Federal Judge Blocks Obama Water Rule

By H. Sterling Burnett, Ph.D.

A federal judge in North Dakota issued a ruling blocking the Obama administration’s controversial Waters of the United States (WOTUS) rule hours before it was due to take effect on August 28.

Judge Ralph Erickson of the District Court for the District of North Dakota found the 13 states suing to block the rule met the conditions necessary for a preliminary injunction. Those conditions include a high likelihood the states would be harmed if the court doesn’t act and that the states are likely to succeed when their lawsuit against the rule is finally decided.

The decision is a significant setback for the Obama administration’s ongoing efforts to reduce greenhouse gas emissions by circumventing Congress.

The proposal is facing fierce opposition from lawmakers, energy groups, and free-market environmentalists who argue the rules are unnecessary and will hamper an energy revolution that has been one of the nation’s few suc-
The Obama administration has joined many state and regional governments in making war on the automobile and suburbs. This makes housing and transportation less affordable and puts extra burdens on low-income families.

Portland, Oregon, metro-area planners have set a target of reducing the share of households living in single-family homes from 65 percent to 41 percent by 2040. HUD has approved rules requiring suburbs of single-family homes to subsidize apartment construction for low-income families. The Cato Institute’s Randal O'Toole and other speakers will show how you can defend your neighborhood from plans such as these.

In the past year, American Dream Coalition members helped defeat expensive light-rail and streetcar proposals in six cities. Representatives of these groups will show how you can fight obsolete transportation plans in your city.

The American Dream Coalition’s 2015 conference on the Future of Affordability will help you defend your right to live and travel the way you want. The 2015 conference will take place in Austin, Texas, on November 6–8.

Partial List of Speakers

The conference will feature more than two dozen expert speakers including:
- Scott Beyer, Market Urbanism
- Robert Bradley, Institute for Energy Research
- Wendell Cox, Demographia.com
- Leonard Gilroy, Reason Foundation
- Barbara Haselden, No Tax for Tracks
- Jesse Hathaway, Heartland Institute
- Jeff Judson, Heartland Institute
- Ed Kilduff, Common Sense Alliance
- Marlo Lewis, Competitive Enterprise Institute
- James Quintero, Texas Public Policy Foundation
- Jim Skaggs, Coalition on Sustainable Transport
- Ron Utt, Maryland Public Policy Institute
- Joseph Warren, Arlington Transit Advisory Committee

“Attending the Preserving the American Dream conference provided me and my association many tools and helped us have our most successful legislative year to date.”

—Mark Nix, South Carolina Home Builders

 Damage

American Dream Conference
Austin, Texas
November 6–8, 2015

For More Information

The 2015 American Dream conference on The Future of Affordability will take place at the Crowne Plaza Austin, 6121 North IH-35, Austin, Texas 78752. To register for the conference, go to americandreamcoalition.org or send $229 (by October 15; $249 after) to ADC 2015 Conference, P. O. Box 76, Camp Sherman, Oregon 97730. Add $50 if you wish to go on the optional tour.

The Crowne Plaza Austin offers a conference rate of $119 per night good any nights from November 2 through 10 if you make reservations by October 16th subject to room availability. Make reservations by calling 512-323-5466 and say you are attending the Preserving the American Dream conference or reserve online using the link at our conference registration page or entering “adc” in the group code on Crowne Plaza’s reservation page.

americandreamcoalition.org
President Pushes for Faster Climate Action on Alaskan Tour

By H. Sterling Burnett

In Anchorage, the first stop on a three-day trip to Alaska aimed at promoting his campaign against fossil fuels, President Barack Obama said, “Climate change is no longer some far-off problem. It is happening here; it is happening now.”

Four times in his 24-minute speech Obama said, “We’re not acting fast enough.”

Referring to a United Nations climate summit scheduled to take place in Paris in December, Obama said, “This year, in Paris, has to be the year that the world finally reaches an agreement to protect the one planet that we’ve got while we still can.”

Obama’s trip to Alaska was choreographed with visits to locations such as the receding Exit glacier in the Kenai Mountains, selected to provide a theatrical backdrop underscoring his message of the need for immediate international action. Obama claimed no state is suffering more than Alaska from the effects of climate change, citing rising temperatures and melting glaciers.

Climate Changes Natural

Serious scientists say Obama’s fear-inducing warnings have little to do with actual scientific data and recorded observations.

Stephen Brown, Ph.D., the Agriculture and Natural Resources Cooperative Extension Service agent at the University of Alaska–Fairbanks, says glaciers have been retreating in fits and starts since the end of the last ice age.

“It is ironic we had our first frost during the president’s visit … a full two weeks ahead of our historical average,” said Brown.

Ecologist Jim Steele, former director of the Sierra Nevada Field Campus at San Francisco State University, argues the causes of climate change in Alaska are vastly more complicated than Obama’s narrative suggests.

“Before we can attribute any changes to rising CO2 concentrations, three other powerful factors must be considered,” Steele said. “First, in the 1990s, below-freezing winds from Siberia pushed thick ice into the Atlantic when the Arctic Oscillation shifted. Removal of insulating ice cover caused heat stored below the ocean’s surface to ventilate and raised air temperatures.

“Second, changes in El Niño and the Pacific Decadal Oscillation alter the flow of warm winds and ocean currents,” said Steele. “During a period of frequent El Niños in the 1980s and 1990s, Alaska was one of the more rapidly warming regions. Alaska became the most rapidly cooling region after the switch to more La Niñas after 1999. That cycle is now reverting to a warming trend.

“Finally, regional tree ring data do not suggest any extreme warming as suggested by adjusted instrument data,” Steele said. “Global satellite data also do not show any warming since 1999. Weather stations can suffer from an ‘urban heat effect,’ as for example temperatures in the small town of Barrow were 4º to 9º F warmer than out in the tundra.

“Furthermore, the instrumental data then [undergo] adjustments that are highly subjective,” said Steele. “Canadian versus American adjustments have created century warming trends that differed threefold. These questionable adjustments are a major reason for the divergence problem between tree rings and instruments.”

Wrong Side of History

“Ironically, Obama’s climate barn-storming tour in Alaska comes as satellite data show no global warming for more than 18 years,” said Jay Lehr, Ph.D., science director at The Heartland Institute, which publishes Environment & Climate News. “It is beginning to look like Obama is riding the wrong horse into history by tying his legacy to the scientifically disproven idea man is controlling Earth’s temperature.”

H. Sterling Burnett, Ph.D. (hburnett@heartland.org) is managing editor of Environment & Climate News.
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Washington Gov. Inslee to Impose State Carbon Cap

By Bonner R. Cohen

Frustrated by his inability to get the Washington State Legislature to approve a comprehensive climate change bill, Gov. Jay Inslee (D) on July 28 directed the state’s Department of Ecology to “develop a regulatory cap on carbon emissions.”

“Carbon pollution and the climate change it causes pose a very real and existential threat to our state,” Inslee said in his statement announcing the plan. “Farmers in the Yakima Valley know this. Shellfish growers on the coast know this. Firefighters battling Eastern Washington blazes know this. And children suffering from asthma know this all too well and are right to question why Washington hasn’t acted to protect them.”

