

# Water As A Weapon

*In a remote corner of southeastern Oregon, agriculturalists are fighting for water rights and the right to keep pursuing the lifestyle they love in the place they call home. By Dani Nichols*

I remember when the water shut off. It was 2001 and I was a senior in high school. A complicated mess of bureaucracies, environmental groups and special interests used now-discredited science to shut off irrigation water to hundreds of farm families in Klamath County, Ore. I remember well the outcry, the desperation and the feeling of fearful futility in the air. It was a man-made crisis—blamed conveniently on drought—and turned out to be disastrous for the local economy, agriculture and wildlife. Water was only granted back to Klamath Basin agriculturalists after direct intervention from President George W. Bush.

Since 2001, environmental groups and opinion writers have called efforts to restrict agricultural water use in the Klamath Basin “courageous,” “responsible” and “forward thinking.” The vivid memory I have of the stricken faces of farmers and ranchers I’d long admired—good friends, neighbors and citizens who just wanted freedom to provide for their families—says something very different.

Now another threat has come to agriculturalists in the Klamath Basin, specifically the Sprague River Valley and area around Fishhole Creek in Bly, Ore.—small, rural communities in eastern Klamath County.

According to a press release on the Klamath Tribes’ website: “On June 10, [2018] the Klamath Tribes delivered to the Oregon Water Resources Department a ‘call’ requesting that the department take action to enforce the Tribes’ water rights that have been determined in the Klamath Basin Adjudication. A ‘call’ is a request that the department’s water master reduce illegal water uses and water uses whose priority date is junior to the calling party, until enough water becomes available to meet the party’s rights.... The Klamath Tribes’ rights are based on the needs of plant,

wildlife, and fish species the Tribes reserved the right to harvest in the Treaty of 1864, including fish in several rivers, lakes and marshes of the Upper Klamath Basin. The Tribes’ water rights have been affirmed in the courts to have a ‘time immemorial’ priority date and are the most senior in the Basin. The rights provide that specific quantities of water are to be maintained in-stream to provide for



*This barn and ranch sit between Fishhole Creek and the South Fork of the Sprague River in the easternmost part of Sprague River Valley. Gearhart Mountain rises in the background and is the main source of runoff, providing water for ranches, residences, wildlife and the small communities in this sparsely settled part of Oregon. This ranch depends on a small share of that water for irrigated pastures as seen here.*

fisheries and other treaty resources. Because the stream flows are currently lower than the Tribes’ rights, the Tribes have asked for illegal uses and junior uses to be restricted until the flows are met.”

What are those “illegal uses and junior uses”? Oh, just the wells and irrigation water of more than 100 ranching families in the Sprague River Valley and surrounding towns. Without water, these ranching families cannot grow hay for the winter, water livestock, or effectively run their agricultural operations. While tribal interests have legitimate water rights, these “calls” are a shameful and utterly unnecessary bullying tactic against local ranchers, who are left with little recourse.

Water rights are a huge issue in the Klamath Basin, as they are for most of the West. My dad, Oregon state Sen. Dennis Linthicum,

was simply a good neighbor, small-business owner and church elder when friends and fellow agriculturalists asked him to run for Klamath County Commission in 2010. Because of his strong stance on fair water use for all, he handily won a county commissioner seat with almost no advertising or fund-raising, and county commissioners with strong pro-agriculture and fair-minded water-rights’ stances have prevailed ever since. The will of the people, however, never gets in the way of a bureaucracy, and the Oregon Water Resources Department has sided with the tribes, using faulty science to once again cripple the family farms and ranches by the Sprague River.

In 2016, my dad won the state senate seat for similar reasons as his successful county

commissioner position, and on his legislative website he gives the facts of the OWRD’s mistakes. Here’s the short version: In this current regulatory policy, OWRD is making the case that across the entire Upper Klamath Basin watershed, all wells, at all times, and in all circumstances, are hydrologically connected to surface water sources, which is not backed by proven hydrology, science or prevailing theory, but is a politically convenient case to marginalize an already beleaguered minority.

