



Accessing Farmland with Farmer Michelle

00;00;03;10 - 00;00;06;05

Kate

Hello. Welcome to the Farm Commons podcast,

00;00;06;05 - 00;00;13;10

Kate

Where we make farm law accessible and actionable for sustainable farmers and ranchers, as well as their networks of support.

00;00;13;29 - 00;00;15;04

Eva

I'm Eva

00;00;15;04 - 00;00;16;13

Eva

and I'm Kate,

00;00;16;13 - 00;00;42;21

Eva

and each episode we explore real legal issues faced on farms every day, providing key knowledge and tangible solutions to help you grow a thriving agricultural business, from managing liability to Navigating tough conversations with landlords and neighbors, We've got your back. Let's get started.

00;00;47;06 - 00;01;49;09

Eva

Hi, everyone. It's Eva here. I'm excited to introduce our podcast guests today. Michelle Wieck, who is one of our 2022 Farm Commons fellows. Michelle is the

farmer of Good Rain Farm, a mixed vegetable farm with an emphasis on indigenous first foods from across Turtle Island, serving the greater Portland metro area in Oregon. In this episode, she writes her story of what she calls her ongoing escapade, searching for permanent and sustained land access and stewardship. She shares hard earned wisdom gained from multiple leasing relationships. Her goals for permanent land tenure in the future, and tips for tenant farmers to assure that their investments in the land are protected. Michelle's is a tough, yet moving story of an indigenous woman farming and persevering within modern day constraints, while also being a big proponent of having your legal ducks in a row. Now let's hear from Michelle.

00;01;49;11 - 00;02;23;05

Michelle

[introduction in language of the Sinixt people] Hello, Good day. My name is Michelle Week. I'm Sinixt or Arrow Lakes by way of Colville Confederate Tribes. I use her pronouns. I am a 2022 Farm Commons farmer fellow joining a cohort of amazing women this year who openly and vulnerably shared our stories and insights for managing legal risk on our farms. Today's podcast is an extension of our collaboration and exploration of legal farm resiliency together.

00;02;24;16 - 00;02;52;16

Michelle

I am the owner and operator of a mixed vegetable community supported agricultural farm called Husk Quiet, which translates from my native language to good rain farm. We have an emphasis on Indigenous first foods from across Turtle Island and we serve the greater Portland metro area. Today I will be discussing my ongoing experience searching for permanent and sustained land access and stewardship.

00;02;52;27 - 00;03;26;11

Michelle

No doubt this is a broad and complicated experience for so many farmers. As an Indigenous woman, farming within modern day constraints, I assure you I have some thoughts. And contrary to what my peers, colleagues and friends might say. I

don't love legal documentation. However, not a single tribal treaty has ever been fully respected and the USDA has been a very discriminatory lender as several court rulings have affirmed specifically regarding native farmers looking to keep single versus Vilsack verdict.

00;03;27;14 - 00;03;54;15

Michelle

And yet, despite all of this, I'm a huge proponent for having all your legal ducks in as straight of a row as possible. Documents such as a lease are so very important for the establishment transparency and ability to refer back to the relational boundaries that you and your landlord had set. I'm a tenant farmer, like so many young farmers of modern day society, and I've been renting land from the very beginning.

00;03;54;22 - 00;04;20;21

Michelle

Our first farm land was actually on family land. We paid no monetary rent. However, I agreed to support with house and pet sitting, landscaping and maintenance. I was still exploring the feasibility and reality of what it would be to run a farm. And for the first year this arrangement was it was okay. What I thought was a privilege quickly turned into a nightmare.

00;04;22;06 - 00;04;50;17

Michelle

Without a formal lease, the conditions surrounding my access to the land were quickly changing, particularly around a very basic human need restroom access. I was starting to get whiplash. Responsibilities were stacking on top of each other. Mowing the lawn turned into pruning wisteria and weeding and planting in the decorative borders. I was being asked to spend my own money fixing the porch and backyard fence line.

00;04;50;26 - 00;05;21;29

Michelle

Every time I succeeded in managing the additional responsibility, more were piled on, taking away from my time working in the actual production fields of my farm business. I was being dragged down by this work and unable to fully realize my farm goals. I researched leases and explored websites like Washington Farm Trust and Oregon Farm Link. These organizations aim to support farmers by connecting them to farm friendly landlords, which has rarely been the case for me.

