued that pursuing a nuisance or trespass claim against Pacific Air Research would be financially dangerous unless the court first declared Oregon's "right to farm" law unconstitutional.

If the plaintiffs lost their nuisance or trespass lawsuit, the "right to farm" statute would require them to pay for the defendants' attorney fees.

For this reason, the rural residents wanted the law declared unconstitutional so they would not face the "threat of incurring massive liability," plaintiffs said in a court brief.

Hazelnut farmers squeeze profits from sickly orchards

High prices discourage removal of diseased trees

By MATEUSZ PERKOWSKI
Capital Press

With hazelnut prices at a record high, farmers are trying to squeeze as much profit from dying orchards as they can, experts say.

Older hazelnut trees across Oregon's Willamette Valley are gradually succumbing to Eastern Filbert Blight, a fungal pathogen, while growers replace them with new disease-resistant varieties.

However, at a time when farmers are selling hazelnuts for \$1.70 per pound — the highest price ever — they are reluctant to remove infected orchard blocks that still generate solid yields.

"We know it's a matter of time before we lose the orchard but we're going to keep fighting," said Dwayne Bush, a farmer near Eugene, Ore., during the annual conference of the Nut Growers Society on Jan. 13.

Bush said he scouts for symptoms of blight and prunes away infected limbs throughout the winter, then sprays fungicides four times per year after bud break to suppress the disease.

Eastern filbert blight can be slowed by cutting away "cankers" that allow the fungus to release spores and infect new



Courtesy of Mike Klein, Oregon Hazelnut Marketing Board

Hazelnut farmer Garry Rodakowski of Vida, Ore., speaks about using a hedging machine to improve fungicide treatments of his trees at the annual Nut Growers Society conference on Jan. 13. Farmers are trying to keep diseased orchards productive due to high hazelnut prices.

trees, said Jay Pscheidt, plant pathology professor at Oregon State University.

Cutting a branch directly below the canker, however, is not sufficient — more wood must be removed to effectively prevent the canker from growing, he said.

Pruning the limb three feet below the canker will offer the most protection but will also significantly dent production, so Pscheidt recommends cutting one foot below the canker.

Cankers can still release spores after a branch is cut, so growers should not allow pruned limbs to linger on the

ground below trees, he said.

If piles cannot be burned immediately, they should be moved to an area where prevailing winds won't send spores toward uninfected portions of the orchard, Pscheidt said.

Grinding the limbs has also been shown to nullify the threat from cankers, he said.

Fungicides help trees fight the fungus and stave off the decline in yields, but the cost of spraying must be weighed against the revenue from the orchard block, Pscheidt said.

"These fungicides are not 100 percent effective," he said.

"You will still find cankers on the trees, but significantly fewer of them."

Growers with large trees must also contend with the issue of spray coverage.

Garry Rodakowski, a farmer near Vida, Ore., has trees that are 40-80 years old and have grown too big for cankers to be readily spotted.

Apart from pruning problems, the size of the trees impedes the penetration of fungicides, Rodakowski said.

"Your spray coverage has to get up there," he said.

Rodakowski's solution has been to remove the overstory between rows with a hedging machine, creating an opening for the fungicide mist to rise and filter into the trees.

"We're knocking down about 20 feet from where the original canopy was," he said.

Bruce Chapin, a farmer near Salem, Ore., hires aerial applicators to treat his trees, which allows him to exploit the few "weather windows" of ideal spraying weather in early spring.

"Timing is very important," he said.

At this point, one of the orchards managed by Chapin's family is so diseased that the blight has spread to the trees' trunks, convincing them to stop pruning.

Even so, they hope to keep the block producing nuts for another 3-5 years with the spray regimen, he said. "Keep in mind, this orchard is still producing money."

Discharge permit topic at Washington wine convention

KENNEWICK, Wash. — Washington wine grape growers will have a chance to comment on state Department of Ecology plans for winery wastewater discharge permits at the Washington Association of Wine Grape Growers' annual convention.

