

ENVIRONMENTAL ENGINEERING NEWSLETTER

16 DEC. 2013

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Please Note: This newsletter contains articles that offer differing points of view regarding climate change, energy and other environmental issues. Any opinions expressed in this publication are the responses of the readers alone and do not represent the positions of the Environmental Engineering Division or the ASME.

George Holliday

This week's edition includes:

1) ENVIRONMENT – A. API, OIL GROUPS SLAM FEDS' PROPOSED TARGETED LEASING APPROACH IN THE ARCTIC

By Josiah Neeley

The American Petroleum Institute and other oil industry groups criticized the Bureau of Ocean Energy Management's proposal for a targeted approach for lease sales in the Chukchi Sea in 2016. The proposal would limit leasing to areas where environmental risks are low. "Without the assurance of broad availability of acreage that occurs through an area-wide approach, what incentive does a company have to undertake the effort of providing this data?" the groups said in a joint statement. "Allowing a firm to take the entire basin into consideration gives the U.S. the full benefits of a diversity of approaches and exploration philosophies for areas previously unleased," they said.

<http://fuelfix.com/blog/2013/12/04/oil-industry-blasts-administrations-arctic-drilling-plan/>

B. ASME IS DEVELOPING AN ASME ENERGY FORUM



san diego convention center
San Diego, Ca, USA
March 17-19 2014



Executive Advisory Committee:

The Executive Advisory Committee for ASME Energy Forum Live – Oil & Gas includes senior members from Shell Exploration & Production, Draper Laboratory/Cambridge Research and Technology LLC, Baker Hughes, Stewart & Stevenson, BP Exploration, and ASME.

Doreen Chin, Co-Chair

Shell Exploration & Production Co.

Martin Rylance, Co-Chair

BP

Julio Guerrero

Draper Laboratory, Cambridge Research and Technology L.L.C.

Satya Gupta

Baker Hughes Pressure Pumping

Rustom Mody

Baker Hughes, Inc.

Jared Oehring

Stewart & Stevenson

Raj Manchanda

ASME

Program Committee:

Phil Grossweiler, Program Committee Chair M&H

Blake Burnette, Poster Committee Chair

Baker Hughes Pressure Pumping

David Paradis Weir Oil and Gas Pressure Pumping

Arnold Feldman

C. DEMOCRATIC LAWMAKERS URGE INTERIOR DEPT. TO HALT ARCTIC OCEAN OIL DRILLING

Reps. Rush Holt, D-N.J., Lois Capps, D-Calif., and David Price, D-N.C., wrote a letter to Interior Secretary Sally Jewell seeking to stop new oil exploration in the Arctic Ocean. The letter was signed by 59 lawmakers. "Shell's mishaps, along with the announcements by ConocoPhillips and Statoil that those companies will not pursue exploration drilling in 2014, provide a welcome opportunity for your agency to re-examine whether to allow oil and gas activities in the Arctic and, if so, under what conditions," they said in the letter.

<http://thehill.com/blogs/e2-wire/e2-wire/191968-house-dems-pressure-interior-to-halt-arctic-exploration>

D. LAWMAKER BLASTS ENERGY INDUSTRY'S EFFORTS TO PUSH FOR U.S. OIL EXPORTS

Sen. Ed Markey, D-Mass., sent a letter to U.S. Trade Representative Michael Froman criticizing the U.S. oil industry's efforts to expand crude exports. "Longstanding U.S. law restricting crude oil exports is vital to national security, to protect American consumers and wholly consistent with our obligations under international commitments within the World Trade Organization," Markey wrote. The American Petroleum Institute said it supports President Barack Obama's agenda to curb reliance on oil imports by doubling exports and supporting free trade

<http://fuelfix.com/blog/2013/12/03/lawmaker-takes-aim-at-planned-crude-exports-challenge/?shared=email&msg=fail>

E. FEDERAL FRACKING REGULATIONS COULD BOOST ENERGY COSTS

Rules for governing the hunt for oil, gas should be up to states

By Bernard L. Weinstein

The Bureau of Land Management of the Obama administration's Department of the Interior recently issued numerous new environmental and safety rules pursuant to hydraulic fracturing for natural gas and oil on federal and Indian lands.

Though only 25 percent to 30 percent of fractured wells are on federal lands, 90 percent of these wells use hydraulic fracturing, and the proposed rules may become the template for federal oversight of fracking on private leases as well.

The underlying justification for these new regulations is to ensure that fracking doesn't contaminate groundwater or cause earthquakes.

Specifically, the Bureau of Land Management is proposing that drilling companies (a) disclose the names of all chemicals contained in fracking fluids,

(b) set tighter standards for well-bore integrity to verify that fluids used during operations are not contaminating groundwater, and (c) develop water management plans for handling fluids that flow back to the surface.

This is another example of federal regulators arriving late to a party to which they weren't invited and aren't needed. For more than 40 years, the individual states have had exclusive regulatory oversight of natural gas drilling, and hydraulic fracturing has been used in more than 1 million wells across the U.S. But the land-management agency's rules would create a "one-size-fits-all" federal regulatory regime on top of specifically crafted state programs.

Careful studies by the Environmental Protection Agency and the Ground Water Protection Council haven't revealed a single case of ground water contamination from shale drilling. That's because the fracturing occurs far below the location of drinking water, and the wells are encased in steel and concrete to ensure isolation from ground water. All but 1 percent of the fracturing mixture is made up of water and sand, so the small amount of chemicals and additives is well diluted. Furthermore, most states already require disclosure of chemicals used in drilling fluids.

F. EAGLES LOSE PROTECTION — TO AID WIND POWER ASSOCIATED PRESS

WASHINGTON — Under pressure from the wind-power industry, the Obama administration said Friday it will allow companies to kill or injure eagles without the fear of prosecution for up to three decades.

The new rule is designed to address environmental consequences that stand in the way of the nation's wind energy rush: the dozens of bald and golden eagles being killed each year by the giant, spinning blades of wind turbines.

An investigation by The Associated Press earlier this year documented the illegal killing of eagles around wind farms, the Obama administration's reluctance to prosecute such cases and its willingness to help keep the scope of the eagle deaths secret. President Barack Obama has championed the pollution-free energy, nearly doubling America's wind power in his first term as a way to tackle global warming.

But all energy has costs, and the administration has been forced to accept the not-so-green sides of green energy as a means to an end.

Accepting trade-offs

Another AP investigation recently showed that corn-based ethanol blended into the nation's gasoline has proven more damaging to the environment than politicians promised and worse than the government acknowledges.

These examples highlight Obama's willingness to accept environmental trade-offs — pollution, loss of conservation land and the deaths of eagles — in hopes that green energy will help fight climate change.

