



# PEER *review*



A Publication of Public Employees for Environmental Responsibility

## Pruitt's Departure No Truce in War on EPA

Summer  
2018

No department is more in the Trump crosshairs than the Environmental Protection Agency. That will not change now that Trump has tossed Scott Pruitt as EPA Administrator. Pruitt's industry-written playbook to extinguish decades of pollution control and public health safeguards remains very much in play.

Fortunately, Pruitt's success has been limited, largely because many of his actions are based in "alternative facts" that ignore the vast weight of scientific and economic evidence. As a result, Pruitt has had his hat handed to him in court. To date, nearly 80 lawsuits have been filed against Pruitt's 66 "deregulatory actions." Of the six cases decided, Pruitt has lost four outright. In the others, EPA withdrew its proposal or delayed arguments.

### What Now?

Pruitt is replaced by his deputy, Andrew Wheeler, who will serve as Acting EPA Administrator. He was an energy lobbyist and senior congressional aide to Senator Jim Inhofe (R-OK), Capitol Hill's leading climate denier.

Unlike Pruitt who spawned a new scandal every week, Wheeler is low profile. For example, Wheeler quietly arranged for one of his lobbying clients, CEO Bob Murray of the coal conglomerate, to hand-deliver proposed Executive Orders to repeal coal-related regulations to Pruitt and Energy Secretary Rick Perry. At his confirmation, Wheeler said he had briefly seen the documents but did not acknowledge his orchestration. Trump later largely adopted Murray's drafts.

This low profile poses the danger that the public will stop paying attention to what happens inside

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**You're Fired.** Scott Pruitt's Midas touch for spawning scandal finally did him in.



**New Boss, Same as the Old Boss.** Wheeler has pledged to complete the eco-rollbacks started under Pruitt.

### Clock Now Ticking

On the other hand, Pruitt's ouster may be significant due to the peculiar management style of the Trump White House.

Under the Federal Vacancies Reform Act, Wheeler can remain as Acting Administrator for 210 days. After that, this law stipulates that any action he takes as EPA head "shall have no force or effect" nor may such action be later "ratified." That means any action Wheeler takes after early February can be voided in court.

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## From the Executive Director

# The MAGA Lobotomy

Behind the tweet-storms, bizarre utterances, and frantic antics of a White House seemingly spinning out of control, a curtain of darkness is descending across federal service. During the first 500 days, websites have been scrubbed, gag orders issued to bar employees from speaking, and research grants screened to eliminate inquiry into any topics not on the Trump agenda.

In short, our federal government is entering a deep know-nothing fog, where a lengthening list of topics is off-limits. This taboo tally includes not just climate change, but any issue where there is industry sensitivity, ranging from bee colony collapse from pesticides to the devastating socio-economic impacts of mountain-top mining in Appalachia.

Because our government is moving farther away from fact-based decision-making, agency specialists must turn to unofficial channels, such as PEER, to ground-truth alternative facts. As several articles in this issue describe, we already spend much of our effort on litigation to pry inconvenient facts from bureaucratic clutches. We also employ a variety of legal techniques to force agencies to confront – and respond to – the information they try to hide.

More is needed, especially with an administration seemingly immune to embarrassment. It is now beyond dispute that the Executive Branch cannot be trusted to referee the accuracy of its own record. Instead, we need a new set of legal safeguards, both for the integrity of scientific and technical information and also for the specialists who create them.

To that end, PEER is drafting legislation for the new Congress to require that administrative records for decision-making include all information, including dissenting views. Nor should technical documents be changed for non-technical (i.e., political) reasons. Further, the basis for any changes should be on record for all to examine.

In addition, government scientists should be able to publish in their field and share findings, free from restriction or retaliation. In short, we need to enact a legislative annex to the Freedom of Information Act and scientific integrity policies that have judicial enforceability.

Information is power. For that reason, we can no longer subject official information to a dictatorship. For the truth to set us free it must be available – and that, with your support, is our mission.

— *Jeff Ruch*

### Mission Statement

PEER protects public employees who protect our environment. We are a service organization for local, state, federal and tribal law enforcement officers, scientists, land managers and other professionals dedicated to upholding environmental laws and values. Through PEER, public servants can choose to work as “anonymous activists” so that public agencies must confront the message, rather than the messenger.

