



PEERreview

A Publication of Public Employees for Environmental Responsibility

Righting EPA's Severe Chemical Imbalance

Environmental and public health laws in the United States consider all chemicals harmless until proven otherwise. This, combined with the power that chemical companies hold over the Environmental Protection Agency (EPA), has allowed poisonous and pervasive chemicals to enter freely the stream of commerce with little oversight. The National Academies savaged EPA's chemical risk assessments as lacking "a clear, documented approach to evidence synthesis and to integration."

Failing Reforms

Recognizing these dangers, in 2016 Congress passed the Frank R. Lautenberg Chemical Safety for the 21st Century Act, which amended the Toxic Substances Control Act (TSCA). The Lautenberg Act requires EPA to abide by strict statutory deadlines for chemical prioritization and the completion of risk evaluations of chemicals that existed before the 1976 amendments to TSCA.

Unfortunately, that process is not going well. In a new report, the National Academies of Sciences, Engineering, and Medicine give EPA a failing grade for how it evaluates health risks of chemical exposures. The report calls into question the quality of EPA's scientific work and argues for an overhaul of the management of chemical assessments.

Industry Capture

The chemical industry has long exerted



PHOTO: PHONIX_A STOCK.ADOBE.COM

Toxic Substances Control Act Entails Control. EPA's program for conducting chemical assessments is in shambles. Exposure to solvents, pesticides and other toxic chemicals can lead to chronic, debilitating illnesses and death.

tremendous influence over EPA's chemical safety programs. The problem was made worse when the Trump administration brought in Nancy Beck to help run EPA's chemical programs. Beck served for more than five years as senior director of the American Chemistry Council (ACC), the trade organization for our country's \$765 billion chemical industry. For decades, the ACC has done everything in its power to beat back even modest efforts to protect human health and wildlife from the dangers of toxic chemicals.

Beck's goal was to turn EPA's chemical risk assessments into industry sock puppets,

and she succeeded. Beck recruited and promoted to senior ranks managers and supervisors as toxic as the chemicals they were evaluating.

Staff in Crises

How bad is it now in EPA's chemicals programs?

The new Federal Employee Viewpoint Survey for 2020 conducted by the U.S. Office of Personnel Management reveals that more than half the EPA chemists and other specialists working on crucial public health concerns do not feel free to report

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 •
website: http://www.peer.org

PEER Field Offices

Florida PEER • P.O. Box 14463 Tallahassee,
FL 32317-4463 • tel: 850-877-8097 •
fax: 850-942-5264 • email: 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

Pacific PEER • 248 3rd Street, #331
Oakland, CA 94607 • tel: 510-213-7028 •
fax: 510-763-8013 • email: pacific@peer.org

Rocky Mountain PEER • email:
rmpeer@peer.org

Tennessee PEER • 4443 Pecan Valley Rd
Nashville, TN 37218 • tel: 615-255-2079

PEER DC Headquarters Staff

Executive Director • Tim Whitehouse
Legal • Paula Dinerstein, Peter Jenkins,
Kevin Bell, Monica Mercola
Communications & Office • Elizabeth Duan
Membership • Susan Sargent
Advocacy, PEERreview Layout • Kirsten Stade

PEER Board**Chair**

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Protection, retired) • Ben Lomeli
(Bureau of Land Management, retired) •
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and National Park Service, retired) •
Rick Steiner (Univ. of Alaska, retired)

*PEERreview is the quarterly newsletter
of Public Employees for
Environmental Responsibility*

FROM THE EXECUTIVE DIRECTOR**Reversing Scientific Integrity's Collapse**

PEER has been involved for many years in representing federal employees who file scientific integrity complaints against their agencies. Each federal agency has a policy that is supposed to safeguard its scientific work by forbidding the political manipulation of science, ensuring transparency, and protecting scientific whistleblowers.

But these policies are deeply flawed. Scientists who make complaints enter a process with no clear rules, no independent review of complaints, and no enforcement mechanisms. These policies, developed under Obama, have proved to be so weak that they allowed President Trump's anti-science agenda to move forward unimpeded.

That is why we were pleased to see President Biden issue an executive order on scientific integrity, pledging to "protect scientists from political interference and ensure they can think, research, and speak freely." Biden's order lays out a year-long process for federal agencies to tackle the suppression of science in the federal government by adopting new scientific integrity policies.

