

May 2009

NomineeAlert



this issue:

Stephen A. Owens, Nominee for
 Assistant Administrator for Toxic
 Substances, Environmental
 Protection Agency

Who is Stephen Owens? Lawless regulation...

On April 23, 2009, President Obama announced Stephen Owens as his nominee to be Assistant Administrator for Toxic Substances of the Environmental Protection Agency.

the state by 37 percent by 2016. It also contains a mandate that, beginning in 2012, 10 percent of all vehicles sold in Arizona have no emissions at all, whether powered by electricity,

hydrogen or some other source. That increases to 16 percent by 2022. Lawmakers responded to the proposal by approving legislation stripping ADEQ of any authority to enact greenhouse gas rules. But Gov. Napolitano vetoed that bill. Now the state is weighing a much broader proposal that would impose carbon dioxide limits on commercial and industrial sources, the biggest of which in Arizona are the coal-and gas-fired power plants that generate electricity.

"...exceeded its legal authority when it [Owens] sought to set emission levels for more than six dozen chemicals..."

"Owens' propensity to act outside the law when convenient to further his radical environmental ideology is deeply troubling."

-Bill Wilson, President, Americans for Limited Government

Owens served as the Director of Arizona Department of Environmental Quality (ADEQ) from January 2003 to January 2009, the longest serving director the department has ever had. In this post he has shown a lack of deference to legislature and acted beyond the bounds of his authority.

In April 2008 a Maricopa County Superior Court Judge ruled that ADEQ "exceeded its legal authority when it sought to set emission levels for more than six dozen chemicals. [The judge] said state lawmakers never gave the agency or DEQ Director Steve Owens the power to do any of that." Fn.1.

He "proposed and pushed through new rules earlier this year [2008] that require each automobile manufacturer to reduce overall greenhouse gas emissions from its total sales in

And Owens has refused to rule out imposing those regulations without first getting legislative permission." Fn.2.

Owens was co-chair of the Western Governors' Association's Western Climate Initiative (WCI), a state pact whose express purpose is to create cap-and-trade policies to limit greenhouse gas emissions, which, according to the document creating WCI, are changing the Earth's climate

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Owen's Background

Director, Arizona Department of Environmental Quality

Joint Public Advisory Committee of the North American Commission on Environmental Cooperation

Environmental Law, Brown and Bain

Chief Counsel, State Director, U.S. Sen. Al Gore (D-TN),

Counsel, Oversight Subcommittee, House Science and technology Committee

EDUCATION

B.A., Brown University

J.D., Vanderbilt University

What you really need to know about Owens

Continued from first page...

in such a way as to “have severe economic and environmental impacts on the Western States in the coming decades.” Fn.3.

In the fall of 2008 Owens presented WCI’s proposal as Arizona policy. This was the broader proposal mentioned above that he would implement without legislative approval. It called for a 15% total cut of greenhouse gas emissions by 2020. When the plan was criticized because it would cause prices to go up he resorted to alarmist climate change rhetoric: “You haven’t seen significant costs until you see what might happen 40 or 50 years from now if we don’t do something now to control greenhouse gas emissions,” and his unsubstantiated opinion that “at the end of the day, once this program is implemented, you’re not going to see significant price increases. You’re just not going to have that and the utilities and consumers and others are going to find much more cost-effective and cheaper ways to comply with this program.” Fn.4.

As also mentioned above, he had earlier implemented a cap-and-trade policy for automobiles. Like most “true believers” he believes in the inevitability of the radical environmental agenda: “I don’t think anybody can dispute the fact that in the United States there will at some point be regulations on greenhouse gas emissions and there will be reductions in greenhouse gases emissions mandated by the federal government.” See Fn.4.

“While Owens is little known inside the Washington beltway, his leadership in Arizona has drawn strong reaction from industry.” An Arizona business source claims that his “‘decisions were contrary to authority, law and science because he was using them for political purposes.’” The source also called Owens ‘vindictive,’ saying he increased enforcement actions against business owners who refused to go along with his positions.” In fact during Mr Owens tenure, he was, as head of ADEQ, the plaintiff in 67 civil cases in Maricopa County Superior Court alone, most of which were against area businesses, at least 40 of which were decided in his favor, to the tune of \$9,636,775.00, and 9 of which are still awaiting judgment. Fn.5.

His tenure at ADEQ has been marked by strict and aggressive enforcement of environmental regulation, often to the detriment of business, sometimes exceeding the limits of his authority. In this way he has used his authority to promote an environmental agenda, sometimes exceeding his authority, based on his firm belief that it is “a ‘no brainer’ that reducing carbon dioxide emissions will help prevent further warming,” about which there is an “overwhelming scientific consensus that not only is climate change happening, but human activities are contributing significantly to it.” Fn.6.

Both supporters and critics generally concur that Mr Owens has little practical experience in dealing with pesticides. As one says, “I cannot find anything [Owens has] ever done with toxic substances. He’s done climate change, water and air. Why is he being nominated for OPPTS?” They also agree that his appointment is due to the fact that he “brings wide-ranging political and management experience.” In other words, he is being nominated for this position because, as illustrated above, he “has shown a willingness to use regulatory authorities to drive policy,” rather than the other way around. The Supreme Court’s recent bolstering of the EPA’s regulatory authority, added to his environmental agenda, his animosity to business, his lack of deference to legislative authority and his willingness to use all authority at his disposal, whether actually his or not, create a mix that raises questions as to the prudence of giving him this post. See Fn. 5.

Sources for further reading:

Fn.1. Howard Fisher, *Judge: Pollutant regulations exceed legal authority*, EAST VALLEY TRIBUNE, April 5, 2008. Available online at: <http://www.eastvalleytribune.com/story/113086>. (Accessed May 21, 2009.)

Fn.2. Howard Fisher, *Lawmakers recommend restricting DEQ, governor*, EAST VALLEY TRIBUNE, November 13, 2008. Available online at: <http://www.eastvalleytribune.com/story/130376>. (Accessed May 21, 2009.)

Fn.3. Western Regional Climate Action Initiative Resolution, February 25, 2007. Available online at: <http://www.westernclimateinitiative.org/ewebeditpro/items/O104F12775.pdf>. (Accessed May 21, 2009.)

Fn.4. Megan Thomas, State environmental chief defends emission plan, East Valley Tribune, October 3, 2008. Available online at: <http://www.eastvalleytribune.com/story/127335>. (Accessed May 21, 2009.)

Fn.5. OPPT Nominee Lacks Toxics Experience But Brings Crucial Political Focus, Member News, Kansas Agribusiness Retailers Business Association, April 29, 2009. Available online at: <http://www.ksagretailers.org/mx/hm.asp?id=Membernews>. (Accessed May 21, 2009.)

See also, Maricopa County Civil Case Docket at: <http://www.superiorcourt.maricopa.gov/docket/CivilCourtCases/>. Search “Case History” for “Stephen Owens.”

Fn.6. Howard Fisher, *\$1M pollution penalty spurs spat over climate change*, EAST VALLEY TRIBUNE, September 20, 2008. Available online at: <http://www.eastvalleytribune.com/story/126279>. (Accessed May 21, 2009.)

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