Appellate Court Halts Obama Water Regulations

By H. Sterling Burnett, Ph.D.

The Sixth Circuit Court of Appeals in Cincinnati issued a nationwide stay on the Obama administration’s August 28 Waters of the United States (WOTUS) rule.

The court’s ruling is a second setback for President Barack Obama’s effort to apply the power of the Clean Water Act to isolated streams and other small bodies of water.

WOTUS was created by the Environmental Protection Agency (EPA) and the Army Corps of Engineers as part of their effort to clarify and expand federal jurisdiction over isolated and temporary wetlands and waters in light of U.S. Supreme Court decisions in 2001 and 2006, which determined the agencies had adopted an unduly broad interpretation of the scope of their authority.

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House Votes to End Ban on Oil Exports

By Kenneth Artz

The U.S. House of Representatives approved a bill to lift the nation’s decades-old ban on exports of crude oil.

The move would strengthen the nation’s oil industry by allowing its product to be sold on the world market for the first time in 40 years.

Passed by a vote of 261–159 in early October, supporters say lifting the ban would increase the global supply of oil and lower gasoline prices for Americans.

Two similar bills in the Senate have passed through committees, but backers are struggling to find enough support from Democrats to allow the legislation to come to a vote before the full
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Obama Imposes Costly New Ozone Rule

By H. Sterling Burnett, Ph.D.

The Obama administration imposed a new 70 parts per billion (ppb) ozone limit on October 1.

Depending on the amount of reduction required, states and counties will be required to meet the standards between 2020 and 2037.

President Barack Obama’s predecessor, George W. Bush, last made the ozone standard more stringent in 2008, setting it at 75 ppb. With many states having yet to begin implementing recently approved state plans to meet the Bush-era standards, Obama’s Environmental Protection Agency (EPA) is making the standard even stricter, which will likely throw more counties and cities out of compliance with federal ozone standards and necessitate new rounds of hearings, the formulation of revised state plans to meet the new standards, and lawsuits.

EPA estimates the new rule will be among the most expensive in history, costing more than $1.4 billion per year. Research examining previous federal estimates of the regulations’ costs show agencies, including EPA, consistently underestimate the costs of the regulations they impose on the economy, so the cost of the new ozone rule could be much higher.

Could Have Been Stricter

EPA ultimately chose to impose the least-stringent standard within the range of 60–70 ppb recommended by its scientific panel. In defense of her decision, EPA Administrator Gina McCarthy said economic and political concerns had no impact on her decision, contrary to environmental lobbyists’ claims.

“Our job is to set science-backed standards that protect the health of the American people,” McCarthy said. “[We] decided 70 was the standard based on the science that was available. To me, this is a significant step forward, and it’s one that’s not based on anything except science and the law.”

Retired physician, engineer, and public health service employee Charles Battig disagrees with EPA’s claim the new standards will prevent premature deaths and asthma attacks.

“Multiple studies of hospital admissions in California, the state facing the worst ozone levels, have produced no valid evidence linking ozone levels to deaths or hospital admissions,” Battig said.

“Indeed, while ozone has declined 33 percent since 1980, and overall air pollution has declined by 63 percent, asthma rates have more than doubled in the [United States], and emergency room visits and hospitalizations for asthma are lowest during July and August, when ozone levels are highest,” Battig said. “Confounding factors other than ozone are impacting asthma incidence.”

‘Burdensome, Costly, Misguided’

Approximately 260 organizations, businesses, trade associations, unions, and consumer and public interest groups filed comments or issued statements saying research shows the existing 75 ppb standard already protects public health. The organizations asked Obama to keep the existing standard in place.

“[T]he Obama administration finalized a rule that is overly burdensome, costly, and misguided. For months, the administration threatened to impose on manufacturers an even harsher rule, with even more devastating consequences. After an unprecedented level of outreach by manufacturers and other stakeholders, the worst-case scenario was avoided.”

JAY TIMMONS
PRESIDENT
NATIONAL ASSOCIATION OF MANUFACTURERS

According to Timmons, even the less-stringent standard will reduce employment.

“Make no mistake: The new ozone standard will inflict pain on companies that build things in America—and destroy job opportunities for American workers,” Timmons said. “Now it’s time for Congress to step up and take a stand for working families.”

Expanding Federal Control

“Despite the fact that ozone and air pollution levels are falling around the country, the Obama administration continues to [tighten] its regulations in an effort to exercise federal control over a larger and larger amount of America,” said Daniel Simmons, vice president for policy at the Institute for Energy Research.

“Hopefully, Congress will push back on this new attempt by the federal government to exert more and more control over local land use and decision-making.”

Some congressional leaders seem to share the concerns voiced by Timmons and Simmons about the new standard.

“Nationwide, it could lead to massive job loss and cost tens of billions annually in lost economic growth,” Senate Majority Leader Mitch McConnell (R-KY) said in a statement. “No wonder we’ve seen even the Obama administration’s traditional union allies fret publicly about ‘the detrimental impact’ these ‘extreme requirements’ would have on American jobs and the American economy.”

H. Sterling Burnett, Ph.D. (hsburnett@heartland.org) is a research fellow with The Heartland Institute.
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By Bonner R. Cohen

A n obscure, Maryland-based environmental group that has pocketed tens of millions of dollars in taxpayer money over the past 14 years is at the center of a congressional investigation after posting a letter on its website urging President Barack Obama to use racketeering statutes against those questioning predictions of an imminent manmade global warming catastrophe.

On September 1, just two months before the opening of the U.N.-sponsored climate change conference in Paris on November 30, the Rockville, Maryland-based Institute for Global Environment and Society (IGES) posted on its website a letter, signed by 20 academics and researchers, urging President Obama to use racketeering statutes against those questioning predictions of an imminent manmade global warming catastrophe.

The idea of using RICO against the fossil fuel industry and other opponents of the theory man is primarily responsible for climate change was first broached by Sen. Sheldon Whitehouse (D-RI) in an op-ed published in The Washington Post on May 29, 2015.

**IGES Under Investigation**

Publication of the IGES letter led to a congressional investigation when it was revealed IGES received $63 million in federal funding, accounting for more than 98 percent of its income, between 2001 and 2014.

“IGES ‘appears to be almost fully funded by taxpayers while simultaneously participating in partisan activity by requesting a RICO investigation of companies and organizations disagreeing with the Obama administration on climate change,’” said Rep. Lamar Smith (R-TX), chairman of the House Committee on Science, Space, and Technology.

Smith’s committee has requested IGES turn over “all e-mail, electronic documents, and data created since January 1, 2009.”

**‘Knowingly Deceived People’**

Jagadish Shukla, president and founder of IGES and a professor at George Mason University, organized the 20 academics and researchers, urging Obama, Attorney General Loretta Lynch, and John Holdren, director of the White House Office of Science and Technology Policy, to investigate corporations and other climate skeptics under the Racketeer Influenced and Corrupt Organization Act (RICO), a statute designed to pursue organized crime.

The idea of using RICO against the fossil fuel industry and other opponents of the theory man is primarily responsible for climate change was first broached by Sen. Sheldon Whitehouse (D-RI) in an op-ed published in The Washington Post on May 29, 2015.

**Lamar Smith**

U.S. Representative - TX

“Being a skeptic, and working with other scientists whose research leads them to be skeptical, isn’t a crime. Skepticism is supposed to be encouraged in science. Being wrong in the pursuit of knowledge is not criminal.”

_**David Schnare**_

General Counsel

Energy & Environment Legal Institute

“Most RICO investigations include fraud involving the collusion of multiple parties to mislead or lie in order to make a profit,” said Schnare. “In this instance there is no predicate crime.

“Being a skeptic, and working with other scientists whose research leads them to be skeptical, isn’t a crime,” Schnare said. “Skepticism is supposed to be encouraged in science. Being wrong in the pursuit of knowledge is not criminal.”

**Investigating Shukla**

Shukla has come under scrutiny since organizing the letter.