#### PEER DC Headquarters

962 Wayne Avenue • Suite 610  
Silver Spring • Maryland • 20910  
tel: 202-265-PEER (7337) • fax: 202-265-4192  
email: [info@peer.org](mailto:info@peer.org) • website: <http://www.peer.org>

#### PEER Field Offices

California PEER • email: [capeer@peer.org](mailto:capeer@peer.org)

Florida PEER • P.O. Box 14463 Tallahassee, FL 32317-4463  
tel: 850-877-8097 fax: 850-942-5264 email: [flpeer@peer.org](mailto:flpeer@peer.org)

New England PEER • P.O. Box 574 North Easton, MA 02356  
tel: 508-230-9933 fax: 508-230-2110 email: [nepeer@peer.org](mailto:nepeer@peer.org)

Rocky Mountain PEER • email: [rmpeer@peer.org](mailto:rmpeer@peer.org)

Tennessee PEER • 4443 Pecan Valley Rd Nashville, TN 37218  
tel: 615-313-7066 email: [tnpeer@peer.org](mailto:tnpeer@peer.org)

Climate Change • 4005 Wisconsin Ave. # 9743 Washington DC 20016  
email: [climate@peer.org](mailto:climate@peer.org)

#### PEER DC Headquarters Staff

Executive Director • Jeff Ruch  
Associate Director • Carol Goldberg  
Legal • Paula Dinerstein, Peter Jenkins & Adam Carlesco  
Advocacy, PEERreview Layout • Kirsten Stade  
Membership • Susan Sargent

#### PEER Board

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## Eco-Fraud Eruption by the Bay

**S**an Francisco currently has a severe case of real estate fever, pricing all but the rich out of its new housing market. The city's poorest quarter, Bayview-Hunters Point in its southeast corner, is the latest epicenter of development mania. But, there is a big problem.

The Hunters Point Naval Shipyard hosted nuclear weapons work, including supposed decontamination of Navy

ships used in Pacific hydrogen bomb tests--which left the shipyard with ultra-high radioactivity. It has been an EPA Superfund site since 1989.

Now, this nearly 30-year radiation cleanup has run off the tracks. PEER has obtained documents showing that the remaining contamination is far, far worse than previously reported:

- Almost 100% of the soil samples taken by the U.S. Navy's contractor Tetra Tech re-examined by the EPA are "falsified," subject to deliberate manipulation and "neither reliable nor defensible";
- Parcels transferred to San Francisco under false pretenses as suitable remain deeply contaminated; and
- Most every Tetra Tech radiation survey on the shipyard's buildings is bogus.

One of the things that makes these find-



**Hot Property...in More Ways than One.** Hunters Point is being touted as San Francisco's biggest redevelopment since the 1906 earthquake.

ings so remarkable is that the Navy was on notice for years that it had a major data meltdown on its hands yet is still trying to cook the books. Of course, neither the Navy nor EPA revealed any of this. There are still more shoes to drop and we intend to make Hunters Point the poster child for meaningful Superfund reform.

### Don't Eat the Tomatoes

In areas of Hunters Point certified as clean, residents are subject to a curious covenant: they may not grow food unless they import soil. This raises the question of what is meant by "clean." It is especially important with respect to radiation, a pollutant that keeps on giving.

## Court Orders Pruitt to Produce Alternate Climate Science

A federal court has rejected the EPA's refusal to search for scientific information Administrator Scott Pruitt relied upon in claiming that human activity is not a "primary contributor" to climate change in an interview on CNBC's "Squawk Box." The ruling upholds a PEER Freedom of Information Act lawsuit. The agency must also produce any studies EPA possesses that support Pruitt's stated skepticism of anthropogenic climate change by July 11.

PEER filed a FOIA request asking to see the studies upon which Pruitt based his claim and whether there are any EPA scientific studies that find human activity is not driving global climate change. Not only did EPA fail to respond within the statutory deadline, but even after PEER filed suit to compel production the agency contended that it would not respond because the suit is "a trap," an improper "interrogation" and a "fishing expedition."

In a June 1 ruling, Beryl Howell, Chief Judge of the U.S. District Court for the District of Columbia, brushed aside EPA's objections, calling them "a reach too far" and "epistemological evasion," observing that –

"Particularly troubling is the apparent premise of this agency challenge to the FOIA request, namely: that the evidentiary basis for a policy or factual statement by an agency head, including about the scientific factors contributing to climate change, is inherently unknowable."

"This suit forces EPA to determine whether Mr. Pruitt's statements had a factual basis or were full of hot air," stated PEER General Counsel Paula Dinerstein, noting that Pruitt has promised to initiate a controversial "red team, blue team" review of climate science. "How can there be a debate when the red team is hiding under the podium?"

## Below Zero Tolerance

In a complaint to the Interior Secretary routed through PEER, a female National Park Service employee wrote she was “disgusted” to see new NPS Acting Director, Danny Smith using “loud, vulgar language” in the hallway and “grabbed his crotch and penis” while crudely gyrating.

