



Society for Conservation Biology

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Policy Insider

The Policy Insider is a newsletter of SCB policy work.

It also presents opportunities for you to participate in that work and features some related new items of interest.

The Policy Insider expands upon items covered in less detail in the SCB Newsletter.

Each Insider is produced and published by the SCB Policy Team of John Fitzgerald, Lyn Arnold and all those who contributed to helping carry out the SCB activities described within.

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Climate Change

Senate Majority Leader Reid Is Trying to Assemble an Energy and Climate Bill That 60 Will Support After Obama Asks for Senate Action, But Does Not Say What He Needs

In his speech from the Oval Office of the White House to the nation on the Gulf oil spill, President Obama urged the Congress to enact comprehensive energy reform legislation, referring in part to the climate bills that have been considered so far. As we go to press, President Obama is meeting with Democratic and Republican Senators who have been active in climate and energy legislation to see what common ground they can find. For example, Senator Lugar has an energy only bill that would build more nuclear plants, Senator Bingaman is working on a utilities-only bill – after being merged with the House Markey-Waxman bill, either would probably insulate polluters from science-based air pollution limits that EPA would need to adopt and enforce under current law.

The idea is that the spill can provide additional impetus to legislation that will help the U.S. move away from fossil fuels toward cleaner energy sources. One problem is that even the current environmental laws have sometimes been ignored or have been applied to risky energy developments in ways that are so limited as to be potential violations of those laws and to allow short term and long term risks that far outweigh the benefits of those riskiest of undertakings. The Obama Administration is still discovering both the laws they already have at their disposal and the weaknesses in the regulations or implementation of those laws.

While some agencies were reversing course and applying the laws they oversee to greenhouse gases before the spill, according to a series of articles in credible publications, the MMS was expediting offshore oil permitting without the full array of environmental assessments and consultations that should have been required before hand. Congress had also played a part in the problem by appearing to have required action on offshore drilling permits within 30 days of an application, though a court of appeals had held that more time could be required for additional information to be secured.

In this context, the companies contributing most to various forms of pollution, and greenhouse gases in particular, are most eager to have Congress preempt any further action by the agencies or by citizens in court and their best tactic is to include limitations upon the many laws that should and can be applied to that pollution in a bill that is portrayed as addressing energy and climate problems. Congress for example, in the Energy Act of 2005, waived the Safe Drinking Water Act as it applies to the new “fracking” or fracturing of gas-bearing rock underground despite the underground injection of diesel fuel or similar substances into ground water in some of those operations, and in the fall of 2009 in the Interior Appropriations bill barred the regulation of methane from livestock waste as a greenhouse gas under the Clean Air Act. As we discussed in our transition Recommendations, in our Climate Policy Principles, in previous Policy Insiders, and in our comments on the proposed Ozone Rule, the Obama Administration has more tools in their toolbox already for addressing these problems directly and indirectly than they appreciate. They could use them swiftly while telling Congress just exactly what, if anything, they need in addition to them. Many of these laws are summarized in an article earlier this year in the Environmental Law Reporter, by Curtis Moore, “Existing Authorities in the United States for

Responding to Global Warming”. Moore helped write them as counsel to the Senate Environment and Public Works Committee. It is copyrighted but one can subscribe or come to our sessions at our annual conference where we will be discussing these laws and some of their international counterparts.

The Environmental Law Institute can be accessed at www.eli.org.

Another popular shield against the old fashioned idea that you clean up the messes you cause, or make the victim whole, is setting limits on liability. The U.S. is now asking India to limit liability of U.S. companies for future nuclear accidents in plants they are expected to build soon, just as the U.S. has for years limited nuclear plant liability in the U.S. under the Price Anderson Act. And the main, but not only, source of liability of BP is in theory limited to \$75 million dollars per oil spill, though there are ways around that cap including the recently pledged fund of \$20 billion over 3 years.