IGES is connected with George Mason’s School of Science in Fairfax, Virginia, and the climate science blog Climate Audit disclosed Shukla’s wife and daughter are on IGES’s payroll. Climate Audit revealed Shukla and his wife pocketed more than $800,000 in both 2013 and 2014 from their combined George Mason and IGES incomes.

George Mason University has yet to respond to inquiries about whether Shukla’s possible double-dipping violates the institution’s ethics rules.

**Prosecuting Disagreement**

Chris Horner, an attorney with the Competitive Enterprise Institute, said of the call for a RICO investigation of climate skeptics, “We credit the faculty’s understatement in characterizing their pursuit as an ‘aggressive and imaginative use of the limited tools available’ to use the state to counter political opposition.

“However, given these taxpayer servants seek investigation of those who disagree with them in their capacities as taxpayer-funded academics, they should expect to hear more in the near future about the use of public resources afforded them to advance this unique twist on the vigorous exchange of ideas that used to be the purpose of higher education,” said Horner.

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

The Obama administration’s plan to impose strict land-use restrictions on 167 million acres in 11 Western states to protect the habitat of the greater sage grouse is being challenged in court by state and local governments and businesses in the region.

Kicking off a wave of lawsuits rolling across the West, two northeastern Nevada counties, Elko and Eureka, along with mining companies Western Exploration LLC and Quantum Minerals LLC, filed suit on September 25 against the Obama administration’s plan. They were joined on October 22 by seven more Nevada counties, Nevada Attorney General Adam Laxalt (R), and Paragon Precious Metals LLC and Ninety-Six Ranch. Subsequently, the State of Idaho and the Wyoming Stock Growers Association filed separate suits against the administration’s sage grouse plan.

Triggering the lawsuits was the Department of the Interior’s (DOI) September 23 announcement it would not list the greater sage grouse under the Endangered Species Act (ESA). Instead, Interior Secretary Sally Jewell said the Obama administration would deal with the bird’s declining numbers by imposing 15 amended land-management plans throughout the grouse’s vast habitat.

Brian Seasholes, director of the Endangered Species Project at the Reason Foundation, says DOI’s plan is based on creating incentives for the thousands of private landowners, most of them ranchers, scattered throughout the sage grouse’s range.

“They are ideally positioned to implement conservation actions for the grouse because they are on the land 24/7 and have a strong attachment to the land and its health,” Seasholes said.

State Management Plans Ignored

Fearing listing the bird under ESA would lead to economically devastating land-use restrictions, state and local leaders, businesses, scientists, and conservationists spent years developing state management plans to protect the grouse while minimizing economic disruption.

DOI ignored the state management plans, sparking the numerous lawsuits. “The federal government’s one-size-fits-all sage-grouse plan will greatly hinder Nevada’s growth and success and have an adverse impact on Nevada’s economy, affecting ranchers, mining exploration, new energy source development, and everyone who works in these industries,” Laxalt said in a statement. “[My] office, after careful legal analysis, has concluded that this suit is necessary to fully protect the interest of the state.”

Rift Between Atty. General, Governor

Laxalt and the other plaintiffs have the support of a number of Nevada’s federal legislators, including Sen. Dean Heller (R) and Republican Reps. Mark Amodei, Cresent Hardy, and Joe Heck.

“As I have said before, the final greater sage grouse plans are not a win for Nevada—new restrictions on 16 million acres in our state alone pose a threat to our Western way of life. I support efforts to stop these unnecessary regulations in their tracks and allow rural Nevada to thrive economically.”

DEAN HELLER, U.S. SENATOR, NEVADA

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DEAN HELLER, U.S. SENATOR, NEVADA

“From ranching and mining to oil and gas extraction, businesses throughout the region are going to be subject to Washington’s whim,” Rucker said. “The greater sage grouse, which should be protected at the state and local level, is serving as a pretext for Washington handing itself more power.”

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

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Appellate Court Halts Obama’s Water Regulations

Continued from page 1

According to Kathleen Hartnett White, director of the Armstrong Center for Energy & the Environment at the Texas Public Policy Foundation, “EPA’s redefinition of the Waters of the United States is about land use control and not about water.

“Ignoring multiple Supreme Court rulings instructing EPA to back off private land, the Obama administration’s EPA decided to offer yet another definition of waters that would vastly extend federal jurisdiction over land across the country,” White said.

The first setback for EPA came on August 27, the day before WOTUS enforcement was scheduled to begin, when Chief Judge Ralph Erickson of the U.S. District Court in North Dakota stayed the rule for 13 states under his jurisdiction. Erickson’s ruling said EPA’s procedures in crafting the rule were “inexplicable, arbitrary and devoid of a reasoned process.” Erickson also ruled a last-minute change in the final rule expanding the breadth of the federal government’s jurisdiction should have been followed by another round of comments from the public.

“Substantial Possibility of Success” Obama administration representatives defiantly announced EPA would largely enforce the regulation as planned, arguing Erickson’s ruling was limited to the 13 states under his jurisdiction. On October 9, a nationwide injunction was issued by the Court of Appeals for the Sixth Circuit in Cincinnati. The court found EPA’s new guidelines are “at odds” with key Supreme Court rulings.

In expanding the stay nationwide, the Sixth Circuit Court of Appeals wrote, “We conclude that petitioners have demonstrated a substantial possibility of success on the merits of their claims.”

“The new rule raised serious questions concerning whether the Army Corps and the EPA addressed the valid concerns the U.S. Supreme Court raised against the agencies’ previous regulations of wetlands and isolated bodies of water,” said Jonathan H. Adler, director of the Center for Business Law and Regulation at Case Western Reserve University. “The appeals court had legitimate concerns whether EPA and the Corps in developing WOTUS were sufficiently attentive to the Supreme Court’s rulings concerning limits to their authority.”

EPA Accedes EPA says although it believes the rule is legal and necessary, it will respect the court’s decision.

The National Federation of Independent Business, one of the groups suing to halt the rule, welcomed the court’s decision against EPA.

“Small businesses everywhere this morning are breathing a sigh of relief,” Karen Harned, executive director of the group’s legal foundation, said in a statement.

“The court very properly acknowledged that the WOTUS rule has created a ‘whirlwind of confusion’ and that blocking its implementation in every state is the practicable way to resolve the deep legal question of whether it can withstand constitutional muster.”

Thirty-one states and numerous private entities, including the American Farm Bureau Federation, American Petroleum Institute, American Road and Transportation Builders, National Alliance of Forest Owners, National Home Builders Association, National Association of Manufacturers, and Public Lands Council, sued to block the rule, saying it was a major overreach of federal power.

Nationwide Stay Justified The temporary stay is not the final word on the regulation. The majority concluded a nationwide stay serves the purpose of maintaining nationwide uniformity while the litigation proceeds, rather than having one standard apply in 37 states and another in the 13 states under the stay issued by the District Court of North Dakota.

The court says the stay also was justified by the need to balance the harms the rule could inflict. According to the decision, WOTUS, which the court says is an unexpected and massive expansion of government authority on the nation’s waters, would place a substantial burden on federal and state governmental bodies, as well as on private parties and the public in general.

“You, the sheer breadth of the ripple effects caused by the Rule’s definitional changes counsels strongly in favor of maintaining the status quo for the time being,” the court wrote.

Responding to the stay, Texas Attorney General Ken Paxton (R), a party to one of the lawsuits on behalf of the State of Texas, said in a statement, “We are pleased that the Sixth Circuit agreed with Texas and the other states that EPA’s new water rule should be stayed. The court’s ruling is good news for property owners whose land would have been subject to extensive new federal regulations due to this overreaching new water rule.”

KEN PAXTON ATTORNEY GENERAL, TEXAS

“We are pleased that the Sixth Circuit agreed with Texas and the other states that EPA’s new water rule should be stayed. The court’s ruling is good news for property owners whose land would have been subject to extensive new federal regulations due to this overreaching new water rule.”

