



Letters

Summer 2021

Not Our Founding Father's Infrastructure Bill

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



“And what I’m proud to say is that is what our forefathers intended,” says Sen. Kyrsten Sinema (D-AZ) about the new and just released infrastructure bill.

That’s quite a divination of what James Madison et al. would have thought about a mammoth 2,700-page, trillion-dollar spending orgy released to the public three days before Senate Majority Leader Chuck Schumer (D-NY) wants to bring it to a vote.

If you read 675 pages of the bill per day and presuming you had previously memorized all the various extant federal statutes it refers to by U.S. Code section, you’d finish just in time to watch it being voted on.

If you’re thinking maybe a

summary would help, think again. Senate Democrats released a summary that covers only about 40% of the bill’s spending.

All this should be enough for any responsible legislator to vote against the bill. But there’s more.

Despite being called an “infrastructure” bill, only about \$110 billion (11%) is new spending for traditional infrastructure projects like roads and bridges.

There is, for example, \$73 billion in spending to build-out the electricity grid by adding transmission lines for new wind and solar power. But these wind and solar facilities don’t exist and aren’t even on the drawing board anywhere.

When plans for these facilities start to take shape they will be opposed and fought over for years and even decades by cynical environmentalists employing NIMBY (not in my backyard) tactics.

Even if the money is spent on transmission lines for actually constructed wind and solar facilities, it will still be a waste since the purpose of the exercise, reducing emissions

Continued on Page 6

In This Issue

CA Gas Prices Are Highest in the Country



Katy Grimes reports that CA leads the nation in gas prices since Biden came into office, up 40% since the beginning of the years.

Page 2

Does Congress authorize or direct?



Greg Walcher writes the miserable job the Federal Government is doing when it comes to Forest Management and how some in Congress are working to address the situation.

Page 3

The Intellectual Climate is the Real Problem



Noting the release of another “Code Red” report from the U.N. regarding climate change, Steve Milloy says that it’s a “complete and utter fraud.”

Page 4

CA Water Policy's Devastating Impact

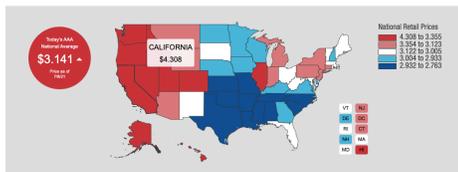


Katy Grimes continues her expose on the irrational and troubling state water policies. In this piece she talks about the devastating problems this avoidable drought is having on hydro electric, drinking water, and agriculture.

Page 5

Here's Why California Gas Prices Are Highest in the Country

by Katie Grimes, Senior Media Fellow
As Appearing in the California Globe



AAA reports gas prices increased 40% since start of year and still going up up

The national gas price average increased 40% since the start of the year, according to the American Automobile Association (AAA). “Starting the year at \$2.25 on January 1, average gas prices per gallon increased to \$3.13 today.”

And the prices are still going up. AAA says motorists can expect gas prices to increase another 10–20 cents through the end of August, bringing the national average well over \$3.25 this summer.

The national average is \$3.131 per gallon as of Thursday; California’s average is \$4.31 for regular grade gas – even higher than Hawaii’s gas price average at \$4.04, and Hawaii has to import most everything, including gas.

California’s medium unleaded gas sells for \$4.50 per gallon on average. Gas in Mono County is \$5.13 per gallon.

At about a 47% difference from California, Texas has really low gas prices at \$2.81 per gallon. Louisiana gas sells for \$2.78. New Hampshire gas sells for \$2.98. Our neighbor Oregon’s gas sells for \$3.67 per gallon, and Nevada gas sells for \$3.78 per gallon.

California drivers all across the state are asking “Why are gas prices so high?”

David Blackmon, a Senior Contributor to Forbes reported, asking why California’s gas prices are so high is just as important as asking why gas prices are rising, “since

California is basically serving as the canary in the coal mine for the rest of the country,” he said.

“Finally, a third web search question high on the list this week is ‘Is America energy independent?’”

