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Opinion

Our View

Incremental attacks on agriculture continue

A look at the predicament faced by some Yakima Valley, Wash., dairies should give pause to dairy operators across the nation.

More importantly, all farmers and ranchers would do well to closely monitor the emerging picture of how environmental special interests use the legal system to attack agriculture.

Last week, we commented on how the U.S. Environmental Protection Agency shrugged off transgressions in which it participates. The 3 million gallons of mine waste that EPA contractors dumped into rivers in Colorado, New Mexico and Utah was met with the comment that it's really not that big a deal and that it'll clear itself up.

Contrast that with the Yakima Valley, where five dairies have followed state-approved nutrient management plans only to be dragged into court by EPA-allied environmental groups to test a new legal theory. Under this theory, manure from cattle is industrial waste and, as such, it falls under the Resource Conservation and Recovery Act.

These groups got a judge to fall for that argument — the first time since Congress passed the law nearly 40 years ago.

Should his ruling stand, all forms of havoc could be aimed at agriculture. If manure is industrial waste, it might follow under this warped interpretation that all sorts of byproducts could be similarly identified.

This is another example of incremental environmentalism, in which activists will never, ever say that enough is enough. They will always want more. This cycle will continue until the targeted business finds it impossible to continue.

This tactic was explained to us many years ago, and ever since we have seen it used against businesses, farmers, ranchers, developers, miners, the timber industry — any group unfortunate enough to find itself in the environmentalists' cross hairs.

They also specialize in suing federal agencies such as the U.S. Fish and Wildlife Service, Forest Service and the Bureau of Land Management, which seem to spend as much time and money on defending themselves against lawsuits as they do managing federal lands and taking care of other important jobs, including fighting wildfires.

Armed with poorly written laws such as the Endangered Species Act and the RCRA, environmental groups march into court seeking more and more and more.

If they lose, they appeal, hoping to eventually find a judge who will go along with them. If they win, they pop open the champagne, collect a check from the government — if a federal agency was sued — and send out pleas for more money to help them continue their fight to "save" the environment.

They will never give up.

That's why agriculture — and all businesses — need to watch closely whenever someone who is following the law is dragged into court.

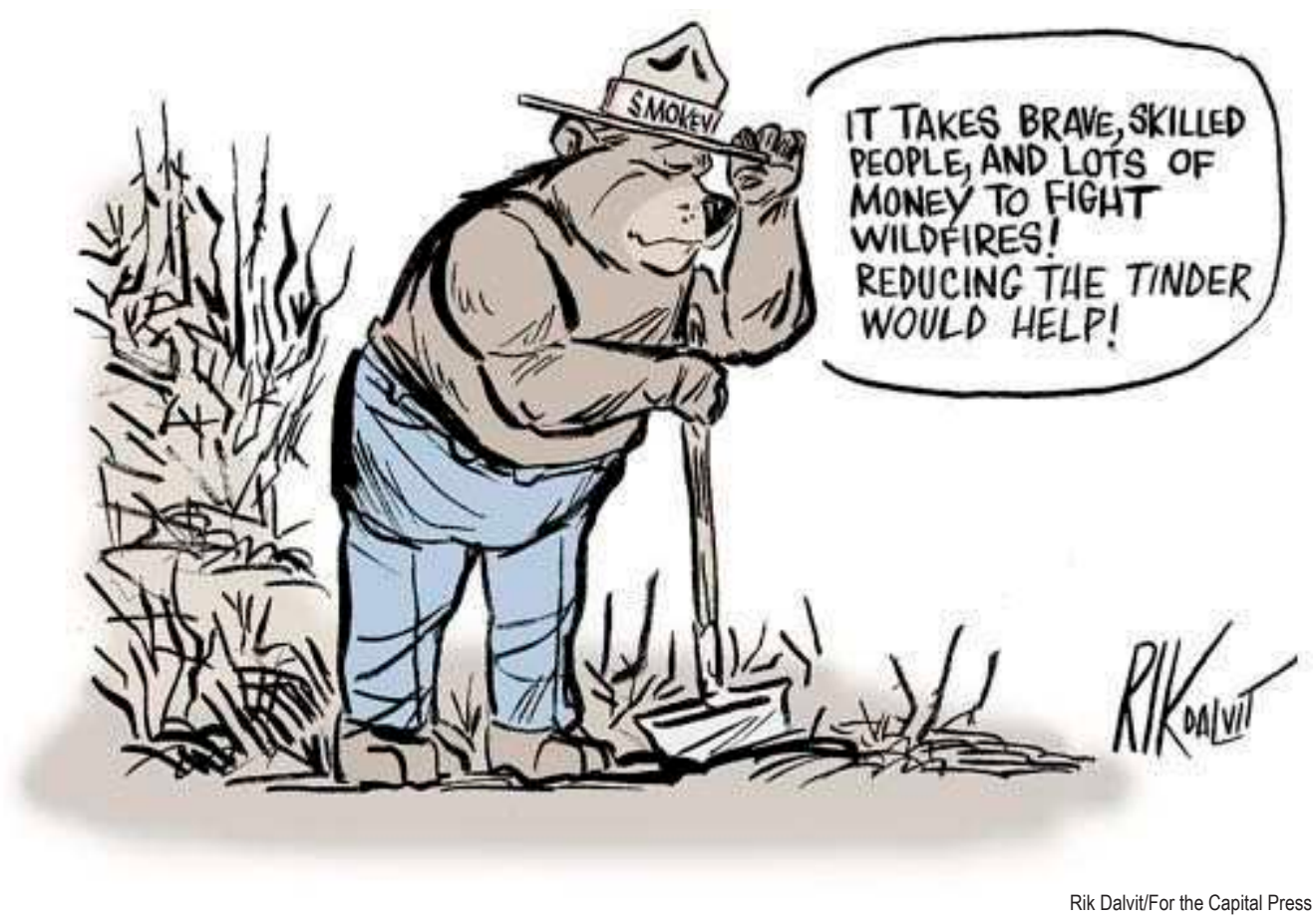
As long as there's money in attacking farms, ranches, businesses and anyone involved in natural resource development, environmental groups, aided and abetted by their fellow travelers in the EPA, will continue.

