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# Opinion

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## Our View

# Mandatory OT will facilitate automation

In some sense, it's difficult to argue against the "fairness" of paying farmworkers overtime.

Time has value, and in an ideal world every employee's time would be held equally dear. In the real world, however, things aren't that neat and other factors come into play.

The Fair Labor Standards Act, passed by Congress in 1938, established a federal minimum wage and provided for overtime pay for work over 40 hours. The act also provided 19 job classifications, including farmworkers, that are exempt from the overtime rule.

Legislators in Oregon and Washington want to end the exemption for farmworkers in their states.

Though critics have posited that the exemption was the product of racism and the pandering to the needs of special interests, farmers note that farm work is distinct from factory production. The



Capital Press File

**The push for overtime for farmworkers will likely prompt more farmers to switch crops or automate their operations.**

nature of some farm work makes it difficult to schedule in eight-hour days and 40-hour work weeks.

That argument held sway when the exemption was made part of the original federal Fair Labor Act during the Depression, and in the 1950s when it was adopted into state law in Oregon and Washington.

But, we live in a much different time.

Retailers that once easily avoided overtime because their businesses — by law and custom — were not open much more than 40 hours each week have long operated seven days a week and more than 10 hours a day. State and municipal workers, technically exempt, have entered into collective bargaining agreements that provide for overtime.

And, more importantly, the public at-large has a growing — though perhaps uninformed — sense that exemptions and exceptions for farmworkers and processors are exploitive, even though those who do that work enter into the industries voluntarily and knowing the conditions of employment.

At the same time, the economics of agriculture have not changed since 1938. Farmers are still price takers, not price makers, who cannot simply pass along higher labor costs to consumers the way retailers and manufacturers, though lim-

ited by the impacts of competition, do.

As retail operations have expanded hours they have added more part-time workers to get around the overtime issue. Farming operations are already having a hard time finding enough qualified farmworkers, making it unlikely they can readily add to their ranks.

More likely, producers will take a hard look at their crop and harvest what pencils out, and leave the rest. Others might opt to move to a lower value, but less labor-intensive, crop.

Labor shortages and higher costs have driven automation. Mandatory overtime will make robotics even more attractive.

Paying overtime, on its face, is only fair. But in the end, is it really best for those involved? In a few years, after producers automate, ask the farmworkers who find themselves unemployed.

## Oregon needs a moratorium on permits for large dairies

When Washington-based Easterday Ranches announced it had filed for Chapter 11 bankruptcy on the heels of allegations that it had cheated Tyson Foods out of millions of dollars, it had a bizarre yet familiar ring to it here in Oregon. It doesn't take long to figure out why.

Only a few years before, the Lost Valley Farm mega-dairy filed for bankruptcy after more than 200 environmental violations and photographs surfaced showing its manure storage areas (called "lagoons") overflowing and threatening local groundwater. The cleanup took 11 months. Soon after Lost Valley was shut down by the state of Oregon, another company swooped in, purchased the property and submitted a permit for a new 28,000-cow mega-dairy on the same site. That company is Easterday Dairy, owned by the same Easterday family currently embroiled in the Tyson #cattlegate scandal.

Despite a scandal colored by increasingly outlandish allegations over bills for phantom cows and their phantom food, Oregon's Department of Agriculture has yet to deny or even halt the permit review for the proposed Easterday Farms mega-dairy. The Easterday family has since given up control of the Washington farm in question and its 54,000 cows, now fed with a court-ordered payment from Tyson.

Despite significant public backlash over the initial permitting of Lost Valley, Oregon officials insisted Lost Valley's proprietor was simply a "bad actor" and his misdeeds unfortunate, but not indicative of a greater trend in the mega-

dairy industry. The scandals surrounding Easterday and our records of other large-scale factory farm pollution clearly disprove that theory.

