

# CEI's Monthly Planet

## Fighting For Freedom

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## A New Dawn for Our Forests

by Robert J. Smith

The crisis in our nation's forests first came to national attention following the devastating Yellowstone fires of 1988. The prohibition on taking vehicles off-road to clear firebreaks and the highly controversial policy of letting nature-caused fires burn uncontrolled, called "natural regulation"—underscored by Yellowstone National Park biologist Dr. Don Despain's now-infamous chant of "Burn, baby, burn" as fires raced through his study plots—brought the problem to the U.S. Congress' attention.

Since then, eight Congresses have convened ever-longer hearings in both the House and Senate. Forestry professionals, forest historians, fire ecologists, biologists, and environmentalists have presented volumes of studies, data, and photos. It has become clear to almost all parties that there is a crisis in the national forests.

A century of federal and state total suppression of all fires has created historically unnatural forests, dense with hazardous accumulations of dead and dying trees, duff, pinecones, fallen or wind-toppled trees, and near-impenetrable thickets of smaller trees crowding the forest floor under the mature forest. Prolonged droughts across much of the West, together with the dense, overcrowded young trees, have stressed the forests and weakened their resistance to disease, insects, and beetles—which have reached epidemic levels in many national forests, leading to a call to restore the forests to a healthy state by reducing unnatural fuel loads, thinning the forests, and removing dead and dying trees.

Everyone wants healthy forests, but how do we get

there? When and how will healthy forests be restored, and who will do it? Many in government forest and fire agencies, forestry schools and associations (as well as timber associations), and a growing number of forest ecologists and fire ecologists have called for massive forest thinning.



U.S. Fish and Wildlife Service

Some leading forest ecologists say that landscape-scale thinning of wildlands covering hundreds of thousands of acres is necessary to return the forests to pre-settlement conditions, when regular low-intensity fires would creep along the ground burning the duff, downwood, and seedlings, and promoting natural, healthy, open, park-like forests.

Green groups argue that the Healthy Forests Restoration initiative is just a Bush-promoted effort to subsidize Big Timber and that all that is needed

is to thin narrow buffers around forest communities. But they conveniently overlook the fact that some enviro-friendly liberal Democrats and moderate Republicans stood in the moonscape ruins of once vast wildlife-filled forests in 2002 and 2003 and said that we must start managing our forests instead of destroying them.

Radical greens' proposals vary—Greenpeace proposes a 200-foot buffer around populated areas, while the Sierra Club and others propose a quarter to a half-mile buffer—but all argue that wildlands and roadless areas must remain inviolate and that a narrow buffer is all that is needed to protect lives and property. This sounds plausible to urbanites in the East and Midwest: Remove the fuels and people and

*Continued on page 3*

### IN THIS ISSUE

Twenty Years of CEI.....	2
A New Dawn for Our Forests (cont.).....	3
Do Not Call List: Pro.....	4
Do Not Call List: Con.....	5

Q & A with Willie Soon.....	6
POPs: Eroding U.S. Sovereignty.....	8
The Good, the Bad, and the Ugly.....	10
Media Mentions.....	11
End Notes.....	12



## FROM THE PRESIDENT

# TWENTY YEARS OF CEI

## Two Decades of Fighting for Freedom



by Fred L. Smith, Jr.

As our 20<sup>th</sup> anniversary celebration nears, I've been pondering the question: What does the free market movement need the most?

Let me pose the question through a few examples from film and fiction. Consider: the early scene in Margaret Mitchell's classic novel *Gone with the Wind*, in which the realist Rhett Butler notes that the South lacks iron foundries; the scene in Steven Spielberg's *Jaws*, in which a startled fisherman, finding his craft being chewed to bits by the massive shark, mutters, "We need a bigger boat!"; or the sad projection in Dickens's *A Christmas Carol* that Tiny Tim will not live out the year without better medical attention. In all these cases, the moral is clear: The future is bleak if we don't find the resources to fend off disaster. Resources matter!

Since we began, CEI has sought the resources needed to fend off the collectivist threat to economic liberty. Our approach was informed by the gloomy prognosis of economist Joseph A. Schumpeter in his essay "Will Capitalism Survive?" Schumpeter's answer was that it was highly unlikely. Schumpeter noted that the entrepreneurial successes of the market would create a vast middle class, which would make possible the emergence of an *intellectual class*. He argued that intellectuals, envious of entrepreneurs, would rationalize their envy by attempting to de-legitimize the market, condemning it as perpetuating racism, sexism, pollution, imperialism, and a myriad of other evils. Intellectuals, asserting their moral superiority, would call for political intervention, culminating in the creation of the welfare, regulatory state—managed, of course, by intellectuals.

Schumpeter argued that the joint temptation of psychological and economic incentives would lead most intellectuals to statism. Since intellectuals dominate most means of communication, their views would skew the way most people see the modern world, and the citizenry would thus favor an expanded role for government. Capitalism would create great wealth—providing expanded liberties and ensuring a more peaceful society— but would lack legitimacy that only the intellectual class can convey.

This prognosis argues that the CEIs of the world—the small agglomerations of non-statist intellectuals—cannot expect to find massive help in the intellectual community. Rather, it suggests we seek out allies in the entrepreneurial sector.

