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# Opinion

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## Our View

# Sweeping mandates should come through legislation

The Oregon Environmental Quality Commission last week voted 3-to-1 for a sweeping “Climate Protection Program” that will require fuel suppliers in Oregon to reduce greenhouse gas emissions from the products they sell 50% by 2035 and 90% by 2050.

It is the latest in a series of diktats from an unelected bureaucracy that will have wide-ranging impacts on rural Oregon and raise costs for farmers and ranchers.

In a statement criticizing the program, the Oregon Farm Bureau said the new program will raise the “costs for the fuels, propane, and natural gas our rural communities rely on to produce food and fiber as part of a global food system.”

Trucking industry groups have estimated the plan could double the price of natural gas by 2050, add 36 cents per gallon to the cost of gasoline and add 39 cents per gallon to the price of diesel by 2035.



Oregon Capital Insider

### Oregon State Capitol

The regulators say that those fears are overblown. DEQ predicts fuel prices will increase no more than 3% to 7% by 2050 because of the regulations. It also says that if prices jump by 20% a review of the program will be triggered that “could” result in changes to the regulations.

So, no problem. The bureaucrats have your back, and they could act if prices jump too much.

We take issue with the way these sweeping measures came into being. The plan was developed by the

Department of Environmental Quality after Republican senators’ walkouts in 2019 and 2020 killed efforts to pass economy-wide “cap and trade” legislation.

After the walkouts, Gov. Kate Brown outflanked the Republicans with a far-reaching use of her executive powers to achieve the same general goals. March of 2020, she signed an executive order directing agencies to craft a plan to regulate emissions.

A year and nine months later, commissioners voted to approve the new rules.

Big programs that fundamentally change the lives of millions of Oregonians should come from the legislature, not unelected commissioners hand-picked by the governor.

The cap and trade legislation pushed by Brown and Democrat legislators has been stymied by Republican senators who have chosen to leave the chamber and deny the Senate the necessary quorum to do business. It is a cheap legislative trick, but a nonetheless legiti-

mate ploy available to a minority party.

During her days in the legislature, Brown led such a walkout when her party was in the minority.

Democrats pushing the bill have two equally legitimate alternatives: make amendments to the measure that would make it more palatable to the minority, or win enough elections to deny the minority the power to block votes.

The legislative process in our representative democracy is designed to make change difficult. The founders believed that doing nothing is preferable to doing the wrong thing, particularly in haste.

Critics say the walkouts thwart the democratic process. Elected representatives working in the interest of their constituents seems far more democratic than a mandate imposed by an unelected and unaccountable regulatory commission.

At the end of the day, the success of a sweeping proposal should represent the victory of an idea, not a process.

## Our View



Sierra Dawn McClain/Capital Press

Farmland near Forest Grove, Ore., where housing developments have been built. To slow the spread of development, private property rights must be respected.

# On protecting farmland

The good people of Idaho are embarking on an effort to “protect” farmland. They want to stop — or at least limit — the conversion of farmland to other uses such as housing and commercial developments.

Unbridled development is detrimental to farming and ranching, where chemicals need to be sprayed and livestock can create, shall we say, “aromas” that new residential neighbors may not appreciate. Just moving farm equipment on local roads and highways can create traffic slowdowns.

These and other factors set the stage for conflict that everyone wants to avoid.

In a state growing as rapidly as Idaho, that may be a tall order, so the Idaho Farm Bureau Federation has joined with other organizations in an attempt to establish a means of protecting farmers, their livelihoods and their farmland.

Especially in the region surrounding Boise, where most of that growth is occurring, farmland appears to be losing the battle. Development is sprawling across the landscape in nearly every direction.

It’s gotten the point that some whole farm operations have moved to more rural areas of the state to escape.

Other states such as Oregon have faced the same challenges. In varying degrees, they have had success in protecting farmland from wholesale development.

Oregon got into the business of protecting farmland in 1973 when the legislature passed the Oregon Land Use Act. It imposed a batch of statewide goals for land use planning and farmland. One of the goals required counties to designate exclusive farm use land, which restricts many types of devel-

opment on it. Even with those protections, a growing number of non-farm uses — about 60 at last count — have been allowed on farmland.

These protections led to ballot measures and legislative actions aimed at compensating farmers for lower fair market values of property because of the land use regulations.

Those actions have not stopped the conversion of farmland to other uses, but they have certainly slowed the process.

Most recently, the legislature established the Oregon Agricultural Trust, whose goal is to protect farmland through “working land easements” that limit the non-farm activities and development that can take place on it.

Farmers can donate an easement preventing development and get a tax credit or cash and continue to own and farm the land. By doing that, the property value is also reduced, making the land more affordable for the next generation of farmers.

