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Oregon Economic Opportunity Project

Farm and Freedom Friendly Policies for Oregon

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Preserving Farmland Without Farmers

Since 1969, Oregon has pursued a stated policy objective of preserving farmland. Oregonians have paid dearly for this commitment. Rural landowners have lost important property rights and seen their land values plummet as a result. Housing costs are unnecessarily high across the state due to the artificially high prices for developed and buildable land.

The state has endured three decades of fierce battles over property rights and allowable land uses. Oregon's land use policies have been the subject of one legislative session after another, along with three successful citizens' initiatives. Measure 7 in 2000 and Measure 37 in 2004 were both designed to force government to pay compensation for financial losses due to land use regulations, or waive those regulations. Measure 39, passed in November 2006, prevents government from using its power of eminent domain to seize the private property of one individual and turn it over to another, even if compensation is offered.

During the campaigns leading up to Measures 7 and 37 opponents regularly asserted that the cost of compensation would bankrupt the state and local governments, thus indirectly giving Oregonians some idea of the huge financial losses property owners had endured as a result of the state's laws.

While Measure 37 has the potential to offer some relief, it has several drawbacks as a property rights solution. Because it only applies to landowners who had ownership at the time regulations were imposed, many property owners remain adversely affected by land use laws. Further, by removing restrictions on select properties while retaining controls elsewhere, there is enormous pressure to develop those properties regardless of other factors such as farmland quality. Additionally, submitting a Measure 37 claim is a burden on property owners, while the process of reviewing and deciding claims is a substantial burden on local governments.

Perhaps the best thing to come of Measure 37 is that it has forced the state to review its land use policies in earnest. In 2005, the Oregon Legislature passed Senate Bill 82, calling for the creation of the Oregon Task Force on Land Use Planning. Known

informally as "The Big Look," the task force is charged with making a broad review of land use policies and offering recommendations.

As the Big Look task force evaluates Oregon's policies, there is one inescapable fact it will have to deal with: Farmland will remain threatened as long as farmers themselves are threatened. That is, if Oregonians cannot make a living at farming, no amount of legislative decrees will overcome the long-term pressure to develop farmland for more profitable uses.

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Like many farmers, *Small Farmer's Journal* editor Lynn R. Miller of Sisters, Oregon appreciated the goal of preserving farmland, but he ultimately found fault with the state's methods. Regarding Oregon's efforts to preserve farmland, he wrote:

"No effort...had been made to identify the needs and aspirations of people who might actually want to farm the lands we wished to protect....In order to protect farmland you must first value farming and farmers. To set farmlands aside and say 'these are protected - we will not develop here,' without making it possible for the land to be farmed, is almost a guarantee that at some point this unused set-aside land will be developed."¹

Preserving farmland would not be difficult if it were up to farmers. Farmers typically want to maintain or expand their land holdings, not shrink them and watch fertile soil get paved over. They are not eager to subdivide and bring in close new neighbors, and they do not want to sell family property and move to the city in a desperate search for income. If it were up to farmers, many a strip-mall would be dozed and the soil coaxed back to life.



Farmland would not need preserving, it would be advancing.

Oregonians therefore should examine and seek to remove the many state and federal policies hostile to the scenic small farms many people would like to preserve.

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The Federal Assault on Farming

In fairness to Oregon, it is predominantly federal, not state, policy that prevents people from farming the land. The federal government has as much as admitted its own assault on farms multiple times over the last century.

According to the Iowa State University Extension Service's Leopold Center for Sustainable Agriculture, early twentieth century reports by the federal government on U.S. agriculture determined there were “too many resources, including human resources, devoted to farming and that public policy and efforts should be devoted to improving efficiency and helping move people off the farm. A 1964 report went as far as setting a target to remove a certain percentage of the farms in existence.”²

The nation began officially questioning its own assault on farming in 1979, when Secretary of Agriculture Bob Bergland initiated a study of the structure of U.S. agriculture. The report, entitled “A Time To Choose,” warned that “...unless present policies and programs are changed so that they counter, instead of reinforce or accelerate the trends towards ever-larger farming operations, the result will be a few large farms controlling food production in only a few years.”³

Almost two decades later, in 1997, the USDA's Civil Rights Action Team released a report in which minority and limited-resource farmers blamed a discriminatory program delivery system for the loss of farmland:

“These farmers blame USDA's program delivery system, with its wide-ranging and relatively autonomous local delivery structure. They charge that USDA has long tolerated discrimination in the distribution of program benefits and misuse of power to influence land ownership and farm profitability. They blame farm program regulations that – intentionally or not – shut out minority and limited-resource farmers and ranchers from the benefits that have helped larger, nonminority producers survive the changes in agriculture in the last 50 years.”⁴

The report concluded that the USDA was guilty not only of racial discrimination, but also of discrimination against small farmers.

A year later, in 1998, Secretary of Agriculture Dan Glickman initiated another study of the structure of agriculture. In “A Time to Act,” the National Commission on Small Farms charged that the USDA had failed to heed Bergman's warning and instead “policy choices made since then perpetuated the structural bias toward greater concentration of assets and wealth in fewer and larger farms and fewer and larger agribusiness firms.”⁵

“A Time to Act” directly blamed farm programs for fueling consolidation. Though many non-farmers assume that subsidies flow to struggling small farms, the opposite is true. Subsidies reward the strongest players in agriculture and help them grow even more powerful:

“Even though only about one-third of U.S. farmers have participated in Federal farm programs, these programs have historically been structurally biased toward benefiting the largest farms. Farm payments have been calculated on the basis of volume of production, thus giving a greater share of payments to large farms, enabling them to further capitalize and expand their operations. Attempts to place caps on the amounts of payments per farm have not resulted in their intended effects.”⁶



The report additionally offers the following evidence of a large farm bias in federal policy:⁷

- “Economic emergency” loans, provided during the 1980s farm debt crisis, were made to “highly leveraged large farms,” and many of these loans went uncollected.
- “Transition” payments to phase out subsidies retain a large-farm bias because they are based on historical payment levels.
- “Revenue insurance” provides coverage for the few major program commodities with no limit on the amount of coverage provided.
- Federal tax incentives disproportionately help large farms make capital purchases to expand operations.
- Exemptions from federal labor laws for hired farm workers give large farms unique access to low-cost labor.

Further, the Commission points out that federally funded agricultural research has emphasized technologies that rely on “ever-greater levels of capital to enable fewer people to produce the Nation’s food and fiber.” As a result, “farms have grown in acreage to spread capital costs across more units of production and more of the profit has been captured by companies that sell inputs to farmers.” Relatively little federal research has focused on ways to enable farmers to reduce capital expenditures, produce higher value products or capture more of the food dollar.⁸

Accordingly, economic opportunities have shifted off-farm, to the agriculture inputs and post-harvest sectors. Between 1910 and 1990, the farm’s share of the agricultural economy dropped from 21 percent to 5 percent, the Commission notes.⁹

“A Time to Act” expresses deep concern over market concentration and the lack of control farmers have in production contracts and in setting prices. It suggests greater federal and state roles in “market competition enforcement,” including possibly setting contract regulations.¹⁰

Also as a remedy to market concentration, the Commission recommends policies to develop alternative markets, emphasizing local food production and direct contact between producers and customers.¹¹ It is only in the context of alternative market development that the Commission briefly touches on one of the most significant stumbling blocks for small farmers: market access. Specifically, “A Time to Act” notes that meat inspection policies limit direct sales opportunities.¹²

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Even when the USDA does attempt to serve small farms, it often misses the mark because the agency’s definition of a small farm itself is skewed toward larger operations. In comparison to the megafarms of the modern day, virtually all farms appear to be small, at least from the USDA’s perspective.