Indeed, with only a fraction of the resources available to the statist, the free market movement is already effectively countering the Left in many areas. We're slowly winning the global warming debate. Bjørn Lomborg, author of *The Skeptical Environmentalist* and recent winner of CEI's Julian Simon Award, was recently cleared by the Danish government of politically-motivated charges of "scientific dishonesty." Recently, at the Ninth U. N. Framework Convention on Climate Change Conference of the Parties in Milan, Italy, CEI successfully encouraged opposition to the Kyoto Protocol on climate change. And, on the domestic front, CEI and other free market groups are advancing telecommunications deregulation and FDA reform. We are also fending off airline and rail re-regulation, and launching new challenges to predatory litigation. Against great odds, we're making significant gains, but, in politics, there can be no final victories. And economic liberty is still experiencing far too many setbacks.

Unfortunately, as Napoleon noted long ago, victory generally goes to those with the biggest battalions. Resources matter. Our challenge is to find ways of strengthening our alliance with the entrepreneurial community—to reach those businessmen who don't care about approval from their intellectual detractors, who are proud of their achievements, who are eager to see that the opportunities open to them are not closed to their children, and who could provide the resources so vitally needed. And, despite Schumpeter's admonition, we can be cautiously optimistic. After all, the shark in *Jaws* was killed; Tiny Tim did survive.

As I noted, 2004 will mark our 20<sup>th</sup> anniversary. We expect a very challenging year. I and the staff at CEI hope your holidays were happy, and want to thank you in advance for helping us meet the challenges ahead.

*Fred L. Smith, Jr.*

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## A New Dawn for Our Forests

*Continued from page 1*

communities are fireproof. But the greens fail to mention that fires commonly spot considerable distances ahead of the flame front, jumping over roads, rivers, highways, and firebreaks. Spotting can commonly occur *one-half to a mile* ahead of a fire, as winds dump burning embers on wooden homes, shingle roofs, and on dense drought and beetle-killed vegetation. And large conflagrations fueled by kiln-dry fuels and forests, high temperature, low humidity, and strong winds create literal fire storms, with flames and balls of fire, clouds of red-hot embers, and burning branches carried ahead—sometimes for miles.

Many environmentalists, including New Mexico's Forest Guardians, have admitted that some forest thinning is appropriate, but say that timber companies must not be allowed to benefit. They and many in Congress seem more concerned about the possibility of someone making a profit than in restoring the forests' health. They worry that timber companies will be allowed to harvest some marketable trees to pay for



Montana, 1895 (left) and 1980 (right). This area has since burned to the ground.  
Photos: USDA/Forest Service

removing the unmarketable brush, tiny-diameter trees, and dying, decayed, beetle-riddled, and previously burned trees. But if we can't expect private companies, loggers, or unionized workers to do it for free, who will? It will be a staggeringly long, expensive effort to reduce the hazardous biomass accumulations. And the Forest Guardians and allied green groups have yet to volunteer to undertake an altruistic campaign of removing hazardous fuels.

Over the past five years, more than 28 million acres have burned—an area larger than Virginia. Meanwhile, California, Oregon, Arizona, and Colorado have seen their worst recorded fires. And it's not just trees that have been destroyed, but also wildlife and habitat—including endangered species and critical habitat—and watersheds. Further, all major fires cause vast air and water pollution. During the Southern California fires, air pollution alerts extended as far away as Tucson and Phoenix. During past fires, firefighters have been pulled off the lines due to excessive exposure to various air pollutants. And post-fire erosion destroys municipal reservoirs and water supplies with mud, sand, rocks, and detritus. Worst of all is the tragic loss of homes, businesses, entire communities, and human lives.

It has been fascinating to watch the radical greens' intellectual gyrations around this issue. For decades they have fought all efforts to remove hazardous fuel accumulations from the forests, to fight insect and bark beetle infestations, or even to salvage trees blown down in storms, killed by insects or disease, or burned in earlier fires.

Wouldn't it be better to harvest brown and black trees before cutting green trees? Not according to the greens, who have based many of their appeals, suits, restraining

orders, and injunctions against such forest health programs as necessary to defend the forests, wildlife, and especially endangered species. They argue that removing some dying, downed, or dead trees from forests in southwestern Oregon *might* disturb threatened Northern Spotted Owls for a short time. But now that the Biscuit Fire has destroyed 500,000 acres of wildlands in 2002, reportedly at least 44 pairs of Northern Spotted Owls have either been destroyed or have *permanently* lost their critical nesting, roosting, and dispersal habitat. And fires in Arizona's Apache-Sitgreaves National Forest reportedly eliminated at least 11 pairs of Mexican Spotted Owls and their territories—forever.

The permanent loss of endangered species and their habitat has been documented throughout the West. Yet it has been of no concern to radical greens, who have argued for decades that there were too many people moving into the woods and wildlands and have attempted to stop development and

growth throughout the nation. And the violent eco-terrorist fringe, including the Earth Liberation Front, has been carrying out a campaign of torching homes and businesses. During the summer of 2002,

politicians and government officials from both parties began to point fingers at the greens for their responsibility in halting all healthy forest operations.

It has only been recently, with thousands of homes destroyed, tens of thousands of people evacuated, and many communities burned to the ground, that the greens have become champions of protecting people and communities. However, they still won't permit any trees to be cut in the woods. One wonders why.

