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The EPA vs. State Economies

BY MARLO LEWIS

On November 16, the U.S. Environmental Protection Agency (EPA) rejected petitions from the governors of Arkansas, Delaware, Georgia, Maryland, New Mexico, North Carolina, and Texas to suspend the biofuel blending requirements established by the federal renewable fuel standard (RFS) program.

This program requires refiners to blend increasing quantities of biofuel—mostly corn ethanol—into the nation's motor fuel supply. The 2012 target is to blend 13.2 billion gallons of biofuel into our gasoline, to be ratcheted up to 13.8 billion gallons in 2013. This year, about 4.7 billion bushels, or 40 percent of the nation's corn crop, will be consumed by ethanol manufacturing. The governors contend that the RFS program, combined with the worst drought in 50 years, pushed corn prices to record highs, harming their states' poultry, beef, pork, and dairy producers, who use corn as animal feed. The Clean Air Act authorizes EPA Administrator Lisa Jackson to waive the RFS targets for one year if those requirements would "severely harm" the economy of a state, a region, or the United States as a whole. She has declined to do so.

The RFS program guarantees that the gas we buy contains up to 10 percent ethanol and may soon contain up to 15 percent. In a competitive market, hardly anyone would buy ethanol as motor fuel, because the substance has one-third less energy than gasoline and does not make up the difference in price. To the contrary, the higher the ethanol blend, the more money you spend on each mile driven. At current prices, it would cost the average driver $500 a year to switch to E85, a fuel that is 85 percent ethanol, according to fueleconomy.gov, a website jointly administered by the EPA and the U.S. Department of Transportation.

Democratic Arkansas Governor Mike Beebe's petition concisely explained why Jackson should have granted the waiver. "Virtually all of Arkansas is suffering from severe, extreme, or exceptional drought conditions," and accelerating corn prices are "having a severe economic impact" on the state's livestock producers. "While the drought may have triggered the price spike in corn," the fuel standards exacerbated the problem—the policy has boosted corn prices 193 percent since 2005. Agriculture accounts for "nearly one-quarter" of the state's economic activity, and livestock sectors hit hard by rising corn prices "represent nearly half" of Arkansas's farm sales.

However, the EPA stacked the decks against petitioners, establishing a burden of proof that was virtually impossible to meet. Indeed, the agency's August 30 Request for Comment telegraphed the decision Jackson

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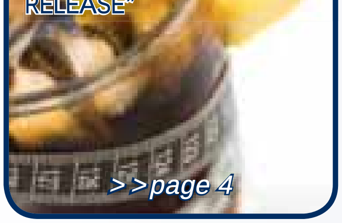

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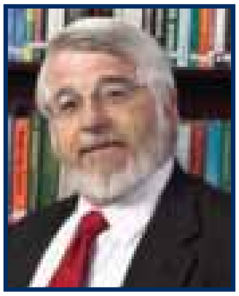

CEI Announces New President Lawson Bader

By Fred L. Smith, Jr.

I am pleased to announce that the Competitive Enterprise Institute's Board of Directors, after an intensive six-month selection process, has unanimously selected Lawson Bader as the next President of CEI. Lawson comes to CEI from the Mercatus Center at George Mason University, where he is currently Vice President. He has a mix of skills that will complement and augment our strengths, as well as the critical commitment to free-market principles that are the foundation of CEI.

That commitment has been demonstrated by his 16 years of work at Mercatus, which along with CEI, has long given primary emphasis to regulation—the "less honest" form of socialist economic intervention. That experience gives Lawson the skills he will need as CEI's chief executive: an in-depth knowledge of the regulatory state, extensive fundraising experience, managerial capability, and the public presence to represent CEI on many free market policy issues.

Just as importantly, Lawson provides a good fit for CEI's unique culture. He likes the fact that we are often characterized as both "feisty" and substantive, recognizes the value of our vertical issue management approach, and appreciates our identity as a band of happy warriors—having fun while challenging the statists. After all, how many policy leaders wear kilts or work Hayek's name into their license plate? (Now I wish I'd asked for a Schumpeter custom plate, but there's not enough letter-space!)

I'm sure that once you've had a chance to talk with Lawson and get to know him, you'll recognize that his skills, principles, commitment, and personality will go a long way toward expanding CEI's network of friends and supporters.

As some of you know, I have long admired and taken inspiration from J.R.R. Tolkien's *Lord of the Rings*, and would like to relate one exchange. Gandalf, the heroic leader of the opposition to Sauron—the power-hungry despot threatening civilization—meets with Denethor, the embattled steward of Gondor, one of the last states resisting Sauron's onslaught, to offer his aid. Denethor sees the goal of protecting Gondor—but, alas, not civilization itself.

