

Calif. pork standards will be reviewed by top court

By **MATEUSZ PERKOWSKI**
Capital Press

A legal dispute over California's pork production standards has landed before the U.S. Supreme Court, which will decide whether the requirements unconstitutionally inhibit interstate commerce.

The nation's highest court has agreed to review a ruling by the 9th U.S. Circuit Court of Appeals, which last year upheld a California law banning in-state pork sales from farms that use "extreme methods of farm animal confinement."

Nearly two-thirds of California voters approved a 2018 ballot initiative, Proposition 12, which created minimum hog confinement standards. The restrictions were then challenged in federal court for affecting out-of-state farms by the National Pork Producers Council and the American Farm Bureau Federation.

In 2021, the 9th Circuit determined the law doesn't have an



Capital Press File

The U.S. Supreme Court will review the constitutionality of a California law that bans in-state pork sales from farms that don't follow its minimum hog housing standards.

"impermissible extraterritorial effect" because the hog-raising standards only affect pork sold in California and don't dictate prices or disfavor out-of-state meat.

"Under our precedent, unless a state law facially discriminates against out-of-state activities, directly regulates transactions that are conducted entirely out of state, substantially impedes the flow of interstate commerce, or interferes

with a national regime, a plaintiff's complaint is unlikely to survive a motion to dismiss," the 9th Circuit said.

The agricultural organizations urged the Supreme Court to review the decision because hog farmers can't realistically implement a separate supply chain for California, which means the state's hog confinement standards will effectively apply to nationwide pork production.

California imports more than 99% of its pork, its state agriculture officials must be provided access to out-of-state hog farms to enforce the restrictions and shipping documents must identify whether the meat can be sold in that state, according to the plaintiffs.

Hardly any hog farms in the U.S. provide sows with the 24 square feet of space required by the law — most keep sows confined in individual pens with 14 square feet of space and prevent the animals from turning around for hygienic and animal welfare reasons, the plaintiffs said.

To comply with California's standards, hog farmers will need to spend roughly \$300 million to \$350 million to reconstruct or build new sow housing and offset productivity losses, the groups said in the petition for review.

"It requires massive and costly alteration to existing sow housing nationwide, necessitates either reduction of herd sizes or building of new facilities to meet its space mandates, raises prices in transac-

tions with no California connection, drives farms out of business and promotes industry consolidation, and will be policed by intrusive inspections of out-of-state farms conducted by California's agents," the petition said.

California's lawyers argued the Supreme Court shouldn't review the case because the law doesn't violate the U.S. Constitution's Commerce Clause, which allows only Congress to regulate commerce between the states.

The hog housing standards are an "in-state sales restriction," which isn't unconstitutional simply because some out-of-state farms will choose to change their production practices to serve the California market, according to state officials.

Major food companies had already been moving toward requiring more space for hogs and some recently stated they expect to comply with California's standards, undercutting the argument these changes are unfeasible, they said.

Region's drought a central theme at Central Oregon Ag Show

Two-day event features educational talks, live demonstrations

By **GEORGE PLAVERN**
Capital Press

REDMOND, Ore. — An estimated 2,100 people from across the Northwest attended the inaugural edition of the Central Oregon Agricultural Show last weekend at the Deschutes County Fair & Expo Center in Redmond.

The event came as farmers and ranchers in the region face another year of paralyzing drought, with water shortages projected to bring an abbreviated growing season and major economic damage due to crop losses.

Water was a central theme among the show's speakers and guests, who discussed how to get the most out of every drop and what can be done going forward to strike a balance between the needs of irrigators, fish and wildlife.

"I think there needs to be a lot of attention paid to Central Oregon right now," said JoHanna Symons, a rancher from nearby Madras. "We're in a pretty catastrophic situation."

Symons raises cattle and runs a commercial feedlot with her husband, Jeremy. In 2016, the couple co-founded a nonprofit organization, Perfect Balance USA, in response to litigation over the Oregon



George Plaven/Capital Press

A tractor parade drives into the Deschutes County Fair & Expo Center during the Central Oregon Ag Show.

spotted frog, which was listed as threatened under the Endangered Species Act.

Farming, recreation and ESA-listed species all depend on water from the Deschutes River to thrive, Symons said. Perfect Balance USA strives to find "win-win" solutions for the basin, though catastrophic drought has only made that mission all the more difficult.

"It's never been this bad," Symons said. "You really don't know how much water you'll get. You might be hesitant to plant, or you might over-plant. Some crops might be destroyed."

According to the U.S. Drought Monitor, nearly 94% of Oregon is in some stage of drought. That includes 15% in "exceptional drought," the highest category, extending from the Klamath Basin north to near the Columbia River and encompassing most of Central Oregon.

