



# Income Protection for Foraging Farmers

00;00;03;08 - 00;00;05;28

Bonita

Hello. Welcome to the Farm Commons podcast.

00;00;06;17 - 00;00;15;17

Kate

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

00;00;15;25 - 00;00;27;22

Bonita

In each episode we explore real legal issues faced on farms every day and provide key knowledge and tangible solutions to help you grow a thriving agricultural business.

00;00;28;19 - 00;00;35;12

Kate

From managing liability to navigating tough conversations with landlords and neighbors. We've got your back. Let's get started.

00;00;47;13 - 00;00;54;24

Bonita

Hey, y'all. Welcome back. I'm Bonita, communications manager at Farm Comments, and I'm here with Kate. Kate, how you doing today?

00;00;55;16 - 00;01;14;19

Kate

Hey, Bonita. I am doing great because the birds are out. The sun is shining. And I know that that means there are farmers and ranchers and herbalists who are out

there foraging for some yummy springtime wild foods, which makes today's episode very timely.

00;01;14;27 - 00;01;45;18

Bonita

Yes, hallelu. For today's conversation, we spoke to farmers about risk management tools for foraged products, specifically ways to protect income from forage products. We've covered how there is no crop insurance for wild crafted and flawed products. So those mushrooms you might forage in the fall and sell for supplemental income or the calendula you rely on for a hand sale recipe. There is likely no crop insurance offered to protect the revenue from those wild foraged products.

00;01;45;26 - 00;02;20;00

Kate

Right? Yeah. And the reasoning there is that those goods, those those wild forage goods aren't actually cultivated, they're wild, and therefore they will grow with or without us. So there is actually no investment of time or money to insure. Me, Eva, and our staff attorney Chloe actually have a really great conversation about the legal context behind uninsured crops. Back in episode 50. So you should check that out for more legal context, but make sure that you come back here to listen to how fellow farmers approach risk management for their wild crafted and foraged foods.

00;02;20;03 - 00;02;42;05

Bonita

Yes, good. Yes, definitely come back. And just to set the stage for you all today, Kate and I sat in a zoom with six farmers and we listened to episode 50 together. And then we talked about foraging practices and ways to manage the risk of crop loss from forged products and resulting lost revenue. And Kate, I really enjoyed our conversation.

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Kate

I know it was so good. Tell me, what stood out to you?

00;02;46;14 - 00;02;52;02

Bonita

Well, let's just start out with this quote from farmer Marguerite, who was joining the call from Alabama.

00;02;53;12 - 00;03;13;25

Marguerite

I mean, when I define a herbalist, I mean, someone who really is not one knows how to use the material. They're not really just looking at it as profit. They implement a part of their program and they're very protective of not taking too much. I find them to be to be good managers of their product.

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Bonita

While Marguerite does not forage herself. I think she really captured something here that is the nature of foraging and wild crafting as a sacred practice that goes beyond profits and business decisions. Foraging represents a deep connection with personal values, with ancestors and traditions and respect for the land. It's hard work, and it's heart work. So farmers who rely on income from forage products have to figure out how to incorporate their foraging practice into their business management. Medicinal herbs meet spreadsheets. Morels meet marketing. It clashes. But it stood out to me how challenging and necessary it is for farmers to navigate their deep love for foraging and those more impersonal realities of running their business.

00;04;06;01 - 00;04;53;25

Kate

Hmm. Yeah. Yeah. I really appreciate that. I think that's really beautifully said from both you and Marguerite. And I can really see how combining foraging and wild crafting with spreadsheets and sales taxes and other instruments of business can feel kind of disjointed. And if you add that to the fact that forage products are unpredictable and labor intensive, it's really no wonder that forage goods are often just an occasional side stream revenue for farmers, ranchers or herbalists, or even

just a labor of love. No revenue expected. But we're here because, you know, any stream of income for farmers is important, especially if it is connected to a culturally and ecologically important practice like foraging.

00;04;54;03 - 00;05;20;24

Bonita

Yeah. Yeah. So true. And there are many farmers who do rely on income from forage and wild crafted products. But as we mentioned, there is no crop insurance for wild crafted or forage products unless they are on the USDA specialty crops list, which we'll talk about in a bit. So how do foraging farmers protect the revenue from their foraging so they can continue doing it right?