> Denethor: "[T]he Lord of Gondor is not to be made the tool of other men's purposes, however worthy. … there is no purpose higher in the world … than the good of Gondor..."
> Gandalf: "In that task, you shall have all the aid that you are pleased to ask for. But, I will say this: the rule of no realm is mine, neither of Gondor nor any other, great or small. But all worthy things that are in peril as the world now stands, these are my care."

For nearly three decades, I have led CEI's fight to preserve a very worthy thing that has long been in peril—economic liberty. Now, as America faces a cusp point in that fight, there are reasons for pessimism. But there have been dark days before and CEI has never retreated. Though Gondor may fall, freedom lives on.

Lawson Bader will assume that stewardship role here at CEI on January 1. I have every confidence that he will lead our efforts in that struggle brilliantly.

As for myself, while I am stepping down as President, I will remain in the fight. In my new role as Director of the Center for Advancing Capitalism, I will seek to take CEI's advocacy and strategies to the global level. There are flowers blooming in parts of the world that have been deserts until recently. Ensuring that those thrive is a worthwhile goal.

To that end, I will hold a series of talks and forums throughout the world to build an international pro-freedom alliance that brings together participants from not only the academic and public policy worlds, but also from business and the media—a "Davos in Exile." And I look forward to launching this new effort in the knowledge that CEI is in good hands.

Fred Lee Smith Jr

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EPA vs. States, *continued from page 1*

reached. The agency stated petitioners would have to show that the "RFS itself" was the cause of severe harm, not merely a "contributing" factor. In addition, petitioners would have to show that waiving the RFS would be a "remedy" for the hardship facing livestock producers.

These criteria are ridiculous. The Clean Air Act does not require the EPA to don analytical blinkers and ignore other factors that, in combination with the RFS, cause severe harm, nor does it say that any waiver granted must be a silver bullet.

Severe distress in any state, region, or the nation as a whole typically results from a combination of factors, not a single one. A fuel standard that causes little economic harm when unemployment rates are low, corn production is booming, corn stocks are high, and China's demand for U.S. corn imports is low could inflict severe harm when the opposite conditions obtain—as they do today.

The EPA's requirement that the waiver provide a cure for high corn prices is the flip side of the same trick coin. By law, the EPA may grant a waiver for only one year at a time. So even if a multi-year waiver would provide a complete remedy, the EPA could reject each successive one-year waiver on the grounds that it would not solve the problem by itself.

It is true that a one-year waiver may have little impact on the price of corn, given that the market would expect the fuel requirements not only to return, but to continue to rise in a year's time. In addition, much of the ethanol blended into regular gasoline is used as an octane booster. It cannot be removed until refiners develop a workable substitute, which is unlikely to happen in less than a year. (The substance refiners used as an octane booster before ethanol has been banned in most states.)

The EPA takes an entirely different tack when the issue is not whether to grant regulatory relief but whether to impose additional regulatory burdens. In such cases, even small contributions to an alleged harm are considered sufficient grounds for regulation, and even minute regulatory contributions to the hoped-for solution are deemed fully justified.

Consider the EPA's greenhouse-gas emission standards for heavy-duty trucks, which will go into effect for model-year 2014–2018 vehicles. The agency estimates that these standards will reduce atmospheric carbon dioxide (CO2) concentrations by 0.732 parts per million, which in turn will avert an estimated 0.002 to 0.004 degrees Celsius of global warming and 0.012 to 0.048 centimeters of sea-level rise by the year 2100. Such changes would be too small for scientists to distinguish from statistical noise in the climate data. The EPA acknowledges no obligation to demonstrate either that heavy-truck greenhouse gas emissions alone harm public health and welfare or that regulating these trucks would take verifiable bites out of global temperatures and sea-level rise.

For sheer results-be-damned regulation, however, nothing beats the EPA's proposed CO2 emission standards for fossil-fuel power plants. The agency does "not anticipate any notable CO2 emissions changes resulting from" the standards and, thus, concludes that, "there are no direct monetized climate benefits in terms of CO2 emission reductions associated with this rulemaking." In short, the standards would not even make a negligible contribution to a solution—yet the EPA proposes them anyway.

Such glaring inconsistency is a reminder (if any is needed) that agencies are not impartial umpires but interested parties in the rules they administer.

This cloud may yet have a silver lining. Jackson's rejection of the waiver petitions exposes the RFS program as an arbitrary, inflexible system that provides corporate welfare to corn farmers at the expense of livestock producers, consumers, and hungry people in developing countries. The EPA's decision may very well build support for RFS reform—or repeal.

