

Supreme Court turns down Hage lawsuit appeal

9th Circuit reversed earlier favorable decision

By MATEUSZ PERKOWSKI
Capital Press

The U.S. Supreme Court won't review a court decision that stripped deceased Nevada rancher Wayne Hage of a legal victory against the federal government.

In 2013, the estate of Hage — an icon of the "Sagebrush Rebellion" against federal land policies — prevailed in a lawsuit filed by federal agencies that alleged his

cattle trespassed on public land.

U.S. District Judge Robert Jones ruled that Hage's cattle could legally cross federal property to access a stream in which he owned water rights. The judge also found that federal officials had engaged in a "literal, intentional conspiracy" against him.

The 9th U.S. Circuit Court of Appeals reversed that decision earlier this year, ruling that water right ownership doesn't give ranchers the right to run cattle across federal land.

Mark Pollot, attorney for Hage's estate, claimed the 9th Circuit misinterpreted the law and undermined water rights

across the West.

He asked the Supreme Court to review the case, but that request has now been denied.

The federal government initially didn't react to the Supreme Court challenge, but the nation's highest court ordered it to file a response.

For that reason, Pollot was optimistic that the justices were interested in the case, so their denial comes as a surprise, he said.

"It's directly contrary to prior decisions by the Supreme Court and to state laws," Pollot said.

It's possible the eight justices were evenly split on whether to take the case and

realized that it would likely result in a stalemate, which would effectively uphold the 9th Circuit decision, he said.

Though the Hage case wasn't granted Supreme Court review, Pollot said the litigation is likely to continue.

For one, Hage's son and namesake is still liable for trespass, which he plans to challenge, he said.

Secondly, there's a possibility for future problems if federal agencies don't permit Hage's estate to divert water from the stream in which it holds water rights, Pollot said.

"We still have some options I'm not ready to discuss," he said.



AP Photo/Elko Daily Free Press, Mark Waite, File
Rancher Wayne Hage is shown in 1997 in the area where federal agents seized 100 head of his cattle in 1991, in Meadow Canyon near Tonopah, Nev. Hage, who battled the federal government for decades over public lands and private property rights and came to epitomize Nevada's Sagebrush Rebellion, died in 2006.

Eastern Oregon water reservations renewed

Water rights available for up to 144,100 acre-feet

By MATEUSZ PERKOWSKI
Capital Press

Irrigators in Eastern Oregon can develop up to 144,100 acre-feet of new water rights due to the renewal of "water reservations" in three river basins.

The Oregon Water Resources Commission has unanimously approved the renewal of water reservations in the Grande Ronde, Malheur and Owyhee basins, which were set to expire early next year.

The water was "reserved" for economic development by the Oregon Department of Agriculture nearly 30 years ago, when the state mandated minimum in-stream flows for environmental reasons.

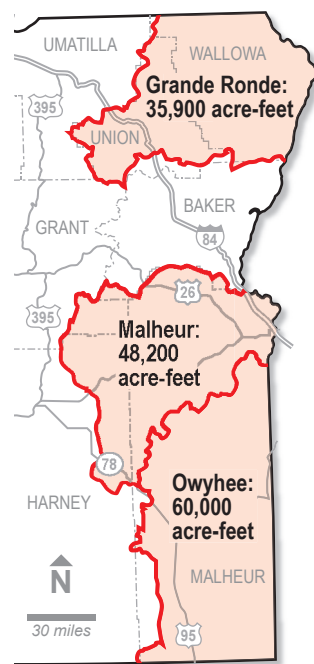
However, few water rights have been established from the available reserved water since then.

Irrigation experts in Eastern Oregon say it's unclear whether the story will play out any differently now that the reservations have been renewed for 20 years.

In eight out of 10 years, the Vale Irrigation District doesn't receive enough water to make any available to junior water right holders, said Dan Fulwyler, its executive director.

