

Oregon Spring 2024 Seed



A Publication of the
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COUNCIL**



**Farm Finds Continuation in
Transitioning Between Families**

**Productive Farm Succession
Planning Generates High Yields**

**Oregon's New Ag Overtime
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Cover photo: Rodney Hightower on his farm in Junction City.

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FEATURES

- | | | | |
|----|---|----|--|
| 3 | Farm Finds Continuation in Transitioning Between Families | 6 | Farm Succession Gone Sideways: Some Missteps |
| 7 | Productive Farm Succession Planning Generates High Yields | 12 | Intermodal Center Failing to Achieve its Promise |
| 14 | Oregon Truckers Overpaying, Running Up Transportation Costs | 17 | Oregon's New Ag Overtime Law Explained |
| 20 | Midwest Provides a Cautionary Tale of Herbicide Resistance | 22 | Oregon Seed Council 2.0 |
| 28 | Seed Research Institute Field Tour Well Received | 29 | Plot Harvester Working to Perfection |
| 31 | Research Farm Weather Station Part of Agency's Expanding Weather Data Network | 32 | Meet Eric Morris: New Commodity Commission Program Manager |
| 34 | Don Wirth Honored with Distinguished Service Award | 37 | Hoffman Farms: A Study in Diversity |
| 41 | Five Things Oregon Farmers Should Know About Employment Laws | | |

SECTIONS

Extension Report	45	Classifieds	52
Seed Council Update	46	Advertiser's Index	52
Commissions Update	48	Calendar	52
Research & Regulatory Report.....	50		



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► From left to right: Austin, Garrett and Rodney Hightower on their farm in Junction City.

Farm Finds Continuation in Transitioning Between Families

The makeup of the farms that produce Oregon grass seed is about as diverse as the number of commodities grown in the Willamette Valley. There are multigenerational farms that have stayed in the same family for over a century, there are farms that have been absorbed by neighboring operations and there are farms that have switched owners over the years but have stayed largely intact.

One example of a farm that has been passed from one family to another but has stayed intact is Strome-Fisher, a Junction City operation that has gone through three different families over the last half century and continues to be a viable operation.

The transition from a family to a non-family member, or outside party, isn't always successful. There are several examples of farm owners that have tried to pass their farm to a suitable party, but failed to do so. In the case of the Strome-Fisher Farm, the transitions have worked, first from Carey and Gayle Strome to Don and Mary Fisher, and most recently from the Fishers to Rodney and Vickie Hightower.

Rodney Hightower started working the farm as a teenager and today operates it with the help of his sons.

Often, when a family farm dissolves it is because the principal operators don't have children, as was the case of the Stromes, or don't have children with an interest in farming, as was the case with the Fishers, whose one son maintains partial ownership but has no interest in managing the farm or in the day-to-day operations. Hightower, meanwhile, grew up across the street from Strome-Fisher Farm and he said, "When it was time for me to get a summer job, this was kind of the natural place for me to come and look."

He's been there ever since, working summers while attending high school and through four years of college, including the final two at Oregon State University, where he got a degree in agriculture. After college he started full time on the farm.

(continued on page 4)

“Don asked me if I wanted to continue on with the farm here and eventually work into an ownership position, which is what happened,” Hightower said.

When Mary Fisher passed away in July of last year, about eight months after her husband died, for the first time, Hightower became majority owner.

“I feel very blessed and very lucky with the opportunity that I’ve had here,” Hightower said. “I do not take that for granted. But it also took a lot of hard work and of me being very patient and showing respect to the Fishers.”

“I feel very blessed and very lucky with the opportunity that I’ve had here. I do not take that for granted. But it also took a lot of hard work and of me being very patient and showing respect to the Fishers.”

Rodney Hightower

“And it was a two-way street,” he said. “They showed respect for me, too. And it all worked out. It allowed the Fishers to stay here on the farm in their own house until they passed away. And it gave me and my wife an opportunity to be here and we’ll be able to pass this down to our kids.”

Hightower said he’s been managing the farm for most of the past decade, coinciding with when Don Fisher became physically unable to do farmwork. His participation in the farm’s management, however, can be traced back much further than that to when he started purchasing shares in the operation 25 years ago.

“All of a sudden you have skin in the game,” Hightower said. “You start thinking about the financial dealings of the farm and all the other problems that an owner has to consider: Things like what is an employee going to do today, what are we going to accomplish today.”

Hightower said that he and Don Fisher put a lot of thought into what it would take to transition the farm to Hightower, but only in the past few months, in the time since he became majority owner, has he learned how sound that plan was.

“The last several months have been when I’m finding out if our plan was sound or not,” he said. “And I think it has been. For the most part, it’s been a smooth transition.”

Still, there have been the unforeseen issues, he said, things he and the Fishers didn’t anticipate. For example, the farm’s business account was still in Don Fisher’s name when Hightower took over majority ownership. Hightower said he since had to close the account and reapply for credit, which has proven difficult despite the fact that he’s been using the same card at the same bank for 40 years and has never carried a balance.

“It is not something that is going to keep the farm from operating,” he said, “but it has been a bit frustrating dealing with that. It is just one of those little things that we should have thought about before Don passed away. We should have taken his name off



of things like that and put my name on them.”

Today, Hightower and Vickie are starting the long process of preparing to leave the farm to their youngest son, Garrett, who like his father, holds a degree from OSU's College of Agricultural Sciences and is very interested in farming as a profession. The idea is Garrett will eventually start buying shares in the farm from the Fisher's son, Ben Fisher, Hightower said, and eventually become majority stock holder.

Looking back, Hightower said the journey from farm hand to farm owner has been a rewarding experience.

“It's been a great life for my wife and me,” Hightower said. “And our oldest son, Austin, came back to the farm about a year ago and so to have both sons working here with us every day is a huge blessing. It is wonderful to be able to work with family.”

Without the foresight of first Carey and Gayle Strome and next Don and Mary Fisher, Hightower believes there is a strong chance Strome-Fisher Farm would not be in existence

today, that it, like other farms in the area that failed to transition to new ownership, would now be dissolved.

“It's not the worst thing that could happen, because the ground would still be farmed, and another local farmer would still be farming it. The land would not be idle all of a sudden,” he said. “But it would be one more operation that doesn't exist anymore.” ♦



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Farm Succession Gone Sideways: Some Missteps

Passing a farm from one generation to the next can be a rewarding experience as parents watch their sons and daughters take over an operation that is part of who they are. At the same time, without a thorough approach to succession planning, passing a farm can be stressful, and if done poorly, can sometimes spell the end of a family farm.

At the very least, in a poorly planned farm succession, a farm might lose employees that were

loyal to a past manager, according to Sherri Noxel, a family business advisor at Enterprising Generations in Tigard, Oregon.

“Without good communication between the departing generation and the incoming generation, the employees you’ve had for a long time might feel overlooked,” Noxel said. “Or they might feel resentment, or

they don’t want to work for the younger one, or they don’t like the new decisions. So, there’s a tension.”

Also, Noxel said, a new generation can be off-putting to long-time customers, and a farm can risk losing business. “Customers might not like the operational changes,” she said.

Another issue all too common when transitioning a farm is an operation will lose a long-time professional provider, such as an accountant or an attorney, and a business will suffer because of it.

Another common malady is a potential loss of capital, particularly if transitions don’t go well. “The worst case scenario if the transition doesn’t go well is you can start to lose your capital,” Noxel said. “You don’t have the funding for the strategic growth you had planned or promised to the successors. So then you start taking cash out of your assets for survival. You’re selling land or equipment.”

Slow transitions also can be problematic, at times resulting in the right person for the job departing

before a transition is complete. “I’ve seen really good students who are qualified to be the next generation leader of the family just move on,” Noxel said. “So, you can lose successors. The family dynamics can shift.

“Unclear transitions can also create stress and confusion for the family members who are running the business, and then that’s just chaos,” Noxel said. “Everybody thinks they can fix it. Everybody’s going to bring in their people. The employees end up not knowing who to listen to, and it gets very, very stressful.”

Another malady for a slow transition is family members may decide to cash out. “They don’t know what to believe. They may just think it’s easier to cash out than to be patient and help work through the situation,” Noxel said.

When things go wrong in a transition, it can be costly to make things right, Noxel said. “If you need to go back to the attorney and restructure the business or retitle the trust, or go back to the accountant for changes, it can be very costly. There can be those structural, legal and financial changes that need to be planned very carefully.”

One key step in a farm transition is to start planning well beforehand, Noxel said. An early start can help a family diffuse the impact of estate taxes, for example, and provide a clearer outlook when the time comes to transition.

“The more time you have, the more choices you have,” she said. “So, getting started early is a big plus.”

Seeking professional help can also help. “A professional can be that impartial voice in a family argument and provide the expertise sometimes needed to make a smooth transition,” Noxel said.



Sherri Noxel

“Without good communication between the departing generation and the incoming generation, the employees you’ve had for a long time might feel overlooked.”

Sherri Noxel

Productive Farm Succession Planning Generates High Yields

By Sherri Noxel, PhD

When did you produce your highest grass seed yield on your family farm? You know the number, you know the year and you know everything that went into the crop to achieve that record. Of course, I hope it was a good year for market prices, as well.

Now, how would you describe the yield of your succession planning efforts to date? Considering the farm owners who have completed their succession, the rewards are clarity and confidence about the future, a strong network of community support with deep family pride and personal contentment. It may be hard to measure in financial terms, but the rewards that accompany succession planning work are invaluable.

The Succession Planning Experience

Most of Oregon's seed growers inherited their land from family and understand the importance and opportunity of this planning. Succession planning, for the farm owner who is feeling behind, can seem very challenging, especially if there is a family conflict. For many, there is no obvious starting point. Two early steps will facilitate the work. First, establish a protected and regular two-hour block of time in your weekly schedule. This structure for prioritizing succession work will be needed to make progress along the way.

Second, use the three-circle model of family business as a framework for succession: family, business and ownership. Productive succession planning benefits the farming operation when family, business and ownership issues are covered. These points of view "untangle the root ball" of a family enterprise providing a clearer starting place.

Farm Family Succession

Understanding the family behind the farm is necessary to design strong succession plans. Family succession challenges exist because families grow faster than businesses and dividing farm ground to smaller parcels is not good for the business. Strong



sibling and cousin connections continue either working the land collaboratively or supporting the branch of the family that is still farming from off the farm.

A family that talks openly and plans with a shared vision creates a secure platform for decision making. A fifth-generation hazelnut farm successor describes his family's high trust and support, saying, "We don't keep score." His family created a consistent and useful process to negotiate their ideas for better business. A farm family benefits from productive succession planning in these ways:

- Family members appreciate their connection to the farm from regular communications that build unity and trust.
- Young family members are clear about the requirements to be hired as a family farm employee.
- Farm and nonfarm contributions of family members are valued and celebrated.
- Deep pride exists in the family legacy and respect for past generational sacrifices.

Early planning conversations with children to share their hopes, interests and personal goals will inform your planning. Decisions aren't made until further along in the process but giving family a "voice

(continued on page 8)

not a vote” prepares them for other questions as plans and timelines take shape.

Conflicts in the family exist in all generations. Common tensions exist between siblings, branches of the family, blended families and, sometimes, between on farm and off farm heirs. Acknowledge the issues and find facilitators or mediators to teach the successors how to build working relationships for the future of the farm.

Oregon’s grass seed industry is approaching some historic milestones. No matter the age of your farm, use the Oregon Century Farm and Ranch application to document the history of your farm. Other opportunities to build family collaboration include group vacations, activities or family service projects to help teach the next generation about your values.

Farm Business Succession

The most visible circle in planning succession is the business. Daily operations executed by managers and employees, who may or may not be family, make the farm run. Planning the succession of the farm business requires finding and preparing the management team that can lead the operation in the future. This task is clearer when the farm practices and procedures are documented, especially organization charts and job descriptions.