The federal government officially classifies “small farms” as those earning less than \$250,000 in gross annual sales. This describes 94 percent of American farms, yet as “A Time to Act” notes, the USDA made no priority to serve small farms and rarely mentioned them in its strategic plans.

The small farm definition is overly inclusive at the top end of sales, while actually discounting the smallest farms that represent the bulk of farmers. Farms earning less than \$50,000 gross annual sales are dismissed as “non-commercial” by the USDA. These are often derided as “hobby farms,” as though their operators are not really serious about making a living at farming.

In reality, many farmers rely on off-farm income out of necessity, due in large part to the market conditions created by government policies, not by choice. “Struggling farms” might therefore be a more accurate description than “hobby farms,” and one that better respects the farmer’s intent to become financially self-sufficient on the farm.

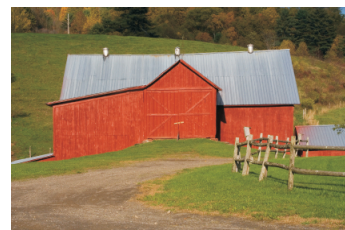
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Nationwide, fully half of U.S. farms bring in less than \$10,000 annual sales. The USDA fails to serve the majority of farmers when it considers so many to be mere hobbyists, and instead actually perpetuates a large farm bias by targeting small farm services to those earning up to \$250,000 annually.

“A Time to Act” concludes, “If we do not act now, we will no longer have a choice about the kind of agriculture we desire as a Nation.”

Unfortunately, the Commission retains an interventionist approach even in recommending solutions. The USDA’s April 2000 report “Meeting the Challenges of ‘A Time to Act’” demonstrates that federal remedies have focused entirely on more services for “small farmers” rather than greater freedom for farmers to sell their products directly to customers and to retail outlets.¹³

Federal intervention in agricultural markets is what led to market concentration in the first place. The price supports, income subsidies and supply controls put in place by the Agricultural Adjustment Act of 1933 set the stage for today’s uncompetitive market structure by severing farmers from customers. Instead of profiting directly from selling a diverse set of value-added products to their local communities, federal policies have encouraged farmers to sell just one or a few undifferentiated raw commodities to a limited number of large companies that process, package and market food. Retail sales regulations solidify the producer-consumer divide by preventing independent farmers from getting their products into grocery stores.



The Death of Farming

Farm statistics demonstrate the federal government's success in its dubious goal of reducing America's farm population (see Table 1).

In 1840, the U.S. farm population made up 53 percent of Americans. Though farm population grew in absolute numbers to reach 32.1 million people in 1910 – with the number of farms as high as 6.5 million in 1920 – as a percentage of the population, farmers have been in continual decline. The U.S. farm population is now less than 2 percent of Americans.¹⁴

As a percentage of the workforce, agricultural employment has dropped from 41 percent in 1900 to 21.5 percent in 1930; 16 percent in 1945; 4 percent in 1970 and just 1.9 percent in 2000 (see Table 2).¹⁵

Over the twentieth century, the number of farms has fallen 63 percent, average farm size rose 67 percent, and farm operations became increasingly specialized, from an average of five commodities per farm in 1900 to one per farm in 2000.¹⁶

Farmers are an aging population. Nationwide, the average age of all principal farm operators in 2002 was 55.3 years of age. The percentage of principal farm operators 65 or older reached 26.2 percent (more than 1 in 4) in 2002, while the percentage of principal operators with average ages of less than 35 years has been declining since 1982, when it was 15.9 percent, and was only 5.8 percent in 2002.¹⁷

Ninety-three percent of farm households relied on off-farm income in 2002, compared to 27 percent in 1945.¹⁸

In Oregon today, there are just over 40,000 farms (see Table 3). “We have a lot of hobby farms in Oregon – those grossing sales of less than \$50,000 per year,” said Oregon Department of Agriculture analyst Brent Searle in a 2001 press release. “Oregon reports about \$8,500 per farm in net income which is 45th among the fifty states....Oregon has quite a bit of lifestyle-oriented farming,” Searle said.

Nearly 85 percent of Oregon farms are “non-commercial” (under \$50,000) and 94 percent are “small” (under \$250,000) by USDA standards. More than half of Oregon farms have less than \$5,000 in annual sales. The average age of Oregon's principle farm operators is 55.¹⁹

Small Farms against the Law

Those who try to operate as traditional, independent, self-employed farmers in the modern day are stymied by an onerous set of regulations barely mentioned in “A Time to Act” in its discussion of meat inspection barriers to developing alternative markets for direct sales.²⁰

However, alternative markets would not be necessary if farmers were free to sell their products in grocery stores. In order to sell meat by the cut for restaurants and grocery stores, it must be processed in a federally licensed facility. These multimillion-dollar facilities cater to the largest producers and are often located so far from a farm that access is financially unfeasible.

TABLE 1

Total U.S. Population Statistics Compared to Farm Population Statistics, 1840-2002

Year	Numbers (millions)			Percent of U.S. Total	
	U.S. Population	Farms	Farm Population	Farm Population	Farm Labor Force
1840	17.1	NA	9.1	53	69
1850	23.2	1.4	11.7	50	69
1860	31.4	2.0	15.1	48	58
1870	NA	2.7	NA	NA	47
1880	50.2	4.0	23.0	46	49
1890	62.9	4.6	26.4	42	43
1900	76.0	5.7	29.4	39	38
1910	92.0	6.4	32.1	35	31
1920	105.7	6.5	31.6	30	27
1930	122.8	6.3	30.4	25	21
1940	131.8	6.1	30.8	23	18
1950	151.1	5.4	25.1	17	11
1959	177.8	3.7	16.6	9	8
1960	180.7	NA	15.6	9	8
1969	202.7	2.7	10.3	5	4
1970	205.0	NA	9.7	5	4
1980	227.7	NA	6.1	3	3
1982	232.2	2.2	5.6	2	3
1990	249.9	NA	4.6	2	3
1992	255.4	1.9	NA	NA	3
2002	288.4	2.1	3.1	1	2

Source: Colleges of Agriculture at the Land Grant Universities: A Profile (1995), The National Academy of Sciences, 19, <http://www.nap.edu/openbook/0309052955/html/19.html>; 2002 Census of Agriculture, USDA, National Agricultural Statistical Service, Summary by Tenure of Principal Operator and by Operators on Farm, 2002, http://www.nass.usda.gov/census/census02/volume1/us/st99_1_061_061.pdf.

TABLE 2

Agricultural Employment as a Percentage of the U.S. Workforce

Year	Percent
1900	41
1930	21.5
1945	16
1970	4
2000	1.9

Source: "The 20th Century Transformation of U.S. Agriculture and Farm Policy," by Carolyn Dimitri, Anne Effland, and Nielson Conklin. United States Department of Agriculture Economic Research Service, Electronic Information Bulletin No. 3, June 2005. <http://www.ers.usda.gov/publications/EIB3/EIB3.htm>.

Even under the more relaxed regulations governing direct sales, farmers run up against the law more times than not. Virginia farmer and author Joel Salatin writes:

"Everything I want to do is illegal. As if a highly bureaucratic regulatory system was not already in place, 9/11 fueled renewed acceleration to eliminate freedom from the countryside. Every time a letter arrives in the mail from a federal or state agriculture department my heart jumps like I just got sent to the principal's office.