In its latest water supply outlook, the USDA Natural Resources Conservation Service predicts streamflows in the Upper Deschutes and

Crooked river basins will range from 43% to 83% of the median. "Water managers in the basin should prepare for significantly reduced water supplies in the coming months if conditions do not improve," the report states.

Oregon Gov. Kate Brown has declared a drought emergency in Klamath, Crook, Jefferson and Morrow counties, making them eligible for state and federal disaster relief. Gilliam and Jackson counties have also requested emergency drought declarations.

Symons said agriculture is the backbone of the nation, and "needs to be prioritized, especially right now."

Perfect Balance USA plans to resume farm tours in April, which Symons said are the best way to reconnect people with where their food comes from. The group is also targeting several projects including planting MegaFlora trees on government land to sequester carbon.

That wasn't the only potential solution being proposed at the Central Oregon Ag Show.



George Plaven/Capital Press

From left: Paul Romero, candidate for Oregon governor; Tony Newbill, a cattle rancher from Powell Butte, Ore.; and Michael Stettler, a candidate for U.S. Senate. The men were on hand to promote the concept of cloud seeding.

Tony Newbill, a cattle rancher from Powell Butte, purchased a vendor booth at the show to promote cloud seeding — a type of weather modification in which compounds such as silver iodide are released into the air, bonding with water particles in clouds and causing them to fall as precipitation.

Cloud seeding is success-

fully used in other Western states including Idaho and California, but not Oregon, Newbill said. He worries that deepening drought and water shortages will eventually lead to infighting among the eight irrigation districts that make up the Deschutes Basin Board of Control.

"All us farmers and ranchers in Central Oregon right

now are struggling," Newbill said. "What I'm seeing evolve here is we're going to start fighting among the districts."

Newbill was joined by Paul Romero, a Republican candidate for Oregon governor from Roseburg, who has adopted cloud seeding as part of his campaign.

Elsewhere around the fairgrounds, crowds gathered each afternoon for a live working dog demonstration by trainer Clint Johnson. A vintage tractor and gas engine exhibition was presented by Ed Staub, along with 59 other exhibitors.

Joe Beach, editor and publisher of the Capital Press, which produced the Central Oregon Ag Show, said the newspaper is committed to making the show an annual event.

"We are extremely happy with the turnout for our first show in Central Oregon," Beach said. "We've had nothing but positive responses from our sponsors and our exhibitors."

Washington Farm Bureau comes out against wolf rule

By **DON JENKINS**
Capital Press

Washington ranchers most hounded by wolves would be further afflicted if the Department of Fish and Wildlife adopts a new rule governing "chronic-conflict areas," according to the Washington Farm Bureau.

The rule would require ranchers to carry out plans crafted by Fish and Wildlife for preventing attacks on livestock. If the plans aren't followed, the department wouldn't shoot wolves as a last resort.

The Farm Bureau sent a notice to members March 23 opposing the rule. Farm Bureau director of government relations Tom Davis said that it would detract from Fish and Wildlife's duty to control problem wolves.

"We think it's moving in the wrong direction," he said. "And we're not happy with what we're currently getting."

The rule would apply to packs that have been targeted for lethal control in at least two of the past three years. Fish and Wildlife proposed the rule in February, responding to an order from Gov. Jay Inslee, who was prodded by the Center for Biological Diversity.

Wolf advocates complained the department

wasn't giving enough attention to non-lethal deterrents and was killing too many wolves in northeast Washington. The advocates proposed a lengthy set of directions for ranchers in chronic-conflict areas, including tracking their cattle by GPS.

Fish and Wildlife has proposed a much shorter rule that reflects what it is already doing informally: Setting expectations for non-lethal deterrents and making a case-by-case judgment call on whether to kill wolves.

While the spirit of the informal policy and proposed rule are the same, the outcomes may be different, Davis said.

In areas with chronic conflicts, Fish and Wildlife should do more to remove problem wolves, he said.

Instead, the rule will shift responsibility to ranchers, Davis said. "Ultimately, this affects the livestock producers in the most difficult situations."

The territory of one pack, the Togo pack in Ferry County, currently qualifies as a chronic-conflict area.

Fish and Wildlife hired a consultant to study the rule's economic impact. The consultant noted that public funds may subsidize range riders and other non-lethal deterrents, but ranchers could still face increased costs.

The department will take written comments on the rule until April 11. Comments may be sent by email to WolfConflictDeterrence102@PublicInput.com. Recorded comments can be made by calling (855) 925-2801, code 3861.

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