State needs information about water use to manage it

OTHER VIEWS
Randy Stapilus

Like other Western states, Oregon has a water department — the Department of Water Resources — and extensive water law and regulation, and there's a reason for this. Water is an essential resource, our lives depend on it, and ensuring we have water available means regulating it intelligently.

To do that, we need information, and high on the list of data points we depend on is this: Who uses the water — the largest portions of it — and what does that mean for other water users? You could say that's a question of essential public interest.

It's also a question for lawsuits, current Oregon lawsuits that may portend whether we have enough information to manage our water.

In many places around the West (and around Oregon), water use is easy to track. Most Western states operate under the prior appropriation doctrine — first in time, first in use — which allows the first person to put a claim for a specific source and amount of water to use, to have priorities over other users. This system of priorities is carefully recorded in public records. A 2015 report from the U.S. Geological Survey relied on that information in estimating, for example, that 42% of freshwater withdrawals are used for irrigation agriculture.

But some users of water, who get theirs in a subdivision from primary water right holders, aren't so openly recorded, and these can account for some big water uses.

Last September, a reporter from The Oregonian requested information from the city of The Dalles about how much water the tech giant Google was using at its operations there. The city refused to release the information, saying it amounted to "trade secrets" considered confidential under state law. Residents in the area, including farmers and businesses, have raised questions and expressed concern about how much water Google may be using.

That argument was rejected by the Wasco County district attorney, who reviewed the case and concluded that although a trade secret might be considered confidential, the city hadn't shown that information about raw water usage qualified; he said the information should be turned over. (The situation was linked to a $28.5 million agreement between the city and Google, so city officials had some interest in the arrangement.) The city of The Dalles fired back with a lawsuit against the Oregonian. The case continues.

This year, another effort to find out who is using scarce water has surfaced at Bend. But while the case at The Dalles centers on information kept by a public agency, the Bend dispute concerns a private company. Maybe.

The Source Weekly newspaper had decided to look into water use in its mostly dry east-of-Cascades area, and said what started out as a basic records request has evolved into an inquiry about oversight for this community's "most precious and basic of resources."

With that in mind, it asked leading water utilities for information (including addresses) about their major water users. In many parts of the state information like that could be gleaned from state water records. The cities of Redmond and Bend complied. (The records turned up many cases of major water leaks that led to water loss and bloated bills.) But Avion Water, which serves about 8,000 households and others in the Bend area by contract, is a privately held business, placing it typically outside the reach of the state's public record laws. Avion rejected the request, saying the public records laws didn't apply to it.

The issue here, too, went to the county's district attorney, in this case John Hummel. He took a similar tack as his counterpart to the north, while noting that Avion is a private company. In its article, the Source described his take this way:

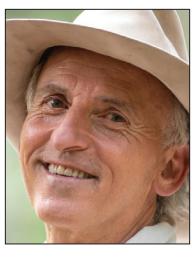
"Hummel sided with the Source and ordered that Avion must release the records, because it is 'the functional equivalent' of a public body, according to Hummel's decision, meaning it would be subject to public records laws. To support this, he cited that Avion currently has a franchise agreement with the city of Bend and is regulated by the Oregon Public Utility Commission. He also stated that Avion did not provide enough evidence that the addresses of its customers were exempt from disclosure."

The DA added: "Because Avion failed to convince me that residential addresses of their water users constitute a type of personally identifiable information … I find that these residential addresses are not exempt from disclosure."

What a court will make of that is unclear. Many private organizations clearly exempt from public records laws are regulated, as Avion is.

In many areas public oversight of information can be and has been limited when services move from public to private control. Is water a special case — or should we rethink what's really public and what's private?

Randy Stapilus has researched and written about Northwest politics and issues since 1976 for a long list of newspapers and other publications. A former newspaper reporter and editor, and more recently an author and book publisher, he lives in Carlton.



OTHER VIEWS
Leon Werdinger

Pause Joseph's proposed Urban Growth Boundary swap

JOSEPH — As most Wallowa County residents know only too well, our communities are seeing out-of-control growth that is having negative impacts on our rural way of life. Local workers are struggling to find affordable housing. Local businesses (from restaurants to the hospital) can't keep employees because new hires can't find a place to rent or buy (properties are priced high and sell within hours of being listed).

And just this week, the city of Joseph announced its intent to add another 74 acres to the city's current Urban Growth Boundary, much of it along the riparian zone of the Wallowa River on the west side of town, which currently provides open space and protects fish habitat. The city is calling this a "UGB swap" because it plans to add the parcels at the same time it removes the 70 acres of the Iwetemlaykin State Heritage Site from the UGB.

But this swap, which Joseph is not required to do, does not address the most pressing issues that our town faces. We need to hit pause and embark on innovative, careful, strategic planning so that we can protect the rural nature of Joseph. If we don't, we will wind up becoming a smaller version of Bend or Bozeman — cities that have been inundated with an influx of new residents and are now dealing with the fallout of unplanned growth.

