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Whatcom County

ABOVE: This photo taken Nov. 20 shows flooding on both sides of the Nooksack River in Whatcom County, Wash. BELOW: A flood blocks roads Nov. 15 in Whatcom County, Wash. A feed mill and rail line were temporarily closed blocking the flow of feed to dairies.

AFTER THE

FLOOD



Dillon Honcoop/Save Family Farming

NW Washington farmers seek help in taming Nooksack River

By DON JENKINS
Capital Press

LYNDEN, Wash. — For almost a month storms battered northwest Washington. One after another, they arrived so closely together from early November to early December that people were hard-pressed to report exactly which one damaged their home.

Whatcom County suffered the most damage. The Nooksack River flood was the worst disaster in the county's 167-year history, according to emergency officials. The lone fatality was Jose Garcia, 50, who was swept away while driving to his job at a dairy.

Record flood

The Nooksack River rose to record levels and neither farms nor fish fared well. Tens of thousands of livestock were displaced. Cows couldn't be milked, and feed couldn't be delivered. The state Department of Agriculture estimated damage to farms at \$27 million.

Fish hatcheries were clogged with mud. Floodwaters ripped up a new habitat restoration project, and wood placed in the river to help salmon became log jams, blocking fish and depositing sediment into their spawning pools.

See Flood, Page 11



Washington Department of Ecology

Capital Press graphic

U.S. Supreme Court declines to review 'grazing priority' legal battle

By MATEUSZ PERKOWSKI
Capital Press

An Oregon ranch family's legal battle over "grazing priority" is over now that the U.S. Supreme Court has declined to weigh in on the case.

The nation's highest court has let stand a ruling from the 9th U.S. Circuit Court of Appeals that determined the Hanley family's

property near Jordan Valley automatically lost its priority access to nearby federal allotments upon losing its grazing permit.

Grazing priorities or preferences put ranch properties at the top of the list to obtain permits for nearby grazing allotments owned by the U.S. Bureau of Land Management.

Mike and Linda Hanley leased their 1,900-acre private ranch to their daughter and son-in-law, Martha and John Corrigan.

However, the BLM refused to recognize the property's grazing priority because the Hanleys' grazing permit hadn't been renewed.

That decision foreclosed the Corrigan's ability to graze cattle on 30,000 acres of public allotments in neighboring Idaho, rendering the ranch operation economically unfeasible.

The Owyhee Cattlemen's Association and the Idaho Cattlemen's Association argued the BLM's decision "threatens to subvert the entire system of public land livestock grazing" by weakening the link between private ranchers and adjacent federal allotments.

See Grazing, Page 11

Oregon irrigation district defends pipeline from easement lawsuit

By MATEUSZ PERKOWSKI
Capital Press

The Tumalo Irrigation District in Central Oregon wants a federal judge to dismiss allegations that its pipeline project violates an easement by replacing open canals favored by opponents.

The irrigation district's easement allows it to convey water over the opponents' properties whether it's through an open canal or through a pipeline, said Mark Reinecke, its attorney.

"The method of delivery may reasonably change over time," Reinecke said during oral arguments Jan. 25. "There is nothing to say it cannot be done below the bottom of the canal or anything else."

A group of nine landowners filed a lawsuit against Tumalo Irrigation District in 2020, claiming their property values would suffer because piping the canal would prevent seepage that sustains vegetation and wildlife.

The plaintiffs sought a temporary restraining order against a portion of the pipeline project, but that was denied. The open canal was replaced last autumn but the next phase of the project is expected to begin later this year.

The lawsuit alleges that USDA unlawfully approved funding to replace nearly 70 miles of canals with piping but didn't properly study the environmental impacts as required by the National Envi-



Ryan Brennecke/EO Media Group File/Bend Bulletin

Excavation crews place a section of pipe in the Tumalo irrigation canal.

ronmental Policy Act.

The plaintiffs argue the easement is limited to the bottom of the canal and to 50 feet on either side of it. Installing the pipeline would require digging into the canal's bottom, which they claim is prohibited.

"Any expansion of that area would violate the terms of the easement," said Esack Grueskin, attorney for the project's opponents.

The irrigation district countered that the easement extends to 50 feet below the canal, as well as to both sides of it.

"It doesn't say either side, it

says each side," Reinecke said. "It's not two sides, it's all sides."

Beyond the geographic dispute, the plaintiffs claim that piping the canal would create a private nuisance and abuse the easement by increasing the burden on landowners.

"The burden is the loss of hundreds of thousands of dollars in property value. It cannot occur in this way if the burden on the servient estate is increased," Grueskin said, referring to the property subject to the easement.

See Irrigation, Page 11



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