Property Rights vs. Windustry

In a victory for grassroots property rights advocates, Iowa Gov. Terry Branstad signed a law barring the use of eminent domain to build high-voltage transmission lines that would carry wind energy into Illinois. Page 5

Water Rights Bill

U.S. Rep. Scott Tipton introduced the Water Rights Protection Act. The bill would prohibit federal agencies from requiring the transfer of privately held water rights to the federal government in exchange for granting or renewing a permit for the use of federal land. Page 8

NH Rejects Climate Group

Gov. Chris Sununu announced New Hampshire would not join the U.S. Climate Alliance, a group of 12 states and Puerto Rico that have pledged to reduce their greenhouse-gas emissions 26 to 28 percent below 2005 levels. Page 14

Senate Considers Bills to Reclaim Regulatory Authority

By Kathy Hoekstra

Fresh from Congress' successful use of the Congressional Review Act to undo 14 Obama-era regulations earlier in 2017, U.S. senators are taking further steps to reassert their constitutionally delegated responsibility for federal rulemaking.

On May 17, the Senate Homeland Security and Governmental Affairs Committee sent five bills to the full Senate that would reform how federal agencies implement rules and how such rules are finalized.

Among the proposals passed by the committee were the Midnight Rules Relief Act, the Regulations from the Executive in Need of Scrutiny Act (REINS), and the Regulatory Accountability Act (RAA).

The House of Representatives passed versions of each of these regulatory reform bills earlier in 2017.

Codifying, Scrutinizing, Approving Regulations

The Midnight Rules Relief Act would allow lawmakers to block rules by using the Congressional Review Act.
At the Arthur B. Robinson Center on Climate and Environmental Policy at The Heartland Institute, we are producing the research and conducting the effective advocacy needed to help restore sound science and common sense to efforts to protect the environment.

The Center promotes pro-energy, pro-environment, and pro-jobs policies based on sound science and economics, not alarmism or ideology.

Through events, publications, social media, and government relations programs we have changed public opinion on climate change and other environmental topics. We have changed public policy not only in the United States but in other countries as well.

In 2017 and onward, we are focusing on winning the global warming war and repealing bad legislation and regulations adopted during the height of the global warming scare.

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“The Heartland Institute has published the work of many excellent scientists ... [and] has taken the fight right to the enemy with aggressive and highly effective campaigns aimed at elected officials and civic and business leaders.”

ARTHUR B. ROBINSON, PH.D.
APRIL 2017
Calif. Public Employee Pension Rejects Divestment

By Kathy Hoekstra

The caretakers of the California Public Employees’ Retirement System (CalPERS) have chosen not to give in to pressure to divest their holdings in fossil-fuel-related businesses.

The CalPERS board voted unanimously on April 17 to make it much harder to divest the nation’s largest state-based pension fund from companies producing fossil fuels and the banks that do business with them. The move disappointed divestment activists hoping to convince CalPERS to rid its $322 billion retirement portfolio fund of fossil-fuel holdings.

The updated policy states CalPERS’ board and staff have a fiduciary responsibility under the California Constitution to “diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return” and divesting “appears to almost invariably harm investment performance.”

The policy also states divestment often fails to achieve the goals intended.

“There appears to be considerable evidence that [divesting] is an ineffective strategy for achieving social or political goals, since the usual consequence is often a mere transfer of ownership of divested assets from one investor to another. Investors that divest lose their ability as shareholders to influence the company to act responsibly.”

At the April 17 meeting in Sacramento, California, the investment committee and CalPERS officials rejected arguments made by a number of environmental groups and their spokespersons, including RL Miller, chairwoman of the California Democratic Party’s environmental caucus and cofounder of Climate Hawks Vote.

Praises the Decision

Steven Greenhut, western region director of the R Street Institute, says the board made the right call, especially with retroactive pension increases and a string of poor investment returns having left CalPERS woefully underfunded.

“Now it has to make up ground, given the enormous taxpayer-backed pension liabilities,” said Greenhut. “Good for CalPERS for trying to put its fiduciary responsibility above political correctness. The state constitution grants it plenty of wiggle room around the divestment pressure.”

The Independent Petroleum Association of America (IPAA) tracks divestment efforts through its Divestment Facts project. Divestment Facts spokesman Matt Dempsey says CalPERS’ move is welcome but unsurprising. He says the pension fund has a track record of opposing divestment, such as previous proposals to divest from investments relating to the Dakota Access Pipeline.

“Instead of bowing down to pressure from outside activists, CalPERS acted in the best interests of its millions of beneficiaries by rejecting the costly and ineffective strategy of divesting,” Dempsey said. “Numerous studies have shown divesting from fossil fuels will invariably hurt investment returns while having no discernable impact on the environment.”

Divestment Losses Detailed

In addition to IPAA and other groups arguing politically motivated divestment strategies damage employee pension plans, Dempsey says similar statements have been made on record by public pension-fund executives.

When activists requested CalSTRS, California’s pension fund for teachers, divest from all coal holdings in 2015, CalSTRS Chief Investment Officer Chris Ailman told his board, “I’ve been involved in five divestments for our fund. All five of them, we’ve lost money, and all five of them have not brought about social change,” the Orange County Register reported on May 3.

Ailman reminded the board a 1987 state law requiring divestment from companies doing business with South Africa under apartheid cost CalSTRS $600 million to $750 million in lost investment opportunities, and a Pension Consulting Alliance report estimated CalSTRS’ decision to divest from tobacco-related holdings in 2000 cost the pension fund $1 billion.

“CalPERS is the nation’s largest pension fund,” said Dempsey. “Its decision to say no to divestment as an investment policy adds to a growing list of fiduciaries across the country who have rejected activists’ calls to divest as a costly, ineffective, empty gesture.

“Universities and pensions still debating this issue should take note,” Dempsey said.

Kathy Hoekstra (kathy@kathyhoekstra.com) writes from Saginaw, Michigan.
Virginia’s McAuliffe Orders State Plan to Curb Power Plants’ Emissions

Continued from page 1

In the run-up to McAuliffe’s announcement, Virginia Attorney General Mark Herring (D) on May 12 said current law gives the board the authority to treat carbon dioxide as a pollutant and to regulate it. The regulatory process was set in motion in 2016, when McAuliffe issued an executive order establishing a working group to recommend ways to reduce carbon-dioxide emissions from power plants.

“The threat of climate change is real, and we have a shared responsibility to confront it,” McAuliffe said at the Alexandria press conference. “As the federal government abdicates its role on this important issue, it is critical for states to fill the void.”

Following Obama’s Playbook

With Republicans in control of both houses of the Virginia General Assembly, McAuliffe has been largely stymied from pursuing his policy agenda through legislation. In his final year in office, he has increasingly turned to executive action to achieve his political goals, including his climate agenda.

By claiming executive authority to create what is, in effect, a state Clean Power Plan (CPP), McAuliffe is borrowing a page from former President Barack Obama’s playbook. Unable to get Congress to approve his nationwide cap-and-trade-legislation, Obama instructed the U.S. Environmental Protection Agency (EPA) to limit greenhouse-gas emissions through regulations, which ultimately resulted in CPP.

Chris Horner, a senior fellow at the Competitive Enterprise Institute, says McAuliffe is copying Obama’s methods. “Gov. McAuliffe’s imposition of the ‘climate’ agenda on Virginians tracks President Obama’s own approach perfectly,” Horner said. “When the proper democratic process does not produce the desired results, declare existing laws are really global-warming laws and give yourself the desired authority to limit greenhouse-gas emissions on your own.”

“McAuliffe even relies on the Obama EPA endangerment finding,” said Horner. “It reminds us of the importance of the Trump [administration’s] EPA revisiting that outcome-oriented weapon, which, until it is withdrawn, will serve as the supposed rationale for this campaign in every state where a progressive occupies the governor’s mansion.”

New York State of Mind

Craig Rucker, executive director of the Committee for a Constructive Tomorrow, says Virginia should not follow the lead of states restricting their energy production.

