

THE LEGAL EAGLE

SPECIAL CLIMATE CHANGE EDITION

A LEGAL NEWSPAPER FOR KIDS

Climate Change vs Political Change

by Jodi L. Miller

Many Americans, including members of the intelligence community, believe that climate change is the most pressing issue of our time. In February 2018, American intelligence agencies released their Worldwide Threat Assessment, an annual summary of global threats. The report warned about the dangers of a warming climate.

"Extreme weather events in a warmer world have the potential for greater impacts and can compound...the risk of humanitarian disasters, conflict, water and food shortages, population migration, labor shortfalls, price shocks, and power outages," according to the assessment. "Challenges from urbanization and migration will persist, while the effects of air pollution, inadequate water, and climate change on human health and livelihood will become more noticeable. Domestic policy responses to such issues will become more difficult—especially for democracies—as publics become less trusting of authoritative information sources."

CONTINUED ON PAGE 6

Kids Take the Reins and Sue Over Climate Change

by Phyllis Raybin Emert

Studies have shown that Millennials (those born between 1980 and 2000) and the next generation after them, Generation Z, will bear the brunt of the devastating consequences of climate change. A 2016 study revealed that the millennial generation will collectively lose \$8.8 trillion dollars in lifetime income dealing with the economic, health and environmental issues related to climate change.

Proving that Generation Z is taking the matter seriously, 21 young people, ages 10 to 21, are suing the U.S. government for violating their constitutional rights by allowing the continued production and burning of fossil fuel emissions. They claim that these carbon emissions contribute to dangerous climate change that damages the planet, the environment, and the physical health of its citizens.

CONTINUED ON PAGE 3



EPA

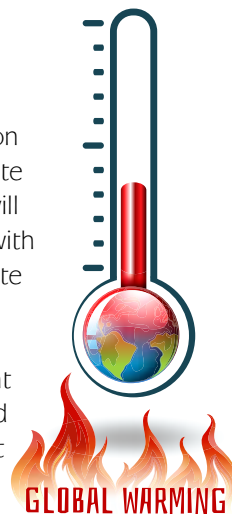
Established to Serve the Public Good

by Cheryl Baisden

In the 1960s, Americans became increasingly concerned about the environment. Smog was a common problem in cities across the country; sewage and industrial pollutants were fouling the oceans, rivers and lakes; and landfills containing household and industrial waste were seeping contaminants into the soil and groundwater.

In response to public concerns, President Richard Nixon created the Environmental Protection Agency (EPA) in 1970 to oversee environmental issues nationwide. Since that time, Congress has passed numerous laws granting a wide range of authority to the EPA, including regulating industrial and motor vehicle emissions, protecting waterways and soil, overseeing hazardous waste cleanups, and regulating chemicals that impact the environment.

Previously, states handled their own environmental matters, but enforcement was sketchy. "They [the states] competed with one another so fiercely for the location of industry that they weren't very good regulators of



CONTINUED ON PAGE 7

Knowing the Risks and Keeping Silent

by Maria Wood

Exxon Mobile is worth more than \$392 billion and is one of the world's largest publicly traded companies. In 2015, the *Los Angeles Times* and *Inside Climate News* published a series of articles detailing that Exxon Mobil's own scientists had been conducting climate change research since the 1970s and knew the risks of global warming.

Investigation launched

Soon after the award-winning articles were published, New York State Attorney General Eric T. Schneiderman launched what has become a three-year-long securities fraud investigation against Exxon Mobil. Massachusetts Attorney General Maura Healey later joined him in the investigation.

The inquiry centers on whether Exxon Mobile hid from shareholders its knowledge about the risks climate

change posed to the company's bottom line. If the company is found to have deceived its investors, it could face securities fraud charges.

Exxon Mobil's stock price and future profits largely depends on its ability to find new fossil fuel sources across the globe that it will eventually unearth and sell for revenue. But if climate change regulations prevent it from tapping into those wells and deposits, the company loses potential profits. Investors buy stock expecting the dollar value to rise. So if a company fails to tell stockholders the true value of its assets, then its stock may be less valuable than the company advertises.

