

# Corps gives plaintiffs a hand on WOTUS

Plaintiffs who have filed suit to block the implementation of new rules from the Environmental Protection Agency and the Corps of Engineers defining “waters of the United States” that can be regulated under the Clean Water Act got a big boost last week.

And it looks as though they can thank the EPA.

EPA and the Corps have been working on the rule for a couple of years now in the hopes of reconciling two separate Supreme Court decisions on cases involving the Clean Water Act.

Since the beginning, farm and ranch groups have said the new rule would expand the EPA’s authority to cover every thing up to and including muddy hoof prints.

So they and the attorneys general of several states have filed separate lawsuits to stop the implementation of the recently released draft rule.

Turns out the Army Corps of Engineers doesn’t think much of the rules, either, at least the way the EPA wrote them. In memos written by the Corps to the EPA before the rule was released, the Corps alleges:

- That in writing the rule the EPA ignored sound science, and ignored the Corps’ input to such an extent that it doesn’t consider the rule the collaboration the published draft claims to be.

- That the rule removes Clean Water Act protection from some bodies of water where it is now enforced. That’s because the rule limits coverage to lakes, ponds and other waterways that are within 4,000 feet of a navigable water or tributary. The Corps says there’s no scientific basis for the limit, and no legal authority for the agencies to abandon its current jurisdiction.

- That because the EPA acknowledged that abandoning jurisdiction could create “significant adverse effects on the human environment,” the National Environmental Policy Act requires the Corps to perform an Environmental Impact Statement.

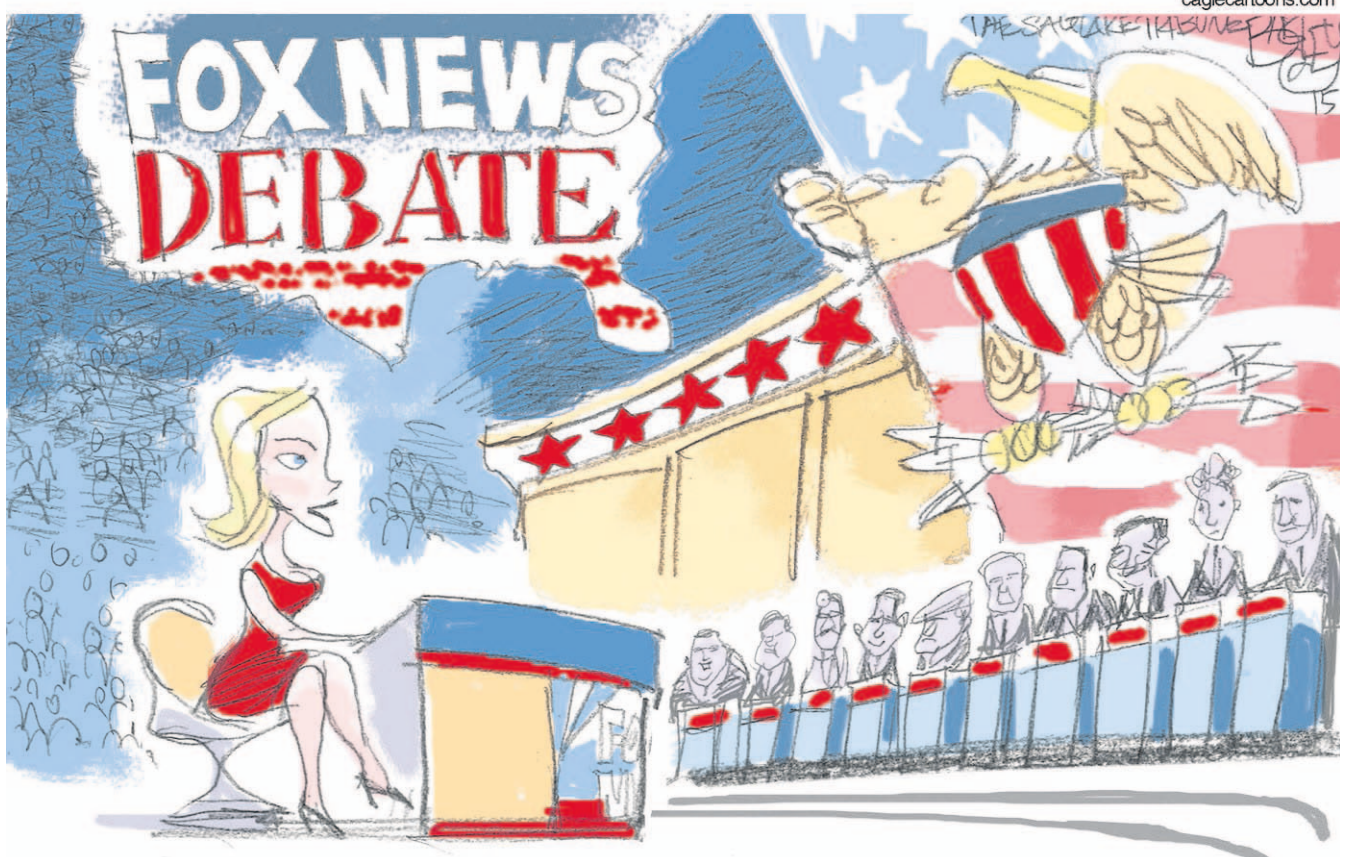
- That while the rule envisions the agencies extending regulation to isolated bodies of water that have a “significant nexus” with navigable waters of the United States, the definitions of such bodies as having “no hydrological connection with navigable waters” makes it unlikely the agencies will be able to establish a nexus that will withstand a court challenge.