Thankfully, Congress and the Bush Administration pushed ahead and on May 20, 2003, the House voted 256-170 for a healthy forests bill. On October 30, the Senate finally followed suit 80-14, driven by the mounting toll of deaths and destruction in California. But autumn rains and snow quickly doused the fires—and the enthusiasm of the Senate's liberal Democrats to bring the bills to conference. Despite intense lobbying by the Sierra Club and other green groups, Senate Democrats finally agreed to conference, both houses quickly agreed on a conference report, and on November 21, the House and the Senate passed the Act. In a joyous December 3 White House ceremony, President Bush signed the Healthy Forests Restoration Act of 2003 into law, giving a long-overdue Christmas present to America's forests, wildlife, environment, and people—planting the seeds that will help to end the era of burning our nation's forests and begin a new era of healthy stewardship. The cries of "Burn, baby, burn" will no longer echo through the woods.

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# Do Not Call List: Pro

## No Big Government Vindication

by Pejman Yousefzadeh

Like the dutiful son that I am, I recently called my parents in Illinois to ask about them and see how things are going on their end. My sister answered the phone, and appeared quite annoyed at having to talk at that particular moment. Her voice brightened when I identified myself, and she apologized for being brusque, saying, “I thought you were one of those telemarketers. We’ve already had three of them call this evening.”

Just about everyone I know is glad about the existence of the “do not

Conservatives and libertarians needn’t feel discomfited by the creation of the “do not call” list merely because the list involves the participation of the federal government. Indeed, a number of right-of-center pundits fall into the trap of thinking that the efficacy and appeal of the list—and the fact that the creation of the list stems from the passage of legislation on the federal level—undercuts conservative and libertarian arguments about the proper size and role of government. But the mere presence of government participation in

ways similar to the general structure of the school voucher program, and the plan to allow the private investment of Social Security money—both programs that are extolled and ardently advocated by so many conservatives and libertarians.

The government would be present as a participant in any voucher program, as the vouchers would be funded through government appropriations. However, the choice of whether or not to participate in a voucher program would remain with individuals.

What should make the “do not call” list ultimately palatable to conservatives and libertarians is the fact that the decision whether to make one’s phone number inaccessible to telemarketers is ultimately left up to individuals.

call” website ([www.donotcall.gov](http://www.donotcall.gov)) that will enable people to list their phone numbers on a list of numbers that telemarketers cannot call. My sister was delighted when I told her about the site, and expressed the wish that it had existed earlier.

The “do not call” list has also prompted a new argument in the age-old ideological battle between liberals on the one side, and conservatives and libertarians on the other: Is the advent of the “do not call” list—a list that was brought about by government regulation and legislation—an instance in which the conservative/libertarian desire to reduce the “nanny-state” takes a backseat to the desire of much of the general public to be free from telemarketing calls? Additionally, doesn’t the advent of the list disprove the general conservative/libertarian argument that government regulation and legislation causes more problems than it solves?

the creation and maintenance of the list does nothing to refute the arguments made by conservatives and libertarians on this issue.

What should make the “do not call” list ultimately palatable to conservatives and libertarians—indeed, what infuses the program with conservative and libertarian values—is the fact that the decision whether to make one’s phone number inaccessible to telemarketers is ultimately left up to individuals. I may just as easily decide to rid myself of irritating telemarketer phone calls, as I may decide to take advantage of offers that are made through telemarketing, and allow telemarketer phone calls to be made to my home. The power and presence of individual choice helps trump any lingering concerns over the presence of government in the creation and maintenance of the “do not call” list.

In fact, the structure and organization of the “do not call” program is in many

Similarly, individuals would have the choice of deciding whether or not to keep their Social Security investments as they currently are, or deciding to privately invest them in the hopes of achieving a higher rate of return.

In both programs, the government is active and present as a participant. But the ability and liberty of the individual in making his/her own decisions regarding education and investment makes both programs fully compatible with conservative and libertarian principles. Likewise, the “do not call” program honors conservative and libertarian principles by emphasizing the importance and preeminence of individual choice and liberty.

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## Do Not Call List: Con

### Do Not Call List Will Not Keep Telemarketers Away

by Braden Cox

How annoyed are people at telemarketers? Aggravated enough, it seems, to have registered over 50 million phone numbers on the recently implemented National Do Not Call Registry, established in July and managed by the Federal Trade Commission (FTC). The public has turned to government to end annoying telemarketing calls. And many free market advocates favor this approach—exhibiting a historically low threshold level for creating a new government

liberty and individual choice because it is an “opt-in” program. Consumers must voluntarily take action to be included in the registry. True enough. But for someone wanting to engage an unknown public through telephone advertising, this is a mandatory regime. A telemarketer is forced to obtain a spreadsheet file from the federal government. If it wants the entire U.S. database, it must pay an annual fee of \$7,375. And the list had better be checked with care. At \$11,000 per

established a system that exempts nonprofit telemarketers. In other words, calls from annoying capitalists are *verboden*, while calls from annoying politicians are OK. And also OK are calls from charities, including dubious ones which spend most of their money on overhead. More importantly, the FTC’s distinction—for-profit versus nonprofit—may be in violation of the First Amendment to the U.S. Constitution, which bars government from making laws governing speech

The National Do Not Call Registry is not only burdensome and constitutionally dubious, it is unnecessary. Market-driven technological innovations are helping people curb unwanted telemarketing calls much better than government ever could.

program. But government will not solve this problem; rather, it will make it worse, and create new problems along the way.

