EAST OREGONIAN
Founded October 16, 1875

KATHRYN B. BROWN
Publisher

DANIEL WATTENBURGER
Managing Editor

JANNA HEIMGARTNER
Business Office Manager

TIM TRAINOR
Opinion Page Editor

OUR VIEW

AP Photo/James MacPherson

Jon Don Ilone Reed, an Army veteran and member of South Dakota's Cheyenne River Sioux Tribe, poses at an oil pipeline protest near the Standing Rock Sioux reservation in southern North Dakota on Aug. 25. Reed said he fought in Iraq and is now "fighting for our children and our water."

Oregon tribes support Sioux

Eastern Oregon tribes are reaching out to the Dakotas.

On Tuesday, Confederated Tribes of the Umatilla Indian Reservation chairman Gary Burke wrote a strong letter of support to the Standing Rock Sioux Tribe, who is protesting and opposing the Dakota Access Pipeline that would cross near their reservation and put their resources at risk. That protest has received considerable media attention — though perhaps not enough — and it highlights the latest in a near-continual fight between Indian tribes and those looking to take resources from or move them through tribal lands.

Tribes in the Dakotas, Iowa and throughout the west see the opportunity to turn this fight into a turning point in tribal relations. Nontribal members who are against fossil fuel companies and support treaty rights do, too.

The power of nonviolent protest, empowered by social media, has the opportunity to put the plight of American Indians — and their treaty rights — in front of more noses than ever before.

"We are offering our support in your valiant protest and remarkable leadership," wrote Burke. "Your cause is growing."

The Confederated Tribes of Warm Springs did the same. Tribal chairman Eugene Austin Greene Jr. wrote that the Warm Springs tribes wished to express "strong support for the efforts .... to halt construction of the Dakota access pipeline through traditional and sacred lands in the Northern Great Plains."

Both Oregon tribes see victory by the Standing Rock Sioux Tribe as a benefit to American Indians throughout the country.

"The project is a threat to the natural environment and endangers the health and security of many Americans," wrote Burke. "Furthermore, this project has all the appearance of being an affront to inherent and specific sovereign rights of Indian Tribes and the federal government trust responsibility. Action that has the potential to cause harm to your land or water resources should have been considering in siting the path of the pipeline."

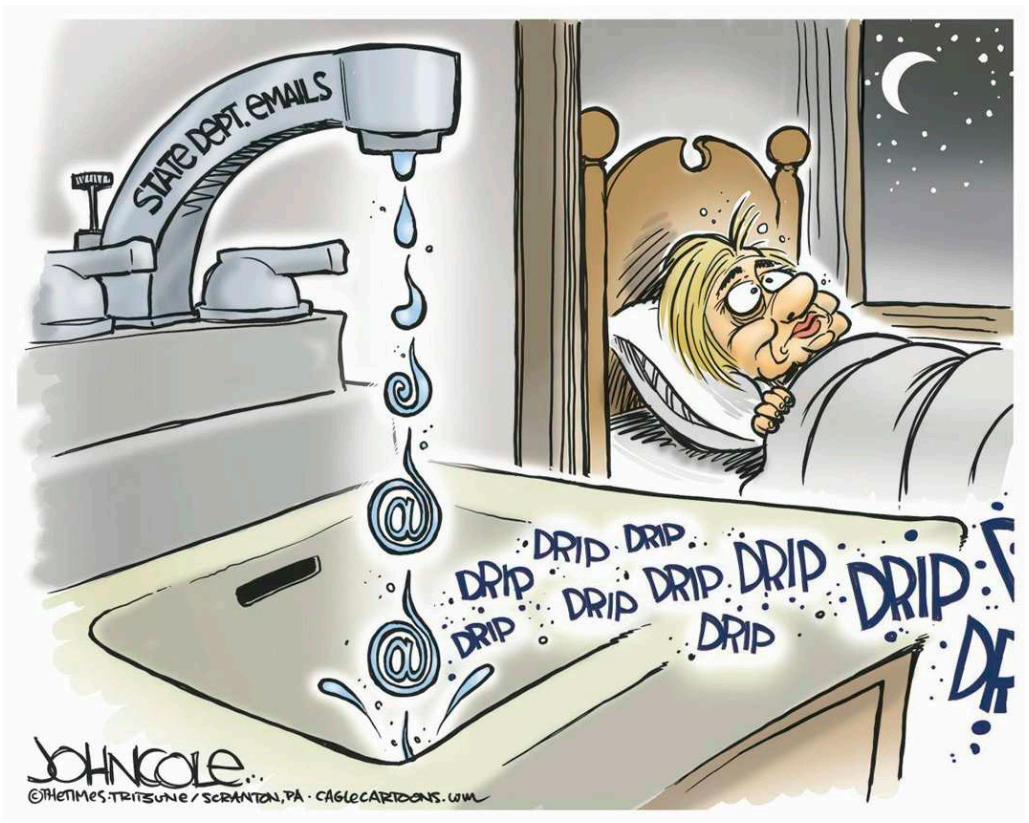
Greene Jr. noted the June 3 oil train crash and spill near Mosier, and how their treaty rights are endangered every week by fossil fuels being transported near their fishing and drinking waters.