Notably, Smith is the authorizing official for NPS’ new Anti-Harassment Policy prohibiting any unwelcome comments constituting “behavior [that] can reasonably be considered to adversely affect the work environment.” This zero tolerance policy stems from numerous reports and a survey confirming widespread harassment, bullying, and reprisal.

In June, Smith sent an all-employee email (subject line “A heartfelt apology”) that read:

“I want to start by apologizing to any colleague who witnessed this. I recognize that the story was inappropriate for the workplace, even though it does not rise to the level



**A Real Crotch Grabber.** Smith remains at the Park Service helm and apparently will receive no punishment.

of harassment. I am very sorry for my mistake in telling this story and any discomfort it clearly caused... As a leader, I must hold myself to the highest standard of behavior in the workplace... I hope that my mistake and this apology are a lesson for leaders and employees at every level of the National Park Service.”

The lesson appears to be the Trump administration will tolerate official misconduct, sexual or otherwise, by its own appointees.

### Senior Executive Musical Chairs

At Interior, senior executives need rolling swivel chairs due to all the transfers without warning or explanation. Last year, Interior transferred 35 senior executives, with some moves clearly punitive. The Inspector General could come to no conclusion because Interior kept no records and offered no reasons.

That earlier shuffle bypassed the National Park Service. But PEER first revealed Acting Director Danny Smith this spring notified most of the senior leadership of their involuntary transfers – with refusal grounds for termination - including a functional demotion for a top manager who is a key witness in a misconduct investigation involving Smith (see accompanying story).

Yellowstone Superintendent Dan Wenk tried to preempt his removal by announcing a March 2019 retirement from the park but that gambit failed as he was told to vacate by August.

Again, no explanation was given but the message is clear. This marginalization of the upper civil service echelons is meant to convey that anything less than ardent cooperation with Team Trump is a one-way ticket to bureaucratic Siberia. Consequently, the seniority level of requests inside Interior for PEER assistance is higher than ever.

### Plastic Pliancy

Last year, the National Park Service nixed its ban of disposable plastic bottles. Their own emails reveal, however, officials knew the rationales they offered for the reversal were untrue. Stated concerns about visitor safety, more soda sales, and concessioner confusion were either made up or flatly contradicted by the paper trail obtained by PEER.

In 2011, PEER uncovered how Coca-Cola, maker of Dasani, persuaded the then-NPS Director to prevent Grand Canyon from finalizing a long-planned bottle ban. The resulting publicity induced the NPS to allow Grand Canyon to proceed and institute a process for other parks to follow suit.

In the ensuing five years until the policy was rescinded, nearly two dozen parks, including some of the most visited such as Zion, successfully implemented bottle bans. A suppressed briefing paper credited the ban with preventing “disposal of up to 2M disposable plastic water bottles per year.”

Coca-Cola and other bottlers have eliminated the option of national parks going plastic bottle-free – a goal made easier because the park system has now become fact-free.



**Plastic or Plastic?** Disposable bottles are the largest component of surging waste streams in national parks that now have one less effective tool for coping.

## Political Screen on Research Grants

Claiming that he wanted to stretch Interior’s research budget, Secretary Ryan Zinke imposed a new screen on all grants. Rather than delegate this review to a scientist, Zinke hired a kindergarten classmate who spent his career working at a credit union in Whitefish, Montana.

One victim of this new political filter was an ongoing grant to the National Academies of Sciences for a study of

health risks for people living near surface coal mine sites in Central Appalachia. In 2017, Interior told the National Academies to suspend that research. This year Interior cancelled the project altogether, with no explanation for either action. As our Freedom of Information Act requests seeking information about this grant and Zinke’s science sifting in general have been ignored, PEER will make a federal case out of it until we disgorge the paper trail.



**Mountain-Top Coal Mining.** Research into health impacts from this especially destructive mining technique got squelched.

### Lawsuit to Re-List Teddy’s Bear

PEER is leading a coalition of conservation groups suing to win back protection under the U.S. Endangered Species Act for the Louisiana black bear. Known as “Teddy’s bear” because President Theodore Roosevelt once famously refused to shoot a treed one, the Louisiana black bear is one of 16 subspecies of the American black bear.