00;05;23;04 - 00;05;51;13

Michelle

So I approached my family with a lease, scheduled several meetings for discussion, made edits. Ultimately, after five revisions or so, I realized that there was no intent in my landowning family to sign the lease. It was the middle of this season and I resigned myself to continue through the summer, but began looking for land elsewhere. A month later, that aforementioned restroom concern blew up literally in my face.

00;05;52;28 - 00;06;03;14

Michelle

A family member red in the face let out all their frustration. Yelling. Spit. Flying. Physically encroaching on my personal bubble.

00;06;06;04 - 00;06;30;17

Michelle

Farming is hard enough. No farmer needs the addition of mental and emotional abuse and stress that walking on eggshells comes with, especially when trying to access your farm business. The farm linked websites did not turn up any solid leads, but through word of mouth, the farm relocated about a mile down the road. This time I acquired a signed lease and I'm glad I did.

00;06;30;29 - 00;07;02;21

Michelle

It formalized our relationship and kept my equipment safe, as well as added a layer of insurance protection in my lease. I asked to see the landlord's insurance as well as disclosed my own good rain farm was only on the second property for about

nine months before we were served with an eviction notice over a storage dispute. Apparently my power tools and wicker baskets for farmer's markets weren't considered reasonable and legitimate farm equipment.

00;07;05;02 - 00;07;32;13

Michelle

So for all my efforts to write a reasonable and detailed lease hosted multiple meetings to review and edit. Here we were again. My lease requires landlords to go through the effort of writing a formal letter, mailing it to me, and having to adhere to a 30 day grace period for me to fully leave the premise. Given that this occurred in October and I hadn't planted any crops such as garlic at that location, it was easy enough for me to pack up and move again.

00;07;33;22 - 00;07;56;00

Michelle

I had already kind of caught the hint. We had by this time also gained access to a third and fourth rental property. A quick addition to what I just said, I do insist on a clause in my leases that I am given reasonable access to existing crops so that if I am evicted in the middle of a growing season, I'm able to keep those crops alive and return for a final harvest.

00;07;56;03 - 00;08;23;16

Michelle

I encourage everyone to ensure that they have this access to their investment of time, money and are able to harvest that and recoup some of the cost. That's your livelihood and you need to ensure it's protection. Ultimately, that is the goal of all these documents. Very few of us are able to recall verbatim all of the conversations and decisions and agreements we come to throughout the course of operating a business.

00;08;23;24 - 00;08;53;16

Michelle

There's just too many decisions to track. Documenting such agreements will protect all that you've worked hard for keeping written notes and following up with emails

after our exceptionally useful when agreements appear to be threatened or breached. Whether that's purposeful or not, we are all forgetful. Being able to return to these documents has helped calm emotional and stressful conversations.

00;08;53;16 - 00;09;15;22

Michelle

In my experience, there is so much more clarity when what was agreed to in conversation is written and we can then move towards resolving the conflict within the boundaries we had already set back when we were all in a good frame of mind. Farm comments has had the most helpful and relevant info I have found around farm leases.

00;09;16;01 - 00;09;44;28

Michelle

I can talk much longer on what makes a good lease and clauses I would recommend in them. But really truly Farm Commons has what you all need and links to references will be in the show notes. I, like many small business owners, jumped in with two feet. Learning and doing simultaneously. I operated on default sole proprietorship mode for many years as I explored the feasibility of the farm business.

00;09;45;19 - 00;10;16;22

Michelle

Under our current lease we are very restricted in the commerce and activities we are allowed to engage in and to some extent what infrastructure and equipment we are able to utilize. It's a current and ongoing point of contention that so far I've been able, along with fellow farmer peers in the program, to call out my landlords around these really restrictive controlling measures on the infrastructure and equipment I can bring on to the property.

00;10;16;22 - 00;10;49;00

Michelle

And that's been another point for written documentation to have that all written down and something we can all point towards and reference. I recently transitioned

the business to an LLC for the additional protection it affords me and my business. As we acquire more assets and our revenue grows, it becomes more important that we protect our business through a proper legal structure.

00;10;49;12 - 00;11;19;15

Michelle

I wish I could say now that we are conflict free at the farm, but in reality conflicts are part of relationships, and so it's no surprise that we still have conflicts with landlords. Protecting myself and the business more thoroughly became a higher priority so that these conflicts don't hurt me or my business as severely. I had known that agriculture was a very male dominated and white centered industry before I ever got into farming.