Steve Gold, an environmental lawyer and professor at Rutgers Law School—Newark, says securities law prohibits companies from misleading their investors.

"If Exxon Mobil's statements to its investors about the nature of climate change were a misrepresentation of what Exxon knew and were material to its business then that could be securities fraud," he explains.

While Professor Gold offers no opinion on whether the attorneys general will eventually find enough evidence proving Exxon Mobil deceived its investors, he says "on its face, it's a legitimate thing for them to investigate."

Although no formal complaint has been brought and the matter is still under investigation, Exxon Mobil has filed lawsuits in Texas and New York attempting to block the attorneys general from continuing the probe. Exxon Mobil has argued it was exercising its First Amendment right to free speech in researching and discussing climate change science.

Big Tobacco playbook

Despite its knowledge of climate change threats, Exxon Mobil, taking a page out of the Big Tobacco playbook, entered into a campaign of disinformation on the subject to sow seeds of doubt in the public. At the same time it was researching global

warming, Exxon Mobil also funded studies and put forth commentary questioning whether it was a real phenomenon.

In 2016, two Harvard professors embarked on a year-long analysis of Exxon Mobil documents, reviewing 187 documents generated between 1977 and 2014. In an opinion piece for *The New York Times*, the professors wrote: "Our findings are clear: Exxon Mobil misled the public about the state of climate science and its implications. Available documents show a systematic, quantifiable discrepancy between what Exxon Mobil's scientists and executives discussed about climate change in private and in academic circles, and what it presented to the general public."

The professors went on to say in their op-ed, "We found that, from as early as the 1970s, Exxon Mobil (and its predecessors Exxon and Mobil) not only knew about emerging climate science, but also contributed research to it. Scientific reports and articles written or co-written by Exxon Mobil employees acknowledged that global warming was a real and serious threat. They also noted it could be addressed by reducing fossil fuel use, meaning that fossil fuel reserves might one day become stranded assets." In contrast, the professors note, the company's advertorials (paid advertisements in the form of editorials) "overwhelmingly emphasized scientific uncertainties about climate change and promoted a narrative that was largely inconsistent with the views of most climate scientists, including Exxon Mobil's own."

According to a 2007 report from the Union of Concerned Scientists, from 1998 to 2005 Exxon Mobil gave \$16 million to groups critical of scientific claims supporting climate change.

The Executive Summary of the report states: "This seemingly inconsistent activity makes sense when looked at through a broader lens. Like the tobacco companies in previous



This publication was made possible through funding from the IOLTA Fund of the Bar of New Jersey.

Jodi L. Miller
EDITOR

EDITORIAL ADVISORY BOARD

John J. Henschel, Esq.
CHAIR

Mary M. Ace, LCSW
Kelly Ann Bird, Esq.

Glenn A. Bergenfield, Esq.

Risa M. Chalfin, Esq.

Eli L. Eytan, Esq.

Felicia T. Farber, Esq.

Jeremy Farrell, Esq.

John F. Gillick, Esq.

Hon. Lisa James-Beavers, ALJ

Stuart M. Lederman, Esq.

Thomas J. Manzo, Esq.

Lynn F. Newsome, Esq.

Margaret Leggett Tarver, Esq.

Kimberly A. Yonta, Esq.

Thomas A. Zeringo

decades, this strategy provides a positive 'pro-science' public stance for Exxon Mobil that masks their activity to delay meaningful action on global warming and helps keep the public debate stalled on the science rather than focused on policy options to address the problem."

Trading legal arguments

Even as it continues to fight the investigation, Exxon Mobil has stated publicly it now believes climate change is real. A spokesperson for the company told *The New York Times* in 2016 that it supports a carbon tax and has spent more than \$7 billion in research and technologies to reduce harmful emissions from fossil fuels.

Throughout the legal process, ExxonMobil lawyers have argued the company's internal research on climate change represents its right to free speech.

Professor Gold points out that the U.S. Supreme Court has ruled that corporations have a right to free speech and state and federal governments cannot interfere with that right.

"There are limits on speech and one of them is that speech cannot be fraudulent," Professor Gold says. "So that is where the legal contest is going to be."