**Up a Tree.** The Louisiana black bear has lost 99% of its historic population and more than 97% of its historic range.

It was listed as threatened under the Endangered Species Act back in 1992, but the U.S. Fish & Wildlife Service declared it recovered in 2016 and removed its critical habitat designation made only six years prior. The PEER suit contends this decision was based on false assumptions and shoddy science, such as relying upon recovery corridors that do not connect. The suit also argues that the FWS recovery plan puts the bear in greater jeopardy, by –

- Ignoring steadily increasing loss of bayou swamps and other habitat from climate change;
- Allowing uncontrolled and rising human-caused mortality, principally from car collisions and hunting; and
- Opening the subspecies up to hybridization.

“The Louisiana black bear is a victim of biological malpractice,” concluded PEER General Counsel Paula Dinerstein. “Winning this suit is essential for this bear’s survival in the wild.”

### Premature Petro-Release

The Department of Interior has a century-long history of oil-related scandals and a recent episode may join this infamous registry. Last December, the U.S. Geological Survey prepared estimates of new reserves at the National Petroleum Reserve-Alaska. This information is highly sensitive and by rule is confidential.

Nonetheless, Deputy Interior Secretary David Bernhardt, a former oil lobbyist, demanded access to new NPR-A data before public release – and ordered the rule set aside. That caused the USGS official in charge of the program to resign, writing:

“Scientific integrity is the bedrock of the Survey and must be preserved for the Bureau to properly serve the Nation. Though I understand my resignation will not change the data release, I feel that as head of the Energy and Minerals Mission Area I must register my protest of this action.”

PEER is now in federal court seeking documents related to the incident and its aftermath, including why Bernhardt ordered the pre-release of the estimates and whether he disseminated the data. Besides bringing public scrutiny to this murky episode, we aim to deter further violations of USGS scientific integrity rules.



**A Teapot Dome in Alaska?** New estimates of reserves at the National Petroleum Reserve-Alaska can move markets or create fortunes for tipped-off speculators.

# PEER 25th Anniversary

## Our Quarter-Century Get Together

PEER held a board and staff retreat at the end of June to mark our 25th anniversary and to map

plans for the coming years. Over two days, we discussed organizational transition, diversity, and strategic plan-

ning. It was a chance to introduce new faces and renew old acquaintances.



**The Gang's (Almost) All Here.** Pictured from left are (bottom row): Jeff DeBonis, Tammy Dickinson, Paula Dinerstein, Kyla Bennett, Susan Sargent, Adam Carlesco, Carol Goldberg; (top row) Ben Lomeli, Barry Sulkin, Rick Steiner, Jeff Ruch, Ed Patrovsky, Zoe Kelman, Kirsten Stade, Peter Jenkins.

### Thank You!

*This quarter, we'd like to express our gratitude for the exceptional generosity of members John Osgood, Richard Thompson, Richard Crosland, John Triplett, and Bill Patterson, and for a bequest from Ms. Jean Kyle.*

*We would also like to extend our sincere thanks to the Firedoll, Curtis and Edith Munson, and Joseph Robert Foundations.*

### Who, Moi?

The official survey of federal employees no longer asks them to rate their agency heads or top political leaders. Every year since 2002, the Office of Personnel Management has sent out a Federal Employee Viewpoint Survey to gauge employee morale, engagement, and perceptions about their agencies. The survey asks questions about "senior leadership" such as –

- "How satisfied are you with the policies and practices of senior leaders"
- Do you "have a high level of respect for your senior leaders"
- Do your "senior leaders maintain high standards of honesty and integrity"

The definition for "senior leaders" in prior surveys was: "The heads of departments/agencies and their immediate leadership team responsible for directing policies and priorities of the department/agency."

In an "improved" survey, OPM changed that definition to: "The *nearest* senior executive (SES or higher-level GS [civil servant] in your organizational structure" (emphasis added). Thus, unless an employee is a direct or second-level report to a political appointee, that person's view of the agency's leadership is now outside the survey's scope.

"It is understandable why Trump appointees would not want to know what civil servants really thought of them," remarked PEER's Jeff Ruch, noting that this stealth change occurred during Public Service Recognition Week. "Unfortunately, this administration prefers public servants are neither seen nor heard."

### Comings & Goings

We are delighted to welcome Peter Jenkins as our new Senior Counsel. Peter has extensive experience, most recently with the Center for Food Safety, with prior stints at Conservation International, Defenders of Wildlife, Center for Science in the Public Interest, and the Center for Wildlife Law. In the 1990s, he also served in the U.S. Congress Office of Technology Assessment (abolished in the Gingrich revolution). Besides a law degree he also has a Masters in Environmental Studies from Yale.

At the Center for Food Safety, Peter worked with PEER on suppression of pollinator science at USDA and in our long, ultimately successful, campaign to uproot all GMO crops and associated pesticides from our national wildlife refuge system.