In the years there is enough

New water rights on tap in three Eastern Oregon river basins



Capital Press graphic

water for junior water right holders, it's only available for about two weeks a year, he said.

Due to this scarcity, farmers probably wouldn't want to invest in new water rights and facilities, Fulwyler said.

However, Fulwyler said it's conceivable the water reservations could be useful in filling existing reservoirs.

"It would have to be for storage, because nobody would want it for just two weeks," he said.

In the Grande Ronde Basin, irrigators have been discour-

aged by failed past attempts to create a new in-channel reservoir, largely because of potential environmental impacts, said Jed Hassinger, president of the Union County Farm Bureau.

"It's been a challenge to find suitable storage in the basin here," he said.

However, Union County is evaluating other options, such as off-channel or underground storage, under a \$197,000 place-based planning grant from the Oregon Water Resources Department, Hassinger said.

The region can grow high-value crops, including peppermint, sugar beets and seed potatoes, that would justify investment in new water facilities, he said.

In the Owyhee Basin, irrigators have been more focused on boosting water efficiency than developing new water rights, said Jay Chamberlin, manager of the Owyhee Irrigation District.

"The big driver has been conservation," he said. "The drought has expedited that."

With the renewal of the Owyhee Basin's reservation, irrigators will look at possible water right development, potentially involving the existing Owyhee reservoir, Chamberlin said.

Water storage and distribution are expensive, particularly with regulatory barriers, he said. "There's going to be tremendous cost if anybody tries to put that into use."

Washington, Oregon hopeful gypsy moth campaign worked

Too early to declare victory

Capital Press

Washington and Oregon agriculture departments trapped European gypsy moths this year, but no Asian gypsy moths, a sign that dropping insecticide over thousands of acres in the two states worked, officials said.

Washington's pest program manager, Jim Marra, said WSDA will need the same result for two more summers to consider Asian gypsy moths eradicated.

"While it is too early to declare the spring treatments a success, this year's trapping results are very encouraging," he said in a written statement.

WSDA sprayed more than 10,500 acres at six locations where the department trapped a total of 10 Asian gypsy moths in 2015.

Asian gypsy moths, which had not been detected in the state since 1999, feed on a wider variety of plants and are more mobile than European gypsy moths.

WSDA also sprayed the Capitol Hill neighborhood in Seattle, where 22 European gypsy moths were trapped.

WSDA caught 25 European gypsy moths at 21 sites



Courtesy of Washington State Dept. of Agriculture

Two gypsy moths stick to a trap collected by the Washington State Department of Agriculture Aug. 3 in Bangor adjacent to a naval base on the Kitsap Peninsula. Washington and Oregon agriculture departments trapped European gypsy moths this year, but no Asian gypsy moths, a sign that dropping insecticide over thousands of acres in the two states worked.

this year. The heaviest concentration was near the U.S. Naval Base in Kitsap County, where four gypsy moths were caught. No gypsy moths were found in areas that

had been sprayed.

The Oregon Department of Agriculture oversaw three applications of *Bacillus thuringiensis var. kurstaki*, commonly referred to as Btk, in the Forest Park and North Portland areas. A check of 3,000 traps in Portland and 19,000 traps statewide yielded no Asian gypsy moths, considered a particularly destructive crop pest. It's more of a threat than European gypsy moths because the female of the Asian variety can fly, potentially leading to quicker and more widespread infestations.

Two Asian moths in Portland were among the 14 gypsy moths found in Oregon traps last year. Another Asian gypsy was trapped across the Columbia River near the Port of Vancouver. Asian gypsy moths most likely arrive aboard cargo ships that ply up the river from Russia, Korea, China and Japan.

IS YOUR TRAEGER Holiday Ready?

MENTION THIS AD AND RECEIVE A 10% DISCOUNT

TRAEBER GRILL AUTHORIZED DEALER REFRESH AND REPAIR

GK Machine can MAKE YOUR GRILL LOOK AND OPERATE LIKE NEW! Get ready for the holiday season and have your grill repaired, refurbished and re-painted at GK Machine.

