

ENVIRONMENTAL AND ENERGY DIVISION

NEWSLETTER

2 NOV. 2015

If you need older URLs contact George at ghh@att.net.

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 editor alone and do not represent the positions of the Environmental and Energy Engineering Division or the ASME."

George Holliday

A. ENVIRONMENT 1. CLAIM: AMERICANS WILL HAVE TO SETTLE FOR LESS, TO DEFEAT CLIMATE CHANGE

The Atlantic wants people to view climate change as a wartime situation. They demand Americans accept a lower standard of living, to defeat Global Warming.

According to The Atlantic;

Why Solving Climate Change Will Be Like Mobilizing for War

... Assuming we do manage to significantly accelerate deployment without cancerous levels of corporatist corruption, if emissions targets still remain out of reach, some growth must be temporarily sacrificed. At the same time, investment across the portfolio of energy technologies will need to continue.

In other words, we are contemplating the sorts of austerities associated with wartime economies. For ordinary Americans, austerities might include an end to expansive suburban lifestyles and budget air travel, and an accelerated return to high-density urban living and train travel. For businesses, this might mean rethinking entire supply chains, as high-emissions sectors become unviable under new emissions regimes.

What Gates and others are advocating for is not so much a technological revolution as a technocratic one. One for which there is no successful peacetime precedent. Which is not to say, of course, that it cannot work. There is always a first time for every new level of complexity and scale in human cooperation. But it's sobering to look back at the (partial) precedents we do have. ...

Read more: <http://www.theatlantic.com/science/archive/2015/10/why-only-a-technocratic-revolution-can-win-the-climate-change-war/410377/>

I must say, given [repeated claims](#) that subsidizing green energy will stimulate the economy; it seems peculiar that greens also believe people should adopt a wartime austerity mentality, and brace themselves for a lower standard of living. Perhaps the economic stimulus will be delivered in the form of [more green air miles](#), and an increase in the [number of climate conferences](#).

<http://wattsupwiththat.com/2015/10/15/claim-americans-will-have-to-settle-for-less-to-defeat-climate-change/>

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My proposal (to the elites and political advocates) is you go first in the sacrifice!!

At least someone out there is honest since the Administration pretends that no sacrifice is necessary with renewable fuels. Any honest person knows that alternative fuels are not viable yet and may not be viable for many decades.

Don Shaw

2. "FRACKING" – DOES NOT CONTAMINATE DRINKING WATER.

"Yale researchers have confirmed that hydraulic fracturing – also known as "[fracking](#)" – does not contaminate drinking water. The process of extracting natural gas from deep underground wells using water has been given a bad reputation when it comes to the impact it has on [water resources](#) but Yale researchers recently disproved this myth in a [new study](#) that confirms a previous [report](#) by the Environmental Protection Agency (EPA) conducted earlier this year."

"Researchers from Duke University also recently gave people a reason to trust fracking companies. In a study published in [Environmental Science & Technology Letters](#), scientists explained that hydraulic fracturing accounts for less than one percent of water used nationwide for industrial purposes. This suggested that the natural gas extraction processes are far less water-intensive than we previously thought.

It's hoped that these studies will help people better understand the safety of fracking."

Related Articles

[Fracking Flowback May Lead to Contaminated Groundwater](#)

[Fracking, Water, and Our World](#)

<http://www.natureworldnews.com/articles/17525/20151014/fracking-contaminate-drinking-water-yale-study-confirms.htm>

Despite study after study including this one from YALE showing the fact that Fracking does not contaminate drinking water numerous baseless claims continue from politicians and environmentalists
Don Shaw

3. ISN'T IT IRONIC THAT RENEWABLE ENERGY NEEDS NATURAL GAS FROM FRACKING AND PIPELINES TO COMPENSATE FOR THE FACT THAT IT IS UNRELIABLE?

"Clark stressed that shale gas and the midstream sector have significantly contributed to lower gas prices and will play a major role in supporting the future of renewable energy"

FERC Commissioner Tony Clark on Oct. 6 called for more natural gas pipeline infrastructure, citing the shale boom's transformative effect on the U.S., but he also welcomed as "helpful" the views of local landowners who oppose development projects.

In his keynote speech at the North American Gas Forum, Clark stressed that shale gas and the midstream sector have significantly contributed to lower gas prices and will play a major role in supporting the future of renewable energy.

"If we didn't have the shale gas that we have and if we didn't have adequate infrastructure, as they've seen in [New England](#), gas prices would skyrocket," Clark said at the Washington, D.C., event. He added that natural gas has had a massive impact on costs in the U.S. industrial sector and in areas such as North Dakota, Clark's home state, where it is the primary heating fuel for residential and commercial customers.

These cost drivers are also making a big impact on the power industry, Clark noted, with an ever-growing amount of generation switching from coal to natural gas. He said electricity's reliability and cost

stability and the power industry's ability to meet present and future EPA carbon regulations are heavily improved by the aid of natural gas.

Even in a hypothetical scenario where there is heavy reliance on energy resources like sun and wind, efficient natural gas plants remain a major energy source to support the inherently intermittent renewables.

"From a variable energy resource standpoint, those renewables don't work without natural gas backup and the fast ... abilities that natural gas generators can bring to the table, so it's critically important from a compliance standpoint that the infrastructure to be there," Clark said. "You have to have more pipelines to deal with the natural gas hookup to generators so that they have a further source of fuel so that we don't have fuel security issues."

To secure more pipelines, Clark said, intervention from the public is vital to FERC's certification process. Locals' "not in my back yard" opposition to infrastructure, while sometimes challenging for project developers, can yield important insights for FERC on areas of historical, environmental or [cultural](#) significance.

"It's actually helpful to the process as a regulator in terms of learning where there are real issues for the pipeline and where there may not be," Clark said.

Every comment made on a project becomes part of the record and must be responded to as the commission compiles a detailed account of the decision behind every order and certificate. While orders with more details mean more paperwork for FERC staffers, it also means the order is less likely to be overruled if challenged in court — and, Clark said, any major order will be challenged in court.

"We have to be able to show a judge that that order took in all of the comments that we had and that we appropriately addressed that," Clark said. "The worst thing that can happen for consumers, landowners and for companies is to have FERC certificate a project, and then have that decision reversed and have to go back. Then you're not just a few months behind schedule, you're potentially years behind schedule."

<https://www.snl.com/Interactivex/article.aspx?CdlId=A-34098742-12330>

Don Shaw

4. ISN'T IT IRONIC THAT RENEWABLE ENERGY NEEDS NATURAL GAS FROM FRACKING AND PIPELINES TO COMPENSATE FOR THE FACT THAT IT IS UNRELIABLE?

"Clark stressed that shale gas and the midstream sector have significantly contributed to lower gas prices and will play a major role in supporting the future of renewable energy"

Don Shaw

ansen Spoiler Alert: This essay is not about the mathematical entity the imaginary number. I do think that an essay here about imaginary numbers of that sort would be interesting, but this isn't going to be it. This essay, while not about the usual fare seen here – AGW; CAGW;...

<http://wattsupwiththat.com/2015/10/09/are-we-chasing-imaginary-numbers/>

5. DECONSTRUCTION OF THE ANTHROPOGENIC GLOBAL WARMING (AGW) HYPOTHESIS

Guest Opinion: Dr. Tim Ball –

[Note: Some parts of this essay rely on a series of air sample chemical analysis done by Georg Beck of CO2 at the surface. I consider the air samplings as having poor quality control, and not necessarily representative of global CO2 levels at those times and locations. While the...

<http://wattsupwiththat.com/2015/10/17/deconstruction-of-the-anthropogenic-global-warming-agw-hypothesis-2/>

6. CALIFORNIA'S DIESEL RULE SCAM

The state imposes a rule based on phony science on all U.S. truckers.

