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OUR VIEW

'Cap and invest' proposal short on specifics

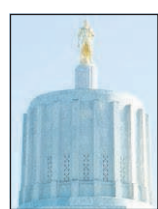
A recent presentation to the Oregon Board of Agriculture on a new "cap and invest" effort under study by Democratic leaders in the Oregon Legislature and Gov. Kate Brown's administration provided more questions than answers.

"Governor Brown wants to decarbonize the Oregon economy," said Kristen Sheeran, carbon policy adviser for the governor.

Though details were lacking, the plan would take money from companies that exceed a state limit on emitting greenhouse gases such as carbon dioxide. Such companies would include fuel and electricity providers.

The money collected from

those companies would go to other companies that keep carbon emissions below the cap the state sets. The state could also



sell emission allowances to the offending companies and spend the money to build better roads and offset the effects of higher electricity and natural gas prices, she said.

The state could also spend the money to decrease or offset carbon emissions, which could benefit agriculture. Farmers and ranchers wouldn't be regulated as emitters under the current proposals, Sheeran said.

Among the questions generated

by the presentation were:

- How much, exactly, would Oregon's cap and invest program reduce global temperatures? Ten degrees? Five degrees? Less? More? We assume that's the goal of any effort to limit greenhouse gases, so we need to know the answer to that threshold question first. Some groups say their proposals wouldn't necessarily stop climate change. Instead, it would slow it. In that case, how much would the governor's plan slow climate change?

- How much, exactly, would the cost of gasoline, diesel fuel, natural gas and electricity increase under the plan? Nearly all Oregonians — including farmers and ranchers — buy fuel and

electricity, so any increase would be important to know at the outset of such a program.

- Oregon farmers and ranchers transport their crops and livestock all over the West and the rest of the world. How much would those costs increase?

- What would the impact be on food processors and lumber mills, which farmers and ranchers rely on?

- What would the impact be on fertilizer manufacturers and suppliers?

Similar programs have been adopted or proposed elsewhere. We have not yet seen proof of how much they are reducing global temperatures, either. In a recent report California determined its "cap and trade" effort had reduced

the state's carbon emissions by 1.5 percent in 2015. The report did not specify how much that will decrease the global temperature.

While there are plenty of computer models, there also needs to be hard evidence directly related to these programs. Without such information, we are asking businesses, including agriculture, to pay an unknown price for an unknown outcome.

There's an old saying in investing: Never make an investment until you completely understand what you're getting into. It's true on Wall Street — we've seen that proved time and again — and it's true when considering Oregon's "cap and invest" proposal.

OUR VIEW



President Donald Trump holds a signed Antiquities Executive Order during a ceremony at the Interior Department in Washington, D.C., on April 26.

Associated Press File

Time to limit Antiquities Act

Last week President Trump signed orders reducing the size of two national monuments in Utah, giving us occasion to advocate changes in the Antiquities Act of 1906.

Bears Ears, created last December by President Barack Obama using the Act, will be reduced by about 85 percent, to 201,876 acres. Grand Staircase-Escalante National Monument, designated in 1996 by President Bill Clinton, will be reduced from nearly 1.9 million acres to 1,003,863 acres.

The Utah monuments are two of a couple of dozen whose boundaries are being reviewed by the administration.

Attention is now turned to the Cascade-Siskiyou National Monument in Southern Oregon. The original 53,000-acre monument was created in 2000, but last year President Obama added roughly 47,000 acres.

Forest and farm interests opposed that expansion. In their lawsuit they maintain that some 40,000 acres of federal land included in the expansion were part of the former Oregon & California Railroad land grant previously

set aside by Congress for timber harvest.

Without providing specifics, Interior Secretary Ryan Zinke said the monument should be modified to "address impacts on private lands and to address issues concerning the designation and reservation of O&C Lands as part of the monument and the impacts on commercial timber production."

Oregon Gov. Kate Brown has promised to sue if the expansion is turned back. Conservation groups, outdoor clothing purveyors and Indian tribes say they'll file suit over the actions in Utah.

Administration critics say the president doesn't have the authority to alter the size of existing monuments — despite seven other presidents, both Democrats and Republicans, having taken similar action on 18 occasions. This is the stuff of lawsuits.

It's time for the Antiquities Act to be revised, if not repealed altogether.

The Act has been used by presidents starting with Teddy Roosevelt to create national monuments. The authority comes with few restrictions. The president, "in his discretion," can designate almost any piece of federal land

a national monument for "the protection of objects of historic and scientific interest."

It's easier than establishing a wilderness area, or a national park — both of which require congressional approval — but can impose similar restrictions on how the land can be used.

Those increased restrictions on already protected land hit ranchers and loggers particularly hard.

We can't argue that legitimate treasures have been preserved under the Act. But the power to unilaterally lock up hundreds of thousands of acres by fiat at the behest of political allies, without regard to local concerns, seems undemocratic.

Only in Wyoming and Alaska do local residents and their elected representatives have a say in the process. After big land grabs, Congress placed limits on the president's ability to create monuments in those states without its consent.

We think residents of the other 48 states — particularly those of us in the West, where these monuments are more likely to be located — should get the same consideration as citizens of Wyoming and Alaska.