The new rule will provide legal protection for the lifespan of wind farms and other projects if companies obtain permits and make efforts to avoid killing protected birds.

Companies would have to take additional measures if they killed or injured more eagles than they had estimated they would, or if new information suggested that eagle populations were being affected. The permits would be reviewed every five years, and companies would have to submit reports of how many eagles they killed. Now, such reporting is voluntary, and the Interior Department refuses to release the information.

Conservationists object

"This is not a program to kill eagles," said John Anderson, the director of siting policy at the American Wind Energy Association. "This permit program is about conservation."

But conservation groups, which have been aligned with the industry on other issues, said the decision by the Interior Department sanctions the killing of an American icon.

"Instead of balancing the need for conservation and renewable energy, Interior wrote the wind industry a blank check," said Audubon President and CEO David Yarnold in a statement. The group said it would challenge the decision.

Wind farms are clusters of turbines as tall as 30-story buildings, with spinning rotors as wide as a passenger jet's wingspan. Though the blades appear to move slowly, they can reach speeds of up to 170 mph at the tips, creating tornado-like vortices.

Flying eagles behave somewhat like drivers texting on cellphones; they don't look up. As they scan below for food, they don't notice the blades until it is too late. A study by federal biologists in September found that wind farms since 2008 had killed at least 67 bald and golden eagles, a number that the researchers said was likely underestimated.

That did not include deaths at Altamont Pass, an area in northern California where wind farms kill an estimated 60 eagles a year.

It's unclear what toll, if any, wind energy companies are having on eagle populations locally or regionally. Gunshots, electrocutions and poisonings almost certainly kill more bald and golden eagles than wind farms. But the toll could grow along with the industry.

A recent assessment of the status of the golden eagle in the western U.S. showed that populations have been decreasing in some areas but rising in others.

The Obama administration will allow companies to seek authorization to kill bald and golden eagles for up to 30 years.

G. FISH AND WILDLIFE SERVICE

RULES

Eagle Permits:

Eagle Permits; Changes in the Regulations Governing Eagle Permitting

SUMMARY: We revise the regulations for permits for take of golden eagles (*Aquila chrysaetos*) and bald eagles (*Haliaeetus leucocephalus*) that is associated with, but not the purpose of, an activity. We extend the maximum term for programmatic permits to 30 years, while maintaining discretion to issue permits of shorter duration as appropriate. The permits must incorporate conditions specifying additional measures that may be necessary to ensure the preservation of eagles, should monitoring data indicate the need for the measures. This change will facilitate the responsible development of renewable energy and other projects designed to operate for decades, while continuing to protect eagles consistent with our statutory mandates. For a permit valid for 5 years or more, we will assess an application processing fee sufficient to offset the estimated costs associated with working with the applicants to develop site plans and conservation measures, and prepare applications, and for us to review applications. We also will collect an administration fee when we issue a permit and at 5-year intervals. (how about pits?)

<http://www.gpo.gov/fdsys/pkg/FR-2013-12-09/pdf/2013-29088.pdf>Tuesday

H. NEW STUDY FINDS U.S. METHANE EMISSIONS TO BE UNDERESTIMATED

A study published recently in the "Proceedings of the National Academy of Sciences" concludes that methane emissions associated with both the animal husbandry and fossil fuel industries have larger greenhouse gas impacts than indicated by existing inventories. Effective national and state greenhouse gas reduction strategies may be difficult to develop without appropriate estimates of methane emissions from these source sectors.

The study quantitatively estimates the spatial distribution of anthropogenic methane sources in the United States by combining comprehensive atmospheric methane observations, extensive spatial datasets, and a high-resolution atmospheric transport model. Results show that current inventories from the US Environmental Protection Agency (EPA) and the Emissions Database for Global Atmospheric Research (EDGAR) underestimate methane emissions nationally by a factor of ~1.5 and ~1.7, respectively.

The study also indicates that emissions due to ruminants and manure are up to twice the magnitude of existing inventories. In addition, the discrepancy in methane source estimates is particularly pronounced in the south-central United States, where the study found that total emissions are ~2.7 times greater than in most inventories and account for 24 ± 3 percent of national emissions. The spatial patterns of emission fluxes and observed methane-propane correlations indicate that fossil fuel extraction and refining are major contributors (45 ± 13 percent) in the south-central United States. This result suggests that regional methane emissions due to fossil fuel extraction and processing could be 4.9 ± 2.6 times larger than in EDGAR, the most comprehensive global methane inventory. These results cast doubt on the US EPA's recent decision to downscale its estimate of national natural gas emissions by 25–30 percent.

The full text of "Measurements of methane emissions at natural gas production sites in the United States" is available at: <http://www.pnas.org/content/110/44/17768.full?sid=6997f4b6-fe2e-418b-a35e-7c932ded67a0>

Supporting information may be found at:

<http://www.pnas.org/content/110/44/17768/suppl/DCSupplemental>

I. DEGETTE AND MCKINLEY INTRODUCE BIPARTISAN BILL CREATING ENERGY COMMISSION

U.S. Representatives Diana DeGette (D-CO) and David B. McKinley, P.E. (R-WV) have introduced bipartisan legislation which would establish a commission to develop a comprehensive energy policy for the United States.

This Commission would assemble a diverse group of leaders in fossil fuels and renewable energies, utilities, energy researchers, environmentalists, labor organizations, and economists to come up with a comprehensive set of national energy policies.

The Commission would examine current laws, regulations and policies of the Federal government pertaining to all sources of energy. In addition, the Commission would look into maximizing the efficiency of energy, fully utilizing American resources while cutting back on the dependence of foreign sources, and achieving energy independence in the future.

To read the legislation, go to <http://thomas.loc.gov>, and search by sponsors' names

2) HEALTH – A. MENINGITIS, MENINGOCOCCAL - USA (07): (CALIFORNIA, NEW JERSEY) COLLEGE, ADDITIONAL CASE, NEW VACCINE

1. Date: Mon 2 Dec 2013

Source: Edhat Santa Barbara, Santa Barbara County Public Health Department Report [edited]

2. Date: Mon 2 Dec 2013

Source: NBC News/Health [edited]

Health131216

3) SAFETY – A. NOTHING OF INTEREST

4. TRANSPORTATION – A. E15 AND OHIO

Taylor Smith, The Heartland Institute

Ohio currently does not require gasoline be blended with renewable fuel, but ethanol is still frequently blended with the state's motor gasoline in compliance with the federal Renewable Fuel Standard (RFS), which mandates 36 billion gallons of renewable fuel primarily ethanol be blended into gasoline and diesel fuel by 2022....

