

The National Agricultural
Law Center



University of Arkansas · School of Law · Division of Agriculture
NatAgLaw@uark.edu · (479) 575-7646

An Agricultural Law Research Article

Are We Giving Away the Farm?

by

Don Schellenberg

Originally published in OREGON LAW REVIEW
77 OR. L. REV. 987 (1998)

www.NationalAgLawCenter.org

Are We Giving Away the Farm?

A Silver Anniversary commemorating the beginning of state-wide land use planning in Oregon? Has it been that long already? Is land use planning important? Is it working for the farm, or are changes needed?

Black and white cows grazing in a lush green meadow, bright red cherries hanging in clusters on trees, a fifty-six unit housing development across the street. Long vines of hops strung up like clothes on wash day, hundreds of farm workers, like a colony of ants, expertly harvesting delicious strawberries, a shopping mall next door. These scenes ask the question: "Are we giving away the farm?" In my opinion the simple answer is, "Yes." However, this begs another question: "What is 'the farm?'"

An eastern Oregon wheat and cattle rancher decided to visit a European farmer to see what kind of new production techniques they were using and how European farmers were coping with their land use planning system. As they were discussing things, the rancher asked the farmer, "How big is your farm?" The farmer stated, "As a matter of fact, it is 1.6 kilometers by .8 kilometers, by 1.6, by .8. In your terms I believe that is 320 acres." "And how big is your farm?" asked the European farmer. "Well," said the Oregon rancher, "I can get in my pickup when the sun comes up and drive south until high noon, then turn left and drive east until the sun sets low in the west, and I'm only halfway around my ranch." The European farmer's mouth dropped and he replied in astonishment, "I had a truck like that once too!"

Yet, what is a farm? The Oregon Department of Agriculture identifies the following categories of farmers in Oregon:

1. Beginning farmers. Only 3.3% of persons claiming farming as their principal occupation are under thirty-five years of

* Associate Director of Governmental Affairs, Oregon Farm Bureau. This Article is a revised version of a speech delivered at the Oregon Land Use Symposium on February 27, 1998.

age. Their average farm size is 650 acres. Their average gross sales are \$116,000 per year.

2. Aging farmers. Over 57% of farmers are over fifty-five years of age. Their average farm size is 860 acres. Their average gross sales are \$110,400 per year.
3. Part-time farmers. Their principle occupation is other than farming. Their farm sizes range from 80 to 300 acres. Gross sales range from \$10,000 to \$50,000 per year.
4. Hobby farmers. These farms are too small to make an economic viable unit. Only about 17,000 of these recreational farmers exist. Their average farm size is less than fifty acres. Average gross sales are less than \$10,000 per year.¹

In 1992, there were a total of 37,000 farms in Oregon.² The average farm size was 473 acres and average annual sales were \$72,000.³ The average production expenses were about \$59,000, leaving an average net income of approximately \$13,000 per year.⁴

There has been a steady growth in the value of Oregon's agriculture production in recent years, moving from \$2.9 billion in 1990,⁵ to \$3.8 billion in 1996.⁶ Including agricultural related activities, agriculture constitutes twenty-five percent of Oregon's economy.⁷

Oregon leads the nation in the production of grass seed, hazelnuts, peppermint, Christmas trees, loganberries, raspberries, boysenberries, and blackberries.⁸ The top five commodities in Oregon are greenhouse and nursery products, cattle and calves, hay, grass seed, and wheat.⁹

The export market has a major impact on Oregon's economy. According to labor economists, each billion in export sales means roughly 30,000 jobs in Oregon are being supported by foreign money.¹⁰ Some eighty percent of the products grown in Oregon

¹ OREGON DEP'T OF AGRIC., AGRICULTURE: OREGON'S LEADING INDUSTRY 8 (1995) [hereinafter AGRICULTURE].

² *Id.* at 7.

³ *Id.* at 9.

⁴ *Id.*

⁵ U.S. DEP'T OF AGRIC. & OREGON DEP'T OF AGRIC., OREGON AGRICULTURE & FISHERIES, STATISTICS 4 (1991-92).

⁶ U.S. DEP'T OF AGRIC. & OREGON DEP'T OF AGRIC., OREGON AGRICULTURE & FISHERIES STATISTICS 5 (1996-97).

⁷ AGRICULTURE, *supra* note 1, at 12.

⁸ *Id.* at 9.