Call for a friendly quote! **503-678-5525**
10590 Donald Road NE • Donald, Oregon 97020 www.gkmachine.com

ROP-44-2-4/#7

CLEARY BUILDING CORP. WINTER BUILD SALE

Custom designed to your specifications!

FEATURING: FABRAL

Specializing in high-quality, customized Post Frame Pre-Engineered Structures!

For a FREE consultation and to find the office nearest you, contact us TODAY!

800-373-5550
ClearyBuilding.com

44-4/14

SCHULTE

5026 ROTARY CUTTER 15', 26', 30' & 42' Models

Hydraulic phasing Cylinders for level lift 1000 RPM Heavy-duty drive line

Spring Steel bushings at all major pivots Suspension for center & wing frames

WALTER IMPLEMENT

"Your Farm Equipment Specialists"

Odessa, WA
509-982-2644 • 1-800-572-5939

44-4/14

FAMILY GROWS WITH NW AG SHOW LEGACY Sponsored by: NW AG SHOW

Jim Heater walks the length of the floor at the Northwest Agricultural Show, greeting old friends and customers. At age 76, it's an experience he relishes.

"It's great to go back and help and have a reunion with these older exhibitors who have been there so long," says Jim. "We've made many, many friendships. It's very enjoyable."

Jim, with his wife Shirley, is the founder of the NW Ag Show, the longest-running and largest show of its kind in the Pacific Northwest. Billed as "Everything for Every Farmer under One Roof," the show features 200 exhibitors and educational seminars for more than 8,000 customers who attend over three days. The 48th annual show will be held January 24-26, 2017, at the Portland Expo Center.

According to daughter Amy, Jim recognized the importance of establishing an agriculture show in the Northwest after visiting what is now called the World Ag Expo in Tulare, California. Her dad, a Christmas tree farmer and farm equipment devotee, "saw the benefit of bringing together all the types of ag under one roof."

The first show, held at Oregon State Fairgrounds in 1969, featured 40 to 50 exhibitors and a couple hundred attendees. The show has been held at the Portland Expo Center for the past 40 years.

"It's beneficial to have a wide variety of exhibitors," says Amy, who with her husband Michael Patrick, has managed the NW Ag Show for the past eight years.

"I'm targeting agriculture. At my own farm we raise beef, we have a garden that's large enough to can and preserve, and we have some acreage in transition. These are the people who are at the show and the customers we're trying to reach," she says.

Amy and her siblings Joan and Tim, grew up on a Sublimity, Oregon farm that's been in the family for six generations. Her parents still live there.

"On a farm the family works together," says Shirley. "it's always take your kids to work day."

So it was only natural that the Heater kids began helping out at the ag show when they were young. Amy and Joan worked in the show office alongside Shirley while Tim was out on the floor during show setup with dad.

Amy recalls the fun of being able to get out of school to work at the ag show. That was the big deal for a 10-year-old.

"My first job was running messages to people in their booths. Dad taught me you don't want to interrupt and stall potential sales."

In college, Amy became more involved and started working as the show's assistant manager 18 years ago. Now, she is in the office on move-in day while Michael handles the equipment and the logistics of setting up the show. During the show they both spend time on the floor visiting with exhibitors and checking how it's doing. It's a mirror of her parents' responsibilities.

"I love the role reversal," says Shirley. "Amy grew up helping me at the office and now I go up to help her."

The Patrick's three teenagers – Wyatt, Kate and Abby – also grew up with the show. Wyatt would shadow his dad and the girls would spend time in the office before they each entered high school.

"It's very satisfying and very exciting to see Amy and the kids step up and do those things and be so capable," says Shirley.

For Amy, her favorite part of the NW Ag Show is seeing the transition from open floor space to "a hall full of gorgeous displays and products in just one day. It's pretty cool."

Northwest Agricultural Show
nwagshow.com

44-4/14