<http://heartland.org/policy-documents/research-commentary-e15-and-ohio>

COMMENTS:

A. THE WEEK THAT WAS: 2013-12-07(DEC. 7, 2013)

By Ken Haapala, Executive Vice President, Science and Environmental Policy Project (SEPP)

Ethanol and Biomass: This week, SEPP made a presentation at an EPA hearing on the 2014 renewable fuel standards (RFS) and 2015 biomass-based diesel volume. The purpose is to establish the annual percentage standards for cellulosic, biomass-based diesel, advanced biofuel, and total renewable fuels for 2014. A secondary purpose is to determine the applicable national volume of biomass-based diesel required for 2015. The Energy Independence and Security Act (EISA) of 2007 does not establish standards for the latter beyond 2012.

The principal conflict is that the nation has hit the "blend wall." Gasoline consumption is down, and the ethanol volume required by the act would necessitate that the percentage of ethanol mixed with gasoline to exceed 10%. EPA has the discretionary authority to reduce the volume requirement and is considering doing so. The automobile manufacturers and the petroleum industry have requested such a reduction, arguing that a higher ethanol percentage would be potentially damaging to gasoline engines.

SEPP's comments were a shift in approach in addressing such issues before a potentially adversarial, non-technical audience. Rather than arguing that the EPA science is wrong, the comments argued that the science is out of date. It has been superseded by events. The three lines of evidence presented by the EPA in its Endangerment Finding no longer support the finding. The distinct human fingerprint (pronounced warming of the atmosphere above the tropics) cannot be found, the claimed unprecedented and dangerous global surface warming stopped 16 years ago, and the models are unreliable because they failed to predict that warming would stop.

Similarly, the 2007 mandate was passed by a Congress during a time in which its judgment was clouded by two fears: 1) increased dependence on imported oil from unstable regions and 2) global warming from CO2 emissions endangering human health and welfare. Both fears are out of date, rendering the standards obsolete.

There were 144 speakers listed. As can be expected, the majority of speakers were from the corn-to-ethanol industry and the biofuel industry who opposed the volume reduction. The Governor of Iowa denounced the proposed change stating the administration is unduly influenced by big oil - no doubt a surprise to the petroleum lobby.

The principle arguments opposing the RFS reduction included: green jobs, ethanol is cheaper than gasoline, ethanol helps rural America, national security, global warming, big oil is manipulating the EPA, etc.

Those supporting the reduction and some who oppose the RFS altogether included representatives from the food industry and gasoline station owners. The arguments included that ethanol and biofuels are driving up food prices and that ethanol is a burden to gas station owners. A special panel of two members of the House of Representatives spoke. Rep. Goodlatte (R-VA), who is the Chairman of the Judiciary Committee and Vice Chairman of the Agriculture Committee, spoke strongly against the RFS and presented a letter signed by some 190 members of the House, stating that the RFS will be revisited in 2014. Rep. Goodlatte stated that although the RFS is beneficial to the corn industry, overall it is distorting the markets for food, feed, and fuel. He asserted there must be a better way to help the corn industry.

The real surprise was Rep. Peter Welch (D-VT) who, as a freshman Congressman, was one of the authors of the 2007 RFS. He stated the RFS was "a well-intentioned flop." Also, he complained that ethanol ruined his chainsaw, a common complaint by owners of two cycle engines. See links under Green Jobs, EPA and other Regulators on the March, and Alternative, Green ("Clean") Energy - Other.

Fossil Fuel Subsidies: Promoters of wind and other alternative forms of energy in Western countries are again bring-up world-wide fossil fuel subsidies. As discussed in the April 6 and April 13 TWTWs and in an article by Bjorn Lomborg carried in the November 12 TWTW, 75% of the subsidies occur in 12 countries. The 5 major ones are, in order, Iran (\$82 billion), Saudi Arabia (\$61 billion), Russia, India, China (between \$30 to \$40 billion), and Venezuela, Egypt, Iraq, U.A.E., Indonesia, Mexico and Algeria making up the rest. The subsidies occur by state controlled oil companies of these countries selling oil products below world market prices. In Venezuela gasoline costs as little as 1.5 cents a gallon, unofficial exchange rate, up to 5.6 cents a gallon for premium, official exchange rate. Since politicians of these countries choose to subsidize petroleum to promote political stability, should Western politicians subsidize unreliable solar and wind to promote grid instability? See the prior TWTWs and links under Communicating Better to the Public - Make things up.

Changing Change: First it was the fear of global warming. When that stopped, the orthodoxy tried climate disruption, then climate change, which has been ongoing for hundreds of millions of years. Now, the US National Research Council has come up with a new fear - abrupt climate change. How a gradual increase of carbon dioxide (CO₂) concentrations in the atmosphere causes abrupt climate change is not well explained, but the label may stick this time! The real issue at stake is not the fear, but the loss of credibility of once vaunted scientific institutions that produce statements such as: *Climate is changing, forced out of the range of the past million years by levels of carbon dioxide and other greenhouse gases not seen in the Earth's atmosphere for a very, very long time. Lacking action by the world's nations, it is clear that the planet will be warmer, sea level will rise, and patterns of rainfall will change.* See links under Defending the Orthodoxy.

Lost? Judith Curry discussed an article asserting that science has lost its way. The article deals with rewards for researchers in life sciences and that many splashy research results cannot be reproduced. Curry divides research into four types and suggests rewards structures should be tailored according to the specific type of research. When discussing climate research, she further states: *In terms of money being thrown down a rat-hole for climate research, ... that taxonomical studies of model-based regional impacts rests on the premise that climate models provide useful information for regional impact studies, and they do not.* Well put. Studies based on long term projections from un-validated climate models have little value. See link under Seeking a Common Ground.

Uncertainty: On the Plos blog, Tamsin Edwards has a post on uncertainty and how people perceive it. It is based on a conference on "Communicating Risk and Uncertainty around Climate Change." Nine attitudes are discussed including people have a finite pool of worry, often interpret uncertainty as ignorance, and are uncomfortable with uncertainty. One of the points made was how to respond if a journalist asks: *"What does it mean to increase from 90%*

confident to 95% confident?", a scientist could make this clearer with "[We think] the chance climate change is natural is now half as likely as before."

Of course, such a response is not improvement in the issue. As the models, on which the UN Intergovernmental Panel on Climate Change (IPCC) heavily relies, diverge further from actual observations, the IPCC has expressed greater certainty in its work. In effect, as the public has greater reason to doubt the work, the IPCC insists that it is more certain. No wonder its climate scientists need special conferences on communicating better with the public. Expression of a little doubt may be helpful. See link under Seeking a Common Ground.

