Green Activists, State AGs Collude Against Scientists, Nonprofit Groups

By Bonner R. Cohen

E-mails uncovered by the Energy and Environment Legal Institute (EELI) show several state attorneys general (AGs) who have threatened prosecution of scientists and nonprofit organizations active in the climate change debate had collaborated with anti-fossil-fuel lobbyists to shape their legal and public relations strategies.

At a March 29 press conference hosted by New York Attorney General Eric Schneiderman, with former U.S. Vice President Al Gore participating, a coalition of 16 Democratic attorneys general and Virgin Islands Attorney General Claude E. Walker, an independent, announced they were actively considering legal action against companies, organizations, and individuals who have challenged the Obama administration’s claim humans are causing catastrophic climate change.

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President Contenders Differ on Climate, Fuels

By H. Sterling Burnett, Ph.D.

Donald Trump would reverse many of the regulations the Obama administration’s Environmental Protection Agency (EPA) imposed on the economy—regulations he says are causing job losses in the coal, natural gas, and oil industries—while Sen. Bernie Sanders (D-VT) and former Secretary of State Hillary Clinton (D) say they will escalate the war on fossil fuels being waged by President Barack Obama.

Those are the messages Trump, the only remaining Republican presidential candidate, and Sanders and Clinton are delivering on the campaign trail.

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The Heartland Institute is a 32-year-old national nonprofit organization based in Arlington Heights, Illinois. Its mission is to discover, develop, and promote free-market solutions to social and economic problems. For more information, visit our website at www.heartland.org or call 312/377-4000.
Supreme Court Strikes Down Maryland Power Subsidy Scheme

By Ann N. Purvis

The U.S. Supreme Court struck down a Maryland electricity subsidy scheme, concluding in a unanimous decision in Hughes v. PPL EnergyPlus the arrangement impermissibly interfered with federally regulated wholesale electric power markets.

Maryland’s Public Service Commission solicited bids for the development of a new power plant in the state, ultimately accepting a proposal for a natural gas plant by CPV Maryland. Maryland committed to protecting CPV from competition in the interstate electric power market by requiring the state’s electricity providers to enter into a 20-year contract with CPV to buy its electricity at a set price, regardless of the price established in the region’s wholesale market.

Maryland’s program ran afoul of the Federal Energy Regulatory Commission, which oversees wholesale electricity markets nationwide. Existing power generators filed suit challenging the special protection given to CPV by the State of Maryland, arguing it threatens the normal functioning of the wholesale market by pushing down prices.

The Supreme Court handed down its ruling on April 20.

Interfering with Wholesale Markets

Maryland is one of 13 states serviced by PJM Interconnection, the region’s electric power transmission organization. PJM operates the region’s competitive wholesale electric market to ensure an adequate supply of electricity. It attempts to accomplish this by accepting the lowest bids from electricity producers for specific amounts of power for particular periods and selling the electricity to utilities in its region. PJM is also responsible for maintaining the reliability of the grid.

Maryland interfered with this system by promising CPV a set price for its power regardless of prices paid in the regional auction. If the PJM clearing price was below the contractual rate, power providers in the state were required to pay CPV the difference.

Devin Hartman, senior fellow at the R Street Institute, says under this system, CPV could offer artificially low bids to PJM, ensuring the purchase of the company’s power while being reimbursed for the difference by Maryland distributors.

“You’re going to lowball your offer to guarantee that you clear, and if the capacity auction clears at a price lower than the price you need, then the subsidy is going to pay out that difference,” Hartman said.

“Artificially depressing price[s] could [result in] the premature retirement of some power plants, and it could bar entry of other plants that are actually more efficient,” said Hartman.

A Narrow Ruling

The Supreme Court’s ruling was narrow in its scope. It ruled subsidies, such as Maryland’s, that are tied to the price set by the capacity auction were impermissible, but the Court determined other types of schemes to support renewable energy may be permissible.

Writing for the majority, Justice Ruth Bader Ginsburg said: “We ... do not address the permissibility of various other measures States might employ to encourage development of new or clean generation, including tax incentives, land grants, direct subsidies, construction of state-owned generation facilities, or re-regulation of the energy sector. Nothing in this opinion should be read to foreclose Maryland and other States from encouraging production of new or clean generation through measures ‘untethered to a generator’s wholesale market participation.’ ... So long as a State does not condition payment of funds on capacity clearing the auction, the State’s program would not suffer from the fatal defect that renders Maryland’s program unacceptable.”

Hartman says the decision was indeed narrow, but other subsidy forms might also be invalidated down the road.

“Under most circumstances, almost any subsidy is going to create an incentive to bid lower in a capacity market,” said Hartman. “I’m encouraged by the fact [it may be possible to] demonstrate a causal linkage [that] could occur under other forms of subsidies.”

David Schnare, general counsel of the Energy and Environment Legal Institute, says he would not be surprised to see other states attempt to exercise more control over their intrastate power markets.

“What’s notable about all this is states feel the federal regulatory regime is trampling on state prerogatives, and Maryland’s effort is but one attempt to take back power the states once had,” said Schnare. “States will continue to look for ways to manage the power system within their own borders, including wholesale prices for electricity. Look for even more creativity.”

Ann N. Purvis (ann.n.purvis@gmail.com) writes from Dallas, Texas.
Activists, State AGs Collude Against Climate Scientists

Continued from page 1

Just two hours prior to the press conference, the attorneys general received a secret briefing from Peter Frumhoff, director of science and policy at the Union of Concerned Scientists (UCS), and Matt Pawa, an environmental attorney for the Climate Accountability Institute. The briefing, in part, offered advice to the AGs on how to handle difficult questions from the media.

E-mails obtained by EELI under Vermont’s public records law reveal collusion between anti-fossil-fuel activists and the group of state AGs was well underway before the New York press event. The e-mails also show attorneys in Schneiderman’s office told the activist groups to conceal their relationship.

‘Deceive the Press’

“These e-mails show Schneiderman’s office suggested their outside green-activist allies deceive the press,” said David Schnare, EELI’s general counsel.

“We call on these AGs to immediately halt their investigation and lay out to the public the full extent of this collusion, producing all records or information provided [to] them in briefings and other work with the outside activists, including those they are trying to keep secret through a common interest agreement.”

DAVID SCHNARE, GENERAL COUNSEL, ENERGY AND ENVIRONMENT LEGAL INSTITUTE

“Meanwhile, AGs in his coalition have subpoenaed at least one policy group’s correspondence with the media.”

The documents obtained by EELI show at least one AG suggested using a common interest agreement to claw back records already circulated and hide future coordination efforts.

“We call on these AGs to immediately halt their investigation and lay out to the public the full extent of this collusion, producing all records or information provided [to] them in briefings and other work with the outside activists, including those they are trying to keep secret through a common interest agreement,” Schnare said.

The Competitive Enterprise Institute (CEI), an outspoken critic of the human-induced climate change hypothesis, was subpoenaed by Walker shortly after it had released press statements critical of the AGs’ campaign to silence global warming dissenters. Walker’s subpoena demanded 10 years of CEI’s climate-change-related documents, from 1997 to 2007.

Walker, Schneiderman, and other state AGs have also launched investigations into energy giant Exxon Mobil. They allege the company may have committed “fraud” by questioning the science behind catastrophic manmade climate change.

According to EELI, Pawa and Frumhoff have been pushing for an investigation into what they call “climate deniers” for a number of years—at least since the “Establishing Accountability for Climate Change Denial” activist workshop was held in June 2012. The event was co-hosted by UCS and the Climate Accountability Institute at the Scripps Institution of Oceanography.