Finally, the ultimate limit in liability is bankruptcy – either a limited reorganization or a full closing of a company, after which its assets can be sold free and clear of liability – depending on how the bankruptcy is managed-- to others who may carry on without having to pay to make those harmed by the older company whole. This was the reason for the enactment of the “Superfund” Act of 1980 which is now far behind in cleaning up abandoned poisoned sites since a previous Congress halted the tax on chemical and oil companies that was paid into the clean-up fund devoted to correcting on-shore sites where processing of their feed-stocks had left toxic waste at dangerous levels.

From the spawning grounds of the Atlantic Blue Fin Tuna to the Gulf habitats of Sperm whales, sea turtles and other protected species, including the recently delisted brown pelican, there will be much restoration work to do.

Some may recall the John Grisham novel and movie of the early 90s entitled “The Pelican Brief” in which oil interests went to great lengths to prevent a powerful legal brief on their conspiracy to drill despite nearby threatened pelicans, from being filed or published.

SCB must, in essence, now file a science-based Pelican Brief with every relevant policy maker, updated for today’s twin Gulf and climate challenges, with both restoration and prevention in mind.

One such “brief” is our comment on the oil sands pipeline designed to take tar sands products from near the whooping cranes’ northern nesting sites past habitat of endangered black footed ferrets to near the cranes’ wintering habitat on the Gulf of Mexico. We describe that filing in the next section.

SCB Comments on the Council for Environmental Quality’s Draft Guidance Regarding Climate Change, and Mitigation and Monitoring Measures

Guidance from CEQ is designed to aid administrative agencies in their interpretation of the National Environmental Policy Act (NEPA). The Council on Environmental Quality recently issued draft sets of proposed guidance addressing climate change, and mitigation and monitoring issues and other issues,

such as when and how agencies should use the now infamous “categorical exclusions” which waive the requirement for impact assessment for whole classes of actions not likely to have significant impacts. In our “Recommendations to the Obama Administration ...”(2008) we had addressed several NEPA issues and had made it clear that the use of categorical exclusions should be much more limited (and not be used for deep water oil drilling permits, for example) and we knew that other groups would address that as well so we focused on the two issues to which we could bring the best additional perspective, information and expertise. SCB commented on both the climate and mitigation proposals. We summarize our points here:

“Consideration of the Effects of Climate Change and Greenhouse Gas Emissions” Draft Guidance

An important point made in the draft guidance stated that it would not be applicable to Federal land and resource management actions, but sought comment from the public on the most appropriate means of “assessing the GHG emissions and sequestration that are affected by Federal land and resource management decisions.” The guidance listed several specific questions regarding forest management, and solicited answers to those questions.

SCB submitted comprehensive commentary but we also recommended that CEQ actually direct the agencies to address the climate impacts of land use changes in revision of the guidance that we urged them to compile and publish again for comment as a final draft. We discussed, among other things, the following:

1. Alternatives and mitigation steps to reduce GHG emissions from activities on federal lands
2. Use of protocols for assessing land management practices and their effect on carbon release and sequestration
3. Use of the precautionary principle in addressing uncertainties associated with climate change projections
4. Employing interagency consultation and the use of independent science consultants from multiple disciplines for larger programs, new techniques, or complex assessments
5. Use of actual projected releases or impacts, peak releases and releases over the lifetime of the action or the agent that is released for measurement of emissions

“NEPA Mitigation and Monitoring” Draft Guidance

The mitigation and monitoring draft guidance focused on three subjects: 1) mitigation and how it is identified and adopted; 2) how best to create a monitoring program that is effective; and 3) public participation and agency accountability.

SCB addressed all three points. The comment pointed out, among other things:

1. In developing mitigation and monitoring implementation plans, outside experts should be used and those experts should be independent.

2. Any substantial mitigation failure, either in implementation or effectiveness, must trigger a response from the agency.
3. Public participation would be better served if CEQ were to develop its own database for access to documents in addition to the individual agencies' efforts. A central database will allow for more comprehensive analysis of cumulative effects. The database should be coordinated with other agencies and made available to the public.