A farm business benefits from productive succession planning in these ways:

- Clearer successor timelines and opportunities to develop stronger management proficiency.
- Policies and procedures organized to support transitioning operations.
- Records with data about past decisions that help successors decide future actions.
- Employee, buyer and lender confidence in the farm’s future when key business partners see progress.

When farm successors were separated from their parents and asked privately about what they needed to get ready to take over the farm duties, they were consistent about three things. They needed the opportunity to succeed or fail, to discuss the thinking behind the farm operation decisions and develop a plan with milestones and clear timing to get them ready. At the same time, in a different room, the owners were generating their own list of ways they could help their successors. It was not surprising that the lists were very similar.

Farm owners knew that they needed to explain their management decisions more fully and to keep better records. With better documentation and regular meetings, the policies, procedures, job descriptions, production calendars, equipment inventories and financial monitoring of the profitability of the farm will be more understandable. This fuller picture of the farm’s operation makes it clearer for potential successors to see the wide-ranging demands of their future role. Agricultural industry organizations, such as the Oregon Seed Council, build business networks and provide technical information that future farm managers need.

Farm Ownership Succession

The third perspective of the family farm captures ownership responsibilities. The total farm enterprise is included in planning family ownership continuity. High-value farms sold or gifted to the next generation are planned carefully. More time for the transfer means more and better planning options. With a united family and a robust business, the ownership transfer completes the farm transition plan.

A farm owner benefits from productive succession planning in these ways:

- Reduced risk to the enterprise and the family in the event of unexpected loss with complete and organized shareholder agreements and protections.
- Strategic plan for building and protecting farm assets with advanced planning to manage estate taxes and protect wealth.
- Owner responsibilities are clear to successors with a defined timeline for transfer.
- Opportunities for philanthropic gifts to contribute meaningfully to community and industry needs that align with owner values.
- A future ownership structure that supports farm successors and is considered fair by all family members.
- An informed team of professional advisors who develop plans according to your wishes and goals and are invested in the enterprise’s success.

For an outline of a full farm ownership transition plan, create an account at agtransitions.umn.edu. This free USDA resource organizes the data needed to design a succession plan. Use this resource to sequence your two-hour blocks of time. Each of the 46 sections includes worksheets and videos

with more information. Review your existing owner documents and estate plans that could include buy-sell agreements, entity titles, trusts, corporate bylaws and articles of incorporation, shareholder agreements and life insurance policies.

Two other actions increase the yields of succession planning. First, assemble your professional team. The expertise may include other advisors, facilitators and coaches besides accountants, attorneys, financial planners and valuation consultants. If anything unexpected happens, your successors now have the option for guidance from the professionals who know you and have worked on setting up your long-term vision.

In a related step, assign the funds to support good planning. Noted farm economist Dave Kohl recommends that farms be prepared to spend 1% of their total farm assets value on succession planning. This significant investment will be even higher if owners are detached from their planning progress.

Next Steps in Succession Planning

Whether you are starting for the first time, or restarting after previous attempts, this work has never been more important. Set aside your resistance and choose a timeline for your departure from the farm. Once you have a date, no matter how far into the future, your planning becomes real and productive. Reread this article or review one of the three sections with your new timeline in mind. Your next step will become clear.

With few exceptions, Oregon seed growers experience their operations as a lifelong opportunity that their family entrusted to them. The privilege of this ownership goes hand in hand with the responsibility of allocating your assets, accumulated wealth and wisdom for the continuity of your farm. Finish your planning and appreciate the yields of your work. ♦

Sherri Noxel is a family business advisor at Enterprising Generations in Tigard, Oregon.

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Intermodal Center Failing to Achieve its Promise

The concept behind the Mid-Willamette Valley Intermodal Center in Millersburg, Oregon, is appealing, according to Representative Shelly Boshart Davis, owner of Boshart Trucking. But realizing the center's promise is another matter entirely.

"The idea makes sense," Boshart Davis said during a presentation at the Oregon Seed League's Annual Meeting last December. "The idea that we can have containers stay out of Portland and get trucks off the road sounds pretty good. It really does."

But the bottom line behind whether the center can achieve its appeal was always going to come down to cost, Boshart Davis said, and more specifically, transportation costs per unit shipped. And when it comes to the Mid-Willamette Valley Intermodal Center, a center that has sat idle for its first year of operation, the proposed cost per unit just hasn't panned out.

Trucking companies can move containers to shipping terminals and Portland area rail yards at significantly less cost by using established routes rather than by transferring containers to rail at the new intermodal center, Boshart Davis said. As a result, the center, which was launched with high hopes in February of 2023, has been unable to achieve its promise.

Boshart Davis said that to utilize the center, Boshart Trucking, which ships straw from its warehouse east of Salem to ports in Portland and Tacoma, would need to go backward. That creates an impediment, she said, but if the cost per unit panned out, it would do so.

"We would go backwards to Albany if it made sense," said Boshart Davis, who is vice chair of

the Oregon Legislature's Joint Committee on Transportation. "We would do that all day long."

But, she said, despite congestion and delays that her trucks encounter when moving containers through Portland, it doesn't benefit the company to use the center. It would cost an average of approximately \$250 more per container to transfer containers from truck to rail at the intermodal center, she said. And that includes factoring in extra labor and fuel costs associated with encountering congestion in the Portland area.

"All of these factors are taken into consideration," she said.

The announcement that the Port of Portland would end container service at the port on October 1 of this year hasn't changed the dynamics of the intermodal center's viability, Boshart Davis said.

"This puts container shipping in a tenuous situation," she said of the port's decision. "I do doubt, though, that Millersburg becomes an option because of this specific decision."

Then there are issues with container availability. The fact is, Boshart Davis said, container companies like Northwest Container Services have established transportation routes that they are unlikely to deviate from, especially in a time when container availability is at a premium due to less imports coming into the U.S. from Asian suppliers.

"The major problem with Millersburg is that they can't get containers," Boshart Davis said in

her presentation. “Is it the rail? Is it the ship lines? Probably both. Ultimately it is just not worth it for them. They don’t make money off of Millersburg. There are not enough containers, nor enough demand out of Millersburg to get those containers in there. It is sometimes hard to even get containers in Portland. Why would Union Pacific give up containers for a longer amount of time in order to get the same amount of product that they could out of Portland? They don’t need the business.

“And then the ship lines aren’t motivated,” she said. “We all know the ship lines are making historical amounts of money. They’re not motivated to go to Millersburg. It is simply not worth it for them.”

For many, the idea for an intermodal transfer facility in the Willamette Valley first came on the radar after a 2016 report from the Portland-based consultant ECONorthwest that was commissioned by the Oregon Legislature because of tie-ups at the Port of Portland due to labor disputes. The report, which was looking at moving products past Portland to ports in Tacoma and Seattle, found that a strategically located intermodal center could take up to 150 trucks a day off of Interstate 5, in the process reducing greenhouse gas emissions and helping reduce congestion in the Portland area.

The report noted that 38,170 forty-foot containers, mostly filled with agricultural products, including mostly straw, are exported from the mid- and southern Willamette Valley, Southern Oregon and the Oregon Coast via Northwest ports each year. The report stated that demand for the intermodal transfer facility would likely start small and increase over time as the service becomes established and shippers have time and opportunities to adjust their operations to utilize the Willamette Valley intermodal transfer facility. The report based the center’s feasibility on an expected volume of between 5,000 containers and 76,340 containers annually.

The center would generate revenue by charging each shipper a fee to lift containers off of trucks and onto rail cars (for export) or off rail cars and onto trucks (for imports). The per-container lift charge would depend on what shippers would be willing to pay, the report concluded, with typical fees charged by similar facilities ranging from twenty to fifty dollars per container. The likely revenue generated by the center each year was estimated at between \$260,000 and \$1.5 million.

Of course, none of that has come true as neither container companies nor shippers have utilized the facility in its first year of operation.

“I think the idea that if you build it, they will come, doesn’t register in international shipping,” Boshart Davis said. “We’re talking about trade routes that have been established over decades, and just because you build something, doesn’t necessarily mean we can get containers to it.”

A freight transportation consulting company, the Tioga Group of Philadelphia, Pennsylvania, said much the same thing in a 2019 report to the Oregon Transportation Commission. In its report, the Tioga Group stated that the intermodal center’s lack of agreement with international shipping lines cast doubt on the ability of the center to thrive.

Still, lawmakers and state officials backed the center and in 2019 the Oregon Transportation Commission invested \$24 million to develop the Millersburg center. The commission also at that time put \$26 million into a similar center to be constructed in the Eastern Oregon city of Nyssa. Construction has yet to be completed on that center.

Today, the Millersburg center languishes. As of press deadline, the site’s centerpiece, the Gantry crane that rides above the tracks at the former site of International Paper mill, has sat idle since it was installed in March of 2023. And the company that initially agreed to operate the intermodal center, Illinois-based ConGlobal, pulled out in December due to lack of business at the facility.

Linn County officials have said the center is in talks with other potential operators, but so far no agreement has been reached with any entity.

Boshart Davis, meanwhile, said it will take some major changes in pricing structure and other factors for the center to become competitive.

“I think that ultimately, the bottom line, is that you’re going to have to see some major changes (for the center to be viable),” Boshart Davis said. “Congestion is going to have to become so impossible in Portland that it will make me want to go to Millersburg. And those rates could also change. But at the end of the day, those non-price factors have to change drastically or the math simply has to change in order for you to see that intermodal facility be a success.” ♦

“I think the idea that if you build it, they will come, doesn’t register in international shipping. We’re talking about trade routes that have been established over decades, and just because you build something, doesn’t necessarily mean we can get containers to it.”

Shelly Boshart Davis

Oregon Truckers Overpaying, Running Up Transportation Costs

Oregon Representative Shelly Boshart Davis, R-Albany, said Oregon trucking companies pay well above their fair share to provide revenue for maintaining and improving Oregon roads. And, she said, with bottlenecks contributing to costly congestion on Oregon freeways, they have little to show for it.

Further, Boshart Davis said that with trucking costs in Oregon being the highest in the nation, it is driving up the costs of getting Oregon agricultural products to market.

Boshart Davis, who co-owns Boshart Trucking and is vice chair of the Oregon Legislature's Joint Committee on Transportation, made her comments during a presentation at the most recent Oregon Seed Growers League's Annual Meeting at the Salem Convention Center.

"Oregon sends 80 percent of its agriculture and processed food production out of state, with half of that headed overseas," she said. "The bottom line is most of what we grow needs to be transported somewhere by boat, by train or by truck." And, Boshart Davis said, nothing produced in Oregon can't be produced elsewhere. "We can grow the best agriculture and forest products in the world, but if we can't affordably and dependably deliver them, the customer will go somewhere else and may never come back," she said.

Further, she said, with profit margins already narrow in agriculture, high transportation costs from fuel surcharges, wages and

congestion, which costs truckers billions of dollars annually, need to be addressed.

Using figures from the Oregon Department of Transportation, Boshart Davis said that through the weight-mile tax charged truckers, trucking companies are overpaying their fair share for maintaining Oregon roads by \$193 million per year, or 32 percent above what others pay.

"That is the equivalent of everybody in the state of Oregon paying a 30-percent increase in gas tax," Boshart Davis said. "That is egregious and it's actually unconstitutional."

Further, Boshart Davis said, the weight-mile-tax revenue is not being put to its best use. She pointed out that when lawmakers passed a \$5.3 billion transportation package in 2017, they promised truckers that they would address one of the worst bottlenecks in the country, a 1.8 mile stretch of Interstate 5 in Portland.

"To the truckers, they promised congestion relief and improved freight mobility through the Rose Quarter, which is a 1.8 mile stretch of Interstate 5 that is the only two-lane stretch of I-5 in an urban area from Canada to Mexico," she said. "And I can tell you that the project has not been approved yet and is not shovel ready."