00;05;20;25 - 00;06;29;18

Kate

Yes, that is a key question that we are going to dive into a bit. And when Eva and I talked to staff attorney Chloe back in episode 50, she actually brought us through a few options that growers and producers can use to manage that risk of lost revenue from forage products. So one option that we talked about, farmers can incorporate forage goods into a CSA, which I'm sure most people listening are familiar with that model. But farmers there in a CSA would share the risk of crop failure with their customers, and they would also share the reward of abundance with their customers. And another tool that can be really powerful here are sales agreements. So in sales agreements, farmers have a lot of power to write an agreement that supports their needs and shares their risk. A solid sales agreement can increase the likelihood that you will get paid even if a crop fails. And the process of creating and signing a sales agreement can really help farmers find customers who value the forage product and their relationship with the farmer.

00;06;30;01 - 00;06;39;21

Bonita

And CSA and sales agreements. Two of those instruments of business that might feel out of place in the context of forage products.

00;06;39;21 - 00;06;40;08

Kate  
Exactly.

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Bonita  
But let's hear what farmer or herbalist Sage thought about that idea.

00;06;45;06 - 00;07;11;09

Sage  
I actually love the you know, like the CSA thing. I think it's like so easy to think about, you know, diversify. Of course, for those of us who are smaller operations, like, yes, absolutely, we have to diversify. But the sales agreements, one that was one I was surprised about. You know, so I thought it was like really great to be like, okay, here is like some, you know, things that maybe you you know about. But also and here's this other thing that maybe you didn't even think about.

00;07;12;10 - 00;07;43;07

Bonita  
Okay. I love that sage also mentioned diversifying, which, you know, that is also a time honored risk management tool. And some extra context behind that quote is that Sage has used sales agreements in the past when running a restaurant and in the beginning of her herbalism business. So it was a moment of remembering what tools are available to her. And she wasn't the only one farmer, Renee, who sells wild flowers and candles and soaps made with forged goods, followed up right after.

00;07;43;07 - 00;08;03;07

Renee  
With this and I'm going to agree with Sage on this, is that there are things that you know, and then the other options that they put out there as like, oh, okay. So that's something that I never thought of before. And so that made it intriguing, too, because now I would like to look more into sales agreements as well.

00;08;04;06 - 00;08;33;14

Kate

Hmm. Yeah. I love the surprise and intrigue that we heard from Sage and Renee in those quotes, you know, which honestly just makes my heart sing. I sales agreements may feel kind of unnecessary or cumbersome to some people, but they really are the memorialization of an agreement that farmers have complete control over. And so rather than an intimidating legal document, they can be thought of as an agreement with the community that wants to support your business.

00;08;33;25 - 00;08;56;21

Kate

So, for example, a sales agreement could outline shared risks like what happens if there are no wild ramps to be found? Does the customer still pay? And the sales agreement could also outline exclusivity. So if a buyer is a grocery store, then the sales agreement could clarify that the grocery store will come to the farmer for ramps before they turn to other vendors.

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Kate

And I'm going to drop a link in the show notes for anyone who's interested in exploring sales agreements a little bit more.

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Bonita

Hmm. Yes, I really love that Renee and Sage were reconsidering sales agreements for their forage products, and I want to bring up another risk management strategy that got a lot of feedback from the farmers we spoke with and episode 50. Chloe mentioned that a long term strategy for managing risk of lost revenue from wild crafted products is for farmers to organize and collect actuarial data about the wild crafted products they sell so they might be insured in the future by federally subsidized or private insurance. This would require farmers to cultivate those wild products in some way. For example, if a wild strain of Echinacea or mint were dug up and cultivated into a managed production field.

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Kate

Yes. Yeah. That point got a lot of mixed feedback. And I just want to emphasize again that currently getting forage products covered by insurance is not a way to manage your risk of loss revenue, and it might never be in the future, but it is a possibility if farmers wanted to, you know, organize, move together and head in that direction.