Read the Climate Change comment [here](#), and the Mitigation and Monitoring comment [here](#).

Scientific Integrity

SCB Responds to the Gulf Oil Spill

Since the days immediately following the blow out of the Deep Horizon well, SCB has been analyzing the situation, offering informal suggestions to the new head of what was called the Minerals Management Service and his Science Advisor, Alan Thornhill. We are also helping others, such as the Endangered Species Coalition, to develop their formal requests to the Administration for responses to the spill.

SCB and its North America and Marine Sections are developing our own formal response to the oil spill, with suggestions from the policy committee. The aim is to add new corrective mechanisms to those called for so far from both an immediate and a broad perspective.

A New York Times article summarizing oil permitting and spill developments entitled, *Despite Obama's Moratorium, Drilling Projects Move Ahead*, can be accessed [here](#).

Department of Interior Science Has Integrity Issues According to Inspector General's Report: SCB Weighs In

*Excerpted from the Public Employees for Environmental Responsibility press release
And the SCB press release*

The US Department of Interior still lacks any policy to ensure the integrity of its scientific data, according to a recent Inspector General report. As a result, agency scientific findings remain susceptible

to alteration or suppression in support of pre-determined political positions, according to Public Employees for Environmental Responsibility (PEER). The report is dated April 2010.

Contrary to the IG report, Interior claims that it did adopt a scientific code of conduct back in 2002, but the agency did so via a press release and never put it into its official manual. That code applied only to the scientists and not to managers and political appointees who remain free to alter technical documents for non-scientific reasons.

SCB and other scientific and environmental groups were quick to respond with a letter to Secretary Salazar. The coalition included SCB, The Wildlife Society, the American Fisheries Society, and the Society of Wetland Scientists.

As stated by John Fitzgerald, SCB Policy Director, “The oil spilling daily into the Gulf of Mexico is stark testimony to the fact that the Interior Department needs all the help it can get in ensuring the integrity of the science on which it relies, and the integrity of each permitting or assessment process in which that science is applied. The steps that we and the Inspector General recommend, when completed, will be steps toward a government we can trust. We hope we can help.” Among other things, the coalition letter supports the recommendations provided in the IG report, including developing a DOI-wide scientific integrity policy and designating an official who will be responsible for guiding the implementation and development of the policy across various bureaus within the agency.

A link to the report can be found [here](#).

A link to the full press release can be found [here](#), and the sign on letter can be read [here](#).

**SCB On the Canadian Oil Sands Draft EIS:
Keystone XL Pipeline Project – Inadequate Analysis of a Project
That Is Likely to Violate Wildlife and Environmental Laws**

As we went to press SCB filed formal comments on a proposed pipeline that would greatly expand the existing capacity of pipelines intended to carry products from Alberta’s oil or tar sands to and through the U.S. to refineries and ports on the Gulf of Mexico. Key issues include the inadequacy of the draft Environmental Impact Statement in its coverage of several aspects of both the pipeline, potential leaks from it and the extent and pace of the oil sands developments it would make possible. Also key is the failure to identify the laws that the State Department in permitting it and those who operate or fund the pipeline may violate. These include the Endangered Species Act, for impacts felt by highly endangered species such as the whooping crane in the US and in Canada due to the decision the Secretary may make in Washington, D.C.

Read the complete comment [here](#).

Biological Security

Report Finds Top Children's Book Publishers Using Paper Linked to Rainforest Destruction

Excerpted from the Rainforest Action Network press release

America's children's books are contributing to the destruction of endangered rainforests in Indonesia, according to a new report released on May 24th by Rainforest Action Network (RAN). The report, entitled *Turning the Page on Rainforest Destruction; Children's Books and the Future of Indonesia's Rainforests*, finds that a majority of the top ten US children's publishers have released at least one children's book that tested positive for paper fiber linked to the destruction of Indonesia's rainforests, including some books that describe the benefits of rainforest conservation.