Oct. 18, 2015 7:50 p.m. ET

The Environmental Protection Agency and California Air Resources Board (CARB) are riding high after exposing [Volkswagen](#) emission scam. But the self-proclaimed guardians are running their own regulatory racket. See their shakedown of Virginia-based trucker Estes Express Lines. Under the Clean Air Act, the Golden State enjoys unique authority to impose stricter emission standards than the EPA, but only within its sovereign borders. Yet CARB exported its vehicle emission standards nationwide by forcing auto makers to re-engineer their fleets to state rules. Now the agency is trying to bring out-of-state truckers to heel.

In 2008 CARB banned diesel engines manufactured before 2010 from California roads. Under the rule, over a million truckers who operate in California, including 625,000 registered out of state, are required to replace their engines with a newer model or install a diesel particulate filter, which can cost more than their vehicles are worth.

This month CARB and EPA announced a \$390,000 settlement with Estes—\$100,000 of which goes to the U.S. Treasury—for failing to install filters on 73 of 500 trucks it operated in California between 2012 and 2014. Estes has since upgraded its entire California fleet.

CARB doesn't have authority to subpoena documents from out-of-state businesses, so EPA assisted the investigation by asserting jurisdiction under California's 2012 State Implementation Plan of the Clean Air Act that includes the truck rule. Last year EPA demanded that a dozen interstate trucking companies show compliance with California's rule. A CARB spokesperson says the prosecution is "the first of what we hope are many cases." Caveat trucker.

Not surprisingly, the green police claim they are protecting Californians. According to EPA, the truck rule will prevent 3,500 premature deaths between 2010 and 2025. Yet there's little evidence linking diesel particulate matter with an increase in mortality in California, which has among the lowest age-adjusted death rates in the country.

Studies show a weak association between mortality and particulate matter in Appalachia and the Midwest, but virtually no correlation in the western United States. This may be because the chemical composition of particulate matter—which can be generated from dust, wildfires, pollen, power plants, mining and farming—varies by region. Diesel exhaust makes up a small fraction of these fine airborne particles.

Notably, the epidemiological study that CARB used to justify its truck rule in 2008 had to be corrected after it was revealed that the report's lead staff scientist had purchased his statistics doctorate for \$1,000 from a diploma mill. CARB later revised its estimates of premature deaths prevented by the rule down to 3,500 from 9,400. After discovering the deceit, CARB Chairwoman Mary Nichols failed to inform the board and went ahead and propounded the regulations for adoption.

In other words, the regulations under which EPA and CARB are prosecuting truckers are based on dubious science. But when the cause is green virtue, such details don't matter.

<http://www.wsj.com/articles/californias-diesel-rule-scam-1445212223>

7. EVEN THE LA TIMES THINKS CALIFORNIA GOVERNOR BROWN'S LATEST CLIMATE CLAIM IS NONSENSE

Guest essay by Eric Worrall

The LA Times, which frequently expresses strong support for climate alarmist themes, has printed an article expressing skepticism of Governor Jerry “Moonbeam” Brown’s attempt to link global warming to Californian wildfires. According to the LA Times; Gov. Brown’s link between climate change and wildfires is unsupported, fire experts say The...

<http://wattsupwiththat.com/2015/10/19/even-la-times-thinks-governor-browns-latest-climate-claim-is-nonsense/>

8. GOP SENATOR RIPS EPA, WHITE HOUSE FOR SKIPPING CLIMATE HEARING

By [Adam Shaw](#)

Published October 19, 2015

[FoxNews.com](#)

A top Republican senator is crying foul after the Environmental Protection Agency and a key White House office declined to take part in an upcoming hearing on the administration’s role in international climate negotiations, ahead of a landmark conference in Paris next month.

The Tuesday hearing was initially pitched as a joint hearing between the Committee on Environment and Public Works (EPW) and the Senate Foreign Relations Committee (SFRC.)

The hearing now is expected to be held only by the SFRC and to feature one witness -- the Obama administration's special envoy for climate change, Todd Stern.

Republican EPW sources told FoxNews.com that Democrats in the SFRC objected to a joint hearing, while invitations to the EPA and White House Council on Environmental Quality (CEQ) were both declined. EPW Chairman Sen. James Inhofe, R-Okla., who is well-known for his global warming skepticism, voiced frustration at the response.

“The Obama administration and Senate Democrats have made it extremely difficult to provide necessary and appropriate Congressional oversight to the president’s international climate negotiations,” Inhofe said in a statement.

The hearing will be held in anticipation of the 2015 United Nations Climate Change Conference in Paris at the end of November. The conference is a critical summit for an administration that has made cutting carbon emissions a centerpiece of its second-term agenda. White House Press Secretary Josh Earnest told reporters Monday that President Obama is considering attending the Paris talks.

Considering the summit's importance, Republicans want to question top environmental policy officials in the administration on their intentions.

“The CEQ has always been any administration's filter, and played a leadership role, on environmental issues and international environmental issues. The EPA is responsible for what we can tell to be the vast majority of the 26-28 percent of greenhouse gas reductions and yet we believe that ultimately this hearing will not feature the environmental agencies and will solely feature Mr. Stern,” a Senate EPW majority aide told FoxNews.com.

“We believe a hearing featuring all those witnesses would be useful, as witnesses have a tendency to defer to witnesses who are not in the room and it would be helpful to get a comprehensive perspective from the administration for the Senate of what will be part of this agreement, what has led up to this, what interagency interaction there has been, and the work involved.”

But in a letter responding to Inhofe, the EPA said the hearing would be out of the purview of the agency.

“[The] agency cannot speak to the full suite of domestic policies that are being considered in these negotiations and is not the party responsible for developing the total emissions reduction numbers for the U.S.,” Associate Administrator Laura Vaught wrote.

While Tuesday's hearing will now be conducted solely by the Senate Foreign Relations Committee, EPW Republicans said they want to hold their own hearing with Stern, the EPA and the CEQ later in the year. However, the State Department has informed the committee that Stern would not be able to attend an EPW hearing unless the EPA or CEQ also were in attendance. The aide told FoxNews.com they consider scrutiny of the upcoming Paris agreement to be important, saying it would mirror the Kyoto agreement – which the U.S. did not sign – and require a substantial commitment to the international community.

The White House already has enlisted a number of companies to bolster its push for an international climate pledge

White House officials say 81 companies have signed on to the American Business Act on Climate pledge, including Intel, Coca-Cola, Google and Walmart. By signing, the companies promise to advocate for a strong climate deal ahead of the negotiations in Paris.

The Associated Press contributed to this report.

<http://www.foxnews.com/politics/2015/10/19/republican-epa-obama-hearing/?intcmp=hplnws>

9. “CO2 EMISSIONS ARE MAKING THE EARTH GREENER AND MORE FERTILE, A UNITED NATIONS (UN) CLIMATE SCIENTIST HAS SAID.”

<http://www.breitbart.com/london/2015/10/12/report-carbon-dioxide-good-environment-says-un-scientist/>

10. FEDERAL REGISTER 23 OCT 2015

PROPOSED RULES

FEDERAL PLAN REQUIREMENTS:

FEDERAL PLAN REQUIREMENTS FOR GREENHOUSE GAS EMISSIONS FROM ELECTRIC UTILITY GENERATING UNITS CONSTRUCTED ON OR BEFORE JANUARY 8, 2014; MODEL TRADING RULES; AMENDMENTS TO FRAMEWORK REGULATIONS

Page 64965-65116

SUMMARY: In this action, the Environmental Protection Agency (EPA) is proposing a federal plan to implement the greenhouse gas (GHG) emission guidelines (EGs) for existing fossil fuel-fired electric generating units (EGUs) under the Clean Air Act (CAA). The EGs were proposed in June 2014 and finalized on August 3, 2015 as the Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (also known as the Clean Power Plan or EGs). This proposal presents two approaches to a federal plan for states and other jurisdictions that do not submit an approvable plan to the EPA: a rate-based emission trading program and a mass-based emission trading program. These proposals also constitute proposed model trading rules that states can adopt or tailor for implementation of the final EGs.

