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# ENVIRONMENTAL REGULATION AND NATURAL RESOURCE MANAGEMENT

By James L. Huffman\*

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Although opinion polling generally indicates that the environment is low on the list of public concerns, environmental and natural resource policies have a very significant impact on the economy and therefore on the day to day lives of ordinary Americans. Any pro-growth agenda will benefit from attention to environmental regulations and federal natural resource management.

## I. CHALLENGES FACING FEDERAL DEPARTMENTS AND AGENCIES WITH ENVIRONMENTAL RESPONSIBILITIES

Numerous federal departments and agencies have regulatory and management responsibilities relating to the environment and natural resources including, but not limited to, the following: Council on Environmental Quality, Environmental Protection Agency, Department of Interior (Bureau of Land Management, Bureau of Reclamation, National Park Service, U.S. Fish and Wildlife Service), Department of Agriculture (Forest Service, Natural Resources Conservation Service, Office of Environmental Markets), Department of Energy, and Department of Commerce (National Oceanic and Atmospheric Administration).

Federal laws and administrative actions have created a complex array of environment-related regulations and directives that affect virtually every aspect of private and public life. While most environmental regulations have important and legitimate purposes, the monitoring and compliance costs often exceed the public benefits and, like all regulations, those relating to environmental protection and natural resources conservation can be manipulated for the benefit of special interests rather than the public welfare.

Two challenges facing every presidential administration are to achieve the maximum possible coordination and consistency among the many federal agencies and to assure that the private and public costs of regulatory compliance are justified by the resulting public benefits. Given the many agencies involved and the broad range of statutes they are responsible to administer, it is not possible to meet these challenges with top-down policy directives from the White House. Thus, the only realistic approach is to integrate a common set of basic policy principles across the full range of environmental and natural resources agencies—principles that can have application to the regulation of pollution from private industrial sources as well as to the management of publicly owned resources, the control of greenhouse gas emissions, and the preservation of endangered species and natural areas.

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## II. THE MOST IMPORTANT ENVIRONMENTAL AND NATURAL RESOURCES ISSUES FACING THE NEXT ADMINISTRATION

Several concrete issues are likely to provide the opportunity for a coordinated and coherent approach to environmental protection and natural resource conservation. Continued pressure from environmental groups combined with independent action by state and local governments will require the federal government to act where matters within the scope of federal responsibility are at issue. Foremost among those issues requiring federal action will be climate change, energy, water, federal public lands, and endangered species.

*Climate change* has become the dominant concern of most mainstream environmental groups, including those with relatively narrow missions like wildlife and wilderness protection. Their concern is that climate change has the potential to alter or destroy whatever environmental amenities and natural resources it is their mission to protect. Climate change has also surfaced as a top priority of the current administration. On June 1 of this year, the Environmental Protection Agency (EPA) promulgated rules implementing its Clean Power Plan. Those rules have been challenged as beyond EPA authority, but if upheld they will have dramatic consequences for the American economy.

Inextricably related to climate change policy is *energy*. Carbon dioxide constitutes over 80 percent of greenhouse gas (GHG) emissions, and nearly 80 percent of those emissions derive from electricity generation, transportation, and industry. Thus, significant reductions in GHG emissions are dependent on rapid and widespread substitution of low carbon for high carbon fuels and on the development of alternative energy sources. There has been growing pressure from environmental groups to close coal-fired generating facilities, and the recent history of subsidized alternative energy sources has created influential interest groups lobbying for the extension and expansion of those subsidies. A growing movement on college campuses is pressuring for disinvestment in companies engaged in carbon related industries.

Also linked to concerns over climate change is *water policy*. Environmental activists attribute the ongoing drought in California and the Southwest and flooding in other parts of the country to climate change. Whether or not climate change has anything to do with these and other weather patterns, the allocation of scarce water resources will be an ever more pressing challenge, and the next administration will be faced with defining the federal role and collaborating with the states in the allocation and management of the nation's water resources.

In the western states, the use and management of the vast *federal public lands*, which constitute on average 50 percent of the land between the Rocky Mountains and the Pacific Ocean, is likely to reemerge as an issue for the next administration. Agricultural and natural resource interests in much of the rural West are pressuring state legislatures to follow the state of Utah's lead and enact legislation calling on the federal government to

transfer control of federal lands to state governments. While there appears to be little likelihood that states will succeed in claiming legal title to federal lands, the effort does evidence a widespread concern in the rural West over the use and management of lands in federal ownership. Because these lands contain significant timber, mineral, water, and grazing resources, there are significant opportunities to stimulate rural economies through improved management.

Directly related to the water and public lands challenges are existing policies relating to the protection of *endangered species*. The Endangered Species Act (ESA) has proven to be a powerful tool for the imposition of constraints on land and resource use with obvious implications for economic development. Because the ESA increasingly constrains alternative energy development and curtails water diversions by large urban areas affecting millions of inhabitants, there are likely to be growing pressures to amend the ESA.

### III. DISCUSSION

Political debates over climate change policy usually degenerate into name-calling, with one side labeled extremists and the other deniers. The next administration will have the opportunity to elevate the discussion in the interest of developing a realistic and affordable set of policies to cope with whatever climate change may occur, without regard for whether it is human caused. To the extent reduced reliance on carbon-based fuels and a shift from more carbon-intensive to less carbon-intensive fuels will be cost-effective and beneficial to Americans, measures should be taken to encourage such actions. But it makes little sense to incur enormous taxpayer and social costs where the returns in mitigated climate change will be minimal. The better approach is to prepare for the possible impacts of climate change with strategies for adaptation if and when changes occur, and with an understanding that the predictions are based on models that necessarily simplify extremely complex natural processes.

