Written by **Warren Mass** on March 1, 2017

Radical Environmentalists Sue EPA Head to Eliminate Dams Alleged to Harm Salmon

On February 23, a group of radical environmental organizations filed a lawsuit against Scott Pruitt, administrator of the U.S. Environmental Protection Agency, in the U.S. District Court in Seattle, demanding that the EPA prevent "temperature pollution" in the Columbia and Snake Rivers, which have allegedly "exceeded state water quality standards, harming salmon and steelhead."

Pruitt, who was previously the Oklahoma state attorney general, was confirmed for his post by the Senate on February 17 — just six days before the lawsuit was filed.

An article about the filing of the lawsuit posted on the webpage of the principle plaintiff, Columbia Riverkeeper, indicates that the groups suing Pruitt have an agenda that goes far beyond regulating local activities on the Columbia and Snake Rivers that might have an impact on their water temperature. The second paragraph of that article shows their hand immediately:

> Scott Pruitt, President Trump's newly confirmed EPA Administrator, has questioned the need to fight climate change. This lawsuit would compel EPA to write a TMDL [total maximum daily load] — a plan to keep the rivers cool enough for salmon and steelhead in the face of global warming. This is the nation's first lawsuit against EPA Administrator Scott Pruitt listed as defendant in his official capacity.

One would hope that this is the first lawsuit against Pruitt, considering that he was EPA administrator for only six days (barely long enough to find his way around his office, much less make any policy changes at the agency) when the lawsuit was filed. Notice how the environmentalists quickly jump on the point that Pruitt has questioned the need to fight climate change and that the lawsuit would "compel EPA to write … a plan to keep the rivers cool enough for salmon and steelhead in the face of global warming."

As we wade through the language of the lawsuit, we find that the plaintiffs charge that the EPA identified dams on the Columbia and Snake Rivers as the primary contributors to high water temperatures but abandoned the TMDL process shortly after releasing the draft and never issued a final TMDL.

The plaintiffs are therefore blaming *dams* on the rivers for higher water temperatures. So where does "global warming" come in? Those who believe that global warming (or climate change) is anthropogenic (human caused) and is caused by greenhouse gases emitted by human activity have long blamed the phenomenon on the burning of fossil fuels such as coal and petroleum. And yet, a search of the lawsuit's text shows no references to coal, petroleum, carbon, or any of the usual culprits generally blamed for global warming.

Therefore, the reference to Pruitt's questioning the need to fight climate change seems completely

irrelevant to water temperatures on the rivers — unless the groups simply wanted to bloody his nose before going in for the knockout punch.

The environmentalists' lawsuit demanded that the EPA issue a "pollution budget, called a total maximum daily load ('TMDL'), for temperature pollution in the Columbia and Snake Rivers in Oregon and Washington." The term "total maximum daily load"(TMDL) is a regulatory term in the U.S. Clean Water Act, describing a value of the maximum amount of a pollutant that a body of water can receive while still meeting water quality standards. The Clean Water Act became Public Law 92-500, published on October 18, 1972. The only reference to temperature in that law is as follows:

> (D) Each State shall estimate for the waters identified in paragraph (1)(B) of this subsection the total maximum daily thermal load required to assure protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife. Such estimates shall take into account the normal water temperatures flow rates, seasonal variations, existing sources of heat input, and the dissipative capacity of the identified waters or parts thereof. Such estimates shall include a calculation of the maximum *heat input that can be made into each such part* and shall include a margin of safety which takes into account any lack of knowledge concerning the development of thermal water quality criteria for such protection and propagation in the identified waters or parts thereof. [Emphasis added.]

Notice the italicized words above. The wording of the law indicating a maximum heat *input* that can be made *into* a body of water clearly suggests that the law is intended to regulate the discharge of hot water into the river or lake, such as the output of water produced by a power plant. Since dams do not discharge anything *into* the water, but merely contain the water, it is impossible for them (absent other naturally occurring conditions) to raise the temperature of the water.

The law does not use the term "temperature" in any other place and whenever the term "thermal" occurs, it refers to "thermal discharges." For example, in the section headed "Thermal Discharges," it states:

> Whenever the owner or operator of any such source, after opportunity for public hearing, can demonstrate to the satisfaction of the Administrator (or, if appropriate, the State) that any effluent limitation proposed for the control of the thermal component of any discharge from such source will require effluent limitations more stringent than necessary to assure the projection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made, the Administrator (or, if appropriate, the State) may impose an effluent limitation under such sections for such plant.