According to the American Transportation Research Institute, congestion cost U.S. truckers \$94.6 billion in 2021, an average of \$6,824 per truck, which Boshart Davis said is the highest ever.

"This added cost due to congestion is the highest level yet recorded and represents a 27 percent increase from 2016," Boshart Davis said. "In fact, the congestion cost per truck rose at twice the rate of inflation over that same period. To give you an idea of how expensive that is, total hours of delay experienced by truck drivers due to congestion were the equivalent of 460,000 commercial truck drivers sitting idle."

Added to the costs, congestion is a major contributor to fuel waste and excess carbon emissions, Boshart Davis said. "The fuel that was wasted due to congestion delays resulted in the release of approximately 69 million metric tons of carbon emissions in 2021," she said. "To put that in perspective, the entire state of Oregon emitted 61 million metric tons of carbon in one year.

"Let's get our trucks moving," she said. ♦



Shelly Boshart Davis

“Oregon sends 80 percent of its agriculture and processed food production out of state, with half of that headed overseas. The bottom line is most of what we grow needs to be transported somewhere by boat, by train or by truck.”

Shelly Boshart Davis



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Oregon's New Ag Overtime Law Explained

Did you know that under Oregon's new agricultural overtime law farmers need not pay overtime for members of an immediate family nor do they need to pay salaried exempt employees overtime wages when the overtime threshold is achieved?

These and other explanations of the working of Oregon's ag overtime law were provided during a presentation by Jessica Sandrock, Learning and Development Specialist with Oregon's Bureau of Labor and Industries (BOLI), at the 2024 Oregon Clover Growers Annual Meeting.

Sandrock, part of a three-person team with the Agriculture Compliance and Education Unit of BOLI, addressed some of the most common questions she has received since she started in her position last year.

The most common question she has fielded thus far into 2024, she said, is whether the overtime threshold changed beginning January 1 of this year to 48 hours. "I've gotten a number of emails in the last two weeks asking if we switched to the 48-hour threshold," Sandrock said during her presentation on January 31. "That's not until 2025."

The new agricultural overtime law, authorized by House Bill 4002 in the 2022 short session, went into effect January 1, 2023. Employers are now required to pay overtime wages of time-and-a-half to agricultural workers after they work 55 hours in one workweek. Starting January 1, 2025, employers will be required to pay overtime to agricultural workers after they work 48 hours in one workweek. Starting January 1, 2027, employers will be required to pay overtime to agricultural workers after they work 40 hours in one workweek.

Among other common questions Sandrock has received, several have to do with exemptions, of which there are six, including the exemptions for immediate family. Under Oregon rules (OAR 839-020-



▶ Jessica Sandrock of the Oregon Bureau of Labor and Industries at the 2024 Oregon Clover Growers Annual Meeting explaining the ins and outs of Oregon's new agricultural overtime law.

0004) the immediate-family exemption applies to an employer's grandfather, grandmother, father, mother, son, daughter, sister, brother, uncle or aunt. Federal Code (29 CFR §780.308) also includes step-children, foster children, step-parents and foster parents in the definition of immediate family.

Within another exemption, local hand harvest or pruning workers who are paid piece rate and have worked fewer than 13 weeks during the previous calendar year are exempt from overtime. Sandrock emphasized that this exemption does not apply to migrant workers. "These are local workers. So, they live in your community, but they are only working a very short season," she said. "A lot of people call this the 'teacher exemption.'" She noted that the employer

(continued on page 18)

will need to have proof that the worker worked less than 13 weeks the previous year to qualify for this exemption.

Another exemption applies to harvest and pruning workers who are paid piece rate and work for an employer who did not exceed 500 piece-rate workdays of labor in any quarter of the previous year.

"This is considered the small farm exemption," Sandrock said.

Also exempt from the law's provisions are migrant hand-harvest workers 16 years of age or younger who are paid the same piece rate as workers over the age of 16.

Any employee whose principal duties are administrative, executive or professional and who performs predominantly intellectual, managerial or creative tasks and is paid on a salary basis is also exempt from the overtime provisions.

Sandrock noted that this exemption can be misinterpreted, so farmers need to be careful when applying it. Just because an employee is paid a salary, for example, does not exempt them from the overtime provisions. And just because an employee has manager in his or her title does not automatically exempt them from overtime provisions. The employee needs to meet certain job duty requirements, such as that their primary duties are managerial or that their daily tasks affect the business of the farm. Also, they must supervise two or more full-time employees (or the equivalent), to qualify for the exemption.

"If they don't meet these criteria of managing two full-time employees or being able to make recommendations on hiring and firing, then they wouldn't qualify as being an exempt employee," she said.

As for administrative staff, to be considered exempt, they would need to do more than office work.

They would also need to perform non-manual work directly related to management policies or business operations.

"So, it is more than just someone who's answering phones, responding to emails," she said. "They actually have responsibilities that have to do with policies of the business."

Other examples of job duty criteria that qualify a manager or employee as exempt is handling complaints and grievances and carrying out discipline when needed. Or they need to be someone who is controlling the flow and distribution of material supplies and merchandise and be operating independently. They also have to be doing supervisory tasks to be qualified as exempt.

In response to a participant's question, Sandrock said that someone with a specialized expertise, such as a farm's full-time agronomist, might qualify as an exempt employee. An employee with specialized expertise must meet the professional job duties criteria, which includes performing work that requires the advanced knowledge afforded to the employee by having completed a specialized degree. In general, it is necessary to have at least a bachelor's degree to meet the educational requirement of a professional employee.

Sandrock encourages employers to review BOLI's webpage for Salaried Exempt Employees and to get a copy of BOLI's Employee Classification and Wage and Hour Exemptions Handbook to ensure employees are classified correctly.

Another question Sandrock is often asked is do office staff qualify as exempt. The answer, she said, is it depends. "And it depends for two reasons," she said. "Your office staff must meet the secondary definition of agriculture, in that their job applies specifically to what is happening on the farm and to the farm business."

Agricultural workers who handle or work on products that aren't grown on the farm that they're employed by are entitled to overtime under both state and federal law (i.e. after 40 hours), she said.

For agricultural workers who are paid by both piece rate and hourly rate, an employer must track hours and pay overtime based on the weighted average of both piece rate and hourly rate. Employers can find example

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calculations on BOLI's Minimum Wage and Overtime in Agriculture webpage.

Another question Sandrock gets a lot has to do with whether a farm is responsible for paying overtime if working with a farm labor contractor. In such joint employment situations, both parties may share responsibility for ensuring compliance with wage and hour obligations. Joint employment determination by BOLI is guided by federal law 29 CFR §825.106. "So regardless of how your contract is written, even if the farm labor contractor is taking care of payroll and they are paying their people, if you hired the farm labor contractor, you have joint responsibility to ensure it's being done right.

"So, just be sure to be talking to your farm labor contractors, seeing records that they're paying accurate payroll," she said. "If for some reason a worker were to say I was owed overtime and I didn't get paid overtime, it would be the farm labor contractor and the farm that employed that farm labor contractor who would be responsible."

She also advised growers to check and ensure that a farm labor contractor is licensed and that their license is up to date. Employers can view an active labor contractors list on BOLI's Labor Contracting Licensing webpage.

Sandrock said that BOLI created the Agricultural Compliance and Education Unit to serve as a resource for Agricultural workers and employers statewide.

"We are a three-person team," she said. "We serve the whole state. We do customized presentations for groups, and we respond to any questions via email or phone. I will get back to you within 24 hours and I can assist you in getting your questions answered."

Also, she said that her

position is housed in BOLI's Wage and Hour Division. "I'm 100 percent education and resource for the ag industry. We are here to support agriculture," she said.

To view a complete list of Frequently Asked Questions, visit BOLI's Minimum Wage and Overtime in Agriculture webpage. To get answers to questions about Oregon's agricultural overtime law, or any other wage and hour questions related to agriculture, email ag.overtime@boli.oregon.gov or call 971-245-3844. ♦



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Midwest Provides a Cautionary Tale of Herbicide Resistance

For years, weed control programs in the Midwest included pre-emergent soil applied herbicides followed by post-emergent tank mix applications. By the late 1990s, however, after the emergence of Roundup Ready Soybeans and Roundup Ready Corn, many growers were foregoing both the pre-emergent applications and the tank mixes, going instead with one or two post-emergent applications of glyphosate, the active ingredient in Roundup.

“That worked really well and for the first few years we had clean fields,” said Southern Illinois research agronomist John Pike. “Then little by little, there were some escapes and there were some issues with the genetic diversity and adaptability of the weed species and some tolerance developed toward glyphosate. And then we started having problems with other chemistry.”

Today, Pike said, herbicide resistance in the Midwest has evolved to where some pigweed populations are resistant to not just glyphosate, but to atrazine, 2,4-D and dicamba, as well.

As a result, Midwest herbicide programs today are multi-layered, costly, time consuming and complicated. And with herbicide resistance already present in some Oregon weed populations, the developments in the Midwest can serve as a cautionary tale for what could happen in Oregon if growers don't manage for resistance.

In one Oregon study, former Oregon State University weed scientist Caio Brunharo, who is now at Penn State, found multiple populations of Italian ryegrass with different forms of herbicide resistance, including cross resistance, which is resistance to multiple herbicides within the same mode of action, and multiple resistance, which is resistance to multiple modes of action. Overuse of any single mode of action, Brunharo said, will almost certainly devolve into more herbicide resistance in Oregon's weed populations.

In the Midwest, the situation has evolved to the point where growers often need to pull weed samples and have them tested for herbicide resistance and then adjust spray programs accordingly. And if weeds

aren't tested in a timely manner, given the ability of pigweed populations to spread, the problem can compound rapidly.

“If a farmer doesn't test every year, by the time it's identified as a problem, you can have had three or four different crops on that field with combines running and other equipment that spreads it through the area and birds spreading it and it just kind of forks out from there,” Pike said.

“The fundamental problem is that we've sprayed Roundup year after year, we've used the same tool over and over again indiscriminately,” said Midwest agronomist Dan Perkins. “So, we've got ourselves into this position and now we've got to get ourselves out of it, and it is going to take multiple ways to do that.”

The good news for Oregon growers producing annual ryegrass as a cover crop seed for Midwest corn and soybean systems is there are no confirmed reports or resistant annual ryegrass in the Midwest.

“We do not find that,” Perkins said. “And all the farmers that I work with and who John (Pike) works with down south, the guys that have been using annual ryegrass for 20-plus years, so spots where we would see resistance if there was resistance, don't have resistance. So, when we hear stories where people say annual ryegrass is resistant, it is largely because of mismanagement, of not following recommendations. It's like anything else, when you manage poorly, you get poor results.”

“There is no doubt that ryegrass can be a more challenging species to control just because of the nature of the plant,” Pike said. “It can have a tremendous root mass, while not having much above ground biomass, for example, which can make it difficult to control. But as long as we're observant to what is going on in the weather leading up to the application and in our mixing and our water quality and have some flexibility in chemistry choices, we don't have issues.”

Where issues with control have occurred, he said, it can be traced to errors in timing, herbicide selection, weather conditions or other factors not related to

resistance. For example, Pike said he has noticed that glyphosate can get tied up when tank mixed with atrazine in some cases, reducing the efficacy of glyphosate. And at times soil temperatures are too low for good glyphosate translocation, another factor that can lead to less than ideal control.

Use of annual ryegrass as a cover crop, in fact, has become a key cultural practice for combatting resistant weeds, according to the two Midwest agronomists.

“A good cover crop system can go a long way in providing good weed suppression,” Pike said. “It’s not in replacement to a herbicide program, but paired with a good herbicide program, a good cover crop program will improve a weed control program.”

“Cover crops can play a significant role in weed control,” Perkins said. “I’ve seen this over and over again where you hear guys say, ‘I used cereal rye ahead of my soybeans and I had 50 to 60 percent less weed pressure.’”