"And it doesn't stop with agriculture bureaucrats. It includes all sorts of government agencies, from zoning, to taxing, to food inspectors...."²²

Salatin would like to process his pasture-raised meat on his own farm for the sake of his animals' comfort and his own quality control. But his state's regulators cannot conceive of a small-scale abattoir, so slaughterhouses are prohibited on agricultural land. He must instead ship his animals up the interstate to the state-licensed facility, where his animals co-mingle with others and he has no control over processing conditions, and then back to his farm. The meat is now categorized as a manufactured good and therefore prohibited from on-farm sales by zoning law.

"[I]n my lifetime I have gone from selling uninspected fresh beef, pork, rabbit, chicken, yogurt, butter and cottage cheese at the local curb market to being unable to sell any milk products, and pork and beef only after they are exported from our county and reimported," Salatin testified before a Virginia legislative body.²³

As Salatin indicates, small dairy producers are likewise stymied by regulations. Raw milk sales are illegal for human consumption in 22 states because the government considers it intrinsically unsafe. Many states require farmers to make expensive facilities investments and become licensed as dairies in order to sell any milk, raw or pasteurized.²⁴

Oregon has a "three cow exemption" that allows farmers who have only three dairy cows, with just two milking at a time, to sell milk directly from their farm without a license. Under this rule, the farmer is not allowed to advertise or deliver and may not sell butter. Though considered excessively restrictive by many, Oregon's exemption is fairly progressive by national standards.

Raw milk has a passionate following for nutritional reasons.²⁵ People regularly go to extreme lengths to obtain it. In many states, small dairy producers and their very loyal customers operate outside the law, resorting to secrecy, smuggling, and labeling "for pet consumption only." Some try to skirt regulations by forming cooperative arrangements (cowshares) whereby multiple families own the cows and therefore can claim ownership of the milk.

But cowshares have been under attack recently in Washington State and elsewhere. In September 2005, Amish dairy farmer Arlie Stutzman was the target of an Ohio Department of Agriculture sting operation.²⁶ Raw milk sales are illegal in Ohio,

TABLE 3

Oregon Farms by Value of Sales

Gross Annual Sales	Number of Farms	Percent of Total
Less than \$1,000	11,060	27.6
\$1,000 - \$2,499	7,813	19.5
\$2,500 - \$4,999	4,737	11.8
\$5,000 - \$9,999	4,043	10.1
\$10,000 - \$19,999	3,107	7.8
\$20,000 - \$24,999	804	2.0
\$25,000 - \$39,999	1,591	4.0
\$40,000 - \$49,999	815	2.0
\$50,000 - \$99,999	1,876	4.7
\$100,000 - \$249,999	1,925	4.8
\$250,000 - \$499,999	1,113	2.8
\$500,000 or more	1,139	2.8
Total	40,023	

Source: 2002 Census of Agriculture State Profile, United States Department of Agriculture, Oregon Agricultural Statistics Service.

Alternatively, farmers may sell meat directly to customers by using state-licensed processing facilities. In that case they must sell by the quarter or half carcass (meaning their customers must have large freezer capacity and enough money to purchase their meat months ahead of time), and the meat may not be sold across state lines. "A Time to Act" notes, "In many States, the State inspection requirements meet or exceed the Federal requirements, but they limit the access farmers have to potential customers."²¹

so Stutzman's cows are jointly owned by a group of 150 families. When an undercover agent arrived at Stutzman's farm with a plastic container asking for milk, the farmer was leery, but he agreed to fill the jug in accordance with his moral code to share what food he can; and he accepted a \$2 donation.

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Stutzman went to court to fight Ohio's raw milk ban on the grounds that it violates his religious beliefs. The judge ruled in favor of the state, saying that Stutzman may give his raw milk away, but that accepting a donation was “clearly a subterfuge to skirt the requirements of the law.”²⁷ In allowing raw milk to be given away, the judge's decision demonstrates that the real reason for regulations is not public safety, but rather industry protection against competition.

Regulations restrict market access for many other small farm products, including poultry,²⁸ fish, seeds and produce. Further, opportunities for value-added processing and preserving are restricted due to commercial and domestic kitchen licensing rules.²⁹

Still, there are enough people determined to succeed in farming that alternative markets have flourished in recent years, including farmers' markets, community supported agriculture and direct from farm sales.³⁰ While these venues have certainly helped the market access problem, they cannot substitute for grocery store and restaurant access.



The Biofuel Opportunity

Biofuel production has caught the attention of many farmers because of the potential to defray their own costs and capture part of the lucrative fuel market, but again there are significant regulatory hurdles.

To sell biofuels one must be licensed like a gas station. If a farmer tries to sell biodiesel for on-road use without registering with the Environmental Protection Agency as a fuel distributor, he faces

\$25,000 daily fines, which may be applied retroactively. The EPA explains, “Registration involves providing a chemical description of the product and certain technical, marketing and health-effects information....In certain cases, health-effects testing is required for a product to maintain its registration or before a new product can be registered....”³¹

Biodiesel is classified as an “atypical” rather than a “baseline” fuel because it does not meet the ASTM standards for petroleum diesel. Thus, “Tier 1” and “Tier 2” health effects testing must be completed for registration (Tier 2 testing is not required for producers who average less than \$10 million revenue for the three preceding years). Biodiesel is the only alternative fuel required to go through Tier 1 testing. Other alternative fuels were exempt from this requirement as part of the Clean Air Act Amendments of 1990.

It took the National Biodiesel Board (NBB) about two and a half years to complete Tier 1 testing, at a cost of more than \$2 million. The NBB is a membership organization that grew out of the soy checkoff program, and its Tier 1 testing was financed primarily through checkoff dollars. Soy is a low-yield oil crop, modern soy farming is chemical-intensive, and soy oil extraction must be achieved with chemical solvents. Thus, soy is a poor choice for biodiesel production on both economic and environmental grounds.

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The EPA advises would-be biodiesel retailers that they may pay a minimum of \$2,500 to the NBB to access that Tier 1 data, or redo the testing themselves. By effectively requiring all retailers to join the NBB, the government has created a cartel for biodiesel reminiscent of OPEC. In particular, independent farmers might reasonably object to the NBB's promotion of Midwest factory farms and the organization's opposition to competition from unregulated small-scale or “homemade” production.

Meanwhile, biodiesel has been conclusively proven to meet Tier 1 health safety standards. In fact, the results show the overall ozone forming potential of exhaust emissions from biodiesel is 50 percent less than that of petroleum diesel. Carbon monoxide emissions are 50 percent lower. Particulate matter emissions are 30 percent lower, and the insoluble portions of particulate emissions are 80 percent lower. Sulfur oxide and sulfate emissions are completely eliminated. Emissions of aldehyde compounds, hydrocarbons and aromatic compounds are all substantially reduced. Though nitrogen oxide emissions are 13 percent greater, existing technologies like catalytic

converters that cannot be used with petroleum diesel due to sulfur content may be used to reduce nitrogen oxide emissions from biodiesel. The biodegradability of biodiesel is 4 to 5 times greater than that of petroleum diesel.³² The EPA does no service to the environment by requiring that the safety of this clean fuel be endlessly re-proven.