Easements last forever, according to the trust. That means a farm will stay a farm, and a ranch will stay a ranch.

Any farmland preservation efforts must balance the farm owner’s private property rights against the desire to prevent the wholesale development of farmland.

Seen in this light, Oregon’s Agricultural Trust appears to do the best job of addressing both of those concerns, and it does it without overlaying the entire state with a cumbersome government-run land use system.

In our opinion — and we hope Idaho’s farm community will agree — the best system for protecting farmland will include a minimum of state regulations and a maximum respect for private property rights.

# Leaving the farm — our last Christmas there

This Christmas we will celebrate at The Farm for the last time. The property is in probate, which will force its sale, a casualty of Oregon’s land use laws (SB 1, which labels the land exclusive farm use, and prevents its subdivision or an additional house).

My wife Susan’s parents bought the 1906 farmhouse in 1960, and she grew up there. We moved to the property in 1990, raised our three children near their grandparents, did farming (hay, cattle, ponies, pigs, chickens, pumpkins, quail), and ran my law practice there. Bringing in the hay in summer was a big family event.

The Farm is about 50 acres, and a river runs through it. The Molalla River is one of Oregon’s magical streams. Only 50 miles long, it arises in the Cascade foothills in wilderness at Table Rock, runs as a wild and scenic river in its upper reaches above Molalla, and ends in a state park in the Willamette River with a bald eagle nest and heron rookery. In the floodplain, it flows around the south end of bluff-protected Canby and through The Farm.

It is rich in wildlife, from cougar to pika, with diminished numbers of eels, steelhead and salmon. Years ago there was a smelt run.

Along its banks, and on The Farm, we have found over 140 bird species and over 40 mammals: mergansers, dippers, harlequin ducks, five owl species, mink, otter and beaver. Osprey nests and five species of swallows use its farms, bridges and banks.

In winter, huge flocks of Canada Geese fly and cry overhead. The cries of kildeer arise from its morning fields, blackbirds from the hedges, and sandhill cranes from overhead. Upriver, from Good’s Bridge, the golden or silver light from sun and moon traces in a path along the side of Mt. Hood and down the river to our very feet.

The Farm has been paradise for raising our three children, and summer camp for their friends, although not without problems deriving from public access. We have swum with salmon, trout and garter snakes, caught crawfish and floated downriver by canoe, kayak, inner tube and body surfing.

The river floods dramatically, but quickly subsides. In summer one must walk, and mallards bump their bottoms while crossing.

Why is this of interest to Capital Press readers? Another farm gone, but helped by state regulation. We are just outside Canby’s Urban Growth Boundary, which has led to superb farmland in the city being turned into tract housing.

Meanwhile, marginal farmland outside the UGB cannot be subdivided or built upon. The perverse result is the opposite of the

GUEST VIEW  
Alan L. Gallagher



supposed intent of Oregon’s land use laws, designed to protect farm property. Canby has turned from a small farm town of under 2,000 into a 20,000-plus bedroom community for Portland. Those who came to Canby for its rural atmosphere have, newcomer by newcomer, destroyed it.

To paraphrase the song, “They took paradise and put up a parking lot.” It used to be that they let children off school early to work on the farms. Now they take school children to boutique farms to see what a farm looks like.

I was a farm boy as a child, growing up on working farms in western Pennsylvania. We fed the cows and pigs, the ducks and poultry, shucked corn, dug potatoes and harvested apples from the trees.

As a lawyer, I represented farmers, farm laborers and contractors. I did timber exchanges in the Columbia Gorge. I lived the life of Robert Frost’s characters, such as the boy in “Birches,” and learned from the Greeks, from Horace, and from Thomas Jefferson that farmers are the backbone of democracy.

Susan’s family were farmers from the Rhineland, who went to the Ukraine at Catherine’s invitation, fled Russia later and came to the Dakotas. The Depression and Dust Bowl drove them to Missouri and then to Oregon.

I am age 79, a retired lawyer, manager and university professor, beset with medical problems. Inflation has driven up land prices, so that we cannot afford our million-dollar option to remain, and other heirs want cashed out, about which we litigate.

As in Dickens’ “Bleak House,” lawyers are eating up the property value. We now have a small place in the city. As I leave the truly important 1%, perhaps, like California’s Victor Davis Hanson — farmer, professor, classicist, author of “Mexifornia” and “The Dying Citizen” — I can share the wisdom that comes of connection with the earth and its products.

Farmers know we depend upon nature and know how to prosper use of the land and natural resources, not from utopian rejection of nature.

A strong middle class made our country, citizens responsible to the land, who celebrate its wise use. “Good citizens are the riches of a city.”

Alan L. Gallagher is a farmer and lawyer. He lives in Canby, Ore.