At the workshop, activists developed strategies for state AGs to use to pursue legal claims against scientists, companies, and groups that have denied humans are causing catastrophic climate change or that have critiqued or challenged state and federal efforts to restrict the use of fossil fuels.

The Washington Times reports of the roughly 100 academic institutions and free-market think tanks named in Walker’s subpoena of Exxon, “69 are listed on Greenpeace’s #ExxonSecrets website—and in virtually the same order.”

Some say the overlap suggests further collusion between state AGs and environmental groups.

E-mails showing the involvement of Frumhoff in the possible collusion come at an awkward time for UCS; the organization is actively working to weaken public-records laws, including exempting the correspondence of certain public officials from taxpayer scrutiny (see related story on page 13).

Climate Debate ‘Should Be Encouraged’

Not all state AGs are on board with the Schneiderman-led investigation of climate skeptics.

“The scientific and political debate concerning climate change is healthy, and it should be encouraged,” said a March 30 joint statement by Oklahoma Attorney General Scott Pruitt and Luther Strange, attorney general of Alabama. “It should not be silenced by threats of criminal prosecution by those who believe that their position is the only correct one and that all dissenting voices should therefore be intimidated and coerced into silence.”

Other analysts see this collusion as part of a growing trend to attack sound science and the First Amendment.

“The same green-leftist organizations that turned the Environmental Protection Agency into their wholly owned subsidiary have now infiltrated state attorneys general [offices] with the goal of emulating the Salem witch trials of the seventeenth century,” said Jay Lehr, science director at The Heartland Institute, which publishes Environment & Climate News. “Free speech long ago disappeared from college campuses. Now, it is leaving science.”

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

INTERNET INFO

Energy and Environment Legal Institute, “E-mails Reveal Schneiderman, Other AG’s Colluding with Al Gore and Greens to Investigate Climate Skeptics,” April 15, 2016: https://www.heartland.org/sites/default/files/eeli_state_ags_collaboration.pdf
FWS Director Defends Administration’s Handling of Endangered Species Act

By Alyssa Carducci

In testimony before the U.S. House Oversight and Government Reform Subcommittee on the Interior (OGRSI), U.S. Fish and Wildlife Service (FWS) Director Dan Ashe denied allegations the Obama administration colluded with conservation groups when it formulated its modifications to the Endangered Species Act (ESA) and when it settled lawsuits with environmental lobbyists concerning ESA listing deadlines.

Proposed Listing Procedures Revised

Recently, the Obama administration announced it plans to scale back its proposal to require greater state input before groups propose listing animals and plants as “endangered” or “threatened” under ESA.

The original proposal would have required petitioners to solicit data on species from state wildlife agencies in the states where the species exist, to include the data in their listing petition, and to provide a copy of the petition to potentially impacted state wildlife agencies prior to submitting the petition to FWS.

“The decision by the U.S. Fish and Wildlife Service to modify its proposed changes to the process by which species are petitioned by third parties for listing under the Endangered Species Act is just politics as usual,” said Brian Seasholes, director of the Endangered Species Project at the Reason Foundation. “The modification, according to FWS Director Ashe, is apparently in response to objections from pressure groups and members of Congress that are proponents of the [ESA].”

Rep. Cynthia Lummis (R-WY), chairwoman of OGRSI, stated during the hearing she was disappointed FWS revised the proposed rule.

“I was disappointed to see that U.S. Fish and Wildlife Service revised the proposed rule for the process to consider listing petitions, Lummis said. “Groups involved in the environmental litigation industry, who are trying to protect their own turf, may have had influence over the end result of that because they’re making a business of suing you over petitions. Catering to litigation-focused interests isn’t going to get us anywhere.”

Ashe acknowledged some members of Congress and environmental groups strongly objected to the proposal, even though Ashe said he does not believe the “original proposal that we made … was excessively burdensome.”

“So we have backed off on that,” said Ashe. “But we haven’t backed off on the basic proposition that [groups requesting a status review] should notify the states 30 days ahead of sending a petition to us.”

Collusion Questions

Republican members of OGRSI peppered Ashe with questions about whether the Obama administration is colluding with environmental groups who sue FWS, because the agency often fails to fight the conservation groups in court. The Republican congressmen claimed those groups are setting their agenda behind closed doors through sue-and-settle agreements, which are outside the normal ESA listing process and exclude state and public input.

In response to questions from Rep. Gary Palmer (R-AL) about possible collusion, Ashe testified the agency does not have enough resources to always meet the deadlines set out in ESA, so it does not fight deadline-driven litigation it can’t win.

“The Justice Department won’t take that case on appeal because we’re going to lose it,” Ashe said.

‘Playing Politics’

“The willingness of the Fish and Wildlife Service to kowtow to environmental lawsuit mills by withdrawing the common-sense petition proposal shows the agency is more interested in playing politics than meaningful reforms that would result in more effective species conservation and more efficient use of scarce resources to achieve this,” Seasholes said.

“This is a common-sense proposal, because states often have the best data on these species and because petitioners often ignore these data [as part of their] efforts to make species appear to merit listing under the Endangered Species Act,” Seasholes said. “The decision by the U.S. Fish and Wildlife Service to remove these provisions from the proposal only ensures petitions will continue to be submitted with low-quality data, which will lead to poor conservation outcomes for the very species that are supposed to be helped and [will waste] state, federal, municipal, and private-sector resources protecting species that may not warrant protection.

“The bar needs to be raised to improve the quality of the data upon which the Endangered Species Act is implemented, not lowered,” said Seasholes.

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

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* William O’Keefe
  founder
  George Marshall Institute

** Joseph Bast
  president
  The Heartland Institute
The Colorado Supreme Court affirmed decisions by lower state courts to overturn two cities’ fracking bans, ruling on May 2 against Fort Collins’ five-year fracking moratorium and a voter-supported ban on hydraulic fracturing in Longmont.

Colorado’s high court called the laws “invalid and unenforceable” and determined state law preempts local ordinances on issues related to fracking and oil and gas production.

Fracking—the widely used practice of injecting a high-pressure mix of water, sand, and chemicals underground to break open formations and recover oil and gas—currently accounts for two-thirds of all natural gas production in the United States, according to the Energy Information Agency.

Fort Collins passed its moratorium on fracking in 2013. Longmont’s ban was enacted in 2012.

**Decision ‘Protects Property Rights’**

The Colorado Oil and Gas Association (COGA) sued the cities in 2014 and prevailed in lower courts, which resulted in the bans being thrown out. COGA argued the fracking bans violate the rights of property owners, threaten local jobs, and deprive state and local governments of tax revenue.

The Colorado Supreme Court’s ruling affirms the lower courts’ decisions, thereby preventing local control of oil and gas development.

Tracee Bentley, executive director of the Colorado Petroleum Council, said in a statement, “Today’s decision protects private property rights, which are a main driver for the energy renaissance in this country.”

“The U.S. was counted out as an oil and natural gas superpower, but with states like Colorado leading the way, the U.S. defied the odds to become the world’s largest producer of natural gas and a world leader in crude production,” Bentley said.

**Assuring Diverse Energy Supply**

Jonathan Lockwood, executive director of Advancing Colorado, a nonprofit organization working to advance “a culture of opportunity and freedom” in the state, applauded the Colorado Supreme Court’s decision.

“Coloradans love our strong, robust, diverse, and affordable energy portfolio, and we must continue fighting shadowy groups who seek to dismantle our energy sector and endanger our lives,” Lockwood said. “The supreme court’s ruling clearly was a battle victory, but the war is not over.”

