

Attorneys get \$10.6 million in potato antitrust deal

Lawyers for plaintiffs awarded 42 percent of the \$25 million fund

By MATEUSZ PERKOWSKI
Capital Press

Attorneys who fought a potato farmers' cooperative in court over alleged price manipulation will receive more than \$10.6 million for obtaining a settlement deal

in the lawsuit.

Earlier this year, the United Potato Growers of America and affiliated companies agreed to pay \$25 million to resolve class action litigation brought by several grocers and consumers who claimed the cooperative unlawfully restricted production of the crop.

Aside from the monetary award, the settlement prohibits UPGA from trying to control potato production for seven years.

A federal judge recently approved that agreement and awarded the plaintiff's law-

yers roughly 42 percent of the settlement fund, which represents attorney fees and expenses.

The award is justified because the attorneys conducted a great deal of work, facing significant risks and obtained an "excellent result" for their clients, said U.S. District Judge Lynn Winmill.

Attorneys representing "direct purchasers" of potatoes, such as grocery stores, will get about \$6.43 million in fees and another \$1.55 million in expenses, while those representing "indirect pur-

chasers," such as consumers, will receive \$1.65 million in fees and nearly \$1 million in expenses.

The litigation began in 2010, when Brigiotta's Farmland Produce and Garden Center filed a complaint against the cooperative and affiliated defendants for coordinating potato acreage to boost prices for the crop. Other plaintiffs soon joined the litigation.

UPGA thought its efforts were shielded from antitrust prohibitions under the Capper-Volstead Act, under which farmer cooperatives

get some exemptions.

However, in 2011, Winmill found that such "collusive crop planning" was not covered by Capper-Volstead, which led to settlement talks that twice failed in 2012 and 2013.

The negotiations finally bore fruit in June 2015 after the plaintiffs filed a motion to certify their lawsuit as a class action, which allows other parties to join the litigation.

In announcing the deal, UPGA maintained that it did not engage in illegal conduct and said it would continue

gathering data and making recommendations even as the acreage planning program was ceased.

Despite the settlement, the cooperative and other defendants are still defending themselves in court because one plaintiff, Associated Wholesale Grocers, did not join in the agreement.

Barring another settlement, proceedings in that case are scheduled throughout next year, with expert depositions concluding in August 2016 and court documents being submitted in December 2016.



U.S. Bureau of Reclamation photo
Kachess Lake, west of Cle Elum, Wash., is shown at low pool. It is one of five reservoirs serving the Yakima Basin. The Roza Irrigation District has dropped plans to pump additional water from it.

Roza irrigators pull plug on pump

By DAN WHEAT
Capital Press

SUNNYSIDE, Wash. — The Roza Irrigation District has dropped plans to pump additional water from a mountain reservoir next summer if the drought continues.

The district's board unanimously agreed Dec. 15 that a \$20 million increase in estimated costs was more than it could afford, said Scott Revell, district manager.

The district's engineering consultant estimated the cost of the project at \$57 million in October with a low end of \$44 million and a high of \$80 million. Based on that, the board voted Oct. 15 to proceed and assess growers \$85 per acre per year over 10 years to pay for the work to gain 50,000 acre-feet of water next summer.

But the estimates for construction of a barge, a coffer dam, mooring and use of tugs escalated when a marine subcontractor was brought in, Revell said. The consultant revised his estimate Dec. 11 to \$78 million with a low of \$66 million and a high of \$101 million.

About 75 growers attended the meeting and many who were opposed seemed pleased, Revell said. Row crop farmers, part-time farmers and dairies were opposed, saying they would not benefit enough while tree fruit, hop and grape growers generally supported the project at the \$57 million level, Revell said.

Owners of 22,050 acres

had indicated support, owners of 8,358 acres were opposed and owners of the remaining 41,592 acres in the district had not expressed an opinion, he said.

Some residents of Kachess Lake, the reservoir where the pumping was to occur west of Cle Elum, were opposed, fearing the impact on wells and bull trout.

When full, the lake holds 825,000 acre-feet of water with 239,000 acre-feet available for irrigation. Even with the demise of the plan for emergency use of 50,000 acre-feet, plans remain to access 200,000 acre-feet via pumping in coming years as part of the Yakima Basin Integrated Water Resource Management Plan.

The district board voted to increase grower assessments from \$133.90 to \$182.65 per acre next year to help pay for \$1.35 million spent on emergency pumping, \$1.8 million on water leases and pump and canal repairs and to restore a reserve of \$3.5 million in drought funds for 2016.

Kachess and four other mountain reservoirs serving the Yakima Basin are at 123 percent of average water currently because of recent storms, Revell said. Snowpack ranges from 54 to 105 percent of normal in the upper basin, he said.

While that generally looks good, Revell said he's leery of a false sense of security.

"We will see if we have good snowpack in March," he said. "I hesitate to feel comfortable this early."

Okanogan ranchers looking for grazing

County trying to help

By DAN WHEAT
Capital Press

OKANOGAN, Wash. — Ranchers in Okanogan County are looking for whatever help they can get to survive the next year or more with limited grazing due to the wildfires of the last two years.

More than 1 million acres of the county has burned and state and federal grazing allotments cover 50 to 80 percent of that, Jack Field, executive vice president of the Washington Cattleman's Association, said.