In Joseph, there has not been a survey of existing buildable land in the city since 1996. Shouldn't we prioritize infill of existing vacant lots within the current UGB, instead of just expanding the UGB into open space at the edge of town?

The city also has no functioning Planning Commission (it is working to establish one), so how can we propose a UGB expansion without a group of citizens focused on the actual long-term planning that can help us address the shortage of affordable housing? In addition, do we know the percentage of houses that are vacation homes, used only a month or two a year by their owners, and therefore not available to locals?

Even if the city expands the UGB that does not mean that any of the housing eventually developed within it will be affordable. We might well wind up with McMansions and even more vacation homes, while our local workers continue to struggle to find housing.

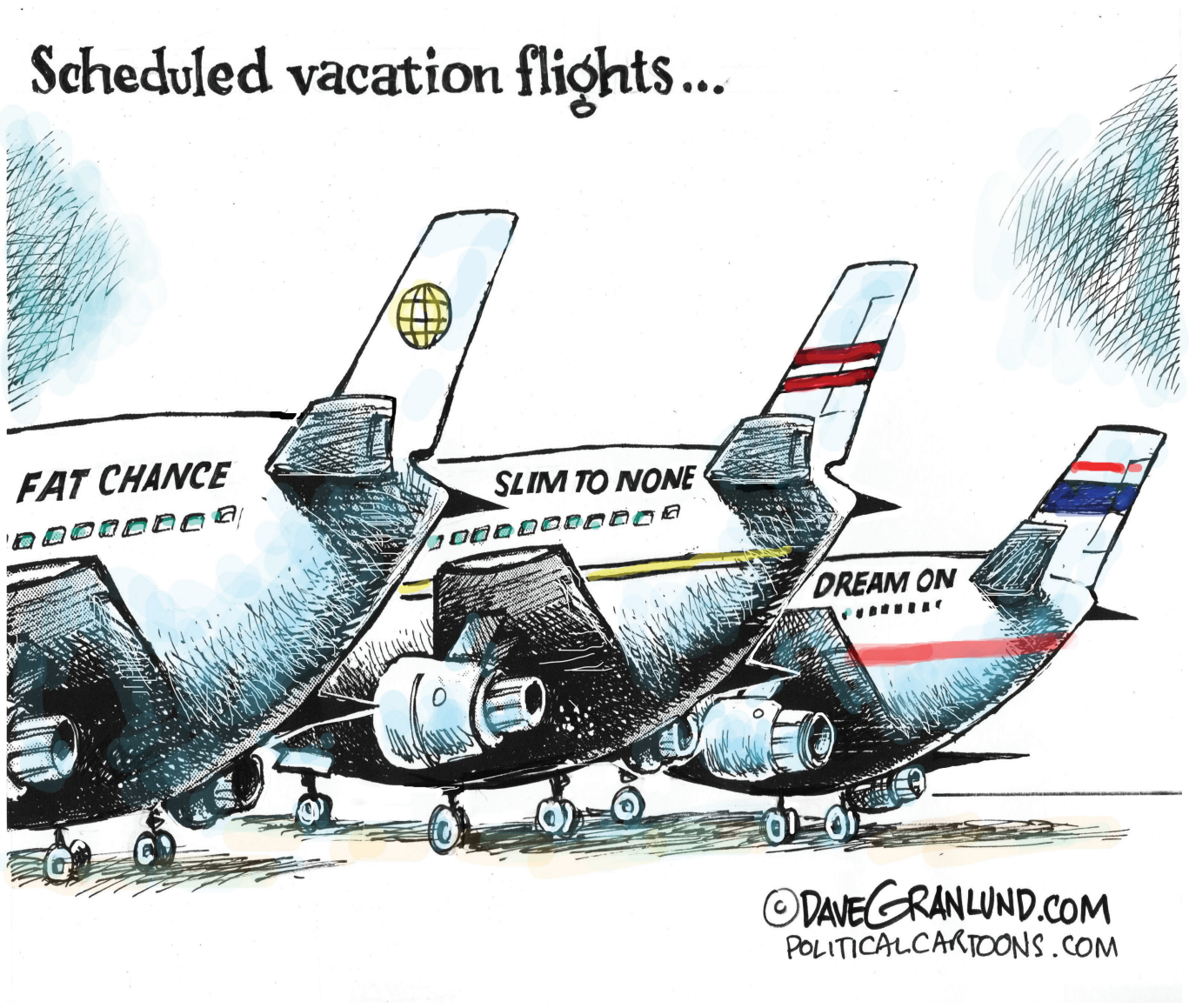
And who ultimately benefits from all this growth? The real estate industry and some local businesses. We, the average residents of Joseph and the surrounding area, do not benefit at all from the increased traffic, noise and shortage of housing.

Joseph is soliciting written comments and concerns about this UGB expansion (submit to: City Administrator, P.O. Box 15, Joseph, OR 978467), as well as in-person testimony at the July 7 City Council meeting to be held at the Joseph Community Events Center at 7 p.m.

