

Editorials are written by or approved by members of the Capital Press Editorial Board. All other commentary pieces are the opinions of the authors but not necessarily this newspaper.

Opinion

Editor & Publisher
Joe Beach
Managing Editor
Carl Sampson
opinions@capitalpress.com | CapitalPress.com/opinion

Our View

No return to ‘sue and settle’

A change in presidential administrations leaves hundreds of environmental lawsuits filed against the Trump administration in flux. What the new administration will do with those lawsuits, however, has lawyers on all sides of the issues guessing. While the Biden administration most often will probably side with the environmental lobby, the experts say it probably can’t just march into court and drop cases on ideological grounds. It’s particularly difficult in cases where ag groups have become a party. How the existing suits are settled is of interest, but we are also concerned about the suits that have yet to be filed. We are wary that the Biden administration might return to a legal tac-



tic popular with Barack Obama — sue and settle. The scheme was simple. A special interest — environmentalists, for example — would file a lawsuit against a federal agency’s actions or its regulations. Because these were regulations or actions that the administration didn’t support, lawyers for the government were told not to take the case to trial. During the settlement talks, the special interests spelled out changes in the agencies’ regulations. This in essence allowed the agencies to write new regulations without having to go through the trouble of seeking public comment. It was a cozy arrangement with favored allies. But sweetheart litiga-

tion brought by environmental groups to expand an agency’s regulatory activities often ran against the wishes of Congress and the public. Senate Republicans hauled Obama administration officials to Capitol Hill to blast the policy. Even the courts didn’t always go along with the scheme. A decision in the 9th U.S. Circuit Court of Appeals struck down a consent decree in such a “sue and settle” case. Under the deal between the U.S. Forest Service and environmentalists, new regulations were written in private to cover how the agency will monitor and manage 400 species considered to be “ecologically crucial” to forest health. The court ruled that while the government can tell a party to the lawsuit that it will change the regulations, that

party cannot dictate the specifics of the changes. Nonetheless, the practice didn’t come to an end until Donald Trump took office and his agency heads defended their regulatory decisions. Agriculture saw much needed and favorable changes in policy and regulation during Trump’s term. Without doubt, the Biden administration will attempt to turn the clock back to 2016. These attempts must be transparent, not an end run around the process and the people. And, it will be more important than ever for ag interests to intervene in these cases where possible so that they have a seat at the table.

Our View



The Oregon Department of Agriculture is phasing out the use of the insecticide chlorpyrifos, but without funding adequate research to find effective and affordable replacements.

Oregon chlorpyrifos action puts farmers in a pinch

In its decision to phase out the pesticide chlorpyrifos, the folks at the Oregon Department of Agriculture appear to have forgotten someone: the farmers. Chlorpyrifos is an insecticide that’s been around 55 years. It is used on dozens of crops in Oregon to keep insects, worms and mites at bay. It is also used on golf courses and in greenhouses, wood treatments and roach traps and to kill mosquitoes. Chlorpyrifos is an important tool. It works well and is affordable. On farms and in commercial settings, additional training and protective equipment such as respirators, gloves and coveralls are required when the insecticide is applied, and the fields are off-limits to others until deemed safe. Household uses, where most of the concern was centered, have already been banned or phased out. Instead of awaiting direction from legislators, whose job it is to write laws and make policy, the state agriculture department went ahead and convened a work group to come up with a plan to phase out the use of chlorpyrifos. That’s fine. But, importantly, the ODA neglected to offer Oregon farmers adequate help in finding alternatives or replacements for chlorpyrifos. Just because an insecticide is banned doesn’t mean the insects will go away on their own. An undocumented letter that was circulated in the legislature last year by a lob-

byist for the organic industry said that dozens of alternatives for chlorpyrifos are already available to farmers. That was apparently wrong. Either that, or someone lost the list. Now Oregon researchers are playing catch-up to find alternatives and replacements for chlorpyrifos that are effective and affordable. And, unfortunately, they are trying to do it without adequate funding. Since chlorpyrifos was banned in California, the state has provided more than \$5 million in grants for research into alternatives. In Oregon, researchers have \$381,107 from two USDA specialty crop grants to do the same job. That will address a handful of crops out of the more than 50 on which chlorpyrifos is used. Depending on what the researchers find, it could be years before the alternatives and replacements are fully labeled and available for use. Under the ODA plan, chlorpyrifos will be phased out for most uses by the end of 2023. For the state’s farmers, the clock is running on whether adequate replacements and alternatives will be in place by that deadline. Without adequate state funding for research, the odds of meeting that deadline are slim. We urge the ODA to work with legislators to adequately fund this research.

