THE ORANGE COUNTY
REGISTER

California's cap-and-trade train wreck

Patrick J. Michaels

March 17, 2017

Californians like to brag they are the nation's pioneers, pointing to freeways, Disneyland and In-N-Out Burger. They've started construction on a 118-mile high-speed rail segment, the first in the nation, from Madera (population: 61,416) to Shafter (population: 16,998). They're paying for it with revenues from a statewide cap-and-trade system, which sells "permits" allowing industry to emit carbon dioxide.

That first segment, which is over land as flat as a table, requiring very little bulldozing and very few superelevated curves, was supposed to cost $6.4 billion, but that's already ballooned to $10 billion. As Steven Greenhut at Reason.com wrote earlier this year, "it's costing the train to nowhere a lot to get there."

Twenty-five percent of the cap-and-trade permit revenue is earmarked for the train, which is generated by four sales a year. The last tranche of sales, which was supposed to produce $600 million in revenue, only sold $8.2 million. This was the third sale in a row that has gone badly, and if it keeps up, the train to nowhere is headed for oblivion unless money can be reallocated from elsewhere in the California budget.

What's going on? The spin from environmentalists is cap-and-trade permits are not selling because industry has been so successful at reducing its emissions that it doesn't need those stinking permits.

If only that were true! That would mean that reducing emissions 40 percent by 2030, as mandated by California law, is a piece of cake, and that the whole world will soon follow.

But that's not the case. The problem is the cap-and-trade program is probably illegal. It was passed by a simple majority in the Legislature, but in California, taxes require a two-thirds supermajority. The California Chamber of Commerce and a tomato processor have sued over this, because it looks like a tax (the government taking your money) and acts like a tax (it spends it on dozens of different projects). The California Appellate Court may declare, after all, that it is a tax, and if it does not, the case will go to the state Supreme Court.

A judgment ruling it's a tax will suspend the program, which legislatively sunsets in 2020 anyway, also helping to explain why no one is buying the permits. Gov. Jerry Brown, whose term ends in 2019, is now asking the Legislature to admit it's a tax, and pass a new bill with a two-thirds majority. He has also made rumblings that the program can continue without specific legislative authority, sounding curiously like the nation's last president on climate policy.

Passing this tax may be a problem. Even though the Democrats hold a supermajority in both state houses, a defection of one senator or two Assembly members will kill the bill. There are surely some in the less-blue parts of the state who don't want their taxpayers to be responsible for these costs.

There are a large and diverse number of contenders to succeed Gov. Brown, and one or more may stake out a position against cap-and-trade. It was one "different" candidate vying against a dozen others with similar ideas that resulted in the Republican nomination of Donald Trump. Polls have support for the cap-and-trade around 54 percent.

California is not the first location of a cap-and-trade train wreck. In December, 2010, the Chicago Climate Exchange, the nation's first carbon dioxide cap-and-trade market, shut its doors when the U.S. Senate had the good sense to run away from cap-and-trade, less than two months after the Democrats lost control of the House as a result of passing it.

Will California's cap-and-trade program meet a similar fate? If the legislature doesn't extend it, the train to nowhere might come to the end of the line.

Patrick J. Michaels is the director of the Center for the Study of Science at the Cato Institute.