“Science must be restored to its rightful place when weighing the pros and cons of our state’s public policy when prioritizing the use of our precious and scarce natural resources,” Sen. Linthicum wrote recently. “If our government process is designed around public participation and transparency, then publishing planned actions and detailed evidentiary

findings produced by a qualified hydrologist describing specific well site geology and hydrology should not be a problem for our state government's executive agencies."

Sen. Linthicum is working on legislation to ensure that OWRD must follow some basic protocols, but as a minority party member representing a small group of ranchers in a little-known corner of a blue state, the odds of his success—and, therefore, of saving the

chat, to deliver a tool we'd asked to borrow, to invite us over for a home-cooked meal. It's where I learned my way around horses and livestock. And it's where I learned how to tell directions, the time of day and coming storms through sun, air and sky.

One of my heroes as a teenager was Erika Norris, who is a rancher in her own right and a hand on the Flying T Salers Ranch owned by Bruce and Virginia Topham in Sprague River. Our families are close friends, and my brother and I helped out on the ranch occasionally on branding days or during calving seasons. For the most fun week of the whole year, the Topham kids, my brother and I participated in 4-H fair together at the Klamath County Fairgrounds,

Sprague River area, my kids will never meet a real-deal cowboy or cowgirl like those I've admired most of my life—the kind people who use what they have to make a life, who care deeply for their livestock, who have never turned away a neighbor. These are the tough, no-nonsense risk takers who still make a living the old-fashioned way and if we lose them, we are losing more than multigenerational family farms and quality sources of local beef and hay. We are losing a time-honored tradition of caring for the land, a way of life and a pioneering legacy that should matter deeply to all of us, the same legacy that I learned from as a young woman, tying my spurs on with baling twine at a 4-H fair and sitting astride a horse looking out at green valleys and lowing cattle.

We, as proud descendants of the American

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CLOCKWISE FROM ABOVE: Real-deal cowgirls, Erika Norris and Susan Topham at the Flying T Ranch. ►Irrigated, verdant hayfields in Sprague River in summer 2018. ►After the taps were turned off. What a difference water makes! ►The Linthicum family at their ranch in Klamath Basin in 2013. From left: Dani and Adam Nichols, Chelsea and Denver Linthicum, Diane and Sen. Dennis Linthicum.



livelihoods of these ranching families—aren't very good. Farmers and ranchers around Bly are desperately trying to get new wells drilled outside of the arbitrary and unproven one-mile radius, but such changes are costly, time consuming, and, given the ever-changing nature of OWRD's findings and rulings, a gamble at best.

I came of age in the Sprague River area. It's where I learned to drive, maneuvering my dad's 1980 Toyota pickup through two feet of snow to feed hungry cows. It's where I learned about neighborliness when we loaded drums of water in a pickup bed from a neighbor's well because we didn't have a well of our own drilled yet. It's where local ranchers rode horses and four-wheelers up to our homesite to

showing in the arena, napping on the backs of our tame cows and steers, and eating snow cones until our tongues tingled.

One time, Erika and I were tacking up horses, planning to bring in cow-calf pairs to the corral to be worked, and Erika tied her spurs on with baling twine. This made us both laugh, and when Bruce heard us, he smiled and commented, "Yeah, but you, Erika, are a real-deal cowgirl—you don't need fancy spur straps for that."

I tucked that little comment away in my heart. I wanted that gruff compliment said of me someday. I wanted to be a real-deal cowgirl, too.

I'm not sure I ever became the real deal, and it makes me sad to think that if these ranching families are forced out of the

West—agriculturalists, real-deal cowboys and cowgirls, good neighbors and hearty country folk—must raise the outcry about this injustice. It's true that this impacts a small minority, a tiny corner of an underpopulated county in a murky and complicated water war that has been waging for longer than I've been alive. It can feel too big, too broad, too unwinnable a war. But we have to wage it, we have to fight for the legacy we hope to leave those who come behind us, the wide-eyed young people who are watching the way I watched Erika with admiration, the way I learned from the kind eyes and sure hands of the farmers and ranchers I encountered in my youth.

My daughter turned three this summer. I want to take her to the Flying T Ranch someday, to drive her by the fertile fields of the Klamath Basin without a sad commentary on what used to be, but with hope for a bright future and a long-lasting legacy for all. ■

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