



# Letters

Summer 2022

## SCOTUS Has Crippled Biden’s EPA, But There’s Only One Way To Stop Them

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



The Supreme Court has just essentially ended the Environmental Protection Agency’s (EPA) ability to directly regulate greenhouse gases. But don’t expect the Biden EPA to let that stop it.

Today’s decision in *West Virginia v. EPA* puts an end to the agency’s scheming over the past 24 years to invent its own authority to regulate greenhouse gas emissions.

This scheme culminated in 2015 with the Obama EPA’s “Clean Power Plan,” through which it planned to reduce the amount of coal burning by electric utilities.

In combination with other Obama EPA activities that comprised its infamous “war on coal,” the Clean Power Plan helped send virtually the entire U.S. coal industry into bankruptcy, killed 50,000 high paying coal jobs and devastated coal industry dependent communities.

But the Court has now held that the Clean Power Plan was illegal.

“Congress didn’t grant EPA... authority to devise emissions caps based on the generation shifting approach the Agency took in the Clean Power Plan,” a 6-3 majority wrote.

Expanding on this point, the majority wrote, “We cannot ignore that the regulatory writ EPA newly uncovered conveniently enabled it to enact a program that, long after the dangers posed by greenhouse gas emissions had become well known, Congress considered and rejected multiple times.”

As someone who worked in the coal industry during the Obama years and witnessed first-hand the hardships caused by the rogue Obama EPA, my first reaction is:

“Where do coal industry investors, employees and communities go to recoup their losses caused by illegal government activity?”

Although today’s Court holding is technically limited to vaporizing the Clean Power Plan, it’s hard to see how any EPA regulation of greenhouse gases is legal since Congress never authorized such regulation.

Will the Biden EPA care? Not likely.

It will now turn to other schemes to regulate greenhouse gases, especially through air quality regulations involving

*Continued on Page 6*

### In This Issue

#### CA To Ban Gas Cars in 13 Years



Katie Grimes provides an update on CA’s recent absurd decision to ban the sale of gas powered cars in just 13 short years.

Page 2

#### Gasoline has nothing to do with fire



Greg Walcher reports how environmental extremists don’t understand that proper forest management is the answer to eliminating costly and deadly forest fires.

Page 3

#### Biden is exacerbating America’s energy crisis



Steve Milloy writes that one of the biggest hurdles to solving the energy crisis is Biden and his crazy leftist policies.

Page 4

#### ‘Extreme’ Weather Hysteria is Latest Crisis



Despite clear data showing that CA has experienced hot summer weather in the past, now any days with greater than 100 degrees brings out the chicken littles and their hysterical claims that this is something new and related to “climate change.”

Page 4

#### SCOTUS EPA Decision Can’t Stop Rogue Agencies



The celebration over the reasonable SCOTUS EPA decision was short lived as rogue federal agencies continue to push their destructive agenda regardless of the court’s decision.

Page 5

## CA to Ban the Sale of Gas Powered Vehicles in just 13 Years

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



*Lawmakers and governor abdicate legislative power to California Air Resources Board of political appointees*

In California politics, the left hand doesn't know what the right hand is doing, and they don't seem to care. California will ban the sale of all gas powered vehicles in the state in just 13 years, replacing them with electric vehicles. State lawmakers and the governor are abdicating their legislative power to California Air Resources Board of unelected political appointees to issue the ban.

California is the largest auto market in the United States.

"California energy officials on Friday issued a sober forecast for the state's electrical grid, saying it lacks sufficient capacity to keep the lights on this summer and beyond if heatwaves, wildfires or other extreme events take their toll," US News reported in May.

It is August 25th in California, which means hot summer weather in many locations. Notably, PG&E cut the power for residents Wednesday East of Sacramento. California's electricity grid is tenuous at best.

Californians are so bombarded with one narrative on "clean vehicles" and "climate change" that many are unaware that there are alternative clean energy sources, or automobile options other than electric vehicles, including clean, technologically efficient gasoline-powered cars that don't generate carbon dioxide.

