Challenge: Some landowners are willing to work with small-scale farmers

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USDA's newest Census of Agriculture "illustrates and illuminates the fact that farmers are getting older, and land succession and land transition are more and more of an issue," said Rogue Farm Corps Executive Director Stu O'Neill.

The Ashland, Ore.-based nonprofit matches starting producers with experienced farmers and ranchers who mentor them. It also helps new farmers find affordable land through innovative tools such as easements that can provide retirement income to landowners. The organization also educates retiring farmers about succession planning possibilities that can open the door for younger farmers.

In addition, the organization provides new farmers with training and support, and is involved in farmland preservation.

Rogue in 2017 co-authored a study that found up to two-thirds of Oregon farmland is expected to change hands in the next 20 years as farmers retire. While that might provide an opportunity for a first-generation operator to take over a farm, it also has to pencil out.

"We have been exploring helping to facilitate farmland and farm business transactions outside the family," O'Neill said.

Resources for new farmers

USDA New Farmers program
- Planning, technical assistance
- Resources including land, capital access
- Operations assistance, risk management
- Connections, mentoring

Go to: newfarmers.usda.gov

USDA Farm Service Agency Beginning Farmers and Ranchers loans
- FSA annual goal: 40% of total loan volume
- Targets producers in first 10 years of operation
- Direct and guaranteed loan programs
- Farm ownership loans including down-payment assistance
- Operating loans, micro loans
- Reasonable terms

Go to: bit.ly/2OOEZF8

Misc. agricultural groups
- **Rogue Farm Corps** (Oregon) Go to: *www.roguefarmcorps.org*
- **National Young Farmers Coalition** Go to: *www.youngfarmers.org*
- **Farm Bureau Young Farmers and Ranchers program ...**
  - ... **in Idaho**: *www.idahofb.org/young-farmers-and-ranchers*
  - ... **in Oregon**: *oregonfb.org/programs/young-farmers-ranchers*
  - ... **in Washington**: *wsfb.com/young-farmers-ranchers*
  - ... **in California**: *www.cfbf.com/young-farmers-ranchers*

Capital Press graphic

Informal network

In southwest Idaho, Norris is part of an informal network of farmers who help each other. On a referral from farmer Spencer McIntyre, Norris planted a field for Miguel Villafana, who works for an ag lender full-time and recently started a small farm in the Wilder-Homedale area.

Also on a referral, Villafana worked with crop consultant Tad Baker.

"I work with a few young farmers, some bigger than others," Baker said. "They do a pretty good job for the most part, and they're not afraid to ask questions. A lot of the younger guys are willing to try new things."

He has helped young farmers decide what to grow — taking soil samples, for example — and make the best use of ever-changing pest- and weed-control chemistries.

"It's expensive to get started, and the other problem is that we are getting so many big farmers taking up so much land — it is really hard to compete," Baker said.

Some landowners are willing to work with small-scale farmers, including leasing land to them, he said. Another option for the small producer is to grow a crop on contract for a larger grower who leases the ground, as he saw fairly often when he worked in Washington state.

Starting out

Norris, whose father is a farmer, started out by leasing 27 acres. Now in his sixth year, he is looking to add to his current total of 235 acres.

"It has almost been a necessity to try and pick up new ground," he said. "I have just tried to get my name out there to neighbors and other farmers over the years, and I have gradually picked up a few more acres each year.

"When I started farming, I thought in five to 10 years I would be established," Norris said. "I am seeing now that it is going to be a long, slow progression."

After college, Norris in 2012 returned to the family farm to fill in for his father's longtime farmhand, who retired. "In the course of one year, I went from part-time to full-time, and then trying to lease my own ground.

"When I decided to go on my own, it was my responsibility to find my own ground," he said.

His wife, Melissa, who does not come from an ag background, keeps the books and helps move equipment from one field to another when needed. They have three young children — who at 2, 3 and 5 aren't old enough to help, but "they try to," Norris said. "They get to go on tractor rides once in a while."