“The prevailing narrative is the Colorado Supreme Court’s decision is a victory for the oil and gas industry,” said Amy Oliver Cooke, executive vice president of the Independence Institute. “While that is true, it’s also a narrow and somewhat simplistic view, because this decision represents so much more than that. It’s also a huge victory for private property rights.

“The [Colorado] Supreme Court upheld the rights of property owners, specifically mineral rights owners, over the tyranny of the majority,” Cooke said.

“This decision upholding decades of state law is a victory for everyone who relies upon fossil fuels in their everyday life,” Cooke said. “Coloradans can take comfort knowing the court will protect them and the rule of law from a handful of extremist so-called ‘environmentalists’ who were able to gin up fear over a proven and safe technology. I’d like to think the threat to our economy and to our energy development industry is over, but unfortunately, the same groups responsible for these unconstitutional local bans are spearheading ballot measures for this fall,” Cooke noted.

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

**University Researchers Try to Hide the Good Scientific News About Fracking**

Researchers at the University of Cincinnati recently concluded a three-year study that found no side effects of hydraulic fracturing on water quality and no evidence the fracking process is causing methane to leak into wells in the area.

The study examined 191 water samples taken from 23 wells from 2012 to 2015 in five Ohio counties: Carroll, Columbiana, Harrison, and Stark.

“The good news is that our study did not document that fracking was directly linked to water contamination,” said Amy Townsend-Small, according to a report by the Ohio Times Reporter.

“Some of our highest observed methane concentrations were not near a fracking well at all,” said Townsend-Small.

The study’s results were consistent with the findings of a comprehensive survey of academic literature on fracking conducted by the U.S. Environmental Protection Agency (EPA). The EPA survey, released in June 2015, found little evidence of water pollution resulting from fracking.

**Funders Displeased with Findings**

University of Cincinnati’s research team has received criticism from environmental activist groups that provided funding for the study. At a meeting of Carroll Concerned Citizens, where the study was released, Townsend-Small indicated the researchers had received pressure from some of the groups funding the study.

“I’m really sad to say this, but some of our funders, the groups that had given us funding in the past, were a little disappointed in our results,” Townsend-Small said at the meeting. “They feel that fracking is scary, and so they were hoping our data could point to a reason to ban it.”

Jeff Stier, director of the risk analysis division at the National Center for Public Policy Research, authored an article in Newsweek in which he criticized the researchers for not publicizing the study’s results because they displeased anti-fossil fuel activists. Stier wrote the researchers had put “politics before science.”

“The critics of fracking said let’s fund our own study to prove how dangerous it is,” Stier told Environment & Climate News. “Then, they were embarrassed their own study verified the safety of fracking.”

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

**INTERNET INFO**


Hawaii Bill Would Ban Vehicles Powered by Gasoline and Diesel Fuel

By Bonner R. Cohen

In a far-reaching effort to further Hawaii’s embrace of renewable energy, state Rep. Chris Lee (D-Kailua) and state Rep. Nicole E. Lowen (D-Kailua Kona) have introduced legislation targeting vehicles powered by gasoline and diesel fuel.

The bill, House Bill 2085, is vague on how fossil-fuel powered vehicles would ultimately be eliminated, leaving it to the state’s Department of Business, Economic Development, and Tourism to develop a plan. The bill aims to reduce and ultimately eliminate the import of fossil fuels for ground transportation by 2045. It builds upon legislation signed into law by Gov. Dave Ige (D) on June 18, 2015, which mandates 100 percent of the islands’ electricity be produced by renewable energy—such as wind, solar, and geothermal—no later than 2045.

Nation’s Highest Electricity Prices

Located nearly 2,500 miles from the U.S. mainland, Hawaii imports most of its food, fuel, and other necessities. In 2013, according to the U.S. Energy Information Administration, Hawaii imported 91 percent of the energy it used, and in 2014, the state had the highest electricity prices in the nation.

Opponents of HB 2085 fear eliminating fossil fuels will further drive up the cost of living in Hawaii. Testifying in early February against the Lee-Lowen bill, a representative of the state Department of Business, Economic Development, and Tourism pointed out the legislation’s goals effectively mean every car sold in the state would have to be electric or powered by a hydrogen cell by 2028. That, in turn, would require laws restricting the cars people can buy.

Keli’i Akina, president of the Grassroot Institute of Hawaii, testified against the bill and says the high cost of living in the state already makes it hard for families to make ends meet.

“Bills like this don’t help, as they put artificial targets ahead of the practical realities of living in Hawaii,” Akina said. “Instead of spending their time coming up with new environmental mandates, the legislature would be well-advised to do some real-world studies of the effect of such legislation.”

Legislators are nevertheless moving forward with the bill, which has already cleared several committees with little or no opposition.

Making Living in Paradise Difficult

Replacing Hawaii’s entire fleet of gasoline- and diesel-powered vehicles at a price ordinary people can afford will be daunting.

“This is an example of politicians compelling citizens to buy only what the politicians decide they can buy, and if the politicians are wrong, disruptions of energy along with much higher costs will leave Hawaiians poorer, lacking vehicle choice, [and] less free,” said Dan Kish, senior vice president for policy at the Institute for Energy Research. “We are already seeing much higher energy costs in places like Germany and California, where energy poverty is rising because politicians and government officials made political decisions [that take]

“Not only will it make the cost of living higher for every resident, it will destroy much of the beauty that brings tourists, and therefore revenue, to the state.”

MARITA NOON
EXECUTIVE DIRECTOR
ENERGY MAKES AMERICA GREAT

INTERNET INFO


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Marita Noon, executive director of Energy Makes America Great, says HB 2085 is so bad, it’s almost comical.

“HB 2085 would be laughable if it wasn’t so sad,” said Noon. “Not only will it make the cost of living higher for every resident, it will destroy much of the beauty that brings tourists, and therefore revenue, to the state. Meeting the 100 percent electricity mandate will be hard enough, but to add the extra capacity for every vehicle’s charging needs ... will require solar panels and wind turbines on nearly every available inch of land.”

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

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calls climate change “the single greatest threat facing our planet.” To prevent climate change, Sanders says he wants to halt fracking for oil and gas production entirely, expand the Obama administration’s Clean Power Plan (CPP) to regulate methane emissions, and cut U.S. carbon dioxide emissions by more than 80 percent by 2050, in part by imposing a tax on carbon dioxide.

Clinton says climate change is “an urgent threat and a defining challenge of our times,” and she has joined Sanders’ call to substantially increase subsidies for renewable-energy production. Clinton recently announced she would support a plan to force energy companies to produce enough renewable energy to power every home in America by the end of her first term.

The Democrats’ energy policies are not exactly the same. Clinton rejects Sanders’ call for a carbon dioxide tax, and she says she would allow fracking to continue, although she says there would need to be increased regulatory scrutiny for fracking businesses.

Clinton also says carbon dioxide emissions would need to be reduced by 30 percent over the next decade. To meet that goal, Clinton said at an early March campaign stop in Ohio, “We’re going to put a lot of coal companies and coal miners out of business.”

Trump Rejects Carbon Restrictions

In stark contrast to Sanders and Clinton, Trump is openly skeptical of advocacy groups and politicians who say humans are causing dangerous climate change. On Twitter, Trump has called climate change a “con job,” a “canard,” and a “hoax.”

In a September 2015 appearance on Hugh Hewitt’s radio show, Trump said, “I’m not a believer in man-made global warming. I mean, Obama thinks it’s the number-one problem of the world today, and I think it’s very low on the list … we have much bigger problems.”

In response to a questionnaire sent by various green-energy companies, most of which are likely to be big Democratic donors.

