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Opinion

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OUR VIEW

Two Oregon ballot measures offer recipe for chaos

We've never been fans of voter ballot initiatives. Elegant in theory, bumbling in practice, they are a poor way to make or change law.

There are two prime examples gathering steam in Oregon.

On May 19, Benton County residents will vote on the "Local Food System Ordinance."

Backers describe the measure as protecting the local food system from "international food corporations whose profit motives limit what you eat and the quality of your life." Harry MacCormack, founder of the organic Sunbow Farm, said the measure applies only to organisms that would enter the local food stream.

Oregon State University's attorneys see it differently. The measure may largely deal with the food chain, but Section 2, Part B is less specific, making it "unlawful for any corporation or governmental entity to engage in the use of genetically engineered organisms" within the county.

OSU says that puts all kinds of research at risk — agricultural and non-agricultural. The university said the measure might affect 120 or more faculty and stop research projects that have attracted about $18.3 million in outside funding.

The measure also seeks to upend patent rights granted by the federal government — "No permit, license, privilege, charter, or other authority issued by any State or federal entity which would violate the rights or prohibitions of this Ordinance shall be deemed valid within Benton County."

Ballot measures online
http://www.bentonfoodfreedom.org/full_text
http://www.oregoncommunityrights.org/amendment

Under current Oregon law, the initiative is illegal. Last year the Legislature pre-empted counties and cities from passing ordinances or ballot measures regulating GMOs.

But not to worry. Backers gathering signatures for an amendment to the state's constitution want local communities to be able to override state and federal law.

OR4CR — "The Right to Local, Community Self-Government" — is a constitutional amendment being pushed by Oregonians for Community Rights. If the measure gets on the ballot and is passed, the amendment would enable "local governments to protect fundamental rights and prohibit corporate activities that violate those rights."

The backers want local officials and voters to have a free hand to restrict any commercial activity. The amendment would give local communities the "power to enact local laws establishing, defining, altering, or eliminating the rights, powers, and duties of corporations and other business entities operating or seeking to operate in the community."

The immediate idea is to throw off the pre-emption on GMO bans and labeling schemes. But the language of the amendment doesn't stop there. Any otherwise legal and permitted business activity and practice could come into the crosshairs. The list of potentially offensive activities is endless.

Federal law can't be pre-empted. Article 6 of the U.S. Constitution establishes the supremacy of the federal Constitution, federal statutes and treaties. The Civil War pretty squarely decided the issue.

But if backers get their way against state law, the measure would create hundreds of sovereign duchies and a patchwork of regulation that would make operating in the state all but impossible.

Conceived with the best of intentions, these measures would create chaos.

Rik Dalvit/For the Capital Press

OUR VIEW

Communication helps avoid battles

The 21st century will be known as an era of instantaneous communication. Nowhere on the planet, it seems, is beyond the reach of the Internet or its cousin, the cell phone.

It is ironic, then, that in some areas less communication than ever seems to be taking place. And when it does take place, it too often involves lawyers and legal briefs and occurs in courtrooms.

That Maia Bellon and a handful of Washington state farmers and ranchers have been trying to avoid that setting is remarkable.

Bellon, director of the Washington Department of Ecology, convened a committee of representatives from the state's agriculture industry last year to talk. Yes, to talk. No inflammatory emails, no blogs, no Twitter, no Facebook. Just people talking about important topics.

Her decision came after a landmark state Supreme Court case in which the department had convinced the justices that a "substantial potential to pollute" was adequate proof for her inspectors to force a southeastern Washington rancher to fence off a seasonal stream that runs through his property. He argued that without any water quality tests the inspector had no way of knowing whether his cattle were polluting the stream.

After the Supreme Court announced its decision, Bellon decided that, rather than turning the screws on ranchers, as some officials might have done, she wanted to take a different tack. She would engage ranchers and seek a mutual understanding of how the department should proceed.

"We need to do this work differently and start talking," she said.

Bellon and co-chair Vic Stokes, then-president of the Washington Cattlemen's Association, continued to engage farmers and ranchers through the ad hoc committee on agriculture and water quality.

The result has not been a love fest so much as an understanding fest. Pointing fingers have been replaced by information about how ranchers and farmers work and how Ecology officials operate under the law. Committee members are now writing a "guidance document" that will allow both sides to grasp key water quality issues.

Though the final form of the document has yet to be determined, it will hopefully make Ecology's old practice of sending ranchers non-specific warning letters a thing of the past.

The concept of talking through problems instead of calling the lawyers has been successful elsewhere, too. The many efforts at the federal and state levels — and even through soil and water conservation districts — to work with ranchers to preserve and improve greater sage grouse habitat are good examples. Instead of courtrooms, the public and private groups have met in coffee shops and other settings to look for ways to address the challenge of helping the bird and keeping it off the endangered species list.

The results will not end all disagreements, but they do have the potential to elevate the level of problem-solving beyond the courtroom.

Readers' views

Mink industry inhumane

I was appalled that Capital Press would feature an article on the mink "industry." It is very discouraging to me that your article does not support the belief of mainstream society here in the United States that the lives of animals should take precedence over the vanity of humanity.

