



Letters

Spring 2018

EPA Chief Puts Science Back Into Environmental Protection

by Steve Milloy, Senior Policy Fellow
As Appearing in the *Daily Caller*



Environmental Protection Agency Administrator Scott Pruitt may be just a lawyer, but so far he has done more to bring sound science to the EPA than any scientist ever affiliated with the agency.

And, apparently, he's just getting started.

Since taking the reins at the EPA and despite not having a full complement of presidential appointees helping him—not to mention the 15,000 agency employees, many of whom fancy themselves as part of the “resistance”—Pruitt has shaken up the EPA's 47-year-old culture and practice of politically-driven science.

Pruitt's first move last fall was to reform the agency's practice of appointing its own university research grantees to its science advisory

boards so they would be in position to rubber-stamp agency actions. This practice contravened federal law that requires these boards to be made up of unbiased scientists.

In one example, a 26-member board had 24 EPA grantees who had received more than \$200 million in research grants from the agency. These scientists were “reviewing” either their own research or the research of their colleagues. It was pal review, not peer review.

So, Pruitt changed the EPA's policy. Researchers now must choose whether they want to receive research grants from the EPA or serve on its advisory boards. But they can't do both.

Pruitt also appointed new members to some of these boards. For the first time in at least 20 years, individuals were appointed who are prominent critics of how the EPA uses science—including the chairmen of the two most important science advisory boards.

Pruitt rightly recognizes these boards are advisory in nature and he is not bound to accept their advice.

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E&E Legal's Craig Richardson details how Niskanen Center environmental attorney

David Bookbinder hijacked an AEI event with a rant against Exxon-Mobil. He claims he's working pro-bono for the cities who are shaking down the energy industry for cash but it turns out Mr. Bookbinder has trouble separating fact from fiction.

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Trump and the US need Scott Pruitt to stay



E&E Legal's Steve Milloy writes a compelling piece defending Administrator Pruitt, who has faced an onslaught of attacks from Left frustrated by his success.

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An Environmental Lawyer Willing to Work for Free? Um No.

by Craig Richardson, President



The American Enterprise Institute (AEI) held a panel discussion last week that focused on a parade of local governments that have taken the energy industry to court to pay for damages stemming from climate change.

It was a supposed to be a serious and sober affair – until David Bookbinder decided to weigh in on the subject.

A fellow at the Niskanen Center, a think tank that supports policies to combat climate change, Bookbinder inveighed against the industry with an expletive-laced rant. “Exxon’s claims are pure bullsh*t,” he said, referring to the defense the company has mounted against the lawsuits.

If Bookbinder was a bit over the top, he had reason to be. After all, Bookbinder is representing a number of localities in Colorado — Boulder County, San Miguel County, and the City of Boulder — in their lawsuit against Suncor and ExxonMobil. “Exxon was bullsh*tting the courts in Texas,” he said, referring to one of the case the company is enmeshed.

And yet, it turns out that Bookbinder may not have been entirely candid himself. While he claims to have undertaken these case pro bono, evidence suggest that climate activism is a lucrative pursuit for Bookbinder and the think tank he is affiliated with.

Consider that The Rockefeller Brothers Fund, an ardent adversary of ExxonMobil that has spent millions of dollars waging a campaign against the energy giant, provided the Niskanen Center a \$200,000 grant on February 22, 2018 to “advance solutions to climate change.”

The Niskanen Center has received money from other wealthy foundations that have targeted the energy industry for attack. For example, The

Hewlett Foundation, also known for its environmental activism, provided the Niskanen Center \$500,000 for its energy and climate work in 2017. Also, The Energy Foundation, an organization funded by billionaire activist Tom Steyer, gave the Niskanen Center \$150,000 in 2016.

In fact, the think tank has received more than \$1 million since 2015 from foundations that are at war with the energy industry over climate change, oil-and-gas pipeline construction and other issues, according to public records.

Moreover, Bookbinder owns a consulting company called Element VI Consulting, which received about \$150,000 from the Niskanen Center in 2015, according to the think tank’s most recent filing with the Internal Revenue Service. This money was paid before Bookbinder was chief counsel at the think tank.

Interestingly enough, Bookbinder appears to have ties to another attorney who has benefited from Rockefeller support, Matthew Pawa, who has spent over a decade battling the industry in court. A quick IP search for the websites that Element VI owns indicated that Element VI shares an IP address with Pawa’s longtime law firm, Pawa Law Group, suggesting that they are closely related.

