

# Endnotes

## A Record of Rollbacks

<sup>1</sup> See testimony of Thomas O. McGarity, Professor of Law, University of Texas School of Law, before the House Subcommittee on Energy, Policy, Natural Resources and Regulatory Affairs of the Committee on Government Reform (March 27, 2001).

<sup>2</sup> At the time, media attention focused heavily on the administration's review of new restrictions on arsenic in drinking water. Yet ironically, or perhaps consequently, this was one of the few major Clinton-era standards the administration chose to retain. Despite its original inclination to weaken the arsenic restrictions, the administration could not ignore the resulting political firestorm. This included a rebuke by Congress and was further fueled by a National Academy of Sciences study – done at the administration's request – that found even greater health benefits than previously expected.

<sup>3</sup> Natural Resources Defense Council, Bush Administration Errs on Kyoto Global Warming Agreement (online at <http://www.nrdc.org/globalwarming/kyotoqa.asp>).

<sup>4</sup> Natural Resources Defense Council, Marrakech Agreement Clears Last Hurdle for Global Warming Treaty (Nov. 10, 2001) (online at <http://www.nrdc.org/media/pressreleases/011110.asp>).

<sup>5</sup> Donald Evans, Rx For Global Climate Change (Dec. 3, 2002) (online at <http://www.useu.be/Categories/ClimateChange/Dec0302EvansClimateChange.html>).

<sup>6</sup> 68 Fed. Reg. 34851 (June 11, 2003)

<sup>7</sup> Center for Responsive Politics, The Bush Administration: Corporate Connections (online at <http://www.opensecrets.org/bush/cabinet/cabinet.evans.asp>)

<sup>8</sup> Center for Responsive Politics, A Money in Politics Backgrounder on the Energy Industry (5/16/01) (online at <http://www.opensecrets.org/pressreleases/energybriefing.htm>).

<sup>9</sup> National Academy of Sciences, Planning Climate and Global Change Research: A Review of the Draft US Climate Change Science Program Strategic Plan (2003).

<sup>10</sup> Texas Environmental Profiles, "Major Stationary Sources of Air Pollution" (1999). Online at [http://www.texasep.org/html/air/air\\_6maj.html](http://www.texasep.org/html/air/air_6maj.html).

<sup>11</sup> Chemical Week, OMG, Bayer, and Cabot Cited for Exploitation in Africa (Oct. 30, 2002).

<sup>12</sup> Mother Jones, Mike Smith, Assistant Secretary for Fossil Energy (Sept. 1, 2003) (online at <http://www.motherjones.com/news/featurex/2003/09/smith.html>).

<sup>13</sup> Smith is an outspoken proponent for drilling in the Arctic National Wildlife Refuge.

<sup>14</sup> Robert S. McIntyre, One for Oil, American Prospect (March 11, 2002).

<sup>15</sup> Jake Tapper, Poisoned Fairways, Salon.com (Jan. 31, 2003).

<sup>16</sup> Earthjustice, White House Watch Administration Profiles: Jean-Marie Peltier (2002).

<sup>17</sup> General Accounting Office, Air Pollution: Emissions from Older Electricity Generating Units (June 2002) (online at <http://www.gao.gov/new.items/d02709.pdf>).

<sup>18</sup> Natural Resources Defense Council, Southern's Fingerprints Seen on Energy Policy (March 28, 2002) (online at <http://www.nrdc.org/news/newsDetails.asp?nID=584>).

<sup>19</sup> U.S. PIRG, Southern Company: A Giant Among Polluters (April 3, 2001) (online at <http://www.pirg.org/reports/enviro/southern/giantpolluters.html>).

<sup>20</sup> Eric Pianin and Dan Morgan, EPA Will Ease Coal Plant Rules, Washington Post (March 18, 2002).

<sup>21</sup> Id.

<sup>22</sup> Eric Pianin, Clean-Air Ruling Puts Blame on Ohio Utility, Washington Post (Aug. 8, 2003).

<sup>23</sup> National Academy of Public Administration, A Breath of Fresh Air: Reviving the New Source Review Program (April 2003) (online at <http://www.napawash.org/Pubs/Fresh Air Full Report.pdf>).

