Written by **William F. Jasper** on November 28, 2012

Obama Using "Endangered" Species to Kill Economy, Push Extreme Agenda

"The U.S. Fish and Wildlife Service today released its Candidate Notice of Review, a yearly appraisal of the current status of plants and animals considered candidates for protection under the Endangered Species Act (ESA)," the USFWS announced in a November 20, 2012 press release. "There are now 192 species recognized by the Service as candidates for ESA protection, the lowest number in more than 12 years," the agency release stated.

Those opening sentences in the press release might have caused many farmers, ranchers, businesses and property owners to heave a sigh of relief, hoping that they might be spared prosecution and persecution due to the reduced ESA candidate list. That could be a false hope, as the Obama administration gives every sign of utilizing all the tools and opportunities at its disposal to stop energy projects, block economic development, and lock up federal lands. As reported here recently ("Specious Endangerment: Obama Awards Spotted Owls 9.6 Million Acres"), the administration has nearly doubled the critical habitat for the Northern Spotted Owl, locking up 9.6 million acres of forestland in Washington, Oregon, and California.

Will a chipmunk or snail darter be used next as a pretext to wreak havoc on an industry, State, or region? The same USFWS press release states: "Today's notice identifies two new candidate species: Peñasco least chipmunk (Sacramento and White Mountains, New Mexico) and Cumberland arrow darter (Kentucky and Tennessee)."

But the new candidates have competition for ESA priority from many other contenders: weeds, bugs, fish, birds, frogs, flies, toads, snakes, etc. Federal agencies and their allies in environmental activist organizations are constantly presenting cases for adding new candidates and expanding the habitat and protection of those already listed as threatened or endangered. Once the proposed ESA rules are published in the *Federal Register*, it is anyone's guess as to how long before the mayhem begins.

On September 11, 2012 the USFWS published this ESA listing in the *Federal Register*:

> We, the U.S. Fish and Wildlife Service, propose to list two Texas plants, Leavenworthia texana (Texas golden gladecress) as an endangered species and Hibiscus dasycalyx (Neches River rose-mallow) as a threatened species under the Endangered Species Act of 1973, as amended (Act) and propose to designate critical habitat for both species.

Property owners will not be comforted to read in the proposed listing that "the majority of lands being proposed for critical habitat designation are owned by private landowners, although the Federal Government and the State of Texas own small portions."

Will the listing of the newly protected weeds end up meaning that Texans will lose many of their property rights to the edicts of federal agencies and federal courts responding to the lawsuits of environmental activist groups? Very likely, unless the ESA is rewritten or abolished.

A month later on October 10, the USFWS struck again, announcing the designation of eight freshwater mussels in Alabama and Florida waterways for EDSA listing. The entry in the *Federal Register* states:

> We, the U.S. Fish and Wildlife Service, determine endangered species status for the Alabama pearlshell (Margaritifera marrianae), round ebonyshell (Fusconaia rotulata), southern kidneyshell (Ptychobranchus jonesi), and Choctaw bean (Villosa choctawensis), and threatened species status for the tapered pigtoe (Fusconaia burkei), narrow pigtoe (Fusconaia escambia), southern sandshell (Hamiota australis), and fuzzy pigtoe (Pleurobema strodeanum), under the Endangered Species Act of 1973, as amended (Act); and designate critical habitat for the eight mussel species.

In this case, the USFWS says the impact on private land owners will be "insignificant," which, if true, might be a first. But few people familiar with the USFWS and the ESA believe the "insignificant" assessment. "The majority of the designation occurs in navigable waterways whose stream bottoms are owned by the States of Alabama and Florida," says the Service. The *Federal Register* entry continues:

> Impacts of this designation could occur on non-Federal riparian lands adjacent to the designated streams where there is Federal involvement (e.g., Federal funding or permitting) subject to section 7 of the Act, or where a decision on a proposed action on federally owned land could affect economic activity on adjoining non-Federal land. However, in general, we believe that the takings implications associated with this critical habitat designation will be insignificant. The takings implications assessment concludes that this designation of critical habitat for these eight mussels does not pose significant takings implications for lands within or affected by the designation.