Blackmon offers one of the best, concise, explanations gas prices are so high and still climbing noting there are several factors at play here that all have had an impact since last November:

1. The loosening of COVID restrictions globally in recent months has led to a rapid recovery in global demand for crude oil that has exceeded the expectations of all of the “experts” on the subject, leading to a tightening of global crude markets;
2. Strong discipline among the OPEC+ nations related to their agreement to limit exports has also played a major role in tightening the relationship between global supply and demand;
3. The U.S. election has also obviously played a big role here. Since last November 3, the average price per gallon of regular gasoline in the U.S. has skyrocketed by 75 cents. The markets clearly see the Biden/Harris administration as one that will work to inhibit U.S. oil production, which will also have the effect of tightening the global market, and traders have responded by driving up the price of crude oil;
4. Refinery maintenance and the changeover to summer gasoline blends. This is a factor that I tend to write about every year at this time. Gas prices have continued to rise even as crude prices have dropped over the past week mainly due to the fact that March and April are the time of

year in which many U.S. refineries are taken offline for annual maintenance and all refiners are switching from manufacturing a handful of winter blends of gasoline to the dozens of summer blends required by the EPA. This changeover invariably raises the costs of both refining and transportation of gasoline, and that is always worked into gas prices during these months.

Gas Buddy explains the summer blends: “March-April refineries begin to produce summer gasoline blends. More than 14 different blends are produced during this period, due to different state regulations for reformulated gasoline and Reid vapor pressure requirements. May 1: Fuel terminals are required to sell only summer gasoline on May 1, while gas stations have until June 1 to complete the changeover to summer gasoline. The switch from winter to summer gasoline is one of the major factors behind seasonal fuel price increases in May.”

As for California, Blackmon is also spot on why we pay the highest-in-the-nation gas prices:

California is a state that is rich in underground oil resources, but over the past two decades, the state government of California has pursued a policy agenda designed to inhibit drilling and production within its borders as part of an overall program to try to ratchet down emissions via command-and-control regulations. In more recent years, the state government has implemented emissions regulations that far exceed current federal regulation and implemented mandates requiring a rapid phasing-out of gas-powered cars and replacing them with electric vehicles (EVs).

Boom. This is why elections matter. ▣

Does Congress authorize or direct?

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



The forest health crisis in America has reached such staggering proportions, it is no exaggeration to say, that one generation of national leaders has squandered the greatest legacy of the conservation movement — our national forests.

During the last 20 years, more than 100 million acres of national forests have burned to the ground, including the largest fires ever in Colorado, California, and several other western states. Another 10 million acres were added to that national disgrace in 2020 alone, including utter decimation of 400,000 acres in the heart of Rocky Mountain National Park.

Despite the urgency of the crisis, the U.S. Forest Service has told Congress it will take nearly 30 years to “treat” another 100 million acres it still considers “at risk” of catastrophic fires. For the agency entrusted with managing and protecting these irreplaceable national treasures, that is virtually an admission that it has no intention of doing anything about it, other than watch it all burn.

In response, Congresswoman Lauren Boebert, with 16 cosponsors, has introduced the “Active Forest Management, Wildfire Prevention, and Community Protection Act.” Were the bill to pass, it would significantly improve the health of national forests by removing beetle-killed trees, thinning and restoring forests on a landscape-scale, and streamlining the bureaucratic paralysis and

unending litigation that for decades have hampered virtually any large-scale solution.

Sadly, nothing about this issue is new. Western states, including Colorado, demanded action to stem this crisis 20 years ago, when they experienced the record-breaking forest fires of 2002. Even earlier, Colorado Sens. Bill Armstrong and Gary Hart worked together on funding to address the coming bark beetle epidemic in the early 1980s. Congress appropriated the requested funds then, and millions more a few years later, led by Sen. Wayne Allard. Other Colorado officials tried to get something done: Sens. Hank Brown, Ben Campbell, Mark Udall, and Corey Gardner, Congressmen Scott Tipton, Mike Coffman, Doug Lamborn, and especially Scott McInnis, who successfully passed the landmark Healthy Forest Restoration Act of 2003. It was signed into law with well-deserved fanfare, finally giving the Forest Service authority it had long sought, to streamline its own processes and implement “treatment” programs in high-risk areas.

There has always been a problem with such legislation, though. Giving the Forest Service the “authority” to act does not actually force the agency to do so. And as time has unfortunately shown, that agency has no desire to actively manage its forests. You see, as is always the standard parlance of the counselors who write legislation, Congress “authorizes and directs” the secretary to implement various policies. But while Congress was thinking “directs,” the agency was hearing “authorizes.” In other words, the Forest Service considered the new law to provide permission, not obligation. The result was that Congress provided all sorts of new tools for forest management, which the Forest Service has essentially declined to use

ever since — while 100 million acres of forests burned.

By about 2010, Colorado had lost roughly three million acres of trees to bark beetles and catastrophic fires. Despite constant urging from Congress, the Forest Service has done very little since, and today more than 40 fires are burning across the West, another 600,000 acres already added to the statistics for 2021. Now, 45 million acres of trees in the Rocky Mountain region are dead, a swath stretching from New Mexico to British Columbia.