Extreme Weather: Although the year has not ended, it appears to be a dud for those claiming more, extreme weather events. US tornados are down, the hurricane season was uneventful, and major global tropical cyclones making landfall are down. Roger Pielke Jr. posted the latest cyclone statistics with a link to the work by Ryan Maue of WeatherBell Analytics. The Global and Northern Hemisphere Accumulated Cyclone Energy (ACE) does not justify the claims of more extreme weather events. In January, it will be interesting to review the financial report of Munich Re, the large reinsurance firm. One must wonder if the rather tame weather is what the National Research Council defines as abrupt climate change. See link under changing weather and <http://models.weatherbell.com/tropi...>

Earthquakes: On an amusing note, the UK newspaper, *Independent*, reported that, during an American football game, the Seattle Seahawk fans created such an uproar that the Pacific Northwest Seismic Network detected vibrations that measured between magnitude 1 and 2 earthquake. One wonders how this compares with earthquakes reported occurring from hydraulic fracturing of dense shale. Please see link under Changing Earth.

Number of the Week: 1 million and 1.3 million. *The Wall Street Journal* reports that the daily oil production from the Bakken formation in North Dakota will pass 1 million barrels per day (bbd) this month and the production from the Eagle Ford formation in Texas is approaching 1.3 million bbd. In January 2009, the production from the Bakken was about 100,000 bbd and in 2009 the average production from Eagle Ford was 843 bbd. The Federal agencies, which control US government land, have yet to finish the regulations on smart drilling that they claim are necessary to permit hydraulic fracturing on the lands they control. See <http://en.wikipedia.org/wiki/File:B...> and <http://www.rrc.state.tx.us/eaglefor...>

<http://www.sepp.org/twtwfiles/2013/TWTW%2012-7-13.pdf>

B. ESTIMATING THE STATE-LEVEL IMPACT OF FEDERAL WIND ENERGY SUBSIDIES

This paper examines the distributional impacts of the wind production tax credit (PTC). The obvious difficulty of this examination is the fact that over the past 10 years (the life of the PTC) some eligible wind facilities have elected to take the investment tax credit (ITC) and the Section 1603 grant program instead of the PTC. As we explain below, this does not change the distributional nature of federal wind subsidies, but merely the timing. 1 For the purposes of this paper, we assume that all wind production built over the last 10 years in the United States

elected to take the PTC. We call this the proxy PTC to differentiate this metric from the actual PTC. The proxy PTC is a one-year snapshot based on state-level wind generation data for 2012. It does not look at the full value of the PTC over a 10 year period. !

<http://www.instituteforenergyresearch.org/wp-content/uploads/2013/12/State-Level-Impact-of-Federal-Wind-Subsidies.pdf>

C. FEDERAL GOVERNMENT TO INCREASE USE OF RENEWABLE ENERGY

ASSOCIATED PRESS

WASHINGTON — Saying the government should lead by example, President Barack Obama on Thursday ordered the federal government to nearly triple its use of renewable sources for electricity by 2020.

Obama said the plan to use renewables for 20 percent of electricity needs will help reduce pollution that causes global warming, promote American energy independence and boost domestic energy sources such as solar and wind power that provide thousands of jobs.

The order is part of the president's wide-ranging, second-term drive to combat climate change and prepare for its effects. A plan announced in June would put first-time limits on carbon pollution from new and existing power plants, boost renewable energy production on federal lands and prepare communities to deal with higher temperatures.

The directive on renewable energy applies to all federal agencies, civilian and military. The Defense Department had previously set a goal that 25 percent of its energy needs should be supplied by renewable energy by 2025.

Federal agencies have reduced their greenhouse gas emissions by more than 15 percent since he took office in 2009, Obama said, but the government can do even better.

The federal government is the largest energy consumer in the nation and "must lead by example," Obama said. The government occupies nearly 500,000 buildings, operates 600,000 vehicles and purchases more than \$500 billion per year in goods and services.

The government currently has a goal of using 7.5 percent of its electricity from renewable sources, but Obama said recent increases in renewable energy supplies make the new 20 percent goal achievable by 2020.

His order says the government should use renewable sources for 10 percent of its electricity in 2015 and gradually increase that amount to 20 percent within seven years.

Environmental groups hailed the announcement, which they said would help kick-start clean energy initiatives across rural America.

A group representing major American coal producers and utility companies said the plan will increase energy costs and is unworkable for private companies and states that do not have the government's purchasing clout.

An electric-powered U.S. Postal Service truck is plugged into a charger at a post office in Los Angeles. The federal government, which operates 600,000 vehicles, is the largest energy consumer in the nation and "must lead by example," President Barack Obama says.

Associated Press file

D. MOVING CRUDE BY RAILCAR STALLS ON THE TRACK

By Alison Sider

Companies that thought they had found a relatively easy way to move crude from the booming oil fields of North Dakota to the West Coast are encountering obstacles.

Half a dozen companies are trying to build rail terminals on the coast of Washington state to receive trainloads of crude from the Bakken field in North Dakota. The oil would then be transferred to ships and barges that could carry it to refineries in the Pacific Northwest or south to California.

Analysts say regulatory hurdles make it difficult to build the necessary rail yards and tank farms in California, and it's more expensive to ship crude there. But getting a permit in Washington is proving more challenging than companies expected.

[Targa Resources Partners NGLS -0.20%](#) **Targa Resources Partners L.P.** U.S.: NYSE \$50.36 - 0.10 -0.20% Dec. 5, 2013 4:02 pm Volume (Delayed 15m) : 1.33M P/E Ratio 59.84 Market Cap \$5.47 Billion Dividend Yield 5.82% Rev. per Employee \$4,943,290

50.6050.5050.4050.3010a11a12p1p2p3p 12/05/13 [Moving Crude by Railcar Stalls... More quote details and news »](#) LP recently called off plans to build a new crude-oil tank farm and rail yard at the Port of Tacoma, saying it was "unable to identify an economical path forward." The company, which didn't return requests for comment, applied earlier this year to get a permit from a regional clean-air agency that would allow it to ship crude by barge from its existing facility at the port, but that is still being reviewed.