“McAuliffe is pointing to a future Virginians should reject,” Rucker said. “New York, my home state, has abundant natural gas in its part of the energy-rich Marcellus Shale, but Gov. [Andrew] Cuomo, through his fracking ban, denies New Yorkers the benefits of the affordable and reliable energy that lies beneath their feet.”

Bonner R. Cohen, Ph.D. (bcohen@nationalcenter.org) is a senior fellow at the National Center for Public Policy Research.
Iowa Bans Use of Eminent Domain for Wind-Energy Transmission Lines

By Bonner R. Cohen

In a victory for landowners, Iowa now has a law barring the use of eminent domain for high-voltage transmission lines carrying wind energy across the state into Illinois.

The battle over right of way for transmission lines transporting wind energy has been raging in Iowa and neighboring Illinois for more than six years. Gov. Terry Branstad’s (R) May 2016 signing of Senate File 516, a large energy bill including the eminent domain provision, caps the latest skirmish pitting rural landowners against what they see as government-sanctioned infringements of their property rights by developers of wind power.

Houston-based Clean Line Energy Partners has been seeking to install overhead transmission lines stretching 500 miles from western Iowa to the PJM Interconnection in Grundy County, Illinois. PJM is a regional transmission organization coordinating the movement of wholesale electricity in all or parts of 13 states and the District of Columbia. Upon completion, Clean Line’s Rock Island project would transmit 3,500 megawatts of wind-derived electricity to a PJM converter station in Illinois.

Landowners Resist

From the outset, farmers, ranchers, and other landowners along the path of the proposed transmission line have objected to Clean Line’s efforts to be treated as a public utility, which would allow it to use eminent domain to obtain the right of way for the Rock Island project from reluctant property owners.

Organized resistance resulted in the formation of the Preservation of Rural Iowa Alliance (PRIA), a grassroots group that has tied up Clean Line in Iowa’s complicated regulatory process.

Iowa law requires Clean Line to obtain franchise approval from each county through which the transmission line will run. The company filed for franchises in the fall of 2014 but withdrew all 16 applications in December.

“Iowans understand cheap energy is important to growing our economy, and that wind energy has been an important income supplement to many farmers in windy states like Iowa,” Racheter said. “However, in deciding how to transport this electricity from where it is produced to urban areas that want to consume it, the businesses involved made a poor decision.

“Instead of trying to use eminent domain or the threat of its use to acquire land for a new line, they should have worked out deals with firms to erect taller transmission towers above existing utility corridors,” said Racheter.

Developments in Illinois

Trouble is also brewing for Clean Line in Illinois. The Illinois Commerce Commission (ICC) granted Clean Line utility status and approval to build the Illinois portion of the transmission line, complete with eminent domain power. An appellate court overturned that decision in 2016. ICC challenged this decision, and the issue now lies with the Illinois Supreme Court, with a ruling expected later in 2017.

Environmental groups such as the Natural Resources Defense Council and labor organizations such as the International Brotherhood of Electrical Workers support the Rock Island line in Illinois. Commonwealth Edison, the Illinois Farm Bureau, and the Illinois Landowners’ Alliance oppose it, with the latter saying on its website the organization’s opposition stems from Clean Line’s “unprecedented use of Eminent Domain.”

Hoisted by Their Own Petard

James Taylor, president of the Spark of Freedom Foundation, says environmentalists’ arguments against the use of eminent domain for oil and gas pipelines are being turned against them in their efforts to promote power-line construction necessary to transport electric power generated by wind and solar farms.

“In their efforts to shut down oil and gas, environmental activists often attempt to appeal to conservatives along eminent domain lines, arguing the government should not use the power of eminent domain to authorize oil and natural gas pipelines when landowners choose not to sell their land or grant right of way for a pipeline,” Taylor said. “It is rather ironic these same environmentalists now argue government should not be restricted from using eminent domain to establish wind-power transmission lines.

“Environmental activists’ hypocrisy is nothing new,” said Taylor.

Bonner R. Cohen, Ph.D. (bcohen@nationalcenter.org) is a senior fellow at the National Center for Public Policy Research.
as a bundle rather than one rule at a time. Had this legislation already been law, Congress could have revoked hundreds of last-minute Obama-era regulations, rather than just the 14 it did reverse.

The REINS Act requires congressional approval of all new major regulations, defined as any regulation imposing $100 million or more in costs on the economy, before they may take effect. Under REINS, any major regulation not approved by a majority vote of Congress would be nullified.

RAA would modernize the 70-year-old Administrative Procedure Act by codifying several existing executive orders, including Executive Order 12866, signed by President Bill Clinton in 1993. EO 12866 mandates the benefits of any proposed rule must outweigh its costs. RAA calls for assessment of direct, indirect, and cumulative economic burdens for rules estimated to cost more than $100 million per year.

The bill would also require agencies to consider alternatives to any proposed rule; to rely on the best available scientific, technological, and economic information for proposed and final rules; and to hold public hearings on disputed factual issues.

The REINS Act and Midnight Rules Relief Act passed out of committee on strictly party line votes with no Democratic support. Republican Sens. Rob Portman (R-OH) and Orrin Hatch (R-UT) joined Democrats Heidi Heitkamp (D-ND) and Jim Manchin (D-WV) in cosponsoring RAA.

Calls for More Reform
The American Action Forum (AAF) calculates the 14 rules blocked by Congress using CRA since January will save government agencies more than $3.7 billion in regulatory costs and businesses more than $36.2 billion in compliance costs while eliminating 4.2 million hours of paperwork over the expected lifetime of the regulations.

Sam Batkins, AAF’s director of regulatory policy, says the bills under consideration are a good start, but with a national regulatory burden topping $1.9 trillion in 2016, there’s a long way to go.

“There were only three major rules having an economic impact of $100 million or more among the 14 rescinded via the CRA, so rescinding those measures alone won’t drive notable economic growth,” Batkins said. “I think Congress and the [Trump] administration view the CRA votes as just the first in a series of steps to enact a durable legacy of regulatory reform.”

Batkins says the bipartisan support for the Regulatory Accountability Act gives it the greatest promise for enactment among the packet of measures passed by the committee, although Senate filibuster rules mean even that bill would need six additional Democrats to approve allowing it to proceed to a full vote, assuming no Republicans vote against it.

‘Better Rulemaking Outcomes’
Emily Benavides, a spokeswoman for Portman, told Morning Consult RAA would promote better government.

With better information and a little more time up front on the biggest rules, this bill will lead to better rulemaking outcomes that can withstand challenges in court, rather than spawn decades of litigation that we see now,” Benavides told the website.

Jeff Stier, a senior fellow at the National Center for Public Policy Research, lauds all the measures passed by the committee, saying such a wholesale overhaul transcends political parties, presidents, and special interests.

“It’s not so much about what Obama did or what the Trump regulators are doing to do,” said Stier. “The executive branch can only regulate when Congress gives it the authority to regulate.

“With everything else going on in Congress, sometimes [Congress] gives broad regulatory power to the agencies, which often wind up doing something that was not intended by Congress,” Stier said.

Senate Rules Favor Status Quo
Stier says Congress has a tough time asserting itself due to the nature of the bicameral, two-party system and Senate rules, because having a simple majority in favor of reform is not enough to get it done.

“Ask [Wisconsin] Sen. Ron Johnson if he feels like his party is in control of the Senate,” Stier said. “No, when the Senate doesn’t have 60 votes, it’s hard for it to join with the House and get stuff done.”

This creates a vacuum for the executive branch to legislate through regulations, Stier says.

“It is very important Congress reasserts its authority and say, ‘The executive branch cannot do it alone,’” said Stier. “Even if Congress gives authority to agencies, that doesn’t mean the authority is without limits or oversight.

“Certainly, we rely on the agencies for expertise and to make decisions, but there must be better consultation with Congress, regardless of who’s in charge of it,” Stier said. “If there’s a Democrat in the White House, they still ought to work with the Republican Congress and vice versa. That’s good system, good process, but right now, we’re not getting it.”