00;10;12;26 - 00;10;41;22

Bonita

Right. And that topic is controversial. On one hand, getting wild products insured could protect the income of people who care for those invaluable foods, herbs and flowers. On the other hand, it could expose those products to increasing commodification. Farmer Mindy was on the call with us and foraging and native plants are a big part of her new farm business. I think this exchange between Mindy and Marguerite captures the different feelings on this subject.

00;10;43;04 - 00;11;09;17

Mindy

But I'm. Yeah. Planning to bring into cultivation some native plants from my area and kind of if I'm investing time and money in their cultivation, but they're not in the data. This is what's covered and I'd be interested in helping to get them there.

00;11;10;18 - 00;11;39;23

Marguerite

And not just make one more comment. I'm sorry. Went back was a minute. You made a good point about the actuarial. You know, it made me realize the Chinese people have this thing called ginseng. Right. And, you know, here in the States, we collect that while the minute you take that and you try to grow that in a regular, cultivate group, not the same thing anymore. So I don't know of a lot of those wild crafted. Like I said, I collect elderberries and I have found that if you get them from the wild and I cultivate them too, it's just not the same.

00;11;40;19 - 00;11;50;17

Mindy

Totally. But I mean, there's also, you know, efforts to bring more things into cultivation to protect wild populations. And so, you know, it's a complicated issue.

00;11;51;24 - 00;12;25;16

Kate

Yeah. Yeah, that is a complicated issue. And if farmers agreed that getting a particular wild product covered by insurance was the best thing for them, they would need to work towards it together. In fact, that is kind of the beauty of the risk management solutions we've talked about so far. They are all farmer led. Farmers set the parameters for their CSA. They craft the terms of the sales agreement and they would need to do the kind of organizing that would lead to the actual their actuarial data needed for that Specialty crops list.

00;12;26;02 - 00;12;49;16

Bonita

You're right, Kate. And I want to bring in one more legal tool that could support our farmer foragers. Leases, leases! Many of the folks we spoke to brought up the fact that foraging is deeply related to land justice and land access. Folks who are foraging on leased land can seek to have their foraging supported or protected in their lease.

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Bonita

This could look like an agreement that a specific tract of woodland where ramps grow remain undisturbed during the lease period, or an agreement to maintain a meadow to promote wildflower growth. Negotiating this with a land owner involves navigating an inherent power imbalance. But I do want to bring in leases as yet another legal tool that offers potential to farmers to claim some power and control over their business.

00;13;17;05 - 00;13;52;00

Kate

Hmm. Yeah. I'm so glad that you brought that additional tool in. And I think that the really important takeaway here is that there are legal tools that farmers can use to



find greater legal resilience and that those legal tools don't need to be expensive or involve third parties like insurance agents. When farmers recognize a tool like a sales agreement as a blank slate for their own creative wisdom and community building, then really amazing things can happen that give a lot of control and power to the farmer.

00;13;52;23 - 00;14;10;11

Kate

So this feels especially important with foraging, partly because, as we said, there is no federally subsidized crop insurance coverage to lean on, but also because farmers and foragers know best what they need to protect their business and their relationship with the land and the things they forage.

00;14;10;27 - 00;14;35;27

Bonita

So true. Here at Farm Commons, y'all, we have a saying. Paperwork is powerful. and creating agreements and writing them down is our number one tip for farm business owners across the board. And this applies to foraging and wild crafting too. Okay, we're at the end here, but we hope that you foragers are leaving with some thoughts on how to set your business up for success and protect your foraging practice.

00;14;36;16 - 00;14;49;20

Bonita

As always, we love to hear from you, so drop your comments on Apple Podcasts or send feedback to our mailbox [info@farmcommons.org](mailto:info@farmcommons.org). We'd love to hear it. Bye.

00;15;09;05 - 00;15;34;22

Kate

We're so glad you joined us for this episode of the Farm Commons podcast. If you're looking for more resources on your burning farm law questions, visit our Web site at Farm Commons, dawg for a variety of workshops, guides, checklists, tutorials and more. You can also email your questions and comments to [info@farmcommons.org](mailto:info@farmcommons.org). Stay tuned for our next episode.

00;15;34;23 - 00;15;36;15

Kate

And until then, keep growing.

00;15;37;16 - 00;15;48;17

Bonita

This material is funded in partnership by USDA Risk Management Agency under award number R.M. a tutu cpt0012392.