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OUR VIEW

Will 'new' NAFTA deal be better for ag?

Donald Trump says the United States is close to reaching a deal with Canada and Mexico on changes to the North American Free Trade Agreement, but there's no word yet if the new and presumably improved pact will benefit U.S. farmers and ranchers.

There was plenty of opposition to the North American Free Trade Agreement even before it went into effect in 1994.

The treaty was negotiated under President George H.W. Bush's administration and became an issue in his 1992 re-election campaign. Independent candidate Ross Perot famously remarked that if NAFTA was ratified American workers would hear a "giant sucking sound" of



The Associated Press File
Donald Trump's administration is renegotiating the NAFTA trade agreement, but it remains to be seen how any changes would impact U.S. agriculture.

their jobs going south to Mexico.

Labor unions agreed. But to their chagrin, President Bill Clinton supported NAFTA and

signed it once ratified.

Unions blame NAFTA for destroying U.S. manufacturing jobs. Trump picked up on that riff as part of his campaign opposition to what he termed "unfair" trade deals. Last year the president threatened to pull out of the pact unless Canada and Mexico renegotiated.

Agriculture has a big stake in NAFTA. Since the pact took effect, ag exports to Canada and Mexico have increased from \$8.9 billion to more than \$38 billion.

But not everyone is completely satisfied.

Wheat growers, for example, say the pact has opened up the Mexican market, increasing exports by 400 percent. At the same time, they have a beef with

Canada. Canadian wheat sold at an elevator in the U.S. is rated the same as if it were produced here. But U.S. wheat delivered to an elevator in Canada is rated as feed wheat and priced accordingly.

There's no incentive for U.S. farmers to take wheat to Canada, but Canadian farmers are on an equal footing with U.S. producers when they sell here.

Dairymen take issue with Canada, too. U.S. and Mexican dairy groups have a common interest in pressing for better treatment when products go north.

Producers of seasonal fruits and vegetables say Mexican growers who can produce crops year round can flood the U.S. with cheaper product. They want new rules that will make it easier for them to file

anti-dumping complaints.

Have any of these issues been addressed? No one really knows.

Some Trump critics say the administration, despite the president's bluster, is striking a more conciliatory tone in order to close the deal and claim victory. They note that Trump had harsh words for a trade pact with South Korea, but terms agreed to so far are not dramatically different. They also say having entered into an escalating trade tiff with China, an opponent that can match his rhetoric, he can't afford to have NAFTA in the loss column.

Whether true or not, maybe a deal that more or less maintains the status quo is for the best.

American farmers can't afford to lose NAFTA.

OUR VIEW



Capital Press File

Food Producers of Idaho Executive Director Rick Waitley in front of Idaho's Capitol in Boise. The group has grown into an effective voice of agriculture in the state.

Food Producers of Idaho: an effective voice for ag

Food Producers of Idaho can best be described as lightning in a bottle. While groups in many states endeavor to "tell ag's story," in Idaho the Food Producers provide the message writ large.

Food Producers began in 1970 as an ad hoc group of agriculture-related organizations to address labor issues. Once that initial goal was achieved, the group drifted for a while until it identified its true purpose: providing a forum for all issues related to Idaho ag.

A key element of the group is a that all comers are invited — large and small companies and organizations and large and small individual farmers and ranchers. The door is also open to processors, cooperatives, lenders, government agencies, the University of Idaho, soil and water conservation districts, water groups and others. The

cost of joining is minimal: \$800 for full members, \$275 for associate members without voting privileges and \$55 for individuals. Thus the divide that sometimes emerges between large and small farmers was avoided.

"There's power in numbers when we can all stand together for Idaho agriculture," said Gayle Batt, a former Food Producers president and a representative of the Idaho Water Users Association.

Rick Waitley has been particularly effective as the executive director since 1989. He's been with the organization since 1977. Legislators know he has his finger on the pulse of Idaho agriculture.

But what makes Food Producers particularly effective is the state's legislators, congressional delegation and governor use it as a sounding board for agricultural issues.

An example of the group's effectiveness was mentioned in a recent Capital Press story about the group. The Idaho Nursery and Landscape Association encountered proposed legislation that would require nursery stock that is poisonous to eat to carry a red warning tag.

A silly as it may sound, the issue needed to be addressed. Anyone who has been around politicians knows that even the silliest ideas have the potential to gain traction.

The Food Producers took up the issue and amplified the concerns the nursery group had, and the proposal was dropped.

Other states have groups that are variations on the theme and help agriculture speak out, but because Food Producers of Idaho represents a cross section and has a low barrier to entry, it sets a high standard for such groups.

Readers' views

Science needed on both sides of climate argument

I appreciate my fellow Capital Press readers who write letters to the Opinion page. I believe it is very important to be open to others' point of view and feelings.

That said, it does not mean I will always agree with what they have to say, and I am sure this works both ways. In a recent letter on March 30th the writer asserted that one should "Pick an issue and go right to the science." Now this is a point on

which we both agree. To be fair, the writer makes a good point regarding government overreach and sometimes maddening regulations. As a farmer I can understand that no one likes laws that make our lives more difficult.

What I found missing from the letter was the hard science encouraged. The writer goes on to make statements and conclusions that many reputable scientific organizations would disagree with. I could write a very long letter supporting my point of view about what I consider (and according to 97 percent of the world's climate scientists

who are regularly published and peer reviewed) to be real concerns about accumulating greenhouse gases in our atmosphere.