Black tank cars used to transport crude oil are parked among other rail traffic in Tacoma, Wash. *Associated Press*

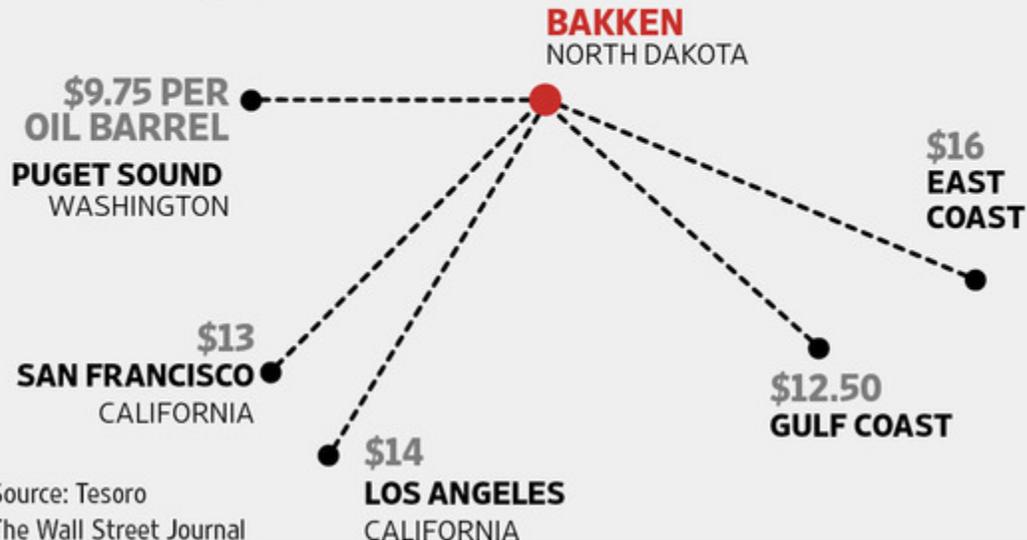
And in the wake of this summer's train derailment in Quebec that killed 47 people, some groups are vowing to stop projects that would increase the number of oil trains rumbling through communities.

"The whole enterprise raises serious concerns about the heightened risk of transporting crude by rail," said Devorah Ancel, a staff attorney for the Sierra Club, an environmental advocacy group that has opposed some of the crude-by-rail projects at Washington ports.

Companies that want to transport crude by rail say the risks are minimal, and the rewards are great. Refiners have said shipping crude by rail from North Dakota to Washington is a bargain at as little as \$10 a barrel, compared with \$13 to \$16 for a barrel of crude to travel by rail to California and \$16 to ship a barrel to the East Coast.

Rail Delivery

Cost to transport a barrel of oil via train from the Bakken oil field to different U.S. regions:



Bakken oil production has soared in recent years but pipeline capacity hasn't kept pace, so energy companies are increasingly relying on railroads. Some refiners with plants in Washington, such as [Phillips 66](#), [PSX +0.99%](#) [Phillips 66](#) U.S.: NYSE \$**70.42 +0.69+0.99%** Dec 6, 2013 9:33 am Volume (Delayed 15m) : 3.89M P/E Ratio 12.02 Market Cap \$41.72 Billion Dividend Yield 2.24% Rev. per Employee \$11,774,900 12/05/13 [Moving Crude by Railcar Stalls...](#) 10/31/13 [Phillips 66 to Build Texas Ter...](#) [More quote details and news »](#) [BP BP.LN +0.76%](#) [BP PLC](#) U.K.: London ^{GBP}**478.75 +3.60 +0.76%** Dec. 6, 2013 2:02 pm Volume : 8.59M P/E Ratio 5.91 Market Cap GBP88.86 Billion Dividend Yield 4.95% Rev. per Employee GBP2,864,460 12/05/13 [Moving Crude by Railcar Stalls...](#) 12/04/13 [Iran Wants U.S. Companies to D...](#) 12/03/13 [Dana Deasy on IT Risk Manageme...](#) [More quote details and news »](#) PLC and [Tesoro Corp.](#) [TSO +1.50%](#) [Tesoro Corp.](#) U.S.: NYSE \$**56.45 +0.84+1.50%** Dec 6, 2013 9:33 am Volume (Delayed 15m) : 3.32M P/E Ratio 16.95 Market Cap \$7.41 Billion Dividend Yield 1.80% Rev. per Employee \$6,413,510 12/05/13 [Moving Crude by Railcar Stalls...](#) 10/10/13 [Tesoro Logistics Pipeline Spil...](#) [More quote details and news »](#) , have built or received permits to build the infrastructure they need to unload more crude from railcars.

But projects planned for some of the state's ports, where oil would be unloaded from trains, stored in tanks, and transferred to barges, have attracted criticism. A state hearing board recently overruled the City of Hoquiam, southwest of Seattle, which had issued permits to expand two terminals at the Port of Grays Harbor, west of Tacoma, to handle crude.

Westway Terminals, which already stores methanol at the port, wants to add tanks and a rail connection so its terminal can handle as much as 9.6 million barrels of crude a year. Imperium Renewables Inc., which makes biodiesel from vegetable oil at a plant at Grays Harbor, plans to expand so its terminal will be able to store and ship crude oil, jet fuel and gasoline.

The Quinault Indian Nation and conservation groups had challenged those permits; the state board said the companies need to provide more information about how a possible third terminal

proposed by U.S. Development Group LLC, which is under consideration, would affect rail and marine traffic.

John Plaza, Imperium's CEO, said the company disagrees that "any proposed project at another site—anyone who can imagine doing something—provides the basis for denying our permit." Both Imperium and Westway say they will continue to push for permits, while opponents say they will challenge them.

The prospects for crude-by-rail expansions are even worse in California, where there is opposition to "introducing new oil or gas or anything that has a reputation for being unclean," said Sam Margolin, an analyst at Cowen & Co.

[Valero Energy Corp.](#) [VLO +1.43%](#) [Valero Energy Corp.](#) U.S.: NYSE \$**46.00 +0.65+1.43%**
Dec 6, 2013 9:32 am Volume (Delayed 15m) : 14.76M P/E Ratio 10.21 Market Cap \$24.29 Billion Dividend Yield 1.98% Rev. per Employee \$6,383,650 12/05/13 [Moving Crude by Railcar Stalls...](#) 10/30/13 [AHEAD OF THE TAPE: Exxon—A Tig...](#) 09/12/13 [Even a Railway Line Can't Dodg...](#) [More quote details and news »](#) , the largest U.S. refiner, had hoped to receive permits by year-end to add rail unloading equipment at its refinery outside of San Francisco. But the company has said the project has been pushed back to the end of 2014 or the beginning of 2015 because of permitting delays.

Phillips 66 has applied for a permit to extend a rail connection at its Santa Maria refinery in southern California, and to construct a railcar unloading facility there so the plant can bring in more North American oil.

The company hopes to start construction on the project next year and having the rail connection up and running in 2015. Dennis Nuss, a spokesman for the company, said Phillips 66 is working with the county to get the permits it needs and to quell local concerns about safety.

In Washington, Tesoro has pinned its hopes to plans for a terminal that would be able to handle deliveries of as many as 280,000 barrels of crude oil a day at the Port of Vancouver. From there it is a short barge ride down to its refinery near San Francisco.

The company said it is optimistic that the \$100 million terminal, a joint venture with logistics firm Savage Companies will get Washington Gov. Jay Inslee's approval and could be up and running late next year. Kelly Flint, general counsel for Savage, said the company is confident that it can usher the project through the state's one-year permitting process without delays.