Even if the listing does not result in the federal government's "taking" of private property, it is almost certain to have significant impacts on commercial and recreational fishing, boating, farming, livestock grazing, irrigation, home building, mining, dredging, oil and gas drilling, and many other uses.

"Stroke of the pen. Law of the land. Kind of cool."

As we reported recently ("Regulators R Us: Feds Crank Up Regulations — on Everything"), the Obama administration is resorting more and more regularly to executive usurpation of legislative powers to advance a radical agenda that Congress has blocked. We noted:

> In 2011, Congress passed 81 bills into law. During the same period, federal agencies promulgated 3,807 regulations — rules that are treated as if they are binding law. These agencies are under the executive branch, which means they are under the president. However, under the U.S. Constitution, the president has no authority whatsoever to make laws. Neither do any of his subordinates. The president's role is to faithfully execute (i.e., administer) the laws passed by Congress, provided of course, that said laws comport with the Constitution.
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> The very first sentence of Article I, Section 1 of the U.S. Constitution states: "All legislative powers herein granted shall be vested in a Congress of the United States." It is difficult to get plainer and more definitive than that: "All legislative powers." Congress is the legislative branch, and it possesses "all legislative powers." The executive and judicial branches have their own peculiar jurisdictions and purviews, but their powers do not include lawmaking. Nor does the Constitution allow the Congress to sublet or delegate its lawmaking authority to the president, bureaucrats, or judges.

U.S. Presidents since FDR — both Republican and Democrat — have been resorting increasingly to the use of executive orders and rule-by-regulation, but it was Paul Begala, counselor to President Bill Clinton, who infamously celebrated this illegal arrogation of power with a cavalier quip.

"Stroke of the pen. Law of the land. Kind of cool," said White House counsel Begala, in a self-satisfied endorsement of Clinton's abuse of executive orders.

Leaders of the Big Green lobby are urging President Obama to ignore the Constitution and Congress and stroke the pen for all its worth to enact all their pet projects by presidential fiat. In a November 7 post on EcoWatch.org, Sierra Club executive director Michael Brune congratulated President Obama for his election victory and challenged him to deliver on his "green" agenda promises. "During his first term, Barack Obama was the first American president to clearly articulate a vision of America leading the world toward a clean-energy future that can meet the challenge of a changing climate," said Brune. "Now, he has four more years to deliver on that promise."

Among the priority items targeted by Brune for President Obama's action:

• Use the EPA to shut down coal mining and "dirty power plants."

• Stop the Keystone Pipeline and "toxic tar sands oil."

• Use the Antiquities Act to establish national monuments by presidential decree.

• "Boldly elevate the issue of climate disruption and climate solutions" and support "clean" wind and solar energy.

President Obama, of course, is already sailing that port tack. As *The New American* has reported in numerous articles over the past four years, the Obama administration's EPA has been attacking the coal industry and power generating plants without letup, guaranteeing that electrical bills will continue to skyrocket and that our future will contain power brownouts and blackouts. (See "Related Articles" below.)

In January of this year, President Obama gave a thumbs down to the Keystone pipeline. TransCanada Corporation announced that it would reapply for a permit for the pipeline, but President Obama will not likely approve it.

Regarding use of the Antiquities Act, President Obama has shown he is already on that page. On September 21, 2012 he signed a proclamation establishing Chimney Rock, located in the San Juan National Forest in southwestern Colorado, as a National Monument.

Chimney Rock is the third National Monument designated by President Obama using the Antiquities Act. At 4,726 acres, it is miniscule compared to the Spotted Owl's domain, and many other national parks, monuments, and forests, but it is another tool that the president can wield, albeit, unconstitutionally, to limit or deny access of "the people" to the peoples' "public lands."

EPA — Nixon's Monster Keeps Getting Bigger and Badder

As problematic and dangerous as the ESA is, however, the biggest, baddest bully in the federal stable is the Environmental Protection Agency (EPA), which has arrogated unto itself the power to regulate and control virtually everything, including CO2, the stuff we exhale with every breath.

Created in 1970 by an executive order of President Richard Nixon, the EPA has morphed into a lethal Leviathan that regularly issues edicts that can bankrupt towns and cities, as well as businesses and individuals. Senator James Inhofe (R-Okla), ranking member of the Senate Environment and Public Works Committee, has provided a detailed indictment of the EPA's regulatory abuses.