Despite this, in September 2020, using his emergency authority during the Covid crisis, Governor Gavin Newsom issued an executive or-

der requiring sales of all new passenger vehicles to be zero-emission by 2035 and "additional measures to eliminate harmful emissions from the transportation sector." Prior to his executive order, California was aiming to eliminate internal combustion engine autos by 2050.

The Governor's Executive Order also addressed "closure and remediation of former oil extraction sites."

Michael Shellenberger, energy expert, author and former gubernatorial candidate has been warning of the dire consequences of banning oil and gas and moving to an all-electric energy grid. Shellenberger posted his message in a Tweet Thursday:

"20M US homes behind in gas & electricity bills; 50% of UK households pushed into energy poverty; Fertilizer plants closing down Governments considering price controls; All because Western elites refuse to produce more natural gas, which is abundant and should be cheap."

It really is that simple.

California should be leading the entire United States promoting an "all-of-the-above" energy strategy: oil and gas, nuclear, wind, solar, hydroelectric and biofuels.

In a 2020 California Globe interview, Tom Tanton, E&E Legal's Director of Science and Technology Assessment said the push to electrify everything is a key component of the national Green New Deal. However, his study focused solely on the cost of energy electrification – which is almost worse given the potential costs.

He said his study was intended to open a dialogue to discuss what it will take to achieve total electrification, as well as to show that "it's pretty damn expensive."

"The estimate for annual energy expenses directly and indirectly paid by households will likely increase by at least \$5,000 per household. Annual consumer expenditure for energy would roughly double," the report found.

According to the report, electrifying the entire nation, with a goal of eliminating the direct consumption of fuel and reducing climate change emissions, would cost between \$18 trillion and \$30 trillion in first costs. Going all renewable, says Tanton, will force costs to the high end of the range – \$30 trillion.

"The US currently derives about 35% of its electricity from natural gas but have also nearly doubled their use of renewable fuels in the past decade, from 9% to 17%, according to the EIA," the report says. "This growth however doesn't account for the electricity generated from non-renewable sources during periods of peak electrical demand. Whether it is peak load or normal operating times, policy makers must understand how the variables in utility operation impact the fuel availability and cost."

In 2021, the Globe also spoke with energy expert Jesus Arredondo about the California Public Utilities Commission white paper, Utility Costs and Affordability of the Grid of the Future – California electric and gas cost and rate trends over the next decade, warning that "the burden of continually rising utility bills will likely derail California's decarbonization work if left unaddressed," according to Arredondo.

California's "decarbonization work" is the state's and CPUC's flawed scheme to reducing greenhouse gas emissions through moving to an all-electric grid, away from oil and gas, coal, hydroelectric and nuclear power.

So, what happens to the electricity grid and tiered pricing when Gov. Gavin Newsom's mandate of all-electric cars becomes reality by 2035?

It will likely be a lot worse if the current course is maintained.

Arredondo explained that the daily optimum solar energy generation time is 10:00am to 4:00pm. But the sun goes down right when most people get home from work and would plug the electric cars in. Besides the all-electric

*Continued on Page 6*

## Gasoline has nothing to do with fire

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



A couple of weeks ago a letter to the editor appeared in this paper and six others around the state, asserting that “Removing trees from Colorado forests will not prevent wildfires from burning.”

Really? As if removing all the wood from a campfire would not help put it out?

The letter was written by a guy identifying himself with the Eco-Integrity Alliance, a small new group that calls itself an “alternative to a mainstream environmental movement that has lost its way.” They have to say that, because even the “mainstream environmental movement,” which spent decades stopping professional forest management and killing the timber industry, now understands the dire need to return to active management in the wake of massive unnatural catastrophic forest fires. Even the most dedicated environmental industry leaders would not claim that removing gasoline from a fire would have no effect on it.

