

# Right-to-farm law gets a boost

## Editorial

A challenge to Oregon's right to farm law has been dismissed without a declarative judgment that the Right to Farm and Right to Forest Act meets constitutional muster.

The case is the product of an ongoing dispute, and stemmed from a previous Lane County court case involving two plaintiffs, a married couple, who sued a forester and chemical applicator. They claimed herbicide applied to a hillside above their property drifted onto their land. They later dropped the suit, but under the act were ordered to pay the defendants' legal fees.

Joined by five other plaintiffs, the couple then sued the state to have the law declared unconstitutional because it strips them of protections against "migration from forest land and farm lands of noise, vibration, odors, smoke, dust, mist, pesticides and any other harmful substances used with regard to crop production."

They claimed in their suit that plaintiffs are deterred from seeking judgments for actual damages suffered because defendants can claim their actions are immunized by the act. As a consequence, plaintiffs with real claims can be forced to pay legal fees to farmers and ranchers if their

cases are judged to be "nuisance" lawsuits.

Attorneys for the state of Oregon countered that plaintiffs had pressed their case against the wrong party. The act, they argued, isn't a law enforced by the state. Instead, it provides a legal defense for farmers and foresters sued by their neighbors. The conflict, they said, is between the plaintiffs and their neighbors, not with the state.

Lane County Circuit Court Judge Karsten Rasmussen agreed, dismissing the case without comment.

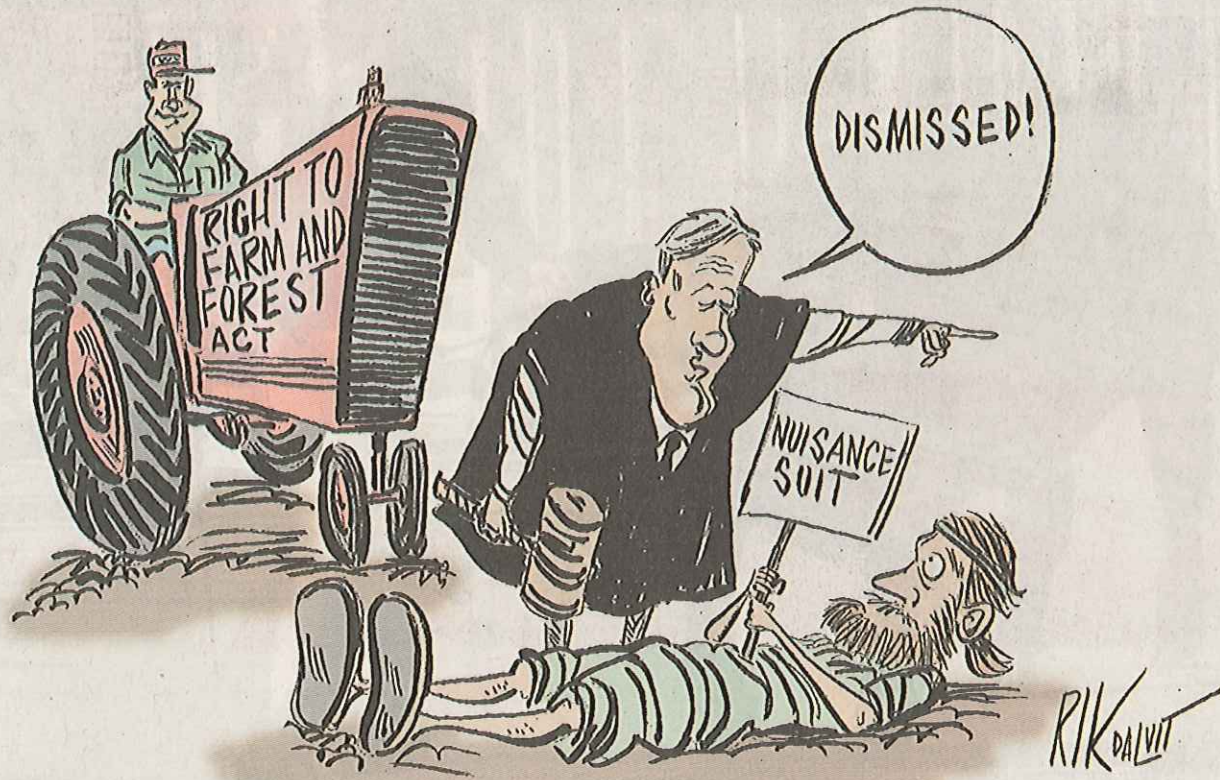
The case could be resurrected on appeal. The underlying issues could also be decided when some future plaintiff challenges a farmer's use of the act as a defense.

As we said after the suit was filed, the law is intended to protect farmers — both conventional and organic —

against nonfarm neighbors who don't like the dust, noise or smells commonly associated with farm and ranch operations. It envisions the inevitable conflicts that occur when city dwellers come to the country to drink in the rural lifestyle and move into a house next to a working farm. The Right to Farm and Right to Forest Act doesn't give farmers carte blanche to harm their neighbors. Plaintiffs with

real damage claims resulting from a farmer or forester's negligent actions can and should prevail.

We would have preferred an outright affirmation of the constitutionality of the act. Farmers and ranchers of all stripes need the protections it provides against claims based purely on aesthetic sensibilities. Even a victory based on strictly procedural arguments, however, is still welcomed.



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