The main rationale behind the Do Not Call list is the market’s alleged failure to protect consumers’ telephone privacy. According to this view, government *had* to step in, because there was no other, better way to deal with annoying commercial telephone calls. However, this analysis fails to consider—or, at the very least, underestimates—the value of market-driven technological solutions that are already helping consumers deflect annoying telemarketing calls. But, as in many other cases, government stepped in to solve a problem just as industry was beginning to provide real solutions.

Many free market advocates justify the Do Not Call list as consistent with

violation—that is \$11,000 for dialing a number on the list—the government can quickly disconnect one’s business operations.

There’s more. It is also against the law for a telemarketer to call any person, *even if the number is not listed on the Do Not Call list*, without first writing a check to the federal government. A telemarketer must pay either way. It is up to \$11,000 per violation if a telemarketer makes a call to a certain area code unless it first pays the annual fee for access to the registry for numbers within that area code.

Are all unsolicited calls equally unwanted? Regulators have determined that nonprofit telemarketing calls not only are not as annoying as for-profit calls, but are also more important, and therefore deserve greater constitutional protection. That’s why the FTC

based on content.

The National Do Not Call Registry is not only burdensome and constitutionally dubious, it is unnecessary. Market-driven technological innovations are helping people curb unwanted telemarketing calls much better than government ever could. For example, some phone companies offer a “privacy director” that screens calls before the phone even rings. And who knows what other innovations would appear in this area absent government preemption of private solutions. When it comes to dealing with annoying telemarketing calls, the best thing government can do is to get out of the way.

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## Q & A with Willie Soon:

A Leading Physicist on What His Research Tells Us About Long-Term Climate Change, and the Environmental Establishment's Reaction to His Findings

**D**r. Willie Soon, a physicist at the Solar and Stellar Physics Division of the Harvard-Smithsonian Center for Astrophysics in Cambridge, Massachusetts, and an astronomer at the Mount Wilson Observatory in California's San Gabriel Mountains, recently discussed with CEI his research on climate change and the environmental establishment's reaction to his article, "Reconstructing Climatic and Environmental Changes of the Past 1000 Years: A Reappraisal," (co-authored with Sallie Baliunas) which shows that the 20th Century was not the warmest of the last 1000 years. Dr. Soon writes and lectures frequently on important issues related to the sun, other stars, and the Earth, as well as general science topics in astronomy and physics.

*"Every way of seeing is a way of not seeing" – Kenneth Burke, American rhetorician*

**CEI:** What first got you interested in researching the impact of anthropogenic changes on the Earth's climate? What, if any, impact has mankind had on the Earth's environment?

**Soon:** I started seriously researching the possibility of carbon dioxide (CO<sub>2</sub>) warming of the globe when I was trying to learn how the sun's variable light and charged-particle outputs can impact Earth's climate on both year-to-year and century-to-century timescales. That was about one sunspot cycle, or 11 years, ago. We have plenty of direct evidence for man changing the Earth's environment on local and regional scales, but what is often not appreciated is that not all man-made modifications and influences are so horribly destructive. The evidence about man-made CO<sub>2</sub> causing global warming is nowhere close to that neat, but incorrect, conceptual picture of warming as in a greenhouse. If we are serious about knowing the answers, we need to avoid simplistic analogies, stop



worrying about public perceptions, and conduct the hard scientific research that is ahead of us.

**CEI:** Prior to 1950, there were various theories for the cause of climate change—e.g. changes in elements of the Earth's orbit, lunar-solar tidal influences, sunspots. How many of these ideas have been discredited? Which, in your estimation, merit further research?

**Soon:** There are a number of proposed factors for causal climate change. The hardest aspect of scientific research is indeed to rule out—or discredit—any of those possibilities. To date, we know that changes in the Earth's solar orbit occurring over tens of thousand of years account for the huge swings in the Earth's past climatic condition, from fully glaciated states to the very warm epochs in which there is hardly any ice around the continents. It is still extremely difficult to quantitatively define the role of climate factors like volcanic eruptions, the sun's variable outputs, atmospheric gases like water vapor, carbon dioxide, or methane on climatic changes, especially those occurring within the past 100 years or so. All these factors need to be quantitatively compared in a realistic fashion. Many attempts based on computer climate models are inadequate because climate models are still far from

representing reality. So there is indeed a danger in rushing to discredit certain climatic factors while most rejections, especially of the sun's radiant energy, are simply not warranted yet.

**CEI:** Were you surprised at the reception that your report, "Reconstructing Climatic and Environmental Changes of the Past 1000 Years: A Reappraisal," (published in the journal *Energy & Environment*) has received in the press and in some scientific journals?

**Soon:** Since the appearance of the paper, I have been writing many letters to newspapers and magazines to better educate reporters and writers. I am indeed surprised at the very negative reactions from a group of scientists who appeared to think that my paper was an attack on their work. This perception is unfounded. My paper simply adds more cautions, novel viewpoints and approaches, and a broader range of evidence for climate variability and non-variability to the developing scientific literature. All my efforts have centered on testing whether various hypotheses should be accepted or rejected. In a letter to the *Chronicle of Higher Education*, my Harvard-Smithsonian Center for Astrophysics colleague and co-author Sallie Baliunas and I point out that, "[W]hen Earth's climate is perturbed by some forces, more than just temperature changes." Therefore, "to understand the climate change phenomena, it is prudent to inclusively examine the broader scope of changes from a more comprehensive perspective than that of temperature." We also note: "Ultimately, willingness and carefully attending to examine all possibilities about the nature of climate variability will reveal more about what is going on than what we now know. Of that we have no doubt." (This and other letters can be found on my web page: <http://cfa-www.harvard.edu/~wsoon/ChronicleHigherEducation03-d>).