This should not require reinvention of the wheel. It could begin with some simple steps, such as ending agency practices of censoring the administrative record and hiding pre-decisional documents. It should make sure managers who retaliate against those who file scientific integrity complaints are penalized, and that supervisors do not evaluate their subordinates' scientific integrity complaints. And it should allow scientists to publish and lecture in their fields without prior approval with very limited exceptions.

In the coming months, there will be tremendous pressure on the agencies to develop weak policies that protect political and economic interests, as there was under the Obama administration. The concern about the Biden Memo is that it will launch an elaborate bureaucratic procession that meanders for months without moving beyond lofty language into specific protections. That is why restoring science and engaging in the process to develop new scientific integrity policies will be a major PEER priority in the coming year.

The destruction of science under Trump gives Biden both a low bar for improvement and a tall task of drawing the brightest line ever known between science and economic and political influence. From climate change to toxic pesticides, the health of this nation and our ecosystems depends on government scientists being able to speak freely. The Biden administration needs to make sure its updated scientific integrity policies provide scientists with those assurances.

— **Tim Whitehouse, Executive Director**

About Us

PEER protects public employees who protect our environment. We are a service organization for local, state, federal and tribal public employees, including scientists, law enforcement officers, land managers, and all others 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.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**Whale Extinctions Loom in U.S. Waters**

If current trends hold, the U.S. will earn the uniquely ignominious distinction of presiding over the extinction of three large whale species that primarily or solely inhabit U.S. waters. National Oceanic and Atmospheric Administration (NOAA) Fisheries has been blocking or slow-walking desperately needed protections for the North Atlantic right whale, the Gulf of Mexico whale and the North Pacific right whale.

The critically endangered North Atlantic right whale faces rising mortality from entanglements with fishing gear. Yet NOAA has reauthorized ten fishing operations with few additional safeguards.

NOAA belatedly categorized the Gulf of Mexico whale as an endangered subspecies in 2019 but has yet to designate critical habitat for it, in violation of legal deadlines. As a result, the Gulf of Mexico whale has no protections against ship strikes, oil operations, and other factors driving mortality.

The North Pacific right whale is increasingly vulnerable to ship strikes from



Trio of Whales in Extreme Jeopardy. (l to r) North Atlantic right whales are down to roughly 350 individuals. The newly recognized Gulf of Mexico or Rice Whale has approximately 60 individuals. The North Pacific right whale population is down to only about 30 individuals.

expanded traffic in warming Bering Sea and Gulf of Alaska waters, yet NOAA lacks basic information about where they calve and their migratory path.

NOAA's posture of minimizing threats to all three of these highly endangered whale species is virtually identical. Despite the impending species-level extirpation facing each, NOAA has been reluctant to order any significant safeguards.

NOAA's perverse avoidance of protective steps has reached extreme levels. PEER is pursuing a complaint that NOAA's court filings ignore the published work of its

own scientists. Recently, in declining to impose anti-entanglement measures, NOAA based its Biological Opinion on the effect of regulations it had yet to adopt in order to make a fraudulently circular argument for doing nothing.

Housed in the Commerce Department, NOAA Fisheries has a conflicting dual mandate where its conservation responsibilities clash with its charge to foster our domestic fishing industry. It is becoming increasingly clear that this conflicting mandate is no longer tenable, and NOAA's marine science needs to be insulated from its fisheries management role. ■

Tsunami Blindness

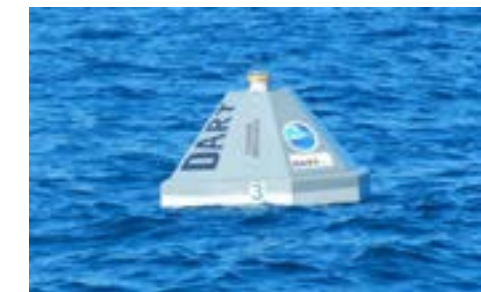
PEER learned our main ocean-based tsunami warning system was inoperative for a week in March, the week marking the tenth anniversary of Japan's catastrophic Fukushima tsunami and reactor meltdown. Rather than alert the public, NOAA directed agency scientists to avoid discussing the crippling outage.

A burst water main inside NOAA's Silver Spring, Maryland headquarters, knocking out the transmission of systems data on March 8th, seriously compromised our tsunami public safety net, where advance

warning saves lives.

