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OUR VIEW

WOTUS rejection is a victory for landowners

You can add our voice to those cheering a decision by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers to rescind the 2015 Clean Water Rule meant to define waters of the United States that are regulated under the Clean Water Act.

WOTUS is on its way out. It's a victory for landowners against the power of the administrative state.

The EPA and the Army Corps worked on the rule for a couple of years in the hopes of reconciling two separate U.S. Supreme Court decisions in cases involving the Clean Water Act. The object was to better define what constitutes "waters of the United States," which the act gives the federal government authority to regulate.

The language of the rule extended regulation to isolated bodies of water that have a "significant nexus" with navigable waters of the United States. The rule left it to the bureaucrats to determine that nexus, and that rightly made farmers and ranchers nervous.

Despite their attempt, the final regulation brought little of the clarity it purported to provide.

Farm and ranch groups worried, despite the government's protest to the contrary, the feds would use the opportunity to expand their authority over "waters," and therefore adjacent lands, not previously subject to regulation under the Clean Water Act. Such a designation could have profound and expensive consequences for landowners.

Even the Corps had its doubts. Unhappy with the way EPA wrote the document, it wrote a scathing email to EPA officials prior to the release of the final draft. Among its complaints was a contention that in extending regulation to isolated bodies of water that have a "significant nexus" with navigable waters of the United States, but defining such bodies as having "no hydrological connection with navigable waters," made it unlikely the agencies could establish a nexus that would withstand a court challenge.

When the rule was released in 2015, a number of states and industry groups sued. Most notably, one lawsuit was filed by Scott Pruitt — then attorney general of Oklahoma and now the Trump administration's EPA director.

Jurisdictional disputes arising from those lawsuits resulted in a stay of the rule's implementation by the 6th U.S. Circuit Court of Appeals in October 2015. The Supreme Court will take up the case later this year, but will decide only the jurisdictional issues, not the merits of the rule's interpretation of what constitutes "waters of the United States."

Fulfilling a campaign promise, President Donald Trump in February issued an executive order for a review of the rule.

Getting rid of the rule as written is a good first step in reducing the reach of the administrative state. But that's not enough, because it will leave unresolved the ambiguity created by the disparate Supreme Court rulings. Farmers, ranchers and regulators need clear, unambiguous guidance on the true extent and limit of the government's authority.

On that point the next rule must be quite clear.

Grocers right to be concerned about tax

Grocers are going on the offensive long before a predicted tax battle begins, and it's probably a good thing.

Last week the Northwest Grocery Association filed the paperwork to petition for a ballot measure in 2018 to constitutionally bar taxes on food. The initiative would prohibit taxes at every point of food sales, from production, processing, wholesale and retail, with the exception of meals served at restaurants. It would not include alcoholic beverages, marijuana products or tobacco products.