So far, Exxon Mobil and the attorneys general have traded their legal arguments in a series of court filings, not an actual trial. In addition to the violation of free speech argument, Exxon Mobil has fought the fraud investigation by claiming the attorneys general have already judged the company guilty of the charges. The attorneys general, the company asserts, are also pursuing a political agenda on climate change issues.

ExxonMobil first filed a lawsuit in its home state of Texas in an attempt to stop Attorney General Healey's probe. Schneiderman was later added to the lawsuit and a district court judge in Texas ruled the suit should be transferred to New York.

The case has been assigned to U.S. District Judge Valerie E. Caproni, who serves in the Southern District Court of New York in Manhattan. In November 2017, Judge Caproni seemed to side with the attorneys general when


she termed Exxon Mobil's claim of a violation of free speech as a "wild leap of logic." She also said Exxon Mobil "doesn't have a right to lie on [its] SEC filings."

In December 2017, the judge ordered written arguments from both sides before she would rule on Exxon Mobil's request to shut down the investigation.

Shareholder Demands

As it fights the fraud investigation, Exxon Mobil late last year agreed to provide its shareholders with detailed information on climate change and how it might impact the company's profits. The agreement came after 62 percent of shareholders demanded the company annually report on threats due to climate risk.

In a December 2017 court filing, the attorneys general contend that agreement with shareholders may indicate Exxon Mobil withheld important information about climate change from its stockholders.

At press time, Judge Caproni had not issued a ruling on Exxon Mobil's request. 

Kids CONTINUED FROM PAGE 1

Our Children's Trust and its Executive Director and Chief Legal Counsel Julia Olsen represents the members of Generation Z in the lawsuit, *Juliana v. US*.

Representing youth

Our Children's Trust is a nonprofit organization dedicated to acting as an advocate on behalf of youth and future generations "for legally-binding, science-based climate recovery policies." Its first lawsuit, *Alec L. v. McCarthy*, was brought in May 2011 and focused on the Public Trust Doctrine. The doctrine dates back to sixth century Roman law and holds that the government is responsible for protecting the earth's resources for its people. In 2013, the Washington D.C. Court of Appeals ruled that the Public Trust Doctrine applied to states but not the federal government. The **plaintiffs appealed** to the U.S. Supreme Court, but in December 2014 the Court declined to hear the case.

Danger to public health

In September 2015, *Juliana v. US* was filed in the U.S. District Court for the District of Oregon. The **pleading** stated: "The overarching public trust resource is our country's life-sustaining climate system, which encompasses our atmosphere. As sovereign trustees, Defendants have a duty to refrain from 'substantial impairment' of these essential natural resources."

In

April 2016, Oregon Federal Magistrate Judge Thomas Coffin denied a motion by the Obama Administration to dismiss the case. In his ruling, Judge Coffin wrote, "If the allegations in the complaint are to be believed, the failure to regulate the emissions has resulted in a danger of constitutional proportions to the public health."

US District Court Judge Ann Aiken, in a November 2016 decision, upheld Judge Coffin's ruling, allowing the case to proceed to trial. A trial date was set

CONTINUED ON PAGE 4



Kids CONTINUED FROM PAGE 3

for February of 2018. In July 2017, the Trump administration petitioned the Ninth Circuit Court of Appeals for what is called a writ of mandamus, to stop the trial from proceeding. A writ of mandamus is essentially an order from an appeals court to a lower court that corrects a judicial abuse of power. In other words, the government is arguing that the lower court is overreaching in its decision to allow the case to proceed to trial. In its petition, the Department of Justice (under the Trump administration) stated that the district court had “rendered unprecedented and clearly erroneous rulings” when it refused to dismiss the case.

The two parties presented oral arguments in front of a three-judge panel in December 2017 and are awaiting the decision of whether the appeals court will grant the government’s writ. Eight *amicus* briefs, representing more than 35 religious, women’s, libertarian and environmental groups, were filed with the court in support of the plaintiffs [the kids], urging the court to allow the *Juliana* case to proceed and deny the government’s mandamus petition.