NOAA has no backup for this transmission system. This latest breakdown is one of several equipment failures cited by NOAA scientists in angry internal posts about the lack of redundancy in its systems.

By mid-month, NOAA restored DART signals but has deflected further inquiries. Rather than have this episode swept under the rug, PEER is pressing for an examination of our tsunami readiness and NOAA's lack of backup warning systems. ■



DART Buoy. Each sends acoustic signals from a transmitter anchored on the sea floor to a surface buoy, enabling earlier detection of tsunamis.

BUREAU OF LAND MANAGEMENT

BLM Needs Intensive Rehab

The Bureau of Land Management, the largest federal public land management agency, overseeing 245 million acres of land in 12 states, is supposed to play a critical role in the Biden administration's climate and conservation agenda.

With the agency's declining staff numbers and plummeting morale, reforming BLM is a daunting challenge. To help guide the way, PEER surveyed current and former BLM employees in a variety of positions across the West. Respondents highlighted the adverse effects of staff shortages, as well as the relocation of BLM headquarters from outside of DC to Grand Junction, Colorado. They also spoke to issues such as disparate enforcement of the law, dwindling use of science, as well as widespread retaliation and employee intimidation.

The vast majority of those surveyed do not believe that the condition of the land and resources is improving or that BLM even prioritizes resource protection. They also made a number of recommendations about how to remedy these governance issues and what should be done to fulfill the new administration's mandates on climate change, conservation, and science-based decision-making.

Rocky Mountain PEER Director Chandra Rosenthal presented these results in a well-attended webinar featuring former employees and expert panelists discussing trends in land management planning, BLM's management culture, and needed next steps. The lively session also included responses to questions from participants across the country.



PEER's well-attended BLM webinar featured current and former BLM employees who spoke to the adverse effects of staff shortages and issues such as dwindling use of science and widespread retaliation and employee intimidation.

One major takeaway is that after years of budgetary starvation, BLM will need a significant public reinvestment if it is to have a chance of fulfilling its new, enhanced environmental mission. ■

PEER Represents Migratory Bird Whistleblower

PEER is defending a U.S. Bureau of Land Management environmental analyst facing termination for persisting in raising concerns about the potential for devastating impacts on raptors and other wildlife from a massive Wyoming oil and gas project. The case will be a litmus test for BLM's

new leadership.

The case revolves around a controversial BLM approval of 5,000 oil and gas wells, 500 miles of gas pipelines, 900 miles of water pipelines, new roads, and electrical lines in Converse County. Walter Loewen, an environmental analyst, repeatedly stressed to BLM's leadership the high potential mortality from the project, particularly to the ferruginous hawk, from drilling and other work during breeding and nesting periods. He was then removed from further environmental work and now faces proposed removal from federal service.

"Inside Trump's BLM, telling the truth about the impacts of fossil fuel extraction was not tolerated," said PEER Senior Counsel Peter Jenkins, who is leading Loewen's defense team. "The real reason

Standing Tall. Walter Loewen, a veteran environmental analyst, protested elimination of limits on construction and drilling activity during periods when birds mate or fledge their chicks.



PHOTO: LOEWEN FAMILY



PHOTO: USFWS

Ferruginous Hawk. The project could put up to 1,500 hawk and non-eagle raptor nests at risk of destruction. The Biden administration has scrapped a Trump move to legalize "unintended" harm to migratory birds by industry, precisely what BLM okayed in the Converse County oil project.

Walter Loewen was targeted for removal is because he actually tried to do his job. ■

WESTERN LANDS

Saving the Arctic Refuge

In its waning days, the Trump administration found it could not give away drilling rights to the Arctic National Wildlife Refuge. Three days before bidding began, it pulled 10 of 32 tracts, (some 475,000 acres) off the blocks and lowered the minimum bid to \$25 per acre.

At the last minute, the Alaska Industrial Development and Export Authority, a state entity, voted to devote \$20 million to bidding on remaining tracts. This state agency turned out to be almost the only bidder while several tracts drew no bids at all.