H. Sterling Burnett, Ph.D. (hsburnett@heartland.org) is a research fellow with The Heartland Institute and managing editor of Environment & Climate News.
New York State Attorney General (AG) Eric Schneiderman is investigating ExxonMobil over allegations the company lied to the public about the risks of climate change and to investors about how such risks might hurt the oil business.

The state’s 1921 Martin Act gives New York’s AG to keep investigations secret and to file civil or criminal charges, and people called in for questioning during Martin Act investigations do not have the right to legal counsel or a right against self-incrimination, according to Legal Affairs. Under the Martin Act, Schneiderman does not have to prove Exxon Mobil intended to defraud anyone, a transaction took place, or anyone was actually defrauded. When the investigation is over, the AG can share his work product with outside attorneys, public or private, for use as the basis for their own investigations or lawsuits.

Created to Help Prosecute Mob Figures

David W. Schnare, a 33-year veteran of the U.S. Environmental Protection Agency and current general counsel of the Energy & Environment Legal Institute, says the Martin Act gives New York’s AG as much discretion as the state has.

“[The Martin Act] was originally used against organized-crime figures, but now, politically active AGs use it to identify odd bits of conversations or correspondence from a company to use for political purposes,” Schnare said. “They use it to mirror the federal process in SEC cases, and in this case it is being used to continue the environmentalists’ war on hydrocarbons.

“The AG gets this authority to look into what Exxon did,” Schnare said. “He did the same thing to Peabody coal, and because the state has nearly unlimited resources to hire attorneys, the companies tend to settle.”

“I predict [New York officials are] not going to find anything that will harm Exxon Mobil. Instead, they will cherry-pick some quote from a memo and find something of use with a little PR value, then use it out of context, and people might remember the headline later that said Exxon did something bad.”

David W. Schnare
General Counsel
Energy & Environment Legal Institute

Anything Is Possible

“I predict [New York officials are] not going to find anything that will harm Exxon Mobil,” Schnare said. “Instead, they will cherry-pick some quote from a memo and find something of use with a little PR value, then use it out of context, and people might remember the headline later that said Exxon did something bad.”

All this [began as] a public relations run-up to the COP-21—the United Nations Intergovernmental Panel on Climate Change’s 21st Conference of the Parties—in Paris beginning [November 30],” Schnare said.

Dan Kish, senior vice president for policy at the Institute for Energy Research, also says the New York investigation is nothing more than a political stunt.

“Of course, this is all to give publicity to COP-21,” Kish said. “In the past couple of weeks we’ve seen a steady drumbeat of stories and reports released by a well-run publicity machine.”

Kish says prosecutors often hope to garner political benefits through such prosecutions.

“I’m not sure Americans know that even though they elect their AGs, it is a political position, because so many use their position as a stepping stone to a political career,” Kish said. “They gain headlines and name recognition by prosecuting big cases, then it becomes a typical jumping off point for them to seek national office.

“I don’t think most of these politicians are true believers,” Kish said. “Instead, they see global warming as a great opportunity to expand government power and increase its control over people’s lives.”

Behaving Like Cornered Rats

Marita Noon, executive director of Energy Makes America Great, says the case represents a wholesale attack on free speech.

“It’s indicative of the desperation of environmentalists; they’re behaving like cornered rats,” Noon said. “They are desperate to keep this issue in the news, so it’s no coincidence this attack on Exxon coincides with President Obama’s veto of the Keystone Pipeline deal on the eve of COP-21, especially when he wanted to veto it months ago. The timing is part of their strategy.”

The case might drag on for a while, Kish says.

“We have plenty of people who stand to benefit by keeping this going,” Kish said. “However, in this case, Exxon is big enough to fund their own team of lawyers, and they generally fight back. Perhaps the New York AG may have started something he cannot finish.”

Kenneth Artz (iamkenartz@hotmail.com) writes from Dallas, Texas.

By Kenneth Artz

N.Y. Attorney General Turns up Heat on Exxon Mobil
**Lawsuits Greet Clean Power Plan**

*By Bonner R. Cohen*

Igniting what promises to be a protracted legal battle, on October 22 the U.S. Environmental Protection Agency (EPA) published its Clean Power Plan (CPP) in the *Federal Register*.

Crafted to reduce greenhouse-gas emissions from existing power plants, CPP is the centerpiece of the Obama administration’s strategy to address what it characterizes as manmade climate change. The rules require a nationwide 32 percent reduction in greenhouse gas emissions below 2005 levels by 2030, setting state-by-state emissions-reduction targets.

States are to submit their draft plans to EPA in 2016, with final plans due by 2018. States not submitting their own plans by the deadline will be subjected to a “federal implementation plan” designed by EPA.

Within days of the rule’s appearance in the *Federal Register*, 24 states and several businesses filed suit against EPA. Critics say the plan is an illegal overreach of federal power that will drive up the cost of electricity to consumers and businesses and result in the closure of coal-fired power plants that are critical for reliable electricity. The reverberations of these EPA rules have the potential to increase global carbon emissions. If manufacturing moves to countries like China [above] and India, which rely heavily on uncontrolled coal plants, there is a real potential that carbon emissions could increase globally.”

**BRAD SCHIMEL, ATTORNEY GENERAL, WISCONSIN**

**Questionable Legal Authority**

“The Clean Power Plan is one of the most far-reaching energy regulations in the nation’s history,” West Virginia Attorney General Patrick Morrisey (R) said in a statement. “EPA claims to have power to enact such sweeping regulations … but such legal authority simply does not exist.”

Opponents of CPP have attempted to have courts throw it out prior to its finalization, but in the summer of 2015 separate federal courts ruled litigation would have to await publication of the final plan in the *Federal Register*. With the rule finally published, the issue will now be debated in court and experts believe it will likely reach the Supreme Court. It could take more than two years for the courts to determine the validity of CPP.

Meanwhile, states will have to decide whether to submit implementation plans to EPA. Several states, including Colorado, Kentucky, Oklahoma, Texas, and Wisconsin, have stated they will not comply with CPP.

‘Costly, Ineffective, and Illegal’

“EPA’s so-called Clean Power Plan is costly, ineffective, and illegal,” said James Taylor, vice president for external affairs and senior fellow for environment and energy policy at The Heartland Institute, which publishes *Environment & Climate News*. “The plan can reach its reductions in carbon dioxide only by forcing our most affordable and readily available energy options—coal and natural gas—out of the nation’s energy mix.

“The plan is ineffective because EPA’s own data show it will mitigate less than 0.2 degrees Celsius of global warming by the end of the century,” said Taylor. “The plan is illegal because it imposes different restrictions on different states and violates several other statutory provisions. Any way you slice it, the CPP is a disaster.”

Wisconsin Attorney General Brad Schimel (R) says the rule could increase carbon dioxide emissions.

“The reverberations of these EPA rules have the potential to increase global carbon emissions,” Schimel said. “If manufacturing moves to countries like China and India, which rely heavily on uncontrolled coal plants, there is a real potential that carbon emissions could increase globally.”

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

**House Votes to End Ban on Oil Exports**

Continued from page 1

chamber. Should the repeal pass the Senate, President Barack Obama has said he will veto it.

To shore up the nation’s energy security, Congress passed the ban in 1975, after the Arab oil embargo caused lines at gas stations and fears of global oil shortages.

**More Jobs, More Influence**

Dan Kish, vice president of policy at the Institute for Energy Research, says every credible study concludes allowing U.S. producers to export crude oil would provide more energy, jobs, and influence in the world for the United States.

“This four-decades-old law is keeping our nation’s growth down, and with the lifting of the Iranian embargo, we are the only country in the world that cannot export our oil,” Kish said.

“Now that the United States has become the largest oil and gas producer in the world due to private investment and innovation, the American people can reap the benefits of lower-priced gasoline and more jobs right here at home that will help us become the energy superpower we could be.

“Our allies will be strengthened by being able to purchase from us rather than Russia’s Vladimir Putin and the Iranians,” Kish said. “Our balance of trade will benefit, and new revenues will be generated that will, in turn, generate economic growth and jobs.