“Donald Trump is the known unknown, as he is in so many policy areas,” Matthews said. “He has expressed support for fossil fuels and nuclear energy, and he has raised questions about climate change. He would almost certainly be more supportive of the fossil-fuel industry than Clinton or Sanders, but at this point, we don’t know by how much.”

West Virginia state Del. Joshua Nelson (R-Boone) says Trump’s support for coal miners will almost certainly help him during the general election in states dependent on the coal industry.

“Donald Trump is doing well in coal country, especially in West Virginia, because he is speaking directly to mine families, talking about the value of coal to the nation’s energy security,” said Nelson. “By contrast, Clinton and Sanders would continue and expand the policies implemented by the Obama administration, which have resulted in the loss of thousands of jobs and expanded poverty in rural Appalachia.

“If either Sanders or Clinton becomes president, it could mean the final nail in the coffin for the coal industry in this country,” Nelson said. “Fossil fuels are vital to the economic and national security of the country, yet the democratic candidates’ proposals, by limiting their use, would hurt America.

“Based on what they’ve said and their records, we know Sanders and Clinton would be bad for the fossil-fuel industries. Because of that, despite being somewhat of an unknown, people in coal country have little choice but to trust Trump,” concluded Nelson.

H. Sterling Burnett, Ph.D. (@heartland.org) is a research fellow with The Heartland Institute.
“We must all hang together, or most assuredly we will all hang separately.”
—BENJAMIN FRANKLIN

Our primary energy suppliers—coal, oil, natural gas, nuclear and hydro—must band together to fight environmental extremism that threatens them all.

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The Clean Power Plan is the latest dangerous, activist-driven energy policy. It targets coal, our cheapest and most plentiful electricity source. Rather than taking advantage of coal’s demise, energy providers and elected officials must explain how each energy source has its role to play in ensuring America’s prosperity.
Senators Demand Treasury Report on Investigation of Solar Companies

By Kenneth Artz and H. Sterling Burnett, Ph.D.

Sens. Lisa Murkowski (R-AK) and Jeff Flake (R-AZ) are requesting the U.S. Treasury Department produce the results of an investigation into abuses of a government program that grants clean-energy tax credits to renewable-energy companies.

The Treasury Department has been conducting the investigation for the past three years.

Murkowski and Flake sent a letter to the Treasury Department’s inspector general in early April asking for the status of the investigation. The letter says the Treasury Department had previously indicated the companies under investigation are alleged to have included ineligible items as costs for reimbursement under the terms of their federally backed loans or overstated the value of their solar-energy investments, claiming approximately $1.3 billion “in unwarranted cash grants, [amounting to] more than two-and-a-half times the amount of the Solyndra default.”

The Obama administration gave Solyndra more than $535 million in federal loan guarantees as part of the administration’s green-energy initiatives, but the company declared bankruptcy in September 2011.

Multiple Offenders

Solyndra was not the only green-energy company to collapse after receiving federal tax credits, subsidies, or loan guarantees. In 2012, Abound Solar declared bankruptcy after receiving more than $400 million in federal loan guarantees. Abound Solar had knowingly sold underperforming solar panels for years, and when it closed its doors, it left behind toxic, defective solar panels that were later covered in concrete and buried.

Spanish green-energy giant Abengoa, which has received more than $2 billion in federal and state taxpayer support, filed for bankruptcy protection in the United States in late March.

In April, SunEdison—one of the most government-subsidized companies in the United States and the self-proclaimed “largest green energy company”—filed for bankruptcy. The Securities and Exchange Commission (SEC) and Department of Justice (DOJ) are investigating its financial dealings.

Deadline Missed, Senators Ignored

This is not the first time Congress has called on the Treasury Department to release the findings of its investigation into the clean-energy tax-credit program. The Treasury Department had previously told Congress it would publish its findings by June 2015, but it failed to do so.

Murkowski, chairman of the Senate Energy and Natural Resources Committee, and eight other Republican senators sent a letter to the Treasury Department in November 2015 asking for an update on its investigation. The request came shortly after an SEC filing revealed the solar company SolarCity, which received more than $500 million in cash grants through the tax-credit program, was being investigated by the Treasury Department and DOJ for “possible misrepresentations concerning the fair market value of the solar energy systems submitted by the Company in U.S. Treasury grant applications.”

Treasury Department officials failed to update the Senate.

‘People Deserve Answers’

Dan Kish, senior vice president of policy for the Institute for Energy Research, says billions of taxpayer dollars are at stake.

“This money belongs to the taxpayers, and we’ve already seen the collapse of green-energy companies who’ve taken the government money and run,” Kish said. “People deserve to know what’s happening, and the longer they delay their response, the more it looks like they have something to hide.”

“Treasury and the DOJ need to come clean with the Senate and taxpayers concerning the status of these investigations,” said David Williams, president of the Taxpayers Protection Alliance. “There are so many unanswered questions about how these solar companies got and spent taxpayers’ money. We need answers.

“This heavily subsidized industry operates in secrecy [and] with very little oversight,” Williams said. “I’ve long been concerned about these large solar companies and how they’ve misrepresented their financials.”

Kish says the repeated failures of multiple renewable-energy companies, despite huge government infusions of cash, show government should not be attempting to pick winners and losers in the marketplace.

“Unfortunately, there are people in Washington, DC who think they know more about the energy business than the people who actually work in it,” Kish said. “If things were operating properly in Washington, this wouldn’t be happening.”

Reform Needed

“Every time [the federal government] supports a green-energy company with subsidies and mandates, they make the cost of energy go up for everyone—while the friends of the administration get rich on the backs of poor people and the middle class,” said Kish. “Hopefully, Congress will learn from this and not repeat some of the same mistakes, but I’m not encouraged by their bad track record,” Kish said.

“Will the Obama administration turn a blind eye to the potential crimes committed by solar companies, leaving taxpayers on the hook because [Obama] thinks the industry is critical to fighting climate change? I fear so,” said Williams. “We need Treasury’s report ASAP.”

Kenneth Artz (kartz@heartland.org) writes from Dallas, Texas. H. Sterling Burnett, Ph.D. (hsburnett@heartland.org) is a research fellow with The Heartland Institute.

“Treasury and the DOJ need to come clean with the Senate and taxpayers concerning the status of these investigations. There are so many unanswered questions about how these solar companies got and spent taxpayers’ money. We need answers.”

DAVID WILLIAMS
PRESIDENT
TAXPAYERS PROTECTION ALLIANCE
LEGISLATIVE PULSE: COLORADO

Editor’s Note: First-term state Rep. Yeulin Willett (R-Grand Junction) serves on the Colorado House Judiciary Committee. He is also a member of the Legislative Legal Services Committee, the Colorado Bar Association Board of Governors, and the Uniform Law Commission.

Colorado Representative Supports Climate Realism, Domestic Energy Production

By H. Sterling Burnett, Ph.D.

Burnett: Over Democratic Gov. John Hickenlooper’s objections, Colorado Attorney General Cynthia Coffman, a Republican, joined 26 other states in their challenge of the Obama administration’s Clean Power Plan in court. Do you support the suit?

Willett: I fully support the attorney general’s challenge to the so-called Clean Power Plan. Colorado’s court system upheld our attorney general’s independence, and then our federal court system did its job when the U.S. Supreme Court issued a stay of the plan. A good string of courts and lawyers have had our backs recently. In sum, with so much conflicting data and the constitutionality of the Clean Power Plan in question, it seems fiscally irresponsible to commit taxpayer dollars to this process.

