

\$2.25 million ICE fine shocks tree fruit industry

By DAN WHEAT
Capital Press

PRESCOTT, Wash. — The Washington tree fruit industry has been rocked by one of its largest companies, Broetje Orchards of Prescott, agreeing to pay \$2.25 million in civil penalties to conclude a federal investigation of its workforce.

The settlement was reached for civil violations of federal law related to verifying U.S. employment eligibility of workers, according to the U.S. Immigration and Customs Enforcement agency.

It is the largest civil penalty by ICE on record against any business in Washington, Oregon, Idaho and Alaska and one of the larger fines against an agricultural company nationally, said Andrew Munoz, Seattle ICE spokesman.

Broetje Orchards issued a news release saying it has agreed to pay the \$2.25 million with no admission of wrongdoing and no allegation or finding of criminal conduct.

In March 2012, ICE notified Broetje Orchards that it had nearly 1,700 workers not authorized to work in the U.S., Munoz said.

A follow-up audit last summer showed that while the company had significantly reduced the number, nearly 950 unauthorized workers remained, Munoz said. Broetje Orchards acknowledged that, he said.

ICE pursued a fine of \$2.5 million based on \$2,250 per employee, plus an additional amount for the "aggravating factor" that employees had not been terminated after the notice, Munoz said. Negotiations reduced that to \$2.25 million in the agreement signed June 2, he said.

Broetje waives any right to appeal and was cleared of any further civil or criminal liability up to June 2, Munoz said.

"We come out of this



Workers at Broetje Orchards pick Fuji apples at a Walla Walla County farm in 2013 near Prescott, Wash. The company has reached an agreement with the federal Immigration and Customs Enforcement agency.

Associated Press file

agreement hoping Broetje continues on a path of compliance, but the agreement does not preclude future audits for criminal enforcement," he said.

"ICE weighs various factors when considering the appropriate penalty, including the interests of the community and local economy," said Raphael Sanchez, ICE's chief counsel in Seattle. "We believe this is a reasonable conclusion that holds this business accountable but does not cripple its ability to provide jobs to lawful workers."

In its news release, Broetje Orchards said it was pleased to get the process behind it and get back to growing fruit.

"This case nevertheless highlights what is clearly a dysfunctional and broken immigration system," the company said. "We urge our industry and our state's congressional delegation to take

the lead to support and pass immigration reform legislation. The agricultural labor shortage needs to be fixed, and now."

The company said it would make no further comment.

Broetje Orchards packs more than 5 million boxes of apples annually and has more than 6,000 acres of apples and cherries, according to its website.

It has more than 12 million square feet of fruit storage and packing space and employs 1,000 seasonal workers during peak harvests and 1,100 year-round employees.

Other agricultural employers in the four-state region have been fined by ICE in recent years, Munoz said. He said he doesn't know how many. Penalties usually are less than \$100,000 and typically between \$5,000 and \$50,000, he said.

ICE issued 11 notices of intent to fine in the four states in 2014 and 25 in 2013, he said. Those were all businesses, not just agriculture, he said. There were 12 final orders in 2014 totaling \$176,000 in fines in the four states and 31 in 2013 totaling \$763,000, he said.

"A majority of cases don't result in any type of penalty or administrative action" when we see good faith, proactive efforts, Munoz said.

In reacting to the news, the president of another Washington tree fruit company, said: "This deal is scary. We will get to the point with these raids where we just won't have enough people to get our crops picked and packed."

The \$2.25 million is a lot for any company to pay and probably 80 percent of the workers in most packing

houses are illegal, said the president, who asked for anonymity.

"This is a symptom of the fact we've been unable to get anywhere on immigration reform. There are a lot of growers in the same position as Broetje. They all need to have a way to get a legal workforce instead of play the games of the past 20 years," said Mike Gempler, executive director of the Washington Growers League in Yakima.

Solutions are available, such as the 2013 Senate bill, but greater use of H-2A foreign guestworkers alone won't solve labor shortages, he said.

Labor is tighter than last year, particularly in the Wenatchee area, he said.