All Cap, No Trade

Unlike a contentious bill stalled in the legislature, Inslee’s regulatory cap will not charge businesses for emitting carbon dioxide and thus will not raise revenues for the state. The emissions-charge provision of the proposed legislation has been widely criticized as a $1 billion a year energy tax and is thought to have contributed to the bill’s demise. Inslee’s initiative also abandons the bill’s scheme to create a carbon credit trading market.

Whether Inslee has the authority to act unilaterally under the state Clean Air Act will likely be settled in court.

“I don’t think he has the ability to do it via rule,” state Sen. Doug Ericksen (R-Ferndale) told The Seattle Times on July 28.

Todd Myers, environmental director at the Washington Policy Center, says the vagueness of the proposal will harm the state’s business climate.

“The governor announced a unilateral cap on emissions without saying what that means,” said Myers. “He says it will be finished next year, yet his own Department of Ecology says it will take at least two years to figure it out.

“This policy is the worst of all possible worlds and would harm the economy and the environment,” Myers said. “The cost and uncertainty would have a huge impact on economic growth in Washington State.

“Ironically, it won’t reduce carbon emissions but will simply move energy-intensive industries offshore,” Myers said. “Our state has experience with this. In 2001, many of Washington’s aluminum plants moved out of state when energy prices rose. Other plants picked up the slack, however, so emissions didn’t decline.

“Washington simply lost those jobs,” said Myers. “Inslee’s strict cap will repeat that process, costing jobs while doing little or nothing to cut emissions.”

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

Washington Coal Export Project in Jeopardy

By Alyssa Carducci

Montana congressmen are urging the U.S. Army Corps of Engineers (USACE) to disregard a request from the Lummi Tribe to abandon an environmental review of the proposed Gateway Pacific coal export terminal at Cherry Point in Bellingham, Washington.

The Lummi fish next to Cherry Point and argue the terminal would violate their treaty fishing rights.

Sen. Steve Daines (R-MT) and Rep. Ryan Zinke (R-MT) led a bipartisan group of legislators who urged USACE to complete the environmental impact statement (EIS). If USACE dismisses the review process before completion, the project will be effectively shut down.

“There is no reason for the Corps to stop working on an EIS,” said Daniel Simmons, vice president for policy at the Institute for Energy Research. “The point of an EIS is to assess the environmental impact and collect information. Producing an EIS does not harm the Lummi Tribe.”

“Plain and simple, it’s wrong to skirt the environmental impact study, and I am proud to join Senator Daines in leading a bipartisan coalition to urge the Army Corps of Engineers to honor the process,” said Zinke in a statement.

“I’m deeply concerned that the Corps is considering skipping critical steps of the review process for this proposal—in turn, jeopardizing the future of this job-creating project,” Daines said in a statement.

Environmental Review Ongoing

“The Corps is continuing to conduct an evaluation of the proposed Gateway Pacific Terminal,” said Patricia Graesser, spokesperson for the Seattle District of USACE.

There is no deadline for making a determination about the Lummi Tribe’s request, and Graesser did not specify whether an environmental impact statement would be completed.

The review for the Cherry Point terminal, which is expected to create 4,000 jobs, was expected to be published for public comment in the first half of 2016. The first stages of the environmental review process started in 2012.

“[I]t will help create thousands of good Montana jobs and help the Crow Tribe increase economic opportunity for their people,” Daines said in his statement.

Other Stakeholders Chime In

The Crow Tribe of Montana has a stake in the Cherry Point port. The tribe will likely export coal from its reservation through Cherry Point to Japan and South Korea.

“Both tribes’ interests should be weighed in the Army Corps environmental review,” Daines said.

The Cherry Point port has garnered support from the Crow Tribe and a number of groups, including local labor unions, business organizations, the agricultural industry, and local governments.

“I will not stand idly by as the Gateway Pacific Terminal becomes the next Keystone XL Pipeline,” said Zinke in his statement.

“It’s critical that the Corps maintain its commitment to completing a full and thorough review of this project and provide all stakeholders with the opportunity to make their voices heard,” Daines’ statement concluded.

Alyssa Carducci (ad.carducci@gmail.com) writes from Tampa, Florida.
Democrats Suggest Bringing Back Subsidy for Renewables in Exchange for Ending Oil Export Ban

By Bonner R. Cohen

Increased calls for lifting the four-decades-old ban on the export of U.S. crude oil led to a flurry of activity on Capitol Hill shortly before Congress’s August recess, setting the stage for protracted negotiations in the fall.

By a vote of 12–10 in late July, the Senate Energy and Natural Resources Committee approved the Offshore Production and Energizing National Security Act of 2015 (OPENS Act). In addition to ending the ban, the act would increase coastal states’ share of federal revenues raised by drilling off their coasts.

Horse-trading Possibilities

The close vote in committee suggests an end to the ban is far from certain.

Some Senate Democrats have indicated they might go along with lifting the ban in exchange for extending federal subsidies for wind and solar power.

“I might be willing to support [lifting the ban], but only if there is a more balanced package of changes in the bill,” Sen. Angus King (I-ME) told Environment & Climate News in July. “For example, I would like to see an extension of the renewable credits for wind and solar and other kinds of potential environmental and renewable supports. I think this bill, while it can be justified and argued, is totally unbalanced, and I can support it if it’s modified to be more balanced in terms of our future energy needs.”

Opposition to the Wind Production Tax Credit and tax credits for solar investment have intensified in recent years, resulting in Congress allowing their expiration in 2014, along with subsidies for several other industries. Supporters of continued government support for the wind and solar industries are desperately looking for a legislative vehicle to have the expired subsidies reinstated.

Although most congressional Republicans are eager to end the ban on the export of crude oil, it is unclear if they are willing to pay the price some Democrats are demanding.

“Lifting the ban is long overdue, but it is especially important now in the low-oil-price environment,” said Marita Noon, executive director of Energy Makes America Great. “Due to the ban, our oil producers are forced to sell their oil at a discounted price, typically 3 to 12 percent off the global rate.

“Lifting the ban would benefit domestic production and not hurt consumers who are enjoying lower-cost gasoline, as it is priced based on global rates,” Noon said. “This issue is so important now in the low-oil-price environment,” said Marita Noon, executive director of Energy Makes America Great. “Due to the ban, our oil producers are forced to sell their oil at a discounted price, typically 3 to 12 percent off the global rate.

Need for Change Highlighted

Momentum for lifting the oil export ban received a substantial boost in July with the release of Empowering America: How Energy Abundance Can Strengthen U.S. Global Leadership, a report published by the Atlantic Council. It was written by an Atlantic Council task force co-chaired by Sen. Lisa Murkowski (R-AK), chairwoman of the Senate Energy and Natural Resources Committee, and Sen. Mark Warner (D-VA).

The report notes the recent boom in U.S. oil and gas production has fundamentally altered the global energy picture.

“Our unprecedented rise in oil production, from 5 million barrels per day to a 40-year high of 9.5 million b/d in only 7 years, helped to prevent a price spike from being triggered by the Libyan revolution, to sustain Iran oil sanctions, and to mitigate the market effects of unplanned oil disruptions across the globe,” the report stated.

“America must now practice the philosophy we have preached at home and abroad since 1973: join the global market and reject protectionism,” the report said. “The United States has many tools with which we can help other nations gain autonomy, prosperity, and energy security, but allowing unfettered exports of our natural gas and oil abundance would be a force multiplier with powerful results.”

Some Are Already Exempt

Some countries, including Canada, are already exempt from the oil export ban. Currently, the United States exports more than a half-million barrels of oil a day to Canada, accounting for 5.2 percent of daily U.S. oil production, according to the Energy Information Administration.