**CEI:** A 2001 National Science



Foundation survey of 1,500 people found that 77 percent believed that, “increased carbon dioxide and other gases released into the atmosphere will, if unchecked, lead to global warming.” People of all education levels seem to buy this notion. Is there a way to counter climate alarmism among the public?

**Soon:** In my opinion, the only way to reduce alarmism is to yield to facts and evidence that may belie any extreme assertions. On the topic of carbon dioxide and global warming, there have been too many opinions but little internally consistent facts. For example, the United Nations’ Intergovernmental Panel on Climate Change (IPCC) *Third Assessment Report*, which is hailed as the most authoritative source on climate change, is really a political document promoting a particular brand of belief: that the climatic impact of man-made greenhouse gases will be profoundly negative and that remedial action is urgent. The science itself is secondary. As one of the report’s own co-authors, MIT meteorologist Richard Lindzen, points out, IPCC presented the report as representing a scientific consensus, even though individual authors were not consulted on whether they agreed with parts of the report beyond those they worked on. Further, IPCC used the “Summary for Policymakers” to misrepresent what is in the actual report. And the report’s peer-review process was pointless, since authors did not respond to reviewers’ comments—including Lindzen’s. We may be dangerously moving away from science-by-evidence to science-by-public appeals; and that is bad not only for science, but also for the public, who will be left swimming in a pool of ignorance.

**CEI:** In the 1970s, there was considerable hysteria about global cooling very similar to today’s hysteria about global warming. What accounts for this dramatic about-face?

**Soon:** There is a historical tendency of alarmism surrounding anything related to climate change. What is little known today is that, during the 1970s, many international conferences and panels—

especially those convened by the World Meteorological Organization—were leading to a consensus that greenhouse gases may cause catastrophic cooling, ending with a new Ice Age for the Earth. Since the 1990s, we’ve been told that greenhouse gases are causing global warming. It would be best left to the social scientists to tackle the question about the dramatic switch in popular views—endorsed by certain scientists and experts, though not all—since there are no real advances in scientific

scale temperatures. This holds especially true when dealing with climate history of the last 1000 years or so, where one can hardly have enough local and regional information to construct any global temperature confidently. (Ross McKittrick is interviewed in the November issue of *Monthly Planet*.)

**CEI:** What are the Dalton Minimum and the Maunder Minimum and how could their study help us better understand the Earth’s long-term climate?

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**We may be dangerously moving away from science-by-evidence to science-by-public appeals; and that is bad not only for science, but also for the public, who will be left swimming in a pool of ignorance.**

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knowledge between the 70s and 90s that would explain those contrasting extremes in conviction.

**CEI:** At a July 29 Senate Environment and Public Works Committee hearing, you testified that local and regional temperature changes are more important than global changes. What is the reason for this and why is this proposition controversial?

**Soon:** Yes, I emphasized that the reality of climate change is local and regional in scope. I do think that this is universally agreed since there is really not much on which to argue against that. Neither we nor the environment function under any actual constraints of a “global” temperature. The fact is that “global” temperature is a quantity that looks good on paper but is quite difficult to measure confidently. Going a step further, my friends Chris Essex (University of Western Ontario) and Ross McKittrick (University of Guelph, Ontario), in their book *Taken by Storm*, compare the senselessness of defining a global temperature with determining the average temperature of all the patients in a hospital. I have simply cautioned that “global” temperature has very limited use unless we can accurately define it based on sufficient confidence about its local and regional

**Soon:** The Dalton Minimum and the Maunder Minimum are two specific intervals, around 1795-1820 and 1645-1715, respectively, in the sunspot record that points to signs of a less active sun, which in turn can plausibly be linked to a dimmer sun, at least in some wavelength regions. A sun with less radiant energy is certainly a good possible explanation for some of the cooler episodes in climate history. But I think the most important reason to research these solar activity minima is to provide a better contrasting benchmark on what will happen when the sun’s activity is stronger and forces more radiant energy onto the Earth’s climate system. Coincidentally, a new scientific paper (“A Millennium Scale Sunspot Number Reconstruction: Evidence for an Unusually Active Sun since the 1940s,” to appear in *Physical Review Letters*) authored by a team led by solar physicist Ilya Usoskin, of the University of Oulu in Finland, suggests that the sun’s magnetic activity has been unusually active in the 20<sup>th</sup> Century compared to its activity record of the past 1000 years or so. I am happy to announce that in my upcoming book, *The Maunder Minimum: The Variable Sun-Earth Connection*, I attempt to shed light on these two solar activity minima (<http://www.wspc.com/books/physics/5199.html>).



# Eroding U.S. Sovereignty:

## POPs Implementation Bill Would Undermine Constitution, Harm World's Poor

by Angela Logomasini

In early 2004, the Senate is expected to vote on legislation that would allow international bureaucrats to initiate worldwide bans and regulations on chemicals and give the Environmental Protection Agency (EPA) lone authority to essentially ratify them for the United States. The measure is designed to implement the Global Convention on Persistent Organic Pollutants (the so-called POPs Treaty), which the Bush Administration signed in 2001. If passed into law, this proposal promises to make an already dangerous treaty

authorization or consent—when international bureaucrats add them to the POPs Treaty list. The Bush Administration proposed granting EPA authority to regulate *only* the 12 chemicals listed in the treaty. The Senate would then have to ratify addition of chemicals added to the POPs treaty list, and the full Congress would have to pass any necessary implementation laws.

