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Opinion

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OUR VIEW

Corps plows under farmer's constitutional rights

The federal government's campaign against agriculture continues, as the U.S. Army Corps of Engineers drags yet another farmer into court for the "crime" of — get ready for it — plowing a field.

It would be funny if it weren't so pitiful. The most powerful government on the planet busting a farmer for, well, doing what farmers do. John Duarte, a Tehama County, Calif., farmer, had the temerity to convert 450 acres of pasture into a wheat field.

Oh, and he did it without genuflecting and kissing the ring of local Corps officials and

paying for a Clean Water Act permit.

That's it. There's no intrigue. There's no back story, hidden or otherwise.

There was also no due process. You know, that inconvenience to the government that was inserted into the U.S. Constitution by radicals such as James Madison, Alexander Hamilton, Thomas Jefferson, John Adams and George Washington.

They would be aghast to see how the 21st century federal government has tried to void that document by subtracting due process from the rights of farmers and ranchers.

The Corps of Engineers,

Department of Labor and the Environmental Protection Agency have long been the runaway trains of the federal government, substituting bureaucratic convenience for the right of appealing an agency decision.

In this case, Duarte was found "guilty" of plowing a field, and his due process rights evaporated along with the Corps' "plowing exemption" in which the agency assured farmers that they could farm without worrying about an attack.

However, the Corps found that soil was displaced while plowing an area it labeled wetlands.

"There's no way you can plow without displacing soil from the

track of the plow into a little ridge next to it," said Tony Francois, an attorney with the Pacific Legal Foundation, which is representing Duarte.

U.S. District Judge Kimberly Mueller was to rule July 1 on whether to re-hear Duarte's case.

We hope she gives this case another look, particularly in light of how the Corps skewers anyone who disagrees with its interpretation of wetlands and drags him into court or forces him to buy a Clean Water Act permit.

We have repeatedly pointed out instances in which federal agencies have tried to void the constitutional rights of farmers

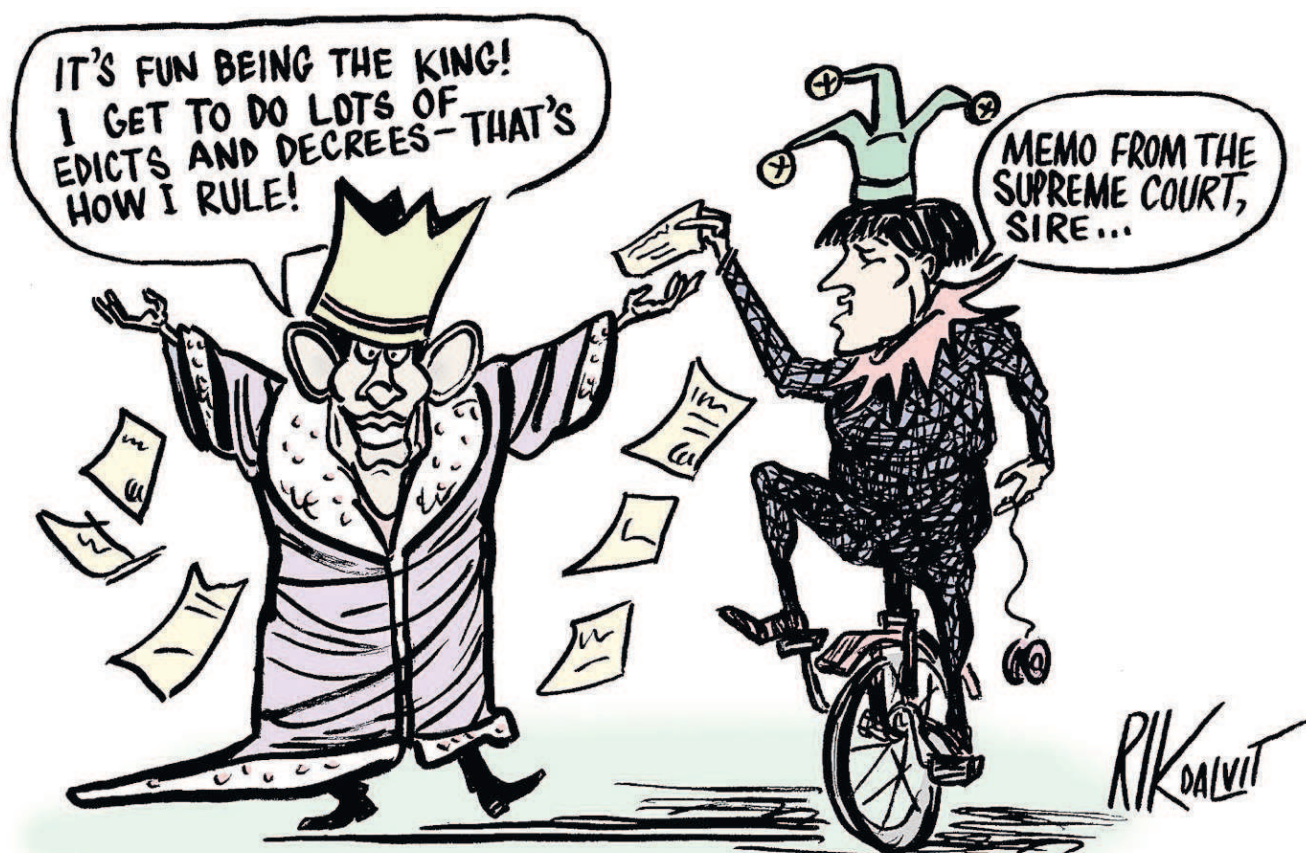
and ranchers. This is one more case of Uncle Sam masquerading as a thug.