Kathy Hoekstra (kathy@kathyhoekstra.com) writes from Saginaw, Michigan.

### Proposed Reforms of How Federal Agencies Implement Rules

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<tr>
<th>The Midnight Rules Relief Act</th>
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JEFF STIER, SENIOR FELLOW, NATIONAL CENTER FOR PUBLIC POLICY RESEARCH
New York Gov. Andrew Cuomo (D) announced an ambitious plan to reduce methane emissions by 80 percent below 1990 levels by 2050 throughout New York. Cuomo has said methane is second only to carbon dioxide in contributing to climate change and represents almost 10 percent of the greenhouse-gas emissions in the state.

Cuomo’s 25-step “Methane Reduction Plan,” announced on May 17, calls for the state to cut methane emissions to 40 percent below 1990 levels by 2030 and 80 percent below 1990’s number by 2050.

Among the industries and sources of methane emissions targeted for reduction under the plan are active and inactive landfills and new and existing oil and gas infrastructure, including pipelines, terminals, and power stations.

Under the plan, the state government would deploy methane detection systems in residential areas, require methane capture and combustion technologies at new landfills and provide incentives to install such technologies at farms and smaller existing landfills, and provide incentives to reduce or eliminate methane leaks in pipelines owned by utilities and customers. As described by Cuomo, most of the 25 steps can be undertaken under existing authority of regulatory agencies, though some of the funding mechanisms may require legislative support.

Embracing Junk Science?
Gary Stone, vice president of engineering for Five States Energy, says Cuomo’s plan is based on “junk science” and will be expensive.

“New York continues down the suicidal path of embracing the junk science of manmade climate change,” said Stone. “Gov. Cuomo’s new and expensive plan aims to reduce methane emissions from landfills, oil and gas infrastructure, farms, and in residential areas. It follows the state’s 2015 ban on hydraulic fracturing, striking another costly blow to New York businesses and residential energy users, who will see prices rise even higher than they already are as these programs are implemented,” Stone said. “While no one argues against common-sense efforts to reduce emissions when possible, the governor’s goal to supply 50 percent of energy through unreliable and cost-prohibitive renewable-energy methods is another economic blow to the New York economy.”

Fred Palmer, a senior fellow in energy policy at The Heartland Institute, which publishes Environment & Climate News, says Cuomo’s methane emissions plan was passed to eventually end fossil-fuel use, not to control pollution.

“Gov. Cuomo’s methane emissions plan has nothing to do with pollution control,” Palmer said. “Instead, the governor embraces Al Gore’s pernicious idea fossil-fuel use needs to be eliminated by mid-century to fight catastrophic climate change,” Palmer said. “Natural gas use, like coal and oil, is at risk from Cuomo and Gore, even though our very lives depend on robust use of these fossil fuels. “If Cuomo and Gore successfully end fossil-fuel use, widespread human suffering in New York and elsewhere will result, lives will be shorter and meaner, and our economy will be a shadow of what it is today,” Palmer said.

Kenneth Artz (kartz@heartland.org) writes from Dallas, Texas.

Develop Existing Sources
Stone says New Yorkers could have much less expensive, cleaner, more-reliable energy if the government would only allow industry to develop shale fields for natural-gas production in the state.

“The natural-gas industry within the state supplies a minute fraction of the natural gas New Yorkers use, yet the state has the capacity to supply much more through development of shale gas reserves in the southern part of the state,” said Stone. “Clean-burning natural gas currently supplies over 30 times the amount of energy to New Yorkers as renewables do, and this amount can increase substantially with the proven-safe development of shale natural-gas resources.

“Instead of spending money on capturing the methane coming from a cow’s behind, New Yorkers need to spend it on developing existing energy sources,” Stone said.

“Instead of spending money on capturing the methane coming from a cow’s behind, New Yorkers need to spend it on developing existing energy sources.”

GARY STONE
VICE PRESIDENT OF ENGINEERING
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Clexit explains why efforts to cut carbon dioxide emissions are not only harmful, but fruitless. The United States can reassert its leadership on the global energy and environment stage by withdrawing from the United Nations Framework Convention on Climate Change treaty.

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FREEDOM BLOG
Congress Considers Water-Rights Protection Bill

By Veronica Harrison

Rep. Scott Tipton (R-CO) reintroduced the Water Rights Protection Act (WRPA) at a hearing of the House Natural Resources Subcommittee on Water, Power and Oceans on May 18, 2017.

The bill passed the House of Representatives in the 113th and 114th Congresses with bipartisan support, but it never received a vote in the Senate. WRPA would uphold state water laws and water-rights assignments against federal regulatory agencies’ attempts to reduce property owners’ water rights.

The bill includes provisions prohibiting federal agencies from imposing permit conditions requiring the transfer of privately held water rights to the federal government to receive or renew a permit for the use of federal land. It would also prohibit the secretary of the interior and the secretary of agriculture from requiring the transfer of water rights without just compensation, and it would uphold federal deference to state water laws governing public lands.

The federal government often tries to turn privately owned land into public property by restricting water rights, says John Baden, chairman of the Foundation for Research on Economics and the Environment. Baden owns a family ranch in Bozeman, Montana that dates back nine generations.

“The federal government will do everything they can to get you off the land, illegally claiming water rights to get your property,” said Baden.

Wielding Water as Weapon

Ron Arnold, executive vice president for the Center for the Defense of Free Enterprise, says the federal government uses control of water to extort concessions from federal lessees and western property owners.

“It’s a way to get people off of land,” said Arnold. “In the West, water laws are very specific; the water doesn’t necessarily come with the land.

“In many western states, you only gain water rights through use,” Arnold said. “You have to show beneficial use of water, according to the law. This bill will give you the right to own the water without having to constantly prove beneficial use.”

Concern for Fairness

Tipton says he hopes his bill will ensure fairness to western water users, providing them the certainty they need to prosper and thrive in the West, where dry and waterless conditions are the norm.

“The federal government owns nearly half of all land in the West and almost 36 percent of land in Colorado,” said Tipton in a statement. “Any permit condition that requires the lessee to turn over their water rights to the federal government, without compensation, is an assault on private land and water rights.

“The steady flow of federal agency actions to assert federal control over private water rights directly interferes with the ability of the American people to access their private property. These federal water grabs undermine the long-held state water law and prior appropriation doctrine that protects water use in the West.”

SCOTT TIPTON, U.S. REPRESENTATIVE (R-CO)

Importance ‘Can’t Be Overstated’

Baden says control of water is critical on ranches in the West and recent attempts to regulate water there by the federal government have been harmful.

“The importance of water to those living in agriculture cannot be overstated,” said Baden. “One cannot grow crops or raise livestock without access to water.

“The federal government owns nearly half of all land in the West and almost 36 percent of land in Colorado,” said Tipton in a statement. “Any permit condition that requires the lessee to turn over their water rights to the federal government, without compensation, is an assault on private land and water rights.

“The steady flow of federal agency actions to assert federal control over private water rights directly interferes with the ability of the American people to access their private property,” Tipton’s statement said. “These federal water grabs undermine the long-held state water law and prior appropriation doctrine that protects water use in the West.”

The statement added, “The Water Rights Protection Act would uphold longstanding federal deference to state water law and provide certainty for water users and property owners.”

Skiers’ Rights

Control of water is also critical for ski areas operating on federal land, says Geraldine Link, director of public policy for the National Ski Areas Association (NSAA). NSAA went to court in 2012 to prevent U.S. Forest Service efforts to force ski-slope operators to cede their water rights as a condition of receiving permits to operate.

“Ski areas are economic drivers in rural communities,” said Link. “If we don’t have water, we can’t make snow, meaning ski operations cannot continue to provide a high-quality recreation opportunity for millions of people in the national forests. This affects the entire community, not just the ski area.

“We have invested hundreds of millions of dollars in water rights because water is such an important resource for snowmaking and other key aspects of our operations,” Link said. “NSAA’s goal is to protect the water resources held by our members. We would do nothing to impact stream health or aquatic species in any way.”