Recent action by the Department of Commerce (DOC) added Mexico to the list of countries exempt from the export ban. On August 14, DOC announced it would allow U.S. producers of light, sweet crude oil to export their product to Mexico in exchange for Mexican heavy oil. DOC’s action is intended to alleviate a bottleneck in storage facilities along the Gulf Coast, where U.S. oil reserves have swelled with no place to go.

Daniel Simmons, vice president for policy at the Institute for Energy Research, says the oil export ban was a flawed policy overdue for repeal.

“The ban on exporting oil is a remnant of 40-year-old failed economic policies,” Simmons said. “The ban was kept in place for decades because it appeared that U.S. production would only fall and consumption would only increase. Reality has proven far different.

“Today, we have booming production and stagnant oil demand,” Simmons said. “It’s time to end this 40-year-old experiment of banning our own potential exports. The [United States] does not ban the export of corn, wheat, or coal, or Boeing airplanes, and there is no good reason to ban the export of oil.”

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House Votes to Prohibit States from Requiring GMO Labels

By Mark Ramsey

The U.S. House of Representatives passed a bill that would prohibit states from enacting labeling laws for genetically modified organisms (GMOs).

Another provision of the bill would require U.S. Food and Drug Administration (FDA) approval of any GMO before it can be sold, which is similar to how the government handles prescription drugs.

The bipartisan bill, the Safe and Accurate Food Labeling Act of 2015, passed the House by a vote of 275–150. If the measure becomes law, it would void laws in Connecticut, Maine, and Vermont and prevent other states from passing labeling requirements for foods developed using genetic modification techniques or using genetically modified crops.

GMOs Common, Not Unique
Jay Lehr, science director of The Heartland Institute, says genetically modified crops are common and there has never been any evidence indicating GMOs are harmful.

“We have been genetically modifying and improving food now for 30 years, and there is not a single proven case of even one human being made sick by it—not one—and we are now growing genetically modified crops on more than 120 million hectares around the world in 28 countries.”

“Ninety-five percent of the soybeans and 40 percent of the corn grown in the United States is genetically engineered,” said Greg Conko, executive director of the Competitive Enterprise Institute. “If you buy bread, a packaged meal, or nearly anything packaged, it will have some component of soy or corn, either flour, oil, or some other product from those crops.

“Scientists have historically taken the position GMO crops are not fundamentally any different from selectively bred ones, a practice that has gone on for millennia,” Conko said. “Safeguards are already in place to check the nutritional content, taste, and even texture of any new crops [created] for human consumption, as the Department of Agriculture and the Environmental Protection Agency already regulate GMOs.”

According to medical doctor and lawyer John Dale Dunn, GMO crops are not nutritionally or substantively different from crops developed through traditional crossbreeding.

“In fact, it is the normal and regular process of improving plant strains by modifying their characteristics,” said Dunn. “It is not Frankenstein food; it is nothing more than an improvement on hybridization, which has been a practice [used] for centuries to improve plant production.”

Threats of Boycotts
Despite there being no evidence of harm from the use of genetically modified crops, some states have responded to pressure from environmental lobbyists to force companies to label products carrying GMOs. The groups hope to use the labels to lead boycotts against companies using GMOs as they have in Europe.

Companies have expressed concerns about the costs of compliance with labeling laws that vary from state to state.

Conko says the food industry pushed for federal preemption because “the many states considering mandatory labeling laws scares the packaged food industry.”

In Europe, where it is common for GMO products to be labeled, “‘green’ groups have mounted PR campaigns against the manufacturers,” said Conko. “The packaged food industry does not operate on large profit margins, and their concern is if ‘green’ groups boycott Kellogg’s Corn Flakes, for example, and they lose 5 percent of their sales, it could eliminate all profits on the product.”

New Regulator Raises Concerns
Since the bill would also require all GMOs to receive approval by FDA before being marketed, it is a mixed bag for the industry and free-market advocates who have long fought state labeling laws.

Some fear requiring FDA pre-approval for GMOs could create worse problems than labeling for biotech crop developers and food processors. Conko points to the case of genetically altered salmon as an example, where FDA was given authority to regulate its development and use under the agency’s authority to regulate drugs developed for animals.

“The agency has a statutory deadline to make a decision in 180 days,” Conko said. “However, in the case of the salmon, the process has dragged on for 20 years. There is effectively no route to ensure timely decisions.

“We should be moving in the other direction,” Conko said. “Instead of adding this pre-approval by FDA, we should be getting rid of the mandatory rules that USDA and EPA have.”

Other experts interviewed noted the provision requiring FDA approval for GMOs is unnecessary and could hinder the process of developing safe, plentiful foods and medicines, potentially adding years or decades to development.

Henry I. Miller, a physician and fellow at Stanford University’s Hoover Institution, said, “As it is, FDA is taking years to do reviews that should take weeks—and in this case are completely unnecessary. How do I know? I was the medical reviewer for the first bioengineered drugs in the 1980s. We approved the first two, which were human insulins, in five months.”

“This is a horrible thing that will be heavily abused by FDA sooner rather than later,” said Lehr.

“Do you realize what could be done by a malicious and mendacious FDA to interfere with the introduction of a new strain of corn, soybeans, rice, or beans?” asked Dunn. “The FDA could kill [genetically modified foods], and it would.”

Mark Ramsey (m15@ramseyweb.com) writes from Houston, Texas.
for the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers, who were planning to begin enforcing WOTUS in September. The law was aimed at extending federal jurisdiction over small waterways, including temporary streams, ephemeral waterways, and isolated, seasonal wetlands.

“Immediately upon the rule taking effect, the rule will irreparably diminish the states’ power over their waters,” Erickson wrote in his order granting the stay.

Erickson described the Obama administration’s interpretation of its Clean Water Act jurisdiction as “exceptionally expansive.”

‘Welcome News’

“This is welcome news, especially given the demanding requirements for an injunction,” said William Perry Pendley, president of the Mountain States Legal Foundation. “That the District Court found the states were likely to win and that the equities favored the states shows how outrageous the conduct of Obama’s EPA is.”

Former North Dakota state Rep. Bette Grande (R-Fargo), now a research fellow with The Heartland Institute, which publishes Environment & Climate News, also welcomed the decision.

Grande said in a press statement, “U.S. District Court Judge Ralph Erickson knows the Constitution, and his opinion on EPA’s proposed Waters of the United States rule is a fresh and clean breath of common sense from ‘fly-over country.’

‘Judge Erickson’s ruling is consistent with prior U.S. Supreme Court ruling[s] against the EPA [in 2001 and 2006],” said Grande in her statement.

Obama Defies the Court

Obama administration representatives defiantly announced EPA would largely enforce the regulation as planned, arguing Erickson’s ruling applies only to the 13 states winning the injunction: Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, and Wyoming.

“In all other respects, the rule is effective on August 28,” EPA Press Secretary Melissa Harrison said in a statement.

The Obama administration argues the rule is justified under the Clean Water Act to protect small waterways from pollution.

Controversy Surrounds WOTUS

Even before WOTUS was finalized, controversy surrounded it. Many state and federal legislators and business, agriculture, and free-market environmental groups had publicly opposed the rule. They argued it would greatly expand the national government’s authority over privately owned water and land.