The federal plan is an important measure to ensure that congressionally mandated emission standards under the authority of the CAA are implemented. The proposed federal plan is related to but separate from the final EGs. The final EGs establish the best system of emission reduction (BSER) for applicable fossil fuel-fired EGUs in the form of a carbon dioxide (CO₂) emission performance rate for steam-fired EGUs and a CO₂ emission performance rate for natural gas-fired combined cycle (NGCC) units, and provide guidance and criteria for the development of approvable state plans. The purpose of the proposed federal plan is to establish requirements directly applicable to a state's affected EGUs that meet these emission performance levels, or the equivalent statewide goal, in order to achieve reductions in CO₂ emissions in the case where a state or other jurisdiction does not submit an approvable plan. The stringency of the emission performance levels established in the final EGs will be the same whether implemented through a state plan or a federal plan. The EPA is also proposing enhancements to the CAA section 111(d) framework regulations related to the process and timing for state plan submissions and EPA actions. The EPA intends to finalize both the rate-based and mass-based model trading rules in summer 2016. <http://www.gpo.gov/fdsys/pkg/FR-2015-10-23/pdf/2015-22848.pdf>

11. FEDERAL REGISTER 23 OCT 2015

RULES

CARBON POLLUTION EMISSION GUIDELINES FOR EXISTING STATIONARY SOURCES:

CARBON POLLUTION EMISSION GUIDELINES FOR EXISTING STATIONARY SOURCES: ELECTRIC UTILITY GENERATING UNITS

Page 64661-64964

SUMMARY: In this action, the Environmental Protection Agency (EPA) is establishing final emission guidelines for states to follow in developing plans to reduce greenhouse gas (GHG) emissions from existing fossil fuel-fired electric generating units (EGUs). Specifically, the EPA is establishing: Carbon dioxide (CO₂) emission performance rates representing the best system of emission reduction (BSER) for two subcategories of existing fossil fuel-fired EGUs--fossil fuel-fired electric utility steam generating units and stationary combustion turbines; state-specific CO₂ goals reflecting the CO₂ emission performance rates; and guidelines for the development, submittal and implementation of state plans that establish emission standards or other measures to implement the CO₂ emission performance rates, which may be accomplished by meeting the state goals. This final rule will continue progress already underway in the U.S. to reduce CO₂ emissions from the utility power sector.

<http://www.gpo.gov/fdsys/pkg/FR-2015-10-23/pdf/2015-22842.pdf>

12. FEDERAL REGISTER 23 OCT 2015

STANDARDS OF PERFORMANCE:

STANDARDS OF PERFORMANCE FOR GREENHOUSE GAS EMISSIONS FROM NEW, MODIFIED, AND RECONSTRUCTED STATIONARY SOURCES: ELECTRIC UTILITY GENERATING UNITS

Page 64509-64660

SUMMARY: The Environmental Protection Agency (EPA) is finalizing new source performance standards (NSPS) under Clean Air Act (CAA) section 111(b) that, for the first time, will establish standards for emissions of carbon dioxide (CO₂) for newly constructed, modified, and reconstructed affected fossil fuel-fired electric utility generating units (EGUs). This action establishes separate standards of performance for fossil fuel-fired electric utility steam generating units and fossil fuel-fired stationary combustion turbines. This action also addresses related permitting and reporting issues. In a separate action, under CAA section 111(d), the EPA is issuing final emission guidelines for states to use in developing plans to limit CO₂ emissions from existing fossil fuel-fired EGUs.

<http://www.gpo.gov/fdsys/pkg/FR-2015-10-23/pdf/2015-22837.pdf>

13. @BJORNLOMBORG: WHY WIND AND SOLAR POWER CANNOT BE A MAJOR SOLUTION TO CLIMATE CHANGE

<http://www.project-syndicate.org/commentary/wind-power-wasted-subsidies-by-bj-rn-lomborg-2015-10>

Judith Curry

COMMENTS

A. THE WEEK THAT WAS: 2015-10-24(OCT. 24, 2015)

BY KEN HAAPALA, PRESIDENT, SCIENCE AND ENVIRONMENTAL POLICY PROJECT (SEPP)

Quote of the Week: “This conference was worse than a Rorschach test: There’s a meaningless inkblot, and the others ask you what you think you see, but when you tell them, they start arguing with you!” — Richard Feynman, Surely You're Joking, Mr. Feynman!

Conference: The Bonn Climate Change Conference, October 19 to 23, 2015, apparently ended. This was billed as the last conference before the 21st Conference of Parties (COP-21) of the UN Framework Convention on Climate Change (UNFCCC) scheduled between November 30 and December 11 in Paris. One is not sure if the Bonn Conference is over, because these conferences seem to be endless, similar to the conference Richard Feynman describes (see quote above). However, a 51 page Draft Agreement, “Version of 23 October 2015@23:30hrs” was release. It is a much revised version of the shorter draft agreement with which the conference started.

The countless press releases and articles conference can be summed as follows: The delegates from the developed West (mainly Western Europe and the US) are saying that in order to “save the world” we

have to stop the use of fossil fuels, even though they are needed for economic development. The delegates from the developing world, identified as the G-77 + China, are saying if you want us to stop development show us the money, namely the \$100 Billion per year the West promised in Copenhagen in 2009.

Few dare mention it, but there seems to be an issue of trust involved. Why should the G-77+ China trust the West, who promises to punish their own citizens by crippling their own economies? The G-77 + China see the benefits of the enormous economic growth occurring in China and south Asia from the use of fossil fuels. Also, they see that renewables, which the West promotes as replacements, namely solar and wind, are not working as promoted. There are substantial reasons for a lack of trust, which does not bode well for a binding agreement on reducing greenhouse gas emissions, namely carbon dioxide (CO₂), at the COP 21 in Paris. See Article # 1, links under Problems in the Orthodoxy, On to Paris, and <http://unfccc.int/files/bodies/application/pdf/ws1and2@2330.pdf>

“Real” Electricity: Ironically, during the Bonn Conference, the Scientific American, certainly more conformist than skeptical to the view of human-caused catastrophic global warming, contained an article that reiterated a year-old incident with some villagers in India, when Greenpeace proposed to install solar panels to generate electricity. As the article states:

“One year ago, environmentalists hailed this tiny village [Dharnai] as the future of clean energy in rural India. Today, it is powered by coal.

“When the former chief minister of Bihar state visited to inaugurate the grid, villagers lined up to protest, chanting, ‘We want real electricity, not fake electricity!’

“By ‘real,’ they meant power from the central grid, generated mostly using coal. By ‘fake,’ they meant solar.

“If you don’t find bottled water to drink, you have to settle for water from the hand pump,’ he [a community engineer] said. ‘Similarly, when we did not have real electricity, we had to make do with solar power.’”

The incident is illustrative, and applies to those who promote solar and wind. Why trust an organization that promotes an unreliable, untrustworthy form of electricity generation when reliable, trustworthy ones are available? See links under Return of King Coal.

Untrustworthy Wind Power: In April 2013, The Scientific Alliance published an analysis on UK wind power covering January 2011 to December 2012 by Derek Partington. Mr. Partington has a degree in physics, was, formerly, a Chartered Engineer, and a member of the Institute of Physics and the Institute of Measurement and Control. He has been undertaking research into wind turbines for over 6 years and recently published an update to his earlier work with data covering 2013 and 2014. The data covers all wind turbines in the UK that are metered by the National Grid.