The drumbeat is growing, the game plan is well-known and the goal is clear. They will not stop until they have completely hamstrung the U.S. economy with their demands.

Lost jobs? They don't care. More expensive food? They don't care. Rural towns teetering on financial ruin? They don't care.

Those dairies in Yakima are to be applauded for their efforts to defend themselves. In a very real sense, they are defending all of us.

Unless and until Congress gets serious about rewriting the poorly written laws that are used as a blunt instrument against farmers, ranchers and other businesses, we will all remain at risk.



Rik Dalvit/For the Capital Press

Our View

Forest management, firefighter funding needed

Wildfires have burned more than 1.2 million acres across the West, and ranchers and timbermen are raising questions about the federal government's culpability in fostering conditions that have made the fires worse.

In an Aug. 17 letter, National Cattlemen's Beef Association and Public Lands Council officials urged President Barack Obama to "streamline regulations that will allow for active management" of federal lands and stop closed-door settlements with environmental groups that seek to block such efforts.

Further, NCBA president Philip Ellis and PLC president Brenda Richards voiced support for legislation that would require the U.S. Forest Service to treat at least 2 million acres a year through mechanical thinning or prescribed burns.

The NCBA and PLC are promoting the Resilient Federal Forests Act by Rep. Bruce Westerman, R-Ark., which passed the House of Representatives by a 262-167 vote in July. A similar bill by U.S. Sen. John Barrasso, R-Wyo., had a hearing last month in the upper chamber's Energy and Natural Resources Committee.

They have a legitimate point. Reductions in logging in federal forests have allowed fuel loads to grow. We believe environmental groups that sue over any attempts to extract timber from the forest — cutting or thinning — share much of the blame.

The Obama administration and the Forest Service are backing different legislation. The Wildfire Disaster Funding Act, proposed by Rep. Mike Simpson, R-Idaho, would treat catastrophic wildfires the same as other disasters when it comes to funding and end the practice of "fire borrowing," in which the Forest Service has to raid its management coffers when it exceeds its budget for firefighting.

Supporters say this would allow the Forest Service to spend more of its budget on forest conservation and restoration efforts.

There's no reason to put these measures in opposition.

Paying for firefighting is a separate issue from proper management of the resource. It shouldn't be an either-or situation, and partisans on either side of the issue are short-sighted to frame the argument in that way.

Even if the Resilient Federal Forests Act were to pass tomorrow and environmentalists dropped their opposition to active management, it would be years before fuel loads were reduced to the point where it would make a difference. Bankrupting the Forest Service in the meantime wouldn't further the interests of cattlemen, let alone the residents of forest communities.

And just giving the Forest Service more money to fight fires won't reduce the danger. Posing this option as a singular solution is irresponsible and puts the forest, not to mention the lives of the firefighers, at risk.

Readers' views

Spotted, barred owls really one species

In "Our View" you indicated that know-it-alls were trying to take over science. You failed to mention congressmen.

Science has always, and still, defines a species as a group of closely related organisms that are similar to each other and are capable of interbreeding freely in nature to produce fertile offspring.

