

Opinion

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OUR VIEW

Water case limits use of land

When and where does the Clean Water Act apply?

What if there is no surface flow between a piece of land and a waterway? What if there is a road between a soggy property and a waterway?

They are issues for homeowners and for farmers. A recent decision by the United States Court of Appeals for the Ninth Circuit is arguably a win for conservationists. It will also make it more challenging for property owners to do what they want on a property without first getting a Clean Water Act permit.

The case involves Chantell and Michael Sackett of Idaho. They “purchased a soggy residential lot near Idaho’s Priest Lake in 2004,” as the court summarized. They wanted to build a home. They got the necessary county permits and began filling it in with sand and gravel. The EPA basically issued an order to stop them, telling them to remove the infill and return the property to its natural state.

A bit more context helps explain the situation. “The Sackett’s property is bounded by roads to the north and south,” the court wrote. “To the north, across Kalispell Bay Road, lies the Kalispell Bay Fen, a large wetlands complex that drains into an unnamed tributary. That tributary feeds Kalispell Creek, which, in turn, flows southwest of the Sacketts’ property and then empties into Priest Lake. To the south, across another road, is a row of homes fronting Priest Lake. The Sacketts’ property is 300 feet from the lake.

The case hinges on a number of factors. Is the property a wetland? The EPA said so. It had photographs and other evidence. The Sacketts disagreed. And is it adjacent to another wetland or a waterway? There is apparently not direct surface flow from the Sackett’s property and the lake. For one, there are the roads in the way. But the federal government’s regulations explicitly state that “adjacent wetlands’ included wetlands separated from other waters of the United States by artificial dikes and barriers,” the court wrote.

The Capital Press reported the Sacketts believe the court’s decision was wrong. The couple is working with their attorneys to decide how to proceed.

This situation of a separated wetland or wet area is far from unique to the Sacketts. And the case may have significant repercussions on how much power the federal government has to regulate land.

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Your views

Quiet zone would make Baker City safer, better

I’ve been a citizen of our beautiful city for 60 years. I went to elementary at South Baker. We live in a wonderful place, a real slice of heaven to call home except for the hundreds of incessant, painful and extremely annoying UPRR train whistles. I’ve lived near them most of my life and I HATE the deafening shrills.

Serving our citizens in public office is an honor and a solemn pledge to help our city thrive and make it a better place to live. In the past, I served as your mayor and city councilor for eight years, worked as a local builder for 35 years and 20 years as a Realtor. There are many reasons to support the quiet zone in our city:

- Safety – Federal Railroad Administration approves measures to improve safety at crossings, and make them just as safe as crossings with horns.
- Positive economic effect is worth the minimal cost by making it feasible to build new homes in the area and increasing the property values near the worst affected areas.
- We have competition for jobs in Eastern Oregon from adjacent cities. Pendleton has a quiet zone and La Grande recently invested in one, making these cities quieter and healthier thus more attractive to potential employers looking for a great place to locate.
- Reduced noise to South Baker Elementary School and Trade School on Broadway.

I ask all in local leadership positions, especially the Baker City Council, to support the safety upgrades to the railroad crossings. The investment cost is minimal and the wonderful benefits will be felt for generations to come.

Jeff Petry
Baker City



The slothful soil an otherwise sylvan scene

There’s a certain majesty to a forest in the wake of a soaking rain — the jewels of water clinging to the ponderosa pine needles, the fresh scent of damp bark, the discarded diaper molding among the pinegrass.

Coming across that last, as I did on a recent hike in the woods near Phillips Reservoir, was about as jarring as its appearance in the previous sentence, fouling the conclusion to a list of pleasant things.

It’s rather like following a fine meal with an aperitif of stagnant pondwater.

Distasteful.

Ponds, of course, have no control over their circumstances, or the quality of their water.

But diapers, as a rule, mar otherwise sylvan scenes solely as a result of human sloth.

Adult sloth, specifically, as infants can hardly be held responsible for the disposal of the garments they soil.

I initially mistook this particular diaper for a scrap of paper.

But only when I walked closer did I see the colored design on the white background.

(I’ve never quite understood why disposable diapers are festooned with cartoon characters and the like. I doubt the wearer appreciates the decoration. Cloth diapers, by contrast, typically are plain.)

The diaper, which had swollen as they do when saturated (albeit from the outside in this case rather than the other way round as is more typical), was 15 feet or so off the road. The route is blocked to full-size rigs by a tank trap, but the parallel tracks, mainly devoid of grass, show that ATVs still go this way occasionally.

Littering fascinates me.

I mean intentional littering, rather than, say, a candy bar wrapper or other flimsy thing that can waft out of a car window without the driver noticing.

Quite often it seems to me that it requires more effort to litter than to not. This is especially so when the litterer was in a vehicle, which generally has enough room to temporarily accommodate the sorts of



JAYSON JACOBY

items that people typically toss out.