That’s why Colorado’s democratic Senators Bennet and Hickenlooper, and Boulder Congressman Joe Neguse, pushed to include \$3.3 billion in last year’s Biden infrastructure bill for wildfire risk reduction — including significant funding for the Forest Service to clear overgrown forests. The letter writer made fun of the congressional delegation for that, saying

such management would destroy “our carbon-storing forests, which are living climate buffers that also give us clean air and water, flood and erosion control, and fish and wildlife habitat.” That is all true, but only for healthy forests — not the dead and dying forests that span the Rockies from New Mexico to British Columbia. It is not true of three million acres of dead trees in Colorado, nor of the 100 million acres of national forests that have burned in the last 20 years. No, those disasters gave us polluted air and water, mass erosion and flooding, dead fish and wildlife.

The letter is also posted on the group’s website, where its author says, “We think the discussion needs to go from simply logging industry propaganda to these points that we’re making.” It is beyond ironic (perhaps disingenuous) to suggest our national forest health crisis and the nearly unanimous call for active management is “logging industry propaganda,” since there is almost no logging industry left. I used to attend conventions of the Colorado Timber Industry Association held in large hotel ballrooms. Today the few members left meet in one corner of a small restaurant. California, which has experienced the worst fires in western history, lost over 900 sawmills in a decade, and has almost no industry left with which the Forest Service and BLM can partner to restore healthy public lands.

Rather than return the forests to a more natural density and age structure, and clear the unnatural overgrowth in the understory, which leaders on both sides of the political aisle now advocate, the writer suggests two “simple actions.” First, make homes “Firewise, tend-

ing an area up to 100 feet around a structure, installing metal roofs, etc.” Homeowners should protect their property, yes, but that has nothing to do with protecting the forest. The discussion is off track whenever it veers onto the health of the logging industry, jobs in rural communities, or the safety of homes, all of which are related important topics. But scientific forest management should be about the health of the forest and what that requires. Second, he writes that we must “preserve our carbon-storing forests,” which is hard to do when they are dying, falling down, rotting and burning.

Reasonable people can disagree about the cause of the problem, as some blame the lack of management while others blame climate change. Frankly, there is truth on both sides of that argument, but the question ought to be, what should we do about it now? This letter writer advocated greater use of prescribed fire as an alternative to logging, though he pointed out at least two massive fires that were started by prescribed fires that burned out of control. That wouldn’t happen if massive fuel loads were not there to burn. More to the point, wood stores carbon long-term, whether it is standing in trees or as studs in your house. When wood burns, it releases that carbon into the atmosphere, so fire is not the best management choice for mitigating climate change.

If you think reducing fuel in the forests would not help prevent fires, you might also think picking up a banana peel would not prevent slipping, running out of gas would not make us late to the party and removing food from our plates would not help our waistlines. □

## Biden is exacerbating America's energy crisis

by Steve Milloy, Senior Policy Fellow

As appearing in the *Washington Examiner*



"I guarantee you — I guarantee you — we are going to end fossil fuel."

So said then-candidate Joe Biden to environmental activists at a campaign rally in 2019. The president has yet to deliver on his promise to turn the entire U.S. energy system on its head, but given the record high gas prices at the fuel pump, he's certainly made driving and powering homes punitively unavailable to low-income households.

The administration is keen on blaming the war in Ukraine for the hardships people are facing. This attempt is window dressing at best and blatant misinformation at worst. While European nations are heavily reliant on Russian gas in particular, the United States only used to get about 8% of its supplies from Russia. Most crude oil is imported here from Canada. Indeed, even Mexico is more important for America's oil trade than President Vladimir Putin's Russia.

Another striking difference with most European nations is the fact that the U.S.

has its own oil reserves. In theory, this would mean more energy independence. However, oil drilling permits have been cut by more than half since Biden came to office. Biden says oil companies should feel encouraged to increase capacity. But the industry has hit back by revealing how the Biden administration delays its activities through actions such as initially banning and then slow-walking lease sales on federal land or making drilling permits more difficult to obtain.

Washington is eager to point to the fact that companies fail to use a number of permits while conveniently leaving out that the government also regulates the use of the drillings and associated costs in certain areas, making a large section of them useless in practice. When Biden's energy secretary, Jennifer Granholm, was asked how the U.S. plans to increase oil production, she laughed out loud. The public isn't laughing with her.