After Biden's inauguration, he ordered a halt to all Arctic Refuge leasing activity. Federal rules require steps, such as an anti-trust review, before any lease can be executed. It is not clear the state can enter into such a lease. PEER

is pursuing record requests to uncover any last-minute shenanigans and confirm no leases were properly signed. Meanwhile, Alaska continues to resist its inevitable transition away from fossil fuel dependence. ■



PHOTO: USGS

Arctic Refuge Will Stay a Refuge. Many major banks are eschewing fossil fuel investments and major oil companies are bowing out of Arctic expansion.

Tongass Tomfoolery

It took a federal lawsuit, but PEER finally obtained an internal audit documenting that the U.S. Forest Service mismanaged timber sales in the Tongass National Forest, costing taxpayers millions of dollars and frustrating their ecological goals. The scathing audit casts a shadow on the Trump plan to greatly expand logging in the Tongass, the world's largest temperate rainforest. The report ascribed problems to "the pressure to meet timber sale goals" but did not name responsible officials or recommend any personnel changes.

"This report depicts the Forest Service as the gang that couldn't shoot straight," remarked Pacific PEER Director Jeff Ruch. "The total lack of individual accountability flowing from this audit suggests we



PHOTO: USFS

Tongass National Forest is one of the most important woodlands in the world, where old-growth trees still stand tall along the coastline and islands of Southeast Alaska.

should expect more major timber sale maladministration if the Forest Service does not clean house." ■

Colorado Whistleblowers Request Air Audit

PEER is representing the entire career staff of the air modeling unit of the Colorado Department of Public Health and Environment (CDPHE) after they were directed to issue illegal permits, ignore violations, and refrain from verifying pollution emissions. The air pollutants at issue, sulfur dioxide, nitrogen dioxide, and particulates, drive unhealthy levels of ozone and cause acute respiratory conditions among residents of Colorado's Front Range.

The air permit modeling team revealed a March 15, 2021 order from the Air Pollution Control Division Director to cease checking for these criteria pollutants in pending permits.

Colorado's Front Range, encompassing the nine counties around Denver, has been in violation of EPA ozone standards since 2012. Last year, Governor Jared Polis acknowledged the public health concerns but has failed to ramp up enforcement in the wake of EPA's reclassification of the region as being in "serious" nonattainment.

In a complaint to EPA's Inspector General, the modelers seek a performance review and audit of the CDPHE Air Division. Colorado's air program operates under a federal delegation with EPA funding.

"Colorado law assures state workers that they can report violations of law such as these without fear of official reprisal," says Kevin Bell, PEER's staff counsel. "This is a case where speaking truth to power is the essence of public service." ■

PFAS FOREVER CHEMICALS

EPA Fumbling “Forever Chemicals” Response

Testing commissioned by PEER has found disturbing levels of PFAS in a variety of insecticide and herbicide products, including those sold to consumers.

PFAS are a dangerous class of chemicals associated with suppressed immune function, thyroid disease, testicular and kidney disease, cancers and liver damage.

In December, PEER testing revealed PFAS in Anvil 10+10, an insecticide that some states aerially spray. In a January press release crediting PEER, the U.S. EPA confirmed those findings but concluded that “the source of contamination is associated with the fluorinated HDPE containers used for...food packaging.” In March, PEER testing with the Maryland Pesticide Education Network revealed high levels of PFAS in Permanone 30-30, another pesticide aerially sprayed in numerous states.

In its January statement, EPA urged states that have Anvil 10+10 to “red tag their inventory and hold for now.” EPA has also said it would investigate the presence of

PFAS in Permanone 30-30.

These discoveries raise a host of yet unanswered issues, such as –

- On how many millions of acres have other pesticides containing PFAS, including herbicides used on food crops, already been sprayed?
- What other products are also shipped in these PFAS-tainted containers?
- Where will the PFAS-contaminated products end up?

PEER Science Policy Director Kyla Bennett noted that the source and extent of contamination are unconfirmed. “Shipping containers may be significant sources of PFAS exposure through the entire U.S. food and agricultural sector, but we also know that PFAS have been approved as inert ingredients in pesticides.”

The ultimate destination of these insecticides and the HDPE containers is of

concern, as there is no known safe way to dispose of PFAS. In addition, EPA has yet to directly regulate PFAS in any fashion, or to adopt a firm schedule for setting maximum limits on PFAS in drinking water, food, or anything else. In the regulatory vacuum, some states have adopted their own regulations.