Mr. Flint said the company didn't settle on Washington to avoid California regulations, but chose the Port of Vancouver because of its advantages. "It can service a number of refineries, it is the closest deep water port to the Midwest oil fields by rail," he said. "The rail infrastructure there is great."

E. ICONE22

CALL FOR ABSTRACTS: ** Deadline: December 13, 2013 ** Please note this deadline cannot be extended.

Authors and presenters are invited to participate in the 2014 22nd International Conference on Nuclear Engineering (ICONE 22), the premier global conference for addressing the needs of the nuclear industry. The conference will be hosted at the Hilton Prague, July 7-11, 2014 in Prague, Czech Republic. Submit your abstract now to bring your expertise to the topic of the current status of nuclear power around the world.

Abstract Submission Deadline: December 13, 2013

For more information, please visit:

<http://www.asmeconferences.org/ICONE22/index.cfm>

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carbon capture journal

F.



8TH ANNUAL
**EUROPEAN CARBON
CAPTURE AND STORAGE**

[Qatar University and Sasol research amine capture](#)

An MOU has been signed between Qatar University (QU) and Sasol to establish a project that will advance research in the use of amines for CO₂ capture from flue gases.

[Energy Institute offshore hazards mitigation research](#)

The Energy Institute's (EI) CCS committee has published a report, "Hazard analysis for offshore carbon capture platforms and offshore pipelines".

Online resources

European Parliament briefing on offshore CCS

- (Bellona) - Amidst a busy week for CO₂ Capture and Storage in the EU (read also about a ZEP hearing, NER 300 hearing and Parliament CCS report), comes a briefing on assessing the risks costs, legal framework and public perception of offshore CO₂ storage. [>>more](#)

A Vault for Carbon Dioxide

- (Scientific American) - What if there was an easy

[Keeping up the momentum with carbon capture and storage](#)

Carbon Capture Journal conference in London, Nov 19, 2013. Speakers from DECC, BP, Shell, TCM, Crown Estate, SPX

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way to take the carbon dioxide from coal power smokestacks and turn it back into a rock that would sit quietly, deep below the earth's surface? [>>more](#)

Roll on the green revolution

- (The Economist) - [...] an effort by European pulp and paper companies to slash their emissions through technological change. This week they announced some ideas which, if adopted by the whole industry, would cut its energy use by at least a quarter and its output of CO₂ by more than half by 2050. [>>more](#)

Despite criticism of oil sands, Brits look to Canada for lessons on mitigating climate change

- (Financial Post) - An all-party delegation from the British House of Commons has just completed a Canadian tour to learn about advances in carbon capture and storage, part of an inquiry into the technology. [>>more](#)

Work under way to select onshore site for South Africa's carbon capture and storage pilot

- (Engineering News) - Academics, policymakers and government are in the process of developing the pilot carbon dioxide (CO₂) storage project (PCSP) that will demonstrate the potential viability of long-term CO₂ storage in deep underground geological basins and the project has been granted R197-million over three years, says South African Energy Minister Dikobe Ben Martins. [>>more](#)

Warsaw climate talks end with divergent views on way ahead

- (Global CCS Institute blog - Mark Bonner) - The 19th Session of the Conference of Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC) and the 9th session of the COP serving as the Meeting of the Parties to the Kyoto Protocol (CMP) drew to a close late on Saturday, 23 November after two weeks of complex yet somewhat lacklustre negotiations in Warsaw, Poland. [>>more](#)



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Digital Energy Journal - the world's leading magazine and newsletter for information technology and communications in oil and gas - see <http://www.d-e-j.com>

Regina reveals its resources

- (Global CCS Institute blog - Kirsty Anderson) - Saskatchewan is best known as Canada's 'bread basket' because it provides more than half of the country's wheat, but that's not its only claim to fame. Indeed, Saskatchewan is fast becoming known as a centre for education about, and the demonstration of, carbon capture and storage (CCS). [>>more](#)

Feature articles

[Midwest Illinois Basin - Decatur Project](#)

The Midwest Geological Sequestration Consortium's (MGSC) Illinois Basin - Decatur Project (IBDP) is a collaboration of the MGSC, the Archer Daniels Midland Company (ADM), Schlumberger Carbon Services, and other subcontractors to inject 1 million metric tons of carbon dioxide.

[Battelle leads CO2 storage with EOR project](#)

As part of a national effort to develop methods for carbon storage, Battelle is beginning a large-scale carbon dioxide injection through the Midwest Regional Carbon Sequestration Partnership (MRCSP) program in the oil fields of Michigan's Northern Reef Trend.

[BSCSP begins CO2 injection in Washington basalt formations](#)

Led by Montana State University, the Big Sky Partnership (BSCSP) is testing CO2 storage in ancient basalt lava flows, a model that could be applied in many other parts of the world. By Lindsey Tollefson, BSCSP Project Manager

[The Industry and the CCS Legal Framework](#)

Through interviews with both 'upstream' and 'downstream' CCS industry representatives, Marko Maver sets out to examine how the industry has thus far come to perceive the legal and regulatory framework for CO2 storage in the EU and assesses any barriers that remain. By Marko Maver, University of Sheffield, UK

[Low carbon gas from mixed waste, biomass and](#)

[coal: a low cost route to CCS](#)

This article is based on a paper by Dr. Williams at the 2012 IChemE gasification conference and describes an approach to integrating low carbon gas into the supply grid as a route to low cost CCS. By Tony Day consultant cost benefit analyst; Dr. Williams of GL Noble Denton Ltd, and Chris Hodrien of Timmins CCS Ltd.

Forthcoming events

- **WEET Forum: Latest on the EU ETS: structural reform, the aviation industry and prospects for international integration**, London, Dec 5, 2013 >>[more](#)
 - **Carbon Dioxide Utilization Congress 2014**, San Diego, Feb 19-20, 2014 >>[more](#)
 - **WEET Forum: Next steps for Carbon Capture and Storage in the UK**, London, Feb 27, 2014 >>[more](#)
 - **12th International Conference on Greenhouse Gas Control Technologies**, Austin, Texas, Oct 5-9, 2014 >>[more](#)
-

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G. AMS SURVEY SHOWS NO CONSENSUS ON GLOBAL WARMING

- **BY JOE BAST**
- **NOVEMBER 28, 2013**



The release of *Climate Change Reconsidered II: Physical Science* makes it clear that there is no scientific consensus on the causes or consequences of climate change. Some 50 scientists from 15 countries, citing nearly 4,000 peer-reviewed studies, concluded that the human impact on climate is smaller than the United Nations' IPCC claims and that natural climate variability is the predominant cause of observed changes in weather and climate.