Instead, I would like to suggest that any reader who finds science interesting and, or has an interest in the science of climate change, check out the website for NASA (National Aeronautics and Space Administration), or other reputable scientific journals. Let none of us "submit" to a lack of knowledge.

David Nemarnik
Sherwood, Ore.

State has ability to fairly resolve water disputes

By RANDALL KIZER
For the Capital Press

Guest
comment
Randall Kizer



On March 21, the Capital Press and the Herald and News reported "OWRD on track to overspend litigation budget." In the article, Tom Byler, director of Oregon Water Resources Department, said: "Since the lawsuits are generally initiated against OWRD, the agency doesn't have control over the costs."

Mr. Byler's comments deserve a response because, in fact, OWRD has control over whether it follows the law or not in regulating water users in the Klamath Basin. And irrigators in the Upper Klamath Basin are tired of the agency not carrying out its regulatory responsibilities.

I am a board member of Fort Klamath Critical Habitat Landowners, an organization of irrigators in the Wood River Valley, a tributary to Upper Klamath Lake. Early in the 2017 irrigation season, OWRD regulated off all irrigation and stock water in the entire Upper Basin to satisfy the instream water rights OWRD provisionally granted to the U.S. Bureau of Indian Affairs, in trust for the Klamath Tribes, in the Klamath Basin Adjudication.

How it began

On May 16, 2017, I met with Mr. Byler and assistant director Tom Paul. During the meeting I explained that with a 140 percent-plus snowpack and Annie Creek and Wood River running at flood stage, it was impossible that the instream flow level of 323 cubic feet per second on Wood River was not being met. We requested they allow irrigators with the next senior rights to irrigate, consistent with the prior appropriation doctrine.

They refused, assuring me that OWRD's gauge was "regularly verified" and that OWRD considered its measurements "accurate enough" to regulate off all users except the Klamath Tribe.

I left the meeting feeling disenfranchised. After meeting with other board members, we decided it was time to gather our own data. During a short afternoon float of the lower reach of Wood River, we found copious amounts of water unaccounted for by OWRD that was flowing around the gauge site.

We then hired a professional water measurement firm to confirm our suspicions. They measured more than 400 cfs at the same time that OWRD's gauge downstream measured just 265 cfs.

Lawsuit filed

On May 26, 2017, we filed suit against OWRD for prohibiting irrigation based on bad data. By state statute, the filing of the lawsuit automatically stayed the effect of OWRD's shut-off orders, providing irrigators with the next-senior water rights the ability to irrigate.

During the stay we continued to measure and monitor the flows and at no time during the stay did the flow in Wood River drop below the senior tribal instream flow level.

However, contrary to Mr. Byler's comments in the Capital Press, the stay did not undermine the prior appropriation doctrine. It is OWRD's actions that undermine the prior appropriation doctrine. The prior appropriation doctrine means that the senior water rights holders get their full allotment before anyone else. However, if there is sufficient water left in the stream, the next senior users are legally entitled to their full allotment and on down the line in time.

So, when OWRD prohibits water users based on bad data, the agency deprives irrigators of the use of their water rights in violation of the prior appropriation doctrine. Keep in mind, as well, that OWRD issues the shut-off orders without conducting a hearing or affording irrigators any due process to contest the agency's findings or data prior to being shut off.

Shutoff stayed

It's no wonder the Legislature decided that OWRD's shut-off orders should be stayed when they are challenged. People's use of their property rights are at stake.

Fortunately, after filing the lawsuit, we negotiated an informal settlement in which OWRD committed to listening and getting out in the field to really try and figure out how much water is in the river and work to protect the rights of all water users consistent with the prior appropriation doctrine. OWRD has since hired a new watermaster, and her willingness to work with us is greatly appreciated.

Given this progress, it was disappointing to read about Mr. Byler's complaints about litigation rather than taking responsibility for the agency's shortcomings. Mr. Byler, litigation is the only recourse for irrigators when OWRD does not follow the rules and listen to reason. You and OWRD should take a long look in the mirror when complaining about litigation costs. The subject of our litigation was a simple case of OWRD using bad data, ignoring common sense, and not following the very prior appropriation doctrine you reference.

In addition, there is a plethora of other litigation in the Klamath Basin as the result of OWRD's Klamath Adjudication that, in the absence of meaningful state leadership, may go on for years and cost the local community, irrigators and taxpayers millions of dollars.

Director's duty

Only OWRD, through its director, has the statutory ability to unilaterally act to resolve this conflict. The Klamath Basin Adjudication was decided by an administrative law judge with no prior water knowledge or experience. Rather than consider a balanced view of all the science presented during the adjudication, the ALJ relied exclusively on experts directed by the U.S. Department of Justice to award instream flows at such high levels that they effectively preclude any irrigation except in water years of biblical proportions.

Mr. Byler, rather than complain about litigation costs, you and OWRD should take the leadership opportunity afforded by your position to request a remand of the tribal claims so that OWRD can quantify the instream claims at realistic levels, supported by a balanced view of the best available science.

So what is it going to be? Leadership to achieve a balanced outcome? Or shirk behind half-truths about the prior appropriation doctrine and complain about litigation?

Randall Kizer is a board member of Fort Klamath Critical Habitat Landowners, an organization of irrigators in the Wood River Valley, tributary to Upper Klamath Lake in Oregon.