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Opinion

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OUR VIEW

New WOTUS rule: So much for clarity

New water rules drafted by the Environmental Protection Agency and the Army Corps of Engineers are now in effect in most of the country — probably, maybe.

Authors of the rules wanted to bring greater clarity to federal regulation. Not so much, it turns out.

EPA and the Corps worked on the rule for a couple of years in the hopes of reconciling two separate Supreme Court decisions in cases involving the Clean Water Act. The object was to better define what constitutes “waters of the United States,” which the act gives the federal government authority to regulate.

Despite the government’s protest to the contrary, farm and ranch groups worried the feds would use the opportunity to expand their authority over “waters,” and therefore adjacent lands, not previously subject to regulation under the Clean Water Act. Such a designation could have profound and expensive consequences for landowners.

Twenty-eight states asked the EPA and Corps to delay implementation of the rules, arguing that the agencies had failed to follow proper procedure in formulating the rule, and that the rule trampled state sovereignty by regulating lands previously regulated by them.

The attorney general of North Dakota — joined by Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, New Mexico, South Dakota and Wyoming — filed suit. On Aug. 27, North Dakota U.S. District Judge Ralph Erickson granted a preliminary injunction delaying the rule’s implementation.

In his ruling, Erickson said the states were likely to succeed on the merits because the EPA had adopted an “exceptionally expansive” regulatory scheme, allowing the EPA to regulate “waters that do not bear any effect on the ‘chemical, physical and biological integrity’ of any

navigable-in-fact water.”

The EPA asserts the injunction only applies to the 13 states and that the new rule went into effect in the other 37 states as scheduled, 60 days after it was published. It points out that two other district courts rejected similar arguments made in suits brought by other states and farm groups.

Plaintiffs have asked Erickson to define the extent of his ruling. Appeals will follow. So much for clarity.

What is clear is that politics has played a big role in the case. All of the states that opposed the rule in court are run by Republicans. So, the rule does not

today apply in Idaho,

The Democrats who run Washington, Oregon and California — now firmly under the EPA’s thumb — are happy with the rule, and did not join any of the lawsuits. In fact, Oregon and Washington have intervened with other Democratic states on the side of the EPA.

They should have at least consulted the Army Corps of Engineers, which wrote a scathing email to EPA officials prior to the release of the final draft. Unhappy with the way EPA wrote the document, the Corps determined the rule would not withstand a court challenge.

We hope so.

OUR VIEW

Advice to California on wolves: Watch out

California is privileged to host a new wolf pack. Two adult gray wolves and five pups have taken up residence in Northern California’s Siskiyou County.

While California environmentalists and wildlife advocates are happy to see gray wolves in their midst after a long absence, pardon us if we don’t join the celebration.

We have intently watched the wolf experiment in the Northwest. Since 66 wolves were released in Idaho and Yellowstone National Park in 1995 and 1996, some of them have plagued ranchers around the region. Though the federal Endangered Species Act demanded that they be protected like some dainty butterfly, wolves are aggressive predators that reproduce far more rapidly than anyone anticipated. More than 1,000 now roam in Idaho, Montana, Washington state and Oregon.

ESA protections have been lifted in some areas, and state wildlife managers are allowed to do a better job of taking care of problem wolves, but in other areas wolves are still protected.

Wildlife managers have a difficult time with wolves. Mainly, they don’t know where some of them are. A female wolf magically appeared in southwestern Oregon to mate with OR-7, a wolf that had gone on a walkabout from northeastern Oregon into California and then met his dream date back in Oregon. They now have pups, so ranchers in that part of the state are getting ready for the excitement to begin.

Another wolf that managers didn’t know about was hit by a truck on Interstate 90 east of Seattle. Other wolves regularly cross the Canadian

border into Washington state.

When it comes right down to it, the estimate of the number of wolves in the Northwest can best be categorized as an educated guess. State wildlife managers always couch their population estimates by saying they are minimum numbers.