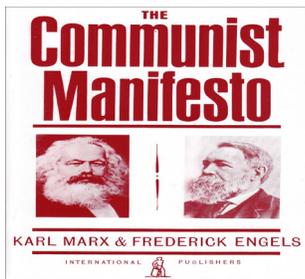
Rep. Boebert’s bill would require significant volumes of timber removal in critical areas to prevent catastrophic fires, and would put some teeth into the requirement. It would also create the Western Bark Beetle Epidemic Fund, a \$126 million account to remove beetle-killed trees, financed entirely by revenue from the timber sales. It would streamline bureaucratic processes, such as allowing removal of at-risk trees within 500 feet of electric power lines without studies, appeals, and lawsuits. My favorite provisions are those limiting the size and scope of documents. One limits environmental assessments to less than 100 pages, while another requires annual reports on timber volumes to fit on one page.

The bill won’t pass under the current congressional makeup, of course, but it lays down a serious marker on the issue for Rep. Boebert, a clear signal that if the House changes parties after the next election, Congress may be poised to act decisively on forest management.

The Boebert bill contains the word “shall” (not “may”) in 57 places. As experience proves, Congress must leave no doubt — action is not only needed, but instructed, directed, and required under penalty of law. □

Worry about the intellectual climate, not climate change

by Steve Milloy, Senior Policy Fellow
As Appearing in the *Washington Times*



As a work of science, the new “Code Red” climate report from the United Nations is a complete and utter fraud.

The report’s alarmist message is that we are running out of time to control emissions. And if we don’t get serious about cutting them, we will fail to meet the Paris climate accord’s goal, keeping the increase in average global temperature to 1.5 degrees Celsius to 2 degrees Celsius, 10 years earlier than previously predicted. Biden must be asked.

So let’s start there.

Neither temperature goal is based on any sort of scientific analysis. If you don’t believe me, maybe you’ll believe the 2009 “Climategate” emails in which University of East Anglia climate scientists Phil Jones admitted the targets were “plucked out of thin air.”

The inspiration for the 2-degree target seems to stretch back to a 1975 paper by prominent Yale University economist William Nordhaus, who not only is not any sort of scientist but whose economics are also suspect. As late as 1989, two years before the fall of the Soviet Union, Nordhaus’s university economics textbook maintained, “The Soviet economy is proof that, contrary to what many skeptics had earlier believed, a socialist command economy can function and even thrive.”

So much for any intersec-

tion between the U.N.’s temperature targets and science.

The Washington Post editorialized in a screed titled, “Climate doubters lose one of their last remaining arguments,” that the U.N. report has now ruled out the possibility of benign warming. The newspaper decided this was so because the U.N. report narrowed the range of warming caused by a doubling in atmospheric carbon dioxide, from preindustrial levels, from the previous range of 1.5-4.5 degrees Celsius to a range of 2.5-4 degrees Celsius.

But as with the aforementioned temperature targets, the change was entirely arbitrary.

The climate models on which these temperature predictions rely are not any sort of “settled science” and are well known to run hot and to overestimate increases in average global temperature, another invented metric that occurs nowhere on Earth.

In fact, shortly before the U.N. report was released, the climate alarmist *Science* magazine ran an article acknowledging, “Many of the world’s leading models are now projecting warming rates that most scientists, including the modelmakers themselves, believe are implausibly fast.”

NASA satellite data reported that the Earth has steadily warmed at a rate of 0.14 degrees Celsius per decade since 1979. If that trend continues, the average global temperature won’t hit the arbitrary 1.5 mark until about 2050 or the 2-degree target until about 2090 or so. The U.N. report supposedly moves these targets up by 10 years.

But recall that these temperature targets are arbitrary in the

first place. So what if we hit 1.5 in 2040, 2050, or whenever? Would either be catastrophic? Your guess is as good as Al Gore’s because there are no facts or science showing that warming is necessarily bad, much less necessarily catastrophic.

Warming and carbon dioxide emissions since the Industrial Revolution have helped add almost 7 billion people to the planet, all of whom are fed by record agricultural production. Whose crystal ball says that will not continue?

In addition to the non-scientific assumption of planetary disaster caused by warming, it’s also an assumption that most of the warming is driven by atmospheric carbon dioxide. Of course, carbon dioxide is a greenhouse gas and, all things being equal, will have some warming effect. But no one knows how much in the actual climate.

