

Clean Water Act ruling improves government accountability, experts say

By MATEUSZ PERKOWSKI
EO Media Group

A recent U.S. Supreme Court ruling on the Clean Water Act gives landowners the power to challenge the federal government's determination of whether their property is subject to restrictions.

With federal officials facing a new source of lawsuits after the unanimous ruling on May 30, they must now do a better job justifying their conclusions, legal experts say.

"The cavalier attitude toward asserting authority under the Clean Water Act we hope will change," said Reed Hopper, an attorney with the Pacific Legal Foundation, a public interest legal organization.

The nation's highest court rejected arguments by the U.S. Army Corps of Engineers that its "jurisdictional determinations" can't be challenged in court because they're merely advisory opinions that property is subject to the Clean Water Act.

The ruling is a victory for farmers and other landowners who would rather sue to prove their property doesn't fall

under the agency's jurisdiction than seek costly Clean Water Act permits or abandon their projects.

The federal government argued that landowners are free to ignore a jurisdictional determination and then fight the U.S. Environmental Protection Agency when defending against an enforcement action.

Chief Justice John Roberts, in his opinion for the court, dismissed the claim that landowners must expose themselves to sanctions to question the government's conclusions.

"Respondents need not assume such risks while waiting for EPA to 'drop the hammer' in order to have their day in court," Roberts said.

The practical effect is that federal agencies will need a solid scientific basis that private property has a "significant nexus" with waterways protected by the Clean Water Act, said Hopper, who argued the Supreme Court case on behalf of the Hawkes Co., which was blocked from extracting peat moss from its wetlands.

"The Corps is going to have to get its ducks in a row. It's going to have to provide data

to support its decision that this is a water of the U.S.," he said.

In the Hawkes case, the government required the company to obtain a Clean Water Act permit because the wetland allegedly had a "significant nexus" with a river 120 miles away.

William Funk, a professor at Lewis & Clark Law School, said he's an environmentalist but agrees with the Supreme Court that it's wrong to use jurisdictional determinations for the "power of extortion."

While obtaining a Clean Water Act permit is expensive, "litigation isn't cheap, either," he said.

Landowners aren't likely to file lawsuits over jurisdictional determinations "willy-nilly," but the prospect of litigation will force the government to be more careful than it otherwise would be, Funk said.

The Supreme Court's ruling was "pretty predictable" in light of its 2012 decision that EPA "compliance orders" — which forced landowners to remediate alleged Clean Water Act violations — are reviewable in federal court, he said.

In the most recent case, the Supreme Court told the

government that its theories of Clean Water Act jurisdiction are subject to checks and balances, said Danielle Quist, senior counsel for public policy at the American Farm Bureau Federation.

"There hasn't been a lot of sunshine on how the Corps determines its jurisdiction," she said.

Enforcement of the Clean Water Act is problematic because it's often unclear what's a violation of the statute, Quist said.

"There are due process concerns if you don't know what's expected of you or what is lawful or unlawful, and when there's criminal penalties involved," she said.

It is possible that federal agencies will simply stop offering "jurisdictional determinations" when they're requested by landowners, since no statute requires such decisions, Funk said.

However, that isn't likely because the government benefits from the process, since landowners voluntarily turn over information instead of forcing federal agencies to compile data themselves, he said.

Lawmakers plan statewide meetings on transportation

By PARIS ACHEN
Capital Bureau

A joint legislative committee charged with developing a transportation package for the 2017 session is headed across Oregon to hear from constituents, business and local leaders about regional needs.

The Joint Committee on Transportation Preservation and Modernization will conduct nine meetings around the state in the next three months to gather feedback and to build support for the package. The package could entail generating additional revenue to pay for projects. Lawmakers on the committee said they also plan to use the road trip to visit transportation trouble spots and help determine priorities for funding.

"We want to hear from Oregonians about their transportation priorities," said Rep. Lee Beyer, D-Springfield, the committee's co-chairperson. "This tour will give us the chance to discuss shipping routes with business owners, traffic flow with community leaders and congestion with commuters. It will provide the information we need to create the right statewide transportation for all of Oregon."

