

Threatened species policy challenged

Federal agency asserts too much power, petition claims

Analysis

By **MATEUSZ PERKOWSKI**
Capital Press

The federal government has got it backwards when it comes to rules for killing or harming threatened species, according to a prominent property rights group.

Under the Endangered Species Act, it's illegal to "take" any species that has been listed as "endangered," which means they're protected from being shot, captured or otherwise harassed.

However, the U.S. Fish and Wildlife Service also ap-

plies that "take" prohibition to species that are classified as "threatened," which generally face a lower risk of extinction.

According to the Pacific Legal Foundation, a nonprofit that defends farmers, ranchers and other property owners in court, the federal agency has gone too far with its policy for threatened species, which include the northern spotted owl and Oregon spotted frog.

The government should be evaluating each threatened species on a case-by-case basis to see if the "take" prohibition should apply to it, according to PLF.

Instead, the Fish and Wildlife Service applies a blanket prohibition against "take" of all such species, and then occasionally exempts some from the rule, the group argues.

Pacific Legal Foundation is now trying to reverse the agency's approach with a petition filed on behalf of the Washington Cattlemen's Association, whose members face civil or criminal penalties if they run astray of the "take" prohibition.

Eliminating the "take" prohibition for threatened species would give the government more flexibility in crafting conservation plans with private

landowners, PLF claims.

Meanwhile, they wouldn't face severe restrictions on agricultural activities similar to the drastic reduction in logging due to the spotted owl's listing, the petition argues.

If the Fish and Wildlife Service ignores or denies the petition, the Pacific Legal Foundation is likely to file a lawsuit against the agency.

The Center for Biological Diversity, an environmental nonprofit, believes the petition is a "ridiculous action," said Noah Greenwald, the group's endangered species director.

"It has very little legal basis," he said.

The PLF may face an uphill battle, since previous litigation

that attempted to overturn the "take" policy failed more than two decades ago.

In 1993, the U.S. Court of Appeals for the D.C. Circuit rejected similar arguments against the regulation by a coalition of Oregon timber and community groups.

The appellate court held the Fish and Wildlife Service has the "discretion to extend maximum protection to all threatened species at once if, guided by its expertise in the field of wildlife protection, it finds it expeditious to do so."

The language of the Endangered Species Act is ambiguous as to whether the "take" prohibition must be evaluated species-by-species, so the

agency's interpretation is "reasonable and permissible," the ruling said.

Since then, though, the U.S. Supreme Court has issued two rulings that give the Pacific Legal Foundation hope for a different outcome, said Damien Schiff, the group's principal attorney.

In those cases, the nation's highest court held the federal government doesn't have "unrestricted power" in interpreting the Clean Air Act, which may lead to the same conclusion regarding the Endangered Species Act, said Schiff.

"That degree of discretion, we believe, is just not supportable," he said.

Larger apple crop causes price worries

By **DAN WHEAT**
Capital Press

WENATCHEE, Wash. — Growers have begun picking Washington's 2016 fresh apple crop, which is forecast at 132.9 million, 40-pound boxes, up 15 percent from last year's crop. The increase could cause strong prices to slip.

"I'm working on price forecasts. I see Gala coming in at \$21 (per box wholesale) which is \$3 below last year, so it could be 10 percent or more drop in Gala prices," said Desmond O'Rourke, owner of the consulting firm Belrose Inc. He is a retired Washington State University agricultural economist and longtime student of the apple industry.

He predicts \$21 as the average price for Gala for the coming sales year, down from \$24 for the 2015-2016 sales season soon ending. Gala is forecast up 27 percent in volume at 30.3 million boxes just behind Red Delicious, at 33.7 million, up 15.7 percent.

Fuji is forecast up 20 percent at 18.3 million boxes and O'Rourke expects an annual average price of \$21 per box, down from \$27.

The anticipated price slippage is nothing like the industry experienced two years ago with the record 141.8-million-box crop.

"Guys with mainstream varieties will be hit more than guys with premium



Dan Wheat/Capital Press

Eva Maria Sanchez thins Gala apples at Zirkle Fruit Co.'s CRO Orchard near Rock Island, Wash., on July 14. Gala is estimated to be 23 percent of the 132.9 million-box 2016 Washington apple crop.

varieties with a bigger crop like this," he said. Honeycrisp and newer varieties will keep average prices up, he said.

Honeycrisp is up 31 percent at 9.6 million boxes in the crop forecast by the Washington State Tree Fruit Association, in Yakima.

The forecast breaks out 10 varieties and groups "other varieties" as up almost one-third, from 6.1 million to 8 million boxes.