Curiously, even the Europeans have picked up on the notion that the U.S. holds the cards in the not-so-global race to ramp up energy production. French President Emmanuel Macron deliberately chose a walk at the G-7 to corner Biden in front of TV cameras and microphones, alerting him to the fact that Gulf nations will probably not increase their oil-pumping capacities. These are facts that Washington must be well aware of, making the stunt politically decipherable: Macron told Biden that the U.S. must step up and export

more oil to strategic allies.

Biden is thus faced with a decision that will mark his presidency in the history books.

In a bid to win over the environmentalist wing of his own party, he chose to stack his administration with figures who wanted to see the fossil fuel industry go out of business entirely. Saule Omarova, at one point Biden's nominee for the Office of the Comptroller of the Currency, said about fossil fuel companies: "A lot of the smaller players in that industry are going to probably go bankrupt. At least we want them to go bankrupt if we want to tackle climate change." Omarova, who was born in Kazakhstan back when it was part of the Soviet Union, tweeted in 2019: "Say what you will about (the) old USSR, there was no gender pay gap there. Market doesn't always 'know best.'" Omarova had thus become nonviable for the Biden administration, presumably because she said the quiet part out loud.

Regardless, the U.S. needs to ramp up its oil production drastically, not merely for the sake of the public but also to provide strategic support to our allies. If ever there was a moment in which American oil reserves provided a lifesaving advantage to this country, be it to tackle fading purchasing power and show geopolitical strength, it is now. The president needs to give up on his environmentalist daydreaming and cut red tape for oil drilling in this country. □

## 'Extreme' Weather Hysteria is Latest Crisis

by Katie Grimes, Senior Media Fellow

As appearing in the *California Globe*



*Soft lockdown: The parks were closed due to the forecasted heat wave*

It was 105 degrees in Sacramento Sunday. Today it could be 111 degrees. This is what is known as hot summer weather in California. We native Californians also know this is normal.

As a kid, I remember such hot Sacramento summer days, I couldn't walk barefoot on the sidewalks.

But no one cautioned us to "be safe." In fact, back when I was a kid, parents told us to put shoes on and to stop being stupid.

This is Sacramento weather in 1972 – notice the 114 degrees on July 14, 1972...

In 1973, the hottest temperature in

Sacramento was 107 degrees. By 1975, it was back up to 113 degrees. In fact, between 1972 and 1992, over 20 years, every summer in Sacramento was in the triple digits, and there were four summers hotter than 110 degrees.

In 1996, it was 110 degrees in Sacramento. In 2002, it was 110 degrees. In 2006, it was 111 degrees. In 2017 it was 110 degrees. In 2020 it was 112 degrees in Sacramento. Last summer in Sacramento, temperatures reached 109 degrees. The point is, every summer in the Sacramento region, temperatures are hot – 104 up to 113 degrees. The standard appears to be 104 to 108 degrees – really hot.

Radio and television weather reporters are now medical professionals telling us how to be safe under these "extreme" heat conditions:

- drink fluids
- stay inside
- stay hydrated
- stay in an air-conditioned room
- stay out of the sun

Even my dogs are smart enough to stay out of the sun.

The Sacramento Bee has an article today hyping the heat and fear mongering:

How can Sacramento heat turn fatal? What to know with temps headed to 110 degrees

The Bee claims this weather is a "record-breaking heat wave," and has "forced many residents indoors this holiday weekend."

I beg to differ. It's not record-breaking, and I saw a street fair outdoors yesterday when temps reached 105 degrees...

Despite headlines claiming "record breaking heat," when interviewed, weather officials say it "may" be record breaking.

"This heat may be record breaking and will likely produce a very high heat illness risk," the Los Angeles-area weather office wrote.

The torrid conditions will be caused by high pressure that was already pushing into the state and making it difficult for onshore flow of marine air.

"These trends are forecast to continue and will likely set up (a) prolonged and likely dangerous heat event," the office said...

