



Letters

Fall 2021

Biden EPA Sued for Illegally Stacking Science Advisory Panels

by Craig Richardson, President
Press Release, 10/7/21



E&E Legal's Steve Milloy Similarly Sued Obama's EPA and He Helped Usher in EPA Transparency Reforms During Trump Administration

On October 7, 2021, the U.S. Environmental Protection Agency (EPA) science advisory panels once again came under scrutiny for their cronyism and inherent conflict of interests with a suit filed today in United States District Court for the District of Columbia by S. Stanley Young, Ph.D. Young, a CEO of CGStat, was serving as an EPA advisory committee board member when he and his colleagues were purged by the incoming Biden Administration in March 2021 and replaced by members who have received millions of dollars in EPA grants.

The law governing the formation of the advisory committees requires that EPA seek scientific advice from an independent and balanced panel of qualified

scientists as part of its policy-making process. In May 2016, the Energy & Environment Legal Institute (E&E Legal), led by its Senior Policy Fellow Steve Milloy, filed a similar suit regarding the EPA's Clean Air Scientific Advisory Committee Particulate Matter Review Panel for 2015-2018.

In a press release regarding the suit, Milloy said at the time, "The EPA has stacked the panel, which is required by law to be independent and unbiased, with researchers who have received over \$190 million in discretionary grants from the EPA. This clearly violates the law and makes a mockery of the notion of 'independent' scientific review."

As a member of President Trump's Transition Team for the EPA, Milloy helped usher in a series of reforms that aimed to clean up the cronyism and rubber stamping that occurs when members of these important scientific advisory panels are also receiving millions of dollars in grant money from the very same agency.

Based largely on Milloy's work, in October 2017, then EPA Administrator Scott Pruitt announced a new directive aimed at ending the practice of advisory committee members feeding at the same trough they're supposed to be advising. In a statement announcing the directive,

Continued on Page 6

In This Issue

Derailing Biden's EPA climate railroad



Steve Milloy reports that one of Biden's first EPA acts was to return to cronyism regarding CASAC.

Page 2

Playing games with dying forests



Greg Walcher writes how the poor job that the Feds are doing managing the nation's forests caused greater destruction in 2020.

Page 3

CA Ranks #1 in Gas Prices



Katie Grimes reports that the California with its crazy environmental regulations now leads the nation in terms of gas prices.

Page 4

Left's Use of Climate to push Communism



Steve Milloy writes that the Left's use of climate has never been about the environment, it's about making America Communist.

Page 5

Milloy Rebukes Tornado Climate Narrative



The Left never misses an opportunity to link weather tragedy to 'climate change,' and Steve Milloy took to the airwaves to set the record straight.

Page 6

Derailing Biden's EPA climate railroad

by Steve Milloy, Senior Policy Fellow

As Appearing in the *Washington Times*



Statistician S. Stanley Young has just sued the U.S. Environmental Protection Agency, alleging it has illegally stacked a legally required panel of independent science advisors with agency cronies. Past the issue of complying with the law, the lawsuit's outcome could very well determine whether the federal government can, through the back door, regulate greenhouse gas emissions on a state-by-state basis.

The Clean Air Act requires that, when setting air quality standards, EPA seek the advice of a panel of experts known as the Clean Air Scientific Advisory Committee (CASAC). When Biden EPA administrator Michael Regan assumed office earlier this year, one of the first things he did was abruptly and without cause fire by terse email all the members of all EPA's science advisory panels, including CASAC. Administrator Regan also announced he was jettisoning conflict-of-interest rules (instituted by the Trump EPA) barring science advisors from being current or recent recipients of EPA grants.

Dr. Young, serving at the time on EPA's Science Advisory Board (SAB), was one of those terminated advisors. When EPA announced it would seek nominations to reconstitute CASAC and the SAB, Dr. Young was renominated to both but was not selected to either by the agency. Instead, EPA opted to fill the positions mostly with academic researchers with financial ties to EPA. On the seven-member CASAC, five are EPA grantees.

The new chairman, Dr. Lianne Sheppard of the University of Washington, has received over \$60 million in EPA grants. Other notable grantees include Yale University's Dr. Michelle Bell (\$29 million in grants) and the University of Rochester's Mark Framp-ton (\$36 million in grants).

Most importantly, however, all seven CASAC members are likely to have the same point of view (identical to the agency's) on the available science regarding fine particulate matter (dust or soot known as PM2.5) in outdoor air. This is particularly important because President Biden's EPA has already announced that it would be revisiting President Trump's decision to leave the federal air quality standards for PM2.5 at the level set by the Obama administration.