Marlo Lewis (mlewis@cei.org) *is a Senior Fellow at CEI's Center for Energy and Environment. A version of this article was originally published on National Review Online.*

A Big Setback for "Science by Press Release"

Could this begin a post-epidemiology era in science reporting?

BY SANDY SZWARC

When nearly every media outlet reports on one scientific study, out of thousands released daily, all quoting verbatim from a press release, it is called "science by press release." It may be clever marketing, but almost never good science. Press releases, sent to reporters before a study is actually published, are the source of most sensationalized stories that launch headline-grabbing scares.

A common source of "science by press release" stories are epidemiological studies that use software to dredge through vast databases and perform regression computer modeling and statistical manipulation to find correlations to some health outcome. These computer programs can—and do—pull out links in almost unlimited combinations, regardless of whether there is any real connection between the variables. And the more data they mine, the more likely they are to randomly hit upon links that are "statistically" significant, but are really just coincidental.

Epidemiological studies are attractive to the news media because they make great headlines. The relative risks they report, can sound important and appear alarming—a 15, 35, 85, or even 200 percent increased risk associated with some dread disease. But those numbers aren't quite what they seem. Relative risks under 200 to 300 percent in epidemiology are considered by the scientific community to be untenable, which means they're no greater than might have been found by chance and random coincidence or reflect statistical or modeling errors and biases, as well as countless known and unknown confounding factors.

Still, no matter how large a correlation, it can never provide any evidence for a cause. Remember, bras were once reported to be associated with an impressive-sounding 12,500 percent risk for breast cancer, but that doesn't mean bras cause cancer. That's why causal relationships suggested in epidemiology seldom hold up in clinical trials.

The Harvard School of Public Health holds the largest and longest running epidemiological databases: the Nurses Health Study (NHS), which began in 1976, enrolling about 122,000 nurses, and the Health Professionals Follow-Up Study (HPFS), which began in 1986 with 51,529 male health professionals. These databases hold details from health and lifestyle questionnaires sent to the participants every two years, along with food frequency questionnaires mailed out every four years. In these, the participants are asked to recall how many times they have eaten 130 different food items during the previous year, with each food having nine possible responses, ranging from never to six or more times a day.

Literally, hundreds of studies have been published using the NHS and HPFS databases, nearly one per week for decades, finding links between all sorts of things. They often appear in the news as showing a higher risk between some politically incorrect food, drink, body weight, lifestyle habit, or environmental exposure and something horrible, like cancer, heart disease, diabetes, or even death.

So, in October, when Harvard was forced to retract a press release, it made some stunning admissions. The release, "The Truth Isn't Sweet When It Comes to Artificial Sweeteners," was designed to grab headlines and described a Harvard study to be published in the *American Journal of Clinical Nutrition.* This study reportedly found increased risks for lymphoma and multiple myelomas of 31 percent and 102 percent, respectively, only in men who consume more than a single diet soda sweetened by aspartame a day.

Most reporters were probably ready, once again, to report from the release without going to the study. Had they read the study, they would have noticed the spurious happenstance of the correlations. Not only were the relative risks untenable, the correlations were not even related to how much aspartame or diet sodas the men had consumed. For instance, the study showed a 13 percent lower risk for myeloma with consumption of two rather than one serving of diet soda per week, and it found a 10 percent lower risk for lymphoma associated with drinking four rather than three servings a week. Disparities such as these should have been a glaring sign that many of the results, including those reported in the release, were little more than statistical anomalies.

Health and industry experts criticized

the study for being inconsistent with the overwhelming body of scientific evidence on the safety of diet soda and aspartame. The U.S. Food and Drug Administration (FDA) released a statement saying aspartame has been approved for food use since 1981 and in general use since 1996, and that the agency based its conclusions on aspartame's safety on more than 100 toxicological and clinical studies, continues to monitor research, and finds "no reason to alter its previous conclusion about the safety of aspartame."

Aspartame is one of the most comprehensively studied food ingredients in our food supply, with literally hundreds of studies and multiple expert reviews going back some three decades, all concluding that aspartame is safe and finding no evidence to support any association between aspartame and cancer in any tissue or any serious health effects.

Faced with the facts, Harvard was compelled to retract the press release on the morning the study was to be published. Harvard Medical School's Brigham and Women's Hospital Senior Vice President of Communications and Public Affairs issued a statement to reporters, saying: "Upon review of the findings, the consensus of our scientific leaders is that the data is weak." The study authors wrote that the relative risks they reported could be "due entirely to chance." They also admitted the unreliability of the self-reported data and aspartame intake estimates in the database used in their research.