The U.S. Chamber of Commerce, National Association of Manufacturers, American Farm Bureau Federation, Dairy Farmers of America, pesticide manufacturers, mining companies, home builders, governors, local governments, water utilities, flood control districts, the timber industry, railroads, real estate developers, golf course operators, food and beverage companies, more than 40 energy companies, and two dozen electric power companies have criticized EPA’s plan as overreach in public statements or congressional and administrative testimony.

The North Dakota-led lawsuit, which succeeded in garnering the stay, was one of 10 filed by 29 states and business interests since EPA finalized the rule on May 27.

Erickson’s preliminary injunction will last only as long as the litigation persists, and it can be overturned.

Appeal Moves Forward

The cases have been consolidated into one lawsuit, which will be heard in the Court of Appeals for the Sixth Circuit in Cincinnati. States and other plaintiffs suing in other federal jurisdictions have not received as favorable a response to their requests for an injunction, with other cases being dismissed. Many of those judges have deferred to the Sixth Circuit.

The same week as Erickson’s ruling, judges in the U.S. District Court for the Northern District of West Virginia and in the District Court for the Southern District of Georgia denied requests to stay or enjoin the rule as requested by Murray Energy Corp. and 11 states.

Ron Arnold, executive vice president of the Center for the Defense of Free Enterprise, says he’s concerned about the limited nature of the stay.

“Two other federal judges hearing similar suits from other states deferred to EPA, prompting agency bureaucrats to declare they will only halt the rule in the 13 states that requested the injunction,” Arnold said. “It brings to mind the apocryphal statement attributed to President Andrew Jackson defying a Supreme Court ruling, [Chief Justice] John Marshall has made his decision; now let him enforce it!”

Calls for More Action

“The judge’s decision to block the rule, which was challenged by 13 states, is encouraging, especially as EPA’s credibility has been questioned in the past month,” said Julia Slingsby, spokeswoman for Rep. Rob Bishop (R-UT), chairman of the House Natural Resources Committee.

“The EPA needs to be stopped before it does more harm to our nation’s precious water resources.”

Grande says EPA needs to be reined in and that Congress is the appropriate branch of government to apply the brakes.

“EPA’s WOTUS rule is just the latest in a never-ending process of mission creep,” said Grande in her statement.

“The courts, rightly, can only do so much under the Constitution,” said Grande. “But Judge Erickson’s opinion gives us some breathing room as we wait for Congress to regain its constitutional authority. Congress must stop dithering and bloviating and rein in the regulatory agencies.”

H. Sterling Burnett, Ph.D. (hsburnnett@heartland.org) is managing editor of Environment & Climate News.
Court Scraps Parts of EPA’s Cross-Border Rules

By Bonner R. Cohen, Ph.D.

A federal court ordered the Environmental Protection Agency (EPA) to rewrite its 2011 Cross-State Air Pollution Rule, handing a partial victory to 15 states challenging the burdensome regulations.

On July 28, the Washington, DC Circuit Court of Appeals ruled EPA’s rules governing ozone and sulfur dioxide drift across state lines were too broad. The rules had effectively put downwind states out of compliance with air-quality standards.

EPA’s cross-state rule had been thrown out by a district court in 2012, but the U.S. Supreme Court overturned the district court’s ruling by a 6–2 vote in 2014. Although the Supreme Court upheld the broad outline of EPA’s rule, it remanded certain state challenges to the DC Court of Appeals for further review.

The DC Court of Appeals ultimately found significant portions of EPA’s mandates untenable.

“We reject all petitioners’ further challenges to the Transport Rule, including all of their facial challenges to the Rule,” said the court in its final decision.

EPA touted the rule as a “good neighbor” approach to pollution control—one that protected downwind states from emissions blown across their borders from upwind states. Opponents argue EPA has exceeded its authority under the Clean Air Act by imposing uniform standards for all upwind states rather than basing the rule on the amount of pollution actually generated by individual upwind states.

In a statement, EPA spokeswoman Melissa Harrison said the agency was “pleased” the court had upheld most of the rule.

“We are reviewing the decision and will determine any further course of action once our review is complete,” Harrison said.

“Over the last several years, EPA has unleashed what is undoubtedly the most expansive regulatory binge in the agency’s history,” said John Eick, director of the Energy, Environment, and Agriculture Task Force at the American Legislative Exchange Council.

“Given Congress’s apparent inability to rein in EPA, the courts have proven to be the last line of defense for those concerned about the production and distribution of affordable, reliable, and safe energy,” said Eick.

“In the very near future, many of EPA’s other activities will be litigated, and it is to be hoped the courts will take an even more hardline approach with the agency,” Eick said.

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

Editor’s Note: Sherwood Idso, Ph.D., one of the world’s leading authorities on the effects of carbon dioxide on plants, is president of the Center for the Study of Carbon Dioxide and Global Change. Idso was honored at the Ninth International Conference on Climate Change (ICCC-9) in July 2014 for his lifetime contribution to science.

By H. Sterling Burnett

Burnett: Please tell our readers a little about your research background and how you ultimately came to study the carbon dioxide [CO2] fertilization effect on plants.

Idso: My Bachelor of Physics, Master of Science, and Doctor of Philosophy degrees are all from the University of Minnesota. Upon graduating, my family and I moved to Phoenix, Arizona, where I worked for 34 years as a research physicist with the U.S. Department of Agriculture’s Agricultural Research Service at the U.S. Water Conservation Laboratory, while simultaneously serving as an adjunct professor in the Departments of Geology, Geography, and Botany and Microbiology at Arizona State University.

Over the course of my professional career, I authored or coauthored more than 500 scientific publications, as well as two books: Carbon Dioxide: Friend or Foe? and Carbon Dioxide and Global Change: Earth in Transition. I also served on the editorial board of the international journal Agricultural and Forest Meteorology from 1973 to 1993, after which I served on the editorial board of Environmental and Experimental Botany for several more years. And over the full course of my scientific career, I also served simultaneously as an invited reviewer of manuscripts for 56 different scientific journals and 17 different funding agencies.

As a result of my early work in the field of remote sensing, I was honored with an Arthur S. Flemming Award, given, in the words of its presenters, in recognition of my “innovative research into fundamental aspects of agricultural-climatological interrelationships affecting food production and the identification of achievable research goals whose attainment could significantly aid in the assessment and improvement of world food supplies.” This citation continues to express the spirit animating my continuing research into the biospheric consequences of the ongoing rise in the air’s CO2 content.

As for how I came to study the effects of atmospheric CO2 enrichment on plants: I joined forces with Dr. Bruce Kimball, who also worked at the U.S. Water Conservation Laboratory and who had developed the technology required to conduct such studies out-of-doors in open-top, plastic-wall growth chambers. Together, we studied numerous field crops and a number of tree species, one of the latter, orange trees, lasted for 17 long years. And somehow we also managed to squeeze in studies of more diverse plants, including one plant species that produced a cancer-fighting substance in its underground bulbs. [The] substance was greatly augmented by exposure to extra atmospheric CO2, along with water hyacinths, the latter “borrowed” from the alligator pond at the Phoenix Zoo.

Burnett: You’ve conducted or reviewed literally thousands of experiments on the impacts of differing carbon dioxide concentrations on plant growth. What are your overall findings?

