

OUR VIEW

Congress, not president, must fix immigration laws

Earlier this month the Supreme Court heard arguments in a case challenging President Obama’s executive actions regarding illegal immigration. We believe the court should find against the president. Late in 2014, the president issued executive orders temporarily lifting the threat of deportation for as many as 5 million illegal immigrants who have been in the country for five years and who have children born in the United States, and to children brought by their parents prior to Jan. 1, 2010. His orders also granted these immigrants temporary legal status and work permits. In that, the president moved significantly beyond steps taken by other presidents on the issue. Twenty-six states sued, alleging the action violated the president’s constitutional duty to faithfully execute laws passed by Congress, and had not been



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carried out in accordance with the Administrative Procedures Act. A federal appeals court has upheld a lower court’s order blocking implementation of the order. Several farm groups have sided with the administration. We understand why. Dairies, nurseries, fruit growers and vegetable producers across the West need a source of legal labor willing to do the work citizens largely reject. We are also sympathetic to the plight of the 12 million or more illegal immigrants living here in the shadows. “They’re here whether we want them or not,” Justice Sonia Sotomayor noted during arguments. Indeed. Driven by crushing poverty, and often encouraged by their own governments, illegal

immigrants seeking opportunities impossible at home have flooded across the border. They have placed strains on public education, healthcare and law enforcement. Once here and armed with forged papers they have found ready employment on farms and construction sites, and in hotels, restaurants, processing plants and other places eager for cheap, reliable labor. While they work hard at jobs “Americans” often don’t want, by their numbers the undocumented workers have changed the dynamics of the entire U.S. workforce. Their repatriation would have a sizable impact on our economy, leaving many industries without viable replacements. While we sympathize with their situation, we can’t support this solution. We concede that the president has wide discretion in prosecuting deportation cases, even if applying such discretion so

broadly stretches the common exercise of the authority. But in granting illegal immigrants temporary legal status and work permits, the president has exceeded his constitutional authority. The Constitution (Article 1, section 8) gives Congress sole power to “establish a uniform rule of naturalization.” Congress has enacted laws that outline the process for immigrants to be granted legal status in the United States, and the president cannot change that by fiat. “It’s as if the president is defining the policy and the Congress is executing it,” Justice Anthony Kennedy said. “That’s just upside down.” Exactly. Only Congress can change the law. The law should be changed to provide deserving illegal immigrants living and working in the United States who meet strict requirements a pathway to permanent residency. But, this is not the way.

Bureau of Reclamation makes offer irrigators can’t refuse

By LAWRENCE KOGAN
For the Capital Press

KLAMATH FALLS, Ore. — Many may recall how Don Vito Corleone helped the fading career of singer godson Johnny Fontane to secure a film role he had previously been denied — by making the film studio owner “an offer he (couldn’t) refuse.”

In much the same way, U.S. Bureau of Reclamation Mid Pacific Region is seeking to help the Klamath Irrigation District to undertake the significant repair of a structurally compromised water flume integral to the Klamath Irrigation Project, which the Bureau recently thrust upon it — by making the district an offer to provide a \$10 million low-interest government loan bearing onerous non-negotiable terms that its board cannot refuse.

Life imitates art

Indeed, this would seem to be a clear case where life imitates art, as the one-sided C Canal Flume financing contract is certainly not an agreement that individual district farmers and ranchers would be inclined to sign had they the choice.

Under veiled threat from the Bureau to reallocate “limited” agency funds needed for the repairs and to suspend water delivery for the 2016 irrigation season, the KID Board of Directors is being compelled to execute what can best be described as a Chicago-mob-Mexican drug cartel-style extortion contract (i.e., a contract where “the consideration is a promise not to hurt someone who pays up.”)

Any objective review of this contract reveals the oppressiveness of its terms and conditions.

Most importantly, these

contract terms depart significantly from the terms of the 1954 and 1983 contracts the KID executed with the BOR; as a result, they fundamentally change the business relationship between the parties.