Meanwhile after a short stint developing some special initiatives for us, Michael Nixon has returned to his private law practice.

## Wrong Call on Right Whales

The North Atlantic right whale is one of the most endangered species on the planet. This whale was nearly hunted to extinction by the early 20th century before hunting was outlawed. By the 1990s the population stood at less than 300.

A decade ago, PEER led a successful

campaign to reduce ship strikes, then the leading cause of death for right whales. We induced NOAA and the Coast Guard to adopt and enforce shipping speed limits and course corrections to minimize collisions along the whale's migratory route from Florida to Canada.

That campaign worked, deaths dropped, and right whale numbers rose to around 500. Unfortunately, NOAA declared victory prematurely. This public posture is causing the agency to ignore a growing chorus of its own scientists who are sounding the alarm.

Increasing numbers of right whales are killed by entanglements in fishing gear, which prevent their ability to feed leading to a slow death by starvation. Today, the right whale population is in distressing decline, with 18 whale deaths between April 2017 and January 2018. Even more ominously, scientists recorded no calf sightings during that period.

Canada has acted to curb fishing activity in the right whale migratory path as has Massachusetts, but NOAA, now within a Trump Commerce Department, will not act. PEER is mobilizing again, this time to take international le-



**No Victory Lap.** Experts estimate right whales may go extinct by 2040.



**Lethal Encounter.** Entanglements are now the leading cause of right whale mortality.

gal action to force the U.S. to match – or at least stop undermining – emergency steps taken to prevent these deadly entanglements.

### Massive Whistle Stop

The sole enforcement entity for the Whistleblower Protection Act and other merit system laws has been inoperative for months and will remain so for the foreseeable future. Since January 2017, the U.S. Merit Systems Protection Board, the three-member panel hearing appeals of major personnel actions, has had only one remaining member, causing the absence of a quorum, which prevents it from deciding any appeals.

As of this May, MSPB tallied 1,111 cases awaiting a decision, some languishing since 2014. Of these, 216 are whistleblower cases. Hundreds more are in the pipeline.

“Through its inaction, Trump has functionally nullified whistleblower protections and other merit system safeguards,” stated PEER General Counsel Paula Dinerstein, noting even if a whistleblower wins an initial decision from an MSPB administrative judge, an agency appeal to the full board throws that victory into indefinite abeyance. “Federal service cannot be run like an episode of *Celebrity Apprentice* with a ‘You’re Fired’ edict wrapped up before the commercial break.”

### Gulf Amnesia

Less than a decade after the catastrophic BP oil spill in the Gulf of Mexico, the Bureau of Safety and Environmental Enforcement (BSEE, pronounced as Bessie) proposed to “revise” the offshore drilling Blowout Preventer and Well Control rules adopted in that disaster’s wake.

The proposal would scrap prescriptive requirements for real-time monitoring, and the need for a BSEE-approved verification organization to submit a Mechanical Integrity Assessment report for the Blowout Preventer system. Not surprisingly, the American Petroleum Institute applauded the proposed changes for extending regulatory flexibility.

Ironically, BSEE was created a decade ago with the mission to prevent another BP-like offshore catastrophe. It did not take it long to lose its way.

## Crusade for Prairie Potholes

**D**onald Trump has a plan to strip Clean Water Act protections from America's Prairie Pothole Region. This is a vast expanse of prairies interspersed with shallow wetlands, potholes and kettle lakes, which collect snowmelt and rainwater in depressions left by glaciers.

These pools host the spawning of mallards, blue-winged teal, redheads, geese, swans, canvasbacks, and other water birds by the millions. They also provide a colossal wildflower carpet, habitat crucial for pollinators such as the monarch butterfly and many songbirds. They also serve a key flood con-

trol function, absorbing surges of precipitation thereby reducing the risk and severity of downstream flooding.

Without federal protection, the remaining pools are doomed. PEER is assembling a campaign to unite birders, hunters, and others to keep federal protection for prairie potholes and other isolated wetlands. Check our website for details later this summer.

### *Bog Hollow*

Key parts of the Clean Water Act are now under the political thumb of the EPA Administrator. In an internal directive obtained by PEER, Scott Pruitt's office assumed direct control over major decisions determining preservation of streams, ponds and wetlands.