I understand, of course, that diapers — particularly those which have served their purpose — are not welcome accessories in a rig.

But even if the diaper I found had been especially, well, aromatic — I wasn’t inclined to investigate the matter to that degree of detail — this hardly absolves the person who heaved it off the road.

I suppose I’m not exactly the antidote to irresponsibility, as I left the diaper lay. But I had just started hiking and, lacking even a backpack, I didn’t much fancy carrying the thing around for the next hour or so, tossing it from hand to hand occasionally, like a cornhole bag, to evenly divide the grime.

Diapers, or so my research indicates, are a much more durable item than their ephemeral purpose might suggest.

Which means the thing probably will still be there when the first snow falls (and what a blessedly cold relief that will be after the summer we’re sloggng through).

We saw a handful of potential Christmas tree candidates on our walk so we might get back that way.

If I remember — a dubious prospect at best — I might bring a sack along in case the diaper remains.

I’ll have gloves anyway.

My cell phone rang the other day and as I grabbed it off the table beside my bed I noticed something that I’ve seen hundreds of times but that seemed, in that instant, utterly new.

The green symbol on the screen, denoting that the phone was performing the most prosaic of its many functions, is a shape familiar to anyone born before, say, 1990.

It’s the curve, sort of a sideways “U,” with slightly bulbous ends.

This of course represents the receiver of an old-fashioned telephone. The kind that occupied tens of millions of American homes, a stout chunk of bakeligh that could

serve as an effective blunt object if a burglar were on the premises or a nail’s head protruded from a wall and a hammer wasn’t at hand.

We had a few such phones in my childhood home, rendered, so far as I can recall, in the hideous earth-tones of puce and orange that were, for reasons beyond my comprehension, considered fashionable in the 1960s and ’70s.

(I myself came along in 1970, so my retinas were exposed to all manner of unsightly shades slathered on objects ranging from refrigerators to linoleum.)

I can scarcely think of a piece of technology that has been so thoroughly rendered obsolete as the dial phone.

Although we listen to music nowadays in digital form, with thousands of songs stored on a device smaller than a credit card, the difference in that medium is still not so great as with phones. The handheld transistor radios that dominated the market prior to Sony’s Walkman weren’t exactly behemoths, after all, even if they were wholly analog. They were cordless, too, just like an mp3 player.

The modern smartphone and the dial phone, by contrast, can’t even fairly be described as cousins.

Indeed, the sole function of an old phone is the one that most smartphone owners use rarely if at all — speaking to another person.

Yet cellphones continue to depict that function by way of a symbol that, to a child, must not be so immediately recognizable as it is to me.

I wonder how many years will pass before the shape of a phone will become so foreign to young eyes that the makers of cellphones and other devices which make and receive calls will need to find a replacement.

Perhaps not many years at all.

The designers ought to get started on the task now. Otherwise that once-ubiquitous symbol might become as useless as trying to show drivers where to park by way of signs depicting buggy whips.

Jayson Jacoby is editor of the Baker City Herald.

CONTACT YOUR PUBLIC OFFICIALS

President Joe Biden: The White House, 1600 Pennsylvania Ave., Washington, D.C. 20500; 202-456-1111; to send comments, go to www.whitehouse.gov.

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Oregon Legislature: Legislative documents and information are available online at www.leg.state.or.us.

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Baker City Hall: 1655 First Street, P.O. Box 650, Baker City, OR 97814; 541-523-6541; fax 541-524-2049. City Council meets the second and fourth Tuesdays at 7 p.m. in Council Chambers. Councilors Jason Spriet, Kerry McQuisten, Shane Alderson, Joanna

Dixon, Heather Sells and Johnny Waggoner Sr.

Baker City administration: 541-523-6541. Jonathan Cannon, city manager; Ray Duman, police chief; Sean Lee, fire chief; Michelle Owen, public works director.

Baker County Commission: Baker County Courthouse 1995 3rd St., Baker City, OR 97814; 541-523-8200. Meets the first and third Wednesdays at 9 a.m.; Bill Harvey (chair), Mark Bennett, Bruce Nichols.

Baker County departments: 541-523-8200. Travis Ash, sheriff; Noodle Perkins, roadmaster; Greg Baxter, district attorney; Alice Durlinger, county treasurer; Stefanie Kirby, county clerk; Kerry Savage, county assessor.

Baker School District: 2090 4th Street, Baker City, OR 97814; 541-524-2260; fax 541-524-2564. Superintendent: Mark Witty. Board meets the third Tuesday of the month at 6 p.m. Council Chambers, Baker City Hall, 1655 First St.; Andrew Bryan, Kevin Cassidy, Chris Hawkins, Katie Lamb and Julie Huntington.