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Opinion

Our View

What's Upstream maneuvers through legal loopholes

We are occasionally reminded of this truism: What's right and what's legal are two different things.

The latest reminder came in the form of the Environmental Protection Agency's Office of Inspector General report on the What's Upstream smear campaign against Washington farmers. The inspector general's job is to make sure the EPA stays within the bounds of the law.

In its report, the inspector general found that EPA had adeptly steered the campaign through massive loopholes in federal law.

For example, it is against federal law to use EPA funds to lobby state governments. What's Upstream used advertising and mounted a letter-writing campaign to convince Washington legislators to pass a law requiring a 100-foot buffer along every body of water in the state.

According to the inspector general, however, this isn't lobbying. It looks like lobbying, and its aim was the same as lobbying, but, according to the law, it's not lobbying. To be lobbying, there must be a bill in the legislature, according to the inspector general's analysis.

Capital Press File

One of the billboards What's Upstream used to insinuate that Washington farmers are polluting rivers and streams and to push for a state law requiring 100-foot buffers. Such use of federal funds is legal, according to the state attorney general and the Environmental Protection Agency's Office of Inspector General.

That's a distinction without much of a difference. It is clear that the intent of What's Upstream was to convince legislators to pass a law requiring buffers.

It is equally clear that nearly $500,000 in EPA money went to the Northwest Indian Fisheries Commission and the Swinomish Indian tribe, which spent it on a smear campaign against farmers and an online letter-writing campaign to get a buffer law passed.

What isn't clear is why this isn't considered lobbying in the eyes of the inspector general.

"It just leaves you shaking your head," Jay Gordon, a dairy farmer and policy director of the Washington State Dairy Federation, told our reporter, Don Jenkins. "When we read common words, we expect them to have a common understanding."

The inspector general says the law must be interpreted as narrowly as possible and the lack of a specific piece of legislation made What's Upstream legal.

That's like saying a bank robber was innocent because he didn't get any money. He walked into the bank, handed a note to the teller and waved a gun around, but ran off without any money when the cops arrived.

That, according to the inspector general's line of reasoning, makes the robber innocent.

Washington's attorney general, Bob Ferguson, also issued a free pass to the What's Upstream campaign for the same reason.

Both the state attorney general and the federal inspector general appear to indicate that the laws have loopholes in need of repair.

Any time public money is used to smear farmers — or anyone else, for that matter — in an effort to push legislation, that is wrong. Legal, but wrong.

Our hope is that members of Congress and the Washington Legislature will follow up and close the loopholes in the federal and state laws.

As for What's Upstream, the EPA has stopped sending checks to the groups behind the smear campaign.

In a warped legal environment, that's about all we could have hoped for.

Our View

'Muddy' jeans without the work

Nordstrom.com

"Work jeans" for those who don't want to get their hands dirty.

We find ourselves this week at the intersection of the rural-urban divide and fashion.

In 1873, Levi Strauss and his partner Jacob Davis received a patent for denim work pants with metal rivets placed at stress points to keep them from ripping. And so were invented the blue jeans many of us know today, tough pants for people who did tough work.

Blue jeans have long since been the essential wardrobe of farmers, ranchers, tradesmen, mechanics and, well, just about anyone who makes a living with their hands. And over the years blue jeans have become acceptable wear for students, retailers and office workers. Throw on a blazer and a nice shirt, and jeans are good for a night on the town on Saturday and church on Sunday.

So respectable and accepted are blue jeans in all facets of life in the West that a colleague originally from Long Island notes that in Oregon an invitation to a "semi-formal" affair means she wears her dark blue jeans and a sweater, not the cocktail dress that is de rigueur in similar East Coast settings.

There have long been expensive designer jeans that, beyond being constructed from blue denim, have shared little in common with their work-a-day cousins. That's OK, because they've made no pretense to be practical work pants.

Until last week, when Nordstrom, the high-end department store, started selling "muddy" jeans. Barracuda straight-leg jeans from Portugal, to be exact, spattered with caked on "mud" for $425. A matching denim jacket is similarly priced.