This heat we are having across the West Coast is hot summer weather – really hot weather. Yes, it can be dangerous for some people outside, but we hope California's energy providers can keep the power on. □

**SCOTUS pulled us off the ledge, but rogue agencies are still a problem**

by Steve Milloy, Senior Policy Fellow

As appearing in the *Washington Examiner*

As climate activists wail in the wake of the setback to their agenda recently delivered by the Supreme Court in its *West Virginia v. EPA* decision, the rest of us should be grateful that the costly and out-of-control federal bureaucracy can now be reined in earlier and more easily.

The court ruled the Obama administration's EPA did not have the authority from Congress to issue its Clean Power Plan, a set of regulations essentially placing the EPA in charge of how electricity is generated in the United States. The court gave voice, for the first time, to the "Major Questions Doctrine," under which federal agencies must have clear congressional authorization before issuing rules having major societal impacts.

It's just too bad this doctrine and decision didn't come seven years ago, when the Clean Power Plan was first issued. It was costly then, and we are still paying the price today for essentially illegal and unconstitutional regulation.

The Clean Power Plan was a key part of the Obama administration's war on coal, the rest of which could also use a Supreme Court review under the "Major Questions Doctrine." As such, it played a role in the destruction of about 50,000 high-paying coal industry jobs and tens of thousands of other support industry jobs, causing severe collat-

eral damage to families, communities, state tax revenues, and the coal industry itself, most of which was forced into bankruptcy.

Only now do we learn this damage was caused by unlawful government agency activity. So, just where do all these unjustly harmed parties go to recoup their losses caused by a rogue government?

But don't think that you aren't also paying some price today because you weren't in the coal industry then. You are, or soon will be, suffering in the pocketbook.

While the Obama EPA isn't responsible for the global energy crisis, its illegal war on coal has made it worse. In response to the oil and gas crisis of the 1970s, Congress unleashed the coal industry to reduce the amount of oil and gas burned to generate electricity.

Thirty years later, and without any authorization from Congress, the EPA wrecked the coal industry, making us more reliant on natural gas to generate electricity and more vulnerable to a global natural gas crisis. Now, amid tighter natural gas supplies, businesses and consumers are paying more for electricity generated by natural gas as well as the heating and cooking done with natural gas.

Skyrocketing gasoline prices are fueling much of the inflation that is now at 40-year highs in the U.S. This, too, is a product of the out-of-control executive branch. President Joe Biden came into the White House promising an all-of-executive-branch approach to implementing the climate activist agenda. This policy suppressed and depressed oil production and sent gasoline prices through the roof. Where was the congressional authorization for any

of these policies? There is none.

Gasoline prices are also high because over the last 40 years, the EPA has abused and exceeded its authority under the Clean Air Act to regulate oil refineries. The EPA has issued a never-ending stream of air quality standards that are pointlessly more stringent than what was permitted by Congress. These regulations have forced many refineries to shut down or consolidate. Other refineries have been Balkanized into geographically limited and inefficient blending boutiques.

None of this has anything to do with EPA's congressional mandate in the Clean Air Act to ensure that it "protects the public health with an adequate margin of safety."

The problem of unauthorized regulatory overreach is not confined to the EPA. With COVID, we experienced both the Centers for Disease Control and Prevention and the Occupational Safety and Health Administration exceed their congressional mandates with mask and vaccine mandates. The Securities and Exchange Commission is at this very moment attempting to rewrite the securities laws to give itself the authority to regulate corporations on climate.

And there is much more rogue bureaucratic activity out there.

In our system of government, the legislative branch is supposed to write the laws, while the executive branch implements them. If you want to change that, just get Congress to pass the needed legislation or amend the Constitution, a procedure that has been invoked successfully 33 times. That's no guarantee we won't get pointlessly expensive and ridiculous laws. But at least voters will have gotten what they voted for. □

## SCOTUS Cripples EPA (Cont.)

ozone and particulate matter (i.e., soot and dust).

As the Obama EPA reasoned and implemented in its war-on-coal regulations, greenhouse gas emissions from coal plants can be reduced as a collateral effect if limits are placed on the amounts of ozone-forming and particulate emissions that are allowed to be emitted from coal plants.