Idso: I have found if fossil fuel usage is not foolishly restricted in a misguided attempt to prevent climate change—previously referred to as global warming—the expected increase in anthropogenic CO2 emissions will significantly enhance the yields and water-use efficiencies of essentially all of the world’s food crops, allowing us to continue to feed the world’s growing population up to and far beyond the year 2050, when it is expected to peak out at approximately nine billion people, compared to today’s 7.2 billion.

Burnett: After retiring from your government position, you joined the Center for the Study of Carbon Dioxide and Global Change. What is its mission, and what research do you undertake there?

Idso: The [Center for the Study of Carbon Dioxide and Global Change] was created to disseminate factual reports and sound commentary on new developments in the worldwide scientific quest to determine the climatic and biological consequences of the ongoing rise in the air’s carbon dioxide content. It meets this objective through near-daily mini-reviews of recently published peer-reviewed scientific journal articles, books, and other educational materials. Via these means, the center attempts to separate reality from rhetoric in the emotionally charged debate swirling around the subject of carbon dioxide and global change.

Burnett: You recently worked on the Nongovernmental International Panel on Climate Change report, titled Climate Change Reconsidered II: Biological Impacts. What were the critical findings of this undertaking?

Idso: It’s hard to condense a 1,110-page document into just a few key points, but foremost among our findings were, first, atmospheric carbon dioxide is not a pollutant. It is a nontoxic natural component of the atmosphere that long-term and short-term studies alike have shown to improve both plant growth and water-use efficiency as its atmospheric concentration rises. Second, consistent with research on the impact of increasing carbon dioxide levels on plant productivity, the ongoing rise in the air’s CO2 concentration is causing a great greening of the Earth. Third, a modest warming of the planet will actually result in fewer temperature-related human deaths, in strong contradiction of the opposite claim [made by] the world’s climate alarmists.

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

INTERNET INFO

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Increasing Atmospheric Carbon Dioxide Is Key to Preventing Mass Starvation

By Sherwood Idso and Craig Idso

Is the human-induced increase in the atmosphere’s carbon dioxide concentration good or bad for Earth and its inhabitants?

Scientists, who base their opinions on real-world weather measurements and historical proxy temperature reconstructions, along with the known positive effects of atmospheric carbon dioxide enrichment on terrestrial plant growth and development, adamantly say it’s good. Those arguing for a continuing rise in carbon dioxide emissions have the moral high ground on this issue.

As the world’s population increases, there is concern among many that humanity’s growth will deplete Earth’s resources, creating myriad dangers. The Malthusian question arises once again: Have we reached our limits to growth?

For plant life, the answer is clearly no. Literally thousands of experiments have demonstrated that as the air’s carbon dioxide content rises, so do the growth rates of nearly all plants, leading to a great “greening of Earth,” which shows no signs of declining or even leveling off.

Helping Plants Help Us

Back at the turn of the century, we developed and analyzed a supply-and-demand scenario for food in the year 2050, identifying the needs of the plants that supply 95 percent of the world’s food and projecting historical trends in the productivities of these crops 50 years into the future. Our evaluation included the growth-enhancing effects of carbon dioxide enrichment on these plants and projected yields based on expected future carbon dioxide concentrations.

This work revealed the world’s population will likely be 51 percent greater in the year 2050 than it was in 1998, topping 9 billion people, whereas world food production will be only 37 percent greater if we rely solely on anticipated improvements in agricultural technology and expertise. There’s no need to fear, however: The shortfall in farm production can be overcome through the aerial fertilization effect of increased atmospheric carbon dioxide concentrations.

In order to avoid the unpalatable consequences of widespread hunger and early deaths in the decades ahead it would appear to be absolutely essential the air’s carbon dioxide concentration be allowed to continue to rise. Efforts designed to discourage rising anthropogenic carbon dioxide emissions are inimical to humanity’s future health and prosperity.

Water Problems

In Agriculture, Ecosystems & Environment, J.S. Wallace wrote the ongoing “massive and inexorable increase in the number of human beings in the world should be recognized for what it is—the most important global change facing mankind.”

And why is that? First, the projected increase in the number of people that will exist by the year 2050 is more certain to occur than is any other environmental change currently underway. Second, these extra people will need a huge amount of extra food. Third, it will take an equally significant amount of extra water to grow that extra food. Fourth, there is no extra water.

“Over the entire globe, a staggering 67 percent of the future population of the world may experience some water stress,” said Wallace.

This could translate into food insufficiency. Wallace concludes we must produce much more food per unit of available water if we’re going to keep up with demand.

Fortunately, elevated concentrations of atmospheric carbon dioxide reduce plant water loss by transpiration, while simultaneously enhancing plant photosynthesis and biomass production, thereby enabling Earth’s vegetation to produce considerably more food per unit of water used. Literally thousands of laboratory and field experiments have demonstrated this.

Beyond Carbon Dioxide Enrichment

A second condition necessary to meet future human food needs will be to develop crops with more efficient photosynthetic processes, which will require a full suite of tools, including breeding, gene transfer, and synthetic biology. Unfortunately, political opposition to bioengineered crops is creating a difficult hurdle to these needed strategies.

A third condition necessary to feed the world’s burgeoning human population was identified by David Tillman, et al. in the academic journal Science in 2009. Tillman says the diversion of crops from food to biofuels needs to end. With limited water and limited crops, the conversion of potential food into fuel, while many still live in hunger and Earth’s population is expected to grow, is unconscionable. This is because precious land and water resources are now being used at high rates in the production of biofuels, which diminishes our ability to produce the enormous amounts of extra food we need to feed people now and into the future. This drives up the cost of the foods we currently produce and harms the world’s most impoverished people.

Instead of relying on inefficient biofuels and other so-called renewables, we should concentrate on using our great stores of coal, gas, and oil to meet our future fuel needs. These substances are the least expensive energy sources we currently possess, and utilizing them will lower the costs associated with almost all existing, and most future, products and services. Using these resources produces the carbon dioxide needed to expand crop production and improve crop plants’ water use efficiencies.

The real-world effects of atmospheric carbon dioxide enrichment are absolutely essential to our goal of feeding the world’s present and future human populations. And this is the truly moral course we all should be pursuing.
By Mark Ramsey

Life continues to get tougher for the former head of the United Nations’ Intergovernmental Panel on Climate Change (IPCC), Rajendra Pachauri.

Pachauri was removed from his job as director-general of India’s premier energy think tank, The Energy and Resources Institute (TERI), which he had led for 34 years.

Although TERI is not a household name in the United States, the organization is “very big in India,” said Myron Ebell, director of the Center for Energy and Environment at the Competitive Enterprise Institute.

Downfall after Nobel

Pachauri’s pinnacle of achievement came in 2007 when IPCC shared the Nobel Peace Prize with Al Gore and Pachauri gave the acceptance speech on behalf of the organization.

Just three years later, Pachauri’s star began to fall when it was found IPCC made unsupported claims in 2007 that Himalayan glaciers were melting rapidly and could disappear entirely by 2035. The Indian government investigated IPCC’s glacier claim, commissioning a paper by the former deputy director-general of the Geological Survey of India, Vijay Kumar Raina.

Although some glaciers in the Himalayas were retreating, Raina found it was “nothing out of the ordinary” and that there was “[n]othing to suggest as some have said that they will disappear.”

Rather than admitting IPCC’s error, Pachauri took the challenge to IPCC’s findings as a personal attack. “They can’t attack the science so they attack the chairman,” said Pachauri to The Guardian. “But they won’t sink me. I am the unsinkable Molly Brown. In fact, I will float much higher.”