The Corps, it seems, has found that the EPA doesn’t listen to anyone and does whatever it wants. What a surprise.

It will take awhile for all this to play out in the courts, and it’s unclear what impact the Corps’ memos will have on the cases.

But it can only be a good thing for plaintiffs when one of the defendants makes their case.

**EDITORIAL**  
*The voice of the Chieftain*



“ON A SCALE OF ONE TO HITLER, HOW DO YOU RATE OBAMA AS PRESIDENT?”

## Victim cooled a vengeful mob

I guess I am sometimes what you might call reactionary to events or happenings. Instant opinions are formed and usually expressed. Several years ago while I was working for the world’s largest winery I had a fellow employee that worked in the engineering department. Hal was a pretty good athlete and we occasionally played tennis on the weekends. Hal had a family and was a devoted husband and father. He had a beautiful wife and daughter that were his whole life. Hal was not a religious person but was one of the most decent people I knew. He had his own code of decency, not because he was afraid of going to hell, but because it was the right way to live.

One evening Hal and his wife and daughter were on their way to an open house at the middle school where his daughter was a straight-A student. It was raining so Hal dropped his wife and daughter off across the street from the school and went to park the car. His wife and daughter walked to the corner and started to cross the street. A car traveling too fast and driven by a distracted driver failed to see the two in the crosswalk and mowed them down, killing both. The driver initially stopped the car and then jumped back in the car and sped off. Bystanders did get a description and license number.

The following day the news of the tragedy flew through the winery and horrified all of us that knew Hal. We were all immediately ready to form a lynch mob to find the hit-and-run driver and extract instant justice. When Hal came back to work and was trying to recover from the



### OPEN RANGE

Barrie Qualle

shock we all expressed our condolences as well as our thoughts of vengeance.

The police followed up on the license number but before they made an arrest the culprit surrendered and turned himself in. We were all incensed and ready to light the torches and form a mob. Hal was pretty quiet about the whole affair and was having a tough time dealing with the loss of his wife and daughter. As the trial wound its way through the legal process we all followed it through the newspapers and news reports, all the while thirsting for vengeance.

It turned out that the hit-and-run driver was a 17-year-old kid that had not been driving that long and had panicked at the scene of the wreck. What happened next surprised and astonished us. Hal, rather than bitterly extracting the punishment we all were lusting for, checked the kid out and even visited him. He found that the kid was really a good kid and had never been in any kind of trouble. When the kid was to be sentenced, Hal was in the courtroom and testified in the kid’s defense. He asked that the court be lenient and give a minimum sentence. He felt that it had all been a horrible accident and he could not bring back his wife and child by being vengeful and ruining a decent kid’s life by sentencing him to prison. He knew the kid would have to

live with what had happened and he even wished he could do something about that.

A lot of us looked at Hal with different eyes and rethought our position. I think of it as one of the most noble acts I have witnessed and it has caused me to try and be less reactionary...

...Just wrapped up CJD week and had a ball working with the crew at the timed event end of the arena. The stock contractor’s reps complimented the four girls doing most of the work and declared they were the best crew at any of the rodeos they worked. Thanks Abby, Lexi, Rya and Anna, you make Fred look pretty good. I had the privilege of working with Hadley and Noodles Miller along with another 8-year-old named Radley from Hermiston. These guys were pros at bringing cattle to the back-end corral. I had less problems with cattle than at any other time. These kids listened, took orders without complaint and were damn handy. It sure was great to see the packed stands for all the performances.

Bucky Campbell announced that he was thinking of quitting roping with Mel Coleman. He felt the announcer spent so much time telling of Mel’s accomplishments and trips to the NFR he had no time to mention any of his. I told Bucky I didn’t think I had to worry about Mel bothering me to be his replacement. Team roping partnerships are a lot like marriages. They sometimes end in divorce and some are just one-night stands.

