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Opinion

Editorial Board

Editor & Publisher
Joe Beach

Managing Editor
Carl Sampson

opinions@capitalpress.com Online: www.capitalpress.com/opinion

OUR VIEW

A split decision for Idaho's 'ag gag' law

The 9th U.S. Circuit Court of Appeals has struck down as unconstitutional most of Idaho's so-called "ag gag" law, which criminalized hidden-camera recordings of farm operations.

The ruling rejected Idaho's argument that prohibiting an audio or visual recording of agricultural operations is a form of regulating an activity, rather than an expression of speech.

While we sympathize with the circumstances that led the Idaho Legislature to pass the law in 2014, the law played fast and loose with the First Amendment and presented some thorny

practical issues for producers who sought prosecutions.

Lawmakers passed the statute in response to public backlash against a dairy company whose employees were filmed abusing cattle by an undercover animal activist. The abuse was undeniable. But it occurred outside the presence of the dairy owner, who was mortified at what he later saw on tape and took appropriate action.

The law made it a crime to make undercover recordings or gain employment under false pretenses at a farm.

The appeals court upheld a trial court's ruling that the law's

prohibition against making an undercover recording violated free speech rights. Specifically, the ruling rejected Idaho's argument that prohibiting an audio or visual recording of agricultural operations is a form of regulating an activity, rather than prohibiting an expression of speech.

At the same time, the 9th Circuit said two provisions of the law — using misrepresentation to obtain records and employment with the goal of causing harm — should be allowed to stand. The law allows victims to claim a judgment equal to twice actual monetary damages.

Supporters say this largely vindicates the purpose of the law. Those are important protections.

From a public relations standpoint, enforcement of any part of the law would be problematic for producers. No matter how a defendant gains access to a property, the evidence against him will be a video of what will appear to a jury to be abuse against farm animals.

We see it possible for a producer to win on the merits, be handed a monetary award and exit the courthouse as the villain.

We also question how much of a deterrence the law, even in its original form, will be to radical

animal activists. Whether their tape is trumped up or legitimate, a trial will give activists just the venue they're looking for to publicize the cause. An acquittal would mean vindication, but a conviction could be better still — nothing is better than to be made a martyr.

We continue to believe that the best defense is never having to go to court. That means giving your prospective employees a thorough vetting; having clear and enforced policies against abusive treatment; and being vigilant that there is nothing happening that you wouldn't want to see posted on YouTube.

OUR VIEW



Trade a make-or-break issue for Trump

For many in agriculture, there's a lot to like about President Donald Trump.

The way the president and his Cabinet members have pumped the brakes on overreaching regulations alone is enough to show U.S. farmers and ranchers that some level of common sense has returned to how the federal government manages resources.

The encyclopedic Waters of the U.S. rules were a perfect example of how regulation writers can spin out of control. By the time the rules were written, they had created more problems than they solved, and farmers and ranchers were worried that any pothole on their property could be regulated.

Other regulations written by the Obama administration had sent a lightning bolt of concern through farmers and ranchers as they worried how much the federal government would intrude on their livelihood.

When Trump shrank the size of several national monuments, he demonstrated an understanding that there is more to managing land than piling up brownie points with special interest groups. As an aside, those who want to enlarge national monuments have ample

opportunity. Congress can do that any time it wants.

But there remains an undercurrent of concern about Trump and his administration: trade. For many in agriculture, trade isn't an issue. It's the issue. About 90 percent of the wheat grown in the Northwest is sold to customers in Asia and elsewhere. Dairy, cattle and pork producers rely on exports. So do almond and hazelnut growers and apple, cherry and other tree fruit growers. In fact, if it's grown in the West, odds are much of it is sold overseas.

To do that, farmers, ranchers and processors rely on treaties such as the North American Free Trade Agreement. NAFTA includes Canada and Mexico. Together, those nations bought \$39 billion in U.S. agricultural products last year. The treaty has opened many doors for U.S. farmers and ranchers.

Last year, the U.S. posted an overall agricultural trade surplus of \$21.3 billion worldwide.

Other U.S. industries did not fare as well under NAFTA, so the administration has set about renegotiating it. Agriculture's plea: Do no harm.

During the campaign, Trump and his opponent, Hillary

Clinton, took turns bashing the Trans-Pacific Partnership, which included 11 other nations, including Canada, Mexico and another huge customer, Japan, which bought \$11.8 billion in U.S. agricultural crops and goods last year.