Pachauri’s reign at IPCC came to an ignoble end in early 2015, when he was forced to resign amid allegations he had stalked a 29-year-old female research analyst at TERI. She filed a police complaint accusing Pachauri of assault and criminal intimidation.

The charges resulted in an investigation by the Indian judiciary, which barred Pachauri from returning to work at TERI. An internal TERI investigation of Pachauri concluded he had “harassed the employee and recommended action against [Pachauri].”

Action was delayed when a Delhi court ruled on July 17, 2015, Pachauri could return to work at TERI despite Delhi police charging him with “influencing witnesses.” Women’s rights advocates erupted in protests against the court’s decision.

Less than a week later, the governing council of TERI announced it was replacing Pachauri.

Though Pachauri is now out at both IPCC and TERI, his impact lingers, Ebell says. “Dr. Pachauri may be gone from the IPCC and TERI, but the damage he has done to scientific integrity will persist for many years,” Ebell said. “Even worse, he scurrilously attacked the motives and credibility of anyone who got in the way of the alarmist bandwagon.”

Mark Ramsey (m15@ramseyweb.com) writes from Houston, Texas.

**INTERNET INFO**


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“Disinformation will change the way you look at intelligence, foreign affairs, the press, and much else besides.” — R. James Woolsey, former Director of Central Intelligence

THE SECRET STRATEGY TO DESTROY THE WEST

Today, living in the United States under a protective identity, the man credited by the CIA as the only person in the Western world who single-handedly demolished an entire enemy espionage service—the one he himself managed—takes aim at an even bigger target: the exotic, widely misunderstood but still astonishingly influential realm of the Russian-born “science” of disinformation.

Lt. Gen. Ion Mihai Pacepa, along with his co-author, historian and law professor Ronald Rychlak, expose some of the most consequential yet largely unknown disinformation campaigns of our lifetime.
Tea Party, Conservative Grassroots Groups Reject Fla. Solar Amendment

By H. Sterling Burnett, Ph.D.

After careful consideration at public meetings, multiple Tea Party and conservative groups have voted to oppose a Florida constitutional amendment giving the solar power industry special rights to sell power directly to electricity consumers and to utilities.

The votes are a significant setback for the solar power industry in the state.

When Floridians for Solar Choice launched its initiative in January to place a proposed constitutional amendment on the 2016 ballot to allow non-utility solar power providers to install solar panels on homes and sell the power generated directly to homeowners, they initially gained support from some business owners, libertarians, liberal environmental activists, and even Christian conservatives.

As grassroots activist groups have learned more about the amendment, support for it has waned.

Project 912 Debate Begins Losses

Three prominent grassroots organizations have hosted debates on the proposed amendment, beginning with a March 2015 debate hosted by the Tampa 912 Project, which with 2,000 members is one of Florida’s most influential grassroots organizations.

Tory Perfetti, chair of Floridians for Solar Choice, spoke on behalf of the amendment, and Heartland Institute Senior Fellow James Taylor spoke against it.

Before the debate, members’ comments on Tampa 912 Project’s message board indicated overwhelming support for the amendment. During the debate, Taylor pointed out the amendment would leave existing utility monopolies firmly in place, with the only change being the heavily subsidized solar power industry would get its own monopoly on on-site power sales.

“All the other crony special treatments aside, attendees were sold on the point that the Florida Constitution, a document that guarantees freedom of religion and freedom of speech, is not a proper vehicle for carve-outs to the solar industry.”

KAREN JAROCH, TAMPA 912 PROJECT

Tea Party Group Joins Opposition

At a June Tea Party meeting held at the popular retirement community The Villages, Taylor debated a representative of the Libertarian Party of Florida. A show of hands called for by The Villages’ Tea Party President Aileen Milton after the debate resulted in a unanimous vote against the amendment.

During the debate at The Villages, Taylor presented a transcript of a National Public Radio interview in which Catherine Baer, president of the Tea Party Network, said she supported the amendment. Baer also claimed she represents more than 80 Florida Tea Party groups linked on her site, including The Villages Tea Party.

Milton expressed outrage at Baer’s assertion during the debate. In an e-mail written to Baer after the debate, which was shared with Taylor, Milton wrote, “Please remove The Villages Tea Party’s name from your member groups. Immediately.

“You have no authorization to say The Villages Tea Party supports the concept of changing/amending the Florida State Constitution by adding a ballot issue in 2016 on the Solar Energy issue,” Milton wrote. “And I will tell you, Catherine, we do not support the Solar Energy Amendment.”

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LEGISLATIVE PULSE: CONNECTICUT

Fighting Environmental Overreach by the National Government

Connecticut state Rep. John Piscopo (R-Thomaston) is serving his 14th term in the General Assembly. Piscopo is the chief House Republican whip and serves on the committees for Finance, Revenue and Bonding; Energy and Technology; Environment; Screening; and Legislative Management.

By H. Sterling Burnett, Ph.D.

Burnett: At the 2015 American Legislative Exchange Council (ALEC) annual meeting, you introduced model legislation to fund state attorneys general in their fight against the Environmental Protection Agency’s (EPA) Clean Air Act and Clean Water Act overreach. Why?

Piscopo: Thank you for your interest in me, my role as a Connecticut legislator, and as a member of the American Legislative Exchange Council. A consistent theme in many conferences I have attended with ALEC or others like The Heartland Institute is the impact of the federal government’s regulatory overreach on our states, our towns, businesses, and even our personal lives. Specifically, the Environmental Protection Agency has expanded its power without congressional guidance or oversight through dictates supposedly under the Clean Water Act and the Clean Air Act.

EPA rules impose burdens on our economy as companies try to deal with these costly regulations. Money spent on consultants and lawyers as a part of companies’ attempts to understand the regulations could be better used on improving their facilities or expanding their companies. To this end, it makes sense to empower our attorneys general with the funds to challenge the process, the science, and the [alleged] benefits of EPA oppression.

Burnett: What current energy problems are facing the people of Connecticut?

Piscopo: I am concerned about the direction Connecticut is taking with its energy policy. Connecticut’s [mandatory Renewable Portfolio Standard] sets a goal that is unattainable, resulting in ratepayer’s electric bills being the highest in the continental United States, which has an especially harmful impact on the state’s poorest citizens. It also forces us to go outside the state for renewables, requiring new transmission lines throughout New England.

The energy plan also adds [energy] taxes ... and creates a fund to subsidize renewables, which the governor diverted to the general fund just hours after the bill’s passage.

Burnett: You opposed a bill Connecticut considered to ban plastic grocery bags. The bill failed. Why did you oppose it?

Piscopo: We must always be careful when a ban is proposed. Questions must be asked concerning what alternatives exist: How much of a problem is it, really? What are the costs to people and the environment?

We see this from time to time, with efforts to ban certain chemicals, practices, or, in this case, plastic bags. I opposed the bill mainly because people like plastic bags and reuse them at a rate of 90 percent. Many grocery stores had recycling bins for people wanting to dispose of them. The alternative is paper, which costs more and creates a larger environmental impact, or personal reusable bags that can contain bacteria and harmful elements and need to be washed regularly.

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

By Alyssa Carducci

Washington Gov. Jay Inslee (D) signed Senate Bill 6057 in July, officially recognizing commercial beekeepers as farmers in the State of Washington.