Given that there are over 9,000 different PFAS, EPA’s current chemical-by-chemical regulation approach is impractical. Pointing to the approach being pursued in Europe, PEER is urging that PFAS be regulated as a class and that the U.S. ban all non-critical uses of them.

PEER plans to keep testing products while pressing EPA to require the manufacturers to prove there are no PFAS in their products. This is, after all, what EPA is supposed to do. It remains to be seen if the new EPA leadership can bring about the sea change needed to get an adequate handle on this ever-spreading public health crisis. ■

Another Deepwater Disaster Barely Averted

One week before the November 2020 election, a deepwater oil drilling operation in the Gulf of Mexico barely escaped catastrophe. As Hurricane Zeta approached the *Deepwater Asgard* with 100 mph winds and 50-foot seas, the drillship should have immediately disconnected and secured the well. The U.S. Bureau of Safety and Environmental Enforcement (BSEE), the offshore regulator, confirms that company officials onshore ordered the *Asgard* to remain connected to the well and continue operations. Although the crew severed the riser from the Blowout Preventer on the seabed wellhead, an uncontrolled blowout could

easily have occurred.

“This event came scarily close to another *Deepwater Horizon* catastrophe,” stated PEER Board Member Rick Steiner, an expert in maritime oil operations and retired University of Alaska professor. “This does not appear to have been caused by mechanical failure but by human error and lax governmental oversight.”

At the time, BSEE issued no public statements but waited until March 8, 2021, a day before *Asgard* crew members filed civil lawsuits, to issue a bland “Safety Alert.”



The *Deepwater Asgard* was drilling a deepwater well at 5,594 feet in Green Canyon on the Gulf of Mexico continental slope.

PEER is asking for an investigation, which may impact the Biden administration’s temporary pause on oil and gas permitting on federal lands and waters. ■

Firefighter Turnout Gear Loaded with PFAS

Dangerous chemicals found in firefighting foam are also in the turnout gear firefighters wear to combat blazes. PFAS (per- and polyfluoroalkyl substances) inside this gear puts firefighters into direct contact with chemicals that may be absorbed through the skin, ingested, or inhaled.

PFAS are associated with damage to the liver and kidneys, as well as heightened risk of testicular and kidney cancer which are leading causes of firefighter mortality. Data compiled by the International Association of Firefighters (IAFF) indicates that 140 of the 185 line of duty deaths in

2019 (75%) were due to cancer.

Turnout gear refers to trousers, boots, and jackets, or to the entire combination of personal protective equipment and personal protective clothing. One recent study found every set of turnout gear tested, whether new, old, used, or unused, contained high levels of PFAS. In addition, PFAS shed from fabric is found in fire station dust, presenting an inhalation hazard.

“For the same reason health officials are warning firefighters to limit direct contact with foam, there is a serious health concern about firefighters’ direct contact with PFAS in their gear,” stated PEER Science Policy Director Kyla Bennett, a scientist and attorney formerly with the U.S. Environmental Protection Agency. “The gear firefighters rely upon for protection should not be a source of dangerous health exposure.”

PEER helped Captain Sean Mitchell of the Nantucket Fire Department draw attention to the issues and pass a resolution at the 2021 IAFF Convention seeking safer firefighter gear and attempting to curb industry influence in setting health and safety standards for turnout gear. But much more needs to be done.

PFAS industry and turnout gear



Leading the Fight. Captain Sean Mitchell of the Nantucket Fire Department, pictured with some guy named Biden.

manufacturers comprise roughly half of the National Fire Protection Association (NFPA) Health and Safety Committee members, who set gear standards. That incestuous relationship means that voluntary standards will be glacially slow in coming.

Instead, PEER is working at the state and congressional levels to enact bans on PFAS in turnout gear, knowing that legislative intervention will force the industry to quickly develop alternatives. ■



Turnout Gear. Every firefighter wearing turnout gear that meets current standards is exposed to PFAS every time they touch or wear their gear.

Wear PEER

You can buy our new “Science Matters” T-shirt featuring an image of the critically endangered North Atlantic right whale. To order, just go to the Donate page of our website and click on “Ways to Give.” Ten dollars will be donated to PEER for every shirt you buy.



CLIMATE

Climate Talk at Peer.org

We publish blogs from our staff, members and guests on a wide range of issues on our website. Here are brief summaries of some of the recent blogs that address climate change. Visit our website to learn more, and let us know if you would like to contribute.