This decision was supported by the CASAC's majority view in 2019 that the case to tighten the standards was essentially junk science.

What's PM2.5 got to do with climate? Scientifically, little if anything, except that the combustion of fossil fuels results in emissions of both carbon dioxide and PM2.5. So regulatory-wise, PM2.5 could be a key means for EPA to control carbon dioxide emissions use across the country.

The Clean Air Act requires that EPA establish national air quality standards for PM2.5. States that do not attain these standards risk losing federal highway funding at EPA's discretion. The current PM2.5 standard (12 millionths of a gram per cubic meter of air) is stringent but easily attainable in almost the entire country. When the CASAC last reviewed the PM2.5 standard as required by law in 2019, it was pressured to advise that the PM2.5 standard should be tightened from 12 to as low as zero – that is, an impossible goal of no dust or soot in the air. The CASAC rejected that as without a scientific basis and left the standard at 12.

Now the agency wants to tighten the PM2.5 standard. However, it has no scientific basis for doing so because of the most recent CASAC review. Rather than fighting the CASAC panel, the Biden Administration simply purged the existing members and installed more pliable members. The agency will have its crony-filled CASAC rubber-stamp the agency's already-determined conclusion to tighten the standard, which could go as low as zero.

Depending on where the EPA sets the PM2.5 standard, many or even all states will fall out of attainment and compliance with the Clean Air Act, handing EPA vast control over economic development in non-attainment areas. That control could include banning new or existing power and manufacturing plants, control over highway use and construction, and even control over agricultural production.

During 2009-2010, the Obama administration and a Democrat-controlled Congress tried to saddle the country with climate regulations in the form of a cap-and-trade system. That effort failed, but the anti-coal Obama administration had a backup plan – EPA regulation of PM2.5 emissions from coal plants that bankrupted most of the industry. Eleven years later, we are in a similar situation. Climate legislation being pushed by a Democrat President and Democrat-controlled Congress is struggling. But it may not matter because EPA, with the aid of CASAC, could once again turn PM2.5 into a regulatory weapon to achieve legislative goals on climate that are otherwise floundering.

Given that no federal court, including the Supreme Court, is likely to second guess CASAC's view of PM2.5 science, regardless of how off base it is, the only thing standing in the way of the Biden administration and the dire scenario laid out could very well be Dr. Young's lawsuit. □

Playing games with dying forests

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



Folk singer Don McLean ended “Vincent,” his classic 1972 tribute to Van Gogh, with the line, “They would not listen, they’re not listening still — perhaps they never will.”

The song was about the post-impressionist painter, but that line is often used in political debates. It resonates when one watches Congress continue to play political games while the national forests die, collapse and burn.

In 2020 there were 58,950 wildfires, according to the National Interagency Fire Center. Over 10 million acres burned, more than double the damage of the previous year, and almost 6 million more acres have burned so far in 2021. More than half of those acres are on national forests, lands managed by the U.S. Forest Service. Congress is anxious, not to prevent the fires and restore healthy forests, but to create the illusion of such action.

Responding to public outrage about the catastrophic fires in California this year, the House Subcommittee on Conservation and Forestry held highly-publicized hearings. The new Forest Service Chief Randy Moore testified fairly bluntly, “We must actively treat forests. That’s what it takes to turn this system around.” It is the same point his predecessors have been making to Congress for 20 years. Namely, that restoring healthy forests requires chain saws, not committee hearings.

The trouble is, there are not enough chain saws left, metaphorically speaking. Congress has hamstringed the Forest Service with budget and process nightmares, which have all but eliminated the tradition of professional management, in cooperation with industry partners. Timber sales have essentially vanished from the agency’s toolbox, leaving no good way to thin forests of the brush, grasses, weeds and massive unnatural overgrowth that results in these catastrophic fires. Professional forest managers are left with almost no way to “actively treat” the forests, because Congress has imposed requirements for unwieldy environmental analyses and cumbersome procedures — and refused to impose any limit to the appeals and lawsuits that routinely delay decisions for years. As a result, thousands of sawmills that were once partners in the careful management of national forests went broke.

Now that increasing numbers of voters realize the appalling extent of the forest health problem, Congress is all over the issue, throwing billions of dollars at wildfire mitigation and forest management. It’s important enough to include it in the \$3.5 trillion spending spree being debated in Congress. The Senate’s “Bipartisan Infrastructure Framework” includes \$6 billion for hazardous fuels reduction, while the House version includes \$14 billion. But in the fine print, the money is so restricted that it will make the situation worse, demonstrating that Congress is more interested in political games than forest health.