Virtually disregarded by the U.N. report, for example, is something called the urban heat island effect. This is warming that occurs in urban areas due to all the asphalt, concrete, and human activity. Climate scientist Roy Spencer has analyzed the urban heat island effect and says that almost all of the observed warming might be explained by this effect.

What about all the extreme weather this summer? The U.N. report admits that extreme weather observed today is not unprecedented in human history going back hundreds and thousands of years. All this summer’s weather has an explanation — it’s weather.

The new U.N. report is little more than assumption piled upon assumption about targets “plucked out of thin air.” Yeah, I’m worried about the climate — the intellectual climate, that is. □

Depleted California Reservoirs Threaten Hydro, Agriculture, Water

by Katie Grimes, Senior Media Fellow

As Appearing in the California Globe



Of the 2014 voter-approved water bond, \$2.7 billion for new water storage projects still unused

In 2014, California voters approved \$7.12 billion in bonds for state water supply infrastructure projects. Of that, \$2.7 billion was designated for water storage projects. But nearly 8 years later, there are no new dams or reservoirs, or other water storage projects to collect and store California's winter runoff. And California is in yet another drought.

As California Rep. Tom McClintock has said for years, "Droughts are naturally occurring, water shortages are man-made." He also has warned for many years, "We live in one of the most water-rich regions of the country – yet we have not built a major reservoir in this state since 1979. Meanwhile, the population has nearly doubled. The sad, simple fact is that we will NEVER solve our water problems until we start building new dams once again."

Recently, Congressman Doug LaMalfa (R-Richvale), State Senator Jim Nielsen (R-Gerber), and Assemblyman James Gallagher (R-Marysville) met at the top of the Oroville Dam to decry Governor Gavin Newsom's "lack of leadership and gross mismanagement of the state's water, power and forests/wildlands." They demanded urgent action because Californians are suffering, and it's about to get worse they warned.

The state uses about 47.5 percent of its developed water supply for the environment, including wild river flows, managed wetlands and wildlife preserves, habitat and water quality control for fish, and required Delta outflows, according to the Department of Water Resource. Water is diverted

in times of drought and times of plenty to the Sacramento-San Joaquin Delta, leaving much less for irrigation or for Californians to drink.

The state has been letting water out of reservoirs across California for months now. And it's not going to farmers, growers, ranchers or urban use. Environmental policy says the water "flows" from reservoirs are necessary to produce a rebound of endangered Delta smelt and Chinook salmon. However, these policies are a failure as neither species have been collected in all of the latest trawling surveys.

Sen. Nielsen, who is also a farmer and rancher, on Friday denounced the shutdown of the Hyatt Power Plant at Oroville Dam. And California's other reservoirs are also dangerously draining.

"Governor Newsom and the Democrats running this state should be ashamed," Nielsen said. "Rather than planning for the future, they kowtowed to environmental special interest groups and stalled the construction of Sites Reservoir."

Only two years ago, every reservoir in the state was brimming with enough water to last a minimum of five dry years without another drop of rain. Shasta and Oroville reservoirs/dams held enough water to meet the needs of 80 million people for a year.

The Water Quality, Supply, and Infrastructure Improvement Act of 2014, voted on as Proposition 1, authorized the \$7.12 billion in general obligation bonds for state water supply infrastructure projects: public water system improvements, surface and groundwater storage, drinking water protection, water recycling and advanced water treatment technology, water supply management and conveyance, wastewater treatment, drought relief, emergency water supplies, and ecosystem and watershed protection and restoration.

Of the \$7.12 billion, \$2.7 billion dollars was specifically designated for new water storage projects, but thus far, hasn't been used. "The California Water Commission, through the Water

Storage Investment Program is responsible for administering those funds. Only projects that improve the operation of the state's water system, are cost effective, and provide a net improvement in ecosystem and water quality conditions in the Sacramento-San Joaquin Delta are eligible for Water Storage Investment Program funding," the California Department of Fish and Wildlife explains.

Fish and Wildlife was charged with identifying "ecosystem priorities and relative environmental values of ecosystem benefits," defined as: water quality improvements, flood control benefits, emergency response, recreational opportunities, and ecosystem benefits. "At least 50 percent of the total public benefits funded for a project must provide ecosystem improvements," Fish and Wildlife says, showing their hand.

As the California Department of Water Resources bond oversight shows, no water storage has been added, but ecosystem and watershed protection and restoration projects have been completed.