Mining: An Eco-Price for Fighting Climate Change

PEER Board Member [Frank Buono](#) discussed how mining interests and their allies cite our unprecedented climate crisis as the basis for increasing supplies of lithium and other rare earth minerals. He cautions the demand for these minerals to serve the green economy will necessarily involve a vast increase in mining on the federal lands of the West – and none of this industrial-scale extraction will be done “sustainably.” This reality presages a new War for the West.

The Risks of Paying for Agricultural Greenhouse Gas Sequestration

Agriculture Secretary Tom Vilsack has said the USDA has the authority to create a so-called carbon bank to encourage climate mitigation on the farm. This raises the specter of companies that burn fossil fuels buying “offsets” from farmers who reduce their greenhouse gas emissions by implementing new farming practices. [PEER’s Senior Counsel Peter Jenkins](#) discusses the problems with such an approach. He advocates for a broader-focused USDA program of encouraging more “conservation reserve” lands, reducing pesticide use, and improving the health of the soil, water, and marginal areas around farms. This, he says, could go a long way toward restoring rural America’s ecological and economic viability.

PEER Senior Counsel Peter Jenkins closely monitors the United States Department of Agriculture.



PHOTO: PEER

Renewable Energy and Public Lands

Guest writer [Keith Kozloff](#), an environmental economist previously with the federal government, discusses the tensions involved in the Biden Administration’s commitment to reduce our nation’s greenhouse gas emissions and restore and expand our public lands.

Kozloff offers some principles to consider in deciding whether, where and how to site renewable power generation. These principles include maximizing renewable power generation on land already disturbed by human activities and close to where power is needed; conducting comprehensive impact studies to determine priorities; exploiting other opportunities to reduce GHG emissions, such as reducing energy waste in buildings, transportation, and industry; storing carbon in plants and soil and shifting to low-carbon food systems and land-use patterns; and establishing meaningful and evidence-based consultation processes that encourage a range of values to be expressed and considered. Following these principles will help address competing climate mitigation and ecosystem preservation objectives.



PHOTO: BLM

Renewable power generation should be sited on land already disturbed by human activities and close to where power is needed.

Thank You!

This quarter, we would like to express our gratitude for the exceptional generosity of members David Carlson, Diane Conway, and Gerry & Vicki Wolfe. We would also like to thank the Park Foundation for its generous support.

MARYLAND AND FLORIDA

Scams Plague Maryland’s “Clean Energy” Program

A recent PEER report found a large portion of Maryland’s renewable “clean energy” comes from high-polluting energy sources. In 2019, approximately 40 percent of the energy attributed to the state’s renewable energy program came from “dirty” sources such as black liquor, a sludgy byproduct of the pulping process that paper mills burn to power their operations; woody biomass, most of it also burned at paper mills; and municipal solid waste burned to produce electricity.

At the same time, retail energy companies

are using the state’s lack of oversight on its energy markets to cash in on the state’s most vulnerable residents. A recent Wall Street Journal exposé found that for energy from 2015 through 2019, residential retail electricity consumers in Maryland paid \$399 million more than they would have paid their utility company. Many of those overcharged were poor, black residents in Baltimore, and “clean” energy companies were eagerly in on these scams.

With a climate crisis upon us, we are



PHOTO: EPA

stepping up our work watchdogging for hidden dangers and scams that result from climate programs. ■

Dirty Water and Manatee Mortality in Florida



PHOTO: CITY OF DELRAY

City of DelRay Beach.

Years of failures by the City of Delray have allowed residents’ drinking water lines to be cross-contaminated with reclaimed sewage water. With the help of PEER, concerned employees were finally able to get some action. Florida health authorities have issued remediation directives and have proposed multi-million-dollar fines against the city.

In its consent order with the City, the Florida Department of Public Health cited “multiple customer complaints about the drinking water color, odor, and

resident illnesses” due to longstanding breakdowns in Delray’s water distribution system, including hundreds of customers lacking backflow protections to prevent sewage cross-contamination.

Meanwhile, the first two months of 2021 have seen unprecedented mortality for Florida’s manatees, with at least 432 manatees dying during this short period. This mortality spike is taking place as state aerial surveys show the manatee population in decline, from an estimated 6,620 in early 2017 to only 5,733 in 2019, the date of the last survey.