McIntyre, 31, for the past seven years has brokered commodities, mainly forage. He grows seed on his Marsing-area farm of about 200 acres, which he aims to expand threefold in the next two years.

But land availability "has been the biggest struggle, finding ground to lease," he said. Though he grew up in a well-known farming family, "doing business on my own, people are still hesitant because they have done business with Joe down the street for 40 years, and he is doing just a good enough job to keep it."

McIntyre has solid financial footing. "The problem is not as much financial as it is finding land," he said.

Brad Carlson/Capital Press

Miguel Villafana, 28, adjusts the amount of irrigation water delivered to his crop of corn near Homedale, Idaho.

Brad Carlson/Capital Press

Crop consultant Tad Baker helps young farmers optimize production as they start and grow their own operations.

Brody Miller

Stu O'Neill

Michael Gunderson

Spencer McIntyre

"It is now extremely difficult to find just farmground, because of all the development," Villafana, 28, said, adding that he views capital as another hurdle for young farmers.

This year, he found land to lease: 21 acres on which he grew pivot-irrigated corn. He and his wife, Camas, also bought 33 acres including the 1-acre homesite they have lived on since April, financing the purchase through a lender other than his employer, by policy.

They leased the 32 acres of irrigated farmland to another farmer, "but we will be farming it next year," said Villafana, who grew up working on a large potato farm in Eastern Idaho. "This is really good farm ground."

A grain crop is likely for 2020, "but down the road, the dream is to grow potatoes for local processors, and sugar beets," he said.

What to grow

Figuring out what to grow can be daunting even for an experienced farmer, McIntyre said.

"When no one else has tried it, you get nervous," he said. "Or it's different than the neighbor's" crops.

Brody Miller, who coordinates the Idaho Farm Bureau Young Farmers and Ranchers program, said land availability recently has been part of larger discussions about how newer producers can operate in an environment of continued low commodity prices.

Veterans on county Farm Bureau boards and YF&R committees can help newer producers with what to grow and how, and with operational viability, he said.

"Does it make sense financially to travel 50 miles to go irrigate?" Miller said. "Participants are very savvy, and very in touch with technology and best practices. At the small scale, you've got to be as efficient as possible."

In addition to crop consultants and organizations, sources of advice include accountants and financial planners who specialize in farming, and small business development centers at community and four-year colleges around the region.

Complex decisions

Purdue University agricultural economist Michael Gunderson said that while capital constraints and asset-acquisition challenges are substantial, they aren't unique to production agriculture and "are not as large as people would like to think."

"As they get started, renting is an option — not just land but renting equipment, using used equipment, and partnering with others long-term on equipment," he said.

Nevertheless, "farmer decision-making is more complex than it was a generation or two ago," Gunderson said. "Today, our most successful farms are complex enough that they require CEO-type thinking."

The Idaho Farm Bureau's Miller said YF&R participation is consistently strong. New and experienced producers thus stay connected and keep learning about starting, maintaining and growing ag operations.

O'Neill said Rogue Farm Corps, which operates in four areas of Oregon, in the past seven years went from serving a handful of students to offering 30 to 40 internships and apprenticeships annually on 15 to 20 farms. Over the same period, many other new-farmer training programs have also started around the U.S. through nonprofits and land-grant universities and their extension services.

Rogue mentors include older producers who are retiring and first-generation operators who want to pass along the knowledge experienced producers gave them, he said.

Norris said networking with producers and others in the industry is still the key.

"I absolutely would not be here if I weren't willing to do that," he said.

CBD: Oregon law allows any hemp product, including CBD, to be added to food

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distribution within the state of Washington," Fuller said.

Washington's ban on using CBD as a food ingredient won't prohibit state-licensed hemp processors from making and selling the oil to marijuana retailers. The department's policy also doesn't prohibit farmers from growing hemp for CBD production.

