

farming practice of deep plowing could require a permit under the Clean Water Act, and on what basis he could be charged with introducing a pollutant into the land. The Corps's answer is at once a masterpiece of sophistry and absurdity. In effect (and with an irresistible added touch of author's sarcasm), the Corps said: Plowing causes the addition of a "pollutant" (dirt) from a "confined and discrete conveyance" (tractor and plow) into "navigable waters" (depressions in the ground) at "specified disposal sites" (the plowed land). This, by the way, is the same Army Corps of Engineers that has been dumping 200,000 tons of toxic sludge into the Potomac River every year since 1989, claiming the sludge actually protects endangered shortnose sturgeon by forcing them to flee the polluted area and escape fishermen. (See: *Washington Times*, June 19, 2002.)

When Tsakopoulos's challenge to the Corps's demands came to trial in federal district Court in Sacramento, the judge, deferring fully to the agency's interpretation of the CWA, found 358 separate deep

plowing violations, and ordered Tsakopoulos to pay either a fine of \$1.5 million or pay \$500,000 and finance an environmental restoration project on his ranch. On appeal, the Ninth Circuit Court of Appeal, in a 2-1 decision, affirmed the trial Court.

IN ITS review, the Supreme Court will address the seemingly mundane questions of whether deep plowing normally dry, seasonally wet, ranch land, which involves turning over dirt in place, constitutes the addition of a pollutant under the CWA, and whether such activity is a normal farming practice, and thus exempt from regulation under the CWA. Yet, the import of this case goes far beyond a farmer's use of the plow.

The experiences with abusive government shared by the founding fathers caused one of the earliest American advocates of individual freedom — indeed, the leading champion of the Constitution — James Madison, to comment: "I believe there are more instances of the abridgement of the freedom of the peo-

WHAT YOU HAVEN'T BEEN TOLD ABOUT GUN CONTROL

By SAM PAREDES

A western journalist in Moscow in the 1930s, upon exiting a government briefing on farming in the USSR, remarked, "It's all true, except the facts" — rather like Republican election experts' routine warnings that "pro-gun" is a loser in the Golden State. If we consult the political pundits, it all seems so true ... except the facts.

Fact 1: Anti-gun zealotry plays havoc with Democrats' base constituencies. Georgia Democrat Senator Zell Miller and Democrat governors of half a dozen states say Al Gore lost Arkansas, Tennessee, and West Virginia, all *usually* reliable Democrat states, due to his push for more gun control. Meanwhile Virginia Democrat Mark Warner was elected governor on a pro-gun platform.

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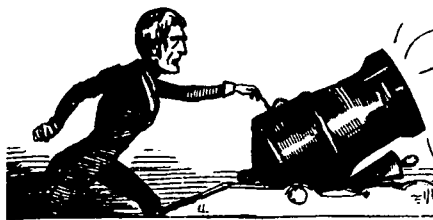
Fact 2: Americans like guns. A recent Democracy Corps poll shows that "swing voters" (those that decide most elections) have a favorable opinion of the NRA and are inclined to vote in line with its recommendations. Even Democrat strategist James Carville says, "I don't even think there's a Second Amendment right to own a gun ... But, I think it is a loser political issue ... I think the issue has not been good for us. On top of that, I like guns." A Time/CNN poll shows 61 percent of Americans want airline pilots armed. Unsurprisingly, the measure allowing pilots to be

armed passed both houses of Congress with wide bipartisan support.

Fact 3: California resembles America on guns. If pro-gun was a GOP loser, would not Democrats press the issue, precisely *now* with elections looming, an unpopular governor, a glum electorate, and the shadow of scandal clouding the donkey Party's California campaigns? So why after three years of more anti-gun laws than ever before, has *no* anti-gun bill passed the Legislature in 2002? Lots have been introduced; all have failed.

The difference is that Assemblymembers Canciamilla, Cardoza, Florez, Matthews, Papan, Reyes, and Thompson — all reliable anti-gun votes in the past — have laid off. Their districts resemble the states Gore lost on this issue. These Democrats seem to have heard something. Tony Quinn, are you listening?

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LEGISLATIVE FILE

The liberal bag of tricks

Every legislative year, it seems at least one bill manages to infuriate Californians across the state. Which it will be is a little hard to predict. After all, each session is packed with draconian mandates, ridiculous over-the-top regulations, and boondoggle spending — all, one might think, capable of lighting voters' fuses. The media ignores most of them, and the precise selection process by which this or that particular exercise in anti-public policy gains the public spotlight remains a mystery.

This year's bill is Assemblywoman Fran Pavley's AB 1058 (D-Woodland Hills), a measure that goes after Sport Utility Vehicles by requiring the State Air Resources Board to adopt regulations that achieve "maximum feasible" and cost-effective reductions of "greenhouse gas emissions" — carbon dioxide. No catalyst or bolt-on device exists to remove carbon dioxide from vehicle tailpipes, so the only "maximum feasible" action the Board could recommend would be to reduce the size of vehicles or the number of miles driven in California. This is precisely the bill's goal.

Pavley's creation somehow worked its way through the state's political alchemy to surface as the season's public horror number one. Given SUVs' growing

popularity, once they learned of the bill, motorists were quick to respond. The outcry against AB 1058 became overwhelming: shouted in headlines, dominating radio shows, fueled by blast faxes and newspaper and radio ads. Well-known auto dealer Cal Worthington ran his own commercial against it. And with every push for motorists to oppose came the reminder to mention "AB 1058": "Hey, have you heard about AB 1058?"; "Today we're talking



about AB 1058"; "Call your legislator and oppose AB 1058."

The opposition began to frighten even some of the Legislature's more stalwart leftists, and the bill stalled on the Assembly floor. But, not to be thwarted by a mere outpouring of public disgust and opposition, the bill's champions reached into the legislators' bag of tricks to get the measure moving again. Presumably calculating that lightning probably would not strike the same dumb idea twice, they simply wrote 1058's language into

another bill and, bypassing the usual committees, rushed it to the floor.

While AB 1058 sat motionless in the Assembly — members telling voters, "You see, I listened. I didn't vote for AB 1058" — the empowering language, now in AB 1493, passed both legislative houses and, at this writing, sits on the governor's desk.

And Gray Davis plans to sign it. The governor's approval ratings are 'way down, even among many Democrats. The Enviro, for instance, are upset that Davis received sizeable timber industry campaign checks. Somewhere they seem to have gotten the idea the governor sets policy in response to campaign cash. In June, Sierra Club Director Carl Pope criticized Davis for accepting the donations and said the Club, which endorsed Davis in 1998, "has not decided what to do in this race."

To make matters worse, Republican Bill Simon's surprise opposition to off-shore oil drilling put Davis on the defensive in what he assumed was his home turf. What to do? Sacrifice SUV owners and makers, of course. Maybe the unruly Enviro will rejoin the Davis bandwagon. And maybe the union auto workers won't connect the dots leading straight to them and their jobs.

And thus policy is made, or, rather, inflicted, no matter the opposition, on the people of the Golden State. CPR