Contract terms

The C Canal Flume financing contract, for example, does not provide for the same 12-month period within which to cure a late payment or performance “default,” as do the earlier contracts. Were a late payment or performance default to occur, the BOR contracting officer would have the absolute discretion to suspend water deliveries to the KID and to reclaim control over project works previously transferred to the district for operation and maintenance.

In addition, the contract provides the KID with a brief 10-year loan repayment term, which the BOR contracting officer, in his discretion, may shorten if the district’s annual financials show an ability to prepay the loan, notwithstanding KID protest. Despite the difficulty the district would have in satisfying even a fixed 10-year loan term, the BOR’s ability to unilaterally adjust the contract’s repayment schedule would likely place the KID and its members in substantial financial jeopardy.

If district members suffer several successive bad years of agricultural production or lower commodity prices, the combination of a less than 10-year repayment term and the lack of a default cure provision would very likely result in KID contractual default.

A default, in turn, would trigger the BOR’s suspension of water deliveries to the district and the BOR’s

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take-back of KID project transferred works. A default under this new contract also would prevent KID irrigators from exercising their 1954 contract right to buy back their portion of the project from the BOR, leaving them at the mercy of the government for future water deliveries.

Take it or leave it

Furthermore, beyond imposing this take-it-or-leave-it contract, the BOR has failed, since 2001, to honor repeated KID requests to provide an annual accounting of the status of the district’s 40-year repayment and water service contracts to the U.S. government, as required by the Reclamation project Act of 1939.

By failing to provide the annual Statements of project Construction Cost and Repayment required under the reclamation law, the BOR has intentionally prevented the KID from accurately assessing its project debt and from accurately budgeting for potential future buy-back of its project transferred works.

To add insult to injury, BOR Mid-Pacific Region officials and managers have, for many years, freely interfered in and intruded upon daily KID operation and maintenance activities, including the planning and design of the C Canal Flume replacement, imposing unnecessary additional financial and other burdens on KID employees and contractors.

Local BOR officials have convened selective private meetings with KID employees and independent contractors without first contacting KID management or board members, despite being in-

structed to first seek management authorization. Local BOR officials also have diligently worked to shape and manipulate public opinion in their favor to ensure the KID acts consistent with the BOR’s policy agenda. These mob-cartel-like behaviors have unsettled KID employment and contractor relationships and harmed the new KID board’s relationship with district members.

Real agenda

It is not difficult to see the BOR’s true policy agenda: to convert the Klamath Basin’s once highly productive farmlands into nonproductive “wildlands” in favor of environmental and aboriginal tribal water rights preservation. The most efficient way of achieving this goal is to suspend water deliveries to the basin’s farms and ranches through means of federal-state deception, financial extortion, Endangered Species Act and tribal water rights edicts and dam removal.

It’s high time the U.S. Congress involves itself in these matters because they have implications far beyond the Klamath River Basin in Northern California and Southern Oregon.

Should the Obama administration successfully curtail and ultimately shut down agricultural production in these valleys, they are certain to do the same elsewhere in the rural West and Midwest.

Lower U.S. agricultural production can lead to only one result: higher food prices or more imported foods from less regulated Third World countries. Now, is that a legacy that Americans wish to leave to their children and grandchildren?

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BLM Resource Management Plan fails Western Oregon

By NICK SMITH
For the Capital Press

It would be nice if groups could sit at the table with the Bureau of Land Management and hammer out differences over future management of Western Oregon’s O&C forests, as the Capital Press recently suggested.

Unfortunately, that’s not how the agency operates these days, especially considering how the BLM developed its proposed Resource Management Plans over the past three years. With the agency proposing to lock up 75 percent of its forest lands from active management, it’s difficult to see how the BLM is achieving any level of balance.

O&C mandate

Unlike national forests, the O&C Act clearly requires the BLM to manage its Western Oregon lands for the benefit of host counties. For years the agency honored this unique mandate. Not only did this partnership support jobs and prosperity in our rural, forested communities, it enabled counties dominated by these federal lands to provide essential services to its citizens.