Industrial Hemp Association Washington lobbyist Bonny Jo Peterson said most hemp farmers are growing the crop for CBD. She said doesn't expect the food-safety division's stance to slow the industry.

She said she doesn't know of any hemp processor who will be affected and that she expects the FDA and USDA to soon announce federal rules that will clarify CBD's status.

Washington has 86 hemp processors licensed by the agriculture department's Commodity Inspection Division, not the food-safety division.

The commodity division is inspecting hemp farms, but doesn't plan on inspecting hemp processors unless it receives a complaint, the division's head, Jessica Allenton, said.

A food processor or warehouse inspected by the food-safety division must score at least 90 out of 100 to pass. Using or distributing CBD likely will knock a "couple points" off the score, David Smith, the food-safety program manager, said.

George Plaven/Capital Press File

Cannabidiol, or CBD, is one of the main products driving interest in growing hemp in Washington.

The 2018 Farm Bill removed hemp from the federal controlled substances list. The hemp industry, however, continues to operate in gray areas.

Oregon law allows any hemp product, including CBD, to be added to food. More-cautious Washington lawmakers, however, have chosen to follow the FDA's lead.

The FDA last year approved CBD as the active ingredient in the drug Epidiolex to treat seizures associated with two rare and severe forms of epilepsy.

Active ingredients in drugs can't be added to food or animal feed sold across state lines, according to the FDA, therefore the interstate trafficking of CBD-infused products is illegal.

FDA enforcement has been focused on sending warning letters to businesses making unsubstantiated health claims about CBD.

The FDA has been taking public comments on whether it should allow more uses of CBD.

"If the FDA approves food ingredient uses for hemp extracts like CBD, those uses would be allowed under state law," according to a policy statement from the Washington Department of Agriculture.

CBD is a chemical component of cannabis. CBD does not intoxicate, but trials leading to the approval of Epidiolex found side effects such as lethargy, mild liver damage and depression, according to the FDA.

Hemp seeds, or grain, can be used in food. The FDA has recognized that ingredient as safe.

Damage: Damage claims must be more than 'purely speculative' to proceed under RICO

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income weren't "concrete" damages caused by a RICO violation, but the judge rejected those claims.

The Momtazi family, which owns the vineyard in Yamhill County, filed the lawsuit earlier this year accusing the Wagners of running a "criminal enterprise" because marijuana is illegal under federal law. The complaint seeks compensation for "three times the damages" caused by this alleged "racketeering activity."

Capital Press was unable to reach the plaintiff's or defendants' attorneys for comment as of press time.

Earlier this year, a federal judge dismissed a similar lawsuit filed against another marijuana-growing operation near Lebanon, Ore., because the alleged drop in real estate values to neighboring landowners wasn't considered a "compensable property injury" under RICO.

Damage claims must be more than "purely speculative" to proceed under RICO and allegations of diminished market value are considered insufficient, according to the 9th U.S. Circuit Court of Appeals, which has jurisdiction over much of the West.

Mateusz Perkowski/Capital Press File

A federal judge has ruled that a vineyard's racketeering allegations against a neighboring marijuana operation are plausible enough to move forward in court.

The Momtazi lawsuit's survival of the motion to dismiss could mean it will become a "template" for other litigation against marijuana operations, said Alex Tinker, an attorney representing marijuana growers in another lawsuit.

"They're looking for ways to create a replicable model," Tinker said.

With alleged grape contamination now ruled a plausible injury under RICO, that may invite similar accusations involving other agricultural commodities, he said.

However, it will still be "a tough thing to prove causation," Tinker said.

In Oregon, several cases against marijuana growers and retailers have been filed alleging RICO violations, with attorney Rachel McCart representing the plaintiffs.

Tinker said the cases are driven at least partly by an ideological opposition to marijuana that hasn't proven successful in the legislature or with the public.

"These are part of a coordinated effort to fight the cannabis industry through the courts," he said.