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Opinion

Our View

Foreign guestworkers: A tale of two nations

For two nations that share a common border, the U.S. and Canada get along pretty well. Missing are the legal battles over trade and the incendiary political polemics over immigration that light up the border between the U.S. and Mexico.

Though fundamentally different nations, the U.S. and Canada share a good many issues — an excess of wolves and a need for foreign guestworkers among them.

Maybe the two nations can learn from each. Or better yet, maybe the U.S. can learn from Canada when it comes to wolves and guestworkers.

In Canada, gray wolves are managed as big game. With more than 55,000 wolves, Canadian wildlife managers have figured out that the end of the world is not at hand if a few wolves are removed because they chronically attack livestock.

In the U.S., a swarm of environmental groups heads for court nearly every time a wolf is killed for repeatedly attacking cattle or sheep. They wave copies of the Endangered Species Act and the National Environmental Policy Act as they try to stop U.S. wildlife managers from, well, managing wildlife.

Both the U.S. and Canada share something else in common. They both need more farmworkers and can't hire them domestically. They rely on foreign guestworkers, which are brought in from other nations to help harvest crops and do other labor-intensive farm work.

There the similarity ends.

In Canada, the main efforts seem to focus on making the Seasonal Agricultural Workers Program work. The program is administered by a nonprofit organization, called FARMS for Foreign Agricultural Resources Management Services, meaning that most of the politics are left out.

In the U.S., the H-2A foreign guestworker program is caught up in a political firestorm that includes yelling matches over illegal immigration, building a wall on the Mexico border, union worries about maintaining a foothold in the farm workforce, federal government ineptitude and the presidential candidates, who are flailing wildly at each other.

With all of those forces in play — plus a president who doesn't seem to give a darn about bringing in foreign farmworkers — it's amazing any H-2A workers ever make it to the U.S. to help with harvest.

Perhaps the U.S. should take a page out of Canada's playbook and change its guestworker program to more closely resemble Canada's.

Canada has agreements with Mexico and several Caribbean nations to provide workers to Canadian farmers. The workers can stay in Canada for up to eight months.

That means the farmers on the FARMS board of directors have direct control and have every reason to try to improve the guestworker program.

In the U.S. the H-2A program depends on the politics of the moment, not the needs of the farmers.

The goal should not be to make political points at the expense of farmers. The goal should be to help farmers obtain enough workers to get their work done.

Though the Canadian program is not perfect — farmers there still need more foreign guestworkers — it is a far cry from the basket case that passes for the H-2A program in the U.S.

Canada's leaders seem to get it. We can only hope that one day U.S. leaders will get it, too.

Rik Dalvit/For the Capital Press

Our View

Court ruling thwarts tyranny of regulators

We've been hearing a lot since the passing of Justice Antonin Scalia about how the country isn't being served by an eight-member, divided Supreme Court.

Well, last week the surviving brethren served the country well, issuing an unanimous opinion giving property owners the right to challenge in court regulatory determinations that their properties are subject to the Clean Water Act.

In U.S. Army Corps of Engineers v. Hawkes Co., the question of judicial review rests on whether a determination by the U.S. Army Corps of Engineers that it has jurisdiction over property under the Clean Water Act is a final agency action subject to challenge, or merely an opinion a property owner can consider and disregard, albeit at future peril.

The court rightly found that such a determination is a statement of the government's intention to take action if disobeyed and is subject to judicial review.

Hawkes Co. planned to mine peat moss on wetland property it owned in Minnesota. After numerous meetings with the company and visits to the site, the Corps concluded that there was a significant nexus between the site and the Red River of the North, waters of the U.S. as defined by the Clean Water Act, some 120 miles away.

It made a jurisdictional determination that a permit would be required before the company could move forward.

According to the Corps, this left Hawkes with only three options. It could abandon the project. It could perform the expensive and time-consuming environmental impact studies and apply for a permit. It could ignore the determination and proceed with the project and defend itself if (when) the Environmental Protection Agency — the muscle in these cases — prosecuted.

What it could not do is contest the determination in court. According to the Corps, its jurisdictional determination was not a final government action under the Administrative Procedures Act because it neither compelled Hawkes to do anything, nor restricted its actions.

That contorts both logic and the language. No one in their right mind would go forward with a project without a permit and face the possibility of ruinous fines and legal expenses. No one would go to the trouble and expense of getting a permit and then challenge the thing in court.

Without the right to judicial review, landowners really had no choice but to forget the project or submit.

That's how the court saw it. Writing for the court, Chief Justice John Roberts said landowners "need not assume such risks while waiting for EPA to 'drop the hammer' in order to have their day in court."

The Corps must now be ready to demonstrate a solid scientific basis that private property has a "significant nexus" with waterways protected by the Clean Water Act before it can require a permit.

The burden of proof must always rest with the regulator. Landowners should not evade justified regulation but must be able to thwart the tyranny of being forced to submit to the arbitrary will of the bureaucracy.