Ranchers would like to extend emergency grazing of Conservation Reserve Program land. Okanogan County commissioners say they are trying to help ranchers by seeking a greater voice in U.S. Forest Service decisions on grazing.

"Commissioners are invoking coordination with the Forest Service. That's in statute. It's like the equal footing doctrine. It gives us the right to talk to them and they have to listen to what we have to say," said Jim DeTro, county commissioner.

A USFS spokeswoman could not be reached for comment.

DeTro said the agency bends over backward to please environmentalists opposed to grazing while ranchers should have the greater say.

So far, the agency has said ranchers can't run their cattle on burned grazing allotments next year, but there are lightly burned allotments that "will have good grass next season," DeTro said.

"They are telling ranchers they won't look at it until 2018 and that's ridiculous. We need an independent survey of what could be grazed because the USFS is infiltrated with those who don't want to graze," he said.

No grazing could force some ranchers to sell their entire herds and put them out of business, he said.

Last year, USDA opened 1.2 million acres of Conservation Reserve Program land in Eastern Washington for emergency grazing because of state drought. Ranchers who lost grazing ground were allowed to join in that usage.



Dan Wheat/Capital Press

Burned grazing ground is shown near Haeberle Ranch between Okanogan and Conconully, Wash., on Aug. 31, after the Okanogan fire. Ranchers need grazing land for their cattle next year.

About 25,000 to 30,000 acres were used, said Judy Olson, state director of the USDA Farm Service Agency in Spokane. Those same acres could not be used for a second year in a row and emergency usage of any CRP ground will be much harder if the drought doesn't continue in 2016, she said.

Okanogan County only has about 1,100 acres of eligible CRP land, she said.

It's cost prohibitive to use a lot of CRP land because ranchers not only have to haul cattle, but build fence and haul water, DeTro said.

Gerald Scholz, a Pine Creek rancher north of Riverside, said he lost a lot of timber, grazing land, hay, sheds and equipment to unnecessary backburning by agencies.

He's been selling off cattle, reducing his herd from 700 to

500 mother cows and is working on a deal to pasture 250 in the southern part of the state for two years.

"It's knocked me down a third for a couple of years. Every ranch up here is looking and doesn't know what to do yet on grazing in the spring," he said. "People are plenty upset. This country will never be the same."

Craig Vejraska, Omak, said more than 25 percent of his USFS allotments burned, 11 percent severely and the rest light.

All but 16 percent of Okanogan County is state, federal or tribal land and if ranchers can't graze it, "we're going to lose a whole industry," he said.

Vejraska bought some 2014 Timothy hay at a "fairly reasonable" price of \$130 per ton delivered that should stretch his supply to cover two years. He

said he might have to convert some irrigated hay ground into pasture next year. He has 700 mother cows, of which about 20, plus 14 calves are still missing.

Rod Haeberle, Conconully, said he has about 500 mother cows and lost one calf in the fire. He lost 40 miles of fence, 200 tons of hay and all of his own 6,000 acres of spring and fall pastures. He said he will be able to graze one allotment next year that didn't burn but will have to stay off others and will feed hay to mid-June or maybe July 1.

Forty years ago, there were about 70,000 mother cows in the county. Now there are 11,000 to 15,000, he said. Much of the reduction, he said, has been caused by the state Department of Fish and Wildlife buying up 120,000 acres and not grazing it.

"They say they have grazing available, but they want you to fence it for 30 days when you need it for months," he said.

It should be a "criminal violation," he said for the USFS to waste the amount of timber it wastes by salvaging so little after fires.

Jon Wyss, former president of the Okanogan County Farm Bureau, said about 200 cows of 1,250 estimated missing in the county in September have been found alive. He said he still believes 2,000 to 3,000 will be sold as ranchers decide they can't afford to feed them. He has estimated a \$50 million loss in production over seven years.

Your trusted source.

We support agriculture and rural communities with reliable, consistent credit and financial services, today and tomorrow.

- Real Estate Financing
- Operating Lines of Credit
- Country Home & Lot Loans
- Crop Insurance

800.743.2125 | northwestfcs.com

FARM CREDIT 100
ESTABLISHED 1916

Here to Help You Grow

WESTERN PACKAGING

Your Future is Our Future...

WE SPECIALIZE IN BULK BAGS!

<p>BAGS:</p> <ul style="list-style-type: none"> • Seed Bags • Fertilizer Bags • Feed Bags • Potato Bags • Printed Bags • Plain Bags • Bulk Bags • Totes • Woven Polypropylene • Bopp • Polyethylene • Pocket Bags • Roll Stock & More! 	<p>HAY PRESS SUPPORT:</p> <ul style="list-style-type: none"> • Hay Sleeves • Strap • Totes • Printed or Plain • Stretch Film (ALL GAUGES) <p>WAREHOUSE PACKAGING:</p> <ul style="list-style-type: none"> • Stretch Film • Pallet Sheets • Pallet Covers 	<p>LOCATIONS:</p> <p>Albany, Oregon (MAIN OFFICE) Ellensburg, Washington</p> <p>CONTACT INFORMATION:</p> <p>Phone: 855-928-3856 Fax: 541-497-6262 info@westernpackaging.com</p> <p>CUSTOMER SERVICE IS OUR TOP PRIORITY!</p>
--	---	---

www.westernpackaging.com