

Small apple crop pushes prices up, exports down

By DAN WHEAT
Capital Press

YAKIMA, Wash. — Washington's small 2018 apple crop is staying small, prices are going up and it may be a record low season for exports.

The fresh crop was estimated at 117.8 million, 40-pound boxes on Dec. 1, up .2 percent from 117.6 million a month earlier, according to the Washington State Tree Fruit Association.

That compares with the 2017 crop of 131.7 million boxes and the record 143.6 million in 2014. Season-to-date, most varieties are up about \$2 per box wholesale from where they were a year ago. The two largest volume varieties are Gala at \$21.76 season-to-date and Red Delicious at \$18.83, said

Des O'Rourke, world apple market analyst and retired Washington State University ag economist.

The weekly average price for all varieties for the week ending Dec. 2 was \$25.85 per box, up \$3.30 from a year earlier, he said.

"That's about a 15 percent increase. That is very good. Anyone who has apples should be smiling this year," O'Rourke said.

Prices started the season low because of carry-over from the large 2017 crop. Marketers initially had a hard time moving prices up. Now they are up and likely to go higher because of the small crop, he said.

Movement is good with 22.2 percent of the crop shipped versus 22.5 percent a year ago.

Judge resolves motions in Tillamook dairy lawsuit

Oysterman allowed to file third amended complaint

By MAATEUSZ PERKOWSKI
Capital Press

TILLAMOOK, Ore. — An Oregon judge has refused to reconsider throwing out a "public nuisance" claim in a lawsuit filed by a Tillamook oysterman over alleged dairy pollution.

However, Tillamook County Circuit Judge Mari Garric Trevino will allow Jess Hayes of the Hayes Oyster Co. to file an amended lawsuit against Oregon's Department of Environmental Quality.

Hayes argues that DEQ's "total maximum daily load" regulation under the federal



Courtesy of Jesse Hayes

Bags of oysters are pulled from Tillamook Bay before they're graded and packaged by a worker with the Hayes Oyster Co.

Clean Water Act for fecal coliform bacteria in rivers flowing into the Tillamook Bay inadequately controls pollution from dairies.

As a result, Hayes is prohibited from harvesting oysters from 250 acres of plats in the bay and faces restrictions on another 350 acres, according to his complaint.

In October, Trevino dismissed the "public nuisance" component of Hayes' lawsuit while ruling the DEQ never properly finalized the TMDL process in 2001, largely for procedural and jurisdictional reasons.

Thomas Benke, attorney for Hayes, filed a motion

for reconsideration of the public nuisance ruling but the judge declined to hear arguments over the matter during a Dec. 3 hearing in Tillamook, Ore.

Trevino said her policy is not to reconsider decisions unless there's been a change in the case law that applies to the matter.

"Unless there's something new, that's what the Court of Appeals is for," she said.

The judge said she would allow Benke to file a third amended complaint to argue that DEQ should be compelled to issue a new TMDL regulation that would allow shellfish to be harvested throughout Til-

lamook Bay and implement stricter manure management strategies for dairy farms.

However, Trevino said she has not yet decided whether she has the power to compel the agency to take certain actions with the TMDL, or simply to finalize the regulation.

"I haven't researched that far ahead, what ultimate authority I have," she said.

Attorneys for the state government argued in court documents against allowing Hayes to file a third amended complaint, alleging the claims are "futile" and vowing to file a motion to dismiss them.



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Coalition challenges USDA loan exemption

By MATEUSZ PERKOWSKI
Capital Press

A coalition of environmental and community groups is challenging the USDA's decision to exclude loans to medium-sized "concentrated animal feeding operations" from environ-

mental analysis.

The eight plaintiff organizations — Dakota Rural Action, Institute for Agriculture and Trade Policy, Iowa Citizens for Community Improvement, Citizens Action Coalition of Indiana, Association of Irrigated Residents, White River Waterkeeper, Food & Water Watch and Animal Legal Defense Fund — claim in a lawsuit that USDA violated federal environmental and administrative laws in making the change.

In 2016, the USDA's Farm Service Agency exempted from "environmental assessments" the loans it makes to CAFOs with fewer than 700 dairy cows, 1,000 cattle, 2,500 pigs, 55,000 turkeys and 125,000 chickens.

Previously, the threshold for environmental assessments was set at 350 dairy cows, 500 cattle, 1,250 pigs, 27,500 turkeys and 50,000 chickens.

"Small farmers, the communities within which they live and farm, and environmental, animal, and public health advocates now first learn about an incoming or expanding medium CAFO — and the risks it poses to rural drinking water supplies, air quality, confined and wild animals, and public health and safety — only once con-



Carol Ryan Dumas/Capital Press
File

A coalition of environmental groups is suing the USDA over its decision to exempt some CAFOs receiving government loans from environmental analysis.

struction or expansion has begun, after federal funding decisions have been made and loans have been disbursed," the complaint said.

Representatives of USDA's Farm Service Agency and the Department of Justice, which will defend against the complaint, said they do not comment on pending litigation.

Medium-sized CAFOs are still subject to a "worksheet" to check whether the facility would create "extraordinary circumstances" that would warrant an environmental assessment, but the plaintiffs claim the public remains excluded from this process and that local FSA administrators don't evenly adhere to it.

The complaint also alleges that FSA didn't explain its reasons for excluding medium-sized CAFOs from environmental analysis and no longer considers impacts to local residents and waterways when determining whether a facility would pose "extraordinary circumstances."

Since the new regulation was enacted, Freedom of Information Act requests have uncovered that FSA loans have made available to hundreds of CAFOs in several states that are just barely beneath the threshold for large facilities, allowing them to avoid the environmental and public scrutiny to which they'd previously be subject, the complaint said.

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