The UK has experienced a significant increase in onshore and offshore wind turbine capacity from 2012 to 2014 with 5,894 MW monitored in January 2013 to 8,403 MW monitored in January 2015, or a growth of about 43%. The general question is: Do more wind turbines improve reliability – trustworthiness in this form of electricity generation. The general answer is NO!

More specifically, Mr Partington asks and answers four questions:

No.1. “Do more wind turbines improve average output? No. 2. Do more wind turbines reduce the periods of low or very low output? No. 3. Do more wind turbines reduce intermittency? No. 4. Do more wind turbines make it possible to close any conventional, fossil-fuel power stations by making up for additional demand on the grid on peak times? **No.**”

Mr. Partington concludes: “Based on the results of this and my previous analysis I cannot see why any policy for the continued increase in the number of wind turbines connected to the Grid can be justified.”

This is yet another example that adding additional units of an unreliable, untrustworthy form of electricity generation does not make the system reliable or trustworthy. See links under Questioning European Green.

EPA’s Endangerment Finding: The state of Minnesota is holding administrative hearings on the social costs of carbon, which many Washington entities are busily calculating, while ignoring the tremendous benefits of carbon dioxide for plants and the environment. Without green plants would die, so would most life on the planet. The concept of a social cost of carbon (dioxide) depends on the findings of the UN Intergovernmental Panel on Climate Change (IPCC). In turn, the EPA’s 2009 claim that greenhouse gas emissions, mainly carbon dioxide, endanger human health and welfare (Endangerment Finding, EF).

In his testimony and exhibits, MIT Professor Emeritus Richard Lindzen neatly summarized some of the flaws of the IPCC findings, and with it the flaws in the EPA’s EF. Main points include:

1. The models used by the IPCC to predict (project) future temperatures are flawed. 2. Thus, the models used to predict (project) future economic damages are flawed. 3. There is no indication the Earth’s climate is “changing” other than what is natural. 4. The IPCC’s estimate of the sensitivity to a doubling of CO2 is done incorrectly. 5. Recent studies indicate, at most, a mild warming with a doubling of CO2.

Lindzen provides additional detail to support these judgments, to include past warm periods, such as the one from about 1895 to 1946, which the IPCC ignores. Also, he states that there is no firm relationship between human CO2 emissions and atmospheric CO2 concentrations. [An undetermined part of the increase in atmospheric CO2 may come out gassing of CO2 by the oceans from a natural warming of the oceans, as occurred during past interglacial periods.]

Unfortunately, this entire process is necessary to place into court records that the science is far from settled and human emissions of CO2 are not destroying the planet. For more details on testimony by Lindzen, William Happer, and Roy Spencer see links under Seeking a Common Ground.

Pink Flamingos? The financial concept of a Black Swan was popularized by Nassim Nicholas Taleb, who used it to explain investment strategies that depend on highly improbable events occurring. Each day, the financial investment [speculation] on an improbable event may be tiny, but if and when the event occurs, the return [rewards] can be huge. As Judith Curry presents on Climate Etc.:

“According to Taleb, a Black Swan event has three characteristics: 1. It is a surprise to governments, experts and outside observers. 2. The event has a major impact. 3. After the first instance of the event, it is rationalized by hindsight (which also is why a Black Swan event never happens the same way twice).”

As usual, the concept was picked up by others who change it.

“For a while there was an effort on the part of government agencies and experts in various fields to use the Black Swan Theory as a basis for anticipating surprises. Just come up with a list of impossible scenarios and try and work backwards to find evidence to support one versus another. Of course, Taleb never suggests any such thing. He argued that it is not possible to predict Black Swans and hence the proper strategy is to increase the resilience to negative events and create a reserve capacity to exploit positive ones.”

A military strategist, Frank Hoffman, added another concept – the Pink Flamingo. The Pink Flamingo can be roughly described as leaders so obtuse in their political thinking that they ignore the obvious. In his testimony (above) about the IPCC, Richard Lindzen highlights a few of the Pink Flamingos that Western leaders ignore. The road to Paris is lined with Pink Flamingos.

Apparently, they are seen by the G-77 + China, but not by the western delegates to the COP-21. See links under Questioning the Orthodoxy.

New Documentary: On October 21 a new documentary premiered: Where the Grass is Greener: Biblical Stewardship vs. Climate Alarmism, by the Cornwall Alliance. Many of those appearing in the film are scientists expressing skepticism over the science presented by the IPCC. Unrehearsed, a number of those scientists recited effective quotes from Richard Feynman, Participants included three members of the SEPP board of directors, featuring Chairman S. Fred Singer. Near the end of the film, SEPP board member Tom Sheahen expressed well that there is no conflict between science and religion, and there is skepticism about the claim that humans are causing dire global warming. Apparently, the film is not yet available but some of the interviews are. See link under Expanding the Orthodoxy – The Pope – Loyal Opposition

BP Oil Market Analysis: BP is noted for its excellent analyses of the oil market to include projections. In a time of market uncertainty, when analysis's are giving wildly conflicting estimates of the future of the oil market, Spencer Dale, the BP group chief economist, offers a refreshingly direct analysis at the UK Society of Business Economists Annual Conference.

Among the major points are: Oil is a flexible resource, dependent on price and technology, including new discoveries. "The key point here is that the nature of fracking is far more akin to a standardized, repeated, manufacturing-like process, rather than the one-off, large scale engineering projects that characterize many conventional oil projects." [Do the strong productivity gains in fracking apply outside the US?]

Demand and supply curves are steep (inelastic) – shale with low fixed costs, high variable costs, the opposite of advantages to large integrated companies with high fixed costs, followed by low variable cost [shale operators require external financing]. Quantitative easing may have helped oil companies to get the needed financing [but many are funded by limited partnerships or similar structures.] The steep demand and supply curves (inelastic) tend to become elastic (less steep) with time.]

According to Dale, the US will be self-sufficient in energy by the early 2020s and in oil by the early 2030s. By contrast China and India will be more dependent on oil, resulting in East to West flow of funds issues. Does OPEC stabilize the market? The assumption was never correct, except in temporary shocks. OPEC countries have had major supply disruptions – civil war. OPEC cannot stabilize in response to structural shocks. OPEC will now try to maintain market share.

Shale will be a persistent source of oil production

A new framework for analysis is required: 1) Oil is not likely to be exhausted. 2) Shale is more responsive to price, than conventional oil; 3) Oil will flow from west to east [Asia]; 4) OPEC will remain a central force, but not the market dominating force many believe it is. See links under Oil and Natural Gas – the Future or the Past?

Number of the Week: 14, then 24, now 26? Before the Federal Courts would grant standing to parties that wish to sue Federal Government, mainly the EPA, for the Administration's power plan, called the "Clean Power Plan," the plan had to be published in the Federal Register. The Administration delayed publishing it. Friday, October 23, was the first day litigation could be filed, at the US Circuit of Appeals for the District of Columbia.

Early estimates were that 14 states would file in a joint action. Almost immediately, the joint action was filed with 24 states. By Friday afternoon, two other states filed similar, but separate actions, bringing the total to 26 out of 50 states objecting to the Administration's plan to control CO2 emissions.

