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Opinion

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Our View

Breaching headgates won't solve Klamath issues

Two Klamath irrigators say they will breach the Klamath Project headgates in an attempt to get water flowing to more than 1,000 farmers who had the taps turned off last month by the Bureau of Reclamation.

It is a foolhardy and futile plan, made only worse by the prospects that activist Ammon Bundy and other outside actors will join the effort and force a standoff with the federal government.

The bureau shut down the Project's A Canal for the entire irrigation season May 12 in response to worsening drought conditions — allotting zero surface water from Upper Klamath Lake for thirsty crops and livestock.

It is the first time in more than a century the A Canal will deliver no water to irrigators, using that water instead to serve protected species.

As a result, more than 150,000 acres of farmland will receive zero irrigation water this season. The



Holly Dillemoth/For the Capital Press

The canal carrying irrigation water to the Klamath Project is at a standstill after the U.S. Bureau of Reclamation cut off water.

impact will be devastating, not only to the farm community but to the region's economy at-large.

It may seem that desperate measures are more satisfying than time-consuming political and legal resolutions. But the interests of all farmers in the basin could be undermined by the illegal actions of a handful of irrigators, particularly if they are aided by outside agitators.

Ammon Bundy is the son of

Nevada rancher Cliven Bundy. The Bundy family's dispute with the Bureau of Land Management led to a tense standoff at their ranch between federal agents and armed militia members in 2014.

In 2016, the group came to Oregon's Harney County to support two local ranchers convicted of setting fire to federal land. When they failed to whip the ranchers and the townspeople into a revolutionary frenzy, a splinter group led by Bundy took over facilities at the Malheur National Wildlife Refuge as a larger protest against federal control of western lands.

Their stated goal of holding their position until the federal government returned the land to private ownership was at best a delusional hope, and did nothing to resolve the real issues that still exist between the government and Western agriculture and timber interests.

While Bundy himself has escaped conviction on a host of charges over

the years, those around him haven't been so lucky. One of his followers, LaVoy Finnicum, was shot and killed as police tried to arrest him in connection with the wildlife refuge standoff.

These tactics have yet to lead to their supporters' stated goals, and they won't resolve the issues involving irrigators, the tribes, endangered species and the Bureau of Reclamation.

Any breach of the headgates would be short lived and wouldn't bring relief to drought-stricken farmers. And no matter how popular such a thing would seem locally, it would reflect dimly on the farmers' case in the places where the political and legal decisions are made.

We cannot condone extralegal efforts to return water to Klamath irrigators.

Lawlessness is lawlessness, no matter who perpetrates it or how firmly they believe in their justifications.

Our View



Wikipedia

Public Enemy No. 1

When it comes to pests, it's us or them

Farmers and ranchers learn to keep a sharp eye out for invasions. Not the military kind, the pest kind.

Whether they are insects, amphibians, mollusks or rodents, they are up to no good.

Perhaps the most famous of the invasive species are the Asian giant hornets, which have shown up in British Columbia and Washington state in the past couple of years. These oversized insects are not only ominous-looking, they can tear through a honey bee hive in a matter of minutes, beheading any bees in their path.

Then there is the tiny spotted wing drosophila, which has made its way to the Pacific Northwest. These pests are unique because they destroy fresh fruit, not just fruit that is already rotten.

The even tinier citrus psyllids have brought another plague from Asia — Huanglongbing, which translated from Chinese is yellow dragon disease. It causes citrus greening, which makes citrus fruit unmarketable and kills the trees.

The quagga mussel has Northwest agriculture and wildlife biologists on red alert. These small fresh-water pests multiply rapidly once they take hold — so fast that they can clog irrigation pipes, pumps and canals and municipal water systems. Most recently, they have been spotted in Oregon pet shops in sponge balls for fish tanks, causing state regulators to ban the products.

Cuban tree frogs from the Caribbean also have shown up in Oregon. While only two were found, regulators are keeping an eye out to make sure no oth-

ers hitchhiked to the region.

But nothing — and we mean nothing — is as daunting as the invasion parts of Australia have been subjected to: mice.

In our experience, few pests are as destructive as mice. They eat crops, which is bad enough. They get into bins and elevators, destroying whatever they come across. And they eat the wiring in cars, trucks, tractors and any other vehicles they can get into. They reproduce exponentially and live in walls, crawl spaces, attics, brush — anywhere. They urinate on everything in sight, rendering it unusable.

