



Mateusz Perkowski/Capital Press

A lawsuit over alleged racketeering by marijuana growers has been settled, but a similar complaint was recently filed elsewhere in Oregon.

## Pot racketeering lawsuit settled

Controversy likely to continue with new marijuana complaint

By **MATEUSZ PERKOWSKI**  
Capital Press

Rural landowners in Oregon have settled a lawsuit filed that accused their marijuana-growing neighbors of violating federal anti-racketeering law and reducing property values.

However, the question of whether Oregon marijuana growers can be successfully sued under the Racketeer Influenced and Corrupt Organization Act may still be answered, as a similar lawsuit was recently filed against another cannabis operation.

Last year, Rachel and Erin McCart of Beaver Creek, Ore., filed a RICO complaint against more than 40 defendants involved in medical marijuana production, including landowners, growers, retailers and a bank.

Apart from lowering the value of their 11-acre property, the McCarts claimed that two nearby marijuana operations attracted unwanted visitors, increased traffic and generated foul odors, among other problems.

While medical and recreational marijuana were legalized by Oregon voters, the plaintiffs claimed their neighbors were still subject to RICO because the substance is illegal under federal law.

“Given the strict federal prohibitions against each of those purposes, defendants knew these purposes could only be accomplished via a pattern of racketeering. In furtherance of that goal, defendants pooled their resources and achieved enterprise efficiency that no one defendant could have achieved individually,” the complaint said.

The complaint was filed on the heels of a ruling by the 10th U.S. Circuit Court of Appeals, which ruled that RICO claims should be allowed to proceed against a Colorado marijuana operation.

With the large number of defendants in the Oregon case, initial procedural steps took several months before the defendants filed motions to dismiss the complaint.

U.S. Magistrate Judge John Acosta in Portland had planned to take those requests under advisement in early 2018, but then stayed proceedings in the case when the parties notified him of a pending settlement.

On Jan. 26, the judge dis-

missed the case with prejudice, meaning it can't be refiled, at the request of the plaintiffs, “without an award of fees or costs to any party.”

Rachel McCart, who is an attorney, did not respond to requests to comment on the settlement deal.

Cliff Davidson, an attorney for a landowner defendant, said the dispute has been resolved but he cannot discuss the terms of the agreement.

In light of uncertainty about marijuana enforcement from the Trump administration, controversies over the crop are bound to continue, he said.

Under the Obama administration, the U.S. Justice Department issued a memorandum allowing states to regulate legalized marijuana as long as they followed certain parameters, such as keeping it out of interstate commerce.

However, the memorandum was withdrawn by current U.S. Attorney General Jeff Sessions, who has instead directed federal prosecutors to use their discretion in pursuing criminal cases against marijuana producers in states where it's legal.

Alleging violations of the federal RICO statute is an attractive strategy for plaintiffs, since it allows them to recover triple the amount of damages as well as attorney fees, said Davidson.

“If you're a plaintiff, it's a good way to maximize the damages you can recover,” he said. “It's troubling. It's just another form of shake-down.”

Ten rural landowners near Lebanon, Ore., filed a lawsuit last month alleging RICO violations against seven neighboring marijuana growers and a mortgage company that had loaned them money to buy property.

The complaint claims the defendants built a greenhouse on the property and converted other buildings to grow and process the psychoactive crop, in addition to cultivating it outdoors in 2017.

Aside from odors, traffic and noise, the marijuana operation has reduced property values due to concerns about the potential for armed robberies and other crime, the complaint said.

Neighbors also fear for their safety due to pit bull guard dogs roaming loose and an uncontrolled fire that resulted from the burning of marijuana debris, the plaintiffs claim.

Rachel McCart is representing the plaintiffs in the new lawsuit, which has been assigned to U.S. District Judge Michael McShane in Eugene, Ore.

# ODA doubles down on efforts to eradicate Japanese beetles

Insects pose significant economic risk to crops

By **GEORGE PLAVERN**  
Capital Press

Looking to gain a handle on the state's largest-ever Japanese beetle outbreak, the Oregon Department of Agriculture has proposed doubling its treatment area around the Cedar Mill and Bethany neighborhoods in unincorporated Washington County.

ODA will host a pair of public meetings in February to discuss the effort, which would include applying a granular insecticide over 1,900 acres beginning in April and finishing at the end of May.

