

# Supreme Court must give landowners right to challenge Corps

The U.S. Supreme Court has agreed to take a case that will determine whether landowners can challenge in court a regulatory determination that their properties are subject to the Clean Water Act.

The government contends, and is backed by the 9th and 5th U.S. Circuit Courts of Appeal, that a regulatory determination by the Corps of Engineers that a property is subject to Clean Water Act restrictions is merely advisory in nature, and is not a final agency decision subject to litigation.

The 8th Circuit reached the opposite conclusion last year, setting up a clear conflict to be settled by the Supreme Court.

For farmers, ranchers and other landowners, the stakes are high. Regulatory requirements and restrictions under the act are expensive and can severely limit the owner's property rights.

Property owners should have the right to challenge a jurisdictional determination.

The government says landowners who disagree with a jurisdictional determination can go ahead with a planned project without a permit and then fight the determination when the government brings an enforcement action.

Or, the landowner can apply for the necessary permits. If the permit is denied or the landowner disagrees with the government's findings, the landowner can file suit.

Neither of these are practical options.

A landowner would be foolish to expend capital and proceed without a permit if the Corps of Engineers has determined jurisdiction, whether that ruling is a final determination or merely advisory.

Having determined a landowner needs a permit, by whatever means, the Corps will certainly follow with an enforcement action if a landowner proceeds. Win or lose, the landowner will be saddled with the expense of defending his action. And should he lose, the government can pile on ruinous fines and penalties, and perhaps criminal charges.

Should the landowner acquiesce to the Corps' determination, he submits to a costly, time-consuming process. If the permit is denied, or there is an issue with the terms, the litigating landowner walks into court having already conceded that the Corps has jurisdiction.

The Corps may consider its determinations advisory in nature, but the same can be said of a rattlesnake shaking its tail. Either are ignored only at great peril.

The rattlesnake's warning can be appreciated for its honesty, while the Corps' is veiled by semantics. Having been warned, the landowner will certainly feel the sting of the Corps' strike.

The Corps' determinations are final by any standard of common sense. As such, they should be allowed to be challenged in court without the landowner first being placed in legal or financial jeopardy.

We are confident the high court will agree.

## EDITORIAL

Voice of the Chieftain



## Get a healthy start to the new year

By Susan Johnson  
For The Chieftain

Every year, millions of Americans make New Year's resolutions. Do a Google search and you'll find health-related resolutions are among the most common: lose weight, exercise more, eat healthier, stop smoking, drink less, watch less TV, reduce stress.

Unfortunately, most of us break our resolutions almost as soon as we make them. There is one resolution you can make and keep this year. Get a healthy start to the new year by signing up for health insurance through HealthCare.gov or your state's marketplace.

Making and keeping that one resolution can actually help you keep other resolutions in 2016.

Want to lose weight? Obesity screening and counseling are free preventive health benefits offered through Qualified Health Plans. Want to stop smoking? Tobacco use screening and cessation interventions for tobacco users are also free preventive health benefits. Want to lower your chronic disease risk? Diet counseling is available for adults at higher risk of chronic disease. Alcohol misuse screening and counsel-



## GUEST COLUMN

Susan Johnson

ing are also available as a preventive health benefits. The peace of mind that comes with having health coverage can reduce your stress.

While some resolutions are on you, HHS is offering assistance to attain many health-related goals. From Coverage to Care (C2C) helps patients make better use of their health coverage. The materials are currently available in eight languages, with more to come.

The Healthy Self Initiative encourages everyone to take control of their own health. Knowledge is power. Knowing more about your personal, family and ethnic/racial disease history and tendencies can help you and your provider make smarter decisions about your health care. For example, if you have a family history of heart disease, your provider might monitor you more closely. Your provider might also encourage you to take steps to lose weight, to ex-

ercise and to eat a healthier diet. Likewise, if you have a family history of prostate or breast cancer, diabetes, high blood pressure or many other diseases with a genetic component, your provider might encourage you to take steps to reduce your risk.