Ski operators support WRPA, says Link.

“The goals of the WRPA, to put in statute prohibitions against the taking of private water rights through permit conditions by the federal government, will provide us more certainty in the long term, providing the segment of the skiing industry that depends on federal permits the stability it needs to grow and succeed in the future,” Link said. “The intent of this bill is narrow: to protect valuable property interests of permittees using federal land from seizure without compensation by the federal government.

“Contrary to claims made by those who oppose the bill, WRPA does not alter in any way the minimum stream flow protections that are set and enforced by the states on virtually every river and stream,” Link said. “And the bill expressly states, ‘[N]othing in this Act affects the implementation of the Endangered Species Act.’”

Veronica Harrison (vharrison@heartland.org) is marketing director at The Heartland Institute.
President Donald Trump’s June withdrawal of the United States from the Paris climate accord and other actions reversing decisions by President Barack Obama put into action a stated policy of the Trump administration to make energy independence and global economic competitiveness a priority over commitments to reduce carbon-dioxide emissions.

As part of the multilateral assessment of climate obligations by the U.N. Framework Convention on Climate Change in late February, six nations submitted written questions to the United States concerning its plans for cutting greenhouse-gas emissions. On April 28, the Trump administration responded, saying the United States has been “reviewing existing policies and regulations in the context of a focus on strengthening U.S. economic growth and promoting jobs for American workers, and will not support policies or regulations that have adverse effects on energy independence and U.S. competitiveness,” or with some variation of that phrase in response to each of the six questions.

‘The Dominant Player’

Robert Bryce, a senior fellow at the Manhattan Institute, says Trump’s reversal from the Obama administration’s policy positions on global warming is important because energy is the “master resource” that drives the world’s economy.

“Thanks to the shale revolution, the United States has completely upended the global energy sector,” Bryce said. “Whether the commodity is crude oil, refined products, petrochemicals, or liquefied natural gas, energy is the master resource and the United States is now the dominant player in the global market.”

‘Symbolic’ Paris Agreement

Bryce says the United States was right to exit the Paris climate agreement, because the deal accomplished nothing for the environment.

“The entire exercise was largely symbolic,” said Bryce. “Last year, a group of climate scientists at the Massachusetts Institute of Technology projected 3.9 degrees Celsius of warming by 2100 without the Paris agreement and 3.7 degrees C with it, a difference of 0.2 degrees C. So, the deal is largely symbolic.”

Tom Harris, executive director of the International Climate Science Coalition, says he hopes other countries follow the United States’ lead and withdraw from the Paris agreement.

“Regardless of what one thinks of the shaky science underlying the treaty, it is important to understand Paris treats developed and developing countries very differently, with countries that are the greatest source of energy-related carbon-dioxide emissions not being required to make emissions reductions,” Harris said. “President Trump is right to pull the U.S. out of the Paris climate agreement. I hope other developed countries follow suit.”

‘Trump Stands Alone’

Craig Idso, chairman of the Center for the Study of Carbon Dioxide and Global Change, says Trump showed bold leadership by withdrawing from the Paris agreement.

“President Trump stands alone on the world stage as the only true global leader willing to call a spade a spade,” said Idso. “The Paris climate accord was less about saving the planet than about transferring wealth and ceding governing control from the United States to other nations of the world.”

Bryce says one way the Trump administration could create jobs and a more reliable energy supply is by embracing nuclear power.

“If President Trump wants to make a lasting contribution to the domestic energy sector, he should be looking for ways to support the development and licensing of new nuclear-energy technologies,” Bryce said.

Kenneth Artz (kartz@heartland.org) writes from Dallas, Texas.


By Kenneth Artz

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Joseph Bast
President,
The Heartland Institute
**Armstrong: UN’s IPCC Climate Forecasts Violate Scientific Method**

**By H. Sterling Burnett, Ph.D.**

**Burnett:** You are a professor of business and one of the developers of forecasting as a science. What motivated you to apply scientific forecasting to climate change and climate policy?

**Armstrong:** In my first job, as an industrial engineer at Eastman Kodak in 1960, I noticed my colleagues were making judgmental forecasts of how many workers were needed. I tested a new method and found forecasts using scientific principles were cheaper and more accurate.

Over my career, I have continued to look for ways to use the scientific method to improve responses to important problems. Kesten Green [senior research fellow at the Ehrenberg-Bass Institute at the University of South Australia Business School] suggested we apply the findings from scientific research on forecasting to the global warming alarm.

We became aware of government funding of research to support global warming policies. They were made to show the detrimental effect of global warming on X, where X might be, and has been, virtually anything, all assuming the global warming alarm was based on valid forecasts.

We decided to audit the forecasting procedures of the U.N. Intergovernmental Panel on Climate Change (IPCC), which are responsible for official projections of climate changes and the effects of climate changes, upon which government policies are based. We found the procedures described in the IPCC’s Fourth Assessment Report violated 81 percent of the 89 relevant scientific forecasting principles when forecasting global temperature.

Given the importance of our findings—how can billions of dollars of government spending and regulations that harm free markets be justified without valid forecasts?—we considered that we had a responsibility to make our findings known to other scientists and to the public.

**Burnett:** There are 139 principles of scientific forecasting. Can you tell us about their origin?

**Armstrong:** I asked 39 researchers in forecasting to develop a set of principles for the methods they have an expertise in and enlisted 123 expert reviewers to confirm the principles were consistent with experimental evidence. The principles were published in the *Principles of Forecasting* handbook in 2001.

**Burnett:** You claim IPCC forecasts violate the “golden rule of forecasting.” What is that?

**Armstrong:** The golden rule is to be conservative, meaning one’s forecasts should be consistent with cumulative knowledge about a situation and about forecasting methods. There are 28 golden rule guidelines. On average, following a single guideline reduces forecast errors by more than 30 percent compared to currently common practices.

The IPCC Third Assessment Report, 2000, Chapter 14, Section 14.2.2.2, stated “the long-term prediction of future climate states is not possible.” That is consistent with the golden rule, which suggests that no change is the best forecasting model for such a situation. It was omitted from the IPCC’s Summary for Policymakers report given to the media and to government officials and was ignored in the pronouncements made in the summary, both of which suggested that IPCC could and was making such forecasts.

IPCC provides forecasts in the form of scenarios built on the judgments of people who believed that dangerous, manmade global warming was occurring. Not all scientists agreed. Indeed, the “Oregon petition,” signed by 32,000 climate scientists—all of whom posted their names, degrees, and addresses on the internet—disagreed with these judgments.

**Burnett:** What do you mean when you say the IPCC projections fail the three-legged-stool test for public policy?

**Armstrong:** To make public policy that has a chance of making things better, valid and reliable scientific forecasts are needed that [show] rapid global warming will occur and persist; the warming will be dangerous, and therefore costly; and the proposed policies will provide cost-effective prevention or remedies. Without scientific forecasts to support all three legs, making policy in response to the global warming alarm would be unethical.

**INTERNET INFO**

Alaska Seeks FERC Approval for Giant LNG Export Project

By Bonner R. Cohen, Ph.D.

In the latest sign of the dramatic changes in global energy markets wrought by the oil and gas boom in the United States, officials in Alaska have asked the Federal Energy Regulatory Commission (FERC) to approve a project to develop infrastructure for transporting natural gas from Alaska’s North Slope to Asia.

Under the plan, known as the Alaska LNG Project, the state would build a natural-gas processing plant in Prudhoe Bay on the energy-rich North Slope. From there, the gas will be shipped south through an 800-mile underground pipeline to a state-of-the-art export terminal in the Kenai Peninsula. There, it will be converted to liquefied natural gas and transported on tankers to markets in Asia, including China, Japan, and South Korea.

The project targets 35 trillion cubic feet of proven natural-gas reserves on the North Slope. Alaska officials say the project will create 9,000 to 12,000 jobs and an additional 700 to 1,000 long-term jobs once fully operational.