Because most climate change mitigation strategies that have been proposed would dramatically affect the cost of energy, and because energy costs are a significant factor for virtually all businesses, climate change policies must account for economic effects including innovation, investment, employment, compensation, and the quality of goods and services. Recent innovations in the technology of petroleum extraction ('fracking' and directional drilling) demonstrate that private innovation can have significant environmental benefits (reduced carbon emissions from the substitution of natural gas for coal, for example) as well economic benefits (lower energy costs and new jobs, for example). Although the federal government can play an important role in energy innovation by providing support for basic research, experience suggests that direct federal intervention in the energy market with subsidies and tax breaks only serves to divert private investment into uneconomic energy development. It should also be clear that the best and perhaps only existing large-scale alternative to carbon-based energy fuels is nuclear. Modern nuclear technology has advanced dramatically over the past decade and now has enormous potential for safe electricity generation with minimal environmental harm and zero carbon emissions. Still, existing federal regulations make the costs of new nuclear development prohibitive.

Because water is essential to life and because water sources are usually parts of complex systems of transient and integrated ground and surface waters, the tendency over the last half-century has been to resort to public planning and management of water resources. This tendency has given rise in nearly every region of the country to political struggles over water and a diminished role for the private rights systems that have long existed in all of the states. While there is a necessary role for federal involvement in the allocation of interstate waters, it is important to recognize that historic government policies have contributed to some of the nation's most serious environmental problems, and that private water markets can make an important contribution to the efficient use of water resources.

Federal public land resources have also suffered from a lack of market discipline. Pursuant to various federal laws, vast areas of the public lands have been effectively withdrawn from productive use in favor of environmental preservation and species protection. The impact on rural communities of the West has been devastating. The 1964 Multiple Use Act and the subsequent planning legislation has had the perverse effect of removing economic considerations from management decisions while tying the hands of the government officials with management responsibilities. The Endangered Species Act further constrains land managers by functioning as an effective trump on all other considerations. Efficient use of whatever public land resources are made available for economic use does not require private title, but it does require private rights of use sufficient to justify investment and long-term management.

### IV. UNIFYING THEMES

Although the foregoing issues are related to one another (as explained above), they will also seem quite distinct from a political perspective. Different regions of the country will tend to see some issues as more important than others and each of the political interest groups active in these arenas will have a particular policy focus that views the problems and solutions in a given area as unique. But there are unifying themes that should be reflected in the environmental and natural resource policies of the next administration.

1. *Remember that resource scarcity requires trade-offs.* All of the foregoing issues rise to political significance because of resource scarcity. Whether we are talking about water for residents of Los Angeles, timber for mills in Idaho, coal not mined in Pennsylvania, or carbon pollution from New Jersey industries, the challenge exists because resources are limited. Water delivered to Los Angeles is water not available to farmers as distant as Colorado. Trees harvested on public lands to supply mills in Idaho are trees no longer providing habitat for birds and shade for hikers. Coal left in the ground in Pennsylvania denies employment to local miners and requires reliance on other energy sources. Carbon emitted in New Jersey is the byproduct of both jobs and useful products. There are tradeoffs everywhere because resources are scarce and therefore valuable. To the extent federal law requires federal officials to make resource allocation decisions, these tradeoffs must be taken into account. But government policy at all levels must also recognize that central planners cannot possibly account for all of the literally millions of factors affecting supply and demand.

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2. *Rely on market forces to make needed trade-offs wherever possible.* Scarce resources could be allocated on a first come first served basis, but the result of that is what Garrett Hardin labeled the “tragedy of the commons”—everyone has incentives to consume what they can and no one has incentives to conserve and manage for the future. The alternatives to this tragedy are only two: we can allocate resources through a political process of some sort, or we can allocate them through market exchanges between willing buyers and sellers. The former requires a distribution of political power; the latter requires a system of private property and contract rights. Environmental harm is evidence that a purely market system will have unacceptable third party impacts. A half century of environmental regulation and over a century of public lands resource management demonstrate that public officials lack the information required for efficient resource allocation and that the processes put in place to acquire information end up creating obstacles to timely decision making. Thus, the allocation of scarce resources requires some combination of political and market approaches.

3. *Be aware of regulations’ links to rent-seeking.* To the extent we rely on the political methods of regulation, subsidy (including tax breaks), and public management, rent-seeking will be a persistent reality. Private interests and self-proclaimed public interest advocates will seek political solutions that benefit them. All will insist that they have only the public interest in mind, but pursuit of private advantage is an inevitable aspect of public resource management. The same is true of the resource managers who have careers to think about and their own agendas. Measures can be taken to limit opportunities for private benefit, but the reality is that rent-seeking is pervasive, expensive, and often disruptive of the public purposes that justify public action in the first place.

4. *Focus on incentive effects.* Achieving the right balance between public action and private markets is difficult, to say the least, but a good guiding principle should be to get the incentives right in relation to our public objectives. Getting the most benefit from any given amount of a scarce resource is surely an objective that is widely shared. Markets are demonstrably superior for getting the incentives right in this respect. For markets to work, resources must be effectively owned and ownership must be transferable. To the extent that the resulting resource uses impose unacceptable costs on third parties (like air and water pollution), regulation is necessary and appropriate. But consistent with the theme of getting the incentives right, regulators should rely on market incentives like tradable emissions permits for pollution control, congestion pricing for traffic management, competitive bidding for the allocation of public land resources, and user fees for the provision of public goods and services.