The next step is to take a more direct aim at the belief, which unfortunately is widespread even in the scientific community, that a scientific consensus nevertheless exists. With that in mind, earlier this week The [Heartland Institute](#) widely distributed a brief announcement of a new report from the American Meteorological Society (AMS) interpreting a 2012 survey of AMS members.

Our email notice appears below. Note that it quotes from the report and provides a link to the document on the AMS Web site.

Perhaps predictably, Keith L. Seitter, executive director of AMS, has [posted a comment objecting to our message](#). (He did not bother contacting anyone at The Heartland Institute.) Here are some brief responses to his objections:

We chose to send this notice using an email address that was descriptive of the message – “AMS Survey [mailto:2013AMSsurvey@gmail.com]” – rather than an address with a Heartland domain to maximize the open rate, a common practice in email marketing. There was no attempt to deceive recipients about who sent the message: “This message was sent to [recipient] from Heartland Institute” and our address appear at the bottom of the message.

We illustrated the message with the same AMS logo that appears on the cover of the AMS report. That, too, is common practice: Heartland’s logo and those of other groups are used countless times without permission in emails, on blogs and web sites, and in print publications from other organizations. If the AMS stands by its report, it’s difficult to understand why they would object to having their logo appear on an announcement of their own research.

So why the objection? Seitter says “The text of the e-mail reports results from the study far differently than I would, leaving an impression that is at odds with how I would characterize those results.” Indeed it does. This is all about “spin” and not, as Seitter says later in his comment, “transparency and scientific integrity.”

The AMS survey found only 52 percent of the members who responded to the survey believe the warming of the past 150 years was man-made. Oddly, that finding, which appears in Table 1 of the report (on the very last page of the pre-publication version), is not mentioned in the report’s commentary, an oversight we corrected with our announcement. The survey also found that members who self-describe as being liberals are far more likely than other members to believe this, which also isn’t plainly stated in the report.

It’s also odd that the report doesn’t reveal what percentage of members believe man-made global warming is harmful, even though that question appeared in the survey and is at the core of the debate between “alarmists” and “skeptics.” From an earlier publication of the survey’s results, though, it appears that 76 percent of those who believe in man-made global warming also believe it is “very harmful” or “somewhat harmful,” so we can estimate that 39.5 percent of all AMS members say they believe man-made global warming is dangerous. That is somewhat less than a “consensus.”

The AMS report doesn’t reveal whether all or just nearly all of the AMS members who believe man-made global warming is dangerous self-identify as being liberals, but since it identifies political ideology as the strongest or second strongest factor in determining a scientist’s position on this matter, one has to suspect this is the case.

If the AMS wants to act with transparency and scientific integrity, it should honestly report all of the results of this survey and not hide those that reveal the absence of consensus. Until they rise to that level, we have little choice but to do our best to correct their errors.

Please check my math and let me know if I got this wrong.

If you are an AMS member, I hope you will ask Seitter why the 52 percent finding wasn’t deemed worthy of comment, and why the percentage of all respondents who believe man-made global warming is dangerous is not reported anywhere in this report. And maybe that’s why the views of 39.5 percent of AMS members dominate its public statements on this controversial issue.

H. CLIMATE CHANGE WEEKLY #112

POLAR ICE CAPS ARE GLOBAL WARMING DENIERS

Southern Hemisphere polar ice extent set new records this week, combining with fairly average Northern Hemisphere polar ice extent to set the final stages of a year marked by above-average global polar ice extent. Polar ice caps, apparently, are global warming deniers, attacking the science of alarmist global warming predictions.

Average Southern Hemisphere polar sea ice extent during November 2013 was nearly 1 million square kilometers above the long-term average.

When polar ice happens to be below average in a given year, global warming alarmists cite the annual departure from the long-term mean as proof of a human-induced global warming crisis. During years like 2013, when polar ice extent is above the long-term average, global warming alarmists are largely silent on the topic.

Importantly, even if the years with below-average polar ice extent began to form a meaningful trend, this in itself would not constitute a global warming crisis. Polar ice retreat would merely reflect warming temperatures, even if the warming is modest and benign. During recent years when global polar ice extent has been below normal, it has been Northern Hemisphere polar ice – floating in the Arctic Ocean – driving the global trend. When floating sea ice melts, it does nothing to raise global sea levels.

Southern Hemisphere polar ice, resting primarily on the Antarctic continent, has been consistently expanding during the 30-plus years since NASA/NOAA satellites first began precisely measuring polar ice extent.

<http://arctic.atmos.uiuc.edu/cryosphere/>

<http://notalotofpeopleknowthat.wordpress.com/2013/12/05/antarctic-sea-ice-sets-new-record-for-november/>

I. PEW POLL: CLIMATE CHANGE A LOW FOREIGN POLICY PRIORITY

The American public strongly disagrees with the Obama administration making global warming issues a top foreign policy priority, a new Pew Research Center poll shows. Only 37 percent of Americans say dealing with global climate change should be a top U.S. foreign policy priority, reflecting the lowest concern about climate change since Pew began conducting the poll in 1997. Even among Democrats, only 57 percent say dealing with climate change should be a top priority, Pew reports.

<http://www.people-press.org/2013/12/03/section-3-long-range-foreign-policy-goals/>

J. NEWLY PUBLISHED PAPER PREDICTS A NEW LITTLE ICE AGE

Russian physicist Habibullo Abdussamatov published a new paper examining recent quiet solar activity and predicting a new Little Ice Age will begin within the next few decades.

Abdussamatov documents an ongoing decline in recent solar output. Should the decline continue, Earth may experience climate conditions not seen since the depths of the Little Ice Age brought famine, plague, extreme weather events, crop failures, and an increase in human misery several centuries ago.

http://scienceandpublicpolicy.org/images/stories/papers/originals/grand_minimum.pdf

K. GLOBAL-WARMING ‘PROOF’ IS EVAPORATING

December 5, 2013 | 12:14am

The 2013 hurricane season just ended as one of the five quietest years since 1960. But don't expect anyone who pointed to last year's hurricanes as "proof" of the need to act against global warming to apologize; the warmists don't work that way.

Warmist claims of a severe increase in hurricane activity go back to 2005 and Hurricane Katrina. The cover of Al Gore's 2009 book, "Our Choice: A Plan to Solve the Climate Crisis," even features a satellite image of the globe with four major hurricanes superimposed.

Yet the evidence to the contrary was there all along. Back in 2005 I and others reviewed the entire hurricane record, which goes back over a century, and found no increase of any kind. Yes, we sometimes get bad storms — but no more frequently now than in the past. The advocates simply ignored that evidence — then repeated their false claims after Hurricane Sandy last year.