It is also a case of the Corps sending a message to farmers that it has the final say on how every acre of farmland will be used. All of the assurances that farm activities will be exempted from power grabs such as the Waters of the U.S. ring especially hollow these days.

Farmers and ranchers must have the right to appeal agency decisions. The U.S. Supreme Court has unanimously ruled — twice — on that basic constitutional right.

The Corps is apparently looking to make it three in a row.

OUR VIEW



Rik Dalvit/For the Capital Press

Congress makes the law, the president enforces the law

The Supreme Court last week upheld the separation of powers as provided by the Constitution, ending President Barack Obama's attempt to change immigration law by fiat.

Driven by crushing poverty illegal immigrants have flooded across the border. They have found ready employment, filling vital but tiring manual labor jobs Americans shun. But they have placed strains on public education, healthcare and law enforcement.

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 here by their parents prior to Jan. 1, 2010.

His orders also granted these immigrants temporary legal status and work permits.

Twenty-six states sued, alleging the action violated the president's constitutional duty to faithfully execute laws passed by Congress, and had not been carried out in accordance with the Administrative

Procedures Act.

The district court in Texas and the 5th U.S. Circuit Court of Appeals agreed. On a 4-4 vote due to the death this year of Justice Antonin Scalia, the Supreme Court leaves in place the ruling by the federal appeals court in New Orleans.

Article 1, Section 8 of the Constitution 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.

In granting illegal immigrants temporary legal status and work permits contrary to those laws, the president exceeded his constitutional authority.

We concede that the president and his law enforcement agencies have great prosecutorial discretion in pressing deportation cases, even if applying such discretion so broadly stretches the common exercise of the authority.

We could argue that we have 12 million illegal immigrants and all the issues inherent in their presence in large part because presidents of both parties have not, for a variety of reasons practical and political, fully

enforced existing law.

While the president can within legal boundaries enforce laws as he sees fit, he cannot make or change those laws. That's the job of Congress. And for the sake of this exercise, it matters not that Congress has failed to address these issues with changes to existing law despite nearly universal dissatisfaction with the status quo.

Last week's ruling set no national precedent and changes nothing in practical terms. Few illegal immigrants outside those convicted of felonies will be repatriated. The millions who, armed with fake papers, hold jobs and live quietly will continue to do so in the shadows without legal status.

As we've said, the law should be changed to provide a pathway to permanent residency, but not citizenship, to deserving illegal immigrants living and working in the United States who meet strict requirements.

But whether we let illegal immigrants stay or force them to go, in the end it is most important that we do so under laws passed by Congress and enforced by the executive branch.

Does anyone care what is happening to the dairy farmer?

By ARDEN TEWKSBURY
For the Capital Press

Guest comment
Arden Tewksbury



Several months ago we reported and we continue to report that dairy farmers are receiving a milk check that is 40 percent below 2014's price.

Finally, other people have started to use percentage figures, but none of these people are urging any steps to eliminate this financial mess.

Does it have to be this way? Of course not. The solution to me is very clear. The Federal Milk Marketing Improvement Act can correct many of the inequities that are facing dairy farmers today.

If this act had been passed in previous years, the average dairy farmer would not be in the financial crisis he is facing today.

