

Flood

CONTINUED from Page 1

The issue has pitted the southwestern Idaho irrigation community against the Idaho Department of Water Resources, which claims it has counted flood control releases from Boise River reservoirs against storage rights since 1986.

Irrigators say it's a new practice and have challenged it in court.

IDWR Deputy Director Mathew Weaver said the ruling vindicates

the department, which has been harshly criticized by some legislators and people in the irrigation community.

"The way we have been doing accounting in the Boise system ... was upheld by the judge," he said. "The department has done only what it was supposed to do here."

Wildman did rule in favor of irrigators on the issue of whether a water right exists for water that is stored in the reservoirs following flood control releases.

Wildman ruled that the record

clearly shows flood control releases occurred many times before 1971 "and that in all of those years, water identified by the (IDWR) director as unaccounted for storage was diverted, stored and ultimately used by the irrigators for irrigation. ... Under the constitutional method, the diversion and use of such water is all that is necessary to complete the appropriation and obtain a vested water right."

But Wildman's flood control ruling was a blow to Treasure Valley irrigators, who have said the prac-

tice could have dire consequences for agriculture in the region.

Water is released for flood control from Boise River reservoirs during seven out of every 10 years. The amount released varies considerably from year to year. Nearly 300,000 acre-feet of water was released from the reservoirs this year to prevent flooding.

Under the accounting practice allowed by Wildman's ruling, Batt said, "If (300,000) acre-feet of water is released for flood control, that means we have (300,000)

acre-feet less water to start the irrigation season with. ... That's a lot of water."

Batt said irrigators will likely decide in the next few weeks whether to appeal Wildman's ruling to the Idaho Supreme Court or seek a legislative solution.

Weaver said a settlement agreement between the parties is a valid third option.

"There might be an opportunity to push 'pause' and try to finalize (a) settlement agreement," he said.

Labor

CONTINUED from Page 1

would decimate orchard and packing shed workforces.

For the past 10 years, the McDougalls have been expanding their operation with more high-return managed apple varieties. They've invested multi-millions of dollars in new high-tech packing facilities and orchards to produce over 5 million boxes of apples, pears and cherries annually.

"We needed more tonnage to be competitive," Scott McDougall said.

As they expanded, labor became more of a problem. In late fall of 2011, the domestic labor supply was so scarce that McDougall hired 50 state prison inmates for two weeks to get about \$1 million worth of Jazz apples picked.

The bind prompted him the next year to accelerate his usage of H-2A workers. Since then he has spent \$9 million on housing for the 700 H-2A workers that help with harvest, but he feels small compared with Selah-based Zirkle Fruit Co., which according to the U.S. Department of Labor hired 2,889 H-2A guestworkers in 2015.

Other companies also use a lot of H-2A guestworkers. The total in Washington may exceed 15,000 this year.

"If we can smell the exhaust of companies like Zirkle, Washington Fruit or Stemilt Growers I think we're still in the game," McDougall said with wry humor.

Comparing candidates

McDougall is a lifelong Republican. His father was a Republican state legislator from 1961 to 1973.

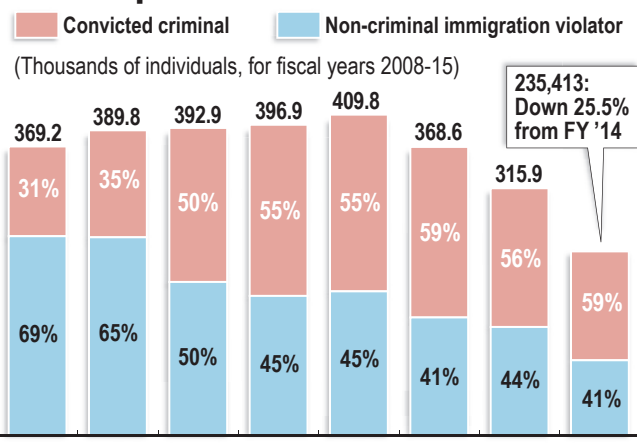
McDougall isn't fond of Trump but likes his business experience, "that he's had to make payroll" and fears Clinton's desire to raise taxes and turn to socialism is bad for agriculture and the U.S. economy.

"It literally forces a lot of people out of business and adds to unemployment. We need tax incentives for those who make investments and take high risks because that stimulates job growth," he said. "You only have to look at European socialism to see it doesn't work well."