The announcement of the committee's tour dates in May 18 followed the release of a report by Governor's Transportation Vision Panel. The report outlined state transportation needs and involved a similar road trip to glean feedback from around the state.

The difference between that group and the legislative committee is that the visioning panel focused

on addressing broad transportation needs over the next 30 years, said Lindsey O'Brien, spokeswoman for House Speaker Tina Kotek, D-Portland.

"This work is more about in the near-term and what investment can the Legislature make in 2017 that will make a difference across the state," O'Brien said.

Another difference is that the panel met exclusively with stakeholders in the transportation arena, said Gregg Kantor, co-chairman of the visioning panel and chief executive officer of Northwest Natural. The legislative committee meetings are open to the public.

"Hopefully, our report will serve as a framework for the work they're doing," Kantor said.

The visioning panels' charge was to assess the condition of the state's roads, bridges and transit systems, identify actions that would address the state's needs in the next four years and develop a 30-year plan for transportation improvements.

Five of the panel's 34 members were lawmakers who now sit on the 14-member joint legislative committee traveling the state and developing a transportation package for 2017.

"Fundamentally, what the Legislature is doing is going around and probably affirming what they heard with the visioning panel," said Sen. Betsy Johnson, D-Scappoose, who is a member of both transportation groups. "We're explaining why this is so complicated. We're talking to local folks about what their needs are, eliciting support for a package."

BRIEFLY

Alleged bike thief lassoed by rancher in Wal-Mart parking lot

EAGLE POINT (AP) — Police say a man allegedly trying to steal a bicycle was lassoed by a rancher in the parking lot of a Wal-Mart in southwestern Oregon.

The Medford Mail Tribune reports 28-year-old Robert Borba was at the store getting dog food Friday morning when he heard a woman screaming that someone was trying to steal her bicycle.

The Eagle Point rancher says he quickly got his horse out of its trailer, grabbed a rope, rode over and lassoed the man and bike.

Eagle Point police Sgt. Darin May says police arrived and found a lassoed man and bike on the ground in the parking lot.

Police arrested Victorino Arellano-Sanchez, whom they described as a transient from the Seattle area, on a theft charge.

Evacuation levels lowered; Akawana fire 44 percent contained

BEND (AP) — The Oregon Department of Forestry says it has lowered evacuation notices for many homes near a wildfire in central Oregon.

The Akawana fire was ignited by lightning Tuesday and grew to 2,000 acres north of the town of Sisters, near Lake Billy Chinook. On Friday, the forestry department said it is now 44 percent contained.

Level two evacuation notices — which means to be set to go at a moment's notice — have been lowered to level one in a subdivision but some other homes remain at level two.

The department says its fire-behavior analyst, Mike Haasken, told firefighters that forest fuels remain very dry despite cooler weather. Firefighters using hand tools and a bulldozer have established containment lines and will be strengthening them, and mopping up hot spots.

Oregon registers 68,500 voters under "motor voter"

PORTLAND (AP) — Roughly 68,500 Oregonians have been automatically registered to vote under the state's new "motor voter" law.

That's an average 13,700 new voters a month through May, a big jump from the 2,000 per month Oregon typically saw before the automatic voter registration system kicked in Jan. 1.

The program automatically registers people to vote when they apply for or renew a driver's license or state ID card, and on Friday state elections officials began rolling out its second and final phase.

Phase two involves mailing registration paperwork to another 145,000 residents who interacted with the motor vehicle department in the two years before motor voter went into effect.

Oregon was the first state to put a motor-voter law into effect and others are now following suit.

Corrections

The East Oregonian works hard to be accurate and sincerely regrets any errors. If you notice a mistake in the paper, please call 541-966-0818.