Two valuable members retiring from Idaho Water Resource Board

As we head into the Christmas holiday season and the watch 2020 come to a close, I must admit that I’m feeling a bit of sadness — and a little bit of joy — contemplating the departure of two very valuable long-time members of the Idaho Water Resource Board — Vince Alberdi of Kimberly and John “Bert” Stevenson of Rupert, whose terms expire at the year’s end. I’d like to take a moment to reflect on their contribution to key milestones that the Water Board has achieved in recent years — things that are quite monumental in our world. The Idaho Water Resource Board was created in 1965 to create and implement a comprehensive State Water Plan for the conservation, development, management and optimum use of our water resources. We work very closely with the Idaho Legislature on water issues and policy. We are fortunate to have people with deep knowledge about water serving on our 8-member board. We have board members from all corners of Idaho, including Alberdi and Stevenson, who grew up in the Magic Valley and have in-depth knowledge of all the intricate workings of Snake River surface water, the Lake Erie-sized Eastern Snake Plain Aquifer (ESPA), natural springs in the Thousands Springs complex, the canal systems, etc. This knowledge and experience has been particularly helpful during the last decade as we’ve gone from a time when Snake River surface water users were making water calls and filing lawsuits to protect their senior water rights, and ground water users were fighting back in court to protect their interests as well. When a major water call came to a head in 2015, and thousands of ESPA ground water users faced getting shut down, as well as cities, dairies and businesses, the Idaho Water Resource Board was launching a new aquifer-recharge program — with significant political and financial support from the governor and the Legislature — to restore the aquifer. The goal is to recharge 250,000 acre-feet of water into the aquifer on an average annual basis. About the same time, House Speaker Scott Bedke mediated an historic settlement between Snake River surface water users and ground water users. The agreement required ground water users to reduce their consumption by 13% across the ESPA region, with a net reduction of 240,000 acre-feet of water per year. Both of those measures combined, along with actions by cities, food processors, and others, are restoring the ESPA by more than 500,000 acre-feet of water per year, causing the aquifer to rise by 2.2 million acre-feet over the last five years. That is a major achievement, one that is unique in the West. The Board is now well on our way to achieving the long-term average goal for ESPA recharge, established by the Idaho Legislature. Before we could start the aquifer-

GUEST VIEW
Roger Chase



fer-recharge program in earnest, however, we had to figure out how to do it. How could we send water into the ESPA? How would the water get there? Could we use the canal systems or would we have to build new infrastructure? Alberdi, who was an assistant manager of the North Side Canal and manager of the Twin Falls Canal for over two decades before he retired, thought it might be possible to use the canals in the winter, when they weren’t needed for irrigation. Pete Van Der Meulen, our Hailey board member and former CEO of Power Engineers, also championed that idea. But first, we checked with the canal company officials and got their thoughts. “We basically wanted to see if it passed the red-face blush test,” Alberdi recalled. “And they liked the idea. They were interested in working with us to save the aquifer.” Stevenson, who served 16 years in the Idaho Legislature and for 10 as the chairman of the House Resources and Conservation Committee, helped us communicate with Gov. Otter and the Idaho legislative leaders on how we might fund the aquifer-recharge program. The Legislature has really stepped up to fund recharge infrastructure and wheeling fees that our Board pays to canal companies on an acre-foot basis. That income is being used to modernize the canal system infrastructure and make much-needed repairs. It sure helped with their buy-in, too. All of this is working very well, and we’re working on adding more recharge infrastructure in the Upper Snake region in the coming years. What’s pretty amazing to realize is that Stevenson and Alberdi have seen a great amount of change on the Snake Plain. As a lifelong farmer, Stevenson grew up on a small farm in the Great Depression and watched ag technology evolve from horse-drawn plows to the latest ag technology employed today. He worked on a one-row beet harvester in the 1950s, and now he watches his sons drive a 12-row harvester with a semi-trailing rolling alongside to receive the sugar beets. Alberdi has seen vast changes in water management, hydro plants going in on the canal systems to add more value, and numerous aquifer-recharge basins being created to restore the aquifer. The best thing is today we are seeing a respectful peace prevailing on the Snake Plain. We all hope this will be a lasting solution to water conflicts as long as we stay on course with restoring the aquifer. Alberdi and Stevenson can retire from the board, knowing they have left things in a better position than ever. Roger Chase is the chairman of the Idaho Water Resource Board. He lives in Pocatello.