Surpassing the estimated $45 billion to $65 billion integrated gas infrastructure project is the state-owned Alaska Gasline Development Corporation (AGDC). Originally, AGDC was part of a four-party consortium that included BP, ConocoPhillips, and ExxonMobil. Citing concerns about the project’s cost and commercial viability, the three oil companies pulled out of the project in August 2016.

Long Road Ahead

The exit of energy giants is a reflection of the substantial financial, bureaucratic, and legal hurdles standing in the way of the project. A global oversupply of natural gas is keeping prices low, which may be a concern for potential investors in the project worried about receiving a return on their money.

The process of getting the necessary approvals from FERC, the agency charged with authorizing the siting, construction, and operation of LNG export projects, is likely to be lengthy and expensive in complying with the National Environmental Policy Act (NEPA) review process. Alaska officials say they hope FERC will produce a draft Environmental Impact Statement (EIS), required by NEPA, in about one year, with a final EIS taking another year.

In addition to these roadblocks, if the past is any guide, environmental groups are likely to challenge the project at each regulatory step, possibly stalling it for years or blocking it entirely.

Moving Ahead

Despite these challenges, Alaska government officials are moving ahead with the project and say they hope to have it in operation by 2025.

In March, Gov. Bill Walker (I) sent a letter to President Donald Trump requesting the project be exempted from two dozen environmental mandates. Walker followed the letter up in April with a meeting between him and several of his aides with Vice President Mike Pence in Alaska. Walker is seeking a $40 billion loan guarantee from the federal government for the project, to be included as part of Trump’s infrastructure initiative.

Expanding U.S. Gas Exports

James Taylor, president of the Spark of Freedom Foundation, questions whether there is a global glut of natural gas.

“Most of Asia relies on coal for electricity,” said Taylor. “China and India, in particular, would like to address serious air pollution with natural-gas power, but the fracking revolution is currently a U.S.-only phenomenon.”

“Russia remains the world’s largest exporter of natural gas, because we currently have only one LNG export terminal,” Taylor said. “As a result, Russian natural gas sells at twice the price of American natural gas.”

Taylor says the Alaska project could expand U.S. economic ties with Asia and improve the region’s air quality in the process.

“A natural-gas export terminal in Alaska would allow America to gain substantial market share in Asian energy markets,” said Taylor. “This will bring tremendous economic benefit to Americans while also empowering people in high-pollution countries like China and India to breathe cleaner air.”

Craig Rucker, executive director at the Committee for a Constructive Tomorrow, says the Alaska project would be consistent with Trump’s promise to improve and expand U.S. infrastructure.

“The Alaska LNG project fits well into President Trump’s goal of upgrading U.S. infrastructure,” Rucker said. “To be sure, Gov. Walker is going to have to figure out how to pay for his initiative. But one of the returns on this investment will be solidifying America’s position as a global energy powerhouse.”

‘Totally Uneconomical’

David Doyle, executive director of the Alaska Policy Center, sees the project as a boondoggle.

“The Alaska gas line is not what it appears to be,” Doyle said. “One could call it the ‘gas line to nowhere,’ like Alaska’s bridges in the past. There are no buyers for our gas because the world is flooded with this resource.”

“Gov. Walker has been obsessed with building ‘his’ gas line despite the fact it is totally uneconomical,” Doyle said. “Walker wants to tax Alaskans to pay for his gas line through a 15 percent adjusted gross income tax and various other taxes on natural resources.”

Doyle says he hopes the Trump administration will reject the project.

“The State of Alaska would have to pay customers to buy our natural gas,” said Doyle. “Now, Gov. Walker wants the Trump administration to fold this into its $1 trillion infrastructure program.

“Let’s hope the White House says no,” Doyle said. “Otherwise, this will become Alaska’s ethanol scheme for Americans.”

Bonner R. Cohen, Ph. D. (bcohen@nationalcenter.org) is a senior fellow at the National Center for Public Policy Research.

“A natural-gas export terminal in Alaska would allow America to gain substantial market share in Asian energy markets. This will bring tremendous economic benefit to Americans while also empowering people in high-pollution countries like China and India to breathe cleaner air.”

JAMES TAYLOR
PRESIDENT, SPARK OF FREEDOM FOUNDATION
How to Save a Life Without Spending a Dime

Thanks to lawmakers across the country patients with terminal illnesses have new hope—and it’s not costing states a dime. State Right to Try Acts are sweeping the country and are passing with overwhelming bipartisan support. And it’s working. In Texas, for example, almost 100 terminal cancer patients have access to a life-saving treatment that they wouldn’t otherwise. Good ideas can’t become good policy without lawmakers who are willing to do the right thing. So thank you. We thank you and the millions of American families with a loved one facing a terminal illness thank you.
Iowa to End Some Renewable-Energy Tax Credits

By Kathy Hoekstra

Some renewable-energy tax credits in Iowa will lapse at the end of 2017 after the state’s legislature ended its 2017 session in April without renewing Iowa’s 10-year production tax credit of 1.5 cents per kilowatt hour for non-wind renewable energy.

The non-wind tax credits at issue are for large and mid-size generating capacity of up to 63 megawatts statewide, 10 megawatts of which were specifically set aside for municipal, rural, or investor-owned solar facilities. A state income tax credit remains for small, rooftop solar electricity projects, capped at $5 million per year statewide.

Under the new law, solar projects must be operating by December 31, 2017 to receive the state tax credit, although federal incentives will remain in effect. The new law puts pressure on more than a dozen mid-size to large renewable projects currently in various states of development to begin operating before the end-of-year deadline.

Luther College, located in Decorah, Iowa, claimed the 10-year tax credit when it finished installing an 822 kilowatt (kW) solar project in early 2017. Farmers Electric Cooperative in Kalona, Iowa installed 950 kW arrays, which qualified for the tax credit, and began generating electricity from them in November 2016. According to Midwest Energy News, the co-op expects the tax credit for its array to amount to approximately $18,000 per year for 10 years.

Little Energy Produced

According to the U.S. Energy Information Administration, solar has not made much of a dent in Iowa’s electricity portfolio, despite federal and state incentive programs. Wind power generated one-third of the state’s electricity in 2016, a larger share than in any other state.

Although coal went from providing 76 percent of the state’s electric power in 2008 to 47 percent in 2016, it is still Iowa’s largest single source of electric power. Solar energy contributes less than 1 percent of Iowa’s electric power.

Budget Decision

Iowa state Rep. Ralph Watts (R-Adel) says the decision to let the renewable tax credit lapse was more about plug-ging holes in the state’s budget than anything else.

“The change in some of Iowa’s renewable-energy tax credits was brought about by the necessity to remove any optional expenditures from the state budget, more than any conscious change in policy with regard to renewable-energy subsidies,” Watts said. “It was necessary to dig deeply into every type of expenditure in order to make our budget balance.”

“While I urged the cancellation of all renewable-energy subsidies, we didn’t quite get there, and as a result, there are still a few left,” said Watts.

Don Racheter, president of the Public Interest Institute, agrees ending the tax credits was necessary to balance Iowa’s budget.

“We have so many tax credits in the State of Iowa; we pay out about $107 million per year, so if we don’t end many of these, we cannot get our budget in balance,” Racheter said.

High Cost to Consumers

Timothy Benson, a policy analyst with The Heartland Institute, which publishes Environment & Climate News, says the high cost of solar power is passed down to ratepayers.

“The solar power being pushed by these tax credits is three times as expensive as conventional power, meaning Iowa ratepayers are facing higher electricity prices because of them,” Benson said. “The more people pay for electricity, the less they have to spend on other goods and services or put into savings.

“For lower-income Iowans, who spend a higher proportion of their income on energy costs, these tax credits are especially harmful,” said Benson.

Benson says tax credits, although more palatable than outright subsidies, still unfairly tilt the playing field toward favored industries.

“While tax credits are better than subsidies, because they let companies use more of their own money instead of using taxpayers’ money directly, state governments really should keep their hands off the scale when it comes to energy,” Benson said. “Unhindered and unsubsidized competition should be the norm, with government not encouraging any energy source—be it coal, natural gas, nuclear, oil, solar, or wind—in any of the others.