Even if Tier 1 testing was not required for the fuel distributor permit, many small farmers cannot jump through the EPA's hoops – designed for massive corporations peddling dirty petroleum fuels – simply to sell biodiesel to their neighbors. The paperwork required to become registered and to keep up with the quarterly and annual reporting requirements can be intimidating for anyone without an army of corporate professionals.³³



The legal climate for ethanol is better in one respect, but on balance it is much worse. Ethanol retailers do not have the Tier 1 requirement to deal with, but they must still register as fuel distributors. Moreover, to produce ethanol one also has to obtain an Alcohol Fuel Plant³⁴ permit and make annual reports to the Internal Revenue Service's Alcohol and Tobacco Tax and Trade Bureau.

In order to get an Alcohol Fuel Plant permit a farmer must provide a diagram of his property, describe his security systems, and open his land to some of the most dreaded federal agents in the entire government. It takes a fairly independent spirit to pursue alternative fuel production. The would-be early adopters do not want to deal with EPA hassles; and they absolutely hate the idea of raising their heads to the IRS or the Bureau of Alcohol, Tobacco, Firearms and Explosives.

To make matters worse, many states are busy crafting regulations for biofuel production, which may include permits, fees and other obstacles.

Whether a regulated market is maintained or whether a truly free market is embraced for biofuels is what will make or break this fuel revolution, not only for farmers and their communities, but for the environment and for fuel consumers nationwide. Farmers have learned what it means to be the lowest point on the industrial production chain, earning pennies on the dollar of retail sales. Fuel is sure to bring a good price, but who can guess how little a processor might pay for the raw material? If farmers cannot directly profit from the high-value fuel, they will not plant enough crops to make biofuels available and affordable enough for widespread adoption.

Without understanding the regulations that are stalling biofuels, some anxious consumers hope the government will construct the industry from the top-down, starting with massive-scale facilities and filling in with mandates at the pumps. The result would look much like the industrial models for petroleum and agriculture, with a cartel of giant producers raking in profits at the expense of consumers and the environment. In addition, it is likely all our eggs would then be put in one basket, making Americans dependent on the success or failure of just a few crops, and the wrong crops at that.

Prohibited Crops

The biofuel opportunity sheds new light on another set of farm-hostile policies: drug prohibitions. These rules are so ingrained in our society that most people take them for granted and assume that users are the only victims. In fact, drug laws prevent farmers from competing in fuel, medicine, alcohol, tobacco and other industries.

As the people of the Northwest search for appropriate local fuel crops, many have discovered that our options are artificially restricted. Canola³⁵ has taken center stage as the most viable choice for biodiesel, but its reputation as a disease carrier and invasive weed has vegetable seed producers concerned about crop contamination. Canola cultivation is restricted in many areas of Oregon due to concerns about cross-pollination.

Hemp could be a vastly superior choice for a local fuel crop. Though it has not been cultivated for oil until recently, even those strains designed for fiber (and low seed production) already rival soy in oil output.

“Hemp in our opinion is particularly suited to be developed as an oilseed crop in North America,” says a recent paper published by the American Society for Horticultural Science. It notes that advances in hemp oilseed production have been encouraging since March 1998, when Canadian law changed to allow commercial hemp cultivation. Whereas European and Asian countries have focused on hemp fiber production, Canada is specializing in oilseed production and processing.³⁶

“Until the twentieth century, hemp was used worldwide for rope, canvas, lighting oil, paint, medicine, paper and more. Modern uses have only expanded to include plastics, particleboard and other building materials.”

Hemp is celebrated for weed and pest resistance, and like canola, it boasts extensive root systems that improve soil tilth. Moreover, the markets for hemp products are virtually infinite.

Hemp was once a staple of American agriculture. Mandatory hemp cultivation laws were even enacted in the colonies. Until the twentieth century, hemp was used worldwide for rope, canvas, lighting oil, paint, medicine, paper and more. Modern uses have only expanded to include plastics, particleboard and other building materials.

Hemp production declined during the Industrial Revolution due to the lack of mechanized harvesting equipment. However, it was set for a major comeback with new technological developments described in the 1916 USDA Bulletin 404, which laid out the potential to use hemp hurds for paper in place of timber. Bulletin 404 cited a four-to-one production advantage of hemp over timber for papermaking. It concluded, “Without doubt, hemp will continue to be one of the staple agricultural crops of the United States.”³⁷

By the 1930s, the crucial technology for mechanized hemp harvesting had become widely available and affordable. Those heavily invested in hemp's primary competitors – timber and petrochemicals – stood to lose billions. This included media mogul William Randolph Hearst, as well as DuPont, which had developed chemicals to allow paper production from timber and was selling nylon billed as synthetic hemp. In 1937, DuPont patented the processes for making plastics from oil and coal.³⁸



Hearst waged a smear campaign against hemp, using the obscure Mexican slang term “marijuana,” to play on racial prejudice and disassociate his target from the well-accepted crop that farmers knew as hemp and the medicine that doctors called cannabis.

In 1931, DuPont financier and Secretary of the Treasury Andrew Mellon appointed his future nephew-in-law Harry J. Anslinger, head of the newly reorganized Federal Bureau of Narcotics and Dangerous Drugs, a position he held for the next 31 years. Anslinger aggressively pursued prohibition and has achieved some infamy for describing marijuana as “the most violence-causing drug in the history of mankind.”

The Marijuana Tax Act of 1937³⁹ did not outright prohibit hemp cultivation. Anslinger even told Congress that the mature hemp stalk would be exempt from the law.⁴⁰ Actually, the law required farmers and doctors to obtain a tax stamp from the federal government in order to cultivate or trade in Cannabis Sativa, and it included such onerous regulations and extreme penalties as to be effectively prohibitive. In any case, the federal government never printed any of the tax stamps that hemp farmers would be required to obtain, which is a clear indication of the intent of total prohibition.

The bill was introduced directly to the House Ways and Means Committee, bypassing Food and Drug, Agriculture and other appropriate committees. The American Medical Association learned just two days before the bill's hearing that marijuana was actually cannabis. Despite strong AMA objections, the bill passed to the House, where Ways and Means Committee member Fred Vinson sealed the deal by falsely claiming AMA support for the bill.

The use of the foreign slang term “marijuana” was so effective that most Americans still did not know hemp was outlawed even after the 1937 legislation took effect. In February 1938, Popular Mechanics featured an article introducing the hemp harvesting and decorticating machines. It called hemp “The New Billion Dollar Crop” – the first crop to achieve such lofty financial predictions – and said that hemp “can be used to produce more than 25,000 products, ranging from dynamite to Cellophane.”⁴¹

Five years after hemp prohibition took effect, the government temporarily reversed its position and urged farmers to cultivate hemp for the good of the country when supply lines were cut during World War II.⁴² After the war, the government's Hemp War Industries program was quietly dismantled.

In recent decades many states have successfully passed bills to challenge the federal government's prohibition on hemp.⁴³ The many Oregon towns that have been financially devastated in recent decades by reduced timber harvests and closed mills should take special note of hemp prohibition. It is possible there never would have been a drive to shut down logging in Oregon if timber had not been protected from hemp competition and therefore in such great demand, both as a raw material and a source of income.

The history of hemp should give Oregonians pause to consider a broader range of crops that farmers might cultivate and a broader range of industries in which farmers might compete. For example, if America were to return to a more traditional acceptance of natural medicinal plants, not only could farmers begin to compete with the pharmaceutical industry, but opium poppies could be considered as a fuel source. These rival canola in oil output and grow well in Oregon.