Sen. Nielsen said he was deeply involved in the 2014 water bond package. "We can't share scarcity," he said in a Globe interview Monday. "I worked so hard to get people to understand 'water is critical for our future, and we did not have enough,'" Nielsen said. "The Delta is only part of California's water. I told them that East, West, North and South of the Delta also had water issues and scarcity. Even coastal legislators recognize this now."

Sen. Nielsen also said he worked very hard to get "Humans have a human right to water" in the water bond statute. "But this administration is ignoring this," Nielsen added.

Sen. Nielsen explained, "When there's adequate water in Lake Oroville, Hyatt (hydroplant) can generate up to 900 megawatts of electricity. Typically, it produces 450 megawatts – enough to power 800,000 homes. However, due to the record low water levels, only 10 megawatts of electricity were being generated, which is why the decision was made to take it offline."

Continued on Page 6

Infrastructure Bill (Cont.)

from electricity generation, will not accomplish anything meaningful according to Joe Biden himself.

There are many more millions and billions for replacing water pipes, subsidizing electric vehicle charging stations, carbon capture and storage, electric buses and ferries, railroads that still can't pay for themselves and much more.

More than just a waste of money, the bill's spending has insidious strings attached to advance the green agenda.

So-called "carbon reduction" provisions in the bill will use federal funding to coerce states into coercing metropolitan areas into forcing drivers out of cars and into public transportation.

The bill aims to "reduce traf-

fic congestion" not by building new roads and bridges but by "facilitating the use of alternatives to single occupant vehicle trips, including public transportation facilities, pedestrian facilities, bicycle facilities, and shared or pooled vehicle trips within the State or an area."

State and local governments will have to "update" their anti-car plans every four years.

There may be more similar provisions in the bill. But there's only three more days to uncover them.

Republicans appear to have been bought off to some extent with provisions to do studies on hot button issues.

The bill calls for the Biden Department of Energy to review impacts of the President Biden's

decision to kill the Keystone XL pipeline. I wonder how that will turn out.

Then there's the mandated study of the role of Chinese slave labor in the electric vehicle value chain – rather than the solar panel value chain where the slave labor is actually relied on.

The issue with China and electric vehicles is the dependence of electric vehicle on rare earths mining and processing in China, not slave labor. But the Senate is in too much of a rush to even understand what it is ordering.

What is the hurry to waste money, reduce our standard of living, conduct bogus studies and who knows what else?

I doubt our Founding Fathers intended any of this and there is no evidence any voters did. □

CA Reservoir (Cont.)

As for energy, Nielsen said the Biden administration has added to California's energy woes by further dismantling the natural gas pipeline and calling for the end to natural gas production in the U.S. "Wind and solar never suffice... we're in trouble," he added.

Because so much of Sen. Nielsen's district is on fire, he is gravely concerned where the water to fight fires will come from. "The super scoopers used by pilots – it may be too dangerous" (to attempt to scoop water from certain reservoirs)... "they are too low," he added.

Today we see that the San Luis Reservoir is dangerously low.

Sen. Nielsen said with so many in his communities needing water to be trucked in because of the wildfires, there have been no truck drivers to truck the water in, and several gas stations even ran out of fuel.

"Where will the water come from?" Nielsen asked.

Sen. Nielsen said in his West Counties and Yolo County North, domestic wells are drying up. And with agriculture wells also drying up, "you lose your crop." Nielsen said even if farmers can get someone to agree to come out and drill the ag well, they are booked well into October.

"I'm very concerned this drought will last into next year," Sen. Nielsen said.

"In April, California Gov. Gavin Newsom held a press event in Oroville, with a 60% empty Oroville Dam Reservoir as his backdrop, and said he was not ready to declare an official drought emergency – despite that the previous two weeks 91% of Delta inflow went to the sea, state pumps were at -97%, federal pumps at -85%, and outflows showed 6,060,828,600 gallons. Since April, Oroville has been drained almost

dry," the Globe recently reported.

As for Lake Shasta Reservoir, in June 2019 Shasta held 4.4 million acre feet of water in storage. An acre foot of water is enough to supply 10 people for a year, said Central Valley farmer and water expert Kristi Diener, who runs the California Water For Food and People movement. □

E&E Legal Letter is a quarterly publication of the Energy and Environment Legal Institute (E&E Legal). The publication is widely disseminated to our key stakeholders, such as our members, website inquiries, energy, environment, and legal industry representatives, the media, congressional, legislative, and regulatory contacts, the judiciary, and supporters.

Energy & Environment Legal Institute
1350 Beverly Rd., Suite 115-445
McLean, VA 22101
202-810-2001
Info@eelegal.org
www.eelegal.org