The losing side will probably request a hearing before the full nine-member Court of Appeals. Whoever loses that decision could then seek review before the U.S. Supreme Court.

Motions to dismiss

In her November 2016 ruling denying the government’s motion to dismiss the case, Judge Aiken wrote, “This is no ordinary lawsuit. [Plaintiffs] draw a direct causal line between defendants’ policy choices and floods, food shortages, destruction of property, species extinction, and a host of other harms.” She noted, “At its heart, this lawsuit asks this Court to determine whether defendants have violated plaintiffs’ constitutional rights...”

Judge Aiken took note of the injuries alleged by the young plaintiffs in her decision. “Lead plaintiff Kelsey Juliana alleges algae blooms harm the water she drinks, and low water levels caused by drought kill the wild salmon she eats...Xiuhtezcatl Roske-Martinez alleges increased wildfires and extreme flooding jeopardizes his personal safe...Sahara V. alleges hot, dry conditions caused by forest fires aggravate her asthma... [and] Jayden F. alleges the storm that destroyed her home ‘ordinarily would happen once every 1,000 years, but is happening now as a result of climate change.’”

The ruling went on to state, “This Court simply holds that where a complaint alleges governmental action is... substantially damaging the climate system in a way that will cause human deaths, result in widespread damage to property, threaten human food sources, and dramatically alter the planet’s ecosystem, it

CONTINUED ON PAGE 5

Weird Weather We’re Having

There is no question that the Earth is warming, but is climate change a factor in extreme weather events, like hurricanes, blizzards and heat waves?

According to the National Oceanic and Atmospheric Administration (NOAA), an emerging field of climate science—extreme event attribution—has been looking into this question since 2011. In an edition of the *Bulletin*, published by the American Meteorological Society, researchers analyzed 27 extreme weather events that occurred in 2016. What the researchers concluded is that human-caused climate change was a “significant driver” in 21 of them.

Dr. David A. Robinson, a New Jersey state climatologist and professor of Geography at Rutgers University, says that attribution studies have come along rapidly in recent years, but cautions that much of this work is statistically based, which requires a lengthy data record in order to achieve suitable levels of confidence.

“What is currently seen is that some, but not all, extreme weather and climate events can be in part attributed to a changing climate,” Dr. Robinson says. “For instance, some heat waves of late can be in part attributed to human activities that are leading to climate change. It is not as if it wouldn’t have been hot in a purely natural

weather pattern, however a hot spell is made hotter, perhaps longer and maybe even wider spread geographically due to climate change. This is more difficult to show for drought and some individual storms, but more and more it is evident that climate change is ‘adding on’ to natural extremes.”

Jennifer Francis, Ph.D., a research professor with the Institute of Marine and Coastal Sciences at Rutgers University, agrees.

“The clearest linkages are for heat waves, drought, heavy rain/snow events, and stronger tropical storms,” Dr. Francis says. “We also know that climate change is responsible for rapid sea-level rise, which is making coastal flooding more likely during storms and even during very high tides.”

Harvey, Irma & Maria

What about hurricanes Harvey, Irma and Maria? Was the severity of these storms due to climate change?

“We can’t say that the severity of these storms was ‘due to’ climate change, but it’s likely that they were made worse by climate change,” Dr. Francis says, pointing out that warmer oceans and atmosphere—along with more moisture in the air—all provide fuel for storms. For instance, the ocean temperature as

CONTINUED ON PAGE 5

Kids CONTINUED FROM PAGE 4

states a claim for a **due process** violation. To hold otherwise would be to say that the Constitution affords no protection against a government's knowing decision to poison the air its citizens breathe or the water its citizens drink. Plaintiffs have adequately alleged infringement of a fundamental right."

The defendants (the government) believe the air is not a public trust asset and the federal government, unlike the states, has no public trust responsibilities. Their main argument is that the public trust doctrine applies only to the states, and any public trust claims are covered by acts of Congress, like the Clean Air Act and the Clean Water Act. Judge Aiken concluded that the plaintiffs' public trust rights came before the Constitution, are guaranteed by it, and can be enforced under due process protection of the Fifth Amendment. A decision in favor of the plaintiffs would, according to Judge Aiken, be groundbreaking and unprecedented, but that should not be reason for dismissal.