Specifically, \$10 billion of the \$14 billion total would be restricted, should the bill pass as written, to management inside the “wildland urban interface” (WUI) — places where the forest is immediately adjacent to homes and communities.

Only \$4 billion could be used in the entire rest of the landscape, even though Congress knows this is a landscape-scale problem. There are tens of millions of acres in dire need of “active treatment” from New Mexico to Montana, only a small fraction of which meet the WUI criteria. Such a restriction, for example, rules out active management on Grand Mesa, Uncompahgre, and Gunnison National Forests, along with most of the White River, Routt, San Juan and Rio Grande. Even worse, the House legislation prevents spending that last \$4 billion until every single acre of the WUI has been “effectively treated to prevent the spread of wildfire.”

A 2019 insurance industry wildfire risk analysis said that 4.5 million homes in the U.S. are at high risk from wildfires, more than half of them in California. The proposed legislation makes it obvious that at least some in Congress don’t care if the rest of the national forests burn down, as long as the nightly news doesn’t show California homes burning.

If that weren’t enough to show they are playing games with our national forests, the legislation restricts any management activities outside the WUI to “non-commercial” projects, meaning timber sales cannot be part of the solution. There are few timber companies left to do the work anyway, and no business will invest in building new mills without some assurance of future timber contracts. That is an assurance the Forest Service cannot give, without assurances from Congress of future funding for the timber program.

While the public becomes ever more frustrated about dead, dying and burning forests, Congress plays political games. They’re not listening still, perhaps they never will. □

California Ranks #1 For Highest Gas Prices in Nation

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



Gov. Newsom issued executive order to ban fracking and oil extraction

The national average price for a gallon of gasoline rose six cents over the past week to hit \$3.38, according to AAA. California has the highest average cost for regular grade gas at \$4.54 a gallon, \$4.745 for mid-grade unleaded, \$4.871 for premium unleaded, and \$4.684 for diesel.

While the average price for a gallon of regular gas is already high at \$4.54, drivers are paying as high as \$8.49 in some California cities. Hawaii is second to California at \$4.292 per gallon.

Oklahoma has the lowest gas price at \$3.020 with Texas at \$3.040.

“The pump price has gone up every day in the past 27 days, adding approximately 20 cents to the cost of a gallon of gas,” AAA said. Boom. This is why elections matter.

What is driving the gas prices up besides California’s environmental regulations, Gov. Gavin Newsom’s executive order banning fracking and oil extraction, and the Biden administration cutting off the Keystone Pipeline?

“The recent rise in the pump price is due to higher demand coupled with a decline in stocks alongside elevated crude prices,” AAA reports. “Global oil production is still below pre-pandemic levels. According to new data from the Energy Information Administration (EIA), total domestic gasoline stocks de-

creased by 5.4 million bbl to 217.7 million bbl last week. However, gasoline demand increased from 9.19 million b/d to 9.63 million b/d. Since the cost of oil accounts for more than half of the pump price, consumers will be paying more as long as crude prices remain high.”

“Today’s national average of \$3.38 is 20 cents more than a month ago and \$1.22 more than a year ago, and 77 cents more than in 2019.”

AAA reports:

- The nation’s top 10 largest weekly increases: North Carolina (+14 cents), Florida (+14 cents), Arizona (+12 cents), Rhode Island (+11 cents), New York (+11 cents), New Hampshire (+10 cents), Connecticut (+10 cents), New Jersey (+10 cents), Pennsylvania (+9 cents) and Texas (+9 cents).
- The nation’s top 10 most expensive markets: California (\$4.54), Hawaii (\$4.26), Nevada (\$3.92), Washington (\$3.87), Oregon (\$3.78), Alaska (\$3.72), Idaho (\$3.71), Utah (\$3.68), Washington, D.C. (\$3.57) and Pennsylvania (\$3.56).

Gov. Newsom has not only greatly expand environmental regulations in California, in September of 2020, Newsom signed an Executive Order banning new sales of gas-powered vehicles by 2035, the Globe reported. This was added to earlier this month with the Governor signing a bill that would enact a sales ban on gas-powered small motor machines such as lawnmowers and chainsaws by 2024. Another Executive Order signed in April by Newsom will also ban fracking in the state by 2024 and end oil extraction by 2045.