Farmland Preservation Impacts

Given the many severe challenges farmers face in cultivating and selling farm products, there is strong pressure to develop farmland for more profitable uses. But rather than examine why farmers have such a hard time earning a living, Oregon tried simply to prohibit development of resource lands.

Statewide land use controls affecting farmland began with the passage of SB10 in 1969 and have been modified numerous times since then.⁴⁴ In many ways, farmland preservation efforts have made a bad situation even worse for farmers. Of primary concern is the loss of property rights and the resulting reduction in rural land values inherent in exclusive farm use zoning.

Perhaps most frustrating are Oregon's farm dwelling restrictions, which place profits above people under the law. In the late 1970s, some Oregonians became concerned that too many people were being allowed to build homes on farmland without being serious (or at least seriously successful) farmers. A now-familiar bias against “hobby farms” is evident in the 1979 Oregon Tax Court ruling that tax relief for farm use

“...is not to be extended to the professional man's fine residence in the filbert orchard, the city worker's five suburban acres and a cow, the retired person's 20 acres of marginal land on which a travel trailer constitutes the personal residence, unless the day-to-day activities on the subject land are principally and patently directed to achieving a profit in money through the farm use of the land.”⁴⁵

The state then looked to evaluate the effectiveness of the law in preserving farmland, taking particular note of the income on farms where dwellings were being built. Expectations for farm earnings were completely out of touch with the modern realities of farm income.

“Of course farmland is necessary for farming; but in a free society, space for a house is included in the farmland acquisition, not the other way around. Having to pay for housing separately from a farm parcel is an added burden, and an unnecessary one at that.”

The state found that on parcels where farm dwellings were being built, 37 percent were producing no income, more than 50 percent were producing under \$2,500 gross income and 75 percent were producing under \$10,000 gross income (Oregon's legal definition of a hobby farm).⁴⁶

Given how desirable country homes are to many people, it is no surprise that some people might try to skirt Oregon's restrictions by doing a little farming on the side. However, in all likelihood, many of the people who built farm dwellings during this time were in fact trying to escape other careers and make a go at farming under difficult circumstances.

Oregon responded to these farm dwelling findings by establishing an income test in 1993. In order to qualify to build a farmhouse, farmers must prove gross earnings of \$80,000 on high-value farmland for each of the preceding two years or three of the last five years. On lower value farmland the income test is \$40,000. Alternatively, counties may use a parcel size or production capability test to allow houses on parcels that are sufficiently large or of poor soil quality in the state's view.

Oregon policy assumes that anyone who wants to begin farming can either find a parcel with a dwelling already located on it – and pay a premium price – or invest in a farm for at least two years, while paying for a residence elsewhere, and post earnings that are demonstrably unattainable for the majority of farmers in Oregon and nationwide.



Though Oregon has some exceptions to the income test rule – specifically, nonfarm dwellings, “lot-of-record” dwellings, and family help dwellings – the freedom to build a farm house cannot be assured when buying (or selling) a parcel. Gaining approval poses a substantial obstacle for many people.

In a pamphlet defending Oregon's farm dwelling income test, the prominent land use control advocacy group 1000 Friends of Oregon denies the charge that the \$80,000 rule is elitist and allows only rich people to qualify for a house, claiming:

“The \$80,000 standard is democratic – it requires anyone who wants to qualify for a house on high-value farmland to earn the same amount of money from farming. Income from nonfarming sources cannot be considered. Whether you are a former high-tech executive, or a former schoolteacher, you must demonstrate the same level of success in farming before qualifying for a house.”⁴⁷

But requiring poor farmers to achieve similar profits as wealthier farmers before being able to build a farm house is hardly democratic. Aristocratic would be a more apt description.

The inability to build a farm house, 1000 Friends claims, is not a problem because “farmers generally do not start out in agriculture by building a house” and acquiring farmland is a greater obstacle to farming than acquiring a house. Of course farmland is necessary for farming; but in a free society, space for a house is included in the farmland acquisition, not the other way around. Having to pay for housing separately from a farm parcel is an added burden, and an unnecessary one at that.

1000 Friends of Oregon justifies the high dollar amount of \$80,000 by asserting that the average gross income for all Oregon farms in 1997 was \$224,000 – excluding all farms earning less than \$10,000. By excluding the roughly 69 percent of Oregon farms that post meager earnings, and then averaging out the profits of Oregon's largest farms across the rest of the state's farming sector, 1000 Friends gives a wholly inaccurate picture of farm income averages.



Also in 1993, the state adopted minimum acreage requirements⁴⁸ of 80 acres for farmland or 160 acres for rangeland on the unproven assumption that larger farms are more efficient. The minimum parcel sizes reflect the government's twentieth century bias for consolidated large farm production over small-scale and subsistence farming.

Minimum acreage requirements mean that struggling farmers cannot subdivide off small portions of their land in order to save the rest. Instead they may be forced to sell the whole farm at fire-sale prices. These same acreage restrictions prevent many Oregonians from starting farms because smaller, more affordable parcels are few and far between.

In addition to restricting property rights, state law gives certain landowners permission to violate the property rights of others for agricultural reasons. These include agricultural exemptions to air quality laws,⁴⁹ open range laws that relieve ranchers of any liability when their cattle stray onto other people's properties, and so-called "Right to Farm" laws.⁵⁰

Right to Farm laws are promoted by the Farm Bureaus as a way to protect farms from encroaching development by allowing negative spillovers associated with farming to continue when new neighbors move to the area. Though the name would appear to make this a farm-friendly policy, many independent farmers deride these as "right to pollute" laws that benefit large-scale agribusiness by shielding them from the true costs of their operations.

In "Amber Waves of Gain,"⁵¹ Defenders of Wildlife describes how Right to Farm laws have been used to allow high-polluting hog megafarms to violate the property rights of neighboring farmers and wreak havoc on the environment, while facilitating consolidation of the industry. While the Farm Bureau is normally considered a pro-property rights organization, this notable exception makes sense when one understands who the Farm Bureaus actually represent. As "Amber Waves of Gain" demonstrates, the Farm Bureaus represent corporate agribusinesses, insurance and financial institutions and even petrochemical interests, not family farmers.

"By excluding the roughly 69 percent of Oregon farms that post meager earnings, and then averaging out the profits of Oregon's largest farms across the rest of the state's farming sector, 1,000 Friends [of Oregon] gives a wholly inaccurate picture of farm income averages."

Right to Farm laws give the false impression that farming is a toxic venture, incompatible with human life. While agribusiness can be very smelly, noisy, ugly and inhospitable, family farms are an important reminder that agricultural production can happen

without exporting pollution and other nuisances. Indeed, it can happen in a way that benefits all residents and neighbors. The property rights violations of megafarms and other major polluters need not be tolerated.

Ironically, it is large-scale agribusinesses that benefit substantially from Oregon's laws. These corporations have no farm families and no need for farm houses. They are easily able to afford the large tracts of Oregon's now-cheap and vacated farmland. Surely Oregonians did not envision Confined Animal Feeding Operations when they sought to preserve productive and scenic farmscapes.

"Minimum acreage requirements mean that struggling farmers cannot subdivide off small portions of their land in order to save the rest. Instead they may be forced to sell the whole farm at fire-sale prices. These same acreage restrictions prevent many Oregonians from starting farms because smaller, more affordable parcels are few and far between."

NAIS: Nailing the Coffin Shut

Still one of the greatest threats to farming looms on the horizon: a mandatory farm registration and animal tracking program called the National Animal Identification System.