In Australia, the mice have overtaken much of the countryside in New South Wales. At night, farmers describe “carpets” of mice as far as they can see. They have taken over houses and other entire buildings. One farmer said a single water trap killed 7,500 mice in one night.

The worst part: the millions of rotting dead mice that have accumulated have soured the countryside.

In a 2019 feature, we described mice as “Public Enemy No. 1.” That is an understatement. They can do as much damage as any pest around. We know of a mouse family that destroyed a car's wiring, causing thousands of dollars in damage. We know another case in which a couple of mice died in the fan of a truck's heater, causing a permanent stink.

Any invasive pest must be “terminated with extreme prejudice.” You know what we mean.

When it comes to farming and ranching, the choice is simple: It's us or them.

Creating a legacy through lifetime gifting

Taxes! This is usually the first question that comes up for families who are considering gifting their farm to the next generation. A fact that sometimes surprises clients is that Oregon and Washington have no gift tax. Because of this, the taxes that are a concern when gifting during life are the federal gift tax and, in the event the children ever sold the farm, the capital gains tax.

Let's look at each tax through the lens of a family farm. Currently, most individuals can give a large portion or all of their farm assets to their children with no gift tax. The federal gift tax exemption is currently set at \$11.7 million per person. Because of this, a married couple can give a farm valued at \$23.4 million to a child and there is no gift tax payable by either the parents or the child. Many people do not realize there is this lifetime gifting exemption on top of the \$15,000 per year that is allowed as an annual exclusion gift.

On the capital gains side, the children who receive the farm interests also receive the parents' income tax basis in the farm. If the children ever sold the farm, then they would pay capital gains tax on the difference between the sale price and the income tax basis their parents had. If the farm is inherited at death, there may be estate taxes paid, but the farm would receive a new income tax basis to fair market value as of the date of death.

Most parents who gift to children do not care about this income tax basis risk for a couple reasons.

First, they don't want their children to sell the farm. The goal is to create a legacy by keeping the farm in the family. If a child does sell the farm against their parents' wishes, then the child will deal with the tax consequences at that time.

A second reason involves the recent proposals for estate tax and capital gains tax. The maximum allowed to pass tax free by gifting and inheritance is scheduled to decrease within the next few years. The current rule allows a “step up” in income tax basis to fair market value for assets in a person's estate at death.

A few weeks ago, the Biden administration proposed new rules for capital gains taxes that would trigger capital gains tax at death on gain over \$1 million. On top of that, there is also a proposal to raise the top tax rates for capital gains.

There is not much known yet about whether a change like this will pass through the legislature or if there would be an exception for family farms. If not, then the administration may go back to proposing a reduction in the estate and gift tax exemptions. What we do know is that future tax law is unknown. This requires people to decide for themselves whether

GUEST VIEW

Maria Schmidkofler



they think taxes will be going up or down in the future.

We also know that the current estate and gift tax exemption is one of the most favorable exemptions we have ever had, so many people are timing their gifts while the exemption is favorable.

Once you have decided to make a gift, the next question is whom you want to gift to. Frequently, this involves a decision between creating a trust to benefit your spouse, or gifting in trust or outright to your children. A trust is an agreement between the person creating it (the donor) and the person in charge of it (the trustee) to hold assets (like a farm) for the benefit of someone (the beneficiary).

Some spouses decide to gift to an irrevocable trust called a Spousal Limited Access Trust (“SLAT”). This trust has many requirements, but essentially, a spouse can gift an asset like a piece of real estate or business interest to an irrevocable trust for the benefit of the other spouse for life. If the trust is set up correctly, this will keep the assets out of both spouses' estates at death and allow the trust to pass estate-tax free on to the children after both spouses pass away.

Many clients decide that they are ready to pass the farm directly to the next generation. If this is the goal, then what is the best way to do so? One option is an outright gift. A gift can also be to a trust that has some controls on the way the property can be used.

Finally, how much to gift? People often decide on a partial interest gift rather than giving a whole piece of real estate or an entire business. This could be a minority interest in the real estate or business so that the parent can continue holding the majority interest. Prior to giving, parents must ensure that they are retaining sufficient funds to continue their own lifestyles. Gifts to children should only be assets that a parent does not need.

Gifting the farm is not just about the numbers but also about the people involved. It requires evaluating personal goals and values to decide whether the time is now.

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