These admissions were momentous, but the statement blamed the media department for prematurely issuing the press release before scientific leaders associated with Harvard had had a chance to review the study's findings. That might sound credible if not for the fact that the aspartame study was coauthored by Walter Willett, who is Chairman of the Departments of Nutrition and Epidemiology at Harvard's School of Public Health and lead investigator of both the NHS and HPFS. Dr. Willett also serves on the Editorial Board of the *American Journal of Clinical Nutrition*. Harvard press releases also often include quotes from studies' lead authors, which shows their involvement in the development of press releases prior to publication.

Unfortunately, Harvard has a long history of launching unfounded health scares by issuing releases that publicize exaggerated and untenable findings.

Hopefully, the media have not missed the big news in this story. Maybe, Harvard's latest admission of the lack of efficacy in its epidemiological study, and its data, methodology, and reported relative risks, will lead reporters and publications to stop giving these studies undue attention. Maybe, just maybe, they will start reporting real science.

Sandy Szwarc, BSN, RN, is a food and health writer, researcher, and editor with 30 years' experience in communications and the health care field.

Commodities Trader Places His Bets on Free Markets and CEI

BY MARK O'KEEFE

In his passion to extend human life through advances in science, commodities trader Paul F. Glenn spends substantial annual funds on research in the biology of aging. In his passion to advance the free market system, Glenn also gives generously to the Competitive Enterprise Institute.

Glenn sees a link between CEI, the economy, and his philanthropy. When CEI advances the principles of limited government, free enterprise, and individual liberty, it empowers citizens like him to be prosperous and generous.

"CEI is trying to maintain the most successful system in the world at a time when there is serious opposition in this country by those who think government always knows best," says Glenn, 82, a CEI donor since 1989. "I know what CEI has done in the past to advance the cause of capitalism and that's exactly what I'm looking for."

Glenn lives and works in Santa Barbara, California, where his venture capital firm, the Cycad Group, pursues investment opportunities, and his charity, the Glenn Foundation for Medical Research, funds exploration of the mechanisms of biological aging. The Foundation assists individual scientists and academic institutions with grants.

Glenn's focus on aging began when he watched what happened to his grandparents. Their health deteriorated with alarming speed as they lost their vision, hearing, and eventually their lives. Glenn was 20.

After their death, Glenn, a student at Princeton, heard about the idea, emerging from some leading biologists and physicians, that the negative effects of aging could be prevented or slowed at the molecular level. "I place a great deal of value on every minute of healthy human life," said Glenn. "I want to extend healthy human life. When I heard that there may be no biological ceiling on human life that really hit me."

Mark R. Collins, president and director of the Glenn foundation, has worked with Glenn for 26 years. "He has chosen to focus much his philanthropy on medical research and aging," said Collins. "But it's his passion for the free market system that has allowed him to do this philanthropy. It precedes his philanthropy."

The way Glenn looks at it, capitalism has made the United States the most prosperous and generous country in the world. "This system has survived because it works the best," said Glenn. "Look at Europe, look at Asia, look at Africa and then look at what we have here. We are the center of capitalism and the results speak for themselves."

In commodities trading and philanthropy, past performance is no guarantee of future results. But it can be a strong indicator. That's why Glenn plans to continue to give to CEI as Fred L. Smith, Jr., CEI's founder, leaves his role as president to lead CEI's Center for Advancing Capitalism. Lawson Bader, a veteran of the free-market movement, will take over as CEI's new president in January 2013.

"Fred has done a great job and at the seat of power where he can get into any congressman's office. He goes eyeball to eyeball with very big people there," said Glenn. "If Fred has picked a new guy he will be a competent fellow."

Mark O'Keefe is a veteran journalist and the owner of Assist Communications.

The Enduring Lesson of *I, Pencil*

BY NICOLE CIANDELLA

As President Obama embarks on his second term, we'll have to see whether he conjures up the specters of his controversial campaign moments. Recall his insistence that, "[I]f you have a business, you didn't build that." That upset a lot of people. But here's the thing about that memorable line: If you have a business, there is a sense in which you didn't build it all on your own.

Obama was right—but for the wrong reasons.

The President implied business owners are dependent on government largesse and infrastructure, as well as community goodwill. In fact, business owners rely on a much bigger and more sustainable resource: the millions of self-interested individuals who engage in market activity around the globe. Had this been what Obama tried to imply, we might be on our way to a quick recovery.