“This is a win-win,” said Kish. “Repeal of this outdated and wrong-headed embargo on our goods will rationalize economic markets and generate more investment here at home.”

Kish applauded the House’s vote, saying, “The House of Representatives acknowledged all these benefits and did the right thing. We should all hope the U.S. Senate will do the same.”

Kenneth Arzt (iamkenartz@hotmail.com) writes from Dallas, Texas.
Rep. Mike Pompeo (R-KS) has reintroduced the Safe and Accurate Food Labeling Act of 2015 to prevent individual states from requiring labels indicating whether a food was made with genetically modified organisms (GMOs).

“GMOs are safe and have a number of important benefits for people and our planet,” Pompeo said.

The bill would also tighten the standards companies must use to designate their food as GMO-free: Crops must not be planted with bioengineered seeds, and animals must not be fed bioengineered food.

Companies designating their products as GMO-free appeal to some consumers who fear GMOs pose environmental or human health threats.

“I think people have a right to know what they are eating,” said Dr. Arthur Caplan, director of the Division of Medical Ethics at New York University. “Ethical food companies, restaurants, and groceries should tell them. I don’t see safety as an issue for GMOs, but if people want information, give it to them. Government should not have to mandate [labels]. The safety data doesn’t support mandatory labeling. But respect for customers does. So label voluntarily.”

Caplan says scientific evidence indicates GMOs are harmless.

A study published in the Journal of Animal Science examined more than 100 billion animals before 1996, when animal feed was 100 percent non-GMO, and after, when animal feed was 90 percent GMO or more. The study found GMO feed completely safe and nutritionally equivalent to non-GMO feed.

Henry Miller, a fellow at Stanford University’s Hoover Institution, says mandatory labeling requirements “fail every test: scientific, economic, legal, and common sense. Genetic modification is not a meaningful risk category, any more than all the things that can be assembled with a screwdriver is a meaningful risk category, so labeling requirements are pointless. It has absolutely nothing to do with risk. Moreover, mandatory labeling is expensive to industry and consumers.”

‘Unwise, Faustian Bargain’

Pompeo says he intends his bill to protect GMO foods from state-specific bans, but some GMO proponents worry it might inadvertently empower anti-GMO crusaders at the federal level because it gives the federal Food and Drug Administration (FDA) authority to establish national standards and regulations for genetically modified foods and gives the Department of Agriculture full discretion over how to implement the law. Proponents fear the Department of Agriculture or an FDA director hostile to GMOs could use their power to impose nationwide restrictions or unjustified regulatory hurdles on GMO development and use.

“HR 1599 is an unwise, Faustian bargain,” Miller said. “The provision that would preempt state and local mandatory labeling is now moot, given the U.S. Supreme Court’s decision in Reed v. Town of Gilbert. [The Supreme Court decision] gives the agriculture and biotechnology communities increased confidence that process-specific food-labeling initiatives are likely to be deemed unconstitutional by the federal courts.”

“Another provision of the bill is awful: It would create new, compulsory FDA review of genetically engineered food plants, which is the last thing we need,” Miller said. “These products are already excessively and unscientifically regulated.”

Tiffany Taylor (think@heartland.org) writes from Chicago.
Pushing Climate Truth in the Halls of Congress

Republican Sen. James Inhofe (OK) has served in the U.S. Senate since 1994. He is chairman of the Environment and Public Works Committee and the senior member of the Armed Services Committee. Environment & Climate News Managing Editor H. Sterling Burnett spoke with Inhofe, who received the 2015 Political Leadership on Climate Change Award at the Tenth International Conference on Climate Change in June 2015.

By H. Sterling Burnett, Ph.D.

Burnett: Senator, you’ve been a leader on sound science and climate issues for many years. Why did this become such an important cause for you?

Inhofe: I’ve never been afraid of being a one-man truth squad. It was very evident early on in my time in Congress that environmental extremists were turning global warming into a religion. They want Americans to accept their theory as absolute truth, and the climate has been changing since the beginning of time.

Burnett: Do you believe Earth is undergoing human-caused climate change, and what informs your view on that?

Inhofe: The climate is changing, just as it always has been changing and always will. There is archaeological evidence of an ever-changing climate, and there is historic evidence of it. In the past 2,000 years, there was the Medieval Warm Period, followed immediately by the Little Ice Age.

In December 2008, Al Gore said, “The entire North Polar ice cap will disappear in five years.” It is now past the deadline, December 2013, and the Arctic ice is actually doing pretty well. As Dr. Thomas Burke, [the Environmental Protection Agency’s] science advisor, told my committee this summer, science is never settled. Climate science isn’t settled. There is not a consensus that humans are the driving factor [behind changes to] global temperature. Whether warming or cooling, the reality is that the climate has been changing since the beginning of time.

Burnett: In your speech at the Tenth International Conference on Climate Change, you said the push for climate legislation, regulations, and treaties is all about the money. Please explain what you mean by that.

Inhofe: In my book The Greatest Hoax, I outline how the likes of Tom Steyer, Al Gore, and others stand to benefit from green profiteering. Mr. Gore is actually poised to become the world’s first carbon billionaire, profiteering from government policies he supports that would direct billions of dollars to the business ventures he has invested in that support alternative energy.

Green entrepreneurs, like Al Gore, have accumulated immense wealth largely due to shameless and incessant promotion of their global warming agenda. They often fundraise and receive millions of dollars of investment from promoting global warming, so it comes as no surprise that these green profiteers often view policies supporting green business investing as “good news.”

Burnett: Under your leadership, the Senate Environment and Public Works Committee has uncovered e-mails and documents detailing Obama administration collusion with environmental groups to push climate policy. How did you uncover that evidence, and what was wrong with how they worked in unison?

Inhofe: Our committee conducted an investigation to compile a report exposing how the Obama administration collaborated with outside environmental groups through sue-and-settle tactics that shut Americans out of the rulemaking process. We took an unprecedented look into the inner workings of EPA’s rulemaking process and were able to bring light for the first time the depth at which the settlement process was abused and kept the public in the dark.

I firmly believe that rulemaking and the development of expensive regulations impacting taxpayer dollars should not be done behind closed doors. We uncovered scathing e-mails that show how EPA played politics with deadlines and misled the public on the timing of the rules to avoid election consequences. The correspondence records we obtained reveal unredacted communications between EPA and [the Natural Resources Defense Council], including e-mails exchanged over personal e-mail accounts to avoid [Freedom of Information Act] requests. We uncovered evidence of secret meetings between senior EPA staff and leaders of environmental lobbying groups, held off-site in order to avoid having the environmentalists sign in at EPA headquarters, which would have made the meeting public.

Undoubtedly, this puts the final nail in the coffin of President Obama’s broken campaign promise for a new era of government transparency. My committee continues to investigate and will continue to expose the culture of arrogance and lack of transparency that exists within the walls of the Obama administration’s EPA.

H. Sterling Burnett, Ph.D. (hsburnett@heartland.org) is a research fellow with The Heartland Institute.
Battling Obama’s Regulatory Onslaught Through Congressional Oversight

By Sen. James Inhofe

A s chairman of the U.S. Senate Committee on Environment and Public Works, I have been committed to conducting vigorous oversight of President Barack Obama’s climate agenda.

This agenda is counter to the interests of the American people, science, and common sense. It will cost billions of dollars and put our economy in a straitjacket while harming those most vulnerable.

To understand what is ahead for our economy in the name of global warming alarmism, we must look critically at what led the administration to enact the current level of regulatory overreach in the first place.

Obama’s 2008 campaign commitment to address climate change was driven by promises to far-left donors with investments in renewable energy sources looking to make a return on their investment by phasing out fossil fuels. It is no surprise in his first year of office Obama pushed cap-and-trade legislation through a Democratic-controlled House of Representatives; forced his handpicked, unelected bureaucrats in the Environmental Protection Agency (EPA) to issue a dubious endangerment finding for greenhouse gases; and made an aggressive international commitment to reduce U.S. greenhouse gases.

