

# Waters of the U.S. rule needs rewrite

It happens a lot in Washington, D.C. An agency sets out to clarify regulations and the outcome is worse than the starting point.

Think of the Food Safety Modernization Act. Once the folks at the U.S. Food and Drug Administration began to put their heads together, the simple intent of Congress to make sure food is safe to eat turned into a Frankenstein monster of what-ifs. Ask onion growers, who were forced to prove to the FDA that their crop had never been linked to a food-borne illness. And ask breweries, which had for thousands of years fed their spent grain to cattle without ever creating a food safety problem.

Only after members of Congress interceded and researchers proved what experience had already demonstrated did the FDA decide to reverse itself on those issues.

And think of the new Waters of the United States rule. A simple effort on the part of the Environmental Protection Agency and the U.S. Army Corps of Engineers to reconcile conflicting court decisions turned into another Frankenstein rule. Actually, we would characterize it as Frankenstein on steroids. It's 297 pages of bureaucratese.

"It leaves all the previously ill-defined terms in place, like 'adjacent,' 'wetland' and 'discharge,' while adding equally malleable terms such as 'floodplain,' 'tributary' and 'significant nexus,'" said M. Reed Hopper, the Pacific Legal Foundation attorney who successfully argued one of the cases before the U.S. Supreme Court that caused the EPA to rewrite its rule. "And it provides that federal officials can decide on a case-by-case basis whether any 'other waters' should be regulated."

Another major objection that the Capital Press editorialized on in the past is the EPA and Corps provide no path for appealing an agency's decision other than going through a jurisdictional review by the Corps. According to Hopper, rulings from the 5th, 8th and 9th U.S. Circuit Courts of Appeals differ on whether landowners' due process rights are protected in similar cases.

If the EPA wanted to clarify something, it could have guaranteed a citizen the right to challenge an agency determination in court after a jurisdiction review.

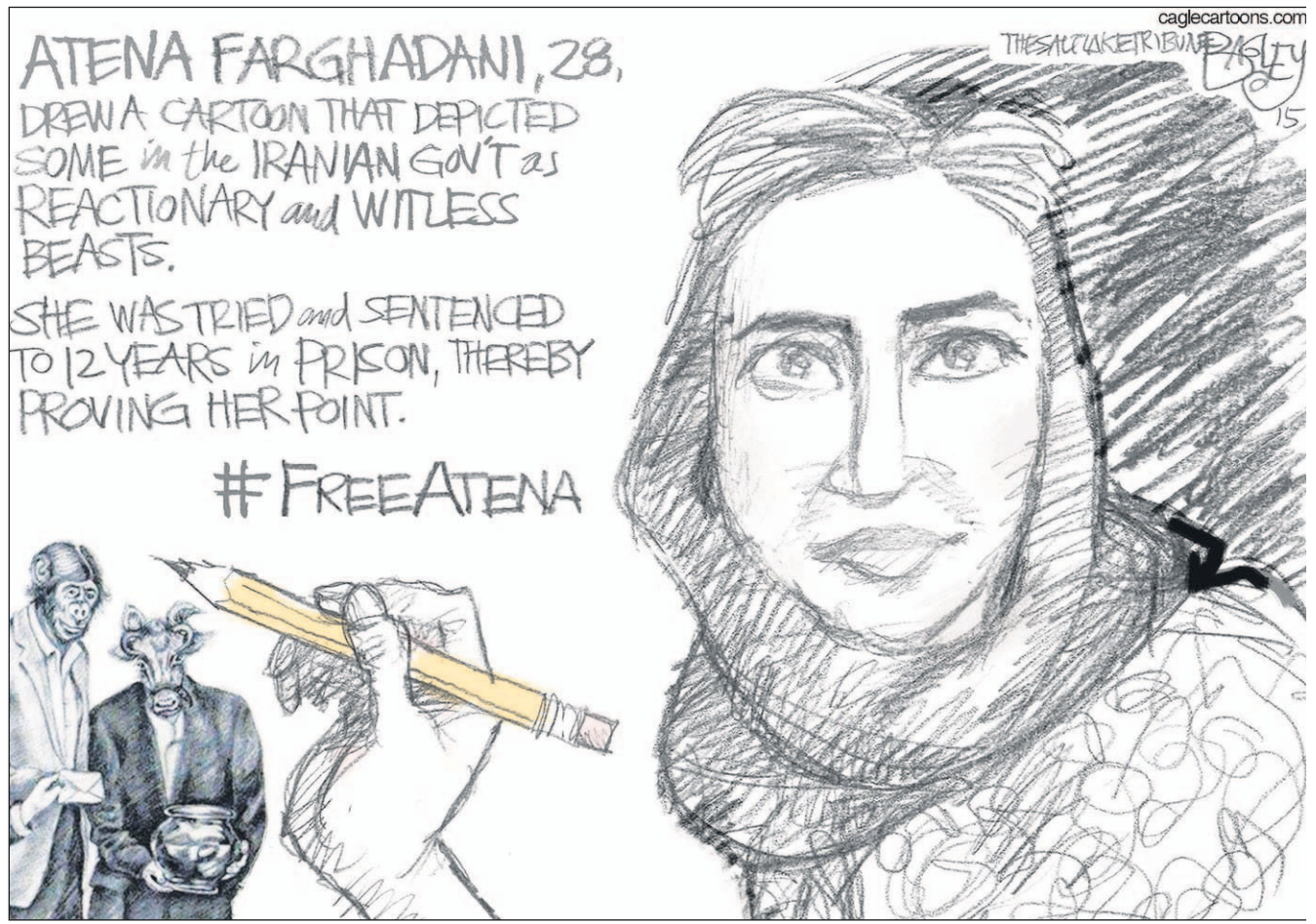
Because of its bulk and unclear language the rule created or left open as many questions as it answered. That is what made farmers and ranchers — and other landowners — most nervous.