Language such as "thermal discharge," "the thermal component of any discharge," and "effluent limitation," clearly indicates that the law seeks to regulate the temperature of discharges made from plants (such as power plants) and does not refer to naturally flowing water held back by dams.

In the lawsuit, the plaintiffs complained: "Shortly after the [EPA's] July 2003 Preliminary Draft became public, EPA abandoned the temperature TMDL, due in part to pressure from other federal agencies responsible for managing dams on the Columbia and Lower Snake Rivers."

An interesting point to raise, however, is that if the EPA has been "abandoning" the temperature TMDL since July 2003, when George W. Bush was president, and has apparently continued that "abandonment" through all eight years of the Obama administration, why have the environmental groups decided to sue this particular administrator of the EPA, and only six days after he assumed his

position? Between July 2003 and the time Pruitt assumed his post, there were 11 EPA administrators, yet the environmentalists did not sue any of them.

The most obvious explanation for this erratic action is that the environmental activists who filed this lawsuit are part of a radical coalition that seeks to obstruct the flow of our free enterprise system. Since both our new president and our new EPA administrator have indicated that they are unsympathetic to the agenda of the extreme environmentalists, they have decided to go on the offensive very quickly, before the Trump administration EPA head has even had time to get settled.

As noted earlier the principal plaintiff in the lawsuit is Columbia Riverkeeper. This organization's name came up in a report produced by FreedomWorks Foundation entitled "Radical Environmental Obstructionism: How the fanatic extremism of the few poses grave dangers to us all." While the report is lengthy, a few pertinent points include:

> Oregon is a prime example. An environmentally conscious individual in Oregon seeking information on potential groups with which to align herself could do an internet search and see plentiful options such as the Sierra Club of Oregon, Citizens Against the Pipeline, *Columbia Riverkeeper*, Willamette Riverkeeper, Ratepayers For Affordable Clean Energy, Friends of Living Oregon Waters (FLOW), No California Pipeline, Southern Oregon Clean Air Coalition, Columbia River Clean Energy Coalition, West Coast Climate Convergence, Rogue Group Sierra Club, and Energy Options. [Emphasis added.]
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> The sheer quantity of organizations may lead this casual observer to think these groups represent an immense grass-roots environmental movement.
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> However, a more careful analysis reveals that all of the aforementioned groups are either physically or ideologically controlled by a very small group of people. In fact, in this example, just two people, Brent Foster and Dan Serres, together largely influence and control the aforementioned organizations and stamp their radical anti-energy philosophy on all the groups….
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> An even darker danger posed by fanatical fringe environmental obstructionist groups is the affiliation of these groups with extreme activists who propagate pure violence. Foster's *Columbia Riverkeeper*, for example, listed for months on one of its websites, under "Friends," a link to the SHAC 7 website and Cascadian Independence Project, a radical environmental secessionist organization that wants Oregon, Washington and British Columbia to form its own nation. [Emphasis added.]
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> The infamous SHAC 7 terrorists were convicted in 2006 under the Federal Animal Enterprise Protection Act and jailed in federal prisons.
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> John Lewis, FBI Deputy Assistant Director of Eco-Terrorism, testified before Congress that SHAC has, since 1999, conducted a "relentless campaign of terror and intimidation including (car) bombings, death threats, vandalism, office invasions, phone blockades and attacks on computer systems." The FBI attributes well over a dozen car bombings alone to the group….
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> LINK BETWEEN SHAC 7 AND COLUMBIA RIVERKEEPER
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> CRK does not purport to have any formal connection with SHAC or with the SHAC 7. However, a cursory review of the groups' websites and news stories indicates they share much of the same political ideology and sympathize with many of the same radical fringe environmental and animal rights activist groups. Further, there is a physical connection between CRK and SHAC 7's on the

web.

The nonstop demonstrations — and even riots — in the streets across America since the election of Trump to the presidency are an indication that the radical Left is in panic mode by the prospects of this administration placing major roadblocks in their collective paths. This lawsuit against Scott Pruitt indicates that the radicals will use any tools they can, even the federal courts, to accomplish their objectives.

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