The convention, the second largest of its kind in the nation, is Feb. 10-13 at the Three Rivers Convention Center in Ken-

newick.

The Department of Ecology is gathering information to develop a preliminary draft permit for winery wastewater discharges. Ecology proposed the idea last May, citing potential adverse impacts to groundwater and municipal wastewater treatment plants from over application of high-strength, untreated winery wastewater. In July, Ecology announced it would

develop a general permit.

A session for winery and wine grape growers to work with Ecology on permit plans will be held during the convention's opening afternoon at 1:30 p.m., Feb. 10.

The convention is the premier educational opportunity for Northwest wine grape growers and wineries. Sixteen educational sessions are planned and there will be 160 vendor booths

in the accompanying trade show in the adjacent Toyota Center.

Among the sessions: Focus on Vintage Variation — Cabernet Sauvignon 2011 v. 2013; Focus on Viticulture; Advanced Viticulture — vineyard expansion and new processing technology for wineries large and small.

For more information and registration: www.wawgg.org.

— Dan Wheat

Idaho wine industry has \$169 million impact on economy

By SEAN ELLIS
Capital Press

BOISE — Idaho's fast-growing wine industry had a \$169.3 million impact on the state's economy in 2013, according to a new study.

According to the economic impact study, the industry was also responsible for 1,226 jobs.

The report by Stonebridge Research Group, a wine industry consultant based in Napa, Calif., said the impact would have been greater if a January frost had not reduced wine grape yields by 30 percent that year.

Stonebridge has conducted economic impact studies for several states' wine industries, including California, Washington, and New York, as well as multiple counties in California.

Idaho Wine Commission Chairman Gregg Alger said Stonebridge is a national-

ly renowned wine industry consultant and the \$30,000 study will give the Idaho wine industry some real credence among government officials and people outside the state as well.

"This is a real powerful tool to have on your desk," said Alger, owner of Huston Vineyards near Caldwell. "It shows the impact the wine industry has on so many aspects of the state's tourism industry and the trickle-down effect it has on the state."

A previous economic impact study performed by Boise State University in 2007 showed the state's wine industry had a \$73 million impact on Idaho's economy. Since then, the number of Idaho wineries has grown from 32 to 51. There were 11 in 2002.

IWC Executive Director Moya Dolsby said she was happy with the study but "wasn't that surprised because if you look at the

growth of the Idaho wine industry over the last five years, it's been phenomenal."

According to the study, 50 Idaho wineries in 2013 produced 214,140 cases of wine, recorded \$17.1 million in winery revenue and the total retail value of Idaho wine was \$22.5 million.

A total of 2,908 tons of grapes were harvested from 1,290 acres and the value of the state's grape crop was \$2.8 million.

Stonebridge also estimated there were 175,000 winery visits in 2013 and also estimated wine tourism spending at \$16.5 million.

The report said there should be continued growth in the Idaho wine industry but increased investment in research and training "is needed to stabilize quality, improve production efficiency, reduce risk and justify better pricing."

Stonebridge President and CEO Barbara Insel

told the Capital Press that Idaho's wine industry has learned a lot from research conducted in Washington and Oregon but could use more Idaho-specific research because the soils and climate are so different here.

"Having more science to depend on would help a lot," she said.

When the industry's impact on other sectors is factored in, the wine industry was directly and indirectly responsible for creating \$39.7 million in wages, as well as \$10.5 million in state and local taxes and \$8.9 million in federal taxes.

"This is an industry that has a tremendous amount of potential in the state of Idaho," said Pend d'Oreille Winery owner Steve Meyer, who almost doubled his payroll last year. "I think the report says a lot about the wine industry gaining momentum in the state of Idaho."



Sean Ellis/Capital Press

Kristin Lacey sorts petit verdot grapes Oct. 29 at Koenig Winery near Caldwell, Idaho. A new study shows Idaho's wine industry had a \$169 million impact on the state's economy in 2013.