<sup>24</sup> Sen. Jim Jeffords, Reaction to Administration's New Source Review Proposal (June 13, 2002) (online at <http://www.senate.gov/~jeffords/press/02/06/06132002nsr.html>).

<sup>25</sup> Center for Responsive Politics and [www.whitehouseforsale.org](http://www.whitehouseforsale.org), a project of Public Citizen and Texans for Public Justice.

<sup>26</sup> Memo from Thomas Kuhn, June 22 Reception with Gov. George W. Bush (May 27, 1999).

<sup>27</sup> Public Citizen, Bush's Campaign Ads... Brought to You By Special Interests (March 2004).

<sup>28</sup> See Public Citizen, EPA's Smoke Screen: How Congress Was Given False Information While Campaign Contributions and Political Connections Guttled a Key Clean Air Rule (October 2003); Michael Weisskopf and Adam Zagorin, Getting the Ear of Dick Cheney, Time (Feb. 3, 2002); Pete Yost, Almost All Energy Policy Meetings Participants Were from Industry, Associated Press (March 2, 2002).

<sup>29</sup> Eric Pianin, EPA Rule Revisions Roil U.S. Case Against Power Plants, Washington Post (Oct. 6, 2003).

<sup>30</sup> The court is expected to give its final ruling toward the end of 2004.

<sup>31</sup> Christopher Lee, Court Blocks Clean Air Change, Washington Post (Dec. 25, 2003).

<sup>32</sup> C. Arden Pope III, et al., Lung Cancer, Cardiopulmonary Morality, and Long-Term Exposure to Fine Particulate Air Pollution, The Journal of the American Medical Association, Vol. 287 No. 9 (March 6, 2002).

<sup>33</sup> 67 Fed. Reg. 80185 (Dec. 31, 2002)

<sup>34</sup> Sierra Club, Power Ties (online at <http://www.sierraclub.org/sierra/200111/lo18.asp>)

<sup>35</sup> Bruce Barcott, Changing All the Rules, New York Times Magazine (April 4, 2004).

<sup>36</sup> Democratic Policy Committee, A Sweetheart Deal: How the Republicans Have Turned the GOVERNMENT Over to Special Interests (Feb. 14, 2003).

<sup>37</sup> Natural Resources Defense Council, The Bush Administration's Air Pollution Plan (Sept. 5, 2003) (online at <http://www.nrdc.org/air/pollution/qbushplan.asp>).

<sup>38</sup> Natural Resources Defense Council, Untangling the Accounting Gimmicks in White House Global Warming, Pollution Plans (February 2002) (online at <http://www.nrdc.org/globalwarming/agwcon.asp>).

<sup>39</sup> Jeff Nesmith and Mike Boyer, Utilities Push Clear Skies Act, Cincinnati Enquirer (July 5, 2003).

<sup>40</sup> Email message obtained by Clean Air Trust available at <http://www.cleanairtrust.org/eei.email.html>.

<sup>41</sup> See web site at <http://www.cleanerair4u.org/eei/>.

<sup>42</sup> Earthjustice, Three Cases Speak Volumes About New EPA Choice (Aug. 13, 2003) (online at <http://www.earthjustice.org/news/display.html?ID=661>).

<sup>43</sup> Much of what follows draws from an analysis by the Natural Resources Defense Council, EPA's Mercury Proposal: More Toxic Pollution for a Longer Time (Dec. 5, 2003) (online at <http://www.nrdc.org/media/pressreleases/031205.asp>).

<sup>44</sup> Tom Hamburger and Alan C. Miller, Mercury Emissions Rule Geared to Benefit Industry, Staffers Say, Los Angeles Times (March 16, 2004); see also Eric Pianin, Proposed Mercury Rules Bear Industry Mark, Washington Post (Jan. 31, 2004).

<sup>45</sup> Id.

<sup>46</sup> Id.

<sup>47</sup> Estimates from the Natural Resources Defense Council based on data from the Chlorine Institute, Sixth Annual Report to EPA (May 12, 2003), and EPA's Toxics Release Inventory (online at <http://www.epa.gov/tri/>).