Sen. Inhofe highlights, for instance, these horrendously costly and disruptive EPA regulations:

Ozone rule — The EPA has proposed tightening the national ambient air quality standards (NAAQS) for ground-level ozone. The compliance cost could range from $19 to $90 billion, making them the most expensive EPA regulations ever proposed. If these rules go into effect, many towns and cities across the nation not currently in violation of EPA ozone standards will suddenly find themselves on the agencies "dirty air list" and will be subject to costly fines and mitigation mandates.

Utility MACT — EPA's Utility Maximum Achievable Control Technology (MACT) rules will force the retirement of 30 to 100 gigawatts of coal-fired electricity. That's the potential elimination of 20 percent of America's coal plants, along with hundreds of thousands of jobs. The impact will be felt hardest in these states: West Virginia, 90 percent coal-fired; Ohio, 80 percent coal-fired; Michigan, 60 percent coal-fired; Minnesota, 60 percent coal-fired; and Wisconsin, 66 percent coal-fired.

Boiler MACT — Boiler Maximum Achievable Control Technology (MACT) would impose stringent emission limits and monitoring requirements for industrial boilers used in manufacturing, processing, mining, refining, as well as commercial boilers used in malls, laundries, apartments, restaurants, and hotels. IHS-Global Insight concluded that the proposal could put up to 798,250 jobs at risk. Moreover, they said every $1 billion spent on upgrade and compliance costs will put 16,000 jobs at risk and reduce US GDP by as much as $1.2 billion.

Portland Cement MACT — According to EPA, "A projected 181 Portland cement kilns will be operating at approximately 100 facilities in the United States in the year 2013." EPA's new emissions standards under will apply to 158 of those kilns. According to the Portland Cement Association, EPA's rule puts up to 18 cement plants at risk of shutting down, threatening nearly 1,800 direct jobs and 9,000 indirect jobs. With cement being crucially important to construction, the costs of building will escalate and more jobs will be jeopardized in the construction trades as well.

Farm Dust rule — The EPA, which has been regulating farm dust for decades, indicates it may tighten the standards as part its review of the National Ambient Air Quality Standards (NAAQS). This could very likely put the standard below the amount of dust created during normal farming operations, making it impossible to meet. The effect will be to drive many already struggling family farms into insolvency — and to drive up food prices even higher.

Obama EPA's "Crucifixion" Strategy

The onerous and staggeringly expensive regulations outlined above barely scratch the surface of the punitive burdens the Obama administration's EPA intends to fasten upon us. Is punitive too strong a characterization? Hardly. In fact, additional adjectives, such as *brutally* and *ferociously* may need to be appended to *punitive*, in order to do justice to the nature of the EPA regulatory regime.

Consider EPA Region 6 Administrator Al Armendariz. Although some Americans have heard of him, Al Armendariz should be universally known and despised as the kind of bureaucratic tyrant not to be tolerated in this Republic. But President Obama's friends in the establishment-controlled media assured that Armendariz's shocking Al Capone enforcement style would not blow back on the president. Armendariz said that his philosophy of enforcement "was kind of like how the Romans used to conquer little villages in the Mediterranean. They'd go into a little Turkish town somewhere, they'd find the first five guys they saw, and they would crucify them. And then you know that town was really easy to manage for the next few years."

According to Armendariz, you find folks who are not in compliance with the EPA's constantly changing, draconian edicts, and "you hit them as hard as you can, make examples of them. There's a deterrent

there." For those who have already felt the dread blows of the EPA, Armendariz's comments are not surprising. What is surprising is that they were caught on video (embedded at the end of this article).

Even the pro-Obama, left-tilted *Washington Post* found Armendariz's attitude chilling and welcomed his resignation. In an editorial entitled "The EPA is earning a reputation for abuse," the *Post* editorial board noted that the Armendariz statement followed soon on the heels of a smack-down of the EPA by the Supreme Court for the Agency's despotic treatment of the Sackett family, who have been dragged through years of regulatory hell in their attempt to build their home. By accepting Al Armendariz's resignation, Obama and EPA Administrator Lisa Jackson may have solved one of their election year political problems, but they did nothing to change the EPA's ongoing crucifixion strategy.

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