"Natural resources being commercialized, harmful drinking water, oil, coal, trains, pipelines, toxic waste, nuclear plants, air quality and mining are some of the environmental justice issues various tribes across Indian country face today," he wrote.

A federal judge is expected to issue a ruling by Sept. 9 as to whether or not the Army Corps of Engineers violated the Standing Rock Sioux's treaty rights in approving the pipeline. Perhaps the actions and words from tribes across the country will make a difference.

Unsigned editorials are the opinion of the East Oregonian editorial board of Publisher Kathryn Brown, Managing Editor Daniel Wattenburger, and Opinion Page Editor Tim Trainor. Other columns, letters and cartoons on this page express the opinions of the authors and not necessarily that of the East Oregonian.

OTHER VIEWS



Clinton bleachbits her past

BYRON YORK
Comment

While Hillary Clinton was preparing to deliver a big speech portraying Donald Trump as a racist, a figure from Clinton's recent unhappy past — Rep. Trey Gowdy, chairman of the House Select Committee on Benghazi — added a new word to the 25-year vocabulary of Clinton scandals: BleachBit.

That is the name of a publicly available utility used to delete material from a computer's hard disk. And it's not just for casual, quickie deletes of junk mail. It's for when a user really wants to destroy material on a computer so that no one will be able to recover it.

According to Gowdy, BleachBit is what Clinton and her legal team used, or at least part of what her team used, to destroy the 30,000 or so emails on her secret system that she deemed "personal" from her years as secretary of state. On Thursday, after revelations that the FBI had perhaps worked its way around BleachBit to discover an additional 14,900 emails that Clinton did not hand over, Gowdy went on Fox News to discuss both that development and the FBI documents that underlay the Justice Department's decision not to prosecute Clinton for mishandling classified information.

> The public should be allowed to see those currently classified FBI documents.

The public should be allowed to see those currently classified FBI documents, Gowdy said, adding that he has reviewed them all. If people were allowed to read the papers, Gowdy explained, they might well come away with questions about the wisdom of the FBI's decision.

"I read every word of all of the witness interviews," Gowdy told Fox. "My takeaway was this: Remember James Comey said [Clinton] was not indicted because he didn't have sufficient evidence on the issue of intent. I didn't see any questions on the issue of intent."

And then there were those deleted emails. First, it's long been known that Clinton and her lawyers — and no independent arbiter — decided what to hand over and what to destroy. Clinton famously explained that she destroyed only the emails that dealt with personal issues, like yoga or her daughter Chelsea's wedding. But in light of new revelations about the close relationship between Clinton's Secretary of State office and the Clinton Foundation, a question gaining urgency in recent days is whether Clinton destroyed foundation-related emails on the grounds that they were "personal."

"That's the $100 million question," Gowdy told Fox's Martha MacCallum. "I hope somebody in your line of work will ask (Clinton): Did you consider foundation emails to be personal or work-related? I have yet to see a single foundation email produced by the State Department that was sent by her."

Gowdy went on to reveal a few details about how Clinton destroyed the documents she did not want anyone to see. "If she considered them to be personal, then she and her lawyers had those emails deleted," Gowdy said. "They didn't just push the delete button. They had them deleted where even God can't read them."

"They were using something called BleachBit," Gowdy continued. "You don't use BleachBit for yoga emails or for bridesmaid's emails. When you're using BleachBit, it is something you really do not want the world to see."

Amid growing controversy over the Clinton Foundation, possible conflicts of interest, and allegations of access and pay-to-play, Gowdy's words served to return the focus to what the *New York Times'* Mark Landler recently called the "original sin" of the Clinton email affair: Clinton took it upon herself to decide which of her emails as Secretary of State would be preserved, and which would be destroyed.

"There wasn't an independent authority that got to make that decision," Landler said on NPR's "Diane Rehm Show" Wednesday. "And by the time we found out about it, those emails were gone."

With the help of BleachBit, we now know.

■

Byron York is chief political correspondent for The Washington Examiner.