There's an old term we like a lot: Cowboy talk. It's a synonym for plain language. Instead of trying to impress each other with their command of obscure and unclear terms, the folks at the EPA and Corps should have written a rule that reads something like this: We promise to leave farmers and ranchers alone unless we can prove scientifically and beyond a shadow of a doubt that runoff from a farm or ranch is polluting a navigable stream, river or lake protected under the Clean Water Act. Any of our determinations can be appealed in federal court.

They would have saved 296 pages of vagueness and gibberish and done a better job.

## EDITORIAL

The voice of the Chieftain



# Area talent disproportionate

It's amazing the difference a few weeks of rain can make. The Zumwalt Prairie that was dusty and getting low on drinking water is now verdant and ponds are full. I haven't moved sprinklers or irrigated for three weeks and the grass is getting ahead of the cattle.

It looks like the drought in Texas and Oklahoma is broken. Half of Oklahoma and most of Texas is under water. See what happens when the Bible Belt prays for rain? I hope they have learned their lesson. I talked to my friend Ace Berry who now lives just south of Oklahoma City and he is on high ground but received 17 inches of rain in May and it is still coming.

I can't figure out whether living in this beautiful country spurs creativity and talent or whether it attracts talented people. I lived in a county about this size that has a population of over 500,000 people. I knew one guy that could play a guitar. I didn't know anyone that had written a book, I knew a couple of people that were artistic but that was the extent of talent I knew about. I had the opportunity to attend the spring Wallowa County Music Alliance program held in the Odd Fellows hall a couple of weeks ago and am still amazed at all the musical talent here. The fact that the program covered old country music was a plus. Everything from Jimmie Rodgers music to Hank Williams and



## OPEN RANGE

Barrie Qualle

the Sons of the Pioneers. The musicians that performed represented only part of the vast local musical talent.

In addition to the musical talent we are blessed with many artists, writers and sculptors. All this talent crammed into an agricultural county of 7,000. When I told my family I was moving to Wallowa County they told me it would be a cultural wasteland. Every time they visit I rub their noses in that idea.

I don't fly very often anymore, thank God. Being put into a lead-up like we are a bunch of cattle to finally be processed by TSA adds a lot to the misery of traveling. Then to find that TSA fails 95 percent of the tests they run on them to find guns and explosives, makes you wonder if there isn't a better way. I suggest issuing a loaded .45 to all passengers when they board. That would put a stop to terrorism and also make the flying public more courteous during the flight.

I see that some Muslims are demanding that the welfare food they are given be of Islamic code, whatever that is. They also

insist that their women must wear a face covering even for driver license photos.

It seems that all minorities want to have their own set of laws. Chris Rock, who is Black, has a great YouTube film that should be mandatory for everyone to watch. I think the title is "How not to get beat up by the cops." Not only is it succinct, it is very funny. It seems that we are not getting much better at being tolerant of each other's differences and races, and political parties have agitators within them that love things polarized. Like Rodney King said, "Can't we all just get along." In Wallowa County the hippies and cowboys seem to do a good job of tolerating each other.

The situation in the Middle East continues as it has for centuries. Stupidly, we think we can throw money at their problems and fix the unfixable. We continue to ship state-of-the-art weapons to Iraq so their army can abandon them to ISIS as soon as they show up with a few zealots. It appears that our foreign policy is to arm both sides so we can keep things in an uproar. This is a windfall for the military-industrial complex that Eisenhower warned us about. They get to sell us arms to distribute to both sides of a never-ending conflict. All this money leaving the country and I live on a dirt road.

Open Range columnist Barrie Qualle is a working cowboy in Wallowa County.

# Time to re-engage on forests

The Malheur, Umatilla and Wallowa-Whitman National Forests are committed to keeping an open dialogue continuing with the communities we serve and as such would like to update you all on our progress in the Blue Mountains Forest Plans revision process. We want to thank many of you for your recent efforts in helping us think through and develop a re-engagement strategy for the communities in the Blue Mountains.

