

WOTUS rejection a victory for landowners

You can add our voice to those cheering a decision by the Environmental Protection Agency and the Army Corps of Engineers to propose a rule to rescind the 2015 Clean Water Rule meant to define waters of the United States that are regulated under the Clean Water Act.

WOTUS is on its way out. It's a victory for landowners against the power of the administrative state.

EPA and the Corps worked on the rule for a couple of years in the hopes of reconciling two separate Supreme Court decisions in cases involving the Clean Water Act. The object was to better define what constitutes "waters of the United States," which the act gives the federal government authority to regulate.

The language of the rule extended regulation to isolated bodies of water that have a "significant nexus" with navigable waters of the United States. The rule left it to the bureaucrats to determine that nexus, and that rightly made farmers and ranchers nervous.

Despite their attempt, the final regulation brought little of the clarity it purported to provide.

Farm and ranch groups worried, despite the government's protest to the contrary, the feds would use the opportunity to expand their authority over "waters," and therefore adjacent lands, not previously subject to regulation under the Clean Water Act. Such a designation could have profound and expensive consequences for landowners.

Even the Corps had its doubts. Unhappy with the way EPA wrote the document, it

wrote a scathing email to EPA officials prior to the release of the final draft. Among its complaints was a claim that in extending regulation to isolated bodies of water that have a "significant nexus" with navigable waters of the United States, but defining such bodies as having "no hydrological connection with navigable waters," made it unlikely the agencies could establish a nexus that would withstand a court challenge.

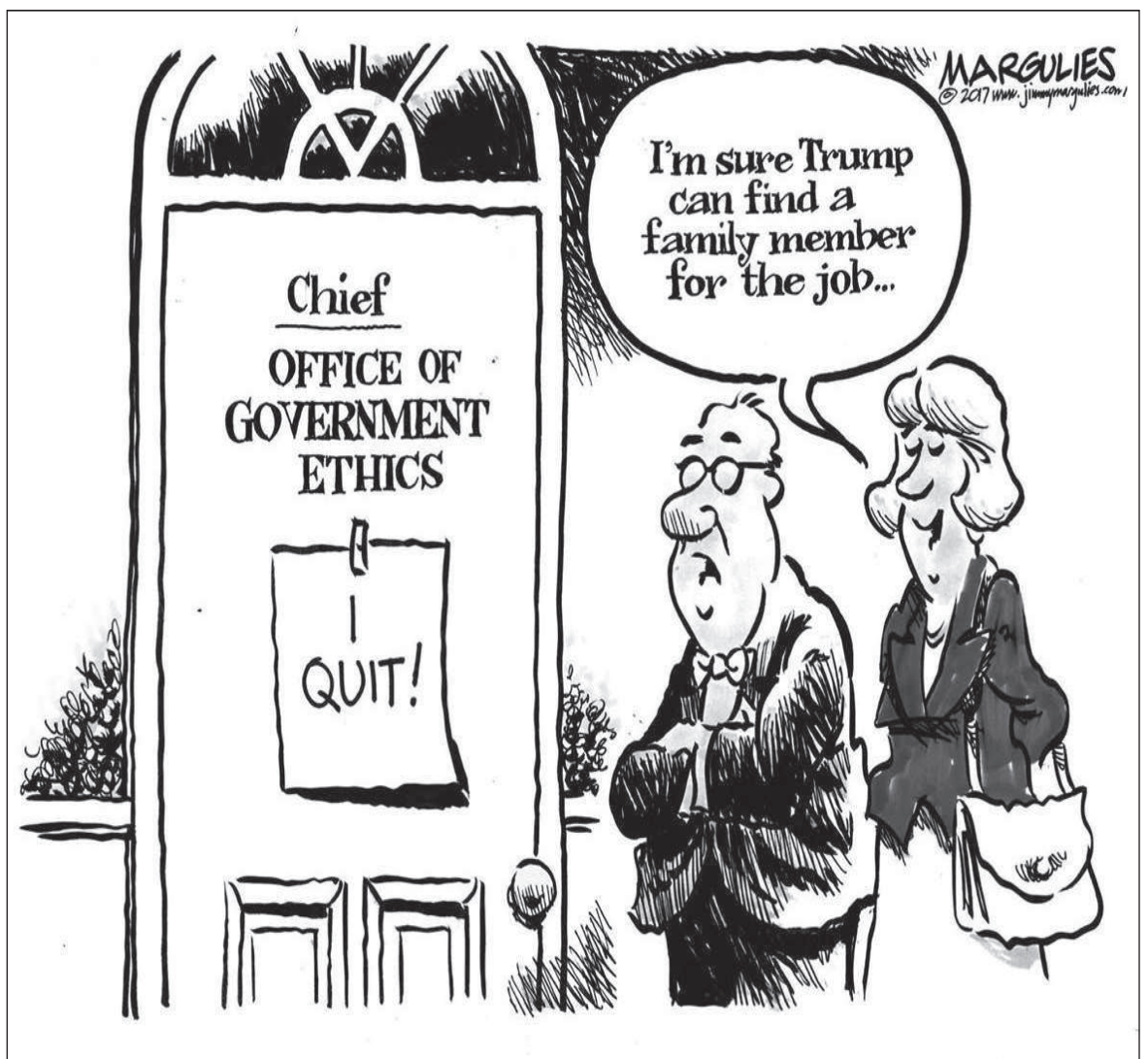
When the rule was released in 2015, a number of states and industry groups sued. Most notably, one lawsuit was filed by Scott Pruitt — then attorney general of Oklahoma and now the Trump administration's EPA director.