Five common farm estate planning mistakes and how to avoid them

By MARIA C. SCHMIDLKOFER
For the Capital Press

Guest
comment
Maria C.
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A well-crafted, comprehensive estate plan includes a will, power of attorney, medical directive and frequently a trust. The estate plan should dovetail with your business documents to ensure the business plan and estate plan fly in formation. An estate plan will save your family not only time and money down the road, but also protect your familial relationships. It will ensure your farm businesses and land pass onto the next generation the way you want.

Once you are ready to work on your estate plan, make sure to avoid these common mistakes.

1. Mistake: The plan doesn't match asset ownership.

Solution: Review ownership and beneficiaries on all of your assets. Your account ownership or real estate titles may conflict with distributions under your will or trust. For example, if you own a joint account with a child, that account may pass solely to that child, which may not be your intent. Review asset titles, account ownership and beneficiary designations to avoid a mismatched plan and family conflict.

2. Mistake: Poor tax planning.

Solution: Maximize tax savings. As land continues to rise in value, in order to keep the farm in the family, consider advanced income and estate tax planning. While folks in the 1990s frequently created tax plans to minimize federal estate taxes at 55 percent on estates exceeding \$600,000, federal laws currently allow you to transfer \$5.49 million to someone other than a spouse free of federal estate tax. If the estate exceeds \$5.49 million, there is a 40 percent tax. A married couple can create a plan to pass on almost \$11 million estate tax free to their families.

In contrast, Oregon taxes estates that exceed \$1 million and transfer to someone other than a spouse on a sliding scale of 10-16 percent. However, Oregon also has the Oregon Natural Resource Credit ("ONRC") that farmers can take advantage of to keep the farm in the family. The ONRC is an estate tax credit on Oregon farms that meet the following requirements:

1. The adjusted gross estate is under \$15 million.
2. ONRC Property exceeds 50 percent of the adjusted gross estate.
3. ONRC Property was operated for five of the last eight years before death by the decedent or decedent's family member.

4. ONRC Property is inherited by the decedent's family and continues to be used to farm for five of the eight years following death.

5. The ONRC is limited to \$7.5 million of ONRC Property.

Aside from estate taxes, capital gains on the sale of farm property have increased. Analyze potential estate and income taxes with your attorney and CPA to determine the best way to reduce taxes for you and the next generation.

3. Mistake: Failing to address family dynamics.

Solution: Work through potential family issues in advance. If one child is inheriting the farm, tell the other children and explain why. Have an honest and open dialogue about the succession and your goals. Perhaps the child worked on the farm his or her whole life and this is fair, albeit not equal. For any potentially sticky situation, take the next step of not just telling the family as a group, but writing a letter to your children explaining your decision.

4. Mistake: Failing to address disability.

Solution: Execute documents and instructions for your family to have in the event of emergency. Who knows all the details of your farm business? Who is legally authorized to run it if you had an emergency? Would the contracts, leases, supplies, payments and employees all run smoothly? If one child leases part of your land, was that done through a handshake or a legally binding document? Ensure that you have documents in place that allow someone to step in to manage your assets and make health care decisions on your behalf in the event of emergency.

5. Mistake: Failing to update estate and business plans.

Solution: Review your plan regularly. The law is complex and our situations in farm and business are unique. Life and the law changes. Have an attorney who regularly works with farm and business succession review your plan regularly to ensure your plan works.

Maria Schmidlkofer is an attorney with Schwabe, Williamson & Wyatt. She focuses her practice on working with farmers throughout the Pacific Northwest to create comprehensive succession plans for their families. You can reach her at mschmid@schwabe.com or (503) 540-4265.

Readers' views

Skagit County elk mismanaged

Why don't the Washington Department of Fish & Wildlife (DFW) and Indian Tribes as co-managers show any compassion at all for the health, safety and welfare of the elk and humans in eastern Skagit County? Why do they expect the landowners to put up with elk damages, provide free feed and bury their dead elk at landowners' expense? Is it because they are more wor-

ried about the next grant and paycheck?

Why do we need to keep asking the DFW and Tribes to just obey the law? RCW 77.04.012 mandates that DFW manage the elk to not infringe on the rights of a private property owner to control the owners' private property.

Why should local farmers lose \$10,000 to \$15,000 a year each from elk damaging their summer and winter feed crops and seed crops with no way possible to get compensation from DFW or Tribes? Why should

the taxpayers of Skagit County have to be saddled with the cost of two sheriff elk-vehicle collisions within last 50 days, one a \$55,000 vehicle totaled?

Why are the co-managers DFW and Tribes allowing the spread of elk hoof rot disease in the Skagit and Acme agriculture valleys? Watching elk suffer from hoof rot disease to where they become too weak to stand facing an agonizing death. Can livestock owners mismanage and treat their livestock in the same manner as the DFW and Tribes mis-

manage and treat elk? I don't think so, the public would be outraged and livestock owners would be charged with inhumane animal cruelty.

Why are the co-managers allowing elk damages to agriculture crops, elk damages to homeowners with gardens and orchards, elk-vehicle collisions and a dramatic increase in elk populations in east county to escalate? Why don't the DFW and Tribes just obey state law RCW77.04.012?

Randy Good
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