As we announced last month, we have met with a broad spectrum of stakeholders so far this year to discuss the best ways to reengage with folks in the Blues. Through their counsel and advice we are exploring a range of re-engagement activities including community, stakeholder and Forest Service hosted meetings. We want to be clear that these meetings will be open to public; our hope is that these meetings will provide opportunities to discuss and develop ideas that will help us to improve the final Revised Forest Plans, and provide clarity on our final decisions.

As previously announced, this past February, we began asking local organizations,

## GUEST COLUMN

Steve Beverlin, Kevin Martin, Tom Montoya

including counties, tribes, members of the public at large and special interest groups, if they would be interested in hosting or participating in public meetings in their communities on issues brought forward through the Draft Environmental Impact Statement comment process. We are working with those who have responded to plan and/or participate in a variety of forums to be announced soon. We welcome additional efforts if there is interest. We are open to meet with the public and any entity interested in discussing the draft.

We heard a strong desire for further discussion around Forest access, back country, wilderness and the pace and scale of restoration, so you can anticipate meetings around these topics, as well as some other more localized issues. We hope to identify some common ground and create

solutions. We look forward to these discussions.

It is important to know that while the analysis for the Malheur, Umatilla and Wallowa-Whitman National Forests will be included in one environmental impact statement, each Forest will have its own unique plan specific to the Forest and their communities.

We want Forest Plans that provide resiliency for our communities in Eastern Oregon and Washington; Plans that support the local economy and the social values of the people who use and depend on them. We also want resiliency in ecosystems that can withstand: drought, floods, wildfire, invasive species, human impacts and have the strength to return to healthy ecosystems in the long run. Our Forest Plans should provide the vision of how to do just that and we will continue to need your help in shaping them.

Please come to a meeting. If you cannot come to a meeting, contact your local Forest Service office with your input.

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# Facility's residents shouldn't leave

To the Editor:

After the Health Care District got us to vote them in a new hospital, they told us they had to have a new nursing home too! They promised us at the meeting that any of the residents of the old nursing home would have a home at the new one too, to live out the rest of their time. Then Marathon took over the new nursing home and they agreed also that they would keep all of our loved ones in their facility. Now Artegan has bought out Marathon and have told 3 of our loved ones that they have 30 days to get out. (3 now, if there is not a big uproar from the community, how many more will they kick out?)

We, the taxpayers are still paying for that nursing home but Artegan seems to think they can make all the rules.

There is an emergency meeting over this matter on June 22, at 11:30 at the conference room at the hospital. I want to urge everyone to attend this meeting and let them know we are not happy about this. Marathon is still liable for the promise they made us and they have no right to sell to Artegan without Artegan agreeing to all the terms set by us residents of the county. How about holding back the tax money for the district until this matter is set straight and they live up to the promise

## LETTERS TO THE EDITOR

that they made to us?

Bill Coffman  
Enterprise

## Assisted living less valuable

To the Editor:

The nursing home is kicking out people who they say are too sick to be there. I thought that was why you had county taxpayers pay for a new nursing home, so sick people could stay there. When we voted to fund a new nursing home I thought that was what we were voting for, but it seems that I was hookwinked. Now we have an "Assisted Living Center" which generally takes care of people who can almost take care of themselves. When someone becomes a problem, because they have more needs, they are kicked out of the place, that we, the hoodwinked taxpayers are still paying for. I believe that all the people of Wallowa County need to take a second

look at funding this facility that is of very little value to most of us.

Fred Barstad  
Enterprise

## Of roads and words

To the Editor:

I read with interest the Chieftain editorial on the road repair vote in Joseph. I don't think the options are quite as hopeless as you present when you suggest our community officials "fold their arms" and sulk because we didn't pass the bond measures. That's not particularly constructive.

There are many options for dealing with the roads, including managing traffic and speed from the downtown area. During evenings, downtown (which gets its roads updated by the state because it's a highway) turns event traffic loose on the side streets, which are not designed for out of town visitors to not speeding down them. Which, alas, they do, popping out potholes in an amusing fashion.

In an unacknowledged letter to my town, I suggested a variety of ways to look at this issue, none of which were reflected in the

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## WALLOWA COUNTY CHIEFTAIN

USPS No. 665-100

P.O. Box 338 • Enterprise, OR 97828  
Office: 209 NW First St., Enterprise, Ore.  
Phone: 541-426-4567 • Fax: 541-426-3921

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MEMBER OREGON NEWSPAPER PUBLISHERS ASSOCIATION

PUBLISHER Marissa Williams, marissa@bmeagle.com  
EDITOR Rob Ruth, editor@wallowa.com  
REPORTER Stephen Tool, stool@wallowa.com  
REPORTER Kathleen Eilyn, kellyn@wallowa.com  
AD SALES CONSULTANT Brooke Pace, bpace@wallowa.com  
GRAPHIC DESIGNER Robby Day, rday@wallowa.com  
OFFICE MANAGER Cheryl Jenkins, cjenkins@wallowa.com

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