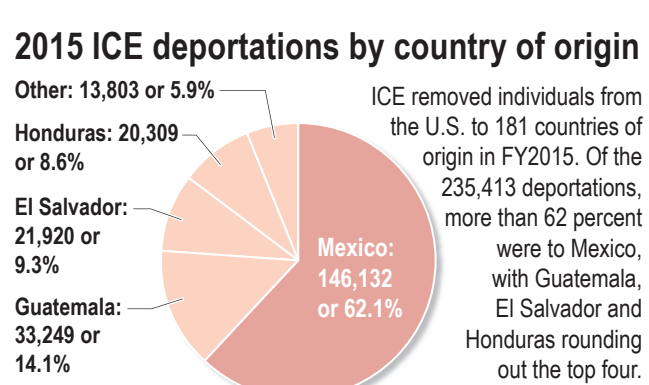
On immigration, McDougall doesn't mind having some illegal immigrants pay a fine, get work authorization and even a pathway to citizenship. But he doesn't think legalizing them will help a lot because many of them already work in other industries that pay more — or they will switch from agriculture once they're legalized.

He views improving the

ICE deportations from the U.S.



2015 ICE deportations by country of origin



Source: U.S. Immigration and Customs Enforcement, Dept. of Homeland Security

H-2A guestworker program as more important, and he believes Trump is more apt to do that.

H-2A is expensive because employers have to provide housing, pay transportation between the work site and the country of origin and pay a higher minimum wage called the Adverse Effect Wage Rate — or often pay piece rates that are even higher. McDougall also questions the fairness of that pay rate going up every year based on increases domestic workers receive.

McDougall likes that he gets about 80 to 90 percent of the same H-2A workers back every year. They like going home in winter and can earn as much in one month working for him as they can make in Mexico in a year.

On piece rate, many of them make the equivalent of \$20 per hour. Even at that pay rate and advertising nationally, only 2 percent of his workers are domestic.

"Over nine years of H-2A we've proven no one else will take these jobs," he said. "Everyone talks about a \$15 (per hour) minimum wage but it's kind of mind-boggling to realize tree fruit is paying \$20 and no one wants to do it," he said.

Other reactions

"All that is certain is uncertainty," said Chris Schlect, president of Northwest Horticultural Council, Yakima, Wash.

Comprehensive immigration reform is more likely to happen with Clinton, but she is more likely to pro-

mote unionization of H-2A workers while Trump would increase border control and possibly be more aggressive in sanctioning employers hiring illegal immigrants, Schlect said.

"In my opinion, either one, if elected to office, would use executive power to advance their own immigration policy positions to the maximum extent allowed by federal courts," he said.

Craig Regelbrugge is senior vice president of AmericanHort, Washington, D.C., and was co-chairman of the Agricultural Coalition for Immigration Reform that worked on the 2013 Senate bill.

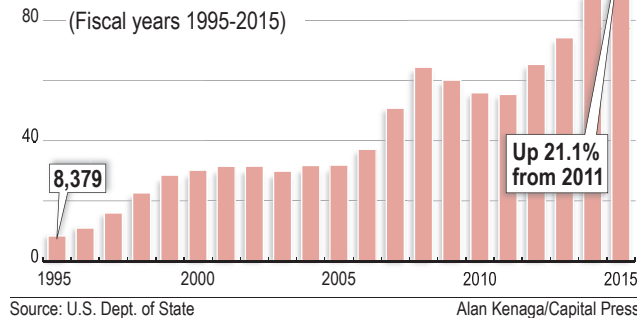
"Once again the politics are pretty much upside down. With Clinton it comes down to whether she will veer left in the direction of Bernie Sanders and Elizabeth Warren or toward the pragmatic though shrinking middle where solutions will be found," he said.

The solution isn't complicated, Regelbrugge said, it's some kind of legal status and work authorization that gives farmworkers the incentive to stay in agriculture for awhile and a "streamlined, market-oriented" visa program.

Trump, he said, appears to be putting a border wall and mandatory E-Verify ahead of improving the H-2A visa program.

Kerry Scott, program manager at masLabor in Lovington, Va., said he is not sure which candidate and party is more likely to do anything and fears noth-

H-2A visas issued worldwide



Source: U.S. Dept. of State



Chris Schlect



Leon Sequeira



Kerry Scott



Tom Nassif

ing will get done.

The company is the leading supplier of H-2A and non-agricultural H-2B foreign guestworkers in the nation, providing 13,000 workers to 800 clients in 46 states. The company's growth indicates a shortage of people willing to do "entry-level, outdoor, dirty, hard work," Scott said.

Trump's resorts in Florida and New England use H-2B seasonal workers, and his family's winery in Virginia uses H-2A workers, Scott said.