The Japanese beetle is a voracious pest that feeds on a variety of plants and crops, including grapes, berries and orchard fruit. ODA estimates the beetles would cost Oregon agriculture \$43 million per year if they became established and dispersed throughout the state.

Clint Burfitt, insect pest program manager for the department, said Japanese beetles have historically arrived in Oregon from infected states via air cargo at Portland International Airport. That is where officials concentrated most of their attention.

However, with budget cuts to the Japanese beetle monitoring program, Burfitt said they left their flank unguard-



U.S. Forest Service

The Oregon Department of Agriculture is increasing its eradication efforts aimed at ridding a portion of Washington County of Japanese beetles.

### Online

[www.japanesebeetlepxdpx.info](http://www.japanesebeetlepxdpx.info)

ed. In 2016, ODA detected 369 beetles in Cedar Mill and Bethany, adjacent to Northwest Portland. Burfitt does not know where exactly the beetles came from, but suspects it may have been from potted plants brought in by a homeowner.

It was, at the time, the most beetles found during a single field season in Oregon.

In 2017, ODA kicked off a five-year project to wipe out the beetles, treating 2,121 homes on roughly 1,000 acres. Yard debris was quarantined and disposed of separately to prevent the insects from getting loose.

Still, the department detected more than 23,000 bee-

bles later that summer, including 750 — about 3 percent — outside the treatment area.

“We were anticipating thousands of beetles, not tens of thousands of beetles,” Burfitt said.

Increased monitoring statewide also led to the discovery of 11 Japanese beetles 175 miles south in Douglas County, including Oakland and Green. Another 11 beetles were found at the Portland airport and five at Swan Island in Portland.

Heading into year two of the eradication project, ODA would expand treatment to 1,900 acres around Cedar Mill and Bethany, 150 acres at the Portland airport and 34 acres in Douglas County. Officials would place traps at Swan Island, but are not planning any treatment of the area.

It will take ODA about six

weeks to apply the product known as Acelepryn on all grass and ornamental plant beds in the treatment area. Applications are free for property owners, though they need to give permission for ODA to enter their properties. The department is hoping for 100 percent cooperation.

Meetings about the proposed 2018 project will be Tuesday, Feb. 6, from 5:30 to 7 p.m. at Sunset High School, 13840 NW Cornell Road, Portland, and Tuesday, Feb. 13, from 9:30 a.m. to 12:30 p.m. at the Leedy Garage, 835 NW Saltzman Road, Portland. Experts including ODA staff, public health officials and partner agencies will be on hand to answer questions and address concerns.

A final decision on the 2018 project is expected by March.

## Oregon ag director marks one-year milestone

By **MATTHEW WEAVER**  
Capital Press

KENNEWICK, Wash. — When Alexis Taylor became director of the Oregon Department of Agriculture, she set a goal of visiting all 36 counties in the state in her first year.

She marked her one-year anniversary Jan. 23 and visited her final county two weeks before.

“I was just new enough and probably naive enough to take that on when I first started,” she said, speaking at the Washington-Oregon Potato Conference in Kennewick, Wash. “It was a big investment of time, but a really great one.”

In her first year, Taylor visited more than 40 farms and ranches, held more than 11 roundtable discussions, toured 23 businesses and 15 natural resource projects and spoke to “countless” county and state agricultural meetings.

The No. 1 topic she heard about was the next generation, including children taking over a family farm or ranch or a beginning farmer or rancher accessing land or capital. She also heard about labor, immigration and workforce challenges and the disconnect between rural and urban Oregon.

“Farming and ranching is the second-largest sector in the state, and many did not feel that's really acknowledged, particularly by a lot of the urban sectors of the state,” she said.

ODA will also work to



Alexis Taylor

boost awareness of agricultural career opportunities among Oregon's youth. Currently, the number

of graduates fill only about 61 percent of the job opportunities available each year, she said.

“Yes, we need farmers and ranchers, but we also need scientists, journalists, people with a whole host of different types of backgrounds thinking that they're going into agriculture today,” she said. “I grew up outside a town of 300 people in Iowa. I did not know at that time that I could work in agriculture and have a career that took me all over the world.”

Before joining ODA, Taylor was USDA undersecretary for farm and foreign agriculture services. She visited nearly 30 countries during that time, she said.

“There are lots of exciting opportunities and we need young people to really connect with that, whether they grew up on a farm or grew up in Portland,” she said.

Taylor said the department's mission is to help farmers, ranchers and agribusinesses find local, domestic and international markets for their products. More than 225 commodities are grown in Oregon.