Citing the need to "restore regulatory certainty," Pruitt directed EPA regional offices to cede their Clean Water Act determinations to him. Among other changes, this directive:

- Eliminates the role of locally-based EPA scientists and specialists in reviewing projects and making certain wetland determinations or other clean water-related calls;
- Imposes a one size fits all scenario in which regional differences in wetlands, wildlife, precipitation, and other variations are not recognized; and
- Removes any role by EPA regional offices to "veto" Army Corps of Engineers dredge and fill permits that have significant adverse impacts on municipal water supplies, fisheries, or recreation areas. The Corps permit for the controversial Pebble Mine, which threatens the world's most abundant salmon fishery in Bristol Bay, is a prime example.

"This action sifts safeguards for clean water across the U.S. through one politician's hands, a vulnerability that does not change with Pruitt's exit," stated New England Director Kyla Bennett, an attorney, scientist, and wetlands specialist who formerly worked for EPA. "Every corporation that wants a pass on Clean Water Act compliance now has a roadmap on how to get one."

Last year, Pruitt announced a plan to shrink by as much as two-thirds the scope of protected "waters of the United States" that define the jurisdiction of the Clean Water Act, a move that affects streams and other waterbodies serving as the source of drinking water for 117 million Americans – one in three people in the United States. Even without this rewrite, Pruitt's successor is now positioned to unilaterally nullify current standards site by site.

"This latest move was Pruitt's Plan B as it is becoming increasingly clear that his Clean Water rewrite plan will be tossed out in court," added Bennett, noting the irony of Pruitt invoking "the rule of law." PEER is leading the charge to overturn this crude Clean Water Act coup d'état.



**America's Duck Factory.** The Prairie Potholes Region is critical breeding and feeding habitat for more than half of North American migratory waterfowl.



**Vital but Vanishing.** Nearly two-thirds of the prairie potholes in Iowa, Minnesota, and the Dakotas are already drained or destroyed.

### *Our Lady of Perpetual Motion*

Without a hint of irony, then-EPA Administrator Scott Pruitt has retitled his "Lean Management" team as the Office of Continuous Improvement. Ominously, the inaugural webcast lost its audio feed due to a technical glitch. Onward and ever upward!

# Florida's Longest River Is Open Sewer

**P**EEER is pressing for enforcement actions against six major facilities that pump millions of gallons of contaminated wastewater every day into a slow-moving St. Johns River. Because it cannot flush out this extraordinary and illegal pollution load, Florida's longest river is officially classified as impaired.

The six dischargers are industrial and municipal facilities that line the river from its source to its delta on the Atlantic. Together, they possess state permits authorizing release of nearly 30 million gallons per day (MGD) of wastewater into the St. Johns River. The PEER complaints, however, target their persistent patterns of illegal discharge over and above these permit limits, which include –

- Effluent violations and pollution exceedances covering long periods during the past few years;
- Effluent quality violations, espe-

cially involving fecal coliform; and

- Untreated wastewater improperly discharged to surface waters, retention ponds and sanitary sewers, as well as patterns of discharge exceedances into groundwater.

“Florida allows the St. Johns River to be treated like an open sewer,” stated Florida PEER Director Jerry Phillips, a former Department of Environmental Protection enforcement attorney, noting that half of these permits are up for renewal next year. “There is no hope for this river to recover unless the wastewater permit limits are actually enforced.”

The state classifies the St. Johns as a waterbody that is supposed to allow for fish consumption, safe water-



**Algae Alley.** Its water flow rate is so slow that the St. Johns cannot easily purge itself of excess bacteria, nutrients, and other pollutants, making it particularly vulnerable to toxic algal blooms.

based recreation, and healthy fish and wildlife populations. However, due to excess pollution, the state admits that the St. Johns is “impaired” from fulfilling these purposes. The complaints ask the U.S. Environmental Protection Agency to intervene to redress chronic state non-enforcement against these longstanding blatant Clean Water Act violations.

## Protecting Pruitt Not You

Scott Pruitt seems to like having agents from the Criminal Investigation Division (CID) around. He has tripled the number of agents assigned to his 24/7 security detail, spending record amounts on travel and overtime. He uses this outsized escort to run personal errands and activate their sirens so he can cut through city traffic.

But these agents aren't making you safer – only Pruitt.

CID agents asked us to document what is really going on. It turns out that the number of criminal investigators assigned to work pollution cases continues to drop. As a result, virtually every measure of criminal enforcement under Pruitt is lower than it has been in decades – and sinking:

- The number of cases EPA referred to the Justice Department for prosecution during FY 2017 is the lowest in nearly 30 years and is on pace to go even lower;
- Fewer case referrals means fewer prosecutions, convictions, and prison sentences, with these outcomes now at the lowest levels this century under Pruitt; and
- There are one-fifth fewer EPA criminal investigators now working cases than in 2012, well below the minimum of 200 agents required by the Pollution Prosecution Act of 1990.