00;11;19;18 - 00;12;05;00

Michelle

But when I began to intentionally focus our farm on indigenous foods, Indigenous sovereignty, cultural revitalization, it cracked open the uncomfortable realities of land theft, of genocide, white supremacy, patriarchy and then colonialism that exists all around us. In fact, as an indigenous woman farming, focusing on indigenous food sovereignty and reclaiming ancestral knowledge and practicing traditional ecological knowledge, it's become clear to me that not only are my landlords misinformed about the indigenous basis and foundational teachings of organic regenerative environment stewardship, our very government isn't a fan of my continued and loud existence.

00;12;05;19 - 00;12;50;18

Michelle

It's an overwhelming sensation to survive the navigation of both an alien government and stolen land within the imposed economic system of capitalism. While navigating the grief and the frustration that wells up inside my chest with every backhanded compliment, gaslighting mansplaining sentence aimed to feed my imposter syndrome and in response I've continued to hone in on boundary setting. Returning again and again to the spaces in which I am able to validate and develop parity between my efforts and the government's requests while protecting

my mental health and ensuring an intergenerational business that will hopefully live beyond me and support native farmers and nourish our native community far into the future.

00;12;51;15 - 00;13;17;26

Michelle

To ensure such a successful plan, my farm can't rely on leases alone. We need to reclaim stolen native land and as I said in the intro, ensure our continued permanent and sustained land access and stewardship of the land. I would rather not call this ownership. It's not in our ancestral teachings to own this living, breathing landscape or deny any other living creature a right to its home and shelter.

00;13;18;09 - 00;13;52;14

Michelle

But that's what this is. Ownership is what would currently ensure our access and rights to grow food on the land. In this space of place and time, as I research more into land ownership and explored in loans and mortgages, I've become even more frustrated. I regret letting go of my W-2 employment, not transitioning the farm to an LLC sooner, and I'm very eager to file the appropriate federal IRS taxation designation to be an escort through this research.

00;13;52;15 - 00;14;16;27

Michelle

It's come into sharp focus just how disadvantaged the average American is when it comes to affording housing and other basic needs. When we are left to compete in the same market as a large corporations. Ultimately, it's known and accepted that farmers are asset heavy and cash poor. We don't typically have large sums of money available for down payments from our farming activities.

00;14;18;11 - 00;14;43;28

Michelle

Those new and beginning farmers with crushing student loan and or health care debt can't afford to enter into the industry. Those, like myself and peers who've

chosen to attempt to make a living farming are struggling to raise and earn the capital needed to earn a profit that would allow us to afford the cost of land. In Oregon alone, the average farm property in 2022 was on the market for 3 to 4 months.

00;14;44;23 - 00;15;12;29

Michelle

Currently, because I'm operating a commercial farm business. I am ineligible for the USDA Rural Development Home Loans. As we've begun to learn more about the FSA farm loan programs. We've we've quickly learned that the FSA lack of pre-approval abilities shout out Farm Bill 2023 goals means there's no way that such loans will move quickly enough in this fast paced, competitive real estate market.

00;15;13;25 - 00;15;29;04

Michelle

I've heard some real or stories from farmers where the FSA loan process took upwards of nine or so months. Meanwhile, properties for sale can receive and accept and accept offers in a matter of hours. In some cases.

00;15;33;01 - 00;16;01;03

Michelle

One of the requirements for FSA loans for folks out there is to be denied a mortgage from a traditional lender. Out of curiosity and eagerness to push through the system. I've attempted this route and learned a lot through the process alongside of Fannie Mae. Home ownership for an online course. I highly recommend and I hear that it may even help you look good on the paperwork to have taken this Fannie Mae class for homeownership.

00;16;02;29 - 00;16;21;05

Michelle

Mainly, what I learned from applying for a traditional mortgage is that even with a stellar 750 credit, no debt, not business, not school, not health, not otherwise, and with a modest 20 K down payment, I still didn't have verifiable income.

00;16;23;07 - 00;16;51;01

Michelle

Remember when I said I regretted letting go of my W-2 income and not establishing an LLC faster? Yeah, don't let go of that income. I urge you, keep working that second job. It turns out that as a pass through sole ownership entity, I can't verify or guarantee that I'll have my monthly mortgage payments. I have no paystubs. I have no proof of income.

00;16;51;11 - 00;17;21;12

Michelle

Even if I have that year's cash in the bank, the cash flow monthly isn't visible to the lending institutions. I can't describe to you how crushing that was to learn. I thought I had been working towards all the right checkboxes that I've been told. I have good credit. I have no debt. I have my down payment. Turns out the down payment added isn't exact.