RAN had 30 colored children's books tested for fiber associated with deforestation in Indonesia and found that 18 of the 30 books (60 percent) contained controversial fiber. RAN's tests point to a growing industry trend toward the overseas printing of children's books, as well as other glossy paper books like coffee table books and textbooks, on fiber that is from controversial and endangered sources.

As RAN explains in its press release on the report:

Worldwide, the degradation and destruction of tropical rainforests is responsible for fifteen percent of all annual greenhouse emissions. The carbon emissions resulting from Indonesia's deforestation account for up to five percent of global emissions: more than the combined emissions from all the cars, planes, trucks, buses and trains in United States. This huge carbon footprint from the destruction of forests and peatlands has made non-industrialized Indonesia the third-largest global greenhouse gas emitter, behind only the US and China.

The full text of the report can be downloaded at www.ran.org/bookreport

The Forest Legality Alliance: An International Initiative to Support the Supply of Legal Forest Products

Excerpted from the Alliance press release

The World Resources Institute, in collaboration with the Environmental Investigation Agency, the United States Agency for International Development, and private sector partners, has launched a multi-stakeholder initiative called the Forest Legality Alliance. At USAID current SCB Policy Director John Fitzgerald and former Board Member Mary Rowan contributed to the development of this initiative as early as 2000-2. SCB Member Alex Dhegan is now the Science Advisor to the Administrator.

As stated in the Alliance’s press release, “The Alliance will seek to reduce demand for illegally harvested wood and increase the capacity of supply chains to deliver legal wood. The Alliance will provide a powerful complement to existing initiatives by focusing on a legality support strategy and emphasizing broader issues of governance and rule of law.”

The Alliance will consist of international companies, industry associations, financial institutions and civil society networks. It will help all involved in the forest product supply chain to respond to the new requirements under the US Lacey Act. The Alliance has three central objectives: 1) To demonstrate that compliance is feasible and cost-effective; 2) To equip forest supply chain participants with the proper tools for exercising due care and keeping illegally harvested goods out of the market; and 3) To educate stakeholders about new country policies and the need for greater transparency in the industry.

Latest on the Illegal Timber Fight: EU to Ban Illegal Timber from 2012

Excerpted from the BBC Science and Environmental Report

According to a recent report from BBC News, European Union legislators have reached a compromise that will require companies to trace the origins of their harvested timber. The BBC reports that “up to 40% of the world's wood production is estimated to come from illegally logged tropical forests.” Unfortunately, timber used for pulp products such as books and newspapers will be exempt for a further 5 years, until 2017. Read the full article at

http://news.bbc.co.uk/2/hi/science_and_environment/10341925.stm

See also an interesting article on the use of tree DNA to fight illegal logging in Singapore at http://news.bbc.co.uk/2/hi/science_and_environment/10341925.stm

Treaties

SCB Supports Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES), A Member Participates in Korea Helping Secure Approval

From the SCB Statement

IPBES is intended to serve as a support system for conservation treaties and other related entities. It provides independent, timely and effective conservation science and assessments of living natural resources (ecosystems, species, and genetic diversity). It also provides science and assessment

regarding the impact of policies and practices upon those resources, and their resilience to changes in the environment and in climate.

The 3rd Meeting of IPBES took place in Busan, Republic of Korea from June 7th to the 11th. According to the IPBES website, “At the end of the first day, there was overall support for the establishment of a new mechanism while further discussion is needed to decide on its specific role, scope, governance structure and funding modalities.”

SCB supports the establishment of an IPBES and suggests there are two fundamental requirements: (a) the existing policy processes must be guided by best available knowledge; and (b) science in its widest sense must be a primary source of this knowledge. SCB also suggests that IPBES should mediate efficient, timely and relevant transfer of best available knowledge, presented in a format relevant for decision making. This mechanism should include:

- Periodic reviews (global and sub-global assessments)
- Flexibility to address specific issues
- Horizon scanning

In addition, SCB offers many suggestions on the organization of IPBES; issues than need to be resolved; securing the involvement of top-level research among other things.