In his 1958 essay, *I, Pencil*, Foundation for Economic Education Founder Leonard E. Read explains how an ordinary wooden pencil is made. It's a long, complicated process, from the harvesting of cedar trees for the pencil body to the mixing of clay for the eraser. No man on Earth can make a pencil by himself, Read says, because the seemingly simple pencil is the end product of a complex chain of human activity.

Not even the CEO of a pencil company possesses the knowledge necessary to make a pencil. The CEO relies on loggers, truckers, miners, and factory workers; and these workers in turn rely on the men and women who manufacture saws, trucks, equipment, and machines. All of these individuals contribute little bits of know-how to the production of an ordinary pencil, and they do so in pursuit of their own interests. Their voluntary cooperation makes the pencil possible.

Every single modern business owner, like the CEO of a pencil company, must depend in part on the knowledge and labor of others. It's interdependence. Even a small business owner working out of her home relies on others to develop software tools and other services she needs. She is not relying on others' charity, goodwill, or civic duty. She is relying on the fact that they'll be looking for rewards for serving her well. This is not to argue that charity, goodwill, or civic duty are unimportant. It's that these can't make a pencil.

Contrary to myth, entrepreneurs are not islands unto themselves. Nobody acting in markets is self-sufficient. Markets, by their nature, incentivize cooperation among all sorts of people. Indeed, markets pull individuals to arrange themselves into interactive patterns of connectivity, trade, and production that go beyond traditional, cultural, and national boundaries. In pursuit of their individual interests, people who are strangers to each other—who might even hate each other if they ever met—unwittingly work in collaboration. This collaboration makes possible products that would otherwise be impossible. And every day, new interactions create new markets worldwide.

Yet people take this incredible cooperation for granted. President Obama's comments about business owners and the immediate backlash both fell into a strange set of false narratives that pit community values against market values. In truth, markets are connecting forces, aligning individual interests so that people are helping people they'll never meet.

In the words of Leonard Read, the lesson of *I, Pencil* is: "Leave all creative energies uninhibited." Today, federal regulations cost Americans $1.75 trillion annually, according to my CEI colleague Wayne Crews. Many of these regulations significantly and unduly curb creative economic activity, preventing the founding of new businesses or the growth of existing ones. High taxes and fees suffocate fledgling markets; tariffs thwart trade across our borders; and strict immigration laws restrict collaboration with talented people born in other countries.

As our leaders begin to deal with the serious economic challenges that confront us, they'd do well to acknowledge the best economic stimulus would be to help unleash Read's creative energies. Voluntary activities—coordinated largely by prices and property rights—have given rise to the everyday wonders of our modern world. It's through entrepreneurial fire, productivity, and free exchange that we'll eventually grow our way out of our troubling economic conditions. In fact, it's the only way.

Nicole Ciandella (nciandella@cei.org) *is Media Coordinator at CEI and screenwriter of CEI's* I, Pencil: The Movie, *which can be viewed at IPencilMovie.org. A version of this article originally appeared in* The Freeman.

Hurricane Sandy *and the* Invisible Hand of Recovery

BY IAIN MURRAY

Once again, a terrible natural disaster strikes, and Americans from the Carolinas to New England are doing their best to sort through the wreckage and get their lives back to normal. Already, some, including *The New York Times*, have said natural disasters prove the need for big government. In fact, disaster response provides an excellent example of how the invisible hand of the market works to alleviate suffering and bring quick relief to those in need.

I will add one caveat. Large amounts of federal money will flow to the disaster areas. To accept it is not to concede government is more important than private efforts. We live in a federal nation and, as part of the federal compact, fortunate states (right or wrong) help those in need. What is objectionable is big government, for reasons I shall come to.

So what happens when a disaster strikes? First, we hear how many people have lost power. Restoring power is the first order of business, as access to energy is fundamental to the reconstruction process. And getting the lights back on is the prime responsibility of utilities, not government. In Maryland, for instance, the utility PEPCO, reacting to criticism of its slow response following last summer's Derecho storm, made sure it had sufficient manpower to restore power quickly.

For local transportation system managers, inspecting and ensuring the structural integrity of standing infrastructure is the top priority following a disaster. As facilities deemed structurally sound reopen, damage is assessed and managers begin the process of acquiring the necessary funds for repair.

> ***"The only lifeline in Kenner was the Walmart stores. We didn't have looting on a mass scale because Walmart showed up with food and water so our people could survive."***

These decisions require specialized local knowledge, often from the private sector. Coordination among local responders is critical. The federal government often doles out funding to affected areas, but it is local officials who manage transportation systems before, during, and after disasters occur.