National Public Radio calls it the "price of fake authenticity," a play on the store's description of the product: **"**Heavily distressed medium-blue denim jeans in a comfortable straight-leg fit embody rugged, Americana workwear that's seen some hard-working action with a crackled, caked-on muddy coating that shows you're not afraid to get down and dirty."

Really? What kind of knothead would think that a person wearing a pair of jeans caked in fake mud isn't afraid to get dirty? What kind of knothead would think anyone would think that?

Most farmers and ranchers we know, actually most any working person, would be mortified to show up in public looking like this unless they had just pushed the neighbor out of a ditch or pulled someone out of a well.

"They're not even fashion," said Mike Rowe, of "Dirty Jobs" fame. "They're a costume for wealthy people who see work as ironic — not iconic."

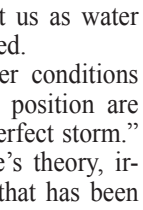
They are expensive garments for wealthy urban consumers who apparently have no idea how clothes actually get really dirty.

If they spent a day working in the field, on the range or in the factory, they could get authentic dirty clothes and the satisfaction that goes with a hard day of labor. What would their friends think of them then?

Idaho wants to count flood control releases against water rights

By ROGER BATT
For the Capital Press

Guest comment
Roger Batt



Arrowrock, Anderson Ranch and Lucky Peak reservoirs hold a total capacity of 983,000 acre-feet of water for irrigation, recreation and other uses. As of today, over 950,000 acre-feet of water has been released for flood control from these reservoirs in a well-calculated manner to protect our residents and prevent catastrophic flooding of the Boise Valley. Historically, seven out of every 10 years are years where flood control is needed.

For over 60 years, the Boise River reservoirs have been operated for flood control and water storage under a congressionally approved plan that was developed by the federal government, the State of Idaho and Treasure Valley water users. During flood season (right now), open space is maintained in the reservoirs for flood control to capture high runoff and control reservoir releases and river flows through the Treasure Valley. As the risk of flooding subsides, the reservoirs are filled to provide water for irrigation, recreation and other uses.

It is important to note that water released for flood control is water that we are not able to store for future use. This is water that is sent down to the ocean never to be seen again.

So why should you care? The reason: The State of Idaho has developed a theory that water released for flood control should count against you as water that you are using. That's right. This water that cannot be stored for future use is now supposed to count against your storage water rights — the amount of irrigation water you would normally receive during the hot summer months.

The argument is not about whether water should be released for flood control, it is about how those releases are now being accounted for due to the state's theory and legal position that is challenging our irrigators' storage water rights. Numerous water users in the Treasure Valley have been asking, "Why is the state challenging the validity of our long-standing water rights? How can water released for flood control purposes (something necessary to protect our community) count against us as water that is being used?"

During the time of year when flood control releases have been made there hasn't been a high demand for irrigation water for crops, golf courses, gardens or yards. Fields and canals were under snow and ice when flood control releases began in mid-February.

Yet during this same time, under the State's theory and legal challenges, those flood control releases would be counted against us as water that is being used.

2017 weather conditions and the state's position are creating the "perfect storm." Under the state's theory, irrigation water that has been historically available for irrigation purposes would now be exhausted due to flood control releases.

Having little-to-no storage water to use would have obvious devastating consequences for the Treasure Valley and the state. In a year like this one, under the state's theory our storage water allotments would be exhausted by the time natural flows in the river were depleted in June or July.

The fact that the State of Idaho simply disregards the reservoir operating plan developed over 60 years ago is very troubling.

No water user who agreed to this plan would have done so knowing that flood control releases would be counted against their water rights.

Roger Batt is executive director of the Treasure Valley Water Users Association in Idaho.

Letters policy

Write to us: Capital Press welcomes letters to the editor on issues of interest to farmers, ranchers and the agribusiness community.

Letters policy: Please limit letters to 300 words and include your home address and a daytime telephone number with your submission. Longer pieces, 500-750 words, may be considered as guest commentary pieces for use on the opinion pages. Guest commentary submissions should also include a photograph of the author.

Send letters via email to opinions@capitalpress.com. Emailed letters are preferred and require less time to process, which could result in quicker publication. Letters also may be sent to P.O. Box 2048, Salem, OR 97308; or by fax to 503-370-4383.