Other HHS websites such as health.gov, healthfinder.gov, womenshealth.gov, the Office of Minority Health site, and Let's Move, offer resources and suggestions for living a healthier, more active life.

So whatever other resolutions you might make for 2016, make and keep that resolution to sign up for health coverage for you and your family. It's really easy — just visit HealthCare.gov or your state's marketplace. However, time is limited. You must sign up by Jan. 31 or you'll lose your opportunity to sign up for 2016 coverage unless you have a Qualifying Life Event.

Make and keep your first resolution of the New Year. Sign up for Marketplace coverage today. You'll get a jump on some of those other resolutions for the year and you'll feel better for it.

Susan Johnson is Regional Director, US Department of Health and Human Services, Region 10.

## Support the team or keep quiet

This letter is directed to the person who has been paying for personal ads concerning the Wallowa High School boys basketball program. Enough is enough. Knock off your verbal diarrhea. You should be supporting the boys on the court and the coaches leading them in a positive direction. If you can't do that, then be quiet. Also, if you choose to submit another overly verbose, so-called concern about athletes being "selfish" or "hope" for the season, at least have the courage to attach your name to it.

Mitch Frye  
Lostine

### Timber for road closures

A new process is working its way throughout Eastern Oregon that pits locals against each other. It is the concept of "forest health vs. motorized access." The model has been seen in the West before. Idahoans and Montanans have seen forests built to unsafe fuel loads with eager "conservationists" willing to plan projects that will relieve the burden of the excessive fuels — only if we are willing to destroy roads after the projects are completed. The work is done through service contracts. Companies bid on these contracts to implement prescriptions for treatment that are written by the Forest Service, along with road destruction.

Two examples playing out in East-

## LETTERS to the EDITOR

ern Oregon that show this process are 1) The Grant County Stewardship Contract, a massive, multi-million dollar, single-source contract to Iron Triangle that will treat vegetation and restrict motorized access to thousands of acres of land; and 2) the East Face Project between La Grande and Baker, which is planning 38 miles of road closures.

Both equate to nothing more than lawn care service contracts, except in this case, once mowing the lawn and weeding the flower garden are complete, they tear out your driveway so you cannot access them anymore.

Timber sales do not have to equate to road closures. Jobs for our families do not have to mean loss of motorized access. Roads were built to harvest these lands, for them stay the productive resources. We were promised they would be when set aside in the early 1900s. Not the multi-billion dollar drains they have become over the last 30-plus years under the failed leadership of the Forest Service, which no longer serves the people, but serves its own personal agendas.

I support vegetative treatments, I support logging/mill jobs and all the services that come with them. But I do not believe you have to destroy motorized access to have jobs or a healthy forest. I ask that if you don't support

these restrictions, you become active in these projects to speak out against them.

John D. George  
Bates, Ore.

### Ruled by fear

To the HERO who believes Trump is our best bet against ISIS (or Daesh):

I agree wholeheartedly! Trump DOES seem quite angry. I notice that you capitalized a lot of WORDS in your (Dec. 23) letter — that tells me that you, TOO, are ANGRY! Maybe even SCARED! I bet there have been other times throughout history when a scared populace elected someone who seemed ANGRY enough to fix their problems. I wonder if that worked out for them. No good examples seem to come to mind, however.

Our borders must be SECURED! We must keep out the REFUGEES from Syria, just as we kept out refugees from WORLD WAR II! There could be ENEMY combatants hidden among them, even if the liberal MEDIA wants us to believe that entering the country as refugees would be one of the more difficult and impractical ways for TERRORISTS to get into America. They also expect us to believe that refusing refugees only FURTHERS the ISIS CAUSE! What a LOAD! That's why I only watch FOX NEWS.

ISIS wants to KILL US! We GOOD CHRISTIANS need to support fellow Christian DONALD TRUMP! SECURE the BORDERS! Ban the MUSLIMS!

HEIL TRUMP!

Basil Hargreaves  
Enterprise



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