The only solution is to first deny the Easterday permit on the site of the former Lost Valley, then enact a moratorium on all new industrial dairy facilities

housing more than 2,500 cows. A pause in new permitting would give Oregon time to assess the damage already done by these mega-dairies and prevent more "bad actors" from adding to the problem. Mega-dairies are notorious for the squalid quarters of their resident cows but they also disproportionately contribute to the state's greenhouse gas emissions. Because of their intensive water requirements, these facilities drain scarce water resources and frequently leave remaining groundwater polluted.

Aside from the sordid details of Easterday's present fiscal situation, ODA simply can't afford to ignore the catastrophic consequences of letting these mega-dairies run amok in a climate crisis and a global pandemic.

Oregon law gives ODA grounds to deny a permit if the party fails "to disclose fully all relevant facts" or misrepresents "any relevant facts" during the permit process. Between allegedly billing a vendor to feed thousands of fictitious cows and apparently masking a dire financial situation, it seems Easterday Farms left out a few key "relevant facts" in its permit application to the ODA.

*Emma Newton is the Oregon organizer with Food & Water Watch and Stand Up to Factory Farms.*

### GUEST VIEW

Emma Newton



## Dairy farms held to high standards for animal care, environmental impact

A politician once said, never let a good crisis go to waste. That is exactly what environmental extremists are attempting to do in Emma Newton's opinion piece about a family facing bankruptcy and reeling from the tragic death of a family member.

That callous approach, misleading opinion pieces, and accompanying paid social media campaigns against our family farms cannot go unchecked. While I cannot speak about the family facing bankruptcy, I can speak to the values of Oregon's dairy families and the extraordinary environmental and animal ethics we lead with daily.

When it comes to human health and the safety of our food supply, we all want the same things: clean air, clean water and healthy communities. Oregon dairy farmers are doing their part — not only when it comes to producing milk and cheese, but also when it comes to operating with a high degree of responsibility and respect for human, animal and community health.

Dairy farmers operate that way because their families and employees both live in the same communities where they farm, drink the water and breathe the air. In taking care of their operations they are also taking care of their own communities.

The Oregon dairy industry is very diverse. We have farms of all sizes, both conventional and organic, and different management models but all are held to high standards for animal care and environmental impact. Whether a farm is successful or responsible is not based on its size or if it has one more cow too many. The size of a farm should not matter because it's the values of our Oregon farmers that lead to successful outcomes that are both carefully measured and regulated. The values that drive sound management and positive outcomes are not unique to dairy farmers but unite us in our practice.

Public policy should and, when done correctly, does encourage best management practices. Our

laws and regulations are demanding and are designed to help achieve our state's shared goals,

including reducing carbon output and improving air quality. Dairy farmers are and will continue to work with policy makers toward those goals that allow family farms to produce more food, in a cleaner more efficient way. With that in mind, it is important that our policymakers, including our regulators, use facts, not misstatements and hyperbole to set policy and make regulatory decisions. The facts are on Oregon dairy farmers' side. We care about our animals, our community, and our shared environment.

We have members with innovative plans for reducing waste, or reusing it completely to ensure waste generated from animals and crops are re-used. Several farms around the state use methane digesters generating carbon-negative renewable natural gas. The digester at Threemile Canyon Farms sequesters greenhouse gas emissions equal to about what 29,000 passenger vehicles generate per year. Our members work every day to recycle water, manage irrigation practices and conserve precious water resources.

The Oregon Dairy Farmers Association (ODFA) was founded in 1892 to work for dairy farmers throughout the state. These multi-generational organic and conventional Grade A dairy farm families work hard 365 days a year and are proud of the care they provide for their animals, they produce a high quality fluid product that ranks among the highest quality milk in the nation, and our producers take pride in their care of the environment.

For additional information on Oregon dairies and our commitment to healthy animals and environmental stewardship, visit the ODFA website, <http://oregondairyfarmers.org>.