“Politicians should not be picking winners and losers,” said Benson. “If the renewable industry, or any industry, cannot compete in Iowa without the help of subsidies and tax credits, it should be allowed to wither and die.”

‘Corporate Welfare’

Racheter says Iowa legislators should stop using subsidies and tax credits to direct peoples’ behavior.

“Tax credits are government trying to shape behavior when, in fact, government doesn’t often know what best suits peoples’ needs,” said Racheter. “We support the free market and people making choices without government influence or interference.

“This renewable tax credit has provided colleges, utilities, and electric co-ops with government support to put solar panels on their roofs,” Racheter said. “This corporate welfare was unjustified, has produced little energy, and it’s long past time to end all renewable-energy tax credits.”

Robert Bradley Jr., CEO of the Institute for Energy Research, says Iowa’s tax credit piled a costly state program on top of a bad federal one.

“Iowa’s double dip with the federal tax credit of 2.2 cents per kilowatt hour (kWh) equates to 3.7 cents kWh, or one-third of the average U.S. electricity price,” said Bradley. “Can you imagine what people would think if gasoline received a similar tax credit, equaling about 90 cents per $2.50 gallon of gasoline?

“It is time for renewables to pay their own way in a new public policy era,” Bradley said.

Kathy Hoekstra (kathy@kathyhoeks tra.com) writes from Saginaw, Michigan.
New Hampshire Gov. Sununu Rejects Climate Alliance

H. Sterling Burnett, Ph.D.

New Hampshire Gov. Chris Sununu (R) rejected calls to have the state join the nascent U.S. Climate Alliance, a group formed after President Donald Trump withdrew the United States from the Paris climate agreement on June 1.

Currently consisting of 12 states and Puerto Rico, members of the Climate Alliance have pledged to uphold the Paris climate agreement by reducing greenhouse-gas emissions in their states 26 to 28 percent below 2005 levels.

In a statement to the Concord Monitor, Sununu said New Hampshire would not be joining the Climate Alliance.

“We do not yet know its impact on our economy and environment,” Sununu said.

Sununu had indicated his possible opposition to joining the agreement in a June 2 interview with New Hampshire Public Radio.

In response to Trump withdrawing from the Paris climate agreement, Sununu told the interviewer, “You know, it’s not my job to go through the whole accord … The president has done that, and his team has done that, and they’ve made the decision they feel is in the best interest of the United States, and I stand by that.”

This is not the first time Sununu bucked the dominant trend in states in the Northeast on climate policies. Before Sununu became governor, New Hampshire joined the Regional Greenhouse Gas Initiative, a regional pact composed of nine states along the East Coast requiring fossil fuel-burning power plants to buy allowances for every ton of carbon dioxide they emit.

Sununu has said he personally remains committed to New Hampshire’s “long and proud tradition of responsible environmental stewardship.”

Praise for Governor’s Decision

New Hampshire state Sen. Andy Sanborn (R-Bedford) says he supports Sununu’s decision because meeting the commitments of the Paris agreement would be bad for the United States.

“The Paris climate change agreement was a bad deal for the United States, prioritizing other countries like China and India over the United States,” said Sanborn. “Just like Gov. Sununu, I am always in favor of protecting our environment, but we have to make sure the United States operates under the same rules and regulations as everyone else.

“Joining the Climate Alliance would raise energy prices in New Hampshire, making our businesses less competitive than those in other states and countries,” Sanborn said.

Edward Hudgins, research director at The Heartland Institute, which publishes Environment & Climate News, says Sununu made the right decision to reject the Climate Alliance.

“New Hampshire Gov. Chris Sununu has rightly decided against joining the U.S. Climate Alliance,” said Hudgins. “The governors of 12 other states and Puerto Rico have vowed to uphold in their own states the terms of the Paris climate accord despite President Trump’s decision to pull out. As a result, they will have to implement draconian statewide regulations that will hamper job creation and add costs to consumers for no environmental benefit.”

H. Sterling Burnett, Ph.D. (hsburnnett@heartland.org) is a research fellow at The Heartland Institute.

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Attorneys General Push for Repeal of EPA Rules andRegs

By Kenneth Artz

Among the more than 60,000 comments posted on Regulations.gov in response to President Donald Trump’s February executive order requiring the U.S. Environmental Protection Agency (EPA) and other federal agencies to identify regulations that get in the way of job creation, have compliance costs that outweigh benefits, or are otherwise “outdated, unnecessary or ineffective” is a letter to EPA Administrator Scott Pruitt signed by eight Republican attorneys general (AGs).

The AGs call for the “repeal, replacement or modification” of the Clean Power Plan and a host of other EPA regulations issued by the Obama administration.

In addition to ending the Clean Power Plan, which was intended to force reduction of greenhouse-gas emissions by electric power plants, the AGs request the Trump administration to reexamine EPA’s 2015 standard for ground-level ozone, the updated Cross-State Air Pollution Rule, recent agency changes to EPA’s regional haze standards, and the Waters of the United States rule.

“During the Obama administration, we experienced first-hand the devastating effects of unlawful executive overreach on jobs and our states’ local energy economies,” the AGs’ letter states. “We welcome the opportunity to participate in the process of scaling back these unlawful regulations, restoring the rule of law, and ultimately returning key decisions about energy production and priorities to the states and their citizens.”

Calls the Rules Unlawful

The Republican attorneys general are right to call on EPA to toss out regulations imposed by decree under Obama, says Fred Palmer, a senior fellow with The Heartland Institute, which publishes Environment & Climate News.

“The president had no statutory or constitutional authority to undertake the climate restrictions he developed under the Clean Power Plan and other regulations, but the law never limited Barack Obama’s approach to governance,” Palmer said. “Most of the regulations put in place were not about protecting air quality, but rather were designed to reduce coal, oil, and natural gas to reduce carbon-dioxide emissions in a misguided and ill-fated effort to fight climate change.”

The AGs are right to call for the repeal of these harmful regulations, says Palmer.

“The AGs are spot-on,” Palmer said. “Obama’s anti-fossil-fuels regulations should all be reversed.”

Kenneth Artz (kartz@heartland.org) writes from Dallas, Texas.

INTERNET INFO

West Virginia Attorney General Patrick Morrisey, et al., “Comments of Eight States on Regulations That May Be Appropriate for Repeal, Replacement, or Modification,” May 15, 2017: https://www.heartland.org/publications-resources/publications/comments-of-eight-states-of-on-the-environmental-protection-agencies-request-for-comment-on-regulations-that-may-be-appropriate-for-repeal-replacement-or-modification
States Move to Roll Back Environmental Rules, Following President’s Example

By Kenneth Artz

In June, just five months into Donald Trump’s presidency, he made good on his campaign promise to withdraw the United States from the Paris climate accord.

Trump had already rolled back some of his predecessor’s federal environmental mandates through executive orders, and he had worked with Congress to block 14 late-term regulations passed by President Barack Obama’s administration through resolutions of disapproval of those regulations under the Congressional Review Act.

Many state legislatures are following Trump’s lead, reducing state interventions in energy markets and promoting greater use and easier development of energy resources. Among those actions, New Mexico’s Senate Corporation Committee in March rejected a proposed increase to the state’s renewable-energy mandate. In May, Iowa allowed a 1.5-cent-per-kilowatt-hour tax credit for renewable energy to lapse. Also in May, Indiana enacted legislation ending its net-metering program, which had forced utilities to pay households with rooftop solar panels retail rates for excess electricity they sent to the grid, raising energy costs.

North Dakota and Oklahoma passed laws aimed at preventing the kind of violent protests undertaken in North Dakota to block completion of the Dakota Access Pipeline (DAP) late in 2016. During the DAP protests, participants carried out numerous acts of violence, damaging private and public property and resources. Other states are considering similar laws.