Pawa, who is now a partner at Hagens Berman, another law firm representing localities suing the energy industry, used to run the Global Warming Legal Action Project. Through this project, Pawa’s law firm had been paid more than \$3 million from various Rockefeller family foundations, as well as Steyer-funded Energy Foundation, according to tax documents.

As for Bookbinder’s claims of working on these cases pro bono, one cannot help but wonder whether the claim is, well, bullsh*t – to use his words. abuse of our legal system. □

Richardson’s Statement on City ‘Climate’ Lawsuits

“Once again global elitists and their well-funded environmental front groups have taken to the courts in an effort to achieve from the courts what they

failed to accomplish at the ballot box and through legitimate legislative discourse. This time, New York City Mayor Bill de Blasio and a group of fellow leftists mayors have filed lawsuits against prominent energy companies claiming these companies are solely responsible for global warming and climate change. They seek billions of dollars in damages to pay for projects – still undefined – they say are necessary to combat ‘climate change’ in the future.

These cases should be immediately dismissed as similar cases were by the U.S. Supreme Court under the Obama Administration. Supreme Court Justice Ruth Bader Ginsberg wrote in a unanimous decision how climate change and global warming are not issues for local courts to decide and would open a floodgate of conflicting decisions for decades while making individual judges super EPAs.

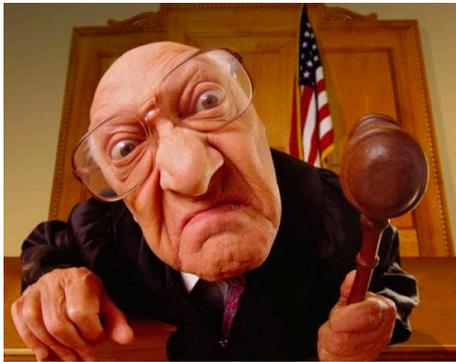
New York is a haven for destructive legal activism. Previously, New York’s disgraced former Attorney General Eric Schneiderman was the front man who recruited fellow activist attorneys general in a similar shakedown effort against Exxon. The courts saw through the smoke and mirrors, which our group discovered were funded by billionaire opportunist Tom Steyer and the Rockefeller Foundation. These groundless AG cases were either dismissed or quietly withdrawn.

The true motivation of these mayors and their attorneys is obviously money. Always has been and always will be. This is simply a cash grab for leftist financially strapped mayors who are looking to the courts to solve their financial problems through a multi-billion dollar shakedown scheme against deep pocket companies. And rest assured, it won’t be the energy companies who will pay out damages. American consumers will be left to pick up the tab and it will hit those least able to pay the hardest. It’s also a huge windfall for attorneys representing the cities because they are hoping for huge payouts as well as environmental front groups who are blinded by visions of sugar plums dancing in their heads.

If New York’s Southern District Court does not dismiss this case, we will likely see many more cash-hungry mayors looking for big city bailouts. It’s time to end this unethical manipulation of our judicial system and end this shakedown scheme once and for all. □

'Because I said so'

by Greg Walcher, Senior Policy Fellow
As Appearing in *The Daily Sentinel*



A federal judge has ruled that the government must consider reducing mining in America's top coal-producing region, to fight climate change. Moreover, he ordered the Bureau of Land Management to work with the Sierra Club, Natural Resources Defense Council, and four other environmental industry groups, to write a new management plan for the region.

Montana District Judge Brian Morris, a 2013 Obama appointee, has apparently relied on an entirely new body of law, discovering a previously unknown section of the Constitution. Like all federal judges, he swore an oath to perform his duties "impartially… under the Constitution and laws of the U.S." Nothing in those documents gives Judge Morris authority to order the BLM to work with non-government organizations (the same ones that filed the lawsuit in question) to alter America's use of energy.

I bet Judge Morris is a great dad — not the kind whose kids run wild, but a believer in tough love. In fact, in this era my own parents would both make terrific federal judges. Many times when we questioned the reason for their various decisions and rulings, their response was simply, "because I said so." I read Judge Morris's

ruling in the coal case, and that is essentially the source of his extraordinary power to change our society.

Make no mistake about the change this ruling could mean if upheld by the higher courts. The Powder River Basin supplies 40 percent of America's coal, and coal provides roughly a third of all electricity in the U.S. In western states like Colorado, coal still provides over half our electricity. Coal remains America's most abundant energy resource, and by far its cheapest, so the declining use of coal is driving up utility costs. The government projects monthly residential electric bills will more than double in the next 20 years. Yet the environmental industry plaintiffs that brought this suit against the BLM actually asked the judge to completely ban coal mining in that region. Their end game is easily understood. But what authority would a federal judge have to determine that coal could be mined elsewhere on other federal land, but not in that particular region?