Republicans on the Senate Environment and Public Works Committee discarded this approach

EPA's litigation costs, but courts could also award attorney and witness costs to litigants—which will come from taxpayer dollars as well. In addition, since many environmental groups receive government funding, the federal government, in effect, subsidizes such litigation against itself.

Setting up a process like this will exacerbate problems that are fundamental to the POPs Treaty. The assumption behind bans is that there are no valuable uses for the banned products. Were that true, there would

The assumption behind bans is that there are no valuable uses for the banned products. Were that true there would be no markets for such products and no need for bans.

much worse—eroding U.S. sovereignty, subverting the Constitution, and advancing policies that could greatly harm the world's poor.

The legislation (S. 1486), which was approved by the Senate Environment and Public Works Committee in July, must now go through the Senate Agriculture and Foreign Relations committees before reaching the floor, providing members with opportunities to reverse course.

The POPs Treaty imposes international bans on 12 chemicals—chlordane, DDT, dieldrin, aldrin, dioxins, endrin, furans, heptachlor, hexachlorobenzene, mirex, PCBs, and toxaphene. Disagreement on treaty implementation legislation has held up ratification. Democratic lawmakers proposed allowing EPA to implement bans—without any congressional

in July—with the administration's support—by supporting a compromise bill. It would require EPA to consider bans or other regulations for a year before making them official. EPA could decide against bans and regulations, but the legislation makes it difficult for it to prevail in such cases. First, EPA would be forced to give "substantial weight" to POPs listing decisions—placing the burden on EPA to prove them wrong. In addition, statist environmental groups could sue EPA if the agency doesn't impose new POPs-mandated chemical bans or regulations. Courts could then order EPA to ban or regulate unless the agency proves that such action is unnecessary. However, this standard would be tough to beat since it basically asks EPA to prove a negative.

And as if that weren't bad enough, taxpayers would not only pay for

be no markets for such products and no need for bans. In reality, these bans only harm consumers by raising prices and denying access to wanted—and often needed—products. The world's poor are often hit the hardest by such policies because they can least afford expensive alternatives even when they are available.

This is clearly the case with the existing POPs Treaty bans. These were initiated by wealthy nations where people can better afford expensive alternatives. Meanwhile, people in poor nations, who don't have access to alternatives, are left to suffer the consequences. The most outrageous example is the treaty's ban on the pesticide DDT, which is still the best available, and only reasonably affordable, pesticide for controlling

*Continued on next page*





the spread of malaria-carrying mosquitoes in developing nations. In some developing countries, public health authorities spray DDT on the walls of buildings to repel mosquitoes from entering dwellings. Contrary to environmentalist claims, this limited use of DDT does not produce any measurable environmental impact, but can save millions of lives.

U.S. bans on this product have led other nations to follow suit—and eventually led to the POPs international ban—producing deadly consequences. In the absence of DDT use, the number of malaria cases in developing nations has skyrocketed. According to the World Health Organization, malaria now infects 300 to 400 million people a year. In Africa alone 1.5 to 2.7 million people—mostly children—die from malaria every year.

Tropical medicine specialist Donald Roberts and his colleagues reported in 1997 that “countries that have recently discontinued their spray programs are reporting large increases in malaria incidence.” In contrast, Ecuador, which increased use of DDT after 1993, “is the only country reporting a large reduction (61 percent) in malaria rates since 1993.” Because of such realities, the treaty allows limited use for malaria control—but treaty regulations make it difficult for poor nations to access DDT, and the treaty aims to eventually impose a total worldwide ban.

For these reasons alone, it would make the most sense for members of Congress to call for the unsigning of the POPs Treaty. But, barring that, members should defend their constitutional responsibility by demanding that the treaty include an “opt-in” provision, which would require that the Senate ratify any treaty changes and pass laws each time for implementing any change. If Congress acts accordingly, we could avoid taxpayer-subsidized lawsuits.

Congress has a constitutional responsibility to govern. If it doesn't meet that responsibility, we can expect many more deadly mistakes.

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# The Good, the Bad, AND THE UGLY

## The Good: President Bush Repeals Steel Tariffs

On December 5, President Bush, undoing a major policy mistake, lifted steel import tariffs imposed by his administration 21 months prior. Bush hoped to gain political advantage in steel producing states, but the move backfired. The tariffs—of up to 30 percent—cost steel-using industries both jobs and profits. They angered many of the President’s pro-free-market supporters. And the European Union and some Asian countries threatened retaliatory tariffs on goods from politically sensitive states, like Florida.



PR Newswire Photo Service

The steel industry accused Bush of “capitulating to European blackmail;” but his decision to lift the tariffs gives a great boost to the American economy. According to the International Trade Commission, the duties cost other industries almost \$700 million in profits and 26,000 jobs. And the tariffs hurt consumers—U.S. manufacturers forced to pay more for steel passed the greater cost on to consumers. Finally, tariffs hurt the industries they are supposed to protect, shielding them from competition and delaying needed adjustments. Notes CEI President Fred Smith: “When you make it harder for steel-using industries to get quality steel at economical prices, you’re making them less competitive in the world market.”