The law grants more than a dozen tax breaks to industries, including a provision granting beekeepers the same tax status as other agricultural producers.

State Sen. Jim Honeyford (R-Sunnyside) sponsored the bipartisan legislation, which will exempt beekeepers from state business taxes on money they collect for pollination services or by selling their products, such as honey and beeswax. They also will be exempt from sales taxes for production expenses related to keeping hives healthy, such as feed and parasite treatments.

The Washington State Beekeepers Association (WSBA) praised the decision.

“It has been a long hard fight to get this done,” WSBA President Mark Emrich said. “The WSBA has been trying to get this amendment passed since 2007. We were the only state that had beekeepers designated as service providers and not agricultural.”

Ties to Farming

Todd Myers, environmental director at the Washington Policy Center and a beekeeper, noted the law applies only to those who earn more than $10,000 in annual revenue from beekeeping, which is more than a hobbyist or part-time beekeeper would earn.

“Beekeepers who earn at this level are likely to sell pollination services, which provide the tie to farming services,” said Myers. “That is the logic of counting large-scale beekeepers as farmers.”

More Keepers, More Bees

Supporters of the legislation say the tax breaks come at an opportune time, as beekeeping numbers have been dwindling nationwide because of a mysterious honeybee die-off called colony collapse disorder.

“With the great losses beekeepers have had since 2006, any support we get will help,” Emrich said.

“It is an example of the free-market principle that if you want more of something, reduce the cost,” Myers said. “If you want more beekeepers, you should make it less expensive to become a beekeeper.

“The solution to increased hive mortality due to a range of problems—of which colony collapse disorder is just one—is more beekeepers,” said Myers. “Although more hives are now dying over winter, the total number of hives and bees has been increasing for a few years now, suggesting beekeepers like me are finding ways to increase the population despite increased risk.

“That’s where the solutions will come from: beekeepers on the ground, not government bureaucrats,” Myers said.

Alyssa Carducci (ad.carducci@gmail.com) writes from Tampa, Florida.
GOP Hopefuls Call for an End to Energy Subsidies

By Ann N. Purvis

With less than six months remaining until the Iowa caucuses, presidential hopefuls are revealing their positions on one of the biggest energy issues in the state: the Renewable Fuel Standard (RFS).

RFS requires refiners to blend certain amounts of renewables into fuel, and Iowa ethanol producers benefit from the mandate.

GOP candidates are split on the issue. At the Iowa Ag Summit in March, Texas Sen. Ted Cruz announced his opposition to RFS, telling voters the government shouldn’t be “picking winners and losers” through its energy policy.

Former Hewlett-Packard CEO Carly Fiorina has also come out against RFS, saying “government shouldn’t be in the business of subsidizing anything.”

Fiorina said RFS, though not a subsidy, is just another “example of government using its power to move markets in a particular way.”

Some candidates have praised RFS but also have said it shouldn’t be permanent. Former Florida Gov. Jeb Bush told an Iowa crowd the standard had “worked, for sure ... [but] at some point we’ll see a reduction of the RFS need because ethanol will be such a valuable part of the energy piece of our country.”

Louisiana Gov. Bobby Jindal said ethanol “has played a great role in making us more energy-independent,” but he says the RFS mandates should be phased out.

Wisconsin Gov. Scott Walker, who previously supported biofuel mandates, recently signaled his support for phasing out the mandate over two years.

New Jersey Gov. Chris Christie and former Arkansas Gov. Mike Huckabee support the ethanol mandates.

Nicolas Loris, a fellow for The Heritage Foundation, says the RFS mandate is a prime example of how overreaching government intrudes on the free market.

“[RFS] tests the principles of the candidates because this is a policy that is Exhibit A for picking winners and losers,” Loris said, noting RFS raises energy and food prices.

“It’s important for candidates to take a stand and say this policy isn’t working,” said Loris.

Environmentalism Gone Mad

In Environmentalism Gone Mad, Alan Carlin, Ph.D. documents the dysfunction of the modern environmental movement – demonstrating the need for a major course correction to steer it back to reality.

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“...[T]here are so many policies that distort energy prices in an adverse way,” Loris said. “Whether it’s targeted tax credits like the wind production tax credit, the Renewable Fuel Standard, or the Jones Act, which hurts the shipping industry, eliminating favoritism that concentrates the benefits to a select few should be a priority.”

Policies that promote or reject government favoritism are likely to be an important part of the 2016 presidential election. When Hillary Clinton announced her energy agenda in July, she called for extending renewable energy tax incentives. Also in July, Bush made headlines when a video at a campaign event captured him saying he wanted to end all subsidies for the energy industry, a move that would phase out tax credits for the wind, solar, and oil and gas industries.

Loris says government subsidies do long-term harm.

“These policies do much more harm in the long run to these technologies than actually help them, because it creates this dependence on the government, preferential treatment, and it doesn’t allow them to recognize their true price point at which they can become economically viable,” Loris said.

Talking About Regulatory Issues

As the election draws closer and debates over energy issues continue, Loris says candidates should not allow themselves to be pigeonholed as either pro-business or pro-environment.

“I think too often politicians will say it’s a tradeoff between economic growth and environmental protection, and those two are not mutually exclusive,” said Loris. “Policies that promote free markets and economic growth do a much better job of cleaning up the environment and protecting it. So, it’s not about wiping out regulations, it’s [about] ensuring we have regulations that are done smartly and devolved down to a state and local level, because those are the people who care and want to protect their own backyard.”

Ann N. Purvis, J.D. (ann.n.purvis@gmail.com) writes from Dallas.
By Brad D. Schimel

When we plug in our smart phones or put laundry in the dryer, we expect electricity will flow to those devices on demand.

We allot a portion of our monthly expenses to pay the energy bill without much thought, but the Environmental Protection Agency’s (EPA) onerous Clean Power Plan (CPP) will change all of that by forcing Wisconsin utilities to shutter cheap, clean, coal-fired energy plants and switch to costly and unreliable energy sources.

With strict oversight by state regulators, the current power grid provides reliable, relatively inexpensive energy to every user as needed. States, including Wisconsin, have spent billions of dollars building a complicated, integrated grid that generates and transmits electricity to those who need it. Each state has a unique set of resources and needs, and no one knows the intricacies of each state’s system better than each individual state. EPA, through CPP, is ignoring this and usurping states’ regulatory authority over the power grid.

Legal Challenges

As a result of EPA’s unlawful power grab, Wisconsin and 14 other states have mounted two forms of legal challenges against CPP’s Section 111(d) of the Clean Air Act (CAA).

The first is CAA empowers EPA to regulate emissions from specific physical locations, such as a power plant. EPA has the power to specify fixes “within the fence.” Under CPP, EPA is going outside the “fence line” imposing power standards on the states, forcing states to change the entire electric system to reduce emissions, including installing more renewable generation.

CAA does not authorize EPA to regulate states, which has led many experts to conclude EPA has gone too far. EPA also neither evaluated the impact these changes will have on the reliability of the electric system, nor undertook a full and fair analysis of the costs that will be applied to consumers. EPA must stick to control measures at an emission’s source or inside the “fence line.”

The second argument concerns a conflict between the regulation of existing power plants under different sections of Section 112 in CAA, and newly enacted regulations under 111(d).

Two different versions of a Clean Air Act amendment were inadvertently signed into law. One encompasses a substantive change meant to prevent particular power plants from being overly regulated by different sections of CAA and one contains a drafting error in the U.S. Senate version.