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AccuWeather.com Forecast

TODAY	SUNDAY	MONDAY	TUESDAY	WEDNESDAY
Clouds and sunshine	Pleasant and warmer	Partly sunny; breezy in the p.m.	Rather cloudy	Intervals of clouds and sunshine
70° 45°	78° 51°	76° 48°	67° 45°	62° 47°
75° 46°	82° 51°	80° 53°	71° 46°	69° 49°

ALMANAC

PENDLETON
through 3 p.m. yesterday

TEMPERATURE HIGH LOW

Yesterday	63°	51°
Normals	76°	51°
Records	104° (1910)	31° (1897)

PRECIPITATION
24 hours ending 3 p.m. 0.28"

Month to date 0.38"

Normal month to date 0.55"

Year to date 5.97"

Last year to date 4.99"

Normal year to date 7.10"

HERMISTON
through 3 p.m. yesterday

TEMPERATURE HIGH LOW

Yesterday	71°	55°
Normals	78°	52°
Records	100° (1934)	38° (1938)

PRECIPITATION
24 hours ending 3 p.m. 0.04"

Month to date 0.12"

Normal month to date 0.25"

Year to date 4.35"

Last year to date 3.14"

Normal year to date 5.39"

SUN AND MOON

Sunrise today 5:05 a.m.

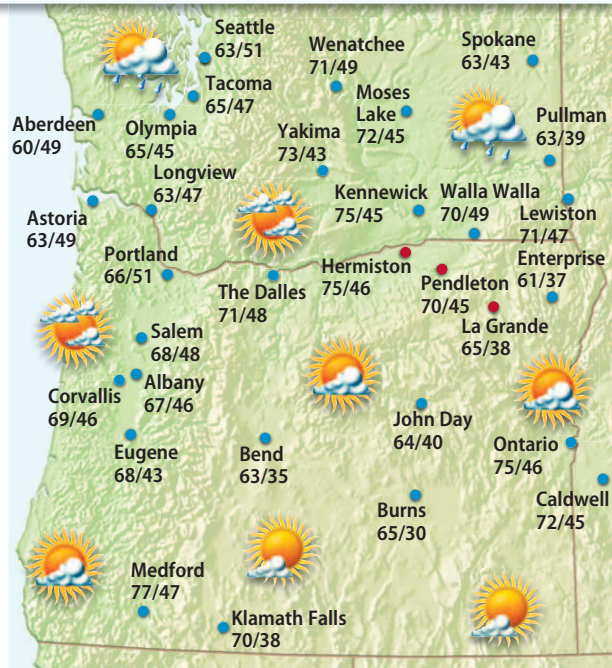
Sunset tonight 8:45 p.m.

Moonrise today 12:16 p.m.

Moonset today 12:48 a.m.

First Full Last New

June 12 June 20 June 27 July 4



REGIONAL FORECAST

Coastal Oregon: A brief shower or two today; in the morning in central parts, any time across the north.
Eastern and Central Oregon: Partly sunny today; cooler but pleasant in the south.
Western Washington: A couple of showers today.
Eastern Washington: Clouds and sun today; a shower in the north, near the Idaho border and in the mountains.
Cascades: A shower during the morning; otherwise, some sun today. Warmer in the south.
Northern California: Sunshine and patchy clouds today. Mainly clear tonight. Mostly sunny tomorrow.

REGIONAL CITIES

	Today			Sun.		
	Hi	Lo	W	Hi	Lo	W
Astoria	63	49	sh	64	50	c
Baker City	62	32	pc	72	37	s
Bend	63	35	pc	74	39	s
Brookings	61	49	pc	68	49	pc
Burns	65	30	s	74	37	s
Enterprise	61	37	sh	70	42	pc
Eugene	68	43	pc	77	45	pc
Heppner	67	43	pc	76	47	s
Hermiston	75	46	pc	82	51	s
John Day	64	40	pc	77	48	s
Klamath Falls	70	38	s	78	39	s
La Grande	65	38	pc	74	45	s
Meacham	62	32	pc	71	40	s
Medford	77	47	s	85	50	s
Newport	60	46	pc	61	47	pc
North Bend	64	49	pc	65	52	pc
Ontario	75	46	pc	81	48	s
Pasco	75	44	pc	81	49	s
Pendleton	70	45	pc	78	51	s
Portland	66	51	sh	74	51	pc
Redmond	66	33	pc	77	39	s
Salem	68	48	pc	77	48	pc
Spokane	63	43	pc	70	49	pc
Ukiah	60	35	pc	71	40	s
Vancouver	64	49	sh	72	50	pc
Walla Walla	70	49	pc	77	54	s
Yakima	73	43	pc	80	48	pc