Backlash against the new order has already been severe, as the oil industry remains one of the

largest in the state and is still the seventh-largest crude oil producing state in the country, the Globe reported. One-third of all gasoline in California comes directly from oil extracted and refined in the state. Warnings of everything from losing thousands of jobs to higher prices for gas and other fuels due to a still-high need for them in the state and nationwide have been given by industry professionals and experts for years.

In September, House Democrats delivered on President Joe Biden’s calls to reform drilling for oil and gas on public lands and waters by raising costs on producers and imposing stricter regulatory requirements, the Washington Examiner reported.

“Democrats on the Natural Resources Committee, which oversees energy production on federal lands, voted 24-13 late Thursday to pass their portion of the party’s \$3.5 trillion reconciliation infrastructure and social spending package.”

The 117-page bill “contains a suite of provisions sought by Biden as part of his aggressive ambitions to address climate change. At the start of his presidency, Biden signed an executive order imposing an indefinite pause on issuing new oil and gas leases on federal lands and waters, a step toward fulfilling a major campaign promise to ban new leases altogether.”

“But he has since moved to restart leasing because of a court order that found the pause to be illegal.”

California Democrats on the House Natural Resources Committee are Congress members Josh Harder, Jim Costa, Raul Ruiz, Katie Porter, Mike Levin, Julia Brownley, Alan Lowenthal, Grace Napolitano and Jared Huffman.

California Republicans on the House Natural Resources Committee are Congress members Tom McClintock and Jay Obernolte. □

The left's climate path to remaking our society into a communist

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



A new UN climate report reveals why this fall could be the most decisive one for the future of America.

The report, entitled “Nationally Determined Contributions Under the Paris Agreement,” assesses progress in nations’ promises to cut emissions since the 2015 Paris Climate Accord. The keyword being “promises,” not actual emissions cuts.

According to the report, even if the 197 separate national promises to cut emissions were kept, emissions would still be 16% higher in 2030 than in 2010. But of course, nations are not living up to their promises to cut emissions. So in 2030, emissions will almost certainly be much greater than just “16% higher.”

The report illustrates that while politicians have been happy to promise to cut emissions, actual emissions cuts are not being undertaken. Why? Because emissions cuts are not really possible while maintaining and growing economies and standards of living.

For the past 30 years, climate alarmism has been fueled by its own propaganda. Cynical politicians, reacting to media and activist pressure, promise to cut emissions at distant points in the future. While the politicians get cheered by the media and activists for their so-called “climate ambition,” the promised cuts are so far off in the future that none of the promise-makers actually have to do the expensive and politically unpopular, if not impossible work of actually cutting emissions. For today’s politicians, the climate is all gain and no pain.

But here’s the often-overlooked key to this: More cynical than

the politicians are media and activists who don’t really care about actual cuts. They simply hope the pressure on politicians to panic on climate will lead to legislation and court orders that give the activists (aka the political left) the political power they seek to gain total control of our economy and society. Since the pandemic’s beginning, these same people aimed to not waste the crisis and move seamlessly from COVID-19 lockdowns into climate lockdowns so they could remake society into their communist Utopia.

But here’s the often-overlooked key to this.

More cynical than the politicians are media and activists who don’t really care about actual cuts. They simply hope the pressure on politicians to panic on climate will lead to legislation and court orders that give the activists (aka the political left) the political power they seek to gain total control of our economy and society. Since the pandemic’s beginning, these same people aimed to not waste the crisis and move seamlessly from COVID-19 lockdowns into climate lockdowns so they could remake society into their communist Utopia.

And here’s the really twisted part: Once the left is in charge of the economy and society, emissions cuts and climate hysteria will be forgotten about since, as the last 30 years have demonstrated, it won’t be possible to have any kind of society without fossil fuels and emissions.

George Orwell captured this hypocritical evolution from revolution to totalitarianism well in *Animal Farm* when, in the end, the farm animals’ slogan “Four legs good. Two legs bad.” was cynically converted to: “Four legs good. Two legs better.”

Getting back to President Joe Biden’s climate plans, America is now looking down the barrel of a massive spending bill (advertised as costing \$3.5 trillion but possibly really costing as much as \$5.5 trillion or more).

Although the spending is bad enough, the real threats are policy changes, especially for the climate.

By far, the scariest provision is the so-called “Clean Energy Performance Program” (CEPP) which represents a federal government takeover of the nation’s electricity grid.

The CEPP is a Rube Goldberg-Esque scheme worthy of the ever-goofy and blackout-prone California. It would both pay and penalize local utilities until they meet arbitrarily determined wind and solar power levels, none of which will have the slightest effect on climate or the weather. But that’s okay to Democrats as their actual goal is to gain control of and to wield power over the nation’s electricity supply, nothing else or less. The CEPP is nothing less than Critical Race Theory for electricity generation and transmission.