Given this, it will be interesting, and sad, to see how the Administration will try to explain to the G-77 + China, in Paris, how the nation supports its plan to control CO2 emissions and how the US will provide a

major share of the \$100 billion demanded by the G-77 + China, without Senate approval of a treaty. See links under The Administration's Plan – Push-Back

<http://www.sepp.org/twtwfiles/2015/TWTW%2010-24-15.pdf>

B ALL THE RSS TEMPERATURE TRENDS THAT ARE FIT TO PLOT

Guest essay by Barry Wise

Christopher Monckton has pointed out that a trend of zero or smaller can be calculated stretching back over 18 years, but critics have pointed out that this encompasses the super el Niño of 1998 and so biases the trend downward while the overall temperature is still rising. Of course they...

<http://wattsupwiththat.com/2015/10/20/all-the-rss-trends-that-are-fit-to-plot/>

C. RESPONSE TO “GLOBAL CLIMATE CHANGE: A CALL FOR REASON”

C.A. (Andy) Miller, Associate Director for Climate

Air, Climate, and Energy Research Program

U.S. Environmental Protection Agency, Office of Research and Development

I very much agree with Dr. Moghissi's recent “call for reason” with regard to climate change, if by “reason” we mean the application of logic and fact. There are several points made in his article that are factually in error that I will address here:

1. The current increase in average global temperature is not based on models, but on a range of independent measurements. These include a vast body of direct measurement of air temperatures over land, accounting for urban heat island effects and changes in measurement methods, and direct measurements of sea surface temperatures from ships and buoys. Indirect measurements, including of ocean temperatures; ocean heat content; sea level rise due to temperature-driven expansion of water; satellite-based temperature measurements; atmospheric water content; and reduction of ice and snow cover on land are all consistent with increasing global average air temperatures. Documented changes in growing season, last spring freeze and first fall frost, permafrost thaw, and species habitat ranges provide further, model-independent evidence of increasing temperature.¹ Importantly, it is the change in temperatures (or “anomalies”) that are calculated, rather than the average temperature itself, greatly increasing the correlation over large distances.

Dr. Holliday Comments Regarding Dr. Miller's comments.(1)

Dr. Miller begins his discussion by referring to the “increase in the average global temperature” without providing data to demonstrate Global Warming is occurring. Such data are not available using U.S. ground level atmospheric data alone. Watts (2009) shows U.S. Government land temperature measurements, except for a few very new Weather Stations, are infected by heat islands, air conditioning cooling fan discharges, parking lot paving, etc. Also, U.S. data are not world data. Ocean temperatures gathered by ships are affected by ship cooling water discharges, the warmth of the ship, and accuracy of the thermometer. Also, Diving buoys provide good data and are being used consistently now for Ocean data. We know little regarding the accuracy of atmospheric temperature measurements overseas except for Britain. Climategate suggested some temperature data are being manipulated. In my opinion the only reliable global data comes from the University of Alabama (Roy Spencer), Fig 1.

<http://wattsupwiththat.com/2015/08/17/july-2015-global-surface-landocean-and-lower-troposphere-temperature-anomaly-model-data-difference-update/>

Latest Global Temps

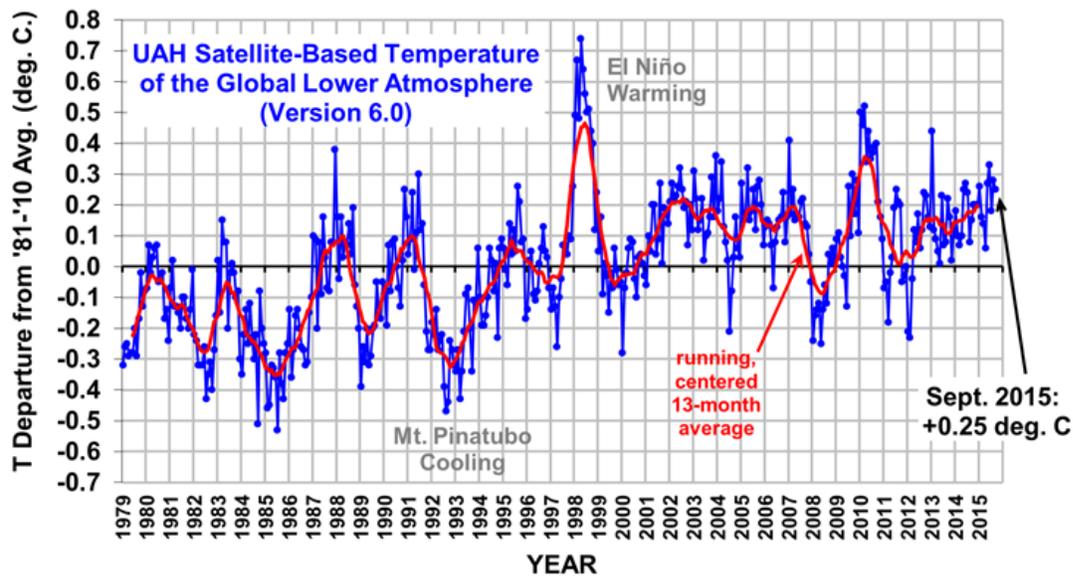


Figure 1. Global atmospheric temperatures above the influence of Heat Islands.

Latest Global Average Tropospheric Temperatures

Since 1979, NOAA satellites have been carrying instruments which measure the natural microwave thermal emissions from oxygen in the atmosphere. The intensity of the signals these microwave radiometers measure at different microwave frequencies is directly proportional to the temperature of different, deep layers of the atmosphere. Every month, John Christy and I update global temperature datasets that represent the piecing together of the temperature data from a total of fourteen instruments flying on different satellites over the years. A discussion of the latest version (6.0) of the dataset is located [here](#).

The graph above represents the latest update; updates are usually made within the first week of every month. Contrary to some reports, the satellite measurements are not calibrated in any way with the global surface-based thermometer records of temperature. They instead use their own on-board precision redundant platinum resistance thermometers (PRTs) calibrated to a laboratory reference standard before launch.

The land and ship data show a continuing global temperature rise or Government Agencies try to prove the heat is being absorbed by the Oceans. I believe the above temperature are the best available. Certainly these data are superior to ground measurement taken at unknown places with unknown methods. EPA and IPCC should be using these data. Roy Spencer.

It is interest to observe from Fig. 1 that Little temperature rise has occurred since 1999. EPA appears reluctant to acknowledge this fact. At the most there may an increase in global temperature of 0.6°C per century.

End of Dr. Holliday First Comment

Dr. Miller Continues

2. Andy says: "Many climate change models do not assume a uniform distribution of carbon dioxide (CO₂) or other radiative forcing compounds, including methane (CH₄), aerosols, and water vapor, but instead explicitly calculate the transport as well as chemical and radiative interactions of these compounds." The Intergovernmental Panel on Climate Change (IPCC) Fifth Assessment Report (AR5) addresses the variation in geographical CO₂ distribution and how that distribution affects radiative forcing and warming. ii Variations over time, with changes in land cover, between the Northern and

Southern hemispheres, and between rural and urban regions are all well recognized and taken into account in models and other analyses.

Dr. Moghissi correctly notes that “decisions often must be based on insufficient technical knowledge.” This is indeed the case, but his conclusion (“society should make decisions that do not adversely impact the economic development”) is not a logical consequence of that uncertainty. Indeed, it is precisely because of such uncertainty that vibrant, responsible societies invest in education, basic research, national defense, environmental protection and other areas to increase long-term growth and stability, even at the possible expense of immediate economic gain.

The concern regarding unilateral action by the U.S. is similarly unfounded. It is quite likely that there will be countries that seek to take advantage of U.S. leadership by doing nothing while the U.S. acts; this is nothing new. That has been the case in a number of areas, including education, research, environmental protection, and global security. Leadership, by its very nature, means taking on the challenges that others avoid, showing the way, and demonstrating the capability and courage for others to follow. The tremendous benefits of this approach, including technological advancements, to the U.S. and the world have been demonstrated repeatedly by the willingness of the U.S. to take the lead when others wait.

i J.M. Melillo, T.C. Richmond, and G.W. Yohe, Eds. (2014). *Climate Change Impacts in the United States: The Third National Climate Assessment*. U.S. Global Change Research Program, 841 pp. doi:10.7930/J0Z31WJ2.