Readers' views

Column points out flaws in GMO report

I would like to applaud the editorial board of the Capital Press for your printing Hank Keeton's comments on the National Academies of Science, Engineering and Medicine's summary report on GMOs. The Our View opinion of May 27 led the reader to believe that the report should "give farmers and consumers confidence that GMOs are safe."

I believe that Mr. Keeton clearly pointed out that the NASCM's report was the fox's report on the condition of the hen house. Clearly no problem folks, things are entirely under control.

May I point out another article in the May 27 Capital Press edition, "U.S. organic food, fiber sales booming" by Carol Ryan Dumas. Have a quick look at the graphic chart of annual organic sales over the past 10 years.

I can't speak for farmers, but clearly many consumers are moving in a direction away from GMOs. Here is the most telling thing for me: They are willing to pay a premium for what they consider to be a clear, healthy choice for their family!

Frankly, I don't put much credence in propaganda from either side of the political debate on GMOs (and I consider the NASEM's report propaganda for one side), I prefer to follow the money and simply monitor how the market is reacting to the GMO debate.

It appears to me that the reality of the matter shows that a segment of American consumers is deciding to spend an average of 10 percent more each year on organic food and fiber items than other options.

Certainly someone, somewhere is asking why and why that has been happening for 11 consecutive years while the debate continues on ad nauseum.

Please continue to keep the many stimulating agricultural articles coming.

Brian Quigley
Camano Island, Wash.

Antiquities Act: Outdated and in need of reform

By KATIE SCHROCK
For the Capital Press

Guest comment
Katie Schrock

Arguments have heated up between environmental groups, such as the Oregon Natural Desert Association, and private businesses, such as Keen footwear, with Malheur County farmers and ranchers over the current movement to lock up 2.5 million acres in an Owyhee Canyon national monument designation.

A monument designation of this magnitude can be made by the president via the Antiquities Act of 1906. The original purpose of this act was to protect historic archaeological sites in the Southwest from looters and was never intended to lock up vast tracts of land.

There are two important parts to the definition of the Antiquities Act in this situation. The first is that the president is authorized, at his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on government-owned lands to be national monuments.

The second being that the act clearly states that the limits of such a designation shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

The care of this land in the past has fallen to a combination of Malheur County ranchers and seven different layers of current state and federal protections on the area.

"This area is as pristine as it is today because of the people who live and work there. More regulation and government intervention will not preserve it, as is touted by the environmental groups," said Matt McElligott, the chair of Oregon Public Lands Committee.

John O'Keefe, the president of the Oregon Cattlemen's Association, voiced his concern over the use of the Antiquities Act, stating that, "It is clear from the language of the Antiquities Act that it was never intended for large landscape scale designations; 2.5 million acres is a blatant abuse of the intent of the act and I certainly hope that the administration chooses not to make the designation."

One of the many ranchers who would be affected is Elias Eiugan, a fifth-generation cattle rancher in Malheur County.

"My great-grandfather came to this land when he was 12 years old and because of his responsible use of the land and grazing animals on public land, our family has continued to thrive and I want the same opportunities to exist for my children and their future. If a monument designation gets implemented, I don't foresee that opportunity being there," Eiugan said one day after he spoke to the Oregon Legislature on the topic.

The counter-argument is that the designation will not eliminate grazing rights for the ranchers who are already on the land, but this is simply a false sense of security. Prior monument designations on ranching lands have proven to quickly remove the ability of the cattle ranchers to keep their public land grazing permits.

That example is the Grand Staircase-Escalante National Monument designation in Utah, which has resulted in the failure of the local school system and threatened the economic future of the town due to the loss of natural resources jobs, according to the Argus Observer in Ontario, Ore. The land was designated over 20 years ago and still the locals are feeling the effects such as dwindling school enrollment. The county even declared a state of financial emergency in June of 2015 according to a newspaper interview with Commissioner Leland Polland.

"The designation of a monument of this size and magnitude sets a precedent of future monuments that can be added," said Jerome Rosa, the executive director of the Oregon Cattlemen's Association. "Our Land, Our Voice," a group working to make the monument designation go to a vote by Congress, are fighting not just for Oregon cattle ranchers but all American cattle ranchers.

"What truly needs to come out of this discussion is that the Antiquities Act needs reformed. It has been abused by many presidents. It started out to protect important historical sites and objects, and now has turned into a legacy act for outgoing presidents," added McElligott.

Oregon must stand together to protect Oregon's cattle ranchers grazing rights and their livelihood. When asked what interested parties could do to become involved, Eiguan requested that they visit their website, www.ourlandourvoice.com, and sign the petition to encourage President Obama that the Owyhee Canyon National Monument designation should not be created through executive powers but should be voted on by Congress and threatens the livelihood of Oregon's cattle ranchers.

Katie Schrock is communications director of the Oregon Cattlemen's Association. She is the current Miss Rodeo Oregon. The Oregon Cattlemen's Association was founded in 1913 and works to promote environmentally and socially sound industry practices, improve and strengthen the economics of the industry, and protect its industry communities and private property rights.