Then there are the responses by insurance companies and other financial institutions. All my financial providers already have contacted me to offer emergency assistance. Insurance companies are flooding the airwaves with information about how to submit claims. These companies provide the liquidity to get households and communities up and running again.

Of course, the vast majority of disaster responses occur at the individual level. People need emergency supplies—water, canned goods, generators, and the like. In most cases, they do not wait for the

Red Cross or a government agency; they go out and get them themselves. That's where the often derided "big box" stores such as Walmart and Target provide a vital service. They have procedures to ensure their supply chains respond effectively to disasters, and thus generally have the necessary goods in stock.

Big box stores also don't merely sit and wait. They get out first and help people. As St. Lawrence University Professor Steve Horwitz points out, Walmart was on the scene following Hurricane Katrina long before the bureaucracies. He quotes Phillip Capitano, mayor of the New Orleans suburb of Kenner, saying, "[T]he only lifeline in Kenner was the Walmart stores. We didn't have looting on a mass scale because Walmart showed up with food and water so our people could survive." It will be interesting to see whether the lack of big box stores in Manhattan has any effect on the speed of the recovery there. Mom-and-pop stores simply can't do what big stores can in these circumstances.

Big government, on the other hand, can get in the way. Local environmental ordinances routinely prevent utilities from trimming trees that can threaten power lines during storms. The cleanup process might be hindered by pro-union rules such as the Davis-Bacon Act, which increases the cost of federally funded construction projects.

Anti-fraud rules can hinder banks and insurers getting funds to their customers, and the federal National Flood Insurance Program undermines the insurance process and encourages building in flood-prone areas. Anti-"price gouging" rules can cause shortages by preventing price signals from helping the market allocate resources.

Finally, union lobbies and NIMBY concerns chase away big box stores.

And what about FEMA? This agency is there to help the transfer process, but its bureaucracy and empire-building get in the way. After Hurricane Katrina, for instance, it made a variety of errors, such as:

- It was ill-prepared to conduct the massive search-and-rescue function. Its federally coordinated building search teams found spray-painted symbols indicating state teams already had looked through the buildings.
- Its tracking of supplies was sadly lacking. Some FEMA and state workers said they had to order twice as many supplies to get half of what they needed, primarily because they had no confidence in the system.
- Agency officials disrupted supply lines, turned away diesel fuel provided by the Coast Guard and three trailer trucks filled with water—provided by Walmart.

There is probably a role for a small, lean, efficient government agency dedicated to disaster relief, and in particular to provide temporary respite from federal regulations such as Davis-Bacon. Yet for the most part, disaster recovery is a local, private matter. As a free people, we should recognize—and celebrate—that fact.

Iain Murray (imurray@cei.org) *is Vice President for Strategy and Director of CEI's Center for Economic Freedom. A version of this article originally appeared on Forbes.com.*

THE GOOD

CEI Sues Treasury to Force Release of Carbon Tax Emails

On November 13, the Competitive Enterprise Institute sued the Department of the Treasury to force it to release more than 7,300 emails believed to discuss a new "carbon tax" Obama administration allies in Congress are expected to propose in the lame duck session. The suit, filed in U.S. District Court in Washington, D.C., seeks emails on official government accounts which CEI had requested under the Freedom of Information Act. Treasury has said nothing about this topic publicly, but the existence of such extensive email traffic likely reflects serious ongoing discussions between Treasury officials, outside pressure groups, and other special interest groups. "It's possible this office, whose sole purpose was to manage a cap-and-trade or carbon tax program was despairing, in thousands of emails, why people no longer use carbon paper," said Christopher Horner, an attorney, senior fellow at CEI, and author of the recent book, *The Liberal War on Transparency*. "Otherwise, it seems we have an enormous history over the past year of discussions with lobbyists, pressure groups, contributors, and maybe even Republicans about how to impose this massive new energy tax."

THE BAD

FCC Broadband Test May Enable Warrantless Snooping

Consumers who test their broadband connections on a government website may be turning over information that could allow law enforcement agencies to review their Internet activity without due process or judicial scrutiny. A diverse coalition of public interest groups sent a letter on October 10 to Federal Communications Commission Chairman Julius Genachowski to express strong concerns about the practice. Information collected by the tests includes users' IP addresses, street addresses, mobile handset latitude/longitude data and unique handset identification numbers. "The potential for government to abuse citizens' personal information poses a unique threat to individual freedom," said CEI Associate Director of Technology Studies Ryan Radia. "Therefore, federal agencies bear a unique burden of justifying, disclosing, and minimizing their collection and use of personal data." The coalition's letter urges the FCC to carefully evaluate the privacy implications of its broadband testing program and implement measures to enhance privacy.