Burnett: Hickenlooper and the legislature had a conflict over whether Colorado’s Department of Public Health and Environment should continue to develop a state plan to comply with the federal Clean Power Plan after the Supreme Court’s stay on it was issued. What happened?

Willett: It took final court rulings to protect the people from bureaucratic and federal overreach. It also took action by Republicans in the state legislature to protect taxpayer dollars, by stripping the money from the Department of Public Health and Environment to end its pursuit of a state plan to implement the Clean Power Plan. Our rural and energy-dependent areas are at great risk from these attacks in our ‘purple’ state. It’s incredible environmentalists covet taxes generated by energy production but won’t recognize the need to support our modernized and clean traditional energy sectors.

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Burnett: Recently, the Colorado Supreme Court struck down Longmont’s fracking ban and Fort Collins’ fracking moratorium. Do you support the supreme court’s action?

Willett: Of course. Not only was it a good interpretation of our law, but [it produced] good policy as well. Colorado has the strictest oil and gas regulations in the nation, and the industry and state agencies make public safety the highest priority. History has proven the safety of the process. Fracking bans and moratoriums do not increase public safety, but [they] can have devastating effects on Colorado’s economy. We will now face a vigorous ballot-initiative process, as environmentalists are pushing ballot measures to give cities and counties authority to limit or ban fracking.”

“H. Sterling Burnett, Ph.D. (hburnett@heartland.org) is a research fellow with The Heartland Institute.

Bill Would Give States Control Over Fishing

By Alyssa Carducci

Sen. Marco Rubio (R-FL) and Sen. Bill Cassidy (R-LA), chairman of the Senate Energy and Natural Resources Subcommittee on National Parks, have introduced a bill to safeguard states’ authority to regulate fishing in their waters.

Under the bill, the National Park Service (NPS) would be allowed to restrict access to waters for recreational or commercial fishing in national parks within a state, but NPS would need approval from state fish and wildlife agencies first.

Senate Bill 2807, the Preserving Public Access to Public Waters Act, was offered in response to a controversial decision in June 2015 to close fishing access at Biscayne National Park. NPS decided to eliminate fishing and severely restrict boating on more than 10,000 acres. Biscayne, just south of Miami, is the largest marine national park in the country.

A coalition of recreational boating and fishing organizations say they support SB 2807 and have fought for less-restrictive options that would balance conservation needs and recreational use of the park’s most popular and productive waters.

The American Sportfishing Association, National Marine Manufacturers Association, Coastal Conservation Association, and Center for Coastal Conservation say states understand the unique characteristics of their own waters better than federal agencies do, and they say sound conservation efforts can be achieved through balanced management.

“This is a matter of shared resource management, and states have expertise in fisheries the federal government does not always have,” said Brian Yablonski, chair of the Florida Fish and Wildlife Conservation Commission. “It is about the state and federal government working together as true partners [without] heavy-handed, command-and-control declarations that impact our shared natural resources.”

“Given the significant economic, social, and conservation benefits recreational fishing provides to the nation, any decision to close or restrict public access should be based on sound science and strong management principles,” Mike Nussman, president of the American Sportfishing Association, said in a statement. “While [decisions to close] areas have a role in fisheries management, they should only come after legitimate consideration of all possible options and agreement among management agencies.

“[SB 2807], which is strongly supported by the recreational fishing industry, will ensure that the voice of state fisheries agencies is not lost in these decisions,” Nussman said.

House Resolution 3310, a companion bill similar to SB 2807, has been introduced in the House of Representatives. If either bill becomes law, the no-fishing zone in Biscayne would be reversed.

Alyssa Carducci (ad.carducci@gmail.com) writes from Tampa, Florida.
By Ann N. Purvis

A North Carolina couple is suing the state’s Department of Environmental Quality (DEQ) over the construction of a wind farm adjacent to their home.

The wind farm, operated by Iberdrola Renewables, will span 22,000 acres in Pasquotank and Perquimans counties, located in rural North Carolina. Proposed in 2011, Iberdrola broke ground on the project in July 2015.

The plaintiffs say the wind farm should not be built because it did not undergo a required state permitting review.

State Law Calls for Permitting Process

Most wind energy projects in North Carolina are required to undergo a state-level review and permitting process, as outlined in a wind-siting law passed by the state legislature in 2013, but the law exempts from review projects that had received Federal Aviation Administration (FAA) approval before the law’s passage. Iberdrola received FAA approval for its project in 2012.

Since the initial FAA determination, Iberdrola has moved the location of some of the turbines, reduced their number, and increased their size, actions the plaintiffs, represented by Civitas Institute attorney Elliot Engstrom, say warrant a permitting review by the state.

The landowners bringing the suit, Stephen Owens and his wife Jillane Bidawi, contend the original project approved by FAA is distinct from the wind farm now under construction. They say DEQ should conduct a permitting review, including an environmental impact study and public hearings.

State Reverses Its Decision

DEQ initially determined Iberdrola needed to go through the state permitting process for the altered project, issuing a letter to Iberdrola to that effect in March 2013. It reversed that decision the following month, announcing the project would be grandfathered in.

Owens and Bidawi are concerned about noise, aesthetics, potential health effects from the turbines, and the potential impact on their property’s value, which they say could be significant.

“These are going to be some of the largest wind turbines ever built,” said Engstrom. “The turbines that will be less than a mile from Owens and Bidawi’s home are 499 feet high at the blade tip, taller than all but one building in Raleigh, the state’s capital.”

Even Application of the Law

Civitas’ filings stress the threefold purpose of the 2013 law: protecting the military, the environment, and the public. Owens and Bidawi have sued the state’s DEQ and Pasquotank County, which, in anticipation of the potential tax revenue generated by the project, has intervened in support of DEQ.

Engstrom says the suit isn’t about opposition to wind energy; it’s about evenly applying the law.

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“We’re suing DEQ, [but] we’re not suing Iberdrola,” said Engstrom. “This is just about fair application of state law. If you have a law, enforce it. Don’t let industries come in and dictate how state agencies are going to enforce the law.”

Engstrom says more lawsuits challenging wind farm sitings are likely in North Carolina.

“These [wind farms] are going to be less than a mile off people’s homes. I really think over the next 10 years we’re going to see conflicts play out between property owners and wind energy developers,” said Engstrom.

Ann N. Purvis (ann.n.purvis@gmail.com) writes from Dallas, Texas.

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Activists, Feds Block Two Proposed LNG Export Terminals in Oregon

By Michael McGrady

The U.S. Federal Energy Regulatory Commission (FERC) denied on March 11 an application for the construction of a liquefied natural gas (LNG) export terminal proposed for Oregon’s Jordan Cove.

FERC’s decision surprised many. The agency had approved the LNG terminal’s environmental impact statement in December 2015, clearing the way for the project’s long-awaited construction. Just one month prior to the Jordan Cove project’s cancellation and after a decade of haggling with local officials and fighting with environmental activists, Oregon LNG, another LNG developer, informed local and state officials it was withdrawing its proposed $6 billion LNG terminal and pipeline, which had been planned to be built on the nearby Skipanon Peninsula.

On April 15, The Daily Astorian reported a “coalition of residents, environmentalists and fishermen” had put significant pressure on government officials to deny the LNG proposals. According to the Astorian, the coalition “attacked the project as misguided and potentially dangerous.”

Projects’ Potential Benefits Lost

“From the standpoint of some activists, all new fossil-fuel facilities should be stopped simply because they are fossil-fuel facilities,” said John Charles, president and CEO of the Cascade Policy Institute. “The mythical ‘climate crisis’ trumps all other concerns. I believe the Jordan Cove project and the Oregon LNG project would have been very positive for Oregon, by bringing in a very large investment to an economically depressed region by outside private investors,” Charles said.