Pruitt policies are likely to drive enforcement metrics even lower. He has replaced EPA's Enforcement Initiative with a Compliance Initiative designed to let offenders avoid prosecution by merely agreeing to suspend their violations. He also has extended enforcement veto power to state programs, thus injecting home state politics into prosecution decisions. At the same time, he has centralized prosecution referrals, taking final decision-making out of CID's hands and into his own.

# Tender Age Detention



### U.S. Representative Mo Brooks

At a recent hearing, Brooks (R-AL) claimed to know the real reason for sea level rise. “What about erosion?” he demanded. “What about the White Cliffs of Dover, California, where you have waves crashing against the shorelines and time and time again you have the cliffs crash into the sea. All of that displaces water, which forces it to rise, does it not?” Well, it does but the effect is “miniscule” in the words of an expert trying to persuade the disbelieving lawmaker, who visualizes the world ocean as Archimedes’ bathtub. To account for the annual 3.3 millimeter forecast sea level rise, an area twice the size of Washington State would have to wash away--the equivalent of rolling five inches off the entire surface of the U.S. into a ball and dropping it into the ocean every year. What a comfort that Brooks is a senior member of the Committee on Science, Space, and Technology.



### Wyoming Air Quality Advisory Board

Wyoming requires citizen advisory boards to approve agency rules. The state Department of Environmental Quality wants to start charging fees to answer public records requests. The advisory council for the DEQ air quality division is having none of it. “I feel I’m speaking for the public: In this stack of comments we’ve received from the public there’s not one single comment in support of this.” Told that DEQ would proceed anyway, another asked “If my vote doesn’t count why the hell am I voting?” Their concern was over stifling public record requests that so often uncover wrongdoing or neglect. As one board member pointed out “The dirt is mostly in the emails.” True dat.



### Pennsylvania Governor Tom Wolf (R - CA)

Rather than merely padding its General Fund, Pennsylvania will dedicate its \$118 million settlement with VW for its diesel emissions cheating to attaining cleaner air. Gov. Wolf (D) announced a program to cut air pollution through exhaust controls, retiring old high-polluting cars while encouraging electric and hydrogen vehicles, among other steps. “This isn’t just school buses and tractor trailers. Projects to replace and upgrade tugboats, forklifts, delivery trucks and many more vehicles will be eligible for funding.” If he succeeds, folks in the Keystone State should be able to breathe a little easier – and more deeply.



### Montana Department of Environmental Quality Director Tom Livers

In 1988, Pegasus Gold, Inc. went bankrupt, leaving behind three mines that are eco-disasters costing taxpayers \$30 million to date to clean up. Pegasus’ CFO was Phillips Baker who went on to become CEO of another mining company, Hecla, and chair of the National Mining Assn. Hecla wants to mine silver in Montana but the DEQ has ruled that Phillips is a “bad actor” under a law enacted in the wake of the Pegasus debacle, banning anyone who shirked reclamation responsibilities from getting a new permit until those costs are repaid. Director Livers wrote: “So long as Phillips Baker is a principal or controlling member of Hecla’s mineral exploration and mining activity in Montana, Hecla is supporting his individual violations.” Pretty heavy stuff in a state with the motto Oro y Plata.



### NOAA Deputy Administrator Timothy Gallaudet

A former Navy oceanographer with a PhD in marine acoustics, Gallaudet is one of the few scientists appointed by Trump to anything. He also pulls no punches about climate change: “We’re talking about Arctic sea ice loss, warming of waters, changing current patterns, ocean acidification, and sea-level rise,” said Gallaudet at a recent international conference using a string of terms banned from other agencies’ websites. “Understanding these is more important to the administration because of what NOAA is doing in terms of advancing the blue economy.” If it takes convincing the Trump circle that it can cash in on these global shifts in order for them to stop treating climate change as a Chinese and/or left-wing hoax, then so be it.



### Beaufort, S.C., Mayor Billy Keyserling

Hundreds of local officials have registered opposition to Trump plans to open the Atlantic to offshore oil and gas exploration, but Beaufort has a couple of special concerns. One is a 7,000-pound nuclear bomb accidentally dropped in nearby waters that the military considers “irretrievably lost.” The other is thousands of drums of radioactive waste dumped off the coast during the 1950s. Mayor of this coastal city for the past decade, Keyserling says his constituents are “horrified” at the prospect of detonation or nuclear release, saying “To me, it is the nail in the coffin.” Let’s hope it is not the drill bit in the detonator.