THE UGLY

CFTC Takes Aim at Intrade

Prediction market Intrade received a lot of attention in the 2012 elections as a more accurate tool than standard public polling. However, on November 26, Intrade alerted U.S. participants that they would no longer be able to make bets on the Irish-based exchange. The reason? The Commodity Futures Trading Commission (CFTC) sued Intrade, accusing it of being "in violation of the CFTC's ban on off-exchange options trading." Unfortunately, notes CEI Senior Fellow John Berlau, the regulators' attack on Intrade "is simply an extension of the position taken by the CFTC that it can regulate virtually any commodity-related activity as a future, option, or swap unless Congress provides a specific exemption for this activity." That apparently includes prediction markets, which trade only in bets. Worse, the CFTC hasn't actually alleged any fraud on Intrade's part, only that its rules are needed to justify the obsolete commission's continued existence.

MediaMENTIONS

Compiled by **Nicole Ciandella**

Associate Director of Technology Studies Ryan Radia argues that federal agencies are wrong to attack companies like Google for "monopolistic practices":

The Internet market is notoriously dynamic. Its giants rise and fall far faster than their brick-and-mortar counterparts. This dynamism perplexes and worries many—especially regulators in Washington, D.C.

Perhaps no Internet leader faces as much scrutiny from government as Google, which has been the subject of a Federal Trade Commission antitrust probe for over a year. As this investigation comes to a close, the government is reportedly leaning toward suing Google before year's end. Naturally, its rivals are lobbying the feds to come down hard on the search giant.

Yet Google's critics haven't put forward a serious legal case against the company. The world's top search firm may be many things—some of which aren't pretty—but an illegal monopoly, it is not. If the feds haul Google to court, they'll send Silicon Valley a powerful message: Washington is open for business and happy to meddle with the Internet economy.

-October 25, *CNET*

Land-use and Transportation Studies Fellow Marc Scribner criticizes proposed District of Columbia legislation that would regulate driverless cars:

At a hearing on the bill in October, [D.C. Councilmember Mary] Cheh gushed about a test ride she took in Google's Self-Driving Car in May: "I found it to be absolutely amazing. I didn't know we had advanced that far." I, too, found my May test ride impressive and am thrilled that a technology that can greatly improve traffic safety, offer disabled people an unprecedented level of personal mobility, and fundamentally change the way we travel is so close. But no one knows precisely how autonomous vehicle technology will develop or be adopted by consumers. Cheh's bill presumes to predict and understand these future complexities and then imposes a regulatory straitjacket based on those assumptions.

It's good that the District seeks to embrace innovation with this law. If passed without significant changes, however, Cheh's bill will unduly restrict many promising vehicle features, prevent the wider voluntary adoption of this promising technology through foolish green-government paternalism, and create a new tax system without proper consideration. She should withdraw this bill and go back to the drawing board.

-November 2, *The Washington Post*

Associate Director of the Center for Energy and Environment William Yeatman presents the case against Colorado's "new energy economy":

Over the last few months, the Centennial State's green energy industry, which the new energy economy was supposed to kick start, has been beset by a series of setbacks. Loveland-based Abound Solar went bankrupt; Vestas Wind Systems laid off almost 200 workers at its Windsor blade plant; and General Electric pulled the plug on a planned solar manufacturing plant in Aurora.

The troubles of renewable energy companies are not unique to Colorado; they extend nationwide. U.S. taxpayers ponied up $60 billion for green energy "investments" as part of the American Recovery and Reinvestment Act of 2009, better known as the stimulus bill. The results are only coming in only now, and they are not good. The list of "stimulosers"—of which Solyndra is only the most famous example—is long and growing. It includes Beacon Power, Evergreen Solar, Amonix, A123 Systems, Nevada Geothermal Power, and many others.

These green industries are in trouble for a simple reason. They are running out of subsidies.

-November 11, *The Denver Post*

Warren Brookes Journalism Fellow Matthew Melchiorre encourages U.S. lawmakers to learn from Europe's fiscal mistakes:

Beginning next year, $136 billion of spending cuts are scheduled to take place according to the Congressional Budget Office (CBO). These include the mandatory sequestration of defense and discretionary spending resulting from the failure of last year's bipartisan "supercomittee" to agree on a 10-year plan to cut the federal budget by $1.5 trillion. They also include the end of unemployment benefit extensions and reductions in Medicare reimbursement rates. Keep in mind these aren't real cuts in overall government spending, but merely reductions in its rate of growth.