By the way, this case is not about environmental groups v. the Trump Administration. The plaintiff groups challenged plans for the region published in 2015 by the Obama Administration, designed to ban most energy activity to protect sage grouse habitat, but including some use of limited areas for coal mining. For some of these groups, though, any mining is too much, never mind the rapidly increasing cost of utilities for the rest of us (hint: these organizations are funded by giant foundations and the super-rich).

So, what is the source of Judge Morris's astonishing power? I studied my copy of the Constitution and found no mention of either the climate or the Sierra Club. So I

looked at the three primary federal laws on which the ruling was based. First, the Federal Land Policy and Management Act of 1976 (FLPMA) directs the BLM to "manage the public lands under principles of multiple use and sustained yield." It does so by developing Resource Management Plans for each region, such as the plan in question here. I thought maybe Judge Morris relied on this, but FLPMA was written before we knew about global warming, so it certainly does not instruct BLM to offset emissions from the rest of the world by limiting mining in Wyoming. Second, the National Environmental Policy Act (NEPA) "prescribes the necessary process" that agencies follow to identify and evaluate "environmental effects of the proposed action." Again, there is no section of NEPA that says judges should dictate what source of energy supplies the nation's electricity. So the third law must be his power sources. The Administrative Procedures Act (APA) instructs reviewing courts to "hold unlawful and set aside" agency action deemed "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

The legal standard (set by the Supreme Court) is that a court must defer to the judgment of the agency, reversing a decision as arbitrary and capricious only where "a clear error of judgment" has occurred. Judge Morris clearly thinks that is the case when BLM allows coal mining in his home state.

The judge's 52-page ruling has a lot of legal blah-blah-blah, but if you look for the detailed explanation of the source of his extraordinary power, you'll conclude that he simply has a different viewpoint than the BLM. Which sounds very much like "because I said so." □

Dem George Soros Dumps Big \$\$\$ In California DA's Races

by Katy Grimes, Senior Media Fellow
As appearing in *Flash Report*



The man who broke the Bank of England, Democratic mega-donor George Soros, is using his wealth and influence in United States elections. And now he is trying to flip District Attorney races across the country. The Soros-funded California Justice and Public Safety PAC is investing heavily in the district attorney's races in Sacramento and San Diego.

It's no secret that Soros uses his billions of dollars to influence government politics. He is credited with and has acknowledged orchestrating coups in Croatia, Georgia, Slovakia, the Czech Republic and Yugoslavia... and in the U.S.

"Billionaire Social Activist George Soros has brought his war against law enforcement to San Diego and he's spending more than \$1 million to support anti-law enforcement candidate Genevieve Jones-Wright for District Attorney," the threatsandiego.com website states, created by incumbent DA Summer Stephan. The website associates Soros with Antifa groups and anti-law enforcement groups – and is not a stretch.

Soros Dumps \$\$ Into Sacramento DA's Race

A PAC controlled by progressive billionaire George Soros is funding the campaign of a leftist, anti-law enforcement deputy district attorney running to unseat

Sacramento District Attorney Anne Marie Schubert. Schubert's opponent, Noah Phillips who has printed on his campaign signs, "Democrat for D.A.," blames the fatal shooting of career criminal Stephon Clark last March as evidence that Schubert, along with the rest of Sacramento County law enforcement, is racially biased. Phillips has raised \$750,000, thanks in large part to George Soros. The leftist Soros paid for the political ads now running on TV.

"Phillips has raised almost three-quarters of a million dollars, thanks in part to George Soros," confirmed by Mike Luery of KCRA TV. Luery reported that money from Soros' PACs is financing Phillips campaign including a significant number of television commercials. One such commercial says, "We need to end racial profiling and police misconduct. And right now the system is broken."

D.A. Anne Marie Schubert created a statewide law enforcement task force in 2016, which recently arrested the notorious "Golden State Killer," also known in Sacramento as the "East Area Rapist." And Schubert has a lengthy history of being tough on crime, wherever it takes her.