## The Bad: Fat Police Go on the Offensive

Government officials—concerned that Americans are getting fatter—are pushing a variety of programs to make us all thinner, including requiring more “user friendly” nutritional labels on food products and restaurant menus and investigating snack food manufacturers’ marketing techniques.

The Food and Drug Administration (FDA) recently announced it is reexamining food labeling requirements because consumers are often confused by serving sizes—never mind that food nutrition labels list the amount of servings in each package.



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Sen. Joseph Lieberman (D-Conn.) wants the Federal Trade Commission to determine whether there is a connection between “junk food” advertising and increasing obesity among children. Lieberman, who is seeking the Democratic presidential nomination, said that as president he would push for nutritional information to be included in snack food ads and chain restaurant menus. In the House, Rep. Rosa DeLauro (D-Conn.) has introduced a chain restaurant menu labeling bill.

These efforts are the latest example of regulation by *threat* of litigation—from food-nanny groups like the Center for Science in the Public Interest and trial lawyers like McDonald’s nemesis John Banzhaf. But, as CEI General Counsel Sam Kazman notes, labeling alone will not fend off lawsuits: “Nutritional information is the legal equivalent of a warning label: It may stave off a lawsuit here and there, but it does little to hold back a flood of litigation.”

## THE UGLY: TRIAL LAWYERS, FEDS EXACERBATE VACCINE SHORTAGES



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A particularly virulent strain of flu has struck the United States this winter. At this writing, nine children have died in Colorado alone. Such news may prompt you to run to your nearest health clinic for an immunization. Don’t bother; most county health facilities won’t have it. And when you do get the flu, you can blame trial lawyers and government vaccine purchasing policies for your suffering.

Many drug companies, concerned about the potential of class action lawsuits, have stopped making vaccines. In the 1970s, there were 25 vaccine manufacturers in the United States; today, there are only five. Vaccine manufacturers are supposed to be protected from lawsuits under a 1986 law, but lawyers have found loopholes in the law, and have filed over 200 cases. In late 2002, Sens. Lincoln Chafee

(R-R.I.), Susan Collins (R-ME), and Olympia Snowe (R-ME) torpedoed an opportunity to address this issue when they forced Majority Leader Bill Frist (R-Tenn.) to repeal a provision in the Homeland Security bill that would have strengthened vaccine makers’ liability protection.

In addition, federal vaccine purchasing policies discourage vaccine manufacturing by keeping prices artificially low, according to a new report by the Institute of Medicine of the National Academies (“Financing Vaccines in the 21<sup>st</sup> Century: Assuring Access and Availability”). The federal government, especially the Centers for Disease Control and Prevention, currently purchases over 50 percent of vaccines in the U.S.—spending over \$1 billion a year. Duke University Center for Health Policy, Law, and Management Director Frank Sloan, who served as chairman of the Institute of Medicine study, says that the government’s purchasing predominance “raises an issue of monopsony power”—a situation where a single buyer can keep prices low. Such low prices have discouraged investment in vaccine production, leading many manufacturers to get out of the business altogether.



**Senior Policy Analyst Solveig Singleton considers the potential impact of open source software and its boosters on the emerging debate over intellectual property rights:**

In 1999, computer game developer Shawn Hargreaves wrote a fascinating paper on the dearth of open source computer games. Why, he asks, were there so few original and successful open source games, as compared to proprietary games? In this paper, Hargreaves suggests that games just do not lend themselves well to open source business models such as selling services...

Let's leap forward to 2003. Hargreaves's description of the difficulties of developing open source games remains largely accurate. What does this mean for the open source movement and, in particular, for public policy debates surrounding the future direction of intellectual property licensing? It tells a cautionary tale for those who would prefer open source out of ideology, without attention to results. Government procurement and research funding policies should remain neutral, preferring neither proprietary nor open source licensing.

- *Local Tech Wire*, December 8

**President Fred L. Smith, Jr. (with co-author and Club for Growth President Stephen Moore) urges Governor Schwarzenegger to end California's "other car tax":**

Arnold Schwarzenegger ran on a platform of bringing businesses and jobs back to the state. To do so, the new governor will need to terminate a multitude of economically damaging policies left over from the Gray Davis era.

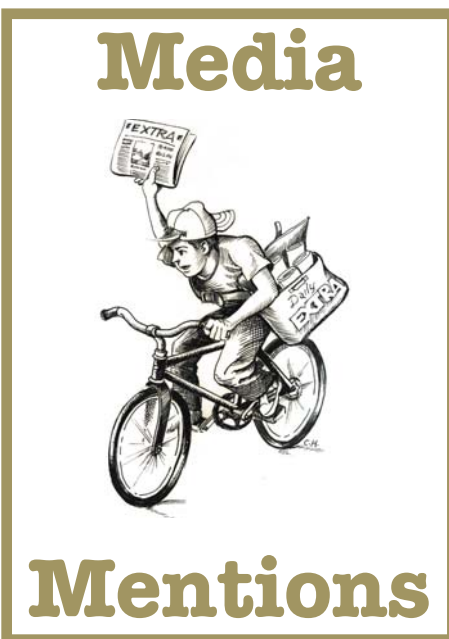
One such legacy is a law, signed by Davis last year, which could significantly raise the cost of owning and operating cars and trucks in California. The law directs the California Air Resources Board (CARB) to produce a plan to reduce greenhouse gas emissions—principally carbon dioxide (CO<sub>2</sub>)—from new automobiles. The agency is to achieve "maximum feasible" reductions that somehow are also "cost-effective." But how CARB will implement the law is anybody's guess.