Although EPA does have clear authority to regulate those emissions, it has twisted the related science to the

point where it claims that no emissions from coal plants are safe for human health. This is patently and demonstrably false, but the Biden EPA doesn't care.

The only hope of stopping this illegal EPA scheme before more point-less damage is done to our country is a separate ongoing federal lawsuit. The case of *Young v. EPA*, which is pending decision in the U.S. District Court for Washington, D.C., could slow the agency's ability to regulate greenhouse gas emissions through the back door of ozone and particulate matter.

The plaintiffs in *Young v. EPA* have alleged that EPA illegally stacked its science review boards with agency cronies so as to rig the science related to ozone and particulate emissions. It's a decision that could be every bit as momentous as *West Virginia v. EPA*.

One thing is for sure. The EPA is essentially a gangster agency, scheming and thuggish in pursuit of its political goals.

SCOTUS has now reined in EPA a bit. But there is still much more to do. □

## CA to Ban Gas Cars (Cont.)

car goal sounding preposterous, the huge load on the grid after 4:00pm would be devastating.

In 2018, the approximate total number of automobiles registered in California was 15.1 million. Imagine adding even half — 7.5 million electric cars — to the electricity grid, which is already strained. “We are trading energy independence for dependence on Cobalt,” Arredondo said. “We don't have trees that produce Cobalt,” he added.

The continuing unsound decision-making to remove traditional power sources in California is what is behind the ever-increasing utility rates, among other silly notions from the good-idea fairies.

The State's three largest investor-owned utilities charge residential electricity customers much higher prices than are paid in most of the country—prices that are two to three times higher than the actual cost to produce and distribute the electricity provided.

“These high prices result from uncommonly large fixed costs that are bundled into kilowatt-hour prices and passed on to customers,” Arredondo explained. “These costs cover much of the generation, transmission and distribution fixed costs, as well as energy efficiency programs, subsidies for houses with rooftop solar and low-income customers, and increasing wildfire mitigation costs.”

“The report also points to compounding concerns over the high costs, particularly what the report calls the ‘inequity of their distribution.’ Specifically, the report says that as wealthier house-

holds transition to rooftop solar, the fixed costs are distributed through a smaller volume of kilowatt-hours delivered, raising the costs even more for remaining, lower-income customers.”

Electric cars have a dirty little secret: Every electric vehicle, and most hybrid vehicles, rely on large lithium-ion batteries weighing hundreds or thousands of pounds. Typically made with rare-earth minerals — cobalt, nickel, and manganese, among other components — these batteries are very expensive, costing thousands of dollars and aren't environmentally friendly, requiring ingredients sourced from polluting mines around the world, and contaminate soil and water. And in the Congo mines, children are used as slave labor.

The real dirty secret about electric cars is that they are being pushed on the US and Europe hard — by China, which has the most lithium resources and it has been buying stakes in mining operations in Australia and South America where most of the world's lithium reserves are found, according to the Institute for Energy Research.

Removing carbon directly from the atmosphere, rather than reducing emissions, can be accomplished by improving agricultural practice and enhancing the carbon storage of soil, Tanton said in the report. “A great deal of carbon, once in the soil, is now in the atmosphere. We have lost two thirds historical soil humus to the atmosphere, representing 476 gigatons of CO<sub>2</sub> and for a sense of perspective — all of mankind's other activities since 1860 have released

a total of just 250 gigatons of CO<sub>2</sub>. A mere 2% increase in the carbon content of the planet's soils could offset 100% of all greenhouse gas emissions going into the atmosphere.”

Tanton said that electrification will destroy decades of diversification by the market, tying consumers to a fragile yet monolithic electric grid. The electric grid is ill-equipped for extreme conditions, like extended heat waves or polar vortex cold snaps, without blackouts, as just happened in California. “The likelihood of outages will increase with the considerable increase in demand associated with electric cars, removing natural gas from buildings, and other electrification moves. Building a more robust grid to handle such extremes would add perhaps \$7 trillion to the costs.” □

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