Prison Realignment and Prop. 47 – A Premeditated Crushing of California

"California has implemented an alarming cocktail of criminal justice "reforms" that are likely to lead to a major crime wave into 2016," I wrote in the chapter on crime in Taxifornia 2016, by James Lacy for which I interviewed Sacramento D.A. Anne Marie Schubert. She was instrumental in

providing me with confirmation about the rising crime rate in Sacramento and California. I wrote:

"In 2014, California voters were sold on reforming the state's drug laws with Proposition 47. However, the measure covered more crimes than non-violent drug offenders. Moreover, drug addicts are likely to get less treatment in the state's drug courts because prosecutors have lost a bargaining chip in the plea process. Add to it the court-ordered prisoner releases as a part of the state's prison realignment under the 2011 AB 109 law, and you have a state ripe for a surge in crime; such as what is already underway in Oakland, which even after Jerry Brown's eight years on-the-scene as Mayor, the FBI still considers one of the most dangerous cities in America."

As for San Diego's D.A. race, Allison Ash of KGTV reported Soros is also bankrolling the progressive candidate. At a recent news conference, "D.A. Stephan and supporters stood with community members and crime victims as they talked about the incumbent district attorney's track record as victim's advocate," the San Diego UT reported. "Some held signs expressing opposition to Soros. One such sign said 'Outside money doesn't buy justice.' Another said, 'Soro\$.'"

Why is George Soros Buying Democrat Politicians and DAs?

Soros has made personal campaign contributions to numerous Democrat politicians including Barack Obama, Hillary Clinton, Charlie Rangel, Al Franken, Sherrod Brown, Nancy Pelosi, and Al Gore. Additionally, in 2007 and 2008 Soros funded Green For All

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Trump and the US need Scott Pruitt to stay at EPA

by Steve Milloy, Senior Policy Fellow
As Appearing on Foxnews.com



“I do,” President Trump said Thursday afternoon when asked by reporters whether he still has confidence in embattled Environmental Protection Agency head Scott Pruitt. And well the president should.

Pruitt has been the most effective appointee in implementing the Trump agenda. If Pruitt is forced out of his job because of charges he behaved unethically, America will suffer.

President Trump was elected as the economy was being choked and jobs were being destroyed by record-breaking, excessive and counterproductive regulations issued by the Obama administration.

The regulatory agency leading the charge against a healthy American economy and American job creation was the EPA. Candidate Trump knew this and campaigned on it. Millions of Americans voted for Trump precisely because he came out strongly against regulatory overreach.

When elected, the new president wisely tapped then-Oklahoma Attorney General Pruitt to bring EPA back with the bounds of the law and to end the EPA’s gross overregulation.

Pruitt knew well EPA’s proclivity toward rogue behavior. He had been involved in some dozen lawsuits against the agency.

EPA Administrator Pruitt was specifically directed via presidential executive order to roll back the two most excessive overreaches of the Obama EPA – the Clean Power Plan and the Waters of the United States rule.

The Obama war on coal and coal miners, capped off by the Clean Power Plan, has destroyed 94 percent of the market value of the U.S. coal industry and killed thousands of coal miner

jobs – all for no environmental or public health gain.

The Obama Waters of the United States rule would have given EPA essentially arbitrary control over every square inch of land in the United States. The Obama EPA had set itself up to deem any mud puddle as a “navigable waterway” subject to onerous, development-stopping regulation.

Both rules are now going through the lengthy process of review and repeal that Pruitt is overseeing while being savagely attacked by overregulation-loving environmental extremists.

Industries long aggrieved by the pre-Trump EPA, especially during the Obama years, now have an EPA administrator eager to listen to their side of the story.

Take the example of the glider truck industry, an \$800 million business that rebuilds old truck engines and drive trains for installation in new truck chassis.

On its way out the door, the Obama EPA issued rules to that would outright kill the entire glider truck industry by arbitrarily reclassifying these rebuilt trucks as new trucks, thereby ensnaring them in industry-killing new truck emissions standards. The final Pruitt-led reversal of this job-killing Obama rule is expected anytime now.

Our economy is once again beginning to roar – so much so that there are labor shortages in many industries. Much of the credit goes to Pruitt for implementing the Trump agenda and otherwise reining in the previously out-of-control EPA.

A key reform being implemented by Pruitt that is driving the far-left greens nuts is his effort to stop EPA’s abuse of science.

The House of Representatives has repeatedly passed legislation to end some of EPA’s most egregious science hijinks.

One bill would end the practice of EPA grantees (who receive hundreds of millions of dollars in grants) serving on EPA science review panels so that they can rubberstamp their own work.

Another bill would end the EPA

practice of using “secret science” as a basis for regulation. This “secret science” is data that the EPA under past presidents repeatedly refused to provide to Congress and the public for the purposes of independent review. The Obama EPA even defied a congressional subpoena for the data.

Both bills have been stuck in the Senate during the past three sessions because of the filibuster rules that let a minority of senators block action.