They are also trivial compared to the $532 billion of scheduled tax increases that CBO also reports. Most of this comes from income tax rates reverting back to pre-2001 levels and the alternative minimum tax expanding deeply into middle-class households. That's roughly four dollars of tax increases for every one dollar of so-called spending cuts.

How is this likely to pan out? To get an idea, we can look at Europe, which has followed a similar strategy and has had little success in reviving growth.

-November 21, *USA Today*

Senior Fellow Christopher C. Horner explains how the EPA is ducking its legal responsibility to respond to Freedom of Information Act requests:

The Environmental Protection Agency is the latest Obama bureaucracy exposed for embarrassing efforts to avert transparency. Its administrator, Lisa Jackson, has been using the email alias "Richard Windsor" to conduct agency business, which might allow some policy conversations to avoid scrutiny and circumvent public records laws.

So far, the EPA has offered a two-part defense of such accounts, first revealed in my new book, *The Liberal War on Transparency*. First, everybody does it: "For more than a decade, EPA administrators have been assigned two official, government-issued email accounts: a public account and an internal account." Second, the masses made us do it: The overwhelming volume of mail an administrator would receive from the public meant she needed an account she would actually read and write from.

Both excuses, though slight on detail, prove too much.

-November 25, *The Washington Examiner*

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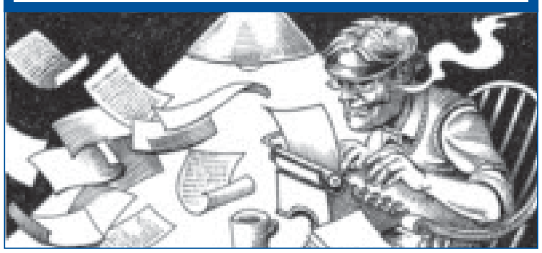
...END NOTES



Is the German Green Energy Strategy Kaput?

Environmentalists have often held up Germany's heavy subsidization of green energy technologies such as wind and solar as a model for the U.S. and other developed countries. Unfortunately for the eco-left, these policies have had exactly the impact that pro-market intellectuals have been arguing they would: higher prices and a more unstable electricity grid. In a wide-ranging interview published in *Der Spiegel*, German Energy Agency chief Stephan Kohler condemned the complex subsidy system established by the country's Renewable Energy Act as "pure insanity" and that investment in traditional fossil fuel energy will be needed until at least 2050. Kohler was equally frank in his message to those receiving green energy subsidies. "We now have to say to everyone who benefits from this feel-good law: Listen, people, it can't go on this way!"

Back in Session and Facing Fiscal Cliff, Senators Debate Polar Bear Carcasses

Following the election, Congress has returned to work and is tasked with some hard decisions on spending and taxes. But when the Senate called its first roll call vote since September, the World's Greatest Deliberative Body took up the looming crisis of polar bear carcasses. In a 92-5 vote on November 13, the Senate agreed to debate a bill that would, among other things, allow 41 U.S. hunters to bring home polar bear carcasses that are currently in limbo due to a 2008 U.S. trophy import ban. While the bill may be an improvement over the status quo and a win for outdoorsmen, perhaps Congress should deal with the more pressing fiscal issues before taking up such niche legislation.

Move Over Bridge to Nowhere: Alaskan Town Now Has Unused Airport and Harbor

Akutan, Alaska, is a town on the remote Aleutian Islands with a year-round population of 75. Like much of Alaska, Akutan relies heavily on federal subsidies. As one would expect, this financial arrangement does not lend itself to the efficient use of funds. The town recently built a $77 million airport on a nearby island, which has been subject to much derision in the mainland Alaskan press because it currently has no air service. Now Akutan is making the news again, this time for $29 million of federal stimulus funding to build a new port. Unfortunately, the recently built boat harbor will also sit unused, as no road will be built to service it for at least two years.

Human Achievement: Big Thanksgiving Turkeys

As families around the country enjoyed Thanksgiving Day feasts, most probably take for granted that the birds they are about to dine on are large enough to feed everyone—often for weeks afterward. But the turkeys purchased at U.S. supermarkets bear little resemblance to their wild ancestors. In fact, in just the last 70 years, the average domesticated turkey in the U.S. has doubled in size. Scientists associated with the Smithsonian Institution trace the modern American Butterball to Mexico, where humans are thought to have begun domesticating the birds 2,000 years ago. The Smithsonian team has been analyzing turkey genes with the hope of discovering the genes that control certain characteristics, such as breast growth. This will increase the precision of selective breeding—or perhaps genetic engineering—meaning we will be able to enjoy even tastier Thanksgiving meals in the future.