

Judge used lawmakers' statements to show 'animus' toward animal activists

By SEAN ELLIS
Capital Press

BOISE — The argument by opponents of Idaho's Agricultural Security Act that legislators demonstrated hostility, or "animus," toward undercover animal rights activists was a major reason a federal judge struck down the law.

The law's supporters said they're glad the state has appealed that district court decision to the 9th U.S. Circuit Court of Appeals because if it stands, it could stifle free and open discussion during the legislative process.

"I think the legislative ani-

mus issue, if it's not reversed, would change how we do business in the statehouse and not for the good of Idaho citizens," said Rep. Gayle Batt, R-Wilder, who sponsored the bill in the House. "We need to encourage dialogue and have openness and frankness in the legislature. This would hurt openness and transparency in government."

Plaintiffs, which include a coalition of animal and civil rights groups, used transcripts of legislative proceedings to back their claim that lawmakers had an animus or ill will toward them.

In his ruling striking down the major parts of the so-

called "ag gag" law, Chief U.S. District Judge B. Lynn Winmill agreed with them.

"The overwhelming evidence gleaned from the legislative history indicates that (the statute) was intended to silence animal welfare activists, or other whistleblowers, who seek to publish speech critical of the agricultural production industry," Winmill wrote.

Winmill also said that "a review of the (statute's) legislative history leads to the inevitable conclusion that the law's primary purpose is to protect agricultural facility owners by, in effect, suppressing speech critical of

animal-agriculture practices."

Sen. Jim Patrick, a Republican farmer from Twin Falls whose quotes were used by Winmill to prove his point, said the animus argument is a legislative rights issue.

Winmill quoted Patrick's statements comparing animal rights investigators to marauding invaders and terrorists.

He didn't use Patrick's quotes describing the dozens of threatening emails received by the owner of the dairy where undercover activists filmed cows being abused and which was the incident that resulted in the law being written.

Bill supporters claim the

videotape was used to try to damage the dairy, although the owner had no knowledge of the abuse and fired five people when he found out about it.

"Everything I said I can back up with ... documents," Patrick said. "During the legislature, I discussed the harassing letters (the dairy owner) received. That was pure harassment and threats. The judge didn't use those ones."

The court took statements of individual legislators and "tried to decide what those people's motives were. I think that's pretty disturbing and really (detrimental) to the legislative process," said David

Claiborne, an attorney for Idaho Dairymen's Association, which crafted the law.

Animal rights groups said that if lawmakers pass a bill that is unconstitutional, then their statements should be considered to evaluate their intent.

Matthew Liebman, senior attorney for the Animal Legal Defense Fund, the lead plaintiff, said the 14th Amendment's Equal Protection Clause says you have to treat everyone alike unless there is a good reason not to.

"The fact that you don't like a particular group of people isn't a good reason to ... make what they do illegal," he said.

Hop production up despite heat, drought

By DAN WHEAT
Capital Press

MOXEE, Wash. — U.S. hop production jumped by 11 percent this year on top of a 3 percent increase in 2014.

Production totaled 78.8 million pounds this year compared with 71 million pounds a year ago, according to a Dec. 17 report by the USDA National Agricultural Statistics Service.

The preliminary value of the crop is \$345.4 million, up 33 percent from the revised value of \$260.6 million for the 2014 crop, NASS said. Growers received record high prices as more production shifted from alpha varieties to higher-value aroma varieties in response to aroma demand from craft breweries, the report said.

The average price per pound was \$4.38 compared with \$3.67 in 2014 and \$3.35 in 2013, NASS said.

Washington produced 75 percent of the 2015 crop at 59.4 million pounds. The rest came from Oregon and Idaho. Oregon grew 10.6 million pounds, Idaho 8.7 million pounds. The three states produce about one-third of the world supply.

Oil from hop cones is used for flavoring and stabilizing beer.

Production and acreage increased in all three states. Washington had its highest number of acres harvested on record going back to 1915. Idaho also had its highest production and acres harvested

State/year	Area harvested (acres)	Yield per acre (pounds)	Production (1,000 lbs.)	Price per pound (dollars)	Value of production (\$1,000)
Idaho					
2013	3,356	1,740	5,837.9	\$2.62	\$15,295
2014	3,743	1,847	6,913.8	2.72	18,806
2015	4,863	1,794	8,724.9	3.53	30,799
Oregon					
2013	4,835	1,764	8,530.5	3.76	32,075
2014	5,410	1,520	8,221	4.07	33,459
2015	6,612	1,613	10,667.8	3.24	34,564
Washington					
2013	27,097	2,025	54,877.7	3.37	184,938
2014	28,858	1,936	55,861.1	3.73	208,362
2015	32,158	1,849	59,453.3	4.71	280,025
U.S.					
2013	35,288	1,962	69,246.1	3.35	232,308
2014	38,011	1,868	70,995.9	3.67	260,627
2015	43,633	1,807	78,846	4.38	345,388

Source: USDA NASS
Capital Press graphic



on record going back to 1944.

Extreme heat in Washington early in the growing season during crucial cone development and drought from a low winter snowpack in the Cascade Range created concern about this year's crop,

said Ann George, executive director of Hop Growers of America and the Washington Hop Commission in Moxee.

Some aroma varieties yielded poorly because of those factors, but late-season bitter hops were a bright spot

with above-average yields, George said.

"Considering those challenges and the amount of first-year plants in the ground which have smaller yield, we are pleased with the final count and looking forward to next year," she said. Acreage is expected to continue growing, she said.