Why this case is important

Julia Olsen says that the government, "regardless of administration" opposes Juliana so strongly because of what it would imply if the kids were to win. "We are actively fighting to prove that there is a legal right to a healthy atmosphere and a stable climate. So, what this means for the federal government is that they would then have to make up for


decades of their own actions that have actively caused climate change."

Olsen says, the facts are "conclusively in favor of plaintiffs" and points out that the court has already ruled that youth have constitutional rights. "The only way Defendants can win is to convince an appellate court that the U.S. Constitution does not protect our nation's children from climate change. Our evidence shows how the government knew that they were investing in a fossil fuel future and are still contributing to the climate change problem. We are confident that they won't be able to win when we go to trial."

It is very possible that *Juliana* will make it to the U.S. Supreme Court, Olsen says, and she is confident the plaintiffs will win, despite the conservative composition of the Court.

Olsen believes this case "serves as a vehicle by which youth are lifting up their own voices in the face of climate change. They are taking a stand and engaging in their democratic process through the judicial branch against an issue on which they can't yet vote, but will be the most affected by."

Olsen offers this advice to kids everywhere: "Find out what issue you're truly passionate about and raise your voices and get involved with that issue. Apply your unique skills and voice to what matters to you most. It is our duty to be active citizens—young and old," she says.

At press time, there had been no ruling on the government's writ of mandamus petition. 

Hurricane Harvey approached the coastline of Texas rose to as much as 7.2 degrees Fahrenheit above normal.

"In Harvey's case, which was extremely damaging because it sat over Houston for so long and dumped almost five feet of rain in places, there may have been another effect of climate change, which is to slow the winds that steer tropical storms. We may see more Harvey-like and Sandy-like storms in the future," she says.

Dr. Robinson agrees "enhanced energy and atmospheric moisture" contributed to the severity of those storms, but says, "These would have been nasty storms without a changing climate." The speculation that Harvey stalling was associated with a warmer climate, he says is unproven at this point.

Not so obvious consequences

The impact of climate change on the intensity of storms is an obvious example of its consequences. But there are more subtle examples that you might not realize.

For example, Dr. Francis says that climate change may be making weather patterns hang around longer.

"So summer heat waves and dry periods may last longer, which increases the chance of droughts and wildfires. Long-lasting stormy periods can lead to flooding and big piles of snow, like Boston experienced two winters ago," Dr. Francis says.

Dr. Robinson says one of the more noticeable aspects of climate change are warmer nighttime temperatures in many locations. Higher nighttime temperatures are increasing faster than daytime temperatures, he says, having a variety of potential impacts to the planet.

"In summer, elevated nighttime temperatures contribute to heat related illnesses, as the body does not get a sufficient break from the heat of the previous day," Dr. Robinson says. "The lack of very cold nighttime temperatures in winter can also help the eggs of insects survive winters that would normally eliminate them. This may permit insects to invade a region and do harm to vegetation where formerly they couldn't make it through the winter."

Dr. Robinson notes this is a problem in the New Jersey's Pinelands, where the southern pine beetle is surviving through the winter, resulting in damage to trees.

Drs. Francis and Robinson both agree that on the whole, the Earth is getting warmer.

"There is abundant evidence that has accumulated in recent years showing how the number of record high temperatures being set far outnumber the number of record low temperatures," says Dr. Robinson. "Thus, an overall imbalance has developed in most locations, especially when looking at the Earth as a whole."

—Jodi L. Miller

Climate Change CONTINUED FROM PAGE 1

195 countries agree

It's hard for two nations to come to an agreement, let alone 195 countries. Yet, that's what happened in December 2015 when officials from 197 countries met in Paris to negotiate an agreement on limiting global warming. The Paris Climate Accord was signed in April 2016 on Earth Day. In the end, there were only two holdouts—Syria and Nicaragua. Both of those countries would join the Accord in late 2017.