However, Obama fell short of achieving an official international climate treaty, and after cap-and-trade legislation died in Congress, the president had EPA settle lawsuits filed by environmentalists by agreeing to take climate action favored by radical environmental activists. The December 2010 “sue and settle” agreement placed climate action in the hands of the administration, setting in motion a regulatory regime absent any transparency or accountability. This regime is one I am committed to exposing to the American people.

‘Rules Lack Transparency’

Looking first at how Obama’s carbon rules lack transparency, the art of “sue-and-settle” tactics shuts out the public and interested parties from negotiations on how the federal government will issue a regulation. For more than two years, EPA tweaked deadlines and terms of the agreement on future carbon regulations without any public consideration or knowledge.

Documents obtained by my committee demonstrate EPA and environmentalists coordinated a specific public message regarding their negotiations, often misleading the public, the media, and Congress about the future timing and substance of climate regulatory actions. Even more egregious, instead of relying on their own staff, EPA worked with activists to sell a climate change agenda to the public, develop technical aspects of the rules, shape public policy, and attempt to shore up the shaky legal basis for carbon rules.

The lack of transparency regarding the creation of new carbon rules extends to EPA’s selective economic analysis and science, well beyond the “sue-and-settle” framework. Sue-and-settle led to an unrealistic deadline for issuing carbon dioxide regulations that short-circuited important economic analyses and interagency reviews intended to strengthen the integrity of rulemaking decisions.

Unsubstantiated Claims of Benefits

EPA’s carbon rules were also based on purported climate benefits derived from the social cost of carbon. This formula was developed behind closed doors by an unidentified group of administration officials. To date, we have no idea who participated or how many resources were devoted to this effort. Rather, the Obama administration buried the figure in rules—absent any public participation or peer review.

Just as concerning, EPA purports health benefits of the rules from a reduction of particulate matter and ozone—not a reduction of carbon dioxide—based on studies unavailable to the public. These studies, better known as “secret science” at EPA, have been used in nearly every major air regulation from EPA since 1997. They are based on data that are more than 30 years old and are not available to the public for independent analysis.

Decisions imposing hundreds of millions, if not billions, of dollars in cost cannot wait for potential errors or biases to be discovered decades later. For too long, EPA has ignored science that either challenges the agency’s policies or does not provide a clear path to regulation. Instead, EPA has relied on the work of handpicked scientists and studies giving EPA the answers it needs to justify an aggressive regulatory agenda.

Accountability Lacking

We must also look at how Obama’s carbon rules lack accountability. EPA maneuvered deadlines through “sue-and-settle” to allow the agency to push back implementation dates until after those involved in developing the rules could be held accountable. EPA essentially kicked the can to the next administration.

Further, through “sue-and-settle,” EPA limited the role of interested parties and states to a cursory public comment period on the proposed settlement agreement and failed to even respond to comments. Officials involved in developing the rules did not fit the traditional, highly specialized, neutral civil-servant model—accountable to the American people. Rather, they sought technical and legal guidance from outside groups and cut corners, costing significant taxpayer dollars in agency resources, as well as out-of-pocket costs for impacted parties as a result of regulatory uncertainty.

The Obama administration has not been forthright with the American people in its regulatory agenda. Its rule-making process has resulted in legally questionable regulations, opening the door for further litigation, expending more taxpayer dollars and agency resources, and ultimately stalling meaningful environmental and public health benefits.

When Americans are forced to foot the bill for billion-dollar regulations, they have a right to participate in the process and know the policies selected are based on sound science and thoughtful analysis. As chairman of the Committee on Environment and Public Works, I commit to protect those rights.

Sen. James Inhofe (R-OK) is chairman of the U.S. Senate Environment and Public Works Committee and senior member of the U.S. Senate Armed Services Committee.
Massachusetts’ Sole Nuclear Plant Shutting Down

By Alyssa Carducci

Massachusetts’ Pilgrim Nuclear Power Station announced in October its plan to close by June 2019. Pilgrim, which has been in operation since 1972, employs more than 600 people, generating 680 megawatts of electricity, enough to power more than 600,000 homes. The closure will leave a sizable hole in the state’s energy supply.

Travis Fisher, an economist at the Institute for Energy Research, and Frank Conte, a policy analyst and director of communications at the Beacon Hill Institute, say Pilgrim’s closure creates a serious problem for the state.

“From a grid reliability perspective, any closure of a large, reliable generation plant such as the Pilgrim nuclear facility is bad news,” said Fisher. “We simply cannot keep the lights on without facilities fueled by coal, natural gas, and nuclear power, which together generated 85 percent of our electricity in 2014.”

“I think the pending closure of the Pilgrim power plant is a major crisis for Massachusetts, and the implications will be severe given the policy choices we’ve collectively made over the last decade,” said Conte.

Assumptions Unrealistic

Environmentalists are touting wind and solar power to replace Pilgrim and fill the gaps in the state’s energy sector. “Environmentalists, although they’re well-meaning, have no idea of the economics,” Conte said. “Wind and solar will never replace the Pilgrim power plant.”

“The next-best solutions they also oppose,” said Conte. “They oppose hydropower and natural gas, deluding themselves into thinking wind and solar, which are intermittent, can replace these valuable sources of energy.”

In a statement about the closure, Gov. Charlie Baker (R) said, “Losing Pilgrim as a significant power generator not only poses a potential energy shortage but also highlights the need for clean, reliable, affordable energy proposals, which my administration has put forward through legislation to deliver affordable hydroelectricity.”

Among the proposals Baker hopes will fill the energy gap Pilgrim’s closure will leave is a bill aimed at helping the state tap into Canadian hydropower.

“The closure of Pilgrim will be a significant loss of carbon-free electricity generation and will offset progress Massachusetts has made in achieving the state’s 2020 greenhouse gas emission reduction goals, making it more challenging to hit these targets,” Baker said. “I look forward to working with the legislature to make our proposal for clean, baseload generation law.”

Fisher doubts much of the lost electricity generation power will be replaced.

“Unfortunately, today’s policy environment props up intermittent sources of electricity, such as wind and solar power, and cripples reliable sources with ever-stricter regulations,” said Fisher. “Even the new natural gas infrastructure that is expected to make up for this closure faces regulatory hurdles and protests [made by] the Federal Energy Regulatory Commission.”

Alyssa Carducci (ad.carducci@gmail.com) writes from Tampa, Florida.

National Petroleum Reserve Issues First Permit for Oil and Gas Development

By Alyssa Carducci

The Bureau of Land Management (BLM) has given the green light for the Greater Mooses Tooth Unit, the first oil and gas development project on federal lands in Alaska’s National Petroleum Reserve (NPR-A).

The federal agency issued drilling and right-of-way permits for the proposed Greater Mooses Tooth oil and gas development project (GMT1).

Dan Kish, senior vice president for policy at the Institute for Energy Research, says the reserve was set aside for oil and gas exploration in the 1920s.

“It’s a good thing BLM granted a permit for the Greater Mooses Tooth project,” said Kish. “The National Petroleum Reserve is composed of 23 million acres—the size of Indiana. It’s about time some activity takes place there.”

“This is good news for the state and ConocoPhillips,” said Alaska Gov. Bill Walker (I) to Environment & Climate News. “The National Petroleum Reserve is estimated to hold more than 800 million barrels of oil.

“As Alaska grapples with a $3.5 billion deficit due in part to low oil prices and production, we applaud the hard work by ConocoPhillips to obtain this drilling permit and right-of-way grant for the Greater Mooses Tooth Unit,” Walker said.

Additional Delays

ConocoPhillips’ project will include construction of an 11.8-acre drilling pad in the northern area of NPR-A. Aboveground pipelines will be used to deliver oil to the Trans-Alaskan Pipeline.

Despite the permit to drill, GMT1 still faces roadblocks. In January 2015, ConocoPhillips announced it was slowing investment because of permitting delays and falling oil prices.