“ODA is pretty unique in Oregon state government, where we regulate but we also promote for an industry,” she said.

## Munger Bros. pledges to battle Washington lawsuit

By **DON JENKINS**  
Capital Press

California-based Munger Bros. denies allegations that foreign workers were mistreated at its blueberry farm in Sumas, Wash., and vows to fight a class-action lawsuit filed Jan. 25 in U.S. District Court in Seattle.

The suit claims that Mexican nationals last summer at Sarbanand Farms, owned by Munger, were underfed and overworked and that about 60 of them were illegally fired after staging a one-day strike in response to a worker's death.

“The companies (Munger and Sarbanand) will vigorously fight the allegations in the complaint, which will be shown to be untrue and without merit,” according to a Munger statement.

The lawsuit stems from events last August at Sarbanand, including the death of farmworker Honesto Ibarra. He was taken away by ambulance Aug. 2 and died four days later at a Seattle hospital. Some workers refused to pick Aug. 4 and were fired the next day.

Labor activists alleged an ailing Ibarra was ordered back to work, though the company said it learned from a relative that Ibarra was diabetic and immediately called the ambulance.

The Washington Department of Labor and Industries will complete an investigation in early February into workplace conditions at the farm, department spokesman Tim Church said Jan. 26. A separate probe into whether the farm



Columbia Legal Services

Columbia Legal Services attorney Joe Morrison speaks Jan. 25 in Seattle about a lawsuit against the Munger Bros.-owned blueberry farm in

followed employment laws is also underway, but the department does not have a deadline for finishing it, he said.

The lawsuit was filed by Columbia Legal Services and a Seattle law firm, Schroeter Goldmark & Bender. It names workers Barabano Rosas and Guadalupe Tapia as lead plaintiffs, but seeks unspecified monetary damages for about 600 H-2A workers recruited to pick last summer at Sarbanand. The suit also names CSI Visa Processing, a Mexico-based labor contractor, as a defendant. Efforts to contact CSI were unsuccessful.

Munger Bros., based in Delano, Calif., calls itself North America's largest fresh blueberry producer, with more than 3,000 acres in Washington, Oregon, California, British Columbia and Mexico.

Columbia Legal Services attorney Joe Morrison said Friday that the lawsuit doesn't depend on the circumstances of Ibarra's death, but rather how workers were treated before and after his death.

## Washington Department of Fish and Wildlife Director resigns post

Unsworth leaving Feb. 7

By **DON JENKINS**  
Capital Press



Jim Unsworth

Washington Department of Fish and Wildlife Director Jim Unsworth gave two-weeks notice Jan. 24, saying in a resignation letter that he was leaving to “pursue other professional and personal goals in wildlife and natural resources management.”

Unsworth, 60, said in an in-

terview Thursday with the Capital Press that he wasn't ready to retire, but he declined to elaborate on what he planned to do next.

“It is a difficult job,” he said. “Washington is a tough state. ... It's difficult to please folks.”

Unsworth's last day will be Feb. 7. Fish and Wildlife Commission Chairman Brad

Smith said the commission will name an interim director as soon as possible and conduct a national search for a permanent director.

Smith said in a written statement that Unsworth has “done an outstanding job of guiding the department through the complex challenges that come with managing natural resources in Washington.”

“We greatly appreciate his contributions to the department and wish him well in his future endeavors,” Smith said.

Unsworth, in his resignation letter, recommended the commission appoint Deputy Director Joe Stohr as interim director.

Prior coming to WDFW, Unsworth was deputy director of the Idaho Department of Fish and Game. He worked in that agency for more than 30 years. His other management positions included wildlife bureau chief and state big game manager.

Unsworth said that salmon recovery in Washington proved to be the most chal-

lenging issue he has faced in his career. “People are looking for simple solutions, and there aren't any,” he said.

As director, Unsworth authorized the killing of wolves to stop chronic attacks on livestock three times. Unsworth said that was another source of criticism.

“You get all kinds of emails, with the ability of people to rally people on the internet. I sometimes received hundreds of those kinds of responses,” he said.

Wolves will continue

to be an issue as the population grows, and the state will have to find a way to balance interests, Unsworth said. “You have to maintain tolerance,” he said. “They are not benign animals on the landscape.”

He said several people inside the department with experience in Washington would be good choices for the director.

“Washington is a tough place to learn,” he said. “I had a steep learning curve here.”