Dr. Moghissi’s statement regarding models is a common refrain, particularly with regard to climate change, but it ignores the facts about how we develop and use models. George Box famously said, “All models are wrong, but some are useful.” iii As engineers, we are well aware of the strengths and limitations of models – since we use them on a daily basis – and we understand that the true value of models is in providing insight. It is telling that, among all the claims that the published models are wrong and that they can tell us whatever we want to hear, there are no credible models that I have seen that suggest increasing levels of atmospheric CO₂ will not result in global warming. Models are mathematical representations of physical, chemical, and biological processes. Given that the zero-order driver of climate change physics is the increase in radiative forcing caused by rising greenhouse gas concentrations, any model that indicated a different result would necessarily need to introduce some heretofore unknown physical mechanism to explain that behavior. This is not reason, but (at best) hope. Finally, a few words regarding the characterization of “Believers” as a group that “relies on experience growing vegetables in greenhouses...” This point is untrue, unfounded, and unnecessarily disparaging to the thousands of distinguished scientists and engineers who have worked across a wide range of disciplines to develop the science of climate change. It is highly inappropriate to use such characterizations to describe dedicated scientists who are seeking to understand how the Earth’s systems behave. I enthusiastically recommend the website, “The Discovery of Global Warming” by physicist Spencer Weart, which is an informative, entertaining, and easily read account of how the science of climate change evolved.iv Dr. Weart’s history illustrates the deep lack of understanding and respect for these scientists inherent in Dr. Moghissi’s unfortunate comment.

There is certainly a need to objectively evaluate, compare, and debate the response to climate change, but an even greater need to act. Our energy system has provided enormous benefits to the U.S. and the world, and the on-the-ground experience and knowledge of creative and dedicated engineers is crucial to the transition to a low-CO₂ energy system while maintaining the ability of societies to advance. Furthermore, we are facing the worsening impacts of climate change, which are already requiring engineering solutions. ASME has the opportunity to become a leader in these fields if we look to the future rather than attempting to cling to the past.

A focus on the future cannot ignore the past, however. It is worth noting that the journal issue Dr. Moghissi noted in his remarks, published 36 years ago, included an article that noted, “The *prima facie* evidence on fossil fuel induced climate change suggests the need for immediate introduction of

remedial measures, so that a smooth transition to the primary use of non-carbon based energy resources can be achieved in some 50 yr.”v We have lost valuable time in responding to this very real problem. A true “call for reason” will move ASME beyond unfounded fears and arguments without factual basis and on to reasoned, dedicated efforts to forge an engineering community that continues to create and build a better future.

The views expressed are those of the author and do not necessarily represent the policies or views of the Environmental Protection Agency.

ii IPCC (2013). *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, 1535 pp.

iii G.E.P. Box (1979). “Robustness in the strategy of scientific model building,” in *Robustness in Statistics*, R.L. Launer and G.N. Wilkinson, Eds. Academic Press: New York.

iv S. Weart, “The Discovery of Global Warming,” <https://www.aip.org/history/climate/index.htm>.

v J.A. Laurmann (1979). “Climate Change from Fossil Fuel Generated CO₂ and Energy Policy,” *Environment International* Vol. 2, pp. 461-473.

End of Miller Comments

Dr. Holliday Comment Regarding Dr. Miller’s comments.(2)

I am not a modeler so I am not qualified to discuss that subject. However, for those who are “Believer,” I find it inconceivable that Believers ignore the 19± years pause in global temperature rise clearly demonstrated by Figure 1 (above). Climate Change occurs also every day, but global warming stopped in the late 1990s and the pause continues. Believers’ continue relying on models to project the future, even though the best models do not follow the current temperature pause. If the current projections (Models) indicate increased global atmospheric temperature rise, while the global physical temperature measurements do not show a rise or is rising extremely slowly, it suggests the model will not project the future correctly. Additionally, citizens are being told by Politian’s and people, making fortunes out fruitless research, and that the atmospheric temperature is currently rising faster than the reliable physical measurements demonstrate. Such incorrect statements are dishonest and harmful to the uninformed public. <http://wattsupwiththat.com/2015/10/20/all-the-rss-trends-that-are-fit-to-plot/> The elimination of fossil fuel and cheap power, and the reliance on wind and solar substitutes, which are unreliable and as demonstrated in Europe, are 300 to 500 percent more expensive than fossil fuel power. The forthcoming high power cost result will fall heavily on the low wage earners and families and slow the progress of developing nations.

Respectfully Submitted.

George Holliday

Refer to **GLOBAL CLIMATE CHANGE: A CALL FOR REASON** in

Last week’s Newsletter

Read the next comment to see how our Government supports their claims.

D. CLIMATE CHANGE AND THE U.S. ENERGY SECTOR

This is from a reference from the Department of Energy Report

<http://www.energy.gov/epsa/downloads/climate-change-and-us-energy-sector-regional-vulnerabilities-and-resilience-solutions> regarding Regional Energy Sector Vulnerabilities and Resilience Solutions

Scroll over to read more about the report

We live in a rapidly changing world. The effects of climate change—such as heat waves, rising sea levels and more severe storms—are already being felt across the United States. Our energy infrastructure is especially vulnerable to climate-related impacts, which can pose a serious threat to America’s national security, energy security, economic wellbeing, and quality of life.

This interactive map illustrates how climate change has the potential to disrupt our nation’s energy systems. Click on the shaded regions below for a breakdown of the key climate vulnerabilities in each part of the country.

Read More Below

AlaskaHawaii and Puerto RicoSoutheastSouthern Great PlainsNortheastMidwestNorthern Great PlainsSouthwestNorthwestKey Climate Impacts(Scroll Over Icons)Electric GridElectricity DemandFuel TransportHydropowerOil & Gas E&PThermoelectric

Southwest

Many energy systems in the Southwest are already designed for hot and arid conditions, but climate change is going to put additional pressure on the region. More frequent and severe heat waves will drive up electricity demand as people try to stay cool, while at the same time hampering the ability of natural gas- and coal-fired power plants to meet that demand. Other concerns as the region becomes drier include decreasing hydropower resources and wildfires threatening transmission lines.

Read More About The Southwest

I read and this is what I found: No data or graphs depicting any atmospheric temperature change.

“Average temperaturesand cooling degree days (CDDs) are projected to increase across the region, “
There was no supporting graph, table or technical reference!

D. REVIEW: GOLD KING MINE SPILL WAS PREVENTABLE, DISASTER POTENTIAL NOT UNDERSTOOD

Department of Interior review says EPA did not know what loomed in the Gold King
By Jesse Paul and Bruce Finley

[The Denver Post](#)

The Environmental Protection Agency's botched cleanup that triggered the catastrophe at the Gold King Mine resulted from rushing with inadequate engineering know-how and could have been prevented, federal investigators concluded Thursday.

Man-made changes in the underground landscape, including installation of bulkhead plugs at the nearby Sunnyside Mine, primed conditions for the 3 million-gallon blowout, according to a [132-page report](#) released by the U.S. Department of Interior.

The Aug. 5 spill above Silverton could have been avoided if the EPA and its contractors used a drill to check wastewater levels inside the mine before digging with heavy machinery to open a clogged portal, the report said.

The EPA "incorrectly concluded" the main mine tunnel was only partially full of wastewater, the report said. "This error resulted in development of a plan to open the mine in a manner that appeared to guard against blowout, but instead led directly to the failure."