Yet ranch families — many who have raised cattle and sheep in the region for up to five generations — are supposed to stand back and allow the wolves to do their thing, which on many occasions means attacking their cattle and sheep.

They’re also supposed to pay for range riders, flashing lights, flags and other equipment that may or may not keep wolves away from their livestock.

The states and other groups do pitch in with the nonlethal preventive costs, but to put it bluntly, wolves have done little more for the ecosystem of the Northwest than to create an big,

whopping pain in the ... neck.

Though some packs do stay away from livestock because other food is plentiful, others have helped themselves to whatever livestock is around. Though the number of livestock depredations is relatively small, they do not reflect the cattle and sheep deaths that wildlife managers could not identify as wolf attacks or the losses in livestock weight caused when wolves continuously chase the herd.

Wolves have proven to be lousy neighbors everywhere they’ve moved in. Our worry is the California pack will bring more of the same heartburn — cattle and sheep depredations and attacks on wildlife.

California is coming up with a wolf management plan. Our suggestion: Don’t worry about the wolves; they obviously can take care of themselves. It’s the ranchers who will need protection.



Rik Dalvit/For the Capital Press

Providing regulatory relief to farmers, water users

By MIKE CRAPO
For the Capital Press

Guest
comment
Mike Crapo



Rural communities are under a substantial amount of financial strain and regulatory pressure and are looking for much-needed relief.

Bipartisan legislation I introduced seeks to help answer that call by dialing back duplicative and costly regulations associated with the federal pesticide permitting process.

The Senate Environment and Public Works Committee, on which I serve, recently passed this legislation, and work continues to see this legislation that will lift an added layer of needless red tape through to enactment.

For more than 30 years, the U.S. Environmental Protection Agency has implemented a comprehensive and rigorous regulatory structure for pesticide applications under the Federal Insecticide, Fungicide and Rodenticide Act, known as FIFRA.

FIFRA governs the sale, distribution and use of pesticides, with the goal of protecting human health and the environment. The statute requires pesticides to be evaluated and registered with EPA. Pesticide users must comply with agency-approved, uniform labeling standards.

Despite this federal regulatory framework, a 2009 court decision forced EPA to begin requiring Clean Water Act permits for applications of pesticides in or near water. This duplicative requirement went into effect in 2011.

As a result of this dual regulation, EPA estimates an additional 365,000 pesticide users will be required to obtain CWA permits. This is nearly double the number of entities previously subjected to permitting requirements, costing more than \$50 million a year.

I led a bipartisan group of senators in introducing legislation to eliminate this costly and

redundant regulation. S. 1500, the Sensible Environmental Protection Act (SEPA), seeks to clarify congressional intent concerning federal regulation of pesticides and codify longstanding interpretation of regulatory statutes after the 2009 court ruling imposed an additional layer of red tape on food producers.

The legislation would also direct the EPA administrator to report to Congress on coordination among federal agencies regarding streamlining information relating to water quality impacts from pesticide use and registration and analysis of the effectiveness of current regulations relating to pesticide registration and use aimed at protecting water quality and provide recommendations on any needed reforms to better protect water quality and human health.

In addition to fellow Idaho Sen. Jim Risch, 12 other fellow senators from both sides of the aisle joined me in introducing the measure.

We must have clean water, but overloading land stewards with paperwork and red tape is not the way to achieve it. Far more can be achieved by working with producers and water users to institute sensible practices.

This issue is a prime example of an unnecessary, duplicative regulation that must be fixed. Additionally, with the Obama administration’s recent CWA power grab, the problems and costs associated with this dual pesticide regulation will only become worse.

Congress must swiftly approve SEPA while we continue our fight against the inappropriate proposed regulatory expansion of the CWA.

Mike Crapo is a Republican U.S. senator from Idaho.