00;17;21;12 - 00;17;45;01

Michelle

That five or 10% is good enough, but you'll also need extra for your closing costs and inspections. And while the sale is going through, you may not have access to all your liquid cash for some time period. Your credit line and bank accounts freeze up. And buying that new tractor may not be possible. Replacing a delivery vehicle that just broke during a pending real estate sale is beyond difficult.

00;17;45;25 - 00;18;21;10

Michelle

With those frozen cash bank accounts, the 20% down payment only affords you the ability to bypass paying for additional mortgage insurance. If I had known all that after assessing the feasibility of my farm business that I ultimately wanted to buy land, I would have kept my W-2 employment. I would have been corporate as an LLC sooner and I would have filed as an S-corp as soon as possible, investing less directly back into the farms, infrastructure and equipment.

00;18;22;01 - 00;18;53;16

Michelle

And I would have boosted my paychecks and been able to take W-2 to where the owners drawers through that escort status, making my income verifiable, making it visible. One of the many caveats of S Corp status is that you must assign yourself a salary wage that is customary and equivalent. This is a, quote, customary and equivalent to the job position you would offer and hire for in your replacement.

00;18;53;26 - 00;19;18;28

Michelle

So you have to look into each state. And I also pay attention to federal averages as well. A lot of people will tell you that you should be earning over like 100 k net in gross profit as well. There's some other fiscal responsible metrics, but ignore all those because ultimately what you want to do is prove that you have income.

00;19;20;05 - 00;19;56;04

Michelle

So for farmers, this is there's a different approach here. Per usual. So in Oregon, the average salary wage would be around 50 K for farm managers. In the past few years, I've earned closer to the low end average of 38 K, but still within the average salary of a farm manager, according to the U.S. Labor and Industry site, which also insists be put in the show notes through the U.S. Labor and industry site.

00;19;56;04 - 00;20;20;20

Michelle

It indicates a wider mean wage estimate between 38,000 and 130,000 salaries. That sounds amazing. I would love to make 130,000. So do please check out the resources at farm comments and elsewhere to learn more about S Corp status to explore if it's right for you. I know it's hard to choose between even a beat up old tractor versus paying yourself.

00;20;21;05 - 00;20;48;25

Michelle

But if you're going to give farming a real go of it and you're facing a land purchase in your future, it's good to plan and know about this option sooner than later. The mortgage companies want to see two years of this verifiable income. Even if you inherit all the money, it may not be enough for you to get qualified for the appropriate total cost of the property because you can't prove your monthly cash flow viability.

00;20;50;06 - 00;21;19;29

Michelle

We need all farmers to survive and thrive to maintain our food security and legal resiliency and financial sustainability are crucial pieces to that successful outcome. In order to build more resilient, equitable local food systems, farmers must be able to mitigate stressful conflict, develop safe and strong boundaries through documentation such as leases, and to build long lasting foundations of stability for yourself, family and future farmers.

00;21;20;16 - 00;21;56;24

Michelle

Thus ensuring affordable farmland in safe and accessible communities. It will take all the tools of community support mediation, legal compliance and conflict resolution skills and open minds to achieve. Believe you me, I know farming is a very of the moment profession and will tempt you to focus on just getting through today, but taking time to dream, envision and write down the future you want for yourself in the food system will help us correct the systemic barriers while also navigating the reality of capitalism and the current concept of land ownership.

00;21;57;13 - 00;22;25;11

Michelle

Planning for this future will help ensure it's accessible. When you are ready to jump fully into your business dreams and you won't be where I am now. Scrambling for a potential fourth relocation and fighting to prove my financial worth from the last two years before I can access land ownership and ensure the long intergenerational access of Indigenous food sovereignty.

00;22;27;20 - 00;22;30;16

Michelle

Lynn. Thank you for hearing me out today.

00;22;32;22 - 00;23;01;02

Michelle

And I hope that these resources and my experience can help inform you in how you move forward. I wish you all the best of luck and success. I'm rooting for all a small farmers out there.

00;23;03;05 - 00;23;29;05

Eva

Thank you, Michelle, for sharing your story and deep wisdom with us. Shining light on the hard lessons I've learned and pursuing a stable and sustainable home for your farm business. If you haven't listened to the stories from other Farm Commons fellows yet, make sure to find Hannah Hamilton of Bucko Farm, Martha McFarland of Hawkeye Buffalo and Cattle Ranch, and Katie Nixon of Green Gate Family Farm in our podcast Feed.

00;23;29;22 - 00;23;30;21

Eva

Thanks for tuning in.