## Academic Freedom Settlement

Washington State University is paying its leading wolf expert \$300,000 to close his laboratory and drop his complaint of harassment and infringement of academic freedom against WSU. Professor Rob Wielgus did pioneering research on reducing conflict between gray wolves and livestock. His work became controversial after he showed that lethal control was not an effective means to reduce livestock depredation and that certain ranchers were provoking wolf predation to incite state game agents to kill the entire wolfpack.

After Dr. Wielgus reported his findings and repeated them in the press, WSU administrators threatened him with disciplinary action, impeded his research, and imposed a gag order. On his behalf,

PEER lodged and pursued an academic freedom complaint.

“After over 20 years of in-depth on-the-ground field research into the most iconic large carnivores of North America, the world-renowned Carnivore Conservation Laboratory will be closing its doors” said Dr. Wielgus. “This comes after years of pressure by ranching interests and interference by high ranking state politicians to halt research into carnivore interactions with livestock and the development of non-lethal strategies to combat depredation.”



**The Price of Peaceful Coexistence.** University administrators caved to livestock industry pressure to muzzle Dr. Rob Wielgus and end his research showing ranchers could largely eliminate wolf-related predation by following inexpensive nonlethal best practices.

### *Open for Slaughter*

Even as Alaska ponders no-take buffers outside national parks, the Trump administration is moving to approve controversial predator killing techniques inside Denali, Katmai, Yukon-Charley Rivers, and Wrangell St. Elias. Interior Secretary Ryan Zinke proposes to eliminate restrictions against killing black bear cubs and sows, wolves and coyotes with pups in their dens; hunting brown and black bears with bait; using artificial light at den sites; taking swimming caribou, including from motorboats; and hunting black bears with dog packs.

Zinke claims Theodore Roosevelt is his conservation icon but TR would be thoroughly disgusted by shooting cubs and pups in their dens as they winter or luring bears with candy bars. PEER is working with concerned National Park Service scientists to get a handle on this deteriorating situation.

### **Blood Lust for Predators**

After PEER distributed photos of a man with an AR15 semiautomatic rifle displaying ten wolf carcasses outside Denali National Park, Alaska shut down hunting and trapping adjacent to Denali over concerns that excessive kills are destabilizing its iconic wolf population. The emergency order cut short hunting and trapping on state land abutting the park’s eastern boundary.

Studies show hunting and trapping outside Denali is degrading the viability of wolf packs inside Denali, Alaska’s top tourist attraction. Because Denali wolf family groups are being disrupted, visitor-viewing success has plummeted as well.

“While I am glad that Governor Bill Walker has acted it may be too little, too late,” said Rick Steiner, a retired University of Alaska professor and PEER board member, who obtained the photos. “The historic high level of take has already altered wolf ecological dynamics, not counting these reports of additional kills just now coming in.”

Significantly, Alaska has agreed to a National Academy of Sciences review of its predator control programs for the first time in 20 years. Meanwhile, led by Steiner, Alaskans are renewing their call for permanent no-kill buffers for all park predator species.



**Images Went Viral.** A hunter on a snow machine shot ten wolves with an AR-15 assault rifle.

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## U.S. Environmental Protection Agency

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EPA, even as Wheeler pursues the same policies Pruitt initiated. It will also require increased vigilance to find out what he is doing. That makes the role of EPA staff as watchdogs more needed than ever.



### *Thank God You're There*

PEER works daily to support embattled EPA staff, improve their morale and give some sense of hope. The phrase we keep hearing is "Thank God you're there."

Pruitt was very much afraid of his professional staff, and marginalized them from decision-making. We do not expect that to change. The remaining specialists turn to PEER as a conduit to expose mounting threats to public health and the environment. One day soon, we hope to work with them on designing a future EPA that is stronger and more effective than it ever was.

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In 2017, the U.S. Supreme Court upheld this nullification in striking down actions by an Obama National Labor Relations Board official who over-stayed in acting status.

Notably, Pruitt and Wheeler were both confirmed by razor-thin Senate margins. Especially after the midterms, it is unlikely that a new Trump EPA nominee could be confirmed without significant White House concessions.

More likely, Trump will do nothing. There are still more than 200 presidential appointments for which there is still no nominee or even notice of intent to nominate. EPA may join that list.

PEER is pursuing Vacancies Reform Act complaints against the acting directors of the National Park Service, Bureau of Land Management, and Fish & Wildlife Service, all of whom are serving illegally in positions for which there is no Trump nominee.

So, if this stalemate plays out, by early 2019 the ability of EPA to take any action requiring approval of the Office of the Administrator may disappear. It underlines the distressing state we have reached when utter paralysis at EPA would be considered very good news.