The LNG terminal and pipeline construction projects would have brought thousands of jobs to the state, says Marita Noon, executive director for Energy Makes America Great.

“LNG terminals provide well-paid permanent jobs and billions in ongoing tax revenue that would have benefited the local communities in the form of better schools and public services,” Noon said. “The projects would have provided additional markets for our abundant American natural gas, not only benefitting Oregon but also other states and the federal trade deficit as well.”

Michael McGrady (mm McGrady@uccs.edu) writes from Colorado Springs, Colorado.

Union of Concerned Scientists Calls for Limiting Scrutiny of Research

By Bonner R. Cohen

The Union of Concerned Scientists (UCS), which for decades has advocated for transparency of scientific research, is now seeking to shield scientists from having to disclose certain information regarding their research.

In a 2015 report by UCS, titled “Freedom to Bully: How Laws Intended to Free Information Are Used to Harass Researchers,” UCS laments scientists at public universities, research institutes, and federal agencies are increasingly being subjected to what it says are intrusive inquiries demanded under an assortment of open-records laws.

State open-records laws and the 1967 federal Freedom of Information Act (FOIA) were designed to hold government agencies accountable by providing the public with access to records from any federal agency, with only limited exceptions. FOIA was modified by the 1999 Data Access Act to ensure public access to the research of grant recipients receiving public funds.

UCS Alters Stance

“We don’t want to work in an environment where every keystroke is subject to public records,” the UCS’s Michael Halpern said in an interview with the Associated Press. “Our role is to raise awareness about how scientists are being harassed.”

Halpern, who is not a scientist, is program manager for UCS’s Center for Science and Democracy (CSD), says open-records laws should be amended to include limits on the information available to the public, including limits on public access to e-mails between scientists, research notes, and primary data.

This position conflicts with a statement on CSD’s section of the UCS website, which says, “Knowledge is power, and when citizens and communities are denied access to scientific knowledge, they are effectively disempowered. For this reason, transparency, access to information, and the public’s right to know are pivotal issues for science and democracy.”

Sam Kazman, general counsel at the Competitive Enterprise Institute, says there is a significant discrepancy between CSD’s past demands for transparency and its recent claims on the issue.

“As its website indicates, UCS used to tout the importance of transparency,” Kazman said. “Now, they’re apparently confusing transparency with invisibility.”

‘A Dangerous Precedent’

CSD’s call for weakening open-records laws is meeting resistance from transparency advocates. Writing in The New York Times in January, Paul Thacker, a former congressional investigator, says adding exemptions to these laws would set “a dangerous precedent.”

“When research is paid for by the public, the public has the right to demand transparency,” wrote Thacker. “Scientists who agree to transparency only when it is on their terms are not for transparency at all.”

“While the academy does need space to conduct research, once that research is published, and especially when it is being used as the basis for policy, full transparency regarding it is essential,” said David Schnare, general counsel of the Energy and Environment Legal Institute. “Without it, we cannot adequately validate the research, peer review having proven to be inadequate to the task.”

UCS’s call to water down open-records laws comes as federal courts and Congress are showing increasing dissatisfaction with foot-dragging on FOIA requests. On March 2, 2015, Judge Royce C. Lamberth of the District Court for the District of Columbia strongly rebuked the Environmental Protection Agency for failing to respond in a timely manner to FOIA requests. In January 2016, the House of Representatives passed a FOIA reform bill limiting exemptions for federal agencies to withhold information.

“What really concerns the Union of Concerned Scientists is the prospect tax-paying citizens could find out their hard-earned money is being misspent,” said Craig Rucker, executive director of the Committee For A Constructive Tomorrow.

Bonner R. Cohen, Ph.D. (bcohen@nationalcenter.org) is a senior fellow at the National Center for Public Policy Research.
New Rules Expected to Curtail Gulf Oil Output

By Bonner R. Cohen

The Obama administration finalized new rules it says will improve drilling safety in the Gulf of Mexico, but some experts are saying the regulations will reduce production while undermining safety.

The Interior Department, which is responsible for licensing and regulating oil and gas production on the U.S. outer-continental shelf, unveiled the sweeping new regulations on April 14.

‘Significant’ New Rules

The centerpiece of the new regulations is a plan to monitor the safety of offshore wells. Under the regulations, monitoring of well safety would shift from being located on-site—at the offshore drilling platform—to being stationed at onshore electronic observation centers.

The regulations also strictly control the types and amounts of fluids pumped into wells, require redundant safety devices, increase the frequency of inspections of critical emergency equipment—known as blowout preventers—and require offshore operators to take steps to center pipes inside wells when pumping cement into them.

Failure of blowout preventers to halt a sudden rush of oil and gas has been cited as one of the chief contributors to the April 2010 BP Deepwater Horizon oil spill disaster.

The new regulations give offshore operators up to seven years to retrofit undersea blowout preventers with pipe-centering technology. Officials at the Interior Department’s Bureau of Safety and Environmental Enforcement say the new rules will reduce the risk of accidents in the future.

“These regulations are among the most significant safety and environmental protection reforms the department has launched,” Interior Secretary Sally Jewell said in a conference call, according to Bloomberg. “The final well-control rule seeks to better protect human lives and the environment from offshore oil spills by comprehensively addressing the full range of systems and processes involved in well-control operation.”

Regulations ‘Undermine Safety’

Oil and gas industry officials say the regulations will undermine safety at drilling sites.

“This rule will likely jeopardize the safety of offshore operations,” said Lori LeBlanc, executive director of the Gulf Economic Survival Team, a Louisiana-based-business group, according to Bloomberg.

Exxon Mobil claims there are a number of reasons to be concerned about the new regulations, which it says will increase the risk of accidents. For instance, Exxon claims rock formations cannot handle the volume of fluids the regulations require. It also says the rules will raise the risk of dangerous air pockets and cracks as a result of the requirement to pour cement around the lining of steel pipes used in wells.

Exxon says a new mandate that shifts primary responsibility for monitoring offshore wells from on-site engineers to onshore electronic observers could delay the discovery of problems and increase response times.

Rules Cause Production Decline

Aside from safety, industry experts say the new rules could result in lost jobs and lost production. While the Interior Department pegged the cost of the new rules at $890 million over the next 10 years, Exxon estimates the rules could cost as much as $25 billion, and the American Petroleum Institute says costs could top $31.8 billion over the next decade.

The new regulations come at a difficult time for the oil and gas industry. ConocoPhillips and Chevron have already abandoned some drilling prospects in the Gulf of Mexico because they wouldn’t be profitable at current prices. Consulting firm Wood Mackenzie predicts the new rules would result in a 70 percent decline in energy exploration over the next 20 years and a loss of as many as 190,000 jobs.

“As bad as current market conditions have been for onshore oil producers, low oil prices have resulted in even greater cutbacks in capital spending for offshore oil producers,” said Isaac Orr, research fellow at The Heartland Institute, which publishes Environment & Climate News. “Billions of dollars they would have spent on offshore wells are now being tabled until prices recover, and these regulations will make it harder for offshore production to reach its potential.”

Dan Simmons, vice president for policy at the Institute for Energy Research, says the rules are not really aimed at offshore oil production. Instead, Simmons says they are part of President Barack Obama’s larger strategy to end fossil-fuel use.

“These rules are not designed to improve safety, but [they are designed] to reduce domestic energy production by dramatically driving up the cost of production in the United States,” Simmons said. “The Obama administration is working hard to make the production of oil, natural gas, and coal more expensive, and this is one more example of that effort.”