Under this partnership, counties have also voluntarily contributed a portion of their timber receipts back to the lands, investing in projects that help keep our forests healthy and accessible.

A cinderblock

Today, timber harvests on O&C lands have dropped over 80 percent, and timber receipt revenues are 35 percent of the historic average. Our forested communities suffer from high unemployment and poverty. County budgets, already cut to the bone, will now face truly draconian reductions as the so-called “timber payment” program expires.

Federal forest lands, especially drier forests of Southwest Oregon, are succumbing to catastrophic wildfire, which are also threatening adjacent private timberlands within the O&C checkerboard. Rather than providing our counties and communities a lifeline by following the law and honoring the principles of the existing Northwest Forest Plan, the agency threw us a cinderblock.

The proposed plan leaves just 19 percent of the land base for sustained yield timber production. A portion of the harvest volume offered under the plan would come from light-touch thinning on its reserve land, which is not a sustain-

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able source of timber over the long-term.

Harvest reductions

Even worse, the plan would reduce timber harvests in the southern and coastal BLM districts by 52 percent. If the plan is ever implemented, it will cost jobs where BLM forest ownership is highest, and further decimate the forest products infrastructure where it’s most vulnerable. The plan will also offer no relief to threatened species like the spotted owl, whose population will continue to decline due to the barred owl and whose “critical habitat” will continue to be destroyed by stand-replacing fire.

The new resource management plan falls short of the promises made to Oregonians under the Northwest Forest Plan. Regrettably, there’s no reason to believe the BLM will be any better at implementing this new plan. That’s because the plan doesn’t address any of the fundamental problems, including litigation, appeals, and interagency consultation, which have prevented the agency from implementing forest projects in the past.

Counties ignored

The counties, in particular, participated in good faith in the BLM’s planning process. Throughout 2015, many tried to convince the agency to offer planning alternatives that upheld federal law. Those efforts were repeatedly ignored, so it’s no surprise the counties have no alternative but to challenge the BLM in court. This fiasco demonstrates, once again, why we need Congress to provide a permanent solution for the management of O&C lands.

Many of us recognize that we will never return to past harvest levels. But it’s possible to honor the O&C Act and sustainably increase timber harvests while assuring recreational opportunities, clean water, wildlife habitat and other values.

It’s too bad the BLM never offered that chance.

Nick Smith is executive director of Healthy Forests, Healthy Communities, a nonprofit, nonpartisan organization that advocates active management of federal forest lands.

Readers’ views

What’s Upstream educates public

Regarding What’s Upstream. People who no longer live close to the land have difficulty learning how their food is produced. They need to know. Advertising is one way to share that information.

The Swinomish billboards depict what is happening across Washington state and the nation, not literally but symbolically. There are few cows wading in streams. Most milk cows

live out their short lives in crowded barns and corrals walking in and sleeping on their own waste products.

Managing the waste is such a big problem that Washington has a state run program for that purpose alone. And it is not working.

Make no mistake about it, every time we buy a quart of milk we pay for industry approved billboards that show happy cows grazing on green grass.

This is not reality. Critics of the Swinomish out-

reach do not argue with the truth in the message, only with how it was funded. Concentrated Animal Feeding Operations (CAFOs) pollute the waterways. There is simply too much manure.

Fishing and shellfish harvest are agriculture, too. The rivers and the oceans feed the world. And they are in trouble, in part due to pollution from industrial agriculture.

The only river that benefits from suppressing this message is “De Nile.”

Now a farmer in What-

com or Skagit County does not store or over apply manure with the intention of killing shellfish in Puget Sound or salmon in the watersheds.

He just wants to make a profit. How can the people who depend on the fisheries, and there are many, protect their own livelihoods and thrive as well? One answer is to educate the public. Sure it hurts, but people need to know that there are consequences to our actions.

*Jean Mendoza
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