“The Greater Mooses Tooth number one project has not been approved for funding yet by ConocoPhillips and our co-owner, and we do not have a specific date when that will happen,” said Natalie Lowman, a spokesperson for ConocoPhillips Alaska.

“The federal permitting process is always fraught with trouble, which is one of the reasons oil and gas production on federal lands lags that on private and state lands, so there are liable to be other delays,” said Kish. “Anti-energy groups [on] the green Left typically pursue every avenue available to them to slow down projects and drive up their costs.

“Their goal, of course, is to make them uneconomic so they never get off the ground,” Kish said.

Kish says these obstacles are unwarranted because decades of experience show oil and gas production can take place while the environment and wildlife thrive.

“Areas like the NPR-A are essential if the Trans-Alaska Pipeline is to continue being a major energy transportation corridor for the United States,” said Kish. “The Inupiat Eskimo people of the region support oil and gas development, and many are involved in the energy business.

“The government should streamline its lengthy processes to ensure the American people will benefit from the energy supplies they own there,” Kish said.

Alyssa Carducci (ad.carducci@gmail.com) writes from Tampa, Florida.

“The federal permitting process is always fraught with trouble, which is one of the reasons oil and gas production on federal lands lags that on private and state lands, so there are liable to be other delays.”

Dan Kish
Senior Vice President for Policy
Institute for Energy Research
Study of Premature Births Cannot Show Connection to Hydraulic Fracturing

By Isaac Orr

Serious methodological errors render unreliable the findings of a recent study titled “Unconventional Natural Gas Development and Birth Outcome in Pennsylavnia, USA,” which suggested pregnant mothers living near hydraulic fracturing sites could be at a higher risk of giving birth to premature babies.

The study, which was published in the journal Epidemiology, was conducted by researchers at the Johns Hopkins-Bloomberg School of Public Health. It relies exclusively on retrospective data analysis of pregnancy and birth statistics of just under 11,000 pregnant women in hydraulic fracturing-rich areas of Pennsylavnia between 2009 and 2013. The data were used to find statistical associations between the distance a pregnant mother lived from a fracking site and whether or not she gave birth prematurely.

Study Cannot Account for Key Issues
Dr. Gilbert Ross, senior director of medicine and public health at the American Council on Science and Health, says although these methods sound sophisticated, they tell us very little about whether fracking had any impact on the pregnancies.

“There is no possible way this retrospective study could have accounted for key issues, such as genetic factors, history of prior pregnancy issues, or drug or alcohol use in the parents, all of which have a large influence on birth weights and the duration of pregnancy,” Ross said.

“Realistically, there is no way hydraulic fracturing could have had an impact on pregnancy outcomes,” said Ross. “Fracking occurs two miles below the surface, and the Environmental Protection Agency found no evidence that hydraulic fracturing is causing widespread water contamination. There is no plausible mechanism to explain how pregnant women might have been exposed to anything related to fracking to cause attenuated gestation duration.”

Indeed, the authors didn’t measure any levels of possible toxicant exposure,” said Ross. “How could they, of course, in a retrospective analysis such as this?”

Results Undermine Authors’ Claims
Some of the study’s results fail to support claims fracking could be leading to an increase in premature births, and in some instances, the results indicate just the opposite.

According to the study, premature birth rates near fracking activity were actually lower than the national average. According to the Centers for Disease Control, 11.5 percent of all births in the United States are premature. The study found 11 percent of the births near fracking sites were premature.

To study the effect of natural gas development on pregnancy, the researchers divided mothers into four groups, or quartiles, based on their distance from a fracking well. Mothers in quartile one lived farthest from the sites, and mothers in quartile four lived closest. Although mothers living in quartiles one and two had the lowest rates of premature births, mothers in quartile three had higher rates than the mothers who lived closest to the fracking activity.

“If living close to fracking activity were truly influencing premature births, we would expect to see the highest incidences of early deliveries in the areas nearest fracking wells,” Ross said. “One of the key criteria in assessing whether a possible factor is causally related to an outcome is called ‘dose-response,’ meaning if A causes B, then more of A should cause more of B.”

New Variety of Genetically Modified Corn Is Safe, USDA Says

By Alyssa Carducci

Monsanto Co. in October cleared an important regulatory hurdle in its efforts to bring to market a new variety of genetically modified corn.

A U.S. Department of Agriculture (USDA) review concluded the corn poses no significant threat to crops, other plants, or the environment.

USDA’s Animal and Plant Health Inspection Service announced it would deregulate Monsanto’s MON 87411 maize, publishing its approval in the Federal Register on October 27. The corn was developed to withstand corn rootworms, which can damage roots and reduce yields. The new corn can also tolerate glyphosate, the active weed-killing ingredient in Monsanto’s Roundup and in other herbicides.

Mischa Popoff, a policy advisor for The Heartland Institute, which publishes Environment & Climate News, says consumers should not fear genetically modified corn or consider it “unnatural,” as nobody has been eating “natural” corn for close to 100 years.

“Should people be eating it? Yes. What they’re basi-
A newly released audit of the Environmental Protection Agency (EPA) by the Illinois-based watchdog organization Open the Books discovered hundreds of millions of dollars of questionable expenses, including high-end luxury furnishings, sports equipment, ongoing paramilitary purchases totaling $715 million for arming and training “Special Agents,” and data mining and equipment enabling the agency to snoop on industry and prepare deadly force raids to enforce EPA regulations.

Openthebooks.com publishes a report every quarter on the spending of a different government agency. This 44-page snapshot captures the size, scale, and scope of EPA with information from a careful examination of tens of thousands of checks written by the agency totaling more than $93 billion from 2000 to 2014.

‘A Massive Federal Agency’

“The first thing you see in our report is that the EPA is a massive federal agency,” said Adam Andrzejewski, founder of Openthebooks.com. EPA’s fiscal year 2015 budget totaled $8.13 billion. If EPA became its own state, its budget would rank 42nd of all state budgets, Andrzejewski notes. The Department of Justice is the largest domestic law firm in the United States, even though EPA lawyers don’t defend the agency in court, Andrzejewski says. The Department of Justice has this responsibility, and between 1998 and 2010, it spent $43 million in additional legal fees defending EPA.

**Adversary of American Business**

“The EPA was established under an executive order by Richard M. Nixon, a Republican president,” Andrzejewski said. “It’s interesting that its first leader was an attorney: William D. Ruckelshaus. He immediately made it clear the new federal agency was in an adversarial position with American business.”

Andrzejewski says EPA has taken on a larger paramilitary role in recent years.

“With the help of a bipartisan 1988 agreement, it has begun to arm its police quite literally to the nth degree,” Andrzejewski said.

Not content to arm its agents with typical small arms, the report reveals EPA spent more than $1.4 million on 30 millimeter weapons (more than double the size of the 50 caliber machine guns mounted on Sherman tanks) and approximately $10,000 on 300 mm artillery weapons. It also spent millions of dollars on ammunition, body armor, night vision equipment, and armored personnel carriers.

More than $50 million of EPA funds since 2000 went to international organizations in countries such as China and Mexico, with no apparent connection to the agency’s mandate of safeguarding air and water in the United States.

“If you wanted to sum up the take-away from this report, it is this: oversight hearings,” said Andrzejewski. “Rep. Lamar Smith (R-TX), head of the Committee on Science, Space, and Technology, read our report, and now he wants to conduct hearings on the EPA.”

**Accused of Buying Influence**

John Dale Dunn, a physician, lawyer and policy advisor to The Heartland Institute, which publishes Environment & Climate News, says the report shows EPA is spending a tremendous amount of money to buy influence and create an army of activists to support expanding its budget and power.

Information in the report shows EPA has distributed $72 billion in federal grants since 2000. The largest private grant-making organization, the Bill and Melinda Gates Foundation, gave only $3.3 billion in grants through 2013.