The USDA began implementing NAIS in 2004, with the intent of making the program mandatory by 2009 after a voluntary phase-in process. As independent farmers have learned about NAIS over the last year, a substantial and vocal opposition has developed. In response, the USDA has stopped talking about making the system mandatory,⁵² but those plans remain. If 100 percent voluntary participation is not achieved by 2009, the USDA has said it intends to create regulations to make NAIS mandatory.⁵³

Despite widespread opposition, the USDA claims broad producer support for the program, describing it as a "federal-state-industry cooperative effort." The term "industry" is employed throughout NAIS documents as if it represents a monolithic entity rather than a diverse group of businesspeople in competition with one another.

In fact, NAIS was designed by the National Institute for Animal Agriculture to serve the needs of the largest players in agriculture (and the makers of surveillance technology) at taxpayer expense and with no thought for the wants, needs or interests of small-scale and independent farmers. A provision in the law even provides a loophole for large producers to use a "Group ID" to identify a given herd instead of tracking individual animals.

NAIS is geared toward containment in the event of a disease outbreak by allowing government officials to identify all animals and premises that may have had contact with a disease of concern within 48 hours after discovery. It is specifically meant to conform to international standards so that United States corporations can continue to compete in export markets.

“If 100 percent voluntary participation is not achieved by 2009, the USDA has said it intends to create regulations to make NAIS mandatory.”

Many small-scale producers do not participate in export markets and do not have a problem tracing the origins or destinations of their animals. Moreover, a great many small farmers believe that the practices of their large-scale competitors are directly responsible for modern disease risks.⁵⁴

Of particular concern as disease risks are: overcrowded conditions; the production of waste excrement in excess of what the land can absorb; lack of access to pasture, with sunlight, fresh air, clean water and natural grazing; the continued use of animal byproducts in feed; the regular use of antibiotics, hormones and steroids; and a vast, anonymous production network with widespread distribution, such that meat from a single infected animal can end up in hundreds of products shipped around the world.

The added concerns of costs (both for taxpayers and producers) and of confidentiality of NAIS databases may pale in comparison to the aforementioned issues, but they are also significant. Many small farmers say the costs of compliance would put them out of business. There is also serious concern among farmers that the system could be used to sabotage small producers' herds and flocks, or to force depopulation without cause, in order to finally do away with small farm competition altogether.

Farmers anticipate that NAIS ultimately would require them to obtain government permission and pay a fee for the very right to farm and that their properties would be subject to searches and seizures in the enforcement of NAIS. Such fundamental assaults on freedom should be of utmost concern not only to farmers and consumers, but to all of humanity. Indeed, many people worry that an animal tracking system is a trial run for a mandatory human tracking system.

Consumer Confidence v. Preserving Freedom

When the government says one farmer may not sell meat, dairy, fuel, or any number of other products to his own neighbor without public oversight, the general public assumes there must be a good reason. Quality control and ensuring consumer confidence in the industry are two oft-cited justifications.

For example, the NAIS Draft Strategic Plan begins with this quote from Secretary of Agriculture Mike Johanns:

“USDA and our stakeholders in animal agriculture must continue moving forward with the National Animal Identification System. NAIS must be implemented for our country to maintain its reputation as having the most efficient and effective animal health surveillance and response system in the world. I believe a fully functional animal tracking system will keep us competitive in international markets, helping us retain and expand our market share. This Department is wholly committed to making NAIS a reality.”⁵⁵

Quality control is also the reason given by many biofuel enthusiasts as to why they support fuel sales regulations despite the suffocating effect on start-ups. They fear that unless the government regulates the supply of biofuels, people will shun them, presumably paying any price for regulated petroleum instead.⁵⁶

Similarly, the Oregon Department of Agriculture's web site describes its purpose in requiring farmers to become licensed in order to sell their seed, saying, “The Oregon Commodity Inspection Division increases consumer confidence in the Oregon seed industry through regulatory activities that assist in maintaining the credibility of the industry.”⁵⁷

But how much consumer confidence is warranted by government oversight? “The Centers for Disease Control and Prevention estimate that our food supply now sickens 76 million Americans every year, putting more than 300,000 of them in the hospital and killing 5,000,” wrote Michael Pollan in a recent New York Times magazine article.⁵⁸ Clearly regulations do not guarantee safety.



Last year, the owners of Grace Harbor Farms in Custer, Washington urged raw milk producers to become licensed amidst a statewide debate over the legality and safety of unlicensed cowshare programs. “We see the state as our quality-control department,” said co-owner Grace Lukens.⁵⁹ Her husband Tim reportedly said that, as an added benefit, being licensed allows the dairy to obtain liability insurance.

Grace Harbor was already licensed for pasteurized milk production but added a raw milk license to meet consumer demand. The Lukens were surprised to find their procedures for producing pasteurized milk were not clean enough for raw milk production, and they credited the regulatory system with educating them on safe milk handling.

Despite spending \$40,000-50,000 to upgrade their dairy to meet Washington's raw milk licensing rules, the Lukens made the news again less than a year later when two children became ill due to e-coli after drinking raw milk from Grace Harbor. A sample from the dairy's bulk milk tank tested positive for e-coli. Clearly state licensing did not eliminate health risks in this case.

On the other side of Washington's dairy licensing debate is "Aunt B.," who wanted to testify before the state legislature in opposition to potential new dairy licensing requirements, but instead wrote an anonymous letter because she feared prosecution for her actions should the law change.

"[F]or the last 25 years, most mornings and evenings I have milked a few dairy animals. I milk by hand...and process the milk in our home kitchen. I am clean and careful because people I love depend on this milk," Aunt B. wrote, adding, "You cannot escape the irony of government regulating the family homestead and ignoring the real hazards that exist in our industrial food system."⁶⁰

Sometimes there is good reason for consumers to be wary of an industry. "Contrary to our government's pronouncement, industrial food is not safe. It is, in fact, becoming increasingly deadly and devoid of nutrition," charges *The Fatal Harvest Reader*.⁶¹ The book debunks the "bigger is better" myth of agricultural efficiency and demonstrates the true societal, environmental and health costs of large-scale agribusiness.

Quality control claims beg the question of what the proper role of government is in a free society. Is the government in place to help industries make money and to relieve people of the need to become informed in their purchasing decisions? Or is the government's job to preserve every individual's freedoms? These three goals are mutually exclusive.

Ultimately, it is the responsibility of each business to maintain its own quality and convince buyers of the worthiness of its products. Likewise, people individually have the responsibility to become educated and protect themselves. Reliance on the government for these dual tasks can only give a false sense of security. Moreover, it violates individual rights.

Multiple private organizations already ensure consumer confidence through certification programs, often maintaining higher standards than comparable government programs. Examples of private certifiers include: Oregon Tilth,⁶² Humane Farm Animal Care's Certified Humane label,⁶³ California Certified Organic Farmers,⁶⁴ and American Humane's Free Farmed certification.⁶⁵ Private certification is of course not limited to food products. The National Biodiesel Board offers the "BQ 9000" certification for biodiesel producers.⁶⁶

Certification groups, which represent producers, are balanced out by consumer advocacy and watchdog groups that let people know who's behind the certification and whether the standards are adequate. By having separate organizations to represent producers and consumers, both parties' needs are better, and more honestly, met. In contrast, government agencies purport to represent both buyers and sellers, which is a bad bet for buyers

because the government will tend to partner with the largest sellers.