Jurisdictional disputes arising from those lawsuits resulted in a stay of the rule's implementation by the Sixth U.S. Circuit Court of Appeals in October 2015. The Supreme Court will take up the case later this year, but will decide only the jurisdictional issues, not the merits of the rule's interpretation of what constitutes "waters of the United States."

Fulfilling a campaign promise, President Trump in February issued an executive order for a review of the rule.

Getting rid of the rule as written is a good first step in reducing the reach of the administrative state. But that's not enough, because it will leave unresolved the ambiguity created by the disparate Supreme Court rulings. Farmers, ranchers and regulators need clear, unambiguous guidance on the true extent and limit of the government's authority.

On that point the next rule must be quite clear.



GUEST COMMENT

Medicaid supports students

By Mark Mulvihill and Heidi Sipe
To the Blue Mountain Eagle

Soon, the U.S. Senate will vote on the Better Care Reconciliation Act. The topic of healthcare reform in general is one we'll leave to the leadership in Washington, D.C., to sort; however, we feel it's crucial to increase awareness of changes that would have severe impact on our schools right here in Eastern Oregon.

If approved, the act will cap Medicaid payments to Oregon and jeopardize healthcare access for vulnerable children.

Our elected officials are proposing cutting hundreds of billions of dollars in Medicaid spending; such cuts could be detrimental to students with special education and health needs in our schools, and the ripple effect of lost funding could impact all students.

School districts across the nation receive about \$4 billion from Medicaid every year, and much of the money helps to defer the cost of our special education programs. Locally, we use these funds to support physical therapy, occupational therapy, speech pathology and nursing services to our medically fragile students.

In addition, our regional Community Care Organization receives Medicaid reimbursements to provide mental health and nursing services. Providing such services in the school environment allows students to receive quality care, relieves the burden of such care on families and helps us pool resources to provide services to students at a lower cost.

Without the ability to bill Medicaid for these important student supports, districts are forced to locate outside providers to care for students and pay potentially high-

er costs without reimbursement, which means reductions in other areas for all students to offset the expenses.

The InterMountain ESD region serves approximately 29,000 students in 18 districts. We receive roughly \$340,000 in Medicaid funds from both fee for service and Medicaid service claiming. If our children lose access to the Medicaid dollars, our districts would have to offset the loss of this revenue by cutting other areas.

We must do everything we can to make sure the Senate does not pass this bill. We must encourage our senators to fight against these devastating and unnecessary cuts to services that our low income and special needs kids rely upon. Our children are depending on us.

Dr. Mark Mulvihill is the superintendent of InterMountain ESD. Heidi Sipe is the superintendent of Umatilla School District.

LETTERS TO THE EDITOR

The Eagle's 'hack job on the Rainbow Gathering'

To the Editor:

In four articles, an editorial and featured hostile comments, the Eagle on June 28 did a hack job on the Rainbow Gathering and reality. The smear on "detrimental impacts" was spoon-fed by Forest Service personnel under incident command — wholly speculative, ignorant of environmental standards and routine protective practices on the land. Habitats are undamaged. Some critters may move within their normal range, then return. Latrines and compost pits are sensibly located, respectful of "heritage resources." Streams are protected by on-site water systems and temporary crossings. Trails and campsites are scarified, mulched and seeded, to mitigate surface compaction and let plants spring up fast. Yet Forest Service officials allege "the site will never be back to normal" — actually it will be fine by fall after a few rains. They should know that the Rainbow Gatherings have done effective restorative cleanups for decades, with no significant impacts on national forest lands, but didn't do the homework. In fact, the Forest Service deemed them "categorically exempt" from formal environmental assessment, with

minor transient effects not requiring prior review. (Federal Register, 60:168, 45257, Aug. 30, 1995.) So it's misleading to raise false fears: There is no "double standard," as the editorial intones, where special use tests have been met consistently — and ranchers have no gripe about compatible public access in multiple-use national forest primitive areas. Then it's onerous to impugn this gathering as "unauthorized." It is a public assembly, joined voluntarily by individuals. There is no "group" party or agent power to sign a permit. In recent years, the Forest Service adopted Operating Plans as a fitting means of compliance; now they revert to a "Design Criteria" contract, conjuring a fictional "group" and demanding signatures, again. Gatherers could not sign it fraudulently (18 UCS 1001). That's all it's about; it has no bearing on their ability to assemble peacefully and care for public lands. What's missing from the Eagle news is the First Amendment — any respect for these rights or concern over targeted enforcement against them. The writing was derisive and got facts so wrong, it was obvious collusion with the feds to disinform the public and foment division.

Scott C. Addison
Coordinator
Free Assembly Project
St. Louis, Missouri

Term limits would clean up politics

To the Editor:

According to theorists on the Science Channel, all those stars, novas (novae), space debris and planets out there are sucking up all the nutrients, gases and stuff that our solar system needs to survive.

After a few trillion years, all those twinkling stars will snuff out — suffocated and starved to death.

On the other hand, there are massive black holes meandering around our universe, sucking up space debris, defunct novas, stars and the like.

So, my theory is that the black holes are nature's toilets, flushing away all those greedy stars and debris that are depriving the rest of us of air and stuff, in a few trillion years or so.

Now, I would like to theorize that a black hole may exist within the political realm. My question would be: Where can we find the flush handle to make it operational? Oh, I believe the flush is called "term limits," and why don't we establish them for career politicians who are sucking our nation dry and suffocating constitutional rights?

Judy Kerr
Canyon City



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