Many of EPA’s grants have gone to relatively new environmental education and environmental justice programs at colleges and universities. The report states EPA grants are funding politicized programs claiming, for example, “pollution from capitalism through the effects of climate change hurts minorities and the poor.”

In 2012, the report notes, EPA employed 198 “Public Affairs” workers, with the agency spending more than $141.4 million in salaries and another $1.5 million in performance bonuses on public affairs since 2007. Much of EPA’s public relations work has come under the scrutiny of Congress for skirting rules prohibiting agencies from lobbying for rules and regulations.

“Agency tyranny and confiscatory agency activities are the real danger,” Dunn said. “The EPA is buying an army of scientists and economists, as well as mandarins and apparatchiks.

“All the money EPA spent arming itself is minuscule compared to what they spent prostituting scientists,” Dunn said.

**INTERNET INFO**


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Kenneth Artz (iamkenartz@hotmail.com) writes from Dallas, Texas.
State Rep. Ivory Fights for Utah’s Public Lands

By H. Sterling Burnett, Ph.D.

Burnett: In addition to being a legislator, you serve as president of the American Lands Council, often called the ALC. What is the ALC?

Ivory: The American Lands Council is the leading national force behind freeing up the nearly 50 percent of all lands west of the Rockies under federal control today. The ALC was formed by a number of county commissioners and local leaders in response to the Transfer of Public Lands Act (HB 148 2012) I passed, which the governor signed into law, to begin the process of freeing up these lands for more effective, local care and management.

Distant, unaccountable control by federal bureaucrats thousands of miles away is wreaking havoc on the air, water, and wildlife and the health and safety of Western communities, as well as blocking off and burning up choice recreational opportunities all around the West.

For example, elite Montana firefighting crews were ordered to stand down by the U.S. Forest Service and watch the fires in the Sierra Nevada mountains were tended more like a garden and harvested to the sustainable tree density rather than being left in the present overgrown and catastrophic condition, it would conserve substantially more than a quarter-trillion gallons of water a year in drought-stricken California, produce a healthier forest, and increase funding for local government services like education and public safety.

Significantly, Canada discovered centralized management of the unique lands and resources in its provinces and territories was not working. The Canadian central government and the provinces and territories worked together in good faith as partners and transferred management of land, water, and resources in an orderly fashion to the provinces and territories over the past decade. As a result, they are experiencing better outcomes, both economically and environmentally.

Burnett: States are being buffeted by an array of new regulations and restrictions imposed by the federal government. What can states do in response?

Ivory: American Founding Father John Dickinson warned, “The government of each state is, and is to be, sovereign and supreme in all matters that relate to each state only, and subordinate barely in those matters that relate to the whole, and it will be their own faults if the several states suffer the federal sovereignty to interfere in the things of their respective jurisdictions.”

Governors, attorneys general, and state and local leaders around the nation should take a lesson from Texas Gov. Greg Abbott (R) in his recent handling of the federal Bureau of Land Management’s attempts to seize control of approximately 90,000 acres in the Red River Valley on the border between Texas and Oklahoma. Gov. Abbott recited under the Constitution of the United States all governments exist to secure to the people their inalienable rights, such as property and self-government. He warned the BLM he is constitutionally duty-bound to stand firmly with his citizens to secure to them these rights even against—perhaps especially against—the federal government.

We are seeing massive federal overreach into nearly every aspect of Americans’ daily lives, primarily because state and local leaders often lack the courage borne [out] of deeply rooted knowledge regarding the unique genius of our system of government.

H. Sterling Burnett, Ph.D. (hsburnett@heartland.org) is a research fellow with The Heartland Institute.
Harassment of Scientists Threatens Independent Research, Journal Warns

By Bonner R. Cohen

Scientific discourse, traditionally viewed as one of the ways civil society sorts out disputes among some of its best minds, is falling victim to a growing culture of intolerance seeking to silence voices of dissent, concludes an editorial in the October 8 issue of the scientific journal Nature Biotechnology.

The editorial discusses smear campaigns targeting scientists who have spoken out against scaremongering concerning genetically modified (GM) crops. It cites the example of 40 U.S. scientists recently hit with onerous Freedom of Information Act (FOIA) requests filed by anti-GM activists.

'Targeted by Mudslingers'

“These scientists have been targeted because they speak inconvenient truths about biotechnology,” the editorial says. “But whether in GM crops, vaccines and autism, climate science or nuclear power, scientists who speak out need to get used to being targeted by mudslingers; it’s part of today’s 24/7 world of spin and instant controversies.”

In early 2015, the activist group U.S. Right to Know (USRTK), after pocketing a $47,500 donation from the Organic Consumers Association, submitted FOIA requests to 40 biotechnology scientists, requesting e-mails dating back to 2012, Nature Biotechnology notes. USRTK sought to determine whether the scientists were coordinating their “messaging” with 14 companies, including Dow, Dupont, Monsanto, Syngenta, and other biotech firms and food industry trade associations.

The targeted scientists had all contributed to an industry-backed website called GMOanswers.com or had spoken out against California’s GM food-labeling proposition.

One of the scientists who complied with USRTK’s FOIA request was University of Florida researcher Kevin Folta. USRTK then leaked the e-mails to three journalists, one of whom wrote a front-page story in The New York Times about a $25,000 donation from Monsanto to Folta’s institution. Other journalists posted some of Folta’s e-mails in their blogs.

“In both cases, the reporters cherry-picked sentences from several thousand e-mails, highlighting Folta’s communications with Monsanto, often out of context, to insinuate that he is an industry shill—and presumably unfit to speak to the public,” the editorial pointed out.

Folta says USRTK unfairly attacked his work because of the organization’s close ties to special-interest groups.

“USRTK is one of many activist groups funded heavily by anti-GMO interests that have been trying to silence me for a long time,” said Folta. “I teach the science behind genetic engineering, and the last 20 years have shown massive benefits compared to risk,” Folta said. “Since USRTK extracted sentences out of context from my 4,600 pages of e-mail to build a damaging narrative which they fed to the popular press, I’ve endured libelous claims on the Internet labeling me as ‘corrupt’ and a ‘fraud,’ and [I’ve been accused of] ‘taking bribes to lie about science.’

“As a result of this smear campaign, universities have cancelled my talks due to activists’ pressure, and I’ve been forced to take down my blog and podcast that had been receiving 20,000 downloads a month,” said Folta.

The editorial notes like most academics, Folta regularly communicated with people from both the private and public sectors.

“This is how demagogues and anti-science zealots succeed: they extract a high cost for free speech; they coerce the informed into silence; they create hostile environments that threaten vibrant rare species with extinction,” the editorial said.

Attacks Send a Message

Greg Conko, executive director of the Competitive Enterprise Institute, says the attacks on biotechnology do not surprise him.

“Plant breeders and other scientists at public universities are supposed to be talking to farmers and private-sector seed companies, so they can learn from people involved in real-world agriculture and their research can benefit farming and food production,” Conko said. “Anti-biotechnology activists know that. And they know if they cast a wide enough net, they will inevitably find a few out-of-context statements that make those communications appear suspicious.

“The activists want to send a message to public-sector researchers: If they cooperate with private-sector entities, the researchers will be targeted and punished for the ‘sin’ of not hating the private sector,” Conko said.

“We need scientists, science enthusiasts, farmers, industry, and politicians to step up to defend science in the important area [of] biotechnology,” said Folta. “We have a planet to feed, [an] environment to protect, and farmers that want new technology. We need to deliver that.”

Bonner R. Cohen, Ph.D. (bcohen@nationalcenter.org) is a senior fellow at the National Center for Public Policy Research in Washington, DC.
Activists Push to Create New National Park in Maine’s North Woods

By Ron Arnold

A battle is underway over a proposal by Roxanne Quimby, founder of skin care company Burt’s Bees, to create a new national park near Mount Katahdin in Maine’s north woods.

The proposal includes using a 70,000-acre patchwork already owned by Quimby’s foundation. The foundation’s forest lands would serve as a starter gift to the National Park Service (NPS).