When this man is showing school children his "farm," does he explain to them how he kills them and tears off their skin in the name of the fashion industry? I suppose his sanitized presentation somehow soothes his conscience. However, if this man had a conscience, he would not be involved in this barbaric activity.

Kevin Flynn's feeble attempt to portray this atrocious activity as "green" because he feeds the mink food scraps unfit for human consumption is pathetic. Because mink are not allowed access to their normal diet, they have no choice but to eat this garbage.

How can anybody with a conscience bring a living and feeling being into this world only to strip it of its skin in the name of profit? Would he do this to his pet cat or dog? What's the difference? Well, I suppose if there was a market.

Dennis and Margie Miller
Mossyrock, Wash.

Include text of ballot measures

Please print the actual text of ballot measures or proposed statutes being addressed in an article, or at least the official summary.

When a whole article discusses an issue, but doesn't quote the text, the reader is forced to base decisions on the arguments rather than make up their own mind. That is a great disservice and an insult to the intelligence of your readers.

Dianne Wood
Salem, Ore.

Letters policy

Write to us: Capital Press welcomes letters to the editor on issues of interest to farmers, ranchers and the agribusiness community.

Letters policy: Please limit letters to 300 words and include your home address and a daytime telephone number with your submission. Longer pieces, 500-750 words, may be considered as guest commentary pieces for use on the opinion pages. Guest commentary submissions should also include a photograph of the author.

Send letters via email to opinions@capitalpress.com. E-mailed letters are preferred and require less time to process, which could result in quicker publication. Letters may also be sent to P.O. Box 2048, Salem, OR 97308; or by fax to 503-370-4383.

A flood of missed opportunities, misguided policies

By JONATHAN WOOD
For the Capital Press

Guest comment
Jonathan Wood

We all learn at an early age to save money for a rainy day. We can't assume that we'll always be as healthy or well-paid as we are today, so we set something aside to help make it through trying times.

When it comes to water, we should do the same thing — though, in that case, a "rainy day" is a blessing. Gov. Jerry Brown's recent order requiring statewide water use to be reduced by 25 percent — the first time such a step has been taken in California's history — is, at least in part, a result of government's failure to heed this wisdom.

This year is almost certain to be worse than last year, when water agencies serving 25 million people were told that they'd receive nothing from state-run reservoirs. This translated into a vast economic and human toll. A University of California-Davis study estimated a loss of $2.2 billion from the state's economy.

Seventeen thousand people were put out of work, most of whom were already impoverished farm workers in the Central and San Joaquin valleys. As the study's author put it, these workers are "from the sector of society that is least able to roll with the punches.... There are pockets of extreme deprivation where they are out of water and out of jobs." Unemployment in some areas soared as high as 50 percent.

Although the drought and its causes are mostly beyond our control, we could have been in a better position to weather the drought if not for federal regulations to protect a tiny fish. In high precipitation years — when we should have been storing water — millions of gallons were diverted to help the Sacramento-San Joaquin Delta's delta smelt. This species is accorded a preference above the people of California thanks to its being listed as threatened under the Endangered Species Act.

From December 2012 to February 2013 alone, more than 800,000 acre-feet of water that could have been conserved for us to use today was allowed to flow to the sea. That water alone could have provided 800,000 families with drinking water or irrigated 200,000 acres of cropland.

This water was forever lost to us to comply with a 2008 "biological opinion" prepared by the federal government, which essentially said people's needs for water must be given no weight in decision-making. The 9th U.S. Circuit Court of Appeals described that opinion as a "ponderous, chaotic document, overwhelming in size, and without the kinds of signposts and roadmaps that even trained, intelligent readers need in order to follow (its) reasoning." And it was approved after a rushed peer review.

Though the court made clear that the decision was not clearly explained, it nevertheless upheld it, believing that a U.S. Supreme Court decision bound its hands. That decision, TVA v. Hill, held that protecting listed species must be the federal government's highest priority, above the economy, unemployment, poverty or any other issue. Surprised by this absurd result, Congress promptly amended the Endangered Species Act in an attempt to rectify the situation. But the decision stands to this day. And, as it did in the delta smelt decision, it continues to cause mischief.

What have we gotten for the dear price we've paid? According to experts, the delta smelt is, for all practical purposes, extinct. The most recent survey found a grand total of six smelt in the delta.

Although the water restrictions don't appear to have helped the smelt, they've almost certainly hurt the many endangered species in Central and Southern California whose habitat depends on this water.

Typifying the government's myopic focus on the delta smelt, these species were given no consideration in the decision to flush water away forever.

We are currently living through a real life example of Aesop's fable of "The Grasshopper and the Ant." Like the ant that spent the warm months storing food for the winter, we should have spent wet years putting something away to protect against drought. Instead, we behaved like the grasshopper who sang the warm months away.

It was easy to accept the delta smelt regulations in wet years because they cost us relatively little. But today we see the consequences of our failure to look ahead.

Jonathan Wood is a staff attorney for Pacific Legal Foundation, where he specializes in environmental regulations.