Read the full SCB statement [here](#), and read more about IPBES at <http://ipbes.net/>

Investment and Procurement

News from The United Nations Environmental Programme Finance Initiative

The UNEP FI is an international partnership between the United Nations Environmental Programme and the global financial community. As stated on its website, “Over 190 institutions, including banks, insurers and fund managers, work with UNEP to understand the impacts of environmental and social considerations on financial performance.” Its mission is to identify, promote, and realize the adoption of best environmental and sustainability practice at all levels of financial institution operations.

Current UNEP FI activities include:

- Launching the report, “Green Buildings and the Finance Sector” by the North American Task Force. This report examines the role of the finance sector in the financing and adoption of green buildings in North America.

- Welcoming its first new member from Turkey, the Industrial Development Bank of Turkey (TSKB).
- Member Barclays recently published its Responsible Banking Review for 2009. The Review looks at Barclays' management of issues and lays out how future performance will be measured.

Learn more about UNEP FI at <http://www.unepfi.org/>

Section and Chapter Policy Highlights

Chapters Committee Welcomes New Chapters Public Policy Coordinator and Former Policy Office Intern Cameron Kovach

Cameron will be focused specifically on helping Chapters with their policy efforts. This will include coordinating with the NA Section and Executive Office on their policy activities and needs as well as shepherding Chapters through the SCB policy approvals process.

Cameron graduated from the University of Florida *cum laude* with a degree in Wildlife Ecology and Conservation in 2008. He is currently attending the Vermont Law School, to receive a Masters Degree in Environmental Law and Policy and also to obtain his Juris Doctorate. Over the past several years Cameron has had the opportunity to participate in several research projects across the nation, studying a variety of organisms including Florida Black bears, bluebirds, mangrove cuckoos, several reptiles and amphibians, and the potential habitat of the (in)famous ivory-billed woodpecker.

In the summer of 2008, Cameron interned for SCB Policy Director John Fitzgerald. In Cameron's words, "That experience truly solidified my plans to enter law school, and pursue a career in environmental law and eventually politics." In the mean time, Cameron is trying to stay actively involved in the scientific community in addition to legal studies this summer. He will be participating in a research study focused on the Bicknell's Thrush in central and northern Vermont.

Cameron has been an active member of SCB since 2005.

Social Science Working Group Member Selected As 2010 Udall Fellow

David Cherney is one of two recipients of the 2010 Udall Dissertation Fellowship. The Fellowship is awarded each year to two extraordinary doctoral candidates in the field of environmental policy or

conflict resolution. David is a longtime member of SSWG's Program Committee who has co-organized SSWG symposia at past SCB meetings and represented SSWG at meetings of other professional societies.

David is a doctoral candidate at the University of Colorado at Boulder and is a research associate with the Northern Rockies Conservation Cooperative in Jackson, WY. He holds a master's degree in environmental management from Yale University and a bachelor's degree in environment, economics, and politics from Claremont McKenna College. Cherney's dissertation uses the Greater Yellowstone Ecosystem as a case study to appraise the effectiveness of conservation nonprofits. In 2006, he helped found the Greater Yellowstone Conservation Organizational Inventory. This program documented, for the first time, the scope of conservation nonprofits working around Yellowstone. His published research includes large mammal migration policy in Greater Yellowstone, national park management in southern Ecuador, and water management in the Connecticut River Watershed.

SCB Awards the 2010 Distinguished Service Award to The US Marine Mammal Commission

For its extraordinary contributions to marine mammal science, policy, and conservation, the US Marine Mammal Commission has been awarded a 2010 Distinguished Service Award from SCB.