LETTERS POLICY

The East Oregonian welcomes original letters of 400 words or less on public issues and public policies for publication in the newspaper and on our website. The newspaper reserves the right to withhold letters that address concerns about individual services and products or letters that infringe on the rights of private citizens. Submitted letters must be signed by the author and include the city of residence and a daytime phone number. The phone number will not be published. Unsigned letters will not be published. Send letters to 211 S.E. Byers Ave. Pendleton, OR 97801 or email editor@eastoregonian.com.

OTHER VIEWS

State goes too far in Sweet Cakes punishment

The Oregonian

As legal briefs go, there's not much surprising in the arguments offered by Oregon Attorney General Ellen Rosenblum's office. The filing backs Labor Commissioner Brad Avakian's finding that a Christian-owned bakery violated Oregon's anti-discrimination statute when it refused to make a wedding cake for a lesbian couple. It counters the Sweet Cakes by Melissa bakery's claims of religious freedom. And it stands behind Avakian's eyebrow-raising award of $135,000 in damages to the couple for their pain and suffering.

But deep in the filing, things go off the rails. The brief, written by Senior Assistant Attorney General Leigh Salmon, addresses a side issue in which Avakian concluded that comments by the bakery owners violated a separate state law that prohibits advertising a future intent to discriminate. In supporting Avakian, the brief contends that seemingly innocent language may be found to violate state law.

It's an astounding assertion. It's even more so when you consider that the Department of Justice, in charge of protecting free speech and Oregonians' civil rights, is the one making that assertion. The idea that the government may find you in violation of state law based on how it chooses to interpret what you say is a chilling claim.

By now, Oregonians know the case's background by heart. A lesbian couple had hoped to order a wedding cake from Sweet Cakes by Melissa, a Gresham bakery. One of the women, Rachel Bowman-Cryer, went with her mother in 2013 to the bakery where she spoke with co-owner Aaron Klein. When Klein heard the cake would be for two brides, he apologized and told her "We don't do same-sex wedding cakes."

> The attorney general's office would rather circle the wagons around Avakian than defend citizens' free speech.

The denial upset Rachel Bowman-Cryer and angered her partner, Laurel. They filed a complaint with the state, not realizing a media storm would ensue. Eventually they filed a new complaint with the Bureau of Labor and Industries, which investigated whether the bakery violated the state's anti-discrimination law.

Avakian rightly concluded that the bakery had broken the law. But he opted to go further. He cobbled together comments the Kleins had made to argue the bakery was also advertising its intention to keep discriminating in the future, in violation of another state law.

Avakian noted a sign that the Kleins posted in their store, which closed amid the uproar. In the handwritten sign, the couple shared their frustration over the state's actions and pledged to "continue to stand strong." Avakian also pointed to snippets from two interviews that Aaron Klein gave. In one, Klein, asked to recount what happened on the day he refused the wedding cake request, recalled that he apologized and told Rachel Bowman-Cryer they didn't "do same-sex marriage, same-sex wedding cakes." In an interview five months later, Klein said the couple felt they had to "stand firm" in their beliefs. Collectively, Avakian argued, the Kleins were communicating a future intention to discriminate.

Salmon defends the argument.

"Specifically, respondents noted their intent to 'stand strong' and 'stand firm' in their fight," she writes. "While those statements could refer to their legal battle, those statements also could refer to the denial of services to same-sex couples — specifically, providing cakes for same-sex weddings generally. From those statements, then BOLI could reasonably infer a prospective intent to deny services to same-sex couples. That is a communication 'to the effect that' services would be denied based on sexual orientation within the meaning of ORS 659A.409."

There's a lot to pick on in those four sentences. First, the attorney general's office admits the comments could refer to the couple's objection to the state's case — a perfectly reasonable, nondiscriminatory statement that does not violate the law. Yet the state is arguing that it should be allowed to instead "infer" a meaning that would make the comments illegal.

That alone should sink the state's argument. But the brief also contends that it is the three statements "taken together" — not viewed individually — that allows someone to infer from them that the Kleins are advertising their intention to continue discriminating. If the government wants to punish someone for their words, it needs a stronger case than one built on vague, cherrypicked comments from incidents that occurred months apart.

What this suggests more than anything is that the attorney general's office would rather circle the wagons around Avakian than defend citizens' free speech.

This is a stand that Rosenblum did not have to take.

Certainly, Rosenblum's office should defend Avakian's valid finding that Sweet Cakes discriminated illegally against the Bowman-Cryers. Her office could even defend the exorbitant damages ordered by Avakian, even though the Bowman-Cryers wanted only an apology. But instead, she chose to also endorse his constitutionally deficient conclusion that Kleins' ambiguous words violated state law.

Conceding that weak claim would require the willingness to stand for what's right, even though it would benefit an unpopular cause. But Rosenblum buckled. Oregonians lose.