Perkins, who is based in DeMotte, Indiana, added that recommendations are to use two modes of actions when spraying for weeds. “Also, likewise, we have a tool in our toolbox called cover crops that can be a third mode of action and help in the battle against resistant weeds,” Perkins said.

Going forward, Pike said it will be important for growers everywhere to be observant and include resistance management strategies within weed control programs.

“I think the biggest thing to keep in mind is that any time we are applying herbicides, we need to be aware of all the weed species that are in play in that field,” Pike said. “And it is a good idea to combat whatever problems we have with multiple modes of action, because if we

have just one mode of action at work and there is a weak spot in that, a weed is going to find a way to work through that, and over time that can multiply into some pretty severe problems.

“Keeping that in mind will help increase the longevity of the usefulness of any herbicide program,” Pike said. ♦

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Oregon Seed Council 2.0



New Executive Director Leading the Council into a New Era

The Oregon Seed Council (OSC) was started 56 years ago as a vehicle to counter efforts to stop field burning in the Willamette Valley. Over the years, the issues have changed. Field burning has long been relegated to the back burner having been discontinued in the Valley outside of the Silverton Hills. But OSC is still going strong and arguably is more important than ever to the wellbeing of the Oregon seed industry.

The OSC today provides a critical voice for the industry on state and federal issues, both within the confines of the Oregon Legislature and Congress, but also outside of lawmaking bodies, where it works to influence rulemaking, address regulatory issues and conduct other work for the betterment of the industry. And many believe a recent change at the head of OSC, which is providing the organization a new voice, is reshaping OSC in a positive manner.

When Megan Chuinard came on board as OSC's new executive director last May, she started by taking a deep dive into the history and makeup of the organization. Today, with the help of her Board of Directors, she is seeking to enhance the role of OSC by surveying members on their needs and analyzing where OSC can intersect with those needs in a positive fashion.

In her one year at the helm, Chuinard has kickstarted committees that were largely inactive, formed new committees and generally pumped new life into the organization, according to Board members.

"I am so excited about the direction of the Oregon Seed Council," said Immediate Past President Becky Berger, who has worked under former Executive Director Roger Beyer and is now working under Chuinard. "Our new Executive Director Megan Chuinard has experience, drive and great communication skills that have injected energy and renewed engagement from our Board."

"Megan has exceptional organizational skills that have benefited the workings of the Seed Council," said Alex Duerst, first vice president of OSC. "She is great at creating deadlines for responses, at communicating with the Executive Committee and

with other committees and she is very detail oriented, clear and concise which is helpful when we are making decisions that affect the Seed Council and, potentially, the industry."

House Cleaning

Chuinard's work to date has involved some forward-thinking approaches to addressing issues of importance to membership, but also a lot of behind the scenes work on more mundane tasks like updating bylaws, mission statements and membership packets.



Megan Chuinard

"A lot of it is house-cleaning stuff that probably needed to be taken care of for a couple of years now," said OSC President Kate Hartnell. "We had some bylaws that we needed to review, and we're working with AgWest Farm Credit on the strategic plan and direction for the Council moving forward. It's not glamorous, but I think it needs to be done and I think it will help the Board be more successful in future years."

"It's been a busy year," Hartnell added, "and it's been a lot of fun to go through all of this with Megan."

In updating OSC's membership handbook, Chuinard said she sought to clearly define both what is expected of OSC's 21 Board members and how OSC can help them meet their responsibilities. Chuinard also has created a Board member orientation packet that provides Board members an overview of the organization, as well as its stated purpose, governance structure and other information that clarifies OSC's makeup, how it operates and levels the playing field for member and industry participation.

Chuinard said she is most excited about the strategic plan she and the Board are devising, a document that will provide a guidepost that she and membership can refer to now and into the future to ensure programs and OSC's scope of work are meeting the needs of those it serves. OSC has had several engagement opportunities to pull in industry comments to its planning process, she added. And at the June meeting of the Board, OSC is expected to iron

out the plan and to set priorities for the immediate and long-term future of OSC.

"It will be a comprehensive plan to create measurements and visions for the future where we can come back to the Board year after year and talk about if we're meeting those metrics or how and what we need to improve," Chuinard said. "And, of course, we will be able to go back and change things as our needs change and as we continue to move and grow with the will of our membership.

"And as membership goes through changes, as we see changes in technology, communication and other issues and tools, it is going to be critically important to keep soliciting input and listen to what the Board members want so that the Oregon Seed Council represents them as well as we possibly can. We have to keep working to incorporate their ideas and the changing needs of the industry, ensuring their voices are heard," Chuinard said.

Committee Changes

At the committee level, Chuinard has instituted several changes, including adding committees and renaming one. She has added a Bylaws Review Committee, which is scheduled to present recommended bylaws changes to OSC's full Board at the annual meeting in June. The long-running Legislative Affairs Committee has been recast as the Government Affairs Committee in deference to the fact that much of what the committee works on involves federal legislation and federal issues.

"As I stepped into this role, I was noticing a significant impact at the federal level," Chuinard said.

"We spend a lot of time working through federal regulation, particularly from the EPA, and we have a strong interest in being engaged in the Farm Bill, so we've had many discussions with our Congressional delegation staff and partners in that area."

Chuinard also has created a Public Relations and Education Committee in deference to comments she has received from members.

"I've heard from members that education is really important," Chuinard said. "We have a scholarship program, which has been very helpful to help us with the industry and get folks engaged in education that supports our industry, as well as just reward the folks that have been really entrenched in the seed industry. But we've also seen more of an interest in educating folks about what we do, who we are and where we're going. In response to this, we created a committee that focuses on our media and general outreach strategy, but also longer term, the committee will delve into education. We've heard from different folks that there is a desire to look at webinars for our own members, as well as do more of that external outreach. So, we've got a lot of potential with that committee to do a lot of good things and elevate the industry."

“ I am so excited about the direction of the Oregon Seed Council. Our new Executive Director Megan Chuinard has experience, drive and great communication skills that have injected energy and renewed engagement from our Board.”

Becky Berger

(continued on page 24)



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► Megan Chuinard attends a legislative reception hosted by the Oregon Seed Association.

Separate to the Public Relations and Education Committee is a Scholarship Committee that is looking at revising and updating OSC's scholarship program. "There is a desire to have stronger investments in students moving forward," Chuinard said.

OSC's long-running Seed Services Advisory Committee has expanded its membership over the past year and now has additional voices at the table, Chuinard said.

OSC has also ramped up the activities of its Smoke Management Committee, Chuinard said, including recently conducting a survey of growers in the program, and working with ODA to assess the survey results and look for areas of improvement and increased communication.

Other committees include a Budget Committee, which reviews, revises and recommends an annual budget for approval by the full OSC Board of Directors; an Executive Committee, which includes Board officers and handles issues of an emergency nature; and a Nominating Committee, which is comprised of the president and active past-presidents of OSC and proposes officer appointments.

History of Involvement

OSC has a long history of addressing issues of importance to the industry, whether that be in the form of state legislation or federal issues, such as

phytosanitary concerns with plant regulatory officials or budgetary issues that could benefit seed crop research. Chuinard has continued that tradition. Today OSC is addressing a shortage of opportunities for the industry in risk management programs, for example, an issue that has come to the forefront after poor yields and low prices of late.

"We've been deeply engaged in risk management," Chuinard said. "Our members have had a really rough season in 2023, and we've been talking through what federal and state resources are available for addressing the resulting financial challenges growers face. We did a deep dive into what insurance options are available for growers, and right now, there is not a grass seed or legume policy that fits our membership."

Chuinard invited officials from the USDA Risk Management Agency to a recent OSC meeting and had them walk through options available for growers and how growers could modify existing programs to better fit the Oregon industry's needs. OSC is also working with federal officials to try and write risk management policy for grass seed into the next Farm Bill, and the OSC has created a workgroup to assess the risk management needs of Oregon seed farmers and to gather information the Risk Management Agency would need to expand existing policy to meet those needs. The Risk Management Workgroup is also identifying opportunities to adapt a Midwest-centric risk management program for Oregon growers and expand it to cover additional crops.

Umbrella Organization

While other organizations represent many facets of the Oregon seed industry, OSC is the industry's ultimate umbrella organization. On OSC's Board are representatives from the Oregon Fine Fescue Commission, the Oregon Ryegrass Commission and the Oregon Tall Fescue Commission, all of which have two members on the Board of Directors. Organizations with one member on the Board include the Oregon Clover Commission, the Oregon Seed Growers League and the Oregon Seed Association. Also with one member on the Board are Tee-2-Green, the Oregon Straw Exporters Association, Meadowfoam Growers Association, Oregon Grass Seed Bargaining Association, the Willamette Valley Specialty Seed Association and the Willamette Valley Oilseed Products Association.

Ex-officio or non-voting members on the Board include representatives from Oregon Women for Agriculture, the Oregon Department of Agriculture,

Oregon State University's Crop and Soil Science Department and an OSU Extension agronomist.

Chuinard said she was handed a strong foundation that included exceptional partnerships when she took over as executive director of OSC. Also, she lauded the quality of work provided by those working with OSC.

"I am grateful for the quality work done by contract writer Mitch Lies and our regulatory coordinator Steve Salisbury to help connect the industry and fill important needs for our members," Chuinard said. "We have strong partnerships with our members, the commission offices, agencies, regulators, agricultural groups and lawmakers that are helping us connect industry and resources. We are all a part of building toward a successful future."

As stated in OSC's membership handbook, OSC covers issues that affect the industry from when seed is planted to when it reaches the consumer, an overview that can intersect with everything from policy issues, seed production, regulatory issues, public relations, media, marketing and more.

Having a strong leader heading this effort can be critical to its success, and OSC has had strong leadership throughout its history, dating back to Dave Nelson, who led OSC from 1977 until 2008, and including Roger Beyer, a former state senator who



▶ Becky Berger, Lena Prine and Megan Chuinard at Oregon Seed Council's strategic planning meeting.

led OSC from 2008 until last year. With Chuinard, OSC appears to have continued that tradition and, although it is early to speculate, maybe even taken it up a notch. ♦

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Seed Research Institute Field Tour Well Received

Three years ago, the Oregon Seed Research Institute was launched, dramatically boosting the research capabilities of the Oregon seed industry. Shortly after that launch, Steve Salisbury of Pacific Ag Resources, contract researcher for the Oregon seed industry, provided growers and others a tour of a research farm he had recently purchased, a site where much of the work of the institute now takes place.

On March 26 of this year, Salisbury welcomed back growers, state officials and industry executives to the second Oregon Grass Seed Commissions' Field Plot Tour, providing participants a look at how the farm has evolved and at current research projects.

"This is our third year now with Steve's expanded research program, and it's just nice to see the plots mature, and to see the design of the farm and how it has all come together," said Bryan Ostlund, administrator of three Oregon Grass Seed Commissions and the Oregon Clover Commission. "It is so well done. We just hear nothing but compliments about what's taking place out here."

Salisbury walked the thirty or so tour participants through several trials in place at the farm, where, among other endeavors, he and his team are looking into best management practices for controlling grass weeds and collecting data to support registration of pesticides.

"I think what Steve is doing here is amazing," said Emily Woodcock, a member of the Oregon Tall Fescue



► Oregon Department of Agriculture Director Lisa Charpilloz Hanson and Oregon Seed Commission Administrator Bryan Ostlund talk during the Oregon Grass Seed Commissions Field Plot Tour.

Commission. "This is work that is directly relevant to the real-life problems that we as Oregon seed growers face."

Gilbert Uribe, Pesticides Program manager for the Oregon Department of Agriculture, one of several state officials on hand, said the data Salisbury and

(continued on page 30)

Plot Harvester Working to Perfection

As part of the Oregon Seed Commission's Field Plot Tour on March 26, Steve Salisbury of Pacific Ag Resources talked about the Oregon Seed Research Institute's plot harvester, which he stores on his research farm and uses to harvest plots.