The Marine Mammal Commission was created under the Marine Mammal Protection Act of 1972, and over its nearly four decades has influenced countless marine mammal and habitat initiatives, including

- Supporting and guiding research leading to groundbreaking discoveries in marine mammal population dynamics, behavior, physiology, and habitat use;
- Helping to lead the scientific and diplomatic initiatives that resulted in the global ban on high seas driftnet fisheries;
- Working with the US Fish and Wildlife Service in the 1980s to create a new, interdisciplinary model of endangered species recovery team for the Florida manatee – a model now widespread in the US for both marine and terrestrial species recovery teams;
- Clarifying in its early years a balance between science and values in the development of the US position favoring a global ban on commercial whaling – a position later adopted by the US and the International Whaling Commission;
- Supporting and promoting critical research on Antarctic ecology, and then playing an instrumental role in US contributions to the establishment of the Convention for the Conservation of Antarctic Marine Living Resources; and
- Making countless contributions to science and management initiatives in marine mammal programs in every corner of the US and in many foreign countries.

The Commission's contributions reflect the proactive approach and critical judgments and analyses of its staff, commissioners, and advisors over the entirety of its history. The Commission continues to be instrumental in advancing science-based conservation, and marine species and ecosystems have benefited greatly from such a stalwart champion.

For more information on the Marine Mammal Commission, please visit www.mmc.gov.

Spotlight on the Caribou of Canada

*From the Canadian Council of Forest Ministers, Sustainable Forest Management of Canada,
and Environment Canada*

The caribou of North America originated from the Arctic and Subarctic and include resident and migratory populations. There are 2.4 million caribou in Canada, among four subspecies, divided by appearance, habitat use and behavior.

One species is the barren-ground caribou, of which our own [Ed](#) is a proud member. While barren-ground caribou herds are not currently listed as a species at risk, according to *Environment Canada*, recent widespread declines in previously plentiful herds are causing significant alarm.

Another species is the woodland caribou. Woodland caribou habitat is large tracts of mature and old-growth coniferous trees with large quantities of arboreal lichens. They prefer areas with little or no human disturbance.

Woodland caribou are classified as at risk across Canada mainly due to habitat fragmentation that is caused by human development. Specifically, habitat loss and fragmentation is a result of conversion of lands for agricultural use; harvesting, roads, pipelines and other disturbances.

An interesting fact about the caribou is that their hooves change with the seasons. In the summer the land is soft and wet; accordingly their footpads become softer and provide greater traction. In the winter, when the ground becomes hard and icy, the footpads shrink, which exposes more of the hoof, enabling the caribou to cut and grip the hard ground and prevent it from slipping.

Caribou have captured the interest of a wide range of historical people, from Aristotle to Julius Caesar. The Canadian quarter features a caribou on one face, and is the official provincial animal of Newfoundland and Labrador, Canada.

We Need You – For Policy Task Forces

Our list of task force volunteers is growing. We are forming task forces on the five global priority issues in addition to a Legal Advisory Team. Many projects have already been undertaken with help from members of the Climate Change and Scientific Integrity Task Forces. And we expect to have a coordinator with experience in invasive species policy working with our Bio-Security Task Force after the Edmonton Conference. We want to encourage you to volunteer for task force work that you could help carry out. Some of you have already volunteered and others are welcome. Let us know if you would like to help by writing to taskforce@conbio.org.

Let Your Voice Be Heard

We want to be sure we are producing the best possible articles and updates for our readers. What can we do better? Would you like to see more in-depth articles? More links to related issues? We welcome your input. Please let us know what you would like to see in future issues of the Policy Insider. Write us at feedback@conbio.org and please indicate “Policy Insider Feedback” in the subject line.

Finally, share your opinions and your expertise with policy decision-makers in your country, state and locality. US members can start at www.house.gov or www.senate.gov or by calling 202-224-3121. Ask to speak with Legislative Aides to your Member of Congress and your two Senators and help your representatives understand how to restore our biological capital by creating a more “Bio-logical Capitol”.