Meanwhile, European producers, relying almost entirely on rainfall rather than irrigation, had one of their toughest years in more than a decade due to drought, George said. Production there is 23.8 percent lower than a year ago, she said. Germany, which produces about one-third of the world crop, is down 26 percent.

While some new and proprietary varieties are expected to be tight due to increased popularity and limited production, it appears most of the 2015 world decrease is in high-alpha bittering hops, which have some carryover in storage, she said.

The growth of small, craft breweries has driven demand for aroma varieties "to a level that has challenged the industry to continue to expand production at an equivalent rate," George has said.

Craft breweries have projected 20 percent annual growth through 2020, which has resulted in Pacific Northwest hop growers expanding aroma acreage and converting alpha acreage to aroma.

There's been a 48 percent increase in PNW hop acreage in the past three years, she has said.

Tight supply will support beef prices in 2016, analysts say

By CAROL RYAN DUMAS
Capital Press

Even though pressure on the global beef supply is easing, firm demand will underpin healthy prices in 2016, according to Rabobank analysts.

China and the U.S. will be the main import markets to watch, and Australia, Brazil, India and the U.S. will be the main exporters to watch in the year ahead, the analysts stated in their latest beef quarterly report.

Total global beef production is expected to be up 1 percent, but significant declines are forecast for Australia, down 14 percent year over year; New Zealand, down 10 percent; and Canada, down 5 percent.

Continuing dry conditions in Australia, combined with reduced herd numbers and fewer breeding females, suggests slaughter numbers there will be down 15 percent to 20 percent, the analysts said.

"After record production and exports for most of 2015, cattle supplies started to contract in October, and a number of processing plants shut early for Christmas break," Rabobank reported.

Australia's cattle slaughter and beef exports to all countries were both down 16 percent year over year for November, with exports to the U.S. dropping 66 percent, the analysts stated.

Beef production in New Zealand is also likely to be tight in 2016 after heavy liquidation and historically high

processing volumes in 2015 — expected to hit 700,000 tons, a 7 percent increase from 2014. The country's beef exports to the U.S. from January to September were up 16 percent year over year and accounted for 52 percent of its total exports, the analysts reported.

Canada's production decline is based on severe drought in the western region, which continues to limit herd expansion and has caused abnormal placements and shipments. The growing number of cattle on feed and increased placements into feedlots, however, suggests slaughter and beef production could escalate in the first quarter of 2016, the analysts said.

In the U.S., production is expected to increase 5 percent to 11.4 million tons, the first production increase since 2010, according to USDA.

But "ongoing herd rebuilding will maintain the tight supply situation into 2016, with prices expected to remain firm," the analysts stated.

In addition, ongoing strength in the U.S. dollar will continue to support imports, even as domestic supplies improve, and unbridled volatility in cattle prices should ease, they said.

That volatility, combined with heavy carcass weights, an import/export imbalance and high retail beef prices, have put pressure on the U.S. market, with cattle and wholesale beef prices suffering a 25 percent to 35 percent decline in 2015, the analysts reported.

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Questions loom over paid leave for piece-rate farmworkers

By MATEUSZ PERKOWSKI
Capital Press

Many farmers in Oregon will have to provide employees with paid sick leave beginning on Jan. 1, but farm advocates say the new rules are too vague.

Farmers face uncertainty in determining how much to pay piece-rate workers, such as fruit pickers, who are compensated based on the amount they harvest, according to the Oregon Farm Bureau.

"We didn't get the clarity we needed," said Jenny Dresler, director of state public policy for OFB.

Oregon lawmakers passed a bill earlier this year requiring employers with 10 or more workers to provide paid sick leave and the state's Bureau of

Labor and Industries recently completed regulations implementing the statute.

The rules say that piece-rate workers on leave must be compensated at the "regular rate of pay" previously established with the employer, or the minimum wage if no such rate was set.

The problem is that the regulations don't specify how this "regular rate of pay" must be calculated, Dresler said.

For example, is it based on the weekly average of the employee's piece-rate earnings before going on leave? Or the piece rate earned by other workers who are harvesting crops while the employee is sick?

"We needed a clarification and we didn't get it," Dresler said. "We just don't know."

Each member of a rules advisory committee that helped BOLI interpret the statute had a different opinion of how the "regular rate of pay" should be set, she said.

It's also ambiguous when such a rate has not been established, allowing farmers to pay workers the minimum wage when on leave, Dresler said.

While BOLI has said it will postpone penalizing employers as it educates them about the new rules, that won't stop individual workers from filing lawsuits against their employers as permitted by the statute, she said.

Tim Bernasek, an attorney specializing in agricultural and labor issues, said he doesn't "have a very good answer about how to practically implement this rule" but expects BOLI will help teach farmers how to achieve compliance.

Hopefully, legal aid orga-

nizations who have attorneys devoted to farmworker protection will also act reasonably as the rules come into effect, Bernasek said.

His best advice to growers is simply to try following the rules in good faith, Bernasek said.

Aside from the confusion over piece-rate workers, Oregon Farm Bureau is disappointed that BOLI considers farmers and labor contractors "joint employers" under the law.

That means farmers and contractors will need to independently track the accumulation of workers' sick leave hours, which OFB believes is redundant and complicated, since pickers often travel from farm to farm.

Also, the contractors' workers will count toward a farmers' employee count, so many growers who normally have fewer than 10 workers would have to comply with the paid sick leave regulations.

BOLI spokesman Burr said the joint liability provisions are guided by federal labor law.

The Oregon Farm Bureau hopes to ask lawmakers to fix the provisions during the 2016 legislative session, Dresler said. "We think the legislative intent did not come across in the rules."

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