"The combine worked perfectly," he said of his first experience with it last year. "It worked exactly the way we had hoped it would."

In a separate interview, Salisbury elaborated on the benefits the plot harvester provides his research. "When you have good tools to conduct science and that science is conducted with sound scientific methods, what that does is it allows consistency and accuracy in your data collection. It eliminates sources of variability. And you can get some really good data and drill down to true differences in treatments that you are evaluating."

The harvester, a Zurn 160 plot combine, was purchased last year by the Oregon grass seed commissions. The Oregon Department of Agriculture helped in navigating the legal issues involved in the purchase, according to Bryan Ostlund, administrator of three grass seed commissions.

The commissions also helped bring a similar plot harvester to Oregon State University's Hyslop Research Farm. They donated a significant share of the costs of the purchase last year. ♦



▶ Oregon Department of Agriculture Director Lisa Charpiloz Hanson and Deputy Director Lauren Henderson with the Oregon Seed Research Institute's plot harvester during the Oregon Grass Seed Commissions' Field Plot Tour, March 26 near Lebanon.

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► Steve Salisbury of Pacific Ag Resources provides research updates from the Oregon Seed Research Institute to participants in the Oregon Grass Seed Commissions' second Field Plot Tour, March 26 near Lebanon.

(continued from page 28)

his staff provide ODA is critical to getting pesticides registered for use in grass seed.

"Steve understands what types of data are needed to get uses added to labels or before we can proceed on some of these special local needs

registrations, and this is a great way to show how we can work together to get that data," Uribe said.

The plot tours included short presentations on several projects analyzing efficacies of herbicides and control strategies on annual and roughstalk bluegrass in perennial ryegrass, fine fescue, forage-type tall fescue and turf-type tall fescue. In addition, the researchers are analyzing crop

injury involved in the different control strategies, as well as the economics of implementing the strategies.

"One of the refreshing aspects of Steve's work is that he is analyzing the economics of these projects," said Denver Pugh, a South Willamette Valley grower in attendance. "That is something that we can take home to our farm."

"What Steve is doing here is incredible," said Megan Chuinard, executive director of the Oregon

Seed Council. "His work addresses real-time needs of growers and provides critical data needed to advance the industry."

Research at the farm also includes experimental-type studies, including looking into whether use of biostimulants on tall fescue and perennial ryegrass can improve crop safety and efficacy of herbicides, and whether spraying peppermint oil over the top of a stand can be used to move voles out of grass seed fields.

"It's exciting to see the grass seed industry taking ownership of their needs and looking for improvements in pest control strategies and opportunities for additional crop protection tools," said Lisa Charpilloz Hanson, director of the Oregon Department of Agriculture, who also was on hand. "It seems like there are never enough tools in the toolbox and doing this research and working with the agency is one way of helping to move that effort forward.

"Obviously there is no replacing the work that Oregon State University does for our agricultural industries," Hanson added. "But there is more than enough work to go around to support the diversity of Oregon agriculture and the research being done here is exciting to see." ♦

“What Steve is doing here is incredible. His work addresses real-time needs of growers and provides critical data needed to advance the industry.”

Megan Chuinard

Research Farm Weather Station Part of Agency's Expanding Weather Data Network

Two years ago, Syngenta Crop Protection was looking to do some research into rust control in grass seed that required the use of a weather station and a spore counter. The company asked Steve Salisbury of Pacific Ag Resources if it could install the equipment on his research farm near Lebanon in conjunction with conducting the fungicide trials.

Salisbury agreed and when the project was completed, Syngenta left the weather station in place, a development that Salisbury welcomed.

Fast forward to this past fall and the U.S. Bureau of Reclamation came calling with a similar request, this time asking whether it could install one of its AgriMet stations on his farm.

"They were looking to expand their network onto the east side of the Valley, and they asked me if I wanted to host a site," Salisbury said. "I said, 'Yes, absolutely.'"

Representatives of the bureau were given Salisbury's contact information by Derek Godwin, Oregon State University Extension statewide Watershed Management faculty, and the bureau was out on his farm installing the station this past February, giving Salisbury access to weather data from two stations on his farm.

AgriMet is a network of weather stations located in agricultural areas throughout the Northwestern United States. Currently, more than 100 AgriMet stations are located in Montana, Idaho, Washington, Oregon, Nevada and Colorado. The stations collect real-time climate data, including temperature, humidity, precipitation, wind speed and direction and solar radiation. Data is retrieved from each station on an hourly basis via satellite telemetry. Real time data is then processed to produce daily statistics and estimates, including growing degree days and evapotranspiration estimates.

AgriMet's data is utilized by scientists from multiple disciplines who need high-quality metrics that the stations measure, record and archive, Salisbury said. The expansion of the system into Lebanon is part of a recent push by the Bureau of



▶ Steve Salisbury of Pacific Ag Resources in front of the U.S. Bureau of Reclamation's AgriMet weather station on his farm near Lebanon. The installation, one of several on Oregon farms this year, is part of a push by the federal agency to bolster the value of its weather-data-gathering network.

Reclamation to bolster the value of the site to all users. In recent months, the agency also installed weather stations at Ruddenklau Farms near Amity and at Victor Point Farms near Sublimity, as well as at other locations in the Willamette Valley.

While the AgriMet station provides more information than the former Syngenta weather station, Salisbury noted he often uses the Syngenta station for quick reference, noting he can access it from his phone quicker than going to the AgriMet website. But, he said, when he is looking for more complex weather data, it's nice to go to the AgriMet site and know that the data he is collecting from the Lebanon site is about as localized as anyone could expect.

For access to Pacific Northwest region data from AgriMet, go to <https://www.usbr.gov/pn/agrimet/>.

Meet Eric Morris: New Commodity Commission Program Manager

It's no coincidence that Oregon farmers are starting to notice a new face representing the Oregon Department of Agriculture at commodity commission meetings. Eric Morris, the new commodity commission program manager, said he has attended as many meetings as possible since he started in the position August of 2023.

To date, either through online platforms like Zoom or in person, Morris said he has participated in more than 75 percent of meetings held since he started in his position.

With commission meetings at times overlapping, Morris said he can't go to them all. "I tell (commodity commission administrators) I can't be in two places at once," he said. "There are some conflicts, but I try to prioritize the ones I know I can help with the most."

As commodity commission program manager, Morris is tasked with providing oversight to Oregon's 22 agricultural commodity commissions, including the three grass seed commissions, which represent fine fescue, tall fescue and ryegrass and the Oregon Clover Commission. That can mean overseeing contracts, approving budgets and making sure that commissioners are following proper public-meeting protocol.

Morris, who has lost about 95 percent of his vision due to complications with diabetes, previously spent ten years with the Oregon Commission for the Blind, which unlike most other state commissions, is a state agency unto itself.

"It was time to make a move," he said when asked why he left his former post. "It is a small agency. I was a program director at the commission, so there wasn't a lot of upward mobility."

Morris said he wanted to stay in state government, and when he saw the commodity commission job posting, he was intrigued.

"I like doing things with the government. It is not only what I do for work, but I'm also a city councilor for the city of Woodburn," he said. "And so it just seemed like a really good matchup, and the Department of Agriculture has a great reputation, so I decided to make a move."



▶ Eric Morris

Morris said he was impressed with the fact that Kris Anderson, his predecessor, had stayed in the position for the previous 19 years. "I always take that as a good sign when people have been in the job for a long time," he said. "That means it's a good organization and it's a decent job."

So far, Morris said he is impressed with what he's seen.

"I can't think of a meeting I've gone to that wasn't really productive and really focused on bettering the industry," Morris said.

And, Morris said, the position has lived up to his expectations.

"It is super interesting," he said. "I think when you're doing the same thing for years and years, a person forgets how interesting it is to go and learn something new. And with 22 commissions, there is something new to learn at every single meeting and every time I talk to someone."

"And I'm super interested in agriculture," he said. "I grew up in Tillamook and my parents still have a small beef farm and it's always been close to my heart." ♦



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Don Wirth Honored with Distinguished Service Award

by Dan Zinkand

After Oregon's Governor Tom McCall stunned the grass seed industry in 1969 with a 10-day ban on burning straw, young Don Wirth told his wife, Maryanne, "No judge or politician is going to tell me how to farm. We have to figure that out on our own."

Today, that brash statement sounds like the confident Don Wirth many people have known for decades. But Wirth says that as a young man he was reserved. Gov. McCall's ban prompted the 23-year-old Wirth to join hundreds of grass seed growers who gathered at Central Linn High School to chart their future. He was elected to serve as secretary of the steering committee. Today, Wirth says that decisions at crucial moments like these shape people's lives. In this case, showing up, standing up and speaking up proved transformational for him and his career.

In August Wirth was recognized with the Distinguished Service Award of the Agricultural Communicators Network (ACN), at the Agricultural Media Summit, in Palm Springs, CA. The award was sponsored by AgWest Farm Credit.

He joins a "who's who" of agricultural notables given this award since 1947. The recipients include Dr. Norman Borlaug, the only person to receive the Nobel Peace Prize for work in Agriculture, and Dr. Temple Grandin, Colorado State University animal scientist, for her pioneering work in livestock handling systems and animal welfare.

Wirth is the first Oregonian and the first graduate of Oregon State University's College of Agricultural Sciences to receive the Distinguished Service Award from ACN.

"Throughout his 55-year career Don has been a trusted sounding board for Oregon State University CAS scientists," Dr. Staci Simonich, Dean of Oregon State University College of Agricultural Sciences (CAS), Reub Long Professor and Director of the Oregon Agricultural Experiment Station, wrote in her letter supporting Wirth's DSA nomination. "And that continues to this very day. Soil scientists, plant pathologists, animal scientists and others turn to Don for his insight and the cutting-edge questions he poses," Simonich said.



Photo credit: Dan Zinkand

► Maryanne Wirth, Don Wirth, and AgWest Marketing Director Michelle Paul, at the 2023 Agricultural Media Summit.

Wirth's contributions include innovation in cropping systems, testing and evaluating forage and cover crops in Oregon and the Corn Belt and founding and co-founding five companies. He continues to frequently and enthusiastically partner with land-grant universities and USDA scientists nationwide.

"He lives his life with passion and enjoys helping others," said Skip Gray, Gray Farms, Albany, Oregon, one of many Oregonians who supported Wirth's nomination. "Don particularly enjoys seeing young and beginning farmers that exhibit industriousness and common sense get the help they need to become the best agriculturalist possible."

Katy Coba, who served as Director of the Oregon Department of Agriculture from 2003 to 2016, said in her letter supporting Wirth's nomination that he "stands tall" among the hundreds of people she worked with during 37 years of service in Oregon-state government.

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"Since graduating from Oregon State University in 1968 Don has been tireless in collaborating with state and federal scientists, in finding practical and profitable solutions to agronomic problems and in his wide-ranging thirst for knowledge," said Coba, who is a Port of Portland Commissioner.

Mark Mellbye, Oregon State University Extension agronomist emeritus, also backed Wirth's DSA nomination. Mellbye began working with Wirth more than 30 years ago, as grass seed growers transitioned from burning straw after harvest. Then in the late 1990s Mellbye and Wirth began working on behalf of the Oregon Ryegrass Commission as it first tested annual ryegrass as a cover crop in the Midwest.

The Commission contracted with the late-Mike Plumer, a University of Illinois Extension agronomist and farmer, to do plot work at a university research farm.

"Don said, 'We need to test annual ryegrass on a larger scale with farmers' and Mike said, 'Right,'" recalls Mellbye. "Don said, 'The Commission can support these on-farm tests and I will get money and seed.' And he did. Our Oregon seed industry is good at producing quality seed and shipping it to customers," Mellbye says. "Don took the strengths of the Oregon seed industry, jumped in and took the lead."