This delegation of broad regulatory authority is an open invitation to impose hidden taxes on automobile ownership and use, especially on families who buy SUVs, light vans and station wagons.

- *Orange County Register*, November 18

**Senior Fellow Marlo Lewis, Jr. responds to self-interested pro-Kyoto boosterism in Britain's leading financial daily with a letter to the editor:**

Michael Grubb ("The world must keep its nerve over Kyoto," November 13) wants the U.S. and Russia to ratify the Kyoto Protocol. What a surprise! Mr. Grubb works for the



Carbon Trust, an organization set up and funded by Tony Blair's government to facilitate business compliance with Kyoto's energy suppression mandates. Kyoto would confer competitive advantage on UK businesses vis à vis their U.S. counterparts but only if the U.S. participated. If neither the U.S. nor Russia ratifies, the treaty is dead. And if Kyoto dies, the Carbon Trust has no raison d'être.

- *Financial Times*, November 17

**Director of Clean Air Policy Ben Lieberman warns New York drivers of future gasoline price spikes as new government regulations kick in:**

A new government report has a message for New Yorkers rocked by high gasoline prices: Get used to it.

Blame it on regulations. While the price of oil bounces up and down and gasoline taxes remain steady, the costs of federal and state fuel regulations are going nowhere but up, causing many recent jumps at the pumps.

The next such price hike could come as soon as Jan. 1. That's when New York State will ban methyl tertiary butyl ether (MTBE), an additive used in much of the state's gas supply. Along with Connecticut and other states, New York is responding to concerns that MTBE has tainted water supplies.

Even if we dodge that short-term bullet, DOE sees longer term price hikes of perhaps five cents per gallon in the summer and one cent the rest of the year. And the relative uniqueness of New York gasoline could lead to fewer suppliers and periodic shortages—and future price spikes.

- *New York Post*, November 16

**Director of Food Safety Policy Gregory Conko and Adjunct Scholar Henry I. Miller expose the disastrous results of U.N. regulation of agricultural biotechnology:**

The United Nations is supposed to be a watchdog of human rights, but it needs watching itself. It has been denying people, especially the poor, the right to feed themselves, buy from others, and use their land as they wish. The inhabitants of less developed countries are literally dying as a consequence.

Not through happenstance, but systematically, the United Nations has been sacrificing science, technology, and sound public policy to its own bureaucratic self-interest, thereby obstructing technological innovation that could help the poorest of the poor. In particular, it is involved in the excessive, unscientific regulation of biotechnology—also known as gene-splicing, or genetic modification (GM).

This regulation slows agricultural research and development and promotes environmental damage. It can also prolong famine and water shortages for millions.

- Scripps Howard News Service, November 12



**Canada Fights U.S. TV Signal Invasion—or Does It?**

In Canada, it is now illegal for anyone to receive satellite TV signals other than from a satellite owned by a Canadian company—with penalties of fines of up to U.S. \$8,000 *per day* and six months in jail. The satellite TV companies who benefit from this arrangement estimate that there are 700,000 “illegal” satellite systems in Canada. However, the Canadian government won’t block the importation of the systems from the U.S. It’s only when you actually use them that they become “illegal.”

**...END NOTES**



**RIAA Takes Kid Gloves Off**

The Recording Industry Association of America—which has filed over 380 lawsuits against individual music downloaders for alleged copyright infringement—named outgoing Bureau of Alcohol, Tobacco, Firearms, and Explosives Director Bradley A. Buckles to head its Anti-Piracy Unit.

**Government Truth in Advertising**

Taxicab drivers in DeKalb County, Georgia, claim that they are being harassed by a new two-man taxi regulation enforcement unit that wrote 397 tickets from June through September. The agency’s name: Taxi Wrecker Bureau.

**Pork: OK for Sheep, But Not for Humans**

Animal rights activists in Australia recently fed ham, a pork product considered “unclean” by Muslim dietary standards, to 1,800 sheep that were to be shipped to Kuwait.

**Climate Alarmists Alarm On**

Climate change alarmists—panicking since Russia’s announcement that it would not ratify the Kyoto Protocol—are resorting to ever-wilder claims. Their case can be summed up as: “Let’s hurry up and destroy civilization before global warming does it for us!” A new report by the German Advisory Council on Global Change—released at the United Nations Framework on Climate Change Conference of the Parties in Milan December 1-12—predicts “catastrophic” climate change unless industrialized countries cut greenhouse gas emissions *by at least 20 percent by 2020 and by up to 60 percent by 2050*. Also at

the conference, Jonathan Bamber of the University of Bristol called on governments “to take really radical steps, far more extreme than the Kyoto Protocol.” And on December 7, Rajiv Nigam, a scientist with the Geological Oceanography Division in India, claimed that, “If the warming continues, there will be about half to one meter increase in sea level by 2020 and cities like Bombay, Calcutta, and Madras will be completely submerged.”

**More Serious Threats from Global Warming**

The United Nations Environment Program, at something called the Fifth World Conference on Sport and the Environment—held in Turin, Italy, December 2-4—released a report highlighting the threat that global warming poses to ski resorts.



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