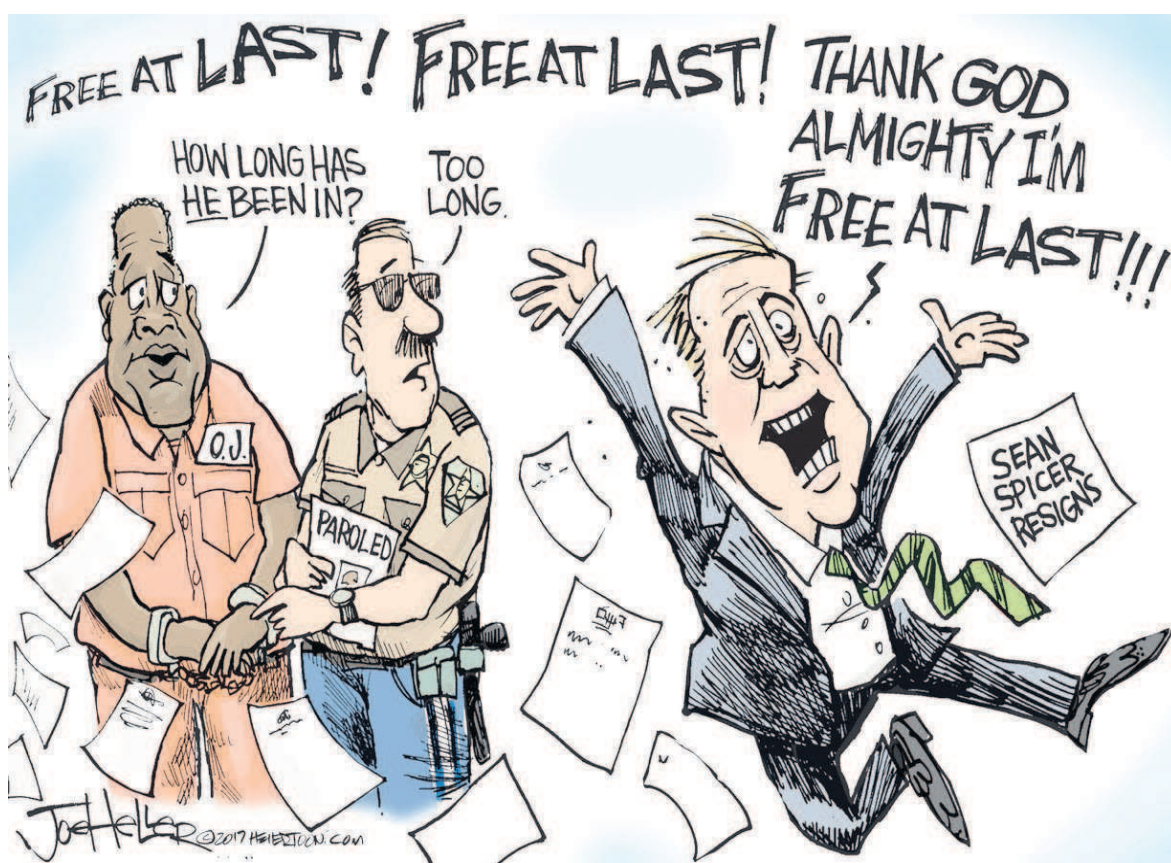
According to the initiative's language, it would go beyond just banning a sales tax — it would prohibit "a gross receipts tax, commercial activity tax, value-added tax, excise tax, privilege tax, and any other similar tax on the sale of groceries."

The association's action comes as public employee unions pursue placing a corporate sales tax on the ballot in 2018, a pared-down version of the ill-conceived Measure 97 gross receipts tax defeated in 2016. Grocers were a major opponent of Measure 97.

Under the proposed measure, the food industry would continue to pay corporate income tax, and the sales of other household goods and pet food still would be subject to taxes. The campaign will need to collect 117,578 signatures by July 2018 to win a place on the general election ballot the following November.

Joe Gilliam, the association's president, said the initiative's intent is "just protecting people's access to food and only food for human consumption."

Gilliam is right, food is a necessity and shouldn't be taxed.



The kook, 'the Mooch' and the loot

By CHARLES BLOW
New York Times News Service

On Friday, a "president" with no political experience brought on a communications director with no communications experience.

Donald Trump tapped Anthony Scaramucci, a Wall Street snake investment huckster,

to be the new communications director, a move that caused press secretary Sean Spicer, who The New York Times reported "vehemently disagreed with the appointment," to resign.

So, let me get this straight: Spicer was just fine with regularly walking out to that podium to spew and spin Trump's lies, but hiring "the Mooch," as Scaramucci is known, was the back-breaker? OK, whatever, Sean.

This illustrates best what is wrong with this communications shop, and by extension, this administration: No one is concerned with the truth; they are only concerned with their own trajectories.

Nothing about this White House communications department was ever about communicating. On the contrary, it has always been about deception, concealment and equivocation. Informing the public was never the mission. Flattering Trump was the mission. But in the end, Trump will never be satisfied, because successful communications for him is to get people to buy his pack of lies, and that isn't really working the way it once did.