Let's examine many of the reasons dairy farmers are in their present situation. In 1981, Congress froze the dairy support price at \$13.10 per hundredweight but in a few days it went to \$13.60. Since that time, they continued to drop the support price until it reached \$9.90 per cwt — unbelievable!

Congress also passed legislation that compelled dairy farmers to pay money into the dairy herd termination act as well as the milk diversion program. Later dairy farmers were victimized by the Gramm-Rudman deductions. Later Congress mandated the Federal Milk Marketing Orders be consolidated to the present number. Some of us testified at a milk hearing in Alexandria, Va., urging the new consolidated Order 1 to consider the dairy farmer's cost of production.

However, this was done in vain.

What did dairy farmers lose by the consolidation in milk orders? Well, they were mandated to have their milk price on a product price formula, which included the milk processors to receive a make allowance at the dairy farmers' expense.

What else did dairy farmers lose? They lost the cooperative payment provision that was contained in Order 2, which mandated the market administrator to compel the dairy cooperatives to market a producer's milk in the event any producer had lost his market.

Look at what is happening today.

Former Order 2 producers also lost farm point pricing, which mandated a dairy farmer had his milk priced at his farm, not at a plant 200 miles away. Dairy farmers also lost the base excess plan that was contained in former Order 4. Improvements could have been made in this plan that would have prevented large corporate farmers from flooding the market.

So what did Congress do to further advance the escalation of many dairy farmers? The current Farm Bill eliminated the milk price support program and eliminated the MILC program. In its place, they passed a very controversial and unethical margin insurance program, which does absolutely nothing for dairy farmers to receive a fair price for their milk.

Isn't this a great record for Congress? We haven't even mentioned some of the trade agreements that have injured the American family farm. Also, please remember some of the New York politicians put on a great push to encourage N.Y. dairy farmers to produce more milk for yogurt plants.

One plant failed; another plant is still in existence using a lot of N.Y. milk but opened a plant in Idaho, consequently using less N.Y. milk.

We and other organizations always proclaimed that dairy farmers should not be encouraged to produce more milk for the export market. Look at what has happened.

Now, Mr. Dairy Farmer, do you think Congress has been fair to you? Of course not. It's high time that all dairy farmers get behind the Federal Milk Marketing Improvement Act. It could play a major role in stabilizing a fair price to all dairy farmers.

However, if you as a dairy farmer don't get behind this bill and urge all senators and House members to support this bill, then the alternative will be more and more of what you are going through today.

Arden Tewksbury is manager of the Progressive Agriculture Organization in Meshoppen, Pa.

Readers' views

Mobile slaughter units answer to wild horse problem

The Capital Press and the East Oregonian during the past year have had articles on mobile slaughter trailers. As I read these articles I thought this might be the answer to the surplus wild (feral) horse problem faced by the BLM. They are presently holding 47,000 horses in corrals and feeding them at a cost to taxpayers of \$50 million per year. I have advocated that these surplus animals be slaughtered and fed to the poor.

After visiting Iceland and rediscovering how savory horse meat can be and learning how nu-

tritional it is, I propose it be marketed as a health food. These horses exist because of the Wild Free-Roaming Horse and Burro Act of 1971. The BLM is charged with maintaining an Appropriate Management Level which presently is 26,715 animals. Currently it is estimated there are over 67,000 roaming the land, and they are increasing at 15 to 20 percent per year. These numbers are damaging the range, waterways, grouse habitat and are fouling remote wildlife water holes.

Those animals found to be exceeding the AML should be removed, but holding them in corrals would seemingly be violating the spirit of the Wild Free-Roaming Act. Slaughter is the only

logical solution and these mobile units might be the answer.

In as much as the BLM is spending over \$1,000 per horse per year it would seem they would see the value of spending the \$70,000 per unit mentioned in the East Oregonian article. I could see the BLM leasing these units to enterprising individuals. I can see Oregon Food Bank utilizing one or more of these units since they are always short of meat. Doing the math, it is obvious that it will take a number of these units.

Since these animals do not receive medications they would be an excellent source of an organic health food. In a recent survey 64 percent of

respondents say would not eat horse meat but this would indicate that 36 percent might. Winners would be the local fabricators who would build the units and the butcher-operators who would gain steady employment. People who would like to obtain a tasty source of a nutritionally superior meat free of additives could do so.

Those who might oppose a slaughter house in their back yard might favor horse slaughter if it was removed from their neighborhood. These units might also give the wimps in the BLM and Congress the courage to do the right thing.

Carlisle Harrison
Hermiston, Ore.