President Barack Obama committed the United States to reducing greenhouse gas emissions (which cause global warming) by at least 26-28 percent below 2005 levels by 2025. The U.S. also committed by 2020, \$3 billion dollars in aid to poorer countries, which will be most affected by climate change. President Donald J. Trump, who campaigned on pulling the U.S. out of the Paris agreement, has in the past called global warming a hoax and hailed the Paris Climate Accord as a “terrible deal” and a “disaster.”

A study conducted by the Yale Program on Climate Change Communication, released in May 2017, found that “a majority of Americans in every state say that the United States should participate in the Paris Climate Agreement.” In addition, the study revealed that half of Trump's supporters said the U.S. should continue participation. Despite those numbers and pleading from world and business leaders, in June 2017, President Trump announced the United States would withdraw from the agreement.

“I was elected to represent the citizens of Pittsburgh, not Paris,” the President said in his Rose Garden speech where he called the Accord “**draconian**.” While President Trump left room for possibly renegotiating a better deal for America, a joint statement from leaders in France, Germany and Italy stated that the climate accord was “irreversible” and could not be renegotiated.

In his speech, President Trump also said, “China will be allowed to build hundreds of additional coal plants. So, we can't build the plants, but they can, according to this agreement. India will be allowed to double its coal production by 2020.”

A *Washington Post* article that fact-checked the President's speech pointed out that the Paris Climate Accord is nonbinding and permits each nation to set its own targets.

“There is nothing in the agreement that stops the United States from building coal plants or gives the permission to China or India to build coal plants,” the *Post* article stated. The article also noted that less expensive prices for natural gas have forced the closure of coal plants and China actually canceled plans to build more coal-fired plants.

With the way the Paris Climate Accord is structured, the U.S. would actually not be able to withdraw formally until 2020, four years after its adoption.

Denial and censorship

Clearly there has been a shift in climate change policy under the current administration. In August 2017, the Trump administration disbanded the National Climate Assessment, a federal advisory panel that helped form the government's climate analysis and long-term planning. Following the election, the Environmental Protection Agency (EPA) hired many climate skeptics and soon after Trump's inauguration, the EPA website removed most references to climate change.

Still, a recent Gallup poll revealed that 70 percent of Americans are now convinced that climate change is caused by human activity. So, what about the other 30 percent?

When asked what to say to someone who denies climate change, Jennifer Francis, Ph.D., a research professor with the Institute of Marine and Coastal Sciences at Rutgers University, says some people will never listen to other points of view.

“Others, though, are not sure and are willing to listen to the evidence that tells us climate change is happening fast and is caused by humans,” Dr. Francis says. “When I show them how fast ice has melted in the Arctic (80 percent has disappeared in only 40 years), tell them that the last decade was the Earth's warmest in thousands of years, and that over \$300 billion of their tax dollars were spent on extreme weather damage in 2017 alone, it usually gets their attention.”

Dr. David A. Robinson, a New Jersey state climatologist and professor of Geography at Rutgers University, believes vast majorities of people have open minds about climate change and are receptive to learning about the issue. He says there is a difference between not believing in something and not understanding it.

“This isn't about ‘believing’ something, rather it is acquiring knowledge as to what is going on and why it is occurring,” Dr. Robinson says.

Cold snaps, like the recent one on the east coast in late 2017 and early 2018 are usually the motivation for many climate change deniers to contend that the Earth is not warming.

Both Drs. Francis and Robinson point out that the only two places that were colder than normal were eastern North America and eastern Asia. Almost everywhere else, they say, was warmer than normal.

“Some people confuse weather with climate,” says Dr. Francis. “Climate is what you expect to have in a given place in a particular season, while weather is what you actually get on a particular day.”

Dr. Robinson also points out that while cold winters are not going away anytime soon, overall the cold temperatures are getting less cold and the warmer temperatures are getting warmer.



Climate Change **CONTINUED FROM PAGE 6**

"Despite all of that cold weather as 2016 transitioned to 2017 there was only one day when a few record low temperatures (records going back a century) were set," Dr. Robinson says.