(continued on page 36)

Product Name	Pack Size	Active Ingredient	% Active
HERBICIDES			
Clethodim 2EC	2x2.5 gal.	Clethodim	26.40%
	265 gal.	Clethodim	26.40%
Mesotrione 4SC	2x2.5 gal	Mesotrione	40%
Paraquat 3SL*	265 gal.	Paraquat	43.20%
FUNGICIDES			
Azoxy 2SC	2x2.5 gal.	Azoxystrobin	22.90%
	265 gal.	Azoxystrobin	22.90%
AzoxyProp SE	2x2.5 gal.	Azoxy/Propicon	13.5%/11.7%
	265 gal.	Azoxy/Propicon	13.5%/11.7%
Propicon EC	2x2.5 gal.	Propiconazole	40.3%
PGR's			
Pro Hex 27.5% WDG	4x5 lbs.	Prohexadione Ca	27.50%

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For five years Wirth worked with corn and soybean growers in Illinois, Indiana, Kentucky and Tennessee to establish five-acre on-farm tests of annual ryegrass as a cover crop.

“Don took the lead in getting these on-farm tests in the Corn Belt — which was really key – and he also worked with me, Mike Plumer and Dan Towery, the two Midwest agronomy consultants to the Ryegrass Commission, and with Ryegrass Commission Administrator Bryan Ostlund,” Mellbye says.

The Ryegrass Commission’s vision 25 years ago was amazing and audacious. After all, the Commission set out to influence and to change farming practices in the Corn Belt. Each year, the combined acreage of US corn and soybeans totals 190 million to 195 million acres.

Yet the enormity of the task did not discourage Wirth and the Ryegrass Commission.

Mellbye traces Wirth’s confidence to grass seed growers working with Oregon State to manage straw without burning fields after harvest. The large-scale, on-farm trials in Oregon became a model for the Commission’s cover crop work in the Corn Belt. And after the Commission wrapped up five years of on-farm testing of annual ryegrass in the Corn Belt, Wirth urged the Oregon seed industry to enter the Midwest cover crop market, Mellbye recalls.

“Twenty-five years ago one of the constraints to using cover crops in the Midwest was the availability of suitable varieties and seed. Major seed companies were reluctant to commit resources. So in typical ‘Don Wirth style’ he formed a private seed company and began to establish a network of (farmer)-dealers in the Midwest to sell seed.

“Well, this raised some eyebrows in Oregon, but after a few years, other seed companies began to



▶ Don Wirth with grandsons Case and Cole Goracke during a 2022 forage tour by South Dakota State University students of Cala Farms.

follow suit. Now cover crop seed is widely available. Don was the catalyst. He had the vision and was willing to take financial risk. Don clearly played an important role in the early adoption of cover crops in the Midwestern states.”

Wirth has been part of many agricultural organizations. He served 15 years on the Oregon Tall Fescue Commission, then six years on the Oregon Ryegrass Commission. Wirth embodies life-long learning, as he’s traveled nationally and internationally to listen, learn and lead. His work has been recognized with many awards, including the 2022 Oregon State University College of Agricultural Sciences’ Diamond Pioneer Agricultural Achievement Registry; the 2010 Northwest Farm Credit Services award for Distinguished Service as a Director; the 2007 Voice of the Grass Seed Industry, the 2000 Oregon Seed Council Seedsman of the Year and the Linn County Farm Bureau Family Farmers of the Year. ♦



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Hoffman Farms: A Study in Diversity

When Jay Hoffman was 17, just out of high school and preparing to begin farming full-time, his father, Robert Hoffman, encouraged him to work on another farm as a sort of rite-of-passage before coming back to the family farm in Beaver Creek, Oregon. Only trouble was, two years later, when Robert wanted Jay to return to the family farm, Jay decided he liked it better where he was. Six years after that, Jay had his own farm.

Today Jay Hoffman and his son, Jayson, manage Hoffman Farms, a sprawling operation that includes an expansive crop portfolio and a dozen businesses.

The farm's diversified crop portfolio includes grass seed, blueberries, hazelnuts, strawberries, clovers, sugar beet seed, Christmas trees and more. Among its dozen businesses, Hoffman Farms operates a blueberry packing shed that packs about 5 million pounds of fresh berries every year, a farmstand that operates six months out of the year, it produces wattle tubes for erosion control in the offseason and even operates a wetlands mitigation bank.

The farm also maintains a full-time staff of 30, as workers stay busy pruning hazelnut trees and blueberries in the offseason, and sees its workforce increase to around 250 during the harvest season.

Started in 1983

Hoffman Farms dates to 1983, the year when Jay married his wife of 41 years, Kelly, and launched an 80-acre potato growing operation near Sherwood, Oregon. "It was a struggle," Jay Hoffman said of the early years. "I had good mentors. I had opportunities. But I left home with nothing, and it was not easy."

The farm was focused mainly on potatoes for nearly 30 years until changes in the marketplace drove the Hoffmans to discontinue producing the crop in 2010.

"We were up to 600 acres of potatoes at one point, but the market changed," Jay said. "The buyers became more consolidated. All of a sudden you didn't have a guy that came into your shed every week and saw the quality you're running. You were dealing with some guy out of a corporate headquarters in Indiana or Arizona.



► Jay Hoffman with his son Jayson at their family farm in Sherwood, Oregon.

"But potatoes were good to me. I really love raising potatoes," he said.

The farm started dabbling in blueberries in 1992 and increased their production and today blueberries are the farm's main crop. "We retooled, revamped the whole facility and now we grow blueberries, grasses, grains and other crops, with blueberries being our main focus," Jay said.

The farm has reduced its grass seed acres over the years, now producing strictly turf-type tall fescue on about 500 acres. Jay said the farm switched out of perennial ryegrass several years ago because he and Jayson realized they were getting higher yields from the tall fescue crop and because, while still difficult to produce a quality crop, they believe it is easier to grow tall fescue than perennial ryegrass.

"It is difficult," Jay said. "We have to spot spray and we have to do rogueing. And I believe that the market right now is requiring a higher quality seed than in the past. Five years ago that (crop purity) wasn't a problem, but all of a sudden the market tightened up and (seed companies) now want super high quality, and sometimes we are having a tough time meeting the parameters."

The Hoffmans rotate wheat, crimson and red clover, as well as sugar beet seed, pumpkins and teff

(continued on page 38)



► Jay Hoffman with his grandson, George, on their family farm in Sherwood, Oregon.

with the grass seed, Hoffman said. Most of that rotation is on dryland ground, he said, but the farm will irrigate the sugar beet seed and the red clover.

Farm-Direct Sales

One of the biggest changes the farm has undergone over the years is increasing its farm-direct sales, an increase that in some respects has mirrored the encroachment of the Portland Metro area to the farm's Sherwood location. The farm today generates nearly a third of its revenue from farm-direct sales, according to Jayson Hoffman.

"We are taking advantage of our proximity to the population base," Jayson said.

Hoffman Farmstand, which is co-managed by Kelly Hoffman, Jay and Kelly's daughter Korina Grover and Jayson's wife, Megan, is open nearly year-round and features u-pick operations for strawberries, blackberries and other berries, as well as a u-cut Christmas tree operation in November and December. The farm also operates a pumpkin patch during October, as part of the farm's dedication to diversity.

"You've got to be as diversified as you can," Jay said. "We've probably been too diversified at times, but we're not afraid to try new things. And in fact I think that there's a huge vacuum in this Valley for another one or two crops that could fit into our rotation.

"We haven't found it yet, but we're trying. I think there's some short-day soybeans that could work," he said. "They're growing them now in North Dakota and we are going to experiment with them this year."

Juggling Diversity

Keeping up with the demands of multiple crops can be a challenge, Jay noted, but both he and Jayson are prodigious keepers of records, a fact that helps the farm plan ahead and react to situations as they arise. Recordkeeping is also a significant part of the farm's food safety certification requirements under the PrimusGFS certification it holds for its blueberries.

"It's a process," Jay Hoffman said. "And it takes one more full-time employee during the season to stay ahead of it. But anymore it is a necessary part of doing business. For example, we've been informed by Cal

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The farm’s footprint is driven in part by market conditions and in part by simple agronomics, Jay said, given that the different soil conditions and topography within its 3,000-acre footprint creates unique crop challenges.

The farm, for instance, has long had trouble getting in spring wheat on some of its bottom ground, so the Hoffmans decided a few years back to convert it to hazelnuts.

“We’ve actually taken some of our river-bottom ground, which was previously annual crop ground, and converted it to irrigated nuts, and they are doing quite well, and we don’t have to work that ground every year,” Jay said. “And that’s been an asset for us. The NRCS (Natural Resources Conservation Service) loves us, too, because now we’re using groundcover in between the filberts, which is great. So, it’s not bare ground in the winter when the river comes up.”

The farm has also converted nearly 300 acres of its bottom ground into a wetlands mitigation bank, a process that has taken more than a decade, but that is now beginning to reap some rewards.

Socially Active

While its proximity to the Portland Metro area provides Hoffman Farms an opportunity for farm-direct sales, Jay and Jayson believe it also increases their responsibility to help educate urban residents about

(continued on page 40)



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agriculture. To that end, the farm uses social media to post information about farming practices and it hosts field days for school children in the fall and spring.

"It's important to get them to understand that farmers are people, that these aren't massive corporate farms," Jayson Hoffman said. "It is family farms that are the backbone of food production. And we want to give them a real-life connection to agriculture."

“ It is family farms that are the backbone of food production. And we want to give them a real-life connection to agriculture.”

Jay Hoffman

Both Jay and Jayson also are committed to volunteering their time for industry organizations. Jay has served on the boards of multiple organizations over the years, including 13 years on the Oregon Potato Commission and 12 years on the Oregon Blueberry Commission. And now Jayson is following in his footsteps, serving as chairman of the Oregon Strawberry Commission and as vice president of the Oregon Grass Seed Bargaining Association, among other commitments.

"I believe you have to be involved in your industry," Jay Hoffman said. "And you learn when you are involved, too. It's not just a one-way street. I got a lot out of serving on the commissions."

"We are firm believers that Oregon ag isn't in competition with each other," Jayson Hoffman added. "We're in competition with outside pressures that are coming in here. I don't go to meetings with the idea of how this is going to help my farm, for instance.

I look at how is it going to help the ag industry in general."

Farm Succession

At 65, Jay Hoffman said he isn't looking to retire anytime soon, noting that he still enjoys working the farm, but he has decided to slow down and begin handing over some management duties to Jayson, a process that he admits has been challenging.

"One of the hardest things I've ever done is to let Jayson make mistakes on my dime," Jay Hoffman said. "It's tough, but that is the only way he learns."

Having Jayson around also has been extremely beneficial to the farm over the years, Jay said, particularly when it comes to bringing technology into the operation. Thanks in large part to Jayson, the farm today utilizes smart spray technology on most of its sprayers and RTK, or assisted steering, on its sprayers and planters.

When he does retire, Jay said he wants to hand over more than just a farm. He wants to hand over a legacy and one that Jayson can build on with his wife and kids. Jay added that unlike his father, he didn't encourage Jayson to go work on another farm for a few years after Jayson secured his ag business degree from Oregon State University in 2014.

"My plan was to have him do the same thing that my dad did with me, but at some point I decided that wasn't a good idea," Jay said. "I was afraid that if he left, he might be like me and wouldn't come back, because whoever he was working for wouldn't let him come back because he's that talented." ♦

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Five Things Oregon Farmers Should Know About Employment Laws

By David Briggs, Lawyer, Saalfeld Griggs

Oregon's farmers have enough regulation. Some days I am amazed that between the rules and regulations imposed by Department of Agriculture, OSHA and Department of Transportation we still have farms. However, one often overlooked area of regulation is employment laws.

Farms are regularly sued by disgruntled employees on frivolous claims. These individuals are supported by a relatively small group of law firms who focus on protecting farm labor – and suing farmers.