The barred owl and spotted owl you referred to were viewed differently by science in 1962 when I was studying for my master's degree. Dr. Findley, of the University of New Mexico, in an ornithology class on speciation, cited these owls as possibly having been a single species, separated by glaciers during the last ice age and having evolved into their present form and place.

He mentioned the barred owls were moving westward and we should follow this movement to see what would happen if they were to occupy the territory of the spotted owl. If they were to breed freely and produce viable offspring they would be of the same species. It came to pass that they did meet and they produced viable offspring called sparred owls and these in turn bred with barred owls, spotted owls and other sparred owls.

Because these birds met the definition of a scientific species they should have been considered as such and allowed for nature to take its course.

But Congress in 1973 had passed the Endangered Species Act which had defined a species to include subspecies or distinct segments of any species and these must be protected from extinction.

Because the barred owls were more aggressive, the spotted owls were losing out. If we are not going to allow nature to take its course, then we are going to have to kill the barred owls and keep the loggers out of the woods.

After watching the forests burn because we have kept the loggers out of the woods, I am inclined to give these birds a single species name, which they deserve, and begin to manage our forests for their health and not the preservation of some subspecies. To continue as we have in this case is a losing battle.

Carlisle Harrison
Hermiston, Ore.

Why initiatives should remain a powerful tool

By GREG WASSON
For the Capital Press

Guest comment
Greg Wasson

The Oregon Secretary of State has refused to certify a proposed initiative that sought to prohibit state pre-emption of local laws.

Among other things, the rejected constitutional amendment would have allowed local bans on genetically modified crops — GMOs — as well as local control of pesticides, fracking and oil exports.

"The West's Ag Website" — www.capitalpress.com — is beside itself with joy at the news, and, hopes that "this puts an end to this (local control) nonsense."

Newspapers across the state reprinted the Capital Press' editorial "happy dance," silently agreeing that this level of local control would "set up a patchwork of regulation that would make everyone's business difficult, if not impossible."

The demerits of the "local control" initiative aside, the better response would have been outrage at the poor excuse for "due process" afforded the would-be petitioners.

Simply put, this total lack of constitutional respect is a direct attack on direct democracy.

One government official — the attorney general — advised another government official — the secretary of state — that the proposed constitutional amendment — co-sponsored by over 1,700 registered voters — would be invalid if approved, and, therefore should be rejected.

"Poof." That's the law.

No judge ever considered the issue, and the initiative's sponsors never got to make an argument to any neutral third party.

Moreover, the government's position ignores the fact that the first initiative adopted in Oregon was legally meaningless, and, therefore, technically invalid. Still, it is probably the most important initiative ever adopted.

In "America the Original," the various state legislatures — not the people — decided who would sit in the federal Senate.

In the later half of the 1800s — as more and more money gathered in fewer and fewer pockets — bribery became an accepted political practice and the Free-Marketplace of Ideas became the Convenience-Store of Accumulation.

Seats in the federal Senate formed the pinnacle of this parliamentary exchange.

Since the federal Constitution, the ultimate American law, defined how federal senators should be selected, the only way to change things was to amend the federal Constitution. The only way to do that was to convince the U.S. Senate to downsize its gravy train.

From 1872 to 1913, there were 239 formal calls "for direct election of the U.S. Senate, including 220 state party platforms and 19 national party platforms." The elected federal House approved the desired amendment four times.

But, the appointed federal Senate never concurred, and, Gov. T.T. Geer warned the 1901 Oregon Legislature, "probably never will."

In 1902, Oregon borrowed the initiative from Switzerland, and, in 1904 the precursor of the People's Power League initiated an imaginative — and largely symbolic — end-run on the federal Constitution that allowed Oregon to "elect" its federal senators in 1907.

With one state choosing its senators by ballot, the old appointment system crumbled. The 17th Amendment formalized direct election, and spread it sea-to-shining-sea in 1913.

So, essentially a bunch of well-educated Joes from Oregon City used non-binding initiatives to secure direct election in Oregon and facilitate the amendment of the federal Constitution.

If the state government could have stopped the 1904 initiative before it ever hit the streets, is there any doubt that it would have? And, can there be any doubt what the government would do if the situation ever arose again?

Word on the street is that the local control advocates are preparing to go to circuit court to fight for their local control amendment — Proposed Petition No. 30 (2016).

If the initiative power is to continue to mean very much, we have to hope they succeed.

Greg Wasson is a Salem initiative activist and executive secretary of the Committee for Petition Rights (CPR). He can be reached at PetitionCPR@aol.com.