PEER’s Jerry Phillips, whose research highlights how shriveling water pollution enforcement is tied to increases in algal blooms and red tide events, notes, “habitat loss, boat collisions, and toxic red tides are three leading causes of manatee deaths, and all are within our ability to curb.”

A new PEER report looks at one prime



PHOTO: USFWS

Cold Killer. With climate change disrupting warm water habitat and limiting forage grounds, recent gains in the manatee population are being quickly reversed.

manatee habitat, Clearwater, on Florida’s Gulf coast. During the past five years, the four municipal wastewater plants in the area are responsible for more than 400 sewage overflows, several of them quite large. These pollutants, such as fecal coliform, exacerbate toxic red tide outbreaks, a large and growing cause of manatee mortality. ■



PEER PERSPECTIVE

Herd Impunity



World Trade Organization Director-General Ngozi Okonjo-Iweala

As the new head of the WTO, Okonjo-Iweala wants to revive long-stalled pacts to reduce overfishing in the world's oceans. Okonjo-Iweala, the first woman and the first African to hold the job, is an economist and former Nigerian government minister, and remarked, "My presence is to try and unblock the situation. It has been 20 years – and 20 years is enough." Major obstacles to an agreement are differential treatment of countries and provisions related to subsidies. With nearly a third of the world's assessed fisheries in deep trouble from overfishing, time is running out.



Fresno County (CA) Health Department Director David Pomaville

During the biggest COVID-19 workplace outbreak in Fresno County, hundreds of employees at the Foster Farms' chicken processing plant were infected, 22 were hospitalized, and 5 died. When county officials heard Cal/OSHA would inspect the plant, they called the company to warn them. The County defended giving a heads-up about a surprise inspection, saying the "Health Department has taken a collaborative, not a heavy-handed, approach in working with businesses." As one official put it, "We are a ministerial type of work," apparently offering a range of ministerial services that did not include protecting public health.



New Mexico State Representative Matthew McQueen

McQueen co-sponsored a bill outlawing wildlife traps, snares, and poison on public lands across New Mexico with very limited exceptions, such as scientific research and rodent control. The measure passed the Legislature and is awaiting Governor Michelle Lujan Grisham's signature. Noting danger to hikers and pets walking into traps, McQueen argued, "There are very few limitations on where a trapper can set a trap [and] very few consequences for violating the few limitations." Let's hope other states follow New Mexico's lead.



National Park Service Regional Director Bert Frost

The National Park Service (NPS) has nixed a request from South Dakota to hold another 4th of July fireworks show at Mount Rushmore this year. Regional Director Herbert (Bert) Frost so informed the state's tourism department, citing "Potential risks to the park itself and to the health and safety of employees and visitors." NPS ended the display 12 years ago after pyrotechnics repeatedly sparked wildfires. Last year, Trump ordered the show to continue despite fire, pollution, and COVID concerns raised by the NPS. This time Frost let the staff analysis hold sway and unveiled the decision before a new park superintendent was named so that she would not have to face the wrath from South Dakota Gov. Kristi Noem, who has vowed to "do everything in her ability" to reignite fireworks at Mount Rushmore.



FDA Center for Food Safety and Applied Nutrition Director Susan Mayne

America's public health laws are appallingly weak. After a congressional investigation found "significant" levels of heavy metals such as lead, arsenic, and mercury in baby foods, Mayne of the Food and Drug Administration sent a letter "reminding" manufacturers they "should consider chemical hazards that may be present in a food when conducting a hazard analysis." Why only a reminder? The FDA has no regulations governing baby food; it only has guidance on arsenic levels in infant rice cereal but has yet to finalize similar guidance for apple juice. Nonetheless, Mayne warned, "FDA takes exposures to toxic elements in the food supply extremely seriously, especially when it comes to protecting the health and safety of the youngest and most vulnerable population." How seriously? Well, with at least a grain of salt.

NATIONAL PARK SERVICE

PEER's E-Bikes Suit Gets Green Light

A federal court has allowed PEER's lawsuit—which challenges the Trump administration's approval of electronic bicycles ("e-bikes") anywhere in the National Park System (NPS) where traditional bicycles are allowed—to move forward. The suit, in essence, would bar e-bikes from park backcountry where motorized transport is otherwise forbidden.