WORLD CITIES

	Today			Sun.		
	Hi	Lo	W	Hi	Lo	W
Beijing	89	63	pc	92	70	s
Hong Kong	89	81	t	91	82	sh
Jerusalem	76	61	s	81	66	s
London	68	57	pc	66	56	sh
Mexico City	73	57	t	73	57	t
Moscow	59	48	sh	56	46	sh
Paris	66	57	t	65	56	sh
Rome	77	64	pc	77	61	t
Seoul	82	69	pc	81	64	c
Sydney	68	51	s	64	52	pc
Tokyo	80	69	pc	78	67	c

WINDS

(in mph)	Today	Sunday
Boardman	WSW 8-16	WSW 6-12
Pendleton	WSW 8-16	W 4-8

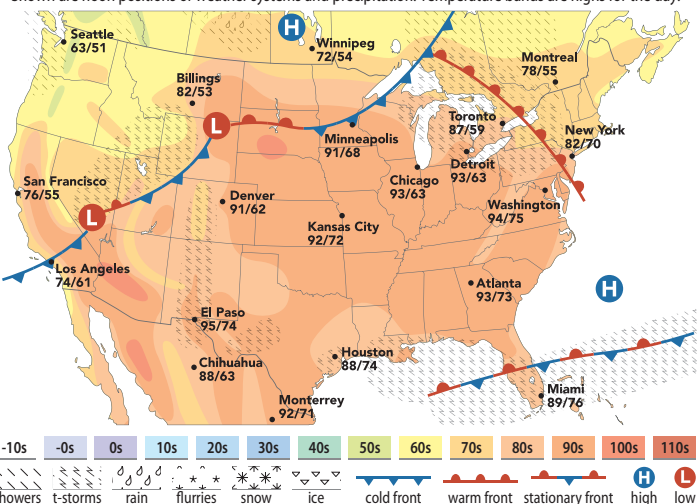
UV INDEX TODAY

2 5 7 7 5 2
8 a.m. 10 a.m. Noon 2 p.m. 4 p.m. 6 p.m.
0-2, Low 3-5, Moderate 6-7, High; 8-10, Very High; 11+, Extreme
The higher the AccuWeather.com UV Index™ number, the greater the need for eye and skin protection.

Forecasts and graphics provided by AccuWeather, Inc. ©2016

NATIONAL WEATHER TODAY

Shown are noon positions of weather systems and precipitation. Temperature bands are highs for the day.



Yesterday's National Extremes: (for the 48 contiguous states)
High 102° in Las Vegas, Nev. Low 31° in Tuolumne Meadows, Calif.

NATIONAL CITIES

	Today			Sun.				Today			Sun.		
	Hi	Lo	W	Hi	Lo	W		Hi	Lo	W	Hi	Lo	W
Albuquerque	88	64	t	90	64	pc	Louisville	95	72	pc	95	73	pc
Atlanta	93	73	s	94	74	t	Memphis	96	76	s	91	75	pc
Atlanta City	81	72	t	87	62	s	Miami	89	76	t	89	76	t
Baltimore	93	71	t	90	58	s	Millwaukee	91	59	t	88	57	pc
Billings	82	53	t	77	53	s	Minneapolis	91	68	s	85	69	t
Birmingham	94	73	t	91	73	t	Nashville	97	72	s	95	71	s
Boise	72	47	pc	78	51	s	New Orleans	90	77	t	90	76	pc
Boston	72	61	pc	74	55	pc	New York City	82	70	t	82	58	pc
Charleston, SC	91	74	pc	96	76	s	Oklahoma City	91	71	pc	91	73	t
Charleston, WV	94	68	pc	87	55	pc	Omaha	98	74	s	89	72	s
Chicago	93	63	t	73	58	pc	Philadelphia	90	72	t			