These attorneys who focus on helping farm labor have worked hard to ensure that your employees know that they can have lawyers who will help fight for employees' rights at little or no cost to the employee. That puts farms and their employment practices under larger scrutiny and means that you need to be diligent in updating and adhering to your policies and practices.

In light of those risks, we need to review a few of the most common areas where farms get sued or make mistakes.

1. Paid Leave Oregon

Paid Leave Oregon (PLO) gives nearly all employees up to 12 weeks of paid leave for a variety of reasons, including the serious health condition of the employee or their family member, for bonding time with a new child and safe leave (situations of sexual assault, stalking, or domestic violence). While

many employers are getting used to the new leave law, employers should remember:

- Employees have strong reinstatement rights. Most employees need to be put back into their old position even if they take off the full 12 weeks.
- PLO must be used in full day increments. So employees are incentivized to not come in to work at all when they have to take time off under PLO.
- Most employees will have the right to decide whether they want to couple their use of PLO with paid leave from their sick, vacation or PLO banks.
- Employees who make around \$22/hour or less will be paid 100% of their hourly wage for up to 40 hours per week for time off that they take.
- If you provide a housing benefit, you will likely have to continue to provide that housing benefit during their PLO leave.



David Briggs

For many readers, having any employee take off a significant amount of time may pose a hardship. The law gives employees this leave as a matter of right and farms just need to be able to deal with the increased absenteeism that it is causing.

(continued on page 42)



2. Final Paychecks

One of the biggest risks that employers face – and one that employers have control over – is ensuring that final paychecks are sent in a timely manner. Rules in Oregon are very strict. There are three situations to consider:

- If you fire an employee or the termination is “mutual,” you have to pay the employee by the end of the business day following termination;
- If an employee quits with less than 48 hours’ notice, you have to pay the employee by the earlier of the next regularly scheduled payday or five days; and
- If the employee quits with more than 48 hours’ notice, you have to pay on the day that they leave.

Typically, the best practice for employers is to pay employees on their last day of work.

Keep in mind that if you mail a final check to an employee, it is deemed “delivered” when the employee receives it – not when you send it – unless the employee agrees that you can mail it. If the employee agrees, then it is “delivered” when the check is mailed. So, as part of your onboarding process with employees, you should have them sign a document where they agree that you can mail their final paycheck to the last address on file.

Failure to pay an individual at termination properly can result in a wage claim that includes penalties, interest and attorney fees. These have been very expensive lessons learned for many employers!

3. Risky Terminations

Farms need to be disciplined in reviewing how risky any termination of an employee will be. You should be asking yourself some questions before firing any employee, including:

- What performance issues does the employee have?
- Are those issues documented?
- What policies have been violated?
- If attendance is an issue, are the absences protected?
- Has the employee made any complaints that would provide the employee protect (i.e., complaining about harassment, safety violations, workplace injury, etc.)?
- Are there other options to termination?
- Does the employee have other protections (minority status, disability, etc.)?
- Is this termination consistent with previous terminations?
- How long has the person been there?

- What have you done to coach or correct the issues?
- Will the person be surprised by the termination?

These factors, while not exhaustive, may indicate that there is some risk in terminating this employee and you may need to seek legal advice about next steps.

Keep in mind that the timing of a termination can be critical. Oregon law creates a presumption that an employee was wrongfully terminated if you terminate an employee within 60 days of them engaging in certain protected activities, such as making a complaint that there is an Oregon Safe Employment Act violation.

For risky terminations, farms should consider whether they want to enter into a severance agreement that includes a full release of claims. The amount offered to the employee does not need to be large and is almost always less than what litigation would cost. A good rule of thumb on a severance amount is one week of pay for every year the employee worked for you.

Keep in mind that under the Workplace Fairness Act, Oregon has very specific requirements about what you can put in a severance agreement. Make sure that you are getting the agreement from an attorney or have them look over any form that you are using.

4. Improper Exemptions

Farms regularly pay employees on salary. Attorneys typically call those employees “exempt” to say that the employee is exempt from certain wage and hour rules like overtime, minimum wage and meal and rest breaks.

Under state and federal law, only certain employees can be classified as exempt. For most farms, the most likely exemption will be a manager. To be exempt under this category, you have to pay the person on a salary basis; the salary must be at least \$684 per week; and they meet certain duties. Those duties are that the primary role for that person is the management of at least two other people (meaning two full-time equivalents); the person has independence and discretion in their daily work; and that they have significant say in hiring and firing decisions.

An issue with improper classifications means that you have not tracked hours correctly and likely not paid the individual overtime. That overtime claim can be expensive since, as with other wage claims, it

allows the employee to recover the wages, penalties, interest and attorney fees.

Small wage and hour issues of even a few dollars (or cents) can result in thousands of dollars of liability.

5. Acting Promptly to Allegations of Harassment and Discrimination

Oregon’s Workplace Fairness Act requires employers to have a very specific policy on harassment and discrimination. That policy needs to be in your manual and given to employees at hire. That policy needs to include multiple reporting paths if the employee feels like they are the victim of or witnessed harassment, discrimination or retaliation. For example, an employee should be given the option to go to either a supervisor or owner of the company.

If you receive a complaint of harassment, discrimination or retaliation, you need to provide a copy of your policy to the person immediately. You should then start an investigation. That investigation should start with the complainant getting as much information as possible. You should consider if you need to take remedial steps for the duration of the investigation (i.e., suspending the alleged harasser). You should interview the alleged harasser and relevant witnesses.

Ultimately, you need to draw conclusions on your investigation and make sure that it is documented and that any disciplinary action or follow-up training is done.

Conclusion

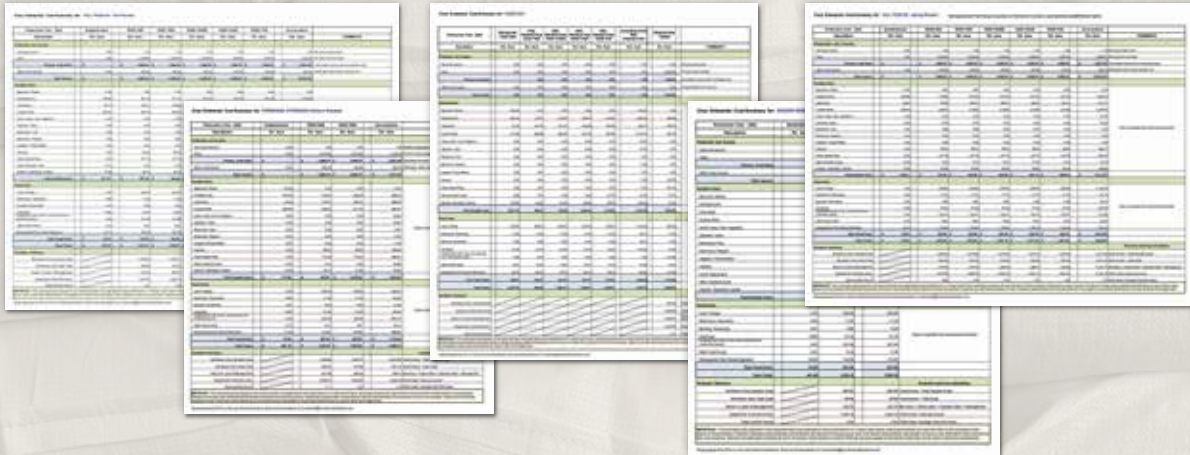
Ultimately, employment laws can be difficult to navigate. Farms often don’t know what they don’t know. That means that they can easily make mistakes without even realizing it – at least until an attorney comes knocking.

Hiring lawyers can be a cost that most farms don’t want to incur. I get that. However, having an employment attorney to guide you or provide you with resources to help you avoid litigation can be invaluable at saving you money in the long run. ♦

David Briggs is with the Litigation and Employment Practice Groups at Saalfeld Griggs in Salem, Oregon.

DISCLAIMER: This article is for informational purposes only and should not be construed as legal advice on any subject matter. Every situation is different. If you feel like you have an employment issue, please contact your attorney.

Cost of Production Budgets Available for *FREE* at: **OGSBA.com**



The image displays a collage of several overlapping spreadsheets, likely representing the cost of production budgets mentioned in the text. The spreadsheets contain columns for various categories such as 'Crop', 'Region', 'Year', and 'Cost', with rows of numerical data. The spreadsheets are arranged in a way that they appear to be floating or layered on top of each other, showing different views or sections of the data.



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OSU Extension Report

New Field Crops Extension Faculty Named for Mid-Valley

Collins Bugingo has been named the new Oregon State University Extension field crops faculty for the mid-Willamette Valley, ending a lengthy, nationwide search to replace Betsy Verhoeven, who left to take an instructor position on campus in 2022. The mid-Valley region includes Marion and Clackamas counties.

Bugingo comes to OSU from Cornell University, where he has spent the past two years based in Vancouver, Washington, working as the Northwest Regional Extension associate for the Produce Safety Alliance, a partnership formed between the U.S. Department of Agriculture, the Food and Drug Administration and Cornell to help producers comply with the Food Safety Modernization Act.

Bugingo previously worked at Montana State University and South Dakota State University and has training in general agriculture, extension education and plant sciences. He has presented at scientific conferences, grower trainings and has authored factsheets and journal articles on integrated pest management and produce safety.

"Collins' strong background in crop production and plant pathology, as well as his experience implementing and evaluating successful Extension programs will be an asset to OSU Extension," said Christy Tanner, South Willamette Valley Extension agronomist. "I am really happy to be bringing another field crops Extension faculty on board and look forward to working with Collins."

Bugingo grew up on a subsistence farm in Uganda, where he helped his mom battle plant pests and diseases, a background that he said contributed to his career choice in agriculture.

Bugingo said he is looking forward to getting started in his new position. "I'm excited to share my knowledge, but also learn from growers," he said. He anticipates communicating with growers through factsheets and field day presentations, but also in one-on-one settings.

"I am looking forward to one-on-one discussions, because farming is unpredictable and you cannot have a solution that fits all," Bugingo said. "So, some of these solutions will have to be tailored to different



► Collins Bugingo at a worker training module in Vancouver, Washington, last year. Bugingo is the new Extension field crops faculty for the mid-Willamette Valley.

production systems and I am looking forward to (collaborating on) that."

Bugingo said he has no experience with grass seed but believes the knowledge and experience he has gained in working with food crops and other field crops will be transferable to seed production.

"It will be a learning curve for me, but the beauty of this is that the knowledge I've gained in agronomy, economics, plant pathology and soil and nutrient management is highly transferable," he said.

Bugingo holds a Ph.D. degree in plant sciences and plant pathology. He will start in his new position on June 1.

OSU Extension is also looking to fill a North Willamette Valley field crops agronomy position, a position that has been vacant since Nicole Anderson took over as Extension Seed Production Specialist in 2022.

If all goes well, Extension hopes to announce the hire for the North Valley field crops position in one to two months, Tanner said, and the new faculty member could start around the same time as Bugingo. "This will depend on the outcome of the interviews and the selected candidate's availability to start work," Tanner said. ♦



Oregon Seed Council Update

Megan Chuinard, Executive Director, Oregon Seed Council

State Legislature

The 2024 Legislative Session came to a close at 8:16 p.m. on Thursday, March 7. Over the 32-day session, 290 bills were introduced, and OSC monitored over 30 bills ranging in issues, and included policy areas on climate, employment, land use, natural resources, tax and transportation.

Thankfully, the short Session was less intensive for the seed industry and agriculture than past years. We were able to see some positive policy advance, and a key, long-awaited appointment confirmed during the Session.

OSC took positions on two bills during the session: HB 4111 – a fix to Oregon’s Farm Equipment Tax; and HB 4061 – an Elk Damage Prevention and Compensation Pilot Program.

A victory for the industry: HB 4111 passed and has been signed by the Governor.