The version passed by the U.S. House of Representatives prohibits additional 111(d) regulation of power plants that have already made considerable upgrade investments to comply with regulations of mercury and air toxics standards recently passed under Section 112. This version prohibits EPA from invoking 111(d) “for any air pollutant ... emitted from a source category which is regulated under [Section 112].”

The version passed by the Senate contained a clerical error resulting in two different versions of the law with regards to the Section 112 exclusion. Though Congress’s intent to limit regulation is clear, EPA argues the differing versions provide an ambiguity that grants EPA discretion to ignore the limits placed on its powers in the House version of the bill and allowing new prohibitively costly restrictions on power plants that had already invested millions of dollars to meet other EPA regulations.

These nuanced arguments are important, but it’s just as important to address the big picture problem with EPA’s unilateral expanding authority: EPA is ignoring the foundation of cooperative federalism upon which this country was built.

Federal ‘Overreach’

To say CPP is agency overreach is an understatement. CPP would allow the federal government, through EPA, to control energy policy in each state. It allows EPA to force a federal plan on states if they choose not to ruin their economies with overly burdensome regulations, and it gives EPA the power to mandate what energy type a state must rely on, regardless of a state’s available resources.

And for what? A very minimal reduction, if any, in global carbon dioxide emissions.

The good news is Wisconsin is joining West Virginia and other states in challenging EPA’s regulatory overreach, and we have the law on our side.

Brad D. Schimel was elected first elected Waukesha County district attorney in 2006 and Wisconsin attorney general on November 4, 2014.

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Environmental Madness, Government Corruption Exposed in New Book

Environmentalism Gone Mad: How a Sierra Club Activist and Senior EPA Analyst Discovered a Radical Green Energy Fantasy

By Jay Lehr, Ph.D.

It would be impossible to write a better book about environmentalism, global warming, government corruption, federal overreach, and the solutions to all the resulting problems.

Author Alan Carlin’s book provides an incredible look into his 38 years inside the U.S. Environmental Protection Agency (EPA) after a significant stint working alongside the Sierra Club, and the degrees he earned in physics and economics add to the author’s unique perspective.

Do not be intimidated by the book’s length, because to be fair, it is three great books in one. It’s a memoir of a wonderful man and a brilliant scientist and economist, a short course in basic science and methodology, and a historical analysis of how many individuals, organizations, and governments cooperated to fabricate a catastrophic concern for a fraudulent global warming problem in order to gain unequaled power and money.

Over his career, Carlin has studied the science and economics of development projects all over the world, giving him rare insight into how to improve people’s quality of life while maintaining the environment. He started working for the EPA at its founding in 1971 and watched from the beginning as it slowly become a wholly owned subsidiary of the radical environmental movement. Carlin describes in detail how EPA transformed from a problem-solving organization into a power-mad activist group.

Better than anyone before, Carlin reveals the motivations driving many environmental groups, who look to maintain their staffs and enhance their budgets and power rather than to protect the environment. Carlin says many academics recognized the advantages of helping create and sustain a government cash cow and are motivated to produce findings that perpetuate the fear-driven, yet lucrative, belief man is causing global warming.

Carlin also examines the United Nations’ desire to be the world’s most powerful governing body; how liberal politicians use pseudoscience to obtain green votes; the media’s motivation to find green stories that capture attention, even if untrue; and how public employees, drunk with power, take advantage of the climate change industry.

During his career, Carlin attempted to expose the scientific malfeasance, ineptitude, and outright corruption behind many modern environmental initiatives. Activists attacked his credentials as a result, and his supervisors at the EPA forbade Carlin to work on climate change issues.

Provides Basic Science Course
Chapter 9 offers a basic introductory-level course on science. Carlin uses the theory of catastrophic anthropogenic global warming as a sample of what science looks like when it’s at its worst. He also discusses the scientific process and peer-review publishing, all while exposing the complete failure of every Intergovernmental Panel on Climate Change (IPCC) report at every turn.

“What this means in plain English is that the U.S. government has wasted tens of billions of dollars building climate models that cannot begin to approximate the real climate and then compounded the error by asserting that the model results prove the necessity to spend trillions more remaking the energy economy of the U.S. and the world,” writes Carlin.

Carlin says the scientific method has been abandoned by many of our most prestigious scientific societies, university professors, EPA, and the current president.

In making his case, Carlin shows how environmentalists employ many of the logical fallacies Aristotle detailed 2,000 ago. Prominent among the fallacies radical environmentalists and their political allies commit in pushing their climate agenda are the appeal to numbers and the appeal to authority. Carlin explains it really does not matter who the proponents of global warming are or what their backgrounds or status may be; the only relevant evidence comes through testing a hypothesis against real-world observations.

Among the most powerful sections of the book is his list of 32 questions alarmists refuse to answer. For example, Carlin asks, “Why do [climate alarmists] persistently withhold the data on which their conclusions are based ... [and] why are they vague about the methods used to produce the data from which they derive their results?”

Economics Explained
Of equal interest is his easy-to-understand economic analysis of the foolish acts the U.S. government is undertaking to combat global warming, restrict the use of DDT, and mandate the use of biofuels, renewable energy, and recycling.

The Heartland Institute, which publishes Environment & Climate News, and I are on record as recommending phasing out EPA in favor of a proposed committee composed of each state’s own environmental protection agency. Carlin’s solutions to the EPA-created regulatory nightmare include rescinding the carbon dioxide endangerment finding and all regulations based on it; encouraging environmentally responsible energy development; ending U.S. funding for climate research at EPA and support of IPCC; ending the suppression of free speech by public employees; prohibiting EPA from using secret science; requiring a periodic review and evaluation of existing regulations; and requiring congressional review of all regulations surpassing an established cost ceiling.

“Radical environmentalists essentially advocate that the poor of the world should remain poor by living at subsistence levels in order to avoid emitting a gas that enables plants to grow better and makes it possible for humans to use energy to assist them in their daily tasks and ultimately leave much disease, malnutrition and other forms of deprivation behind,” writes Carlin in a summary of his findings.

You will never regret investing your time reading this wonderful book.

Jay Lehr, Ph.D. (jlehr@heartland.org) is science director of The Heartland Institute.
The Heartland Institute is a 31-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 Web site at heartland.org or call 312/377-4000.

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GLOBAL SATELLITE TEMPERATURES

HOW MUCH GLOBAL WARMING?

Each month, Environment & Climate News updates the global averaged satellite measurements of the Earth’s temperature. These numbers are important because they are real—not projections, forecasts, or guesses. Global satellite measurements are made from a series of orbiting platforms that sense the average temperature in various atmospheric layers. Here, we present the lowest level, which climate models say should be warming. The satellite measurements are considered accurate to within 0.01°C. The data used to create these graphs can be found on the Internet at http://vortex.nsstc.uah.edu/data/msu/v6.0beta/th/uhncdc_lt_6.0beta3.txt All past data were revised when the methodology was updated in April 2015.

AUGUST 2015

GLOBAL AVERAGE

The global average temperature for August was 0.28°C above average.

NORTHERN HEMISPHERE

The Northern Hemisphere’s temperature was 0.25°C above average.

SOUTHERN HEMISPHERE

The Southern Hemisphere’s temperature was 0.30°C above average.

219,000 years of Temperature Variation


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