<http://nypost.com/2013/12/05/global-warming-proof-is-evaporating/>

Bill Holliday

L. Large Companies Prepared to Pay Price on Carbon

Michael Stravato for The New York Times

By CORAL DAVENPORT

Published: December 5, 2013 WASHINGTON — More than two dozen of the nation's biggest corporations, including the five major [oil](#) companies, are planning their future growth on the expectation that the government will force them to pay a price for carbon pollution as a way to control [global warming](#).

M. OFFSHORE INDUSTRY ASSAILS NEW RULE

Stricter safety standards would muddle oversight, companies complain

By Jennifer A. Dlouhy

WASHINGTON — Energy companies and industry trade groups broadly criticized a government plan to rewrite standards governing oil and gas production systems used offshore.

The Bureau of Safety and Environmental Enforcement's proposed rule would require more rigorous assessments, over their full life cycle, of critical safety and pollution prevention equipment at some 3,000 existing production facilities on the United States' outer continental shelf.

But the measure, unveiled in August after years of development, also aims to tighten reporting of failures in safety equipment, codify previous regulatory notices sent to companies working offshore and require certain documents to be stamped by registered professional engineers.

The proposed rule also would incorporate American Petroleum Institute recommended practices for offshore production facilities.

And it would force companies to use the "best available and safest technology" whenever the safety bureau deems it economically feasible for new drilling and production operations.

But several oil companies working in the Gulf of Mexico and other U.S. waters said the measure would cause inconsistencies with existing regulations, could muddle oversight of some equipment used offshore and is unduly prescriptive.

In written comments filed with the government ahead of a deadline last week, the Metairie, La.-based Offshore Operators Committee said the safety bureau is also low-balling the potential price tag for companies to comply.

“Our assessment of the agency’s economic analysis of the proposed action finds the analysis inadequate and the impacts underestimated,” said the group, which represents 61 producing companies and 80 industry service providers.

Several trade groups and energy companies said they hadn’t had enough time to thoroughly vet the proposal.

Wanda June Parker, a professional engineer based in the Dallas suburb of Plano who works on permitting issues for deep-water facilities, said the agency should have held a public workshop on issues covered by the proposed rule first.

“A properly vetted and commented rule making, in the end, would make for a better, clearer rule for both the agency and the regulated community,” she wrote.

The industry also is looking for clarity on the scope of the regulations.

The Williams Companies said it isn’t clear whether existing facilities, or ones under construction now, would have to comply with new rules or would be grandfathered.

The safety bureau said it will evaluate the feedback.

It may have to tackle a number of potential conflicts between its 149-page proposal and existing regulations, said Petrobras America — a theme echoed by several others.

Anadarko Petroleum, Shell and the Offshore Operators Committee highlighted their fears that the proposed rule clashes with existing agreements that put the U.S. Coast Guard in charge of overseeing fire protection, alarm systems and living quarters on water-based facilities.

The American Petroleum Institute and the National Ocean Industries Association asked the bureau to dial back proposed requirements for reporting and investigating equipment failures.

The proposed rules would force offshore operators to notify manufacturers about equipment failures within 30 days and ensure that an investigation and failure analysis are performed within 60 days after the incident.

But the two industry groups said the requirement could cover noncritical conditions or single failures in systems designed with layers or redundant equipment, requiring them to be analyzed and reported.

“As currently written, the regulation would likely result in a very significant additional burden on operators, suppliers and the BSEE, without delivering equivalent improvements in equipment operation, safety, or reliability,” the two groups said.

They suggested the equipment failure reporting requirement be limited to instances involving an unintended release of hydrocarbons. jennifer.dlouhy@chron.com twitter.com/jendlouhyhc

N. NEARLY 1000 RECORD LOW TEMPERATURES SET AS ANOTHER ROUND OF ARCTIC AIR FORECAST TO DEEP FREEZE THE U.S.

<http://www.climatedepot.com/2013/11/29/nearly-1000-record-low-temperatures-set-as-another-round-of-arctic-air-forecast-to-deep-freeze-the-u-s/>

O. EPA'S THIN LEGAL AIR

Updated Dec. 10, 2013 12:16 a.m. ET

The Environmental Protection Agency's habit of stretching its legal authority faces another reckoning on Tuesday when the Supreme Court considers whether the agency can rewrite the Clean Air Act to usurp state responsibilities. This one ought to be in Justice [Anthony Kennedy](#)'s federalist sweet spot.

The case focuses on the Clean Air Act's "good neighbor" provision that gives EPA the power to oversee remedies when pollution in one state blows into a neighboring state. An upwind state that EPA judges to "significantly contribute" to a downwind state's failure to meet federal standards can be required to limit emissions by a commensurate amount.

Some 27 states are considered upwind, and for decades EPA adhered to an interpretation of the law that let states come up with ways to minimize their contributions to downwind states. Only if a state plan was inadequate did the feds swoop in with tailored orders for how an individual state must limit emissions. This fit with the Congressional intent in the text of the Clean Air Act that regulating air pollution was "the primary responsibility of States and local governments."

Enter the Obama Administration, whose 2011 cross-state air pollution rule violated the federalist structure of the Clean Air Act in two ways. First EPA no longer gave states a chance to develop their own plans to meet their required "good neighbor" emissions targets. Instead the agency began to issue its own federal implementation plans immediately.

Second, EPA issued a cookie-cutter standard that all states must adhere to regardless of their contribution to downstate pollution. The move was an obvious attempt to expand EPA's writ, letting the agency set new emissions standards that exceed what an individual state might need to ease its own downwind pollution.

The rule was almost certainly targeted at Texas and other states with large coal-fired electric plants. This is part of the Obama Administration's larger anti-carbon fuels agenda, which it is trying to impose by fiat because it can't get Congress to go along, not even a Democratic Senate. Texas and more than a dozen other states as well as private companies challenged EPA in *Environmental Protection Agency v. EME Homer City Generation*, and in August 2012 the D.C. Circuit Court of Appeals struck down the rule. Judge Brett Kavanaugh wrote for a 2-1 majority that "Congress did not authorize EPA to simply adopt limits on emissions as EPA deemed reasonable." Democrats cried foul and blamed Judge Kavanaugh for being a Bush appointee, but it's telling that the full D.C. Circuit denied *en banc* review.

The EPA says in its defense that business should love the rule because it is the most cost-effective, but that isn't necessarily true for certain states. The Administration is also arguing that the states didn't raise their objections loudly enough during the rule-making process, but the states also didn't know how far this EPA would go until the rule was final.

The D.C. Circuit only rarely overturns EPA rules, which shows how out of bounds the cross-state regulation is. The Supreme Court should overturn it for violating the federalist intentions of Congress, but there is also the added judicial incentive to show this increasingly rogue agency that it can't rewrite the law as it pleases.

Regards
George