States, cities and corporations pick up the slack

After President Trump withdrew from the climate accord, the governors from California, New York and Washington formed the United States Climate Alliance, which New Jersey also joined in February 2018. The Alliance now boasts 16 states and Puerto Rico. The governors commit to the goals of the Paris Agreement in reducing greenhouse gas emissions. According to the organization, the coalition of states (calculated before New Jersey joined) represents 40 percent of the U.S. population and \$7.4 trillion in economy. Other states represented in the Alliance include Colorado, Connecticut, Delaware, Hawaii, Maryland, Massachusetts, Minnesota, North Carolina, Oregon, Rhode Island, Vermont and Virginia.

In addition to the efforts of individual states, cities have also pledged to meet the goals

of Paris. More than 130 American cities have joined the Global Covenant of Mayors for Climate and Energy. Dr. Francis also points out that many corporations have committed to combat climate change, conserving energy and converting to renewable energy.

In an op-ed for *The New York Times*, former New York City Mayor Michael Bloomberg wrote: "No mandate from Washington is forcing these companies to act—just their own self-interest." Bloomberg, who co-authored a book titled, *Climate of Hope*, also wrote: "Cities, too are acting out of self-interest. By improving their air quality and becoming greener, cities turn into more attractive places to live and work. And where people want to live and work, businesses want to invest. That's Economics 101, and mayors understand it even when Washington doesn't."

Dr. Robinson says even individuals can make a difference when it comes to reducing human's carbon footprint.

"While individuals lack the regulatory authority of political entities, they can reduce their use of fossil fuels by doing something as simple as turning off a light or turning down the thermostat in winter and turning it up with AC in summer," Dr. Robinson says. 



EPA **CONTINUED FROM PAGE 1**

those industries," explained the EPA's first administrator, William Ruckelshaus, in a 1993 interview recorded by the agency. "It was very hard to get widespread compliance."

Dawn Monsen Lamparello, a Newark attorney who practices environmental law, says, "As a federal agency of the United State's government, the EPA's mission is to protect human health and the environment, and it is charged with implementing the various environmental laws passed by Congress. These laws regulate such topics as air, water, chemicals, waste, and land cleanup," says

EPA's success

Since its inception, the EPA has had countless successes. Nationwide, air pollution has decreased by 70 percent, polluted waterways have been cut in half, blood levels of lead—which can cause brain damage and lower IQs—have fallen by 70 percent, and

hundreds of contaminated sites have been cleaned up.

Lamparello expounds on the benefits close to home, noting, "The EPA provided assistance in various forms to New Jersey in the wake of Super Storm Sandy in 2012, including providing a grant of over \$200 million for improvements to wastewater and drinking water treatment facilities impacted by the storm."

Despite its measurable successes, the agency has its detractors, including many of the industries facing EPA regulations, political entities that stand behind those industries, and those who question the science behind climate change and its link to human activities.

"Environmental issues can be very sensitive and impact various interests, related to the environment, including human and ecological health, and community and economic development," says Lamparello. "As a result, disagreements can sometimes

arise as to the best way to address an issue."

Still debating

Nearly all climate scientists agree the droughts, heat waves, rising sea levels, and other environmental changes caused by climate change pose a serious danger to the planet. During the 2016 presidential campaign, however, Donald Trump claimed climate change was a hoax orchestrated by China to weaken U.S. manufacturing. He vowed to change the nation's approach to the environment if elected, and promptly began the process once he took office. Within hours of his inauguration, any mention of climate change or the effort to fight it had been removed from the White House's official website.

Shortly thereafter, Trump appointed former Oklahoma Attorney General Scott Pruitt

CONTINUED ON PAGE 8

to head the EPA. In his prior position, Pruitt was a plaintiff in 14 lawsuits against the EPA, and has been linked to the fossil fuel industry and anti-environmental supporters.

"Science tells us that the climate is changing and human activity in some manner impacts that change," Pruitt told legislators at his confirmation hearing. "The human ability to measure with precision the extent of that impact is subject to continuing debate and dialogue, as well they should be."

"It sounds like an orchestrated campaign of head-in-the-sand," Michael Oppenheimer, a professor of geosciences and international affairs at Princeton University told *The Washington Post*. "The scientific consensus is clear: Most of the warming since 1950 is the result of the buildup of the human-made greenhouse gases."