*Mike Miranda, a dairy farmer in Coos County, is board president of the Oregon Dairy Farmers Association.*

### GUEST VIEW

Mike Miranda



## READERS' VIEW

### Legislative leaders need to ensure public is heard

Like the past several sessions, the Oregon Legislature is considering a slate of bills that could deeply impact producers like me. Unlike recent sessions, legislators considering those bills do not have to look the impacted public in the eye, because the Capitol is closed to the public. In spite of the limitations, I planned to participate in hearings around bills that could impact my operation and my family. Even if I couldn't look them in the eye in person, at least legislators would not be able to ignore my voice. Or so I thought.

I have watched several hearings where the chair gave unlimited time to invited proponents of a bill that further regulates or taxes me, while giving limited time for opponents. Then they give "members of the public" one minute each. Sixty seconds to explain the huge impact these bills would have. Even giving just one minute, they are still not letting everyone on the ag and forestry side of the issue testify. If I'm the one you are trying regulate and tax, how is it fair to not let me speak even for one minute?

I did my part. I signed up. I was ready to wait as long as necessary to have my turn. I set aside work at home that needed doing because this is important. And I did wait. Twice so far, only to be told, "we're out of time." I've heard from other people

who also waited hours on ag bills and never got to testify.

Most recently, I sat through over an hour of testimony from a legislator — who has never owned or managed forestland — about forest taxation, while dozens of foresters and small woodland owners sat waiting to testify. The hearing was cut off before myself and many others were allowed to testify. There is no additional opportunity to testify scheduled, leaving opponents stuck with written testimony only.

Why are legislators so willing to invite other legislators to use up public testimony time? At the expense of those impacted by the bill in question along with those who best know the subject matter. How is it that with people physically in a hearing room you can hear from dozens and dozens about a bill, but somehow online, you can only get to 8 or 10 or 12? Why cut off hearings when people are waiting to testify because of some artificial deadline? If I've still have work to get done at my operation, it doesn't matter if it's five o'clock. I work until the job is done.

I can live with election results I don't like. But I can't live with a legislative process that prevents my voice from being heard on bills that have a dramatic effect on me and my family and the business we've built and the community where we live. Oregon's legislative process needs to be transparent, open and fair. From what I've seen so far, it's one

for three (somewhat transparent). That's not good enough.

*Tim Miller  
Siletz, Ore.*

*Lincoln County Farm Bureau*

### Support for Farm Workforce Modernization Act

Your March 5 article, "Farm labor supplier opposes new ag workforce bill," is a one-sided portrayal of the newly reintroduced Farm Workforce Modernization Act (FWMA) and does a disservice to your readers, including the agricultural employers the bill would help.

The article is correct that "many farm groups support the bill." We are in good company with more than 250 other state and national groups. That's because it will stabilize the current workforce and bring needed reforms to the H-2A program, including containing costs. In fact, if the FWMA had been enacted after it passed the House in 2019, the H-2A wage rate in Oregon and Washington would be \$15.52 instead of the current \$16.34. Oregon and Washington's rates are the highest in the country, increasing an average of 5.4% annually over the past decade. The FWMA would cap that at 3.25 percent.

FWMA streamlines the H-2A program, reduces bureaucracy, and saves time and money for growers. This is particularly significant for smaller growers with limited staff and resources. For employers still relying on a domestic, though possibly undocumented, workforce, the sleepless nights are real. Growers know that through no fault of their own they might have nobody to harvest their crop. The FWMA provides stability and peace of mind to the grower, but importantly also to the worker. And with a future work requirement and payment of a fine, this is anything but amnesty.

No legislation is perfect, including the FWMA. Passing it through the House is the first step. The Senate process will offer opportunities for further improvements and we have our list ready to go. Our collective members are hurting. They need stability and economic relief today. They cannot afford to endure the worsening status quo for another 20 years in the hopes that a perfect employer-friendly bill will manifest itself. Our bet is on the FWMA — the only agricultural labor bill to pass the House in 30 years — and its author, Congressman Dan Newhouse.

*Jim Bair, President,  
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