Most of that is club varieties not open to growing by all producers.

"The big question is will the club varieties cannibal-

ize the mainstream varieties or will they eat each other's lunch or a little of both? They are certainly getting big enough to shake up the market," O'Rourke said.

There isn't great concern about prices within the industry as Honeycrisp and club varieties are increasing



Washington fresh apple crop

(Millions of 40-pound boxes)

Variety	2015*	2016**	Percent change
Red Delicious	29.1	33.7	15.8
Gala	23.8	30.3	27.3
Fuji	15.3	18.3	19.6
Granny Smith	17	16.8	-1.2
Honeycrisp	7.3	9.6	31.5
Golden Delicious	8.1	7.8	-3.7
Cripps Pink	5.4	5.6	3.7
Braeburn	1.7	1.4	-17.6
Jonagold	0.8	0.7	-3.9
Cameo	0.4	0.4	16.7
Other	6.1	8	31.1
Total	114.9	132.9	15.7

*Close to final (8/1/2016) **Forecast NOTE: Totals may not equal 100 due to rounding.
Source: Washington State Tree Fruit Association Capital Press graphic

and "people are willing to pay good prices for them," said Bruce Grim, manager of the Washington Apple Growers Marketing Association in Wenatchee.

"I'm optimistic prices will hold," he said.

The Gala harvest started around Aug. 1 in Mattawa and other early districts and runs to early November. There are orchards and spots within orchards where the crop is light, Grim said. Weather can play a major role and warm days and cool nights could enlarge fruit making a larger crop, he said.

"Cooler weather in July for Gala is giving better color development this year than last and we are earlier which is helpful getting into markets," Grim said.

East Coast apple growers are dealing with drought and could have smaller fruit which would give Washington an advantage, he said.

The European apple crop is forecast to be down 3 percent, but that is insignificant, O'Rourke said, because the crop is still very large, the Polish crop is huge and the Russian embargo remains in place.

Immigration: How organization would improve system

Reform group also favors streamlined approval for seasonal workers

By **ERIC MORTENSON**
Capital Press

A New York-based group that released state-by-state reports on immigrants' economic contributions said it favors a broad range of immigration reforms.

In an email, Executive Director Jeremy Robbins of the group Partnership for a New American Economy, said the organization wants secure borders and a simplified system for supplying seasonal labor and verifying employment eligibility.

It also favors establishing a path to legal status for undocumented immigrants now in the U.S., and making it easier for foreign students to stay and work so the country will "attract and keep the best, the brightest and the hardest-working, who will strengthen our economy," Robbins said.

Partnership for a New American Economy describes itself as a bipartisan organization made up of 500 CEOs and mayors. It hopes to find middle ground on the immigration question by framing it as an economic issue, including the need for agricultural labor.

Robbins, the executive director, was an adviser and



Eric Mortenson/Capital Press

Oregon House Speaker Tina Kotek said national immigration reform is necessary to fix a "disjointed" system that hurts families and hampers the economy.

legal counsel in the office of former New York Mayor Michael Bloomberg.

In various venues, including a 2013 YouTube video, Robbins said the country's political left wing viewed immigration reform as a matter of reuniting families, while the right wing talked about law and order and "What part of illegal don't you understand?"

The conversations weren't meshing, Robbins said, but people do agree when the issues are posed as economic questions. They agree that immigrants who start companies here and hire Americans should be supported, and agree it's "crazy" to train top scientists and engineers and send them back home instead of allowing them to stay and work.

They also agree it's a problem that America's food crops are harvested and processed

by a workforce that's 75 percent undocumented, he said.

"What are the economic solutions? That's where you find middle ground," he said.

Establishing a path to legal status for the undocumented immigrants could include re-

Online

<http://www.renewoureconomy.org/front/>

quirements such as registering with the federal government, learning English, paying taxes and following all laws, he said.

Partnership for a New American Economy also favors strengthening federal, state, local and employer programs that offer English language, civics and educational classes to immigrants, Robbins said.

The group's report on the economic impact of immigrants in Oregon showed that nearly 390,000 Oregon residents were born outside the U.S., and 14,599 people immigrated to Oregon between 2010 and 2014.

Immigrants make up 10 percent of the state's pop-

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ulation, the report showed, but 13 percent of the overall workforce and an estimated 56 percent of the workers who hand-harvest crops. About 73 percent of immigrants are working age, between 25 and 64, compared with 51 percent of the native-born population.

In 2014, undocumented immigrants earned an estimated \$1.6 billion in wages and paid \$61 million in state and local taxes and \$104 million in federal taxes, according to the report.

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