As Europe is demonstrating right now, the mindless push for renewables would be a disaster. In Germany and the UK, the expensive push for wind and solar power and the abandonment of coal for natural gas has pushed electricity prices to record highs amid an economy not fully recovered from the never-ending pandemic. UK factories are being shut down because of high gas prices. If the European winter is cold, high gas prices will result in more energy poverty and the existential choice for many of “heating or eating.” Europe may have to return to coal.

Mr. Biden held a “leaders” climate summit by Zoom on September 17. Only the leaders of three nations (out of the 197 that signed the Paris agreement) showed up – and none of them were the biggest emitter in the world, China.

No one is cutting emissions. No one is even showing up to talk climate with Mr. Biden. Why would we hand over the keys to our vital energy system to the (political) power-crazed just as climate alarm is failing right before our eyes? □

Milloy Hits Back Against Fake Tornado Climate Change Narrative



Steve Milloy Pushes Back Against Biden and Complicit Corporate Media's Fake Narrative That Recent Tornadoes in the Midwest and South are the Result of Climate Change

"Rules for Radicals" author and 1960s agitator Saul Alinsky famously said, "never let a crisis go to waste." A hero to Hillary Clinton, Barack Obama, and many other modern Leftists, it's not surprising that Alinsky's strategy is now front in center in pushing an extreme agenda by the Biden Administration, many in the House and Senate, and most powerfully, a corporate media struc-

ture determined to provide non-stop scare coverage.

Severe weather events are a favorite "go-to" these days to push the "sky is falling" climate change agenda. The recent tragic tornadoes that brought death and destruction to many in the Midwest and South are just the latest examples of not letting "a crisis go to waste."

E&E Legal Senior Policy Fellow and Junkscience.com Founder Steve Milloy took to Twitter and the media to interject some rational scientific discourse into the outrageous hysteria spewed by the Left.

In the aftermath of the tragic storms, Milloy Tweeted:

Climate ambulance chasers already linking tornado outbreak to global warming. Despicable propaganda. December tornado outbreak hit the Midwest in December 1957 — 64 years and 100 ppm CO2 ago.

The Tweet was picked up by Townhall.com among other media outlets. Was that 'climate change', too?

On December 13, 2021, Milloy was quoted in the *Daily Caller* as follows: "The first thing the alarmists think of is, 'how can we use this to advance our agenda?' That's what they do nowadays. Every bad piece of bad weather is global warming."

Appearing on the Lars Larson radio show on December 15, 2021, Milloy noting that December storms are rare, however, pointed to 1957 fatal mid-December storms that "ripped through the Midwest. "There's no relationship between warming and CO2 emissions and tornado frequency and tornado intensity...It's really unfortunate that the Climate activists' tool box whenever there's a real tragedy, the first thing they think of is, "how can we advance our political agenda?," he concluded. □

Biden's EPA Sued (Cont.)

Pruitt noted the directive was to "ensure the independence and transparency and objectivity with respect to the scientific advice that we're getting at the agency."

With a return to Soviet-Style governance, it didn't take Biden long to undo the reform efforts of the Trump Administration. In March 2021, the new EPA quickly returned to its old ways and got rid of all of its independent external science advisers, one of whom was Dr. Young. As Milloy noted last month, the EPA "has gone back to its old practice of stocking its peer review boards with agency research grant-recipient cronies who can be counted on to rubber-stamp whatever EPA wants to do. The Biden EPA most recently announced the particulate matter (PM) subpanel for the Clean Air Scientific Advisory Committee (CASAC)...17 of the 22 members are

current and/or former EPA grantees."

Regarding the Young suit, Milloy said, "Dr. Stan Young and other applicants were rejected by EPA from panel membership not because they are unqualified, but because they have points of view that might jeopardize EPA's pre-determined policy plans. The EPA policies at stake rely on of the agency's most potent regulatory powers and will have major economic and social ramifications for America." He added, "The notion that these policies will not get the independent and balanced review Congress intended for them to have is simply outrageous."

Concluded E&E Legal President Craig Richardson, "When you're intent on destroying the U.S. economy using environmental regulations to eliminate cheap and affordable energy production – while allowing China unlimited access to these very power sources – the last thing you want is an independent and transparent group of

scientists watching over the planned demolition. The court system is the last avenue left standing between the U.S. and socialism and hopefully, it will act in the way our country's founders intended." □

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