Nothing will change with the arrival of the Mooch Communications Office because nothing has changed about the kook in the Oval Office. (Some may find that descriptor harsh, but I find no appellation too coarse to express my outrage over Trump's character, behavior and agenda. If anything, no word feels grave enough to properly express it.)

Trump is suffering horrendous approval ratings, an impotent legislative agenda and his irrepressible impulse to shove his foot in his mouth. There is no real way to better package this disaster.

For that reason, I found this shake-up far less interesting than the developments last week about the inexorably advancing Russia investigation.

Maybe it's just me, but I'm not interested in palace intrigue; I'm interested in the increasing possibility of prison and maybe even impeachment.

Think about all that happened last week: Donald Trump Jr. and former Trump campaign chairman Paul Manafort were invited to testify in open session before the Senate Judiciary Committee about that shady meeting they had in Trump Tower



AP Photo/Andrew Harnik

Anthony Scaramucci, the new White House communications director, accompanied by newly appointed White House press secretary Sarah Huckabee Sanders, right, speaks during the daily press briefing at the White House. Press secretary Sean Spicer resigned earlier in the day.

with a Russian lawyer. And the elder Trump gave an astoundingly bizarre interview to The New York Times in which he publicly slammed his own attorney general, Jeff Sessions, for recusing himself from the Russia investigation and drew a "red line," warning that Mueller should not investigate the Trump family's business dealings.

Reuters reported: "The Russian lawyer who met Donald Trump Jr. after his father won the Republican nomination for the 2016 U.S. presidential election counted Russia's FSB security service among her clients for years, Russian court documents seen by Reuters show."

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The Times also reported: "Banking regulators are reviewing hundreds of millions of dollars in loans made to Mr. Trump's businesses through Deutsche Bank's private wealth management unit, which caters to an ultrarich clientele, according to three people briefed on the review who were not authorized to speak publicly."

The Times report continued: "Separately, Deutsche Bank has been in contact with federal investigators about the Trump accounts, according to two people briefed on the matter. And the bank is expecting to eventually have to provide information to Robert S. Mueller III, the special counsel overseeing the federal investigation into the Trump campaign's

ties to Russia."

Not only did NBC report that "Marc Kasowitz is no longer leading the president's group of private lawyers," Politico reported that Mark Corallo, spokesman for the Trump legal team, resigned because he "was concerned about whether he was being told the truth about various matters."

If people on Trump's legal payroll are worried that they aren't being told the truth, how worried should the rest of us be? Very, I would venture.

Then there was the Washington Post report: "Some of President Trump's lawyers are exploring ways to limit or undercut" Mueller's Russia investigation, "building a case against what they allege are his conflicts of interest and discussing the president's authority to grant pardons, according to people familiar with the effort."

The Post continued: "Trump has asked his advisers about his power to pardon aides, family members and even himself in connection with the probe, according to one of those people."

I understand the press giving a lot of attention to the drama of changing press people, but that doesn't even register against the import of what's happening on the Russia investigation front.

All those things that have never made sense — Trump's warm-and-fuzzies for Vladimir Putin, the mass amnesia about meetings with Russians by people connected to the Trump campaign, Trump's prickly protectiveness about releasing financial details and documents, including his tax returns — must be made to make sense.

Mueller will not be threatened, the investigation will not be closed or constricted and the truth will be known. Incriminating personal communications are often hard to find, but financial records are often also kept by third parties and tell their own story.

As they say, follow the money.

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All letters are subject to editing for space, grammar and, on occasion, factual accuracy and verbal verification of authorship. Only two letters per writer are printed each month.

Letters written in response to

other letter writers should address the issue at hand and, rather than mentioning the writer by name, should refer to the headline and date the letter was published. Discontent should be civil and people should be referred to in a respectful manner. Letters referring to news stories should also mention the headline and date of publication.

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