For example, since the National Organic Standards were implemented in 2001, many organic pioneers have charged that the federal standards are set too low so that the largest producers can misleadingly market their products as organic. The Organic Consumer Association's Safeguarding Organic Standards (SOS) website warns:

"After 35 years of hard work, the US organic community has built a multi-billion dollar alternative to industrial agriculture. Now large corporations, aided and abetted by the USDA and members of Congress, are moving to lower organic standards and seize control...."⁶⁷

Likewise, proposed USDA grass-fed standards would allow that designation to apply to livestock that are not pasture-raised or even grass-fed.⁶⁸

The Value of Small Farms

"Decentralized land ownership produces more equitable economic opportunity for people in rural communities, and offers self-employment and business management opportunities. Farms, particularly family farms, can be nurturing places for children to grow up and acquire the values of responsibility and hard work."

If value is measured solely in profits and market interventions are ignored, small farms might appear to be unimportant and not worthy of so much concern. The National Commission on Small Farms notes in "A Time To Act" that many people view the trend toward a few large farms to be "an inevitable result of economic progress." However the report strongly challenges this belief, using milk here as an example:

"The 'get big or get out' policy drives of the past fail to recognize the real cost of this kind of 'economic progress.' This perspective does not consider the loss of market competition when production is concentrated in a monopoly market. It does not consider the cost of potential environmental consequences of concentrating a large number of animals in limited areas. It does not consider the risk to the security of our milk supply should disease or natural disaster strike these few megafarms. It does not consider the cost of increased use of fossil fuels to ship milk across the country....Contrary to popular belief, large farms do not produce agricultural products more efficiently than small farms, especially when real costs are taken into account."⁶⁹

“Small farms contribute more than farm production to our society,” the National Commission on Small Farms further stresses.

“Small farms embody a diversity of ownership, cropping systems, landscapes, biological organization, culture, and traditions....Decentralized land ownership produces more equitable economic opportunity for people in rural communities, and offers self-employment and business management opportunities. Farms, particularly family farms, can be nurturing places for children to grow up and acquire the values of responsibility and hard work.”⁷⁰



The small farm contribution to biodiversity should not be underestimated. Diversified farms have clear environmental benefits over chemical-input intensive monocropping. Many heritage breeds of poultry and livestock,⁷¹ along with prized heritage seeds, would be lost if it were not for the conservation efforts of independent farmers.

In some minds, the value of independent family farms and the acts of cultivation take on spiritual meaning as a vocation in the stewardship of life. This is certainly true of the Amish people, who are so victimized by dairy regulations, animal tracking plans and other modern farm policies.

Thomas Jefferson shared this spiritual understanding of farming. He described farmers as critical to America's virtue:

“Those who labor in the earth are the chosen people of God, if ever he had a chosen people, whose breast he has made his particular deposit for substantial and genuine virtue. It is the focus in which he keeps alive that sacred fire, which otherwise might escape from the face of the earth. Corruption of morals in the mass of cultivators is a phenomenon of which no age nor nation has furnished an example. It is the mark set on those, who not looking up to heaven, to their own soil and industry, as does the husbandman, for their subsistence, depend for it on the casualties and caprice of customers. Dependence begets subservience and venality, suffocates the germ of virtue, and prepares fit tools for the designs of ambition....[G]enerally speaking, the proportion which the aggregate of the other classes of citizens bears in any state to that of its husbandmen, is the proportion of its unsound to its healthy parts, and is a good-enough barometer whereby to measure its degree of corruption. While we have land to labor then, let us never wish to see our citizens occupied at a workbench, or twirling a distaff...”⁷²

Jefferson specifies dependence as the problem that farmers are uniquely able to overcome by looking to heaven and their own soil and industry.

The quest for independence remains one of the most enticing aspects of farming, and it is the reason that fundamental restrictions on farmers' rights are so abhorrent – because it makes freedom that much harder to come by in America today.

A world of opportunities unfolds when one acquires land. For those who feel trapped in unsatisfying jobs, spending more time with coworkers than family members, reliant on unaccountable schools, living paycheck to paycheck, drowning in debt, and unable to count on Social Security, farming represents escape from the rat race and hope for achieving long-term self-sufficiency.

Viewed in this light, a farm is not defined by its income or even the size of the land holdings, but rather the type of activities performed for survival. Profits are so far beside the point for some farmers that they may actually have a long-term goal of reducing their income and living instead on their labor, using the physical assets they can accumulate, and with the support of the families that they build. The true value of small farms therefore might be measured in lives sustained, not in dollars.

“The quest for independence remains one of the most enticing aspects of farming, and it is the reason that fundamental restrictions on farmers' rights are so abhorrent – because it makes freedom that much harder to come by in America today.”

Where the government once determined there were too many people engaged in the labor of farming, it might be more appropriate to count each successful, self-employed farmer to be a free person, or at least on that trajectory. A country that cares for freedom more than its gross national product then might appreciate a large, thriving farming population as a mark of success rather than as a wasted resource.

Solutions

Oregon need not adopt policies to encourage small farms or local production in order to reverse these many wrongs. Freedom of choice and action is ultimately all that is needed to restore balance to our agricultural markets and consequently to our land use demands.

It could take decades to catalogue and campaign against the many offending laws that abridge the rights of farmers and their customers, especially because much of the problem

is at the federal level, set out in so many different long-standing policies. But there are opportunities to liberalize farm policies through state action, and Oregon has a strong track record of embracing progressive solutions even when they challenge federal law.

A Local Exemption

We can look to Oregon's three cow exemption for a creative solution. Recall that the state allows a regulatory exemption on milk sales for farmers that have only three dairy cows, provided they sell directly from their farm without advertising, delivering or selling butter. Oregon Department of Agriculture's Eric Paulson explains the requirement that unlicensed dairy be sold directly from the farm without delivery is in place as a “buyer beware” function so consumers see the facilities and make informed decisions regarding quality and safety.

To build on the idea of the three-cow exemption, Oregon could allow a regulatory exemption on all farm products sold within a given geographic area. To be really useful, and to avoid unnecessary development pressure on rural areas, however, the exemption would have to allow farmers to sell their products in retail venues, not simply directly from their farms.

A geographic limit for exemptions would limit the potential for harm. Farmers are likely to care very much about quality when selling products in their own communities, to their friends, families and neighbors. People have ample opportunity to make informed decisions about the quality of products grown in their own backyards. And any problems would be localized rather than spread worldwide, as is currently the case.

There is no legitimate reason why the government should intervene in the voluntary transactions between two neighbors, friends or family members. At the very least, freedom should be restored at this basic level. Each community should be free to act as a loose extended family, trading with and looking after one another with the kind of concern for well-being that is natural to personal relationships. In all likelihood, this newfound freedom would be protected with vigilance, and as the success of real free trade is demonstrated, that freedom could spread across the land.

There are several ways that a local exemption law could be adopted. A provision could be passed at the state level that allows individual counties to adopt regulatory exemptions on the sale of farm products that originate from within their borders. This would carry the authority of states' rights while allowing the citizens of rural and urban counties to craft their own rules.

Alternatively, a provision could be passed at the state level for regulatory exemptions on the sale of farm products sold within a 50- or 100-mile radius of origin. Or, the exemption could apply to the sale of all farm products made in Oregon. This should not constitute a barrier to interstate commerce, as Oregon would not be adding any regulations, but simply removing them within the state's jurisdiction. Other states then could be encouraged to pass their own exemptions, which could be honored here.