But Scott Pruitt rode to the rescue.

Last fall, Pruitt announced that EPA grantees would no longer be allowed to serve on advisory boards. They can pick one or the other – be a grant recipients or an adviser – but the clear conflict in filling both roles will no longer be permitted.

Then just last week, Pruitt announced that EPA would no longer rely on “secret science” in issuing regulations.

It would, of course, be better if the Senate passed the House bills and sent them to President Trump to sign. But until that can happen, Pruitt has taken the reins and implemented the policies on his own. Bravo.

Pruitt has also taken a keen interest in getting so-called toxic waste sites – known as Superfund sites – cleaned up. These cleanups suffered from years of neglect by the Obama administration, which had thrown all its attention and resources into global warming hysteria and destroying the coal industry.

There is much more EPA reform to come from Pruitt, as he is just hitting his stride. Now is not the time to change horses.

First, President Trump would have a hard time finding an EPA chief as competent and committed as Pruitt. Next, even if the president did, Senate Democrats would go all out to block confirmation.

President Trump should ignore the partisan attacks over trivialities. Let’s keep our eyes on the ball of EPA reform and restraint. Our national interest demands it.

Just let Pruitt do it.

EPA Administrator Restores Sound Science (Cont.)

As such, Pruitt should be commended for wanting to get different points of view from the members of his advisory boards. In contrast, the Obama EPA boards were largely just echo chambers of a single point of view.

Just last week, Pruitt announced another giant leap toward improving how the EPA uses science. Pruitt says he will ban the use of so-called “secret science” from agency rule-makings.

Over the past 20 years, for example, the most costly EPA air quality regulations have been based on scientific data in taxpayer-funded studies that Harvard and Brigham Young University researchers have literally kept secret for decades.

In 1994, an EPA external science advisory board known as the Clean Air Scientific Advisory Commit-

tee asked for the data, but the request was ignored by the agency. In 1997, Congress requested the data and was outright refused.

In 1998, Congress passed a law requiring that scientific data relied on by the agency must be made available to the public. But an appellate court held the law unenforceable in 1998.

In 2011, Congress again began politely asking the EPA for the data. No luck. So, in 2013, Congress issued its first subpoena in 30 years to force the EPA to produce the data. Again, no luck.

The House then began passing bills—three of them in successive sessions of Congress—to bar the EPA from relying on secret data to issue regulations. But all got stuck in the Senate, including the current bill known as the HONEST Act.

So Pruitt has decided he will take the initiative and ban the use of secret science at the EPA. If agency rules are going to be based on scientific data, that data must be available to independent researchers for validation purposes.

It of course would be better if Congress passed legislation to make this permanent, but Pruitt recognizes the EPA and the public cannot wait on the hopelessly deadlocked legislature.

These are all major accomplishments. But there's a lot more to do. The good news is that Pruitt is eager. He is rightly focused on how the EPA uses science and his plans for improving the process.

As someone who has worked on EPA science issues and controversies for more than 27 years, it's all music to my ears. □

Soros Is At It Again (Cont.)



and the Ella Baker Center from Soros' main organization, the Open Society Institute. Van Jones who describes himself as a Communist, was the leader of both these groups at the time.

This billionaire social activist has waged his war against law enforcement and many district attorneys including Sacramento's and San Diego's District Attorneys, and he's spending hundreds of thousands of dollars to support anti-law enforcement candidates including Noah Phillips in Sacramento, and Genevieve Jones-Wright in San Diego.

According to a recent Association of Mature American Citizens article, Why is George Soros Buying District Attorneys?, “Over the last few

years, progressive billionaire George Soros has dumped millions of dollars into district attorney races around the country. Soros has used his considerable finances and political clout to challenge district attorneys that do not fit into his progressive ideological agenda:”

- 2015, Scott Colom and Robert Shuler Smith, \$400,000
- 2016, Andrew Warren, Hillsborough County, Fla.
- 2016, Kim Foxx, Cook County, Ill.
- 2016, Kim Ogg, Harris County, Texas \$600,000
- 2016, Aramis Ayala, Orlando, Fla., \$1.4 million
- 2017, Larry Krasner Philadelphia, Pa., \$1.45 million
- 2018, Joe Gonzales Bexar County, Texas, \$958,000

Should George Soros be determining the outcomes of District Attorneys races in California cities? And Why is George Soros Buying District Attorneys?

And why is the American Civil Liberties Union investing large resources and utilizing its organizational skills in local district attorney races this year? Every California voter needs to ask this. □

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