*Columnist Barrie Qualle is a working cowboy in Wallowa County.*

## Doomsters call debate’s end

**To the Editor:**

Does anyone suppose that if the jury were still out re the global warming scare (which, please bear in mind, includes every apocalyptic asseveration, every fizzled prophecy, and every bohemian proposal of every geothermal doomster), you’d hear about it from Ms. Sterbentz and her chosen authorities? I’m open to correction, but isn’t this precisely when you’d expect to hear, louder than ever, what you’ve always heard from those quarters — that the “debate” is over and was not decided in your favor? Ladies and gentlemen, when were you ever made privy to all sides of the “debate” in question, and through what impartial instrument of the mass media? Confined to those, by what means could you hope to know, first-hand, when or if it was called to a halt, by whom, and from what discernible motive?

As fond as Ms. S. is of exposing the rotten fruit of lessons missed by geese and men, maybe she’ll still find time to reschedule herself for this fine old analect of Confucius that I just made up:

He who not let self know mettle of foe is huge asset to foe, huge ass to friend; might as well switch side.

On our way back from the pagodas of Old Cathay, we might as well intercept a surprise gift from the horse’s own mouth. We duly note that in Ms. Sterbentz’s perfect world, the price of gasoline would be fixed so high by federal edict that *nobody* could afford to offend her nose with it, and the price of bananas so low that no sanely “greedy” grocer would evert bother to stock them again.

### LETTERS TO THE EDITOR

Any of you ladies and gentlemen not prefer the merely imperfect world we live in, where bananas do fluctuate in price but remain within reach of all hominoids, and persons are found alive and well who love the smell of diesel in combustion more than the scent of roses in bloom? (Aye, mea culpa, my dear.)

Tom Anderson  
Wallowa

### Maxville HIC’s focus not narrow

**To the Editor:**

We at Maxville Heritage Interpretive Center applaud all and any attempts to educate the public about logging history (The Memory Project, July 15). We than Ms. Marsh for including in her display some images that Maxville Heritage Interpretive Center (MHIC) obtained through established museum standards and practices. We also thank Ms. Marsh for her prior affiliation with MHIC and that she answered our call to preserve cultural history in Wallowa County.

To set the record straight, however, MHIC educates about logging towns throughout the Pacific Northwest, not only Wallowa County. Maxville serves as an example. Not only that, but we emphasize that Maxville was multicultural, not just inhabited by African-Americans.

Moreover, MHIC has more than “an office in Joseph,” as the story mentioned. Our center on Main Street is a museum, with artifacts, dozens of oral histories, videos and stories. In fact, our work continues to expand to provide a cultural educational venue to Oregonians and other visitors. We’ve been a federally recognized cultural institution in Wallowa County since our inception in 2008.

William Swarts  
Board Chair

Maxville Heritage Interpretive Center

### Event aids in stand against USFS

**To the Editor:**

There is a meeting coming up on August 20, 21 and 22 at the Event Center, 2600 East Street, Baker City. It is probably one of the most important meetings on teaching Coordination you ever have had the chance to attend.

It gives you the tools to stop the over reach of the Forest Agencies. We need to stop their benign neglect of our forest, blaming everything on the off road users and other forest activities. We need to stop the shutting down our roads because of silt might get in a creek. Or a salmon that needs help or some other species in distress.

I know \$150 for a three day conference is a lot of money to come up with. But what we will lose if we don’t stand up and be counted is much, much more. If you can’t attend please donate to help off set the cost of the event. To attend or donate or for more information please call Lorrie at 541-519-5470, or stop by her office open Monday through Friday at 3370 10th St., Suite C here in Baker City.

We are running out of bullets, and this is the last stand to make a difference on our PUBLIC Forest lands, please help make a difference.

Chuck Chase  
Baker City

### Correction

Rumors of a possible impending visit to Justice William O. Douglas at his summer home by President Franklin D. Roosevelt could not have been reported in the Chieftain’s Aug. 2, 1945, issue, an alert reader of our weekly Out of the Past column pointed out. FDR died in April 1945. It turns out that all the material presented under the 1945 date in last week’s column was actually from August 1944. The Chieftain regrets the error.

## WALLOWA COUNTY CHIEFTAIN

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P.O. Box 338 • Enterprise, OR 97828  
Office: 209 NW First St., Enterprise, Ore.  
Phone: 541-426-4567 • Fax: 541-426-3921

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MEMBER OREGON NEWSPAPER PUBLISHERS ASSOCIATION

PUBLISHER Marissa Williams, marissa@bmeagle.com  
EDITOR Rob Ruth, editor@wallowa.com  
REPORTER Stephen Tool, stool@wallowa.com  
REPORTER Kathleen Eilyn, kellyn@wallowa.com  
NEWSROOM ASSISTANT Elliott Seyler, eseyler@wallowa.com  
AD SALES CONSULTANT Brooke Pace, bpace@wallowa.com  
GRAPHIC DESIGNER Robby Day, rday@wallowa.com  
OFFICE MANAGER Cheryl Jenkins, cjenkins@wallowa.com

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