The decision to buy or not to buy a product exempt from regulations would be up to each person, just as each producer and retailer could choose to remain in operation under current state and federal rules. Labeling products as exempt need not be a requirement, as that itself would constitute a regulatory burden, however small, but providing detailed product information could be strongly encouraged. Retail venues that choose to stock these unregulated products might alert consumers to that fact by calling themselves “Free Markets.”

Exemptions could apply to all products grown or raised within the given area, including but not limited to meat, dairy, fish, poultry, seeds and biofuels. The exemptions would apply not only to sales regulations but also to processing restrictions, allowing a farmer to sell his bread and jam, for example, without building an expensive kitchen and opening his property to government inspectors.



Of course the choice of whether to quash Oregonians' new freedom would be up to the federal government. Attempts to produce ethanol or sell tobacco, alcohol or medicinal herbs without regulation likely would bring severe consequences. Oregonians might choose to leave these risks up to individual producers to test the law, or exemptions might be crafted that maintain a few well-accepted rules, such as legal age limits for tobacco and alcohol sales.

With freedom must come responsibility, and so full liability must be a requirement for producers that operate under any local exemption. Local exemptions could therefore only apply to people and businesses that are subject to full liability, and therefore not to limited liability corporations.⁷³

Full liability coupled with “reputational punishment” mechanisms like boycotts should be the primary quality enforcement mechanisms under regulatory exemptions. Government surveillance should expressly not be relied upon, as that would entail a far worse incursion on freedom than current regulations.

Liberating the Land

Once farmers are again free to make a living, the pressure to develop Oregon farmland for more profitable purposes would lessen. At the same time demand for buildable small acreage parcels that are suitable for farming likely would increase.

Moving from such intense land use restrictions back toward freedom is not simple. One way to approach the problem would be for the state to allow counties to opt out of current land use regulations and design their own alternative policies consistent with the wants and needs of their residents.



The state should eliminate the farm income test for farm dwellings, as well as minimum acreage requirements. If Oregon grants farmers real freedom to make a living at farming, then use restrictions on farmland can be eliminated in time. At the very least, allowable uses for farm land should be expanded to include additional home sites and commercial ventures like markets, cafes and processing facilities.

To minimize the potential for harm in this process, Oregon should return to the common law doctrines of trespass and nuisance. Common law property rights developed over the course of centuries, traced back to medieval times. Under common law, a trespass occurs when a harmful substance is allowed to invade another person's property by land, air or water. Nuisance law prevents a person from using his land in a way that restricts the rights of neighbors to use their property.⁷⁴

The specific provisions in state law that permit trespass and nuisance violations should be removed. Agricultural exemptions to air quality laws, open range laws and Right to Farm laws are among these property rights violations.

Liberating Oregon's land is not only a matter for rural areas, but for inside urban growth boundaries as well. Home-based businesses should be allowed throughout the state, subject to common law doctrines of property rights. Oregon governments now subsidize mixed use developments to reduce transportation demands, yet it was the state that separated out uses in the first place. The ability to start a business in one's own home is a basic right, as well as a necessity for many start-ups. In addition, the seemingly constant push toward density should be reconsidered with the idea that five- and ten-acre suburban farms, and inner-city lots large enough for gardens, may well be a more sustainable approach.

Additional recommendations

In addition to taking the above steps to restore market access and property rights, the following recommendations should be considered:

- Oregon should put pressure on the federal government to reverse market barriers to small farms and farm products generally. Specific targets should include the rules governing meat sales, alternative fuel production and sales, and hemp cultivation. To facilitate greater freedom throughout the economy, Oregon should also pressure the federal government to restore accountability in the corporate sector. The legal fiction of corporate personhood should specifically be rescinded.
- The federal government is relying on states to “deliver” farms to the National Animal Identification System. Oregon should uphold the rights of farmers against unconstitutional federal surveillance by withholding farm databases, denying NAIS-related federal funding, and refusing to enforce any mandatory provisions of NAIS.
- Every consumer has the power to affect change by making conscious buying decisions⁷⁵ and participating in organized boycotts. Farmers' markets, community supported agriculture and direct-from-farm sales remain important in helping to restore the farmer's role in food production.
- Cooperative arrangements offer creative solutions to onerous regulations by taking the activities of production and sales out of the business model. Just as some entrepreneurs have tried to avoid liquor laws by operating as private clubs, it may be possible to create privately owned, membership-only stores, restaurants and fuel stations that are not subject to regulation.



- In order to ensure that independent farmers and rural areas benefit from biofuels, interested parties can work to site relatively inexpensive, small-scale oil presses⁷⁶ in their communities. Even if farmers cannot avoid EPA sales regulations on biofuels, at least they can easily produce their own biodiesel if they have a way to press oil crops locally, and fresh vegetable oil commands a much higher price than what large-scale oilseed crushers are likely to pay for seeds. Also, the press cake byproduct of oil presses are higher in oil content and therefore far more nutritious and valuable as a feed additive than that produced by industrial solvent extraction.



Conclusion

Agricultural policies form the foundation of any economy because they govern the production of the most basic necessities of life. When freedom is curtailed at this level, when individual and community-level self-sufficiency are prohibited by law, there can be no pretense of freedom in the rest of society.

The federal government has controlled agriculture for so long with the explicit goal of consolidation and industrialization that farming traditions have steadily disappeared while many Americans weren't looking. Modern agribusinesses are now routinely called farms, though they lack the most important features of a farm: the self-employed farmers and their families who work and live on the land.

Our disconnect from farming has allowed great hypocrisies to go largely unnoticed. Oregonians expend enormous resources to save farmland without ensuring that people are free to make a living at farming. Government agencies go to great lengths to prevent farmers from selling food to their neighbors, friends and relatives, on supposed public safety grounds, despite the risks inherent in our commercial food supply. America promotes “free trade” agreements around the world, while her markets at home are anything but free.

Dependency is now the hallmark of America's agricultural system. Farmers now rely on large corporations for seeds, chemical inputs, post-harvest processing, marketing and distribution. Even remote agricultural communities import nearly all of their food, not by choice, but by necessity because local farmers cannot breach the retail barrier.

Dependency is what America exports with her unbalanced “free trade.” Untold numbers of Third World farmers have lost their livelihoods to cheap, subsidized imports, while developing nations have been encouraged to produce cash crop exports and rely on foreign food aid rather than becoming diversified for food sovereignty.⁷⁷

Even when confronted with these realities, many Americans cannot envision a paradigm shift toward true freedom because the most unscrupulous players in controlled industries have gained enormous power. Some people would rather continue depending on the government for security. But the government has no special powers when it comes to quality assurance; private organizations certainly could provide those services. Rather, the government's only exclusive power is the ability to use force and abridge rights – actions that make us all fundamentally less secure.

Oregon has an opportunity to reverse these disturbing trends by embracing farm and land use policies that respect freedom. Specifically, farmers should regain the freedom to sell their products and use their lands as they see fit. As long as people value freedom, farming will remain popular and farmland will be preserved.

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(<http://www.realmilk.com/what.html>). The Price Foundation and others argue that pasteurization was embraced as a solution for unsanitary conditions caused by industrialization, and that raw milk is safe when it comes from pasture-raised cattle and when its processing is done locally on a small scale. Multiple articles comparing the safety of raw milk with that of pasteurized milk are at <http://www.realmilk.com/sitemap.html>.

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