In August 2019, the Trump Interior Department directed that e-bikes would be allowed on park trails wherever traditional bicycles are allowed. PEER and a coalition of groups filed suit to strike down this illegal order. Scrambling to cure this defect, the Park Service moved to codify this e-bikes policy by adopting a new e-bike regulation, which "Final Rule" was signed on November 2, 2020, in the waning days of the Trump term.

After the regulation was adopted, the government moved to dismiss the PEER suit.

The PEER case is based upon a number



PHOTO: NPS

"The unanswered question is why would the Biden administration defend this ill-conceived Trump/Bernhardt initiative?" asks PEER Senior Counsel Peter Jenkins. **"This blanket e-bikes approval is the epitome of the worst way to make natural resource policy."**

of claims, all of which U.S. District Court Judge Rudolph Contreras approved. A central issue is that NPS never conducted an environmental review under NEPA of on-the-ground impacts, such as the risks of high-speed e-bikes to visitors and wildlife, of spooking horses on mixed-use trails, and of degrading the quality of the

backcountry experience. NPS has refused to conduct the type of detailed environmental review required despite ample opportunity to do so. ■

Islands of Pollinator Habitat

PEER is leading an effort to ensure that neither genetically modified (GM) crops nor powerful insecticides ever have a place on any National Wildlife Refuge. In a series of lawsuits, PEER had forced cessation of such practices and in 2014 the U.S. Fish & Wildlife Service adopted the ban as policy for all 562 refuges. The Trump administration rescinded the ban in 2018 despite the fact that GM glyphosate-resistant crops and neonicotinoids pose severe harm to imperiled monarch butterflies, pollinators, and other wildlife dependent on non-resistant vegetation. ■

NPS Continues to Mismanage Cell Towers

Prompted by a PEER complaint, a 2019 Interior Inspector General audit found the National Park Service did not know how many cell towers had been permitted in which parks. In response, NPS vowed to find out.

More than a year later, NPS still does not know. It produced an inventory of 109 towers that omits at least 20 towers in several parks. In addition, the inventory acknowledges that more than a third of towers it knows about have expired or lapsing permits or never had a proper

permit to begin with. Nor has it removed any of the non-compliant towers or secured cost recovery from telecoms for past or ongoing market-based fees.

"How can the Park Service consider itself a responsible custodian when it has no idea what commercial operations it has allowed on park lands or whether these corporations are paying their fair share?" asked PEER Executive Director Tim Whitehouse. "We hope the Biden administration will hold Park Service managers accountable for their negligence." ■



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Chemicals — Continued from page 1 ▶

problems or flag violations. Look at this survey result:

“I can disclose a suspected violation of any law, rule or regulation without fear of reprisal.”

EPA: 20% negative
Office of Pollution Prevention and
Toxics (OPPT): 43% negative
Risk Assessment Division (RAD):
56.1% negative (highest of any divi-
sion in OPPT)

Or this one:

“My organization’s senior leaders maintain high standards of honesty and integrity.”

EPA: 28.1% negative
OPPT: 60.4% negative
RAD: 64.6% negative

Hardly a vote of confidence.

PEER’s IG Complaint

Nor is the rot confined to this program. The sister operation responsible for assessing pesticides is also perversely dysfunctional. PEER recently filed a complaint with EPA’s Inspector General documenting how EPA downgraded the cancer-causing capacity of one of the nation’s most popular fumigants, Telone, in a manner so blatant and thoroughgoing as to constitute fraud.

How blatant?

EPA based its assessment on a literature search that did not use the chemical’s actual name, a search that excluded at least one damning study. In addition, EPA managers also overrode key internal controls and bypassed agency experts. The result was a downgrade of the cancer classification of one of the most widely

used soil fumigants and nematicides from “likely to be carcinogenic to humans” to “suggestive evidence of carcinogenic potential.” These are not honest mistakes and carry earmarks of deliberate malfeasance.

This flawed finding puts both the public and applicators of the fumigant at needless risk, as it allows higher amounts of the chemical in the air without being considered a risk to human health.

EPA Revamp needed

EPA is under statutory deadlines to assess new and existing chemicals, as required by the Lautenberg TSCA reforms. To accomplish this, EPA will also have to overcome internal tendencies that have ossified over not just years but decades. This transformation will remain a major PEER focus until EPA finally becomes a 21st-century regulator. ■