⁹ *Id.*

¹⁰ *Id.* at 16.

leave the state.¹¹ Forty percent of Oregon's total production is exported to other countries worth a total value of \$1.2 billion.¹²

Oregon's farmers and ranchers spend over \$2.5 billion each year in production expenses.¹³ The economic benefit of sales for inputs and services is crucial to many Oregon communities. Suppliers of seed, feed, fertilizer, chemicals, farm equipment, trucks, irrigation equipment, processing facilities, rural banks, and many other businesses depend on agriculture as their patrons.¹⁴

These businesses make up what I refer to as the "agricultural infrastructure." The agricultural infrastructure consists of the entities that are necessary for an agricultural community to be viable. For these entities to exist there is a critical mass of farmland which must be in production in each community to support these businesses. If the machinery dealer closes because he is not selling enough tractors, then the remaining farmers have to spend additional time and money to travel greater distances for parts and equipment. When that happens, the local farmers become non-competitive with other producers and the pressure grows to change the use of the land, further reducing the critical mass.

So, the next question is: "Who is giving away the farm?" Here, there is plenty of blame to go around. In some cases it is the farmers themselves.

A recent headline in an Oregon newspaper read "Number of Farmers Falls 300,000."¹⁵ The National Commission on Small Farms reported that "most profits in agriculture are earned by companies that process food and sell products such as fertilizer to farmers. As a result, the share of agriculture income received today by farmers is only [twenty-five percent] of what it was at the turn of the century."¹⁶ If the land cannot generate a sufficient income, land owners will naturally want to change the land to a different use.

Very few farmers earn enough profit so that they can place some money in a retirement fund. Any profit goes to pay the debt on the farm, family living expenses, or capital improvements that will allow them to earn enough to make up for increased operating costs and equipment replacement. Thus, the farm is

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 9.

¹⁴ *Id.*

¹⁵ *Number of Farmers Falls 300,000*, STATESMAN JOURNAL, Jan. 22, 1998, at 5B.

¹⁶ *Id.*

the farmer's retirement fund. If the farmer can sell his land for other than farm use it will bring a higher price and retirement will be more enjoyable.

Second, in addition to the farmers themselves, land use rules give the farm away. Land use rules provide for numerous non-farm uses of farmland in Exclusive Farm Use (EFU) zones. These uses include public or private schools, churches, mineral exploration, aggregate mining, playgrounds, campgrounds, parks, dog kennels, bed and breakfast operations, cemeteries, community centers, solid waste disposal sites, prisons, golf courses, public utility services, and many others. Some are permitted outright and others are conditional. In 1994, about 180 nonfarm uses other than dwellings were approved on farm parcels totaling more than 10,000 acres.¹⁷ Seven were golf courses that will consume over 1,000 acres.¹⁸ Columbia County is considering a land use application for aggregate extraction in a farm zone that may include 1,600 acres of farmland.

Third, the Oregon legislature is schizophrenic about giving away the farm. In 1997, the legislature correctly provided that a county must have a public hearing on a land use application to raise insects in an EFU zone so farmers can determine if there would be any negative impact on the surrounding farm operations.¹⁹

Then the legislature turned right around, ignoring the Farm Bureau's objection, and allowed model airplane clubs to purchase land in the middle of farm zones and permanently convert it into club flying activities.²⁰ This was done without any public hearing to determine if there would be an adverse impact on the neighboring farms.

Fourth, state laws give the farm away by allowing cities to expand their urban growth boundaries onto farmland. In the last ten years nearly 4,800 acres have been brought into the urban growth boundaries.²¹ Metro recently proposed to add some 17,000 acres to its urban reserve, 3,300 of which was prime farmland. And conflicting state laws provide that the protection of farmland is a public priority, but require that cities have a perpet-

¹⁷ *The Great Land Rush*, THE AGRIC. Q. (Oregon Dep't of Agric.), Winter 1996, at 3.

¹⁸ *Id.*

¹⁹ OR. REV. STAT. § 215.283(2)(o) (1997).

²⁰ *Id.* § 215.283(1)(u).

²¹ *The Great Land Rush*, *supra* note 17, at 1.

ual twenty-year supply of buildable land inside their urban growth boundaries.

The final question is: "What are we going to do about it?" Often the land use process seems like a very slippery thing; it sometimes appears like we are making very little progress. Agriculture is \$5.4 billion of our state's economy, the vast majority of our open space, and it is very important that it survives.²² I offer three suggestions we must do if agriculture is going to survive. First, we must have a careful reevaluation of the uses that are allowed in EFU zones. Second, we need to take another look at the state laws relating to the expansion of urban growth boundaries. And third, proposals for re-zoning land from agriculture use to other uses need to take a better account of the impact on the agricultural infrastructure.

As Oregonians, can we afford to give away the farm?

²² See AGRICULTURE, *supra* note 1, at 12 (stating "[i]n Oregon, food processing represents a \$2 billion industry"). See also *The Great Land Rush*, *supra* note 17, at 1 (stating the value of production in Oregon is \$3.4 billion).