The report said a blowout could have happened on its own. An EPA [internal review, released Aug. 26](#), called the blowout "inevitable."

The investigation began with an EPA request for another federal government agency to independently review the disaster, which turned the [Animas River mustard yellow](#) as an acid mix of toxic heavy metals gushed from the mine.

EPA officials at the regional headquarters in Denver declined to discuss the investigation. An EPA spokeswoman based in Washington, D.C., issued a statement saying the report combined with the findings of EPA's internal review will help continuing EPA efforts to work at inactive mines to protect people and the environment.

"Current state of practice"

Tens of thousands of abandoned mines across Colorado and other Western states have yet to be cleaned up. And the federal investigators from Interior's Bureau of Reclamation found that the conditions that led to the Gold King disaster "are not isolated or unique and in fact are surprisingly prevalent."

There are no standards for reopening inactive mines, the review found.

In this aerial photo taken Tuesday, Aug. 11, 2015, waste water continues to stream out of the Gold King Mine near Silverton, Colo. Frustration is mounting throughout the Four Corners region among officials and residents who say the EPA has moved too slowly and hasn't been forthcoming about the ...

In this Thursday, Aug. 6, 2015 file photo, people kayak in the Animas River near Durango, Colo., in water colored yellow from a mine waste spill. A crew supervised by the U.S. Environmental Protection Agency has been blamed for causing the spill while attempting to clean up the area near the ...

The Animas River flows through the center of Durango on August 7, 2015 along Animas River. Over a million gallons of mine wastewater has made it's way into the Animas River closing the river and put the city of Durango on alert. (Photo By Brent Lewis/The Denver Post)

Colorado Governor John Hickenlooper, left, looks at a fish trap on the banks of the Animas River that is being held by Colorado Parks and Wildlife's Aquatic Biologist Jim White in the waters of the river contaminated last week by a massive mine blowout above Silverton, Colo. The Governor toured the ...

Cement Creek, which was flooded with millions of gallons of mining wastewater, is stained orange on August 11, 2015 in Silverton, Colorado. The Environmental Protection Agency accidentally released approximately three million gallons of wastewater into the creek from the Gold King mine, polluting ... However, cleanup workers in 2011 at the adjacent Red and Bonita Mine used a drill to bore into the mine from above and check the level of wastewater in the mine prior to excavating backfill at the portal. "Although this was apparently considered at Gold King, it was not done. Had it been done, the plan to open the mine would have been revised, and the blowout would not have occurred," the report said.

[DOCUMENT: Read the full report](#)

EPA officials pointed to their internal review blaming "technical challenges, safety, timing and cost" as factors in why the agency failed to drill into the mine to check the level of wastewater. They also blamed "the steepness and instability of slopes" at the mine, citing safety.

The investigation concluded the Gold King disaster "is somewhat emblematic of the current state of practice in abandoned mine remediation. The current state of practice appears to focus attention on the environmental issues.

"Abandoned mine guidelines and manuals provide detailed guidance on environmental sampling, waste characterization, and water treatment, with little appreciation for the engineering complexity of some abandoned mine projects that often require, but do not receive, a significant level of expertise."

Colorado Sen. Michael Bennet issued a statement saying "the EPA made unacceptable mistakes and did not have adequate procedures in place." Bennet said he is working on legislation to shield groups that

embark on voluntary cleanups at inactive mines from liability and on "hard rock mining reform" to help clean up mines and reduce the risk to communities.

E. AL GORE AND THE MEDIA WERE WRONG: U.S. MAJOR HURRICANE DROUGHT NOW ONE DECADE AND COUNTING

As of today, October 24th, it has been 3652 days (including leap years) or a decade (10 years) since the US has been hit by a Category 3 or greater hurricane. The last such hurricane was Wilma on October 24th, 2005. Hurricane Wilma was the most intense tropical cyclone ever recorded in the Atlantic basin. Each day forward...

<http://wattsupwiththat.com/2015/10/24/al-gore-and-the-media-were-wrong-u-s-major-hurricane-drought-now-one-decade-and-counting/>

F. GUEST POST BY WERNER BROZEK

Edited by Just The Facts

Image Credit: Ken's Kingdom Image Credit: RSS

As can be seen in the above graphs, the south polar region has been cooling for the whole satellite record. The cooling is not statistically significant, however over the complete time span of the satellite record of almost...

<http://wattsupwiththat.com/2015/10/23/polar-puzzle-now-includes-august-data/>

G. CITY BUSTING EARTH GRAZER ASTEROID IMMINENT NEAR MISS – JUST DISCOVERED 2 WEEKS AGO

From the "bigger worries than global warming" department: Guest essay by Eric Worrall Yet another indication that Asteroids are a far more serious threat than climate change. NASA scientists have just in the last few weeks detected a previously unknown Asteroid, a quarter of a mile across, approaching at an unusually high speed of 35km...

<http://wattsupwiththat.com/2015/10/23/city-busting-earth-grazer-asteroid-imminent-near-miss-just-discovered-2-weeks-ago/>

H. MISSING COMPONENT FOUND IN THE EVAPORATION PROCESS, MAKING WATER VAPOR'S ROLE EVEN MORE UNCERTAIN IN CLIMATE MODELS

From the INSTITUTE OF PHYSICAL CHEMISTRY OF THE POLISH ACADEMY OF SCIENCES Evaporation for review — and with it global warming The process of evaporation, one of the most widespread on our planet, takes place differently than we once thought – this has been shown by new computer simulations carried out at the Institute of...

<http://wattsupwiththat.com/2015/10/22/missing-component-found-in-the-evaporation-process-making-water-vapors-role-even-more-uncertain-in-climate-models/>

I CLIMATE CLOSURE (?)

Posted on [October 23, 2015](#) | [229 comments](#)

by Judith Curry

The scientific debate is now over; the moment of closure has arrived. – Shaun Lovejoy

<http://judithcurry.com/2015/10/23/climate-closure/#more-20284>

J. OBAMA CARBON RULES TO FACE LAWSUITS, CONGRESSIONAL TESTS

Posted on [October 11, 2015](#) | [143 comments](#)

Challengers are expected to focus on whether the EPA exceeded its powers by pushing utilities to shift to cleaner forms of energy

By Amy Harder

Updated Oct. 23, 2015 4:11 p.m. ET

WASHINGTON—What could be a year’s long legal and political battle over the Obama administration’s main climate-change initiative formally kicked off Friday, with two dozen states filing a lawsuit against regulations aimed at cutting U.S. carbon emissions.

The states sued in a federal court here to challenge the rules, which seek to reduce carbon output from hundreds of power plants across the nation. Congressional Republicans also said Friday they would introduce measures in the coming week seeking to block the rules.

The moves will put pressure on the administration from the two other branches of government and, if successful on either front, could cast uncertainty over the rules into the next presidential administration.

Advertisement

The legal challengers are expected to contest the Environmental Protection Agency’s authority on a range of grounds, some of them little explored by the courts. Industry associations and companies, including coal producer Murray Energy, also began filing separate cases.

Related

In the works since 2013 and [issued in early August](#), the regulations require a 32% cut in power-plant carbon emissions by 2030 based on emissions levels of 2005. They are designed to force the utility industry, the largest source of U.S. carbon emissions that contribute to climate change, to shift toward cleaner-burning energy sources over the next several decades.

The EPA is relying upon a seldom-used section of the Clean Air Act called 111(d) as its authority for the rules, which leaves an opening for legal scrutiny. Challengers are expected to focus on whether the agency exceeded its powers by pushing utilities to shift to cleaner forms of energy instead of just focusing on pollution controls at fossil-fuel-fired power plants.