Obama Administration Called Out

What we’re seeing is a return to federalism, says Marc Morano, publisher of Climate Depot and a former senior staff member for the U.S. Senate Committee on Environment and Public Works.

“The Obama administration imposed numerous environmental mandates on the states, taking away state and local governments’ abilities to tailor environmental policies to their unique needs,” said Morano. “New Environmental Protection Agency chief Scott Pruitt is properly reestablishing federalism by reviewing and rescinding many federal rules, regulations, and regulatory excesses imposed on states during the past decade.”

Morano says during the presidencies of George H.W. Bush, Bill Clinton, and George W. Bush, EPA imposed just five federal air-quality implementation plans on states.


Morano says Obama’s obsession with climate change led his administration to ignore more-immediate environmental problems.

“Pruitt rightly called out Obama’s poor EPA record,” Morano said. “The obsession with climate change meant real environmental concerns were overshadowed.”

Calls for Joint Attack

To continue successfully rolling back economically harmful, Obama-era environmental mandates, the Trump administration and state legislatures will have to work together, says Bonner Cohen, a senior fellow with the National Center for Public Policy Research.

“States are undertaking efforts to undo regulations imposed through gubernatorial executive fiat,” Cohen said. “This is exactly the way they should go, because this fight is now going to shift from the federal to the state level. With Trump’s help, they should also be able to undo or successfully challenge numerous costly regulations imposed by the Obama administration.”

With Trump as president, environmental lobbyists have no choice but to shift to the states their efforts to impose more stringent environmental and energy regulations, Cohen says.

“Unless something radically changes in Washington, DC, greens have no place to go but to redouble their lobbying efforts at the state and local levels,” said Cohen. “This makes it incumbent upon state legislators wanting to reduce the regulatory burden in their states and make their states more economically competitive to quickly act to undo regulations implemented in anticipation of fossil-fuel restrictions under, for example, the Paris accord, Clean Power Plan, or ozone or air-toxic rules, to act before greens can ramp up their state-based lobbying efforts.”

Unequal Effects

Cohen says it’s critical to understand the Obama administration’s energy and climate policies hurt middle- and low-income people far more than anyone else.

“None of these Obama-era regulations are really going to put a dent in the income of Leonardo DiCaprio, Matt Damon, or anyone else in Hollywood or Silicon Valley. The current system serves their interests quite well, but the regime Obama attempted to impose would manifestly undermine the livelihoods of ordinary Americans, destroying the notion of upward social mobility.”

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The best way to improve the lives of ordinary citizens and improve the business environment is to attack these mandates and regulations simultaneously at the federal and state levels,” Cohen said. “Nothing succeeds like success, and I think once state legislators see environmental regulations can be rolled back at the federal level, they’ll say, ‘Why don’t we roll back bad state regulations as well?’”

Emphasis on Competitiveness

Following Trump’s “America first” example, Cohen says he believes states will want to make their business environments as competitive as possible.

“President Trump is showing what can be done, which I think will spur state legislators to try and make their own states as economically competitive as possible,” Cohen said. “Beginning the next legislative session, I think you’re going to see increased initiatives by Republican state legislators, who, working with governors, will attempt to roll back regulations, whether they have to do with the climate, energy, or what have you.”

Kenneth Artz (kartz@heartland.org) writes from Dallas, Texas.
New Book Shows Governments Cause Ocean Fisheries Decline, Proposes Solutions

By Jay Lehr, Ph.D.

I have studied fishing rights—or the lack thereof—for three decades, and I’m amazed virtually no national government’s restrictions have worked to maintain healthy stocks of fish in the world’s oceans and bays.

This book confirms what I have long believed: Controlling the catch of one of the world’s most important food sources has scrambled the brains of most of the great fishing nations.

As Sea Change shows, governments around the world have managed fisheries primarily to benefit local fishing industries with various types of welfare policies, which are used to prop up inefficient operators, keeping too many boats chasing a declining number of fish.

The fishing policies of China, the European Union, Japan, United States, and others with ocean coasts and fishing fleets have too often been prone to political influence, and that influence has had disastrous repercussions for fish stocks, those who rely on fishing as a source of income or food, and government budgets. Perhaps the most shocking thing you will learn from this book is the global fishing industry operates at a collective loss of $50 billion annually.

Overfishing United States

In a chapter describing how governments have contributed to the decline of ocean fisheries, H. Sterling Burnett, managing editor of Environment & Climate News, notes although in 2012 U.S. coastal waters contained 856 fish stocks, with the domestic fishing industry generating more than $199 billion in sales and supporting 1.7 million jobs, fish populations and the fishing industry have been in an extended period of rapid decline.

“Although most fish species can sustain occasional overfishing, prolonged periods of population loss can be critical and lead to collapse,” Burnett wrote. The U.S. government has contributed to these problems with below-market loans to fishermen, tax breaks for new equipment, grants for harbor improvement, and tax credits for marine fuel.

In 2009 alone, Burnett tells us, the U.S. government provided between $343 million and $1.45 billion in subsidies and support to the fishing industry. Largely as a result of government policies encouraging overfishing, 85 percent of the world’s commercial fish stocks are “either overexploited, fully exploited, depleted, in decline, or recovering from overexploitation,” Burnett wrote.

Bending the Rules

The U.S. government has dozens of agencies administering 140 regulations over open sea fishing, Burnett says, and commercial fishermen have figured out ways around the regulations. They use government loans to overinvest in equipment, and they use subsidized fuel to fish when it would not otherwise make sense to do so.

When government restricts the number of days and seasons in which they can fish, commercial operators fish more intensively on legal days. Limit boat or net size, and fishers use more boats and nets. Limit the allowed number of fish that can be kept, and fishers throw back the smaller fish, many of which die anyway.

E.U. Subsidizes Fish Destruction

The European Union has even greater problems; its subsidies equal half the value of the total catch. In Finland, the subsidy is triple the value of the fishing fleet’s entire haul.

The contribution by economist Rachel Tingle describes the failed E.U. Common Fisheries Policy while expressing a bit of optimism the United Kingdom may find itself in a better position to solve its problems as it exits the European Union. Britain may now be able to limit foreign vessel access to the United Kingdom’s 200-mile exclusive economic zone through bilateral agreements, Tingle says.

Property Rights to the Rescue

One mechanism that has shown some success in helping fish stocks recover and fisheries improve their profitability is instituting various kinds of property rights in fisheries. Property rights assign responsibility, lead to conservation, and eliminate the “tragedy of the commons,” in which an asset used by all without limitations is degraded or destroyed by people acting logically in their self-interest.

Although no country has completely privatized its fisheries, many have experimented with property-rights-based management. Burnett describes four programs that have had success in different places: allowing ownership of coastal land below high tide, to control mussel and oyster fishing; granting ownership rights over defined ocean areas; fencing off some areas; and allowing tradable rights to a percentage of the overall catch.

Seventeen countries have implemented one or more forms of property rights successfully, improving profits and/or increasing the fish stock.

University of Iceland economist Birgir Runolfsson’s chapter describes how property rights in fisheries have developed in Iceland, which he says has advanced the furthest in privatizing its fisheries. Iceland adopted an “individual transferable quota system” in the 1970s. The system gives fishermen a tradable right to harvest a defined volume of fish. Since adoption, the size of Iceland’s fishing fleet has fallen by half, while profitability has soared and fish stocks recovered.

Thinking Locally

Whereas the conventional approach of governments imposing top-down management on fisheries has failed to improve profitability or increase fish stocks, as described by Nobel Prize winner Elinor Ostrom, local communities have successfully designed specialized programs to meet local needs while improving fish populations and fisheries, Paul Dragos Aligica and Ion Sterpan of George Mason University write in their chapter.

As this book shows, it appears there is no one-size-fits-all solution to preserve commercially valuable sea life and ensure fishery success. Different models, including various types of institutionalized property rights, will be appropriate for different species, waters, communities, and governments.

Jay Lehr, Ph.D. (jlehr@heartland.org) is science director at The Heartland Institute.
Oklahoma Criminalizes Violent Pipeline Protests

By Bonner R. Cohen, Ph.D.