Pollution and politics

In March 2017, newly elected Congressman Matt Gaetz, a Florida Republican, introduced H.R. 861, composed of a single sentence: "The Environmental Protection Agency shall terminate on December 31, 2018."

Supporters of the measure claim the EPA is out of control, causing increases in everything from energy delivery costs to the price of manufactured goods and making it difficult for businesses to meet the agency's standards. Instead, they suggest that state and municipal governments oversee their own environmental matters.

"Our small businesses cannot afford to cover the costs associated with compliance, too often leading to closed doors and unemployed Americans. It is time to take back our legislative power from the EPA and abolish it permanently," Gaetz wrote to House colleagues when introducing the bill.

Opponents of the measure say the agency is key to fighting climate change, and voice concern that if it is abolished dozens of laws that require EPA implementation, like

the Clean Air Act and the Clean Water Act, would not be enforced.

"Climate change is already having devastating economic effects as food growing seasons shift and extreme storms displace millions of families and destroy critical infrastructure. These issues demand our immediate attention and urgent action," New York Congressman Paul Tonko, a member of the House Energy and Commerce Subcommittee on Environment, said when the legislation was introduced.

According to Lamparello, the chances of H.R. 861 being enacted are slim, but there are other ways the EPA can be virtually dismantled.

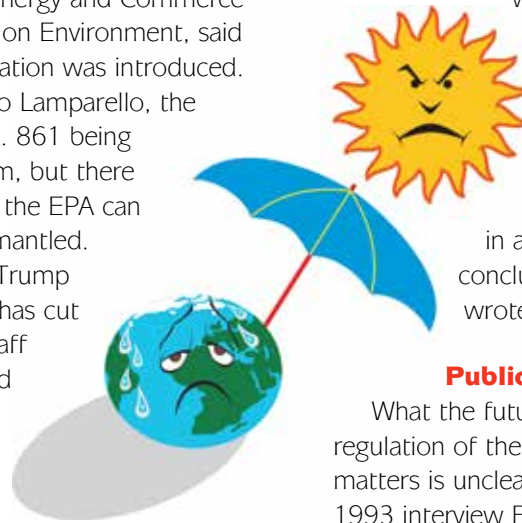
So far, the Trump administration has cut the agency's staff size and slashed its funding by 31 percent under the present budget, taking the EPA back to its funding and staff levels of 40 years ago.

Under Pruitt, the EPA also changed its policy on appointments to scientific boards that advise the agency. Under the new policy, researchers who have received grant money from the EPA are prohibited from serving on advisory boards.

According to Pruitt, the move is designed to clear up conflicts of interest and eliminate advisors with financial ties to the agency. He then appointed 66 new board members, many with ties to industries regulated by the EPA.


"While EPA is taking steps to 'eliminate many of those most qualified to give advice,' it appears to be making it easier for industry-funded scientists to serve on FACs [federal advisory committees]. Under this new policy, EPA will be replacing representatives of public and private universities including Harvard, Stanford, Ohio State University and the University of Southern California with scientists who work for Phillips 66, Total, Southern Company,

and the American Chemistry Council," 10 Democratic senators wrote in a letter to the Government Accountability Office requesting an investigation into the EPA. "The double standard is striking: an academic scientist that receives an EPA grant for any purpose cannot provide independent advice on a completely different subject matter on any of EPA's science advisory boards, while industry scientists are presumed to have no inherent conflict even if their research is entirely funded by a company with a financial stake in an advisory board's conclusions," the senators wrote.



Public plays a part

What the future holds as far as regulation of the nation's environmental matters is unclear, but in his 1993 interview EPA administrator Ruckelshaus placed the power squarely in the hands of the public.

"Public opinion remains *absolutely essential* for anything to be done on behalf of the environment," he said. "Absent some countervailing public pressure for the environment, nothing much will happen." 

GLOSSARY

appealed—when a decision from a lower court is reviewed by a higher court.

draconian—excessively severe.

due process—legal safeguards that a citizen may claim if a state or court makes a decision that could affect any right of that citizen.

plaintiff—person or persons bringing a civil lawsuit against another person or entity.

pleading—a formal statement of the cause of an action or defense.