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

By Kenneth Artz

King County Judge Beth Andrus ruled Seattle’s warrantless searches of garbage violate Washington State’s constitution, banning Seattle sanitation workers from looking in residents’ trash for possible violations of the city’s composting law.

The ruling in Bonesteel, et al. v. City of Seattle shows states are able to grant rights beyond those guaranteed in the U.S. Constitution. It was handed down on April 27.

According to the Washington State Constitution, “No person shall be disturbed in his private affairs, or his home invaded, without authority of law.”

“By authorizing garbage collectors to pry through people's garbage without a warrant, the city has promoted a policy of massive and persistent snooping,” said Pacific Legal Foundation (PLF) attorney Ethan Blevins in a statement.

Blevins was one of the PLF lawyers who represented the eight plaintiffs.

“That's not just wrong as a matter of policy, as the judge has correctly ruled, it is wrong as a matter of law,” said Blevins.

Andrus determined the City of Seattle has a compelling interest in ensuring food waste and compostable paper not be disposed of in landfills—in order to promote public safety, health, and welfare—but she concluded the city’s decision to conduct warrantless searches of garbage violated residents’ privacy rights.

**Ornance Is Costly and Ineffective**

Todd Myers, director of the Center for the Environment at the Washington Policy Center, applauded the decision.

“My big critique of the ordinance is that it was very typical of the way Seattle deals with environmental issues,” Myers said. “It was very high-cost and very high-political-profile, but it had very little environmental benefit.”

According to Myers, the city authorized garbage searches to increase composting in landfills from 55 percent to 60 percent, in order to further reduce the amount of methane being released into the atmosphere.

“They’ve taken these draconian measures and spent all of this money, $400,000 annually on this program, to do something which will have very little impact on the environment,” Myers said.

Myers says the goal of increasing the compost rates at landfills is pointless, because all the city’s landfills already employ methane-capture technology.

“Not only are we spending lots of money digging through people’s garbage for tiny increases in composting, but the impact of methane has already been stopped,” Myers said. “It’s a silly program all around and a perfect example of feel-good politics trumping environmental effectiveness.”

Kenneth Artz (kartz@heartland.org) writes from Dallas, Texas.
The Obama administration’s greater sage grouse protection plan has spawned multiple lawsuits, including two since April.

The administration’s plan to protect the sage grouse, while avoiding listing the ground-dwelling bird as “endangered” under the Endangered Species Act (ESA), places strict limits on the use of more than 180 million acres of federal, state, and private lands across the bird’s historic range, which covers 11 Western states.

In one lawsuit, Nevada Attorney General Adam Laxalt and lawyers for nine Nevada counties, ranchers, and miners say three top Interior Department officials, who dubbed themselves the “Grouseketeers,” illegally sought input from conservationists outside the planning process. They say the grouse protection plan contravenes the best scientific evidence presented by the Obama administration’s own experts.

The most recent lawsuit, filed in May by the Denver-based Western Energy Alliance (WEA) and North Dakota Petroleum Council (NDPC), challenges 2015 amendments that put in place additional protections for the greater sage grouse. WEA and NDPC argue the Department of the Interior did not follow the proper administrative procedures when it placed new restrictions on oil and gas drilling on federal lands to protect grouse habitats.

**Plan Will Cost Jobs and Revenue**

Kathleen Sgamma, vice president of government and public affairs for the Western Energy Alliance, says WEA’s lawsuit is different from the seven others because it specifically challenges the oil and gas limitations in the plans.

“We kind of look at these plans as a way to drive off drillers from federal lands,” Sgamma said.

A WEA economic analysis estimates the sage grouse restrictions will result in the loss of 9,170 to 18,250 jobs. WEA also estimates the restrictions will reduce economic growth by $2.4 billion to $4.8 billion in the four main states affected: Colorado, Montana, Utah, and Wyoming.

“We also think the [federal protection plan] harms the sage grouse, whose population of about 425,000 is robust and has been stable over five decades,” Sgamma said. “Meanwhile, states are protecting the sage grouse more effectively than a single, top-down management plan from the federal government can.”

**Protection Plan Is Punitive**

Brian Seasholes, director of the Endangered Species Project at the Reason Foundation, says the federal plan is worse than an ESA listing because it’s purely punitive.

“If the sage grouse is listed as endangered, there would still be some wiggle room about drilling, but under the federal plan, it is de facto government land management, and no one will ever be able to drill on federal lands again,” Seasholes said.

“Sage grouse breed and hatch their chicks in areas known as ‘leks,’ which tend to be on dryer, sagebrush-dominated land, most of which is federally owned by the Bureau of Land Management and the U.S. Forest Service,” said Seasholes.

“The 15 amended sage grouse resource management plans and land-use plans are poised to restrict grazing on these lands, with one likely outcome being ranchers [will be] pushed off federal lands, and as a result, [ranchers will graze] their own private lands more intensively and for longer periods of time,” Seasholes said. “The result will be ‘moist’ privately owned land will decrease in quality for sage grouse, because they prefer to have taller grasses, where they can hide from predators.

“If these moist privately owned areas are grazed more intensively for longer periods of time, the grass will be shorter for more of the year, thereby rendering it unsuitable to shelter sage grouse,” said Seasholes.

Seasholes says the sage grouse plan also discourages owners from cooperating with conservationists.

“Under this plan, no one is going to come and check it out? ‘Hey, I think I’ve got sage grouse on my ranch, do you want to come and check it out?”’ said Seasholes. “They won’t do this because the federal government will punish them with fines or threats of shutting down their normal operations.

“If we want successful conservation, then we want people to cooperate, and they’re not going to do that if you punish them,” said Seasholes.

**Plan Harms Consumers**

Ron Arnold, executive vice president of the Center for the Defense of Free Enterprise, says the federal plan is the largest federal land grab ever.

“The activists behind this have the goal of destroying American ranching, logging, and oil and gas production,” Arnold said.

“This plan is short-sighted, because it harms both the people working in these states and the people who use their products,” Arnold said.

“The greater sage grouse protection plan comes from academic elites who have no understanding of the actual conditions on the ground or what is necessary to protect species while sustaining economic prosperity,” said Arnold.

Kenneth Artz (kartz@heartland.org) writes from Dallas, Texas.
The thirst for renewable energy is nearly unquenchable, but inefficiencies inherent in renewable power production and high costs relative to traditional forms of energy have long prevented widespread utilization. Government subsidies are the only reason renewable power is used for anything other than niche applications.

More than 90 percent of U.S. energy comes from petroleum, natural gas, coal, and uranium, as shown in the chart below. Of the 9 percent contributed from renewable energy sources, the venerable ones, hydropower and biomass (wood and liquid ethanol), provide more than 80 percent of all renewable energy produced. Contrary to the impression promoted by renewable energy enthusiasts, the great majority of renewable energy is not wind and solar.

Forty percent of the United States’ primary energy is electricity, with renewables accounting for 13 percent, the largest portion of which is provided by firewood and hydropower. Owing to mandates, such as renewable portfolio standards, and subsidies, wind power’s share of renewably produced electricity has grown to 23 percent, although it is still just 3 percent of our total electricity.

Hydropower turbines and wind turbines have one thing in common: They convert mechanical energy into electricity by spinning a generator, with no need for an engine to convert heat to mechanical energy. Hydropower is created when water stored behind a dam flows through a turbine that spins a generator. Currently accounting for 8 percent of electricity production, growth in hydropower production is limited by the fact the best dam sites are already in use.