"We know he's favorable to H-2A an H-2B. He's said so. We have not heard any opinion on it from Secretary Clinton. We do know the administration she has been part of has made usage of H-2A and H-2B more difficult than any administration has done," he said.

Deportations

It's impossible to deport 11 million people, as Trump talks about, and bring those needed back in fast enough to continue agricultural, landscape and other seasonal jobs, Scott said.

"The destruction from that would be astronomical. I agree with him (Trump) that there has to be a way to separate the wheat from the chaff and I think there's more wheat than chaff," he said.

It takes years for people on temporary worker status to get permanent worker status, he said. That's why guestworker programs are necessary relief valves, he said.

Progress is more likely if Trump is elected with a Republican Congress than if Clinton is elected with a Republican Congress, he said.

"It's going to be hard to pull that lever, but I've been a Republican all my life. Right or wrong, I will vote for Trump.

program, Gasperini said.

Time with Trump

Tom Nassif, president and CEO of Western Growers in Irvine, Calif., met Trump at one of the candidate's rallies in Fresno last May and rode on his plane with him to San Diego. They talked for 15 to 20 minutes, mainly about immigration.

Nassif was instrumental in reaching a compromise with the United Farm Workers to craft the 2013 Senate bill.

Trump listened and commented how complicated the issue is when Nassif talked about the need for a new guestworker program to meet labor shortages and the need to give loyal, hard-working people a path to citizenship or legalization, Nassif said.

"A president Trump would solve H-2A very quickly where I'm not sure Clinton would change it in any way. Organized labor would hold her back," Nassif said. "I want to see immigration reform, but I don't think it's proper to do it by executive order."

Clinton hostility

Leon Sequeira, a Kentucky labor attorney and former assistant secretary of labor under President George W. Bush, said Trump would be better for H-2A while Clinton would simply continue or expand the Obama administration's "hostile approach toward farmers and the H-2A program."

"The Democrats' misguided strategy is to make the H-2A program unworkable, rather than help farmers manage the agricultural labor crisis facing our country," Sequeira said.

He was the main architect of Bush administration changes to H-2A, many of which Obama ended.

The biggest difference is probably Clinton's desire to grant illegal immigrants citizenship and Trump's refusal to do so, he said.

The problem with the Democratic position is that it insists on citizenship when Congress has rejected that repeatedly, he said.

"It's an all-or-nothing proposition. So Clinton just continues to play politics with the issue rather than looking for common ground," Sequeira said. "Trump's recent comments actually reflect an approach that has been supported by majorities of both parties."

In the long run, he said, what presidential candidates say is far less important than what Congress is willing to do.

CAFO

CONTINUED from Page 1

Environmental groups who submitted detailed comments were generally as critical of Ecology's proposal as the dairy industry.

Ecology should require dairies to line lagoons with synthetic material and install wells to monitor groundwater, the environmental groups suggested.

Environmentalists also criticized Ecology for proposing to regulate some dairies under state laws, rather than the federal Clean Water Act, which allows groups to enforce pollution laws by suing dairies.

The Washington Environmental Council urged Ecology to add a provision



Don Jenkins/Capital Press

A dairy cow eyes visitors to a farm in Whatcom County, Wash. The Washington State Dairy Federation warns new rules proposed by the Department of Ecology could force some dairies to close.

allowing private parties to sue farmers. "In the event

that government fails to act, the people of Washing-

ton need a back-up plan," according to the council.

The permit could apply to any operation that confines livestock, but the stakes are especially high for dairies that confine large numbers of cows year-round.

Dairies with fewer than 200 cows would be exempt from the rules.

The dairy federation argues that farms have made great strides in protecting groundwater and waterways in the past two decades under the state's Dairy Nutrient Management Act, which is enforced by the state Department of Agriculture.

Ecology estimates a CAFO permit would cost dairies between \$11,000 and \$25,000 over five years, depending on the size of the dairy.

The federation, however, says the estimate vastly understates crop loss-

es caused by prohibitions against spreading manure within 100 feet of ditches in some cases.

The federation also says dairies will need to expand lagoons or acquire land to store or dispose of manure because of prohibitions against spreading manure during non-growing seasons.

"Applications in late winter and early spring are applications before the growing season, but are done to ensure the nutrients are in the right form, at the right place, at the right time, and in the right amount for growth during the growing season," according to the federation.

The federation also said the rules would contribute to the loss of farmland, contradicting a state law that requires the state to avoid regulating farmers out of business.