In a sign of lawmakers’ growing concern about the threat to public safety posed by anti-fossil-fuel protesters, a new law in Oklahoma imposes significant penalties, including fines and imprisonment, on people and organizations involved in trespassing and other unlawful acts against oil and gas pipelines and related energy infrastructure.

Oklahoma Gov. Mary Fallin (R) signed House Bill 1123 into law in the wake of well-organized but ultimately futile protests aimed at halting construction of the Dakota Access pipeline in North Dakota. Those protests, which dragged on for months, involved occasional violence and vandalism, resulting in substantial property damage.

Lawmakers in Oklahoma acted with a sense of urgency to deal with similar protests already underway against the $900 million Diamond Pipeline, which, upon completion later in 2017, will transport up to 200,000 barrels of light, sweet crude oil from Cushing, Oklahoma 440 miles to a Valero refinery in Memphis, Tennessee.

Stiff Penalties

The new law imposes stiff penalties on those convicted of trespassing at “critical infrastructure facilities,” including pipelines, ports, and other transportation facilities, chemical plants, liquid natural gas terminals, power plants, railways, and refineries.

At the misdemeanor level, people who willfully trespass onto critical infrastructure face fines of $1,000 and up to six months in jail. Those who willfully trespass with the intent to damage, destroy, vandalize, deface, tamper with equipment, or impede or inhibit the operations of a facility but fail to damage equipment or impede a facility’s operations face fines of no less than $10,000 and up to one year in jail.

Persons convicted of damaging, destroying, vandalizing, defacing, or tampering with equipment or critical infrastructure face a $100,000 fine and imprisonment of up to 10 years. The law took effect on May 5, immediately upon Fallin’s signing.

Conspiring Organizations

In addition to punishing individual protesters who violate the new law, organizations, such as environmental groups, found to be in league with lawbreakers could face penalties as well.

Section C of HB 1123 specifies, “If an organization is found to be a conspirator with persons who are found to have committed any of the crimes described in subsection A or B of this section, the conspiring organization shall be punished by a fine that is ten times the amount of said fine authorized by the appropriate provision of this section.”

On May 15, Fallin signed a second bill, House Bill 2128, making trespassers and those who help them liable for the economic damage they do to real or personal property. The new law also extends civil liability to a “person or entity that compensates, provides consideration, or remunerates a person for trespassing.”

Preventing Damage, Injury

Bette Grande, a former North Dakota state representative and a research fellow at The Heartland Institute, which publishes Environment & Climate News, says North Dakota, the scene of the destructive Dakota Access anti-pipeline protests, recently enacted legislation designed to curb trespassing on private property.

“The legislation North Dakota recently passed will hopefully deter protests in the future by making it harder for protesters to conceal their identity while engaged in criminal activity related to the protests,” Grande said. “This does not bring back the lost livestock or repair the damage to the land and personal property that already occurred, but having these laws in place should help law enforcement do their job of protecting innocent citizens against such destructive actions in the future.”

Craig Rucker, executive director of the Committee for a Constructive Tomorrow, says such legislation is about more than protecting pipelines and pumps. It’s also about protecting workers.

“This is not just about protecting critical energy infrastructure, as important as that is,” said Rucker. “This is also about protecting workers at pipeline construction sites and others involved in bringing electricity and transportation fuel to consumers.”

“A line was crossed at the Dakota Access Pipeline site, and if measures are not taken to discourage, through the threat of stiff fines and imprisonment, sooner or later people are going to be injured or worse,” Rucker said.

Bonner R. Cohen, Ph.D. (bcohen@nationalcenter.org) is a senior fellow at the National Center for Public Policy Research.

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THE HEARTLAND INSTITUTE
Colorado AG Appeals Court’s Oil and Gas Drilling Decision, Despite Governor’s Objections

By Michael McGrady

Colorado Attorney General Cynthia Coffman (R) is appealing a decision made by a panel of the state’s Court of Appeals in Martinez v. Colorado Oil and Gas Conservation Commission (COGCC), which Coffman says could effectively shut down oil and gas drilling in the state.

The Colorado legislature has charged COGCC with fostering “responsible, balanced” development, production, and use of oil and gas “in a manner consistent with protection of public health, safety, and welfare,” which COGCC has interpreted as a requirement to balance oil and gas production with the latter concerns.

In the Martinez case, a group of teenager activists led by Xiuhtezcatl Martinez requested in 2013 COGCC adopt a new standard and not issue any new oil and gas drilling permits “unless the best available science demonstrates, and an independent third party organization confirms, that drilling can occur in a manner that does not cumulatively, with other actions, impair Colorado’s atmosphere, water, wildlife, and land resources, does not adversely impact human health and does not contribute to climate change.”

COGCC denied this request in 2014, saying it was outside the scope of its authority. It sued COGCC in a Colorado District Court in Denver in an attempt to force the commission to adopt the new rule. In a 2015 ruling, the District Court sided with the commission and Coffman, who represented it, concluding the language of the commission’s charge is “clear and unambiguous” in requiring a balancing of interest between the development of oil and gas resources and protecting public health, safety, and welfare. The youths appealed the decision.

On March 23, in a 2–1 decision, the Colorado Court of Appeals overturned the District Court’s decision, siding with the plaintiffs. It ordered COGCC to do more to protect public health when considering permits for oil and gas production operators in the state.

Governor Fights Appeal

COGCC requested Coffman appeal the Court of Appeals decision. Gov. John Hickenlooper (D) requested Coffman not appeal the decision. Rejecting Hickenlooper’s request, on May 18, Coffman filed an appeal to the Colorado Supreme Court, saying Hickenlooper lacked the authority to overrule COGCC’s decision to appeal.

“The Commission’s vote to proceed with the Martinez appeal was within its statutory authority,” Coffman wrote in a letter to Hickenlooper. “The General Assembly expressly granted the Commission power to ‘make and enforce rules, regulations, and orders … and to do whatever may be reasonably necessary to carry out the provisions of [the Act].’”

In a statement issued upon filing the appeal, Coffman said, “The Colorado Oil & Gas Conservation Commission unanimously voted to defend its legal position in court, and I agree that the Colorado Supreme Court should review the case due to its legal significance.”

Business Groups Support Appeal

Mike Kopp, CEO of Colorado Concern, an alliance of 120 private-sector CEOs and civic leaders across the state, said the Martinez case was driven by out-of-state, anti-fossil-fuel special-interest groups.

“The legal challenge to COGCC’s mission was led by an activist group that has filed petitions across the country. This case is not about how Colorado is managing its natural resources, but rather the agenda of activists who want to see an end to oil and gas production and use everywhere. Coffman should be applauded for appealing the decision.”

MIKE KOPP
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“COGCC’s rules strike the right balance between protecting the environment and public safety with the need for economic progress and the rights of property owners,” Kopp said. “Colorado has been a leader in fostering responsible development of oil and natural gas in the United States.”

Attorney Peter Moore, chairman of Vital for Colorado, which asked Hickenlooper to challenge the appellate court decision, said Coffman made the right choice in rejecting Hickenlooper’s request to let the appellate court decision stand.

“Coffman showed real leadership, and the business community is thankful for it,” said Moore. “The activists behind this lawsuit have said themselves they want to ban oil and gas production, one of Colorado’s most important economic sectors, not change the way it’s regulated. The Appeals Court’s decision was wrong and must be challenged.”

Michael McGrady (mmcgrady@uccs.edu) writes from Colorado Springs, Colorado.
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**MAY 2017**

**GLOBAL AVERAGE**

The global average temperature for February was 0.45°C above average.

**NORTHERN HEMISPHERE**

The Northern Hemisphere’s temperature was 0.42°C above average.

**SOUTHERN HEMISPHERE**

The Southern Hemisphere’s temperature was 0.48°C above average.

**GLOBAL SATELLITE TEMPERATURES**

**HOW MUCH GLOBAL WARMING?**

**219,000 years of Temperature Variation**