While HB 4061 did not pass, it did have some traction, but unfortunately, was stalled as housing and Measure 110 took central focus for funding priorities.

The long-awaited appointment – Lisa Charpilloz Hanson as Director of Oregon Department of Agriculture was approved by the Senate on February 8. Director Charpilloz Hanson has been highly engaged with industry, and has been regularly meeting with partners, including with OSC, through quarterly meetings since she started in the role, December 1, 2023. She’s a great partner with a strong connection to agriculture. We’re grateful to see her confirmed.

If you haven’t had a chance, please check out Oregon Seed Council’s full legislative report. If you did not receive a copy through the Oregon Seed Council E-Update, please reach out and we’ll make sure you get one.

Federal Update

We have been pleased to have such great partners at the federal level. Most recently, I met with staff at both Rep. Chavez-DeRemer’s office and Rep. Hoyle’s office to review overall federal policy and industry engagement at the federal level.

In our conversations, Oregon Seed Council has continued to highlight risk management needs, efforts of OSC on crop insurance program expansion, and the desire to have a grass and legume policy in the Farm Bill.

In addition, OSC reviewed the importance of the IR-4 program, funding priorities and policy changes needed through the Farm Bill to ensure continued program viability for the grass seed industry.

OSC was invited to submit appropriations requests through Rep. Chavez-DeRemer’s office in addition to the recently filed requests through Senators Wyden and Merkley. In our senate requests we advocated for increased funding for the IR-4 program.

We are regularly staying up-to-date with our elected officials and their staff to ensure industry needs are being met.

In addition, the Oregon Seed Council continues to meet and build relationships with national partners in the agriculture industry to foster support as we navigate more and more complex policy at the federal level.

Workgroups

In March, the Oregon Seed Council convened its first workgroup meeting with growers, industry members, agency partners and USDA Risk Management Agency offices. We are exploring opportunities to expand existing insurance policies for grass seed to Oregon growers. Current policy is tailored to the Midwest and is only accessible for certain seed crops and under written agreement. This was the first of a series of meetings to identify next steps to expand the current program.

Public Relations and Education Initiatives

With a wonderful group of industry members in our committees and board, the Oregon Seed Council has begun two new public relations activities.

First, we are working with the Oregon School Activities Association on a partnership that will bring awareness to the Oregon seed industry where

it counts - with Oregonians directly. The program focuses on families, students, parents, teachers, voters and more. Through this partnership, the Oregon Seed Council is refining its messaging and elevating the importance of the seed industry, not only for economic impact, but we are focusing on the environmental benefits, sustainability and the overall impact we have on Oregon families, and their health and wellness.

Secondly, we are also beginning a website redesign process to lead the public to a reputable, up-to-date informational source as well as be a resource for our members and industry partners.

Finally, we are excited to say the 2024 OSC scholarship program is underway, and OSC's Scholarship Committee received a number of applications from truly exceptional students! The committee is reviewing applications for our scholarship program, and is looking forward to making awards soon.

Strategic Planning

The Oregon Seed Council held its full board strategic planning session on April 16 to chart out next steps for the organization, and ensure we have the tools to best support our members in the years to come. I am delighted by the feedback and engagement members have provided along the way, and am looking forward to seeing where we go together.

Contact

Please do not hesitate to reach out. I'm here to serve you!

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Commissions Update

Bryan Ostlund,

Administrator, Oregon Ryegrass, Tall Fescue, Fine Fescue and Clover Commissions

Whenever we take the time and effort to go to the Midwest in support of the Oregon cover crop seed industry, good things seem to happen. Our latest trip, our first since the pandemic, was no exception.

While I would have liked to have more people with us, myself and KC Coon, chair of the Oregon Ryegrass Growers Seed Commission, were able to make some good contacts and see firsthand some of the benefits annual ryegrass can provide cover crop programs in the five-day trip we took to the Midwest in mid-April.

The excursion started with a stop in Indianapolis to talk to Baxter Communications, a company we have worked with in the past, about addressing a recurring question from trade show participants regarding controlling annual ryegrass in cover crop systems. It is an issue we would like to address, potentially through social media work, and we've had good success working with Baxter Communications in the past, so we are hopeful something positive will come out of that meeting.

Initial discussions are around creating a video that we could post either on our own YouTube platform, the Commission's website or integrate into some educational formats about controlling annual ryegrass in general service areas of Indiana and Illinois and tailoring those techniques to other areas.

Next, we met up with Southern Illinois research agronomist John Pike, who we contract with primarily to conduct research, but also to promote usage of annual ryegrass in cover crops; he has become an excellent and well respected resource in that effort.

We still have a whole lot of runway ahead of us as far as increasing the use of annual ryegrass and increasing the number of producers who are integrating it into their own cover crop mixtures, but John has done an outstanding job for us. His understanding of the issues surrounding this program, his work with USDA Agricultural Research Service scientists in experiments designed to piggyback on the fragipan work previously done by retired University of Kentucky scientist Lloyd Murdock



► KC Coon, John Pike, Jr Upton and Lloyd Murdock examine core samples and the impact of annual ryegrass on fragipan layers and improved soil health.

and the work he is doing in his own test blocks on behalf of the Commission was really illustrated on this trip.

We were fortunate to be joined by Lloyd Murdock on John's research farm during the trip and even Lloyd, who initiated research showing that annual ryegrass roots can break up the fragipan layer that inhibits crop production on several hundred thousands of acres in the Midwest and Southeast U.S., was impressed with what he saw on John's farm.

In a follow-up email, Lloyd noted that the two different cores that we pulled from John's research plot, one that had an annual ryegrass cover crop for five years and one that hadn't, were remarkably different. Lloyd noted that the five years of annual

ryegrass gave four additional inches of high organic topsoil and twelve more inches of subsoil above the fragipan in the annual ryegrass plot versus the control plot, and soil drainage class went from somewhat poorly drained to moderately well drained. He noted that he has seen annual ryegrass similarly change soil in his experiments, but not to this level in just five years.

As part of our time in Southern Illinois, we also met with a representative of the Illinois Soybean Association, a group that has a tremendous amount of research funds available. We talked to them about how to rekindle some of the research initiated by the late Mike Plumer on the impacts of annual ryegrass on soybean cyst nematodes, as well as looking further into the benefits annual ryegrass has on breaking up fragipan.

As previously mentioned, I think it is impactful for the soybean growers to see industry folks coming from Oregon and showing our interest in being partners with what they are doing back there.

Another positive development we witnessed was the connection John has made with his local community college, Rend Lake College, and specifically the college's agricultural programs, which, incidentally, are very impressive. These are ag programs that are using full-sized equipment, tractors and planters and have tremendous support from the industry.

That was refreshing to see. Also, notably, these students, as well as the representative from the Soybean Association, are all part of the next generation of farmers. So, this too was nice to see. While we all appreciate the wisdom of our elder farmers, it is nice to see talented young people coming along that are embracing new ways of doing things.

The key, incidentally, to all of these positive developments we are seeing in the Midwest is John Pike. He is a very likable, competent individual who brings a lot of energy to our program, and he has a wealth of experience and people love working with him. We are fortunate to have John working with us.



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Research & Regulatory Report

Steve Salisbury,

Oregon Seed Council Research & Regulatory Coordinator

This past winter we discussed the official end of chlorpyrifos in Oregon. Since then, you may have heard that the 8th Circuit Court ruled that the EPA did not follow protocols correctly and essentially said chlorpyrifos is back on the table. Yes, you heard that correctly that chlorpyrifos has been given a temporary stay of execution. However, there is nothing to get excited about as the Oregon chlorpyrifos law trumps all, so you're not going to see any change here.

The lawsuit that has been filed pointed out that the EPA did not execute the product cancellation protocols. So, the courts have made the EPA repeal their position and go through the proper process. This basically means that chlorpyrifos can be used on food crops for 2024, then the cancellation will occur all over again. Additionally, there are only a few products that remain registered for use in the U.S. and there's a limited supply. In other words, this seems to be a

headline grabber for us in Oregon as nothing really changes here. But it's worth noting as you may have heard about it and wonder what is going on.

Given that it's springtime, we are closing in on our annual cycle with the goose migration and our need to broadcast apply zinc phosphide. First, the vole population seems to have dropped off for the most part. Yes, there will always be some hot spots around and in certain fields, but overall pressure seems less than it has been in recent years. Of course, the population can explode so keep an eye on your fields. Typically, the goose migration is over by the end of April to early May. Once they've moved out then the ODA will issue the SLN for broadcast applications of zinc phosphide. Notifications will go out as soon as possible.

What about the federal regulatory landscape at this point? Yes, the EPA is working on their rodenticide strategy, along with the herbicides, fungicides and insecticides strategies. Public comments were submitted on behalf of the Oregon Seed Council back in February. These comments were in regard to the Biological Evaluation that EPA published. The EPA was asking for comments on effectiveness, feasibility of mitigation measures and strategies. The comments from the Oregon Seed Council focused on what the grass seed industry has been doing for many years with success. Frankly, the grass seed industry along with the Oregon Department of Agriculture have provided a model of success when it comes to using zinc phosphide to control voles while mitigating risks to the migratory geese.

The zinc phosphide use patterns that are labeled have proven to be successful. Based on our historical evidence surrounding the current use patterns there has been no evidence of off-target damage to listed or non-listed species in Oregon's grass seed fields. Without valid evidence of damage to listed species, then there is no cause for prohibitive mitigation measures needing to be mandated by the EPA. There



is no evidence that many of the proposed mitigations would serve any benefit to listed species.

Zinc phosphide continues to be the only registered and labeled option for grass seed fields. The acute toxicity of zinc phosphide is what works in our favor by significantly reducing the possibility of off-target predation of carcasses. The phosphine gas is quickly released killing the vole and virtually no toxicant is remaining for the secondary impact. Over decades of use, there is no evidence of this secondary effect occurring with zinc phosphide applications in grass seed fields. This is why we are continually allowed to use it for vole control. Currently, Oregon's grass seed industry is funding research at the USDA National Wildlife Research Center that will be collecting evidence to demonstrate these non-lethal levels of zinc phosphide in vole carcasses.

If the EPA finalizes its biological evaluation as proposed, then Oregon's grass seed industry will be left without effective options. These mitigations will eliminate the effective use of zinc phosphide at no benefit to the off-target species of concern. Oregon's grass seed producers need the ability to effectively control voles. We support the EPA's goal of complying with the Endangered Species Act for pesticides and we understand the importance of protecting endangered species, but it is also important to

protect agricultural production by maintaining crop protection tools such as rodenticides. It is possible that the EPA will finalize their rodenticide strategy in 2024, but that is not set in stone. We will watch closely.

Many of you probably recall the Vulnerable Species Pilot (VSP) Project that was announced last year. This was the project that was going to prohibit the use of all pesticides in approximately one million acres in the Willamette Valley to protect the Taylor's Checkerspot butterfly that exists in approximately 20 acres. Many public comments nationwide were submitted to the EPA regarding this VSP project that was aimed at nearly 30 species around the U.S. There was nationally a lot of consternation over this strategy. Since then, the EPA has revised the strategy a bit. They have repealed the avoidance (no pesticides allowed) approach and are revisiting the boundaries of the pesticide use limitation areas. That is a good start, and we anticipate hearing more about this strategy and others sometime here in 2024.

There are several items to follow in the regulatory world these days. I encourage everyone to remain engaged in the process as new strategies, evaluations, and opinions continue to come out of the regulatory agencies. Stakeholder input and involvement is necessary for our industries to remain viable. ♦





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Calendar

- May 28 Oregon Seed Council Meeting, 5:30 p.m., ODA North Valley Complex, Wilsonville**
- June 29 Oregon Seed Council Meeting, 6:30 p.m., Cascade Grill, 110 Opal St. N.E., Albany**
- December 9-10 Oregon Seed League Annual Convention, Salem Convention Center, Salem, Oregon. Visit seedleague.org for more information**



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