Understanding Wind Power

Wind power is generated when moving air turns the blades of a turbine. There is wind everywhere, but wind power requires fairly constant strong winds, which are found only in specific regions.

In order to maintain enough energy in the wind to turn the blades and create electricity, the turbines must be separated by a set amount of space, which is determined by their size. If you double the length of the wind turbine blades, you produce four times as much power, but you must space the turbines twice as far apart in both directions, spreading out over four times the land area. As a result, the amount of power per unit of land is independent of the size of the turbines, meaning there is a fixed amount of energy you can derive from each acre of land. At the best of sites, this is about 5 kilowatts per acre.

The average coal-fired power plant is located on about 200 acres of ground and produces one million kilowatts of electricity, 1,000 times the amount of electricity wind turbines can produce on 200 acres.

Understanding Solar Power

One way to produce electricity from sunlight is to concentrate sunlight from mirrors onto a container of liquid to create steam and use it to turn a conventional turbine. One such installation is at Ivanpah in California, where on 3,500 acres there are 170,000 computer-controlled mirrors.

The whole system has cost $2.2 billion and is intended to produce more than 392 megawatts in peak sunlight, although the year-round average is only 122 MW. So far, the plant is producing only 45 percent of its expected energy output, and environmentalists have complained about the thousands of birds that have died in recent years while flying into the intense, concentrated sunlight.

Photovoltaic (PV) cells convert light directly into electricity. Sunlight causes electrons in a semiconductor junction to make a quantum leap from one energy state to a higher one. Most systems convert about 15 percent of the solar energy into electrical energy, with higher efficiency rates coming at much higher costs. Given the varying sun angles, clouds, and the darkness of night, PV arrays produce less than 20 percent of their full-sunlight capacity.

PV arrays can be valuable in sunny locales where grid power is not available, such as isolated African villages, and for highway warning signs and remote cell towers. At present, the cost of electricity from PV is far in excess of the wholesale cost of electricity from conventional sources, and the grid-PV industry cannot survive without massive subsidies.

Jay Lehr, Ph.D. (jlehr@heartland.org) is science director of The Heartland Institute. Howard Hayden, Ph.D. (corkhayden@comcast.net) is professor of physics emeritus in the Physics Department of the University of Connecticut and editor of The Energy Advocate. This article excerpts and summarizes material from the Introduction of The Encyclopedia of Renewable Energy and Shale Gas. Reprinted with permission.
Facts Clear Astrophysicist Willie Soon but Indict Journalists Covering Climate Debate

By Ron Arnold

Willie Soon, Ph.D., an astrophysicist in the Solar, Stellar and Planetary Sciences Division of the Harvard-Smithsonian Center for Astrophysics in Cambridge, Massachusetts.

Soon's career has proven to be a textbook example of speaking truth to power and bravely facing the consequences.

Beginning in 1994, Soon produced an important series of astrophysics papers on the Sun's impact on Earth's climate. Those papers were discussed positively in the second (1996) and third (2001) assessment reports of the United Nations Intergovernmental Panel on Climate Change. Throughout the 1990s, IPCC acknowledged uncertainties about humankind's potential influence on climate, despite pressure from advocacy organizations to find a "smoking gun" in the weak data.

In his 2007 book History of the Science and Politics of Climate Change, Bert Bolin, co-creator and first chairman of IPCC, deplored the denial of uncertainty, writing, "It was non-governmental groups of environmentalists, supported by the mass media who were the ones exaggerating the conclusions that had been carefully formulated by the IPCC."

In 1997, Bolin told the Associated Press, "Global warming is not something you can 'prove.' You try to collect evidence and thereby a picture emerges."

Soon's study about the influence of the Sun on climate made him a target for alarmists, but Soon had defenders. In a 2013 Boston Globe article, iconic physicist Freeman Dyson praised Soon.

"The whole point of science is to question accepted dogmas," said Dyson. "For that reason, I respect Willie Soon as a good scientist and a courageous citizen."

Unjustified ‘Conflict of Interest’ Claims

In February 2015, Greenpeace agent Kert Davies, a vocal critic of Soon since 1997, falsely accused him of wrongfully failing to disclose "conflicts of interest" to an academic journal he submitted research to. The journal's editors and the Smithsonian Institution found no violation of their disclosure or conflict of interest rules, but Davies' accusation created a clamor among alarmist reporters, who repeated the claim without further investigation.

The Greenpeace ruckus brought pressure from the Obama administration on the Harvard-Smithsonian Center to silence climate skeptics. Smithsonian responded with an elaborate new "Directive on Standards of Conduct," which forced its employees to wade through bureaucratic rules replete with an ethics counselor and a "Loyalty to the Smithsonian" clause.

Despite the pressure applied to Smithsonian, its inspector general found Soon had not broken any rules, prompting additional attacks from alarmists.

In March and April 2016, two outlets published stories scurrilously demonizing Soon, relying heavily on bogus claims. The two activist-writers, David Hasemyer, who worked for the controversial InsideClimateNews, and Paul Basken, who worked for The Chronicle of Higher Education, seem to have forgotten journalistic ethics and the facts.

Multiple Checks Prevent Biased Research

Neither Hasemyer nor Basken displayed any familiarity with the hurdles scientists have to clear in order to do science at the Harvard-Smithsonian Center for Astrophysics.

About one-third of the center's scientists, including Soon, are employed in what are called "Smithsonian Trust positions." These positions are held mostly by Ph.D. specialists. According to Smithsonian's employee handbook, Trust positions are paid from the institution's trust fund. Trust scientists are paid by the hour. By contrast, scientists holding federal positions at Smithsonian are paid from the institution's annual federal appropriation.

According to Smithsonian's requirements, scientists in Trust positions develop donors willing to give Smithsonian grants to fund research.

"Obtaining competitive funding is an important part of the scientists' jobs and a measure of their career success," states the handbook.

Grants go directly to Smithsonian for the specified science projects, and 30 to 40 percent of each grant is kept by Smithsonian for management and overhead costs. The money never goes directly to the researcher.

Media attacks made against Soon for his fundraising prowess, which is part of his duty as a Smithsonian employee, are either ignorant or disingenuous. Trust scientists must follow exacting procedures established in Smithsonian's contractual terms and the detailed "Contract and Grant Administration" rules in order to obtain grants.

One prescribed step requires each researcher to prepare a draft of any proposed scientific project to be pre-approved by the director of the Harvard-Smithsonian Center for Astrophysics. The scientists must give the director suggestions for potential funders, but all decisions remain in the hands of the director.

If the director approves the draft proposal, he signs it and gives it to the Grant Office, which prepares the presentation package, including a budget, the approved proposal, and a cover letter formally requesting a grant. After the director signs the cover letter, the grant officer sends it to the potential donor.

Donors can agree to be invoiced by the Harvard-Smithsonian Center for Astrophysics, or they can make a direct payment to Smithsonian, which handles all of the Center's money. The scientist who performs the project may not even know who gave the grant funding for his or her research.

Even unfunded studies produced by Smithsonian researchers for peer-reviewed journals have to follow Smithsonian procedures and gain the appropriate approvals.

With Smithsonian’s safeguards in place and publicly available, hostile reports attacking Soon cannot be considered ethical journalism according to the Code of Ethics of the Society of Professional Journalists, which states: “Ethical journalism should be accurate and fair. Journalists should examine the ways their values and experiences may shape their reporting. Journalists should support the open and civil exchange of views, even views they find repugnant.”

Accordingly, writers who’ve accused Soon of wrongdoing, despite evidence to the contrary, are unethical and should be censured.

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Freedom Rising

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**Global Average**

The global average temperature for April was 0.71°C above average.

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