Some local and national environmental lobbying groups support Quimby’s plan, but many of Maine’s hunters and fishermen, timber workers, snowmobilers, and town councils oppose it, as does Maine Gov. Paul LePage (R) and all of Maine’s representatives in Congress.

If NPS establishes a park using Quimby’s core property, history indicates federal bureaucrats over time will expand its boundaries regardless of the protests made by locals. The use of private property within the park’s initial boundaries will be sharply limited, and the property will eventually be taken with little or no compensation. Traditional uses for property in the region, such as timber harvesting, hunting, and snowmobiling, will all likely be banned.

‘Epiphany’ Sparks Land Purchases

Quimby first met the leaders of RESTORE: The North Woods at a 1998 farm fair. They showed her RESTORE’s plan for a 3.2-million-acre Maine woods national park. She called the meeting an “epiphany” and immediately started buying land as a core for the park.

Upon buying new property, mostly from timber companies, Quimby quickly kicked all the campers and hunters off the land, burning their shelters and putting up “no trespassing” signs. The previous owners had respected the region’s decades-old custom of allowing people open access to the land for traditional pastimes.

Big Green Exposed

Unfortunately for Quimby, just a few years before she joined RESTORE’s crusade, environmentalists’ efforts to re-wild the region had made big news and angered people in Maine and beyond. In 1990, a consortium of 35 environmental leaders held a closed meeting at Tufts University and decided to join forces as the Northern Forest Alliance. The alliance’s idea, based on a 1982 NPS study, was to nationalize and de-develop 26 million acres in Maine, New Hampshire, Upstate New York, and Vermont.

Brock Evans, vice president of the National Audubon Society, told the alliance, “Once that 26 million acres was all public domain, then it went to the private domain. I don’t agree that we can’t get it all back. We should get all of it. Be unreasonable.”

The whole meeting was recorded, and Erich Veyhl, a Maine coastal property owner, distributed it. The backlash in the region was furious. The alliance retreated, but Michael Kellet, who left the powerful Wilderness Society to form RESTORE, pushed forward.

Following RESTORE’s vision, Quimby spent millions on public relations and outreach coordinators; held public forums; paid for numerous ads, mailings, and robocalls; commissioned polls; and made large donations to community groups to support her dream park. After years of trying to go big, Quimby finally adopted radical environmentalists’ often-used strategy: incrementally spread the park project over 100 years.

Quimby put her son Lucas St. Clair in charge of pushing the park’s development through small steps while she faded into the background. St. Clair recently raised the possibility of creating a national monument in the area.

LePage says he’s opposed to a federal incursion on state authority in Maine. “The federal government is trying to make a second national park in Maine, and there are real problems with that,” said LePage at a conference.

LePage described a recent confrontation he had with NPS over snowmobilers having trouble getting to their camps by crossing the Appalachian Trail, a unit of the national park system. They couldn’t make their usual lake crossing because it had yet to freeze. An NPS officer called LePage and told him to issue summons to those campers for a court date. LePage refused.

“One, I’m not going to summons them,” said LePage. “Two, I encourage them to use [the trail]. And if you come to me and try to summons them, I’m going to throw you in jail.

“And I never heard another word,” said LePage, concluding his story.

LePage will not be governor forever, and in politics the fight for liberty and property rights is never over. My fear is St. Clair and his offspring will continue peddling his mother’s dreams for decades to come.

Ron Arnold (arnold.ron@gmail.com) is a free-enterprise activist, author, and commentator.

Author Richard Dillon examines the realities of climate change and how it has become one of the greatest political issues of our time. Only $18.06 at Amazon.com. Buy your copy today!
Texas Governor Fights Federal Claim to Texans’ Lands

By Ann N. Purvis

Texas Gov. Greg Abbott (R) and other Republicans in Texas are calling on the Obama administration’s Bureau of Land Management (BLM) to clarify its intentions regarding property ownership along the Red River and to cease actions Abbott says are nothing short of a “land grab.”

“I write for a third time to ask that you cease and desist this federal land grab,” wrote Abbott in an October 16 letter to BLM.

When BLM began updating its Resource Management Plan in 2013 for its federal holdings in Kansas, Oklahoma, and Texas, Texas landowners were shocked to find BLM claimed to own up to 90,000 acres across a 116-mile stretch of the Red River. Texas landowners believe the Red River lands belong to them.

Supreme Court Settled Boundaries

The Red River, which separates Oklahoma and Texas, played a central role in a pair of early twentieth century U.S. Supreme Court decisions that defined the boundary between the two states. The court determined Oklahoma has ownership of land north of the river’s medial line and Texas owns the land from the lower cut bank—the outer cliff surrounding the river—southward. The court ruled the area between the south cut bank and the river’s medial line belongs to the federal government.

Texas landowners recently found out BLM is now claiming to own much of their property, and although the agency recently revised the 90,000-acre estimate down to 30,000 acres, it has done little to ease concerns among landowners.

Abbott has written to BLM three times to ask the agency to explain the basis of its claim to Texans’ land. In an August 2014 letter to BLM Director Neil Kornze, Abbott cited landowner Pat Canan, whose land ownership can be traced back to an 1858 deed. Canan, who testified before the U.S. House Subcommittee on Public Lands and Environmental Regulation in July 2014, told lawmakers BLM placed a survey marker on his property 1.7 miles below the south bank of the river. Another rancher, Ken Aderholt, says BLM is threatening to claim half of his 1,250-acre property.

The river has moved over time, and in some places the water is now a mile or two north of its 1923 location, says Rob Henneke, director of the Center for the American Future at the Texas Public Policy Foundation.

“The Supreme Court also recognized in its 1921 and 1923 opinions [the Red River] is a moving boundary [and] a boundary that’s continually changing, which is why the Supreme Court defined it as it did, as the gradient boundary of the south cut bank, so that this could always be determined in the future,” Henneke said.

Henneke says BLM is taking an expanded view of its holdings.

“Their position is that the erosion of the Red River has expanded that thin strip of sand to where now they claim as public lands ... all of the private land inside Texas in between the 1923 gradient boundary and where the river is today,” said Henneke.

Cloured Titles

Henneke points out uncertainty in title ownership poses problems for those who may want to sell, lease, or refinance their land or make estate planning decisions. That affected landowners have been paying taxes on the land for years is an issue then-Attorney General Abbott raised when he wrote to BLM in August 2014.

 “[Texans] have owned and paid taxes on this land for generations,” said Abbott, who also called it “inconceivable” BLM would claim ownership.

Henneke says BLM’s decision is “incredibly abusive.”

“You’ve got private landowners up there that have had this land for generations that use it for farming and ranching and hunting and has been passed from parents to children, and now the BLM’s position is it’s not even a taking where the landowners would be entitled to compensation under the Fifth Amendment to the Constitution,” said Henneke.

Henneke says BLM’s position is the land always belonged to the federal government, despite the fact it never claimed the land in the past.

Congress Responds

Some federal legislators are working to advance legislation that would provide landowners with some certainty.

In the House, Rep. Mac Thornberry (R-TX) is sponsoring the Red River Private Property Protection Act, which calls for a survey to define the boundary between public and private lands using the method established by the Supreme Court. It would then allow landowners to make claims for contested land under a modified color of title action. Once ownership is settled, BLM would have to dispose of any remaining land, with adjacent landowners given the right of first refusal.

The bill passed the Natural Resources Committee in September, and Thornberry says he will continue to push for passage.

“Private property rights are fundamental to the American way of life and to many people’s livelihoods, especially farmers and ranchers,” said Thornberry. “This bill seeks to protect those rights and reflects the input we’ve received by listening to landowners, the Texas General Land Office, and many others.”

MAC THORNBERRY, U.S. REPRESENTATIVE, TEXAS

Ann N. Purvis, J.D. (ann.n.purvis@gmail.com) writes from Dallas, Texas.
The Southern Hemisphere’s temperature was 0.21°C above average.

The global average temperature for October was 0.43°C above average.

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OCTOBER 2015

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