"The large fine against an outstanding grower further demonstrates that the majority of the seasonal agricul-

tural workforce is not work authorized, as if we need further proof," said Dan Fazio, director of WAFLA, a farm labor association in Olympia.

"Immigration reform is the domestic social issue of our time. We need to get it right. Congress must reform immigration laws to make it easier for seasonal workers who are sponsored by great employers to enjoy the dignity of legal presence while they work in our fields and the administration needs to stop playing politics with the issue and work with Congress," Fazio said.

This year's labor shortage looks like 2006, a bad year, Fazio said. The recession reduced shortages for a few years after 2007, he said.

"People are scared they don't have enough. We're getting calls from lots of growers," he said.

WAFLA probably will assist growers in hiring 10,000 H-2A workers this year compared to more than 7,000 last year, he said. The statewide total may hit 15,000, up from 9,077 last year, he said.

More hops and pear growers and smaller growers are using H-2A on shared contracts, he said.

Norm Gutzwiler, a Wenatchee grower, said he's "dumbfounded" by the penalty against Broetje.

"Our system is broken and somehow it needs to be fixed so people can work. That's a heavy fine to be levied against anyone," he said.

"People will be more conscientious and try to do the right thing but people have been trying to do the right thing for years. I'm sure Broetje had people checking I-9 (employment eligibility) forms," he said.

Gutzwiler said growers he's talked to have had enough pickers for early cherries and that he hopes it will be adequate through cherry harvest as pickers move up from California after finishing the crop there.

Vilsack, Jewell make pitch for more fire funds

By ZANE SPARLING
Capital Press

The U.S. Forest Service said Tuesday that it need access to new funds to combat the 1 percent of wildfires that are the most dangerous—and expensive—to fight.

President Barack Obama's \$4 trillion budget proposal would allow the Forest Service to use FEMA and other natural disaster relief funds for fire suppression. As it stands, the agency routinely pilfers cash from other parts of its budget, including blaze prevention and forest restoration, to pay for firefighting.

"These are emergencies.

They should be treated as such," Interior Secretary Sally Jewell said to reporters during a conference call on Tuesday. "(Forest Service) firefighting has exceeded budget in nearly half of the last 14 years."

The president's proposal largely mirrors language taken from the Wildfire Disaster Funding Act, which was introduced by Reps. Mike Simpson, R-Idaho, and Kurt Schrader, D-Ore., in 2014.

The bill has almost 100 bipartisan cosponsors, but has been stuck in the House Subcommittee on Conservation, Energy and Forestry since February of last year. An attempt to force a floor vote on the act, known formally as House Resolution 3992, failed in July after Rep. Scott Peters, D-Calif., was unable to obtain the 218 signatures needed for a discharge petition.

During the press conference, Agriculture Secretary Tom Vilsack emphasized the natural origin — lightning strikes—that cause most forest fires.

"We want to use a fund that's set aside for disasters" he said. "And (forest fires) are every bit as natural as tornadoes or hurricanes."



Grant County Sheriff's Department

Administration officials want to tap FEMA funds to fight the most destructive wildfires.

One percent of forest fires soak up 30 percent of the Forest Service's suppression budget, according to a Department of Agriculture press release. Combined, the Agriculture and Interior departments expect to spend somewhere between \$810 million to \$1.62 billion battling deadly forest fires this season. The high end of that estimate exceeds their total budget by \$200 million.

"What's frustrating about this is that we're not asking for new dollars... It's just spending existing money in a slightly different way," Vilsack said. "We'll fight the 98 to 99 (percent) of fires. But there's 1 to 2 percent that we simply cannot afford."

Republicans in the GOP-controlled House and

Senate have already rejected the president's budget proposal. The House Appropriations Committee released a bill last Tuesday that would increase firefighting and prevention funds by \$52 million.

In the meantime, Forest Service Chief Tom Tidwell warned reporters that, despite the delayed start to the season, dangerous infernos are already burning in California and Arizona. Oregon, Washington and Northern Idaho are expected to see their share of blazes as the fire season continues.

"We're ready when fires strike," Jewell, the interior secretary, said during the conference. "We hope mother nature is good to us. But she may not be."

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