What they apparently didn't realize was that agriculture needs free trade. Without an agreement, tariffs and other roadblocks put U.S. farmers and ranchers at a disadvantage.

Trump has promised a better NAFTA and individual trade agreements with TPP partners. Progress has also been made with China, which last year bought \$22 billion in U.S. agricultural crops and goods, making it our biggest foreign customer.

Agriculture sees a lot of good in Trump. He's tossed overwrought and underthought regulations into the waste bin. He's shrunk national monuments that infringed on private property owners and he's offered hope for an industry that has struggled against public misperceptions.

But until he shows significant progress on trade, agriculture will be forced to withhold final judgment on his administration.

For Trump and agriculture, trade is a make-or-break issue.

Public deserves an honest debate over logging and wildfires

By MARK TURNER
For the Capital Press

Guest
comment
Mark Turner



Has anyone else noticed that some environmental types seem so dead set against logging that they would rather burn up our national forests than allow any kind of logging to take place? Their tendency is to spin the facts in order to make the public think that logging is always bad.

Out here in Oregon, last year we had another record year of forest fires. You would think that everyone would recognize the importance of not burning up our forests, for a whole host of reasons. Not these environmentalists, though. Their first claim is that it's all because of climate change. Now I'm not here to make any claims about the validity or invalidity of climate change. All I know is that our national forests are burning up.

However, that is not true of our well-managed private forest lands. In fact, about the same number of fires started on private land as on federal land. However, over 95 percent of the acres burned were on federal land. If it was all due to climate change, wouldn't just as many private acres burn as public?

My contention is that it is all about how the forests are managed. Our private forests are generally healthy and productive, while our public forests are generally unmanaged, unhealthy and unproductive.

Our environmentalist friends don't seem to be concerned by this, however. In fact, there is at least one well-known "scientist" that has been touting the importance of fires to the ecology. I'm sure that there is some validity to that statement, as long as the fires are on a small scale. However, when the fires get to the scale that we have seen in recent years, the negatives far outweigh the positives.

And how about all the emissions that these fires produce? Here in Oregon there is a big push to reduce our carbon emissions. A new gas tax here and a diesel tax there. Plus proposals for carbon taxes.

However, they don't seem to care that the small savings in carbon emissions these schemes will produce are minuscule compared to the carbon emissions from our forest fires. If we could keep our forests from burning, we would not only reduce the amount of carbon emitted into the atmosphere, as long as these forests are healthy, we will be taking

carbon out of the atmosphere.

The next issue is the erosion that these large fires cause. Most of these large fires occur on steep and sometimes unstable slopes. Many of us in the timber industry were wondering what the environmentalists' response would be when the heavy rains came this fall and the hillsides started washing away. You can only imagine how surprised I was to hear a Forest Service employee explaining, over the radio, that "there was much needed turbidity and a lot of large woody debris going into the streams in the burned areas." Then the employee went on to explain that "it would be really good for the fish."

To say that I was flabbergasted would be an understatement! Particularly since we are not allowed to put any turbidity into any streams from our logging operations. In fact, a few years ago, there was a lawsuit claiming that turbidity from a logging operation should be considered pollution. In my book, turbidity is turbidity. If it is considered pollution when it comes from a logging operation, it should also be considered pollution when it comes from a burned area — or from anywhere.

And finally, what about all of the habitat loss? Many of you may remember all of the loggers that were put out of business when the spotted owl was listed. Well, it turns out that the biggest threat to the spotted owls aren't loggers.

It is barred owls and forest fires. It turns out, recent data have shown that spotted owl habitat is especially susceptible to large forest fires. In fact, spotted owl habitat burns hotter and more completely than most other areas.

I think it's time for a much more frank and honest discussion about these issues. For my part, I think we would be much better off to actively manage these forests, making them more fire resistant and utilizing the extra materials for lumber and biofuels, rather than sending them up in smoke.

Mark Turner is the president of the American Loggers Council. Mark and his brother, Greg, operate Turner Logging out of Banks, Ore. Mark is an active leader of the Associated Oregon Loggers.

American Farm Bureau Federation

President Donald Trump speaks to the American Farm Bureau Federation convention last week in Nashville, Tenn. While he has made a lot of progress on many issues important to agriculture, significant progress is needed on trade.