This is our chance as local residents to let the city and county know that we're very concerned about the accelerating rate of growth, that we don't want to become the next Bend, and that the proposed UGB swap isn't a well-thought-out solution. We need to hit pause, put our heads together, get creative and strategic and come up with an innovative approach to ensure that Joseph retains the small-town charm and character that make this place so special to us.

Please mark your calendars and plan to attend the July 7 City Council meeting.

Leon Werdinger has lived in Joseph for 34 years. He is part of a group of Joseph residents that are very concerned about the runaway growth of the city.



Conservatives ended Roe v. Wade. They want more

OTHER VIEWS
Elwood Watson

Roe v. Wade — January 22, 1973 to June 24, 2022.

What a month it has been. The right-wing dominated Supreme Court voted to weaken Miranda rights, required states to fund private religious schools, protected border patrol agents from excessive force claims and weakened the requirements for concealed-carry laws.

Oh, and Roe v. Wade was officially overturned.

The ruling nullified a precedent that had been the law of the land for almost half a century. While the judgment was not totally surprising, the court's decision sent seismic shockwaves throughout the nation and reverberated abroad as well. As if this announcement wasn't chilling enough to many people, an adjacent opinion written by Justice Clarence Thomas indicated that the increasingly ideological court may target more established decisions.

The far-right justice stated that the court should consider revisiting cases relating to access to contraception and also to same-sex marriage and relationships. Among the previous decisions that Thomas mentioned are:

• Griswold v. Connecticut (1965) established the right of married couples to purchase contraception without government restriction.

• Lawrence v. Texas (2003) set that criminal punishments for those who commit "sodomy" were unconstitutional.

• Obergefell v. Hodges (2015) established a constitutional right to same-sex marriage.

Thomas argued that: "(W)e have a duty to 'correct the error' established in those precedents. … After overruling these demonstrably erroneous decisions, the question would remain whether other constitutional provisions guarantee the myriad rights that our substantive due process cases have generated."

As some other pundits and political observers have deftly noted, in his list of established precedents, Thomas omitted Loving v. Virginia, the 1967 Supreme Court case that legalized interracial marriage. I guess this ruling hits too close to home for Thomas.

The truth is the conservative right has shrewdly and strategically (albeit in a perverse and sinister manner) played the long game. Republicans took cognizance of the success that the left had garnered during the 1960s, such as its monumental victories with the Civil Rights Act (1964) and the Voting Rights Act (1965), culminating with the ratification of Roe in the early 1970s.

Conservative activists then realized that they could employ similar strategies.

Unlike previous generations of conservatives, who were largely content with the status quo, this group of reactionary right-wingers have demanded radical and regressive change. Such conservatives hate the left, as they deem them as being with sympathetic or indifferent to communism. They view mainstream Republicans as pretty much harboring the same values as centrist Democrats on fiscal matters and as liberals on social issues. They deeply resent the civil rights movement for striking at the heart of Jim Crow and segregation. The modern feminist movement has earned their ire as well.

However, abortion became the poster child for their decades-long crusade.

Just as liberals championed politicians like Lyndon B. Johnson, Eugene McCarthy and Robert Kennedy, conservatives rallied around political figures such as Ronald Reagan and Pat Buchanan. Although many saw Reagan as the political leader who would lead them to the promised land, Reagan largely gave lip service to the political and cultural right without enacting much of its political agenda.

George H. W. Bush had an adversarial relationship with this group, and his son, George W. Bush, was viewed as the sort of neoconservative who personified the epitome of all they despised. Ironically, it was the thrice-married, womanizing, crude-talking, habitual sinner, occasional Democrat-voting, and non-ideological Donald Trump who delivered much of their agenda for them. The old adage "politics makes strange bedfellows" certainly rings true in this case.

Now, after realizing their decades-long goal of getting Roe repealed, as Justice Thomas has made it clear, the conservative far right is wasting no time in making sure as much of its political plan is swiftly implemented. Indeed, in response to the verdict, Texas Sen. John Cornyn remarked, "Now do Plessy v. Ferguson and Brown v. Board of Education." After predictable public outrage, the senator attempted to clarify his remarks claiming that he had been trying to say that Brown v. Board (1954) overturned Plessy v. Ferguson (1896).

The truth is the far right is increasingly saying out loud the quiet parts of their discourse. Feeling ever more emboldened by the rulings of the past few years, including last week's Supreme Court judgment, they have made no secret of their long-intended goal to do everything in their power to ensure that non-White Christians, women, the disabled and LGBTQ people have few, if any, rights, protections, or claims to citizenship.

As many of them believe, the light at the end of the tunnel can be seen and they intend to reach it. People of good will must make every effort to combat such an outcome.

Elwood Watson is a professor of history, Black studies and gender and sexuality studies at East Tennessee State University. He is also an author and public speaker.