Three agricultural pillars to yield new U.S. relationship with Cuba

By ARTURO LOPEZ-LEVY
and PAUL JOHNSON
For the Capital Press

Just a few days after the historic visit of Secretary of State John Kerry to Cuba to raise the flag and open the new U.S. embassy, expectations are growing about what will happen next.

Within the executive branch, the debate is less about adjusting the embargo but more focused on the right way to replace it. In that sense, the opening of the embassies should be thought of as a prelude to new ideas for intensifying the rapprochement with Cuba.

In the new hour of U.S.-Cuba relations, it is important not to succumb to false expectations. This is a complex relationship with deep differences in values and interests between the two countries. The good news is that Cuba and the United States share economic, po-

litical and security objectives. Good management of these objectives would generate tactical trust and provide understanding for larger strategic cooperation. One of the key points where the two governments have a clear opportunity to advance trust and understanding is food security. Beginning in 2000, agriculture pioneered the first commercial opening to Cuba since the embargo was put into place four decades before. Since then the U.S. has been able to sell \$5 billion in farm products to the island.

Because Cuba imports between 70 percent and 80 percent of the food it consumes, it is highly vulnerable to a potential run-up in world food prices. Food deficits can create uncertainties that slow down the processes of economic reform, political liberalization and intergenerational transition in which Cuba is immersed. Just by buying and selling agricultural prod-

ucts in the United States, Cuba could save millions in transportation costs alone.

In contrast, cooperation and food trade between Cuba and the U.S. represent a win-win for both countries. Economic reforms in Cuba have prioritized market-oriented changes in the agricultural sector. The goal of building sustainable agriculture in Cuba aligns American interests and values with those of the Cuban reformers.

Support for private farmers and cooperatives and the handing over of land in usufruct represent important institutional progress in human rights. U.S.-Cuba food security cooperation will improve the right to nutrition, development, education and private property. Rather than promoting regime change by confrontation, American support for a market-oriented Cuban agriculture would encourage other economic sectors to emulate its successful path.

With Cuba, there are additional steps that President Obama and Congress should take — based on these three pillars — to create a more comprehensive and mutually beneficial agricultural relationship between our countries:

- Increase trade, investment and cooperation between the business sectors of both countries. Cuba will buy more from the U.S. if it is permitted to export more of its products here and when U.S. agriculture suppliers are permitted to compete against Cuba’s current business partners that have the ability to offer credit. Cuba should open significant space to its private sector for the purchase of agricultural equipment in the U.S., easing the inherited rigidities of its state monopoly of foreign trade.

- Intensify the relationship between the ministries of agriculture of the two governments. Given the health sensitivity of

food and agriculture, the geographical proximity, and the need for phytosanitary protection, the two governments have to cooperate on issues relating to food security. Bilateral exchanges should be reinforced by joint programs of multilateral institutions such as the World Food Programme and the UN Food and Agriculture Organization. Cuba should overcome its Cold War aversion to the Organization of American States system and join the Inter-American Institute for Cooperation on Agriculture.

- Promote agriculture educational cooperation. Cuba and the United States should integrate efforts in agricultural, livestock and biotechnology education. The U.S. can provide scholarships for Cuban agronomists, engineers, veterinarians and managers of agriculture-related businesses to study in American universities. The Department of Agriculture should support U.S. participation in bilateral and

multilateral projects to support Cuban development, reform and openness.

Finally, the importance of the agricultural community on the 2016 American electoral map cannot be understated. Although several Midwest farm states helped elect President Obama, their governors, and state and federal legislators continue to be predominantly Republican. There are also close social links between agricultural groups and conservative bases throughout the U.S., ties that are no longer limited to Florida domestic politics. This reality is important as agricultural states provide a powerful base of support for improving future U.S.-Cuba relations.

Arturo Lopez-Levy is an adjunct professor at the Center for Global Affairs of New York University. Paul Johnson is the co-founder of the U.S. Agriculture Coalition for Cuba.