Senior EPA officials say they are confident the rules, known as the Clean Power Plan, are legally sound.

“The Clean Power Plan has strong scientific and legal foundations, provides states with broad flexibilities to design and implement plans, and is clearly within EPA’s authority under the Clean Air Act,” EPA Administrator Gina McCarthy said Friday.

The coal industry is expected to be hit the hardest by the rules because coal emits the most carbon emissions of any power source. Coal-fired plants produced about one-third of the U.S.’s electricity in July and a much larger share in some Midwestern and Appalachian states.

Many of the states and politicians leading the legal and political challenges, including West Virginia and Kentucky, depend heavily on coal for their economies and electricity. West Virginia Attorney General Patrick Morrisey said the EPA rule was illegal and “one of the most aggressive executive-branch power grabs we’ve seen in a long time.”

Mr. Morrisey, a Republican, said the state challengers are asking the court to block the EPA rules temporarily while they mount their case, an early legal battle that could provide clues about which side will have the upper hand in the litigation.

More than a dozen states, many of which are along the East and West Coasts and in New England, support the rule and are planning to file a motion to intervene on the side of the EPA, according to the New York attorney general’s office.

“These rules give states the flexibility to choose the best measures to cut pollution, while maintaining electrical reliability and economic growth,” New York Attorney General Eric Schneiderman, a Democrat, said Friday.

The state coalition’s lawsuit against the EPA was filed Friday in the U.S. Court of Appeals for District of Columbia Circuit, a powerful federal court that regularly reviews the legality of government regulations. The side that ultimately loses at the D.C. Circuit is likely to seek intervention from the Supreme Court. Given the expected time frame for the litigation, it is unlikely the high court would rule on the EPA regulations before 2017, after President Barack Obama leaves office.

Senate Majority Leader Mitch McConnell (R., Ky.), meanwhile, said Friday he would lead a mostly Republican-backed effort to invoke a rarely used legislative tool that enables lawmakers to nullify recently completed rules with a simple majority vote of both the House and Senate.

This maneuver, used successfully just once since it passed in 1996, allows Congress to nullify regulations within 60 days of their publication into the Federal Register with a simple majority of members. Both Republican-controlled chambers of Congress would likely have enough votes, but not enough to override an expected veto from Mr. Obama.

K. NIPCC’S REPLY TO PHYSICS TODAY (THAT THEY WON’T EVEN ACKNOWLEDGE)

I’ve been made privy to an email exchange with the editor of Physics Today regarding a rebuttal letter to badly botched article by Spencer Weart that ignored a good portion of climate history. So far, editor Marty Hanna seems to be ignoring his own policy on right of reply for proper formatted and sourced letters....

<http://wattsupwiththat.com/2015/10/24/nipccs-reply-to-physics-today-that-they-wont-even-acknowledge/>

L. WATER VAPOUR: THE BIG WET ELEPHANT IN THE ROOM

Guest opinion: Dr. Tim Ball In my last two articles I examined what we know, but more importantly what we don’t know, about the three main greenhouse gases (GHG). The first examined methane (CH₄) and the second CO₂. The fluster of responses about data and accuracy of measurements is essentially irrelevant because combined CH₄ and...

<http://wattsupwiththat.com/2015/10/24/water-vapour-the-big-wet-elephant-in-the-room/>

M. WHAT DID EXXONMOBIL KNOW AND WHEN DID THEY KNOW IT? (PART DEUX, “SAME AS IT EVER WAS.”)

Guest post by David Middleton

If you thought Part 1 was a doozy, “you ain’t seen nothing yet” ... Exxon Believed Deep Dive Into Climate Research Would Protect Its Business Outfitting its biggest supertanker to measure the ocean’s absorption of carbon dioxide was a crown jewel in Exxon’s research program. Neela Banerjee, Lisa Song, David...

<http://wattsupwiththat.com/2015/10/23/what-did-exxonmobil-know-and-when-did-they-know-it-part-deux-same-as-it-ever-was/>

N. WHAT DID EXXONMOBIL KNOW AND WHEN DID THEY KNOW IT? (PART 3, EXXON: THE FORK NOT TAKEN)

Guest post by David Middleton This just keeps getting more hilarious... Exxon Confirmed Global Warming Consensus in 1982 with In-House Climate Models The company chairman would later mock climate models as unreliable while he campaigned to stop global action to reduce fossil fuel emissions. Lisa Song, Neela Banerjee, David Hasemyer Sep 22, 2015 Steve Knisely...

<http://wattsupwiththat.com/2015/10/24/what-did-exxonmobil-know-and-when-did-they-know-it-part-3-exxon-the-fork-not-taken/>

O. CLIMATE CLOSURE(?)

Posted on [October 23, 2015](#) | [358 comments](#)

by Judith Curry

The scientific debate is now over; the moment of closure has arrived. – Shaun Lovejoy

<http://judithcurry.com/2015/10/23/climate-closure/#more-20284>

P. ALARMING: BRITISH ACADEMIC WANTS INTERNATIONAL COURT TO DECLARE SKEPTIC WRONG

A British academic wants an international court to declare climate skeptics wrong, once and for all.

From Donna LaFramboise [\[link\]](#):

Last week, a [three-day conference](#) took place in the UK attended by a “key group of the world’s leading judges, lawyers and legal academics.” Pompously titled [Adjudicating the Future: Climate Change and the Rule of Law](#), its Twitter hashtag was #ClimateCourts. Some of its events were held in the very room in which UK Supreme Court decisions are delivered.

The Supreme Court has a [YouTube channel](#) where you can watch law professor Philippe Sands argue, at that conference, that the International Court of Justice (which he describes as “the principal judicial organ of the United Nations”) has two choices: “consign itself to irrelevance” or join the fight against climate change.

A 21 page text version of Sand’s speech is found [here](#).

Bemoaning “legislative inertia” (p. 18), he seems intent on achieving, via court fiat, what political leaders accountable to the electorate have so far declined to do. On five occasions, he talks about the immense authority with which an international court decision would be imbued. Facts are one thing, he says, but facts that “have the special authority of the law to back them” are uniquely legitimate (pages 12, 14, 15, 19).

Much like the 20 American academics who want to silence climate skeptics by threatening them with criminal investigations, this British academic wants to silence dissent via an international court ruling that says skeptics are wrong.

The text version of Sands’ speech doesn’t adequately capture what he actually said. Starting at the 39:30-minute point on the video, here’s what you’ll hear:

It is one thing for the [Intergovernmental Panel on Climate Change] to come to such conclusions as a matter of its opinion. It’s quite another for an International Court of Justice to give them the authority of a judicial determination as to what the facts are and what the scientific evidence is.

...As I noted at the outset, there is a broad emerging consensus on many of these factual matters, but they do remain subject to challenge in some quarters, including by scientifically qualified, knowledgeable and influential individuals. And the courts could play a role here in finally scotching those claims.

One of the most important things an international court could do – in my view it’s probably the single most important thing – is to settle the scientific dispute. A finding of fact on one or more of these matters...would be significant and authoritative and could well be dispositive on a range of future actions that are needed, including in the conduct of negotiations. A finding of fact by the [International

Court of Justice] would be of great authority in proceedings before other international courts and tribunals, and before national courts also.

Did we catch that? Sands wants a court to settle the scientific dispute. Fully aware that qualified individuals hold contrary climate opinions, he – a non-scientist – wants a court to finally scotch those claims. As he reads the tea leaves, the verdict is predictable in advance. At this moment in its history, he believes, the International Court of Justice will deliver the sort of climate change ruling he considers “helpful.”

More at website

<http://judithcurry.com/2015/10/11/adjudicating-the-future-silencing-climate-dissent-via-the-courts/#more-20199>

Don Shaw

Regards,
George