<sup>48</sup> One of these plants is owned by Occidental Chemical,

whose former CEO and president, J. Roger Hirl, was a 2000 Pioneer.

<sup>49</sup> Natural Resources Defense Council, EPA Failing to Protect Americans from Chlorine Plant Mercury Pollution, According to NRDC-Sierra Club Lawsuit (Feb. 17, 2004) (online at <http://www.nrdc.org/media/pressreleases/040217.asp>).

<sup>50</sup> The Clean Air Act allows EPA to "delist" a hazardous pollutant only if the agency finds that no emissions from any one source will "exceed a level which is adequate to protect public health with an ample margin of safety and no adverse environmental effect will result from emissions from any source." Indeed, the administration must know it's disobeying the law; after all, why propose the Clear Skies Initiative to Congress if it already possessed the necessary legal authority to move forward?

<sup>51</sup> Letter to EPA Administrator Michael Leavitt from Eric Schaeffer, director of the Environmental Integrity Project (Jan. 21, 2004) (online at [http://www.environmentalintegrity.org/pubs/leavitt\\_mercury\\_letter.pdf](http://www.environmentalintegrity.org/pubs/leavitt_mercury_letter.pdf)); also see EPA chart at [http://www.environmentalintegrity.org/pubs/Mercury\\_Chart\\_1-21-04.pdf](http://www.environmentalintegrity.org/pubs/Mercury_Chart_1-21-04.pdf).

<sup>52</sup> *Fund for Animals v. Norton*, 294 F. Supp. 2d 92 (D.D.C. 2003) (online at <http://www.dcd.uscourts.gov/02-2367.pdf>).

<sup>53</sup> Julie Cart, Expanded Snowmobile Use in Yellowstone Halted, Los Angeles Times (Dec. 17, 2003)

<sup>54</sup> Rene Sanchez, Judge Rejects Bush's Park Plan, Washington Post (Dec. 18, 2003).

<sup>55</sup> Statement by Sen. Olympia Snowe (Dec. 15, 2003) (online at [http://snowe.senate.gov/prt\\_environment.htm](http://snowe.senate.gov/prt_environment.htm)).

<sup>56</sup> 66 Fed. Reg. 3335-3356 (Jan. 12, 2001)

<sup>57</sup> *Natural Resources Def. Council, Inc. v. Abraham*, 355 F.3d 179 (2d Cir. 2004).

<sup>58</sup> See statement online at <http://caag.state.ca.us/newsalerts/2004/04-005.htm>.

<sup>59</sup> Natural Resources Defense Council, Press Backgrounder: The Benefits of Reinstating the Clinton Air Conditioner Standard (Jan. 16, 2004) (online at <http://www.nrdc.org/media/pressreleases/040116.asp>).

<sup>60</sup> Peter Behr, Air Conditioner Energy Standard to be Relaxed, Washington Post (April 14, 2001).

<sup>61</sup> Letter from Linda Fisher, former EPA Deputy Administrator, to Ms. Brenda Edwards-Jones, Department of Energy (online at <http://www.ombwatch.org/regs/2001/epa-doe.html>).

<sup>62</sup> Floor Statement of Sen. Jeff Bingaman (Oct. 31, 2001) (online at [http://energy.senate.gov/news/dem\\_release.cfm?id=179386](http://energy.senate.gov/news/dem_release.cfm?id=179386)).

<sup>63</sup> *Id.*

<sup>64</sup> Tom Hamburger, Political Energy: A Coal-Fired Crusade Helped Bring Bush A Crucial Victory, Wall Street Journal (June 13, 2001).

<sup>65</sup> Center for Responsive Politics, Mining: Long-term Contribution Trends (online at <http://www.opensecrets.org/industries/indus.asp?ind=E04>).

<sup>66</sup> Center for Responsive Politics and [www.whitehouseforsale.org](http://www.whitehouseforsale.org), supra note 25.

<sup>67</sup> Tom Hamburger, Political Energy: A Coal-Fired Crusade Helped Bring Bush A Crucial Victory, Wall Street Journal (June 13, 2001).

<sup>68</sup> Public Citizen, supra note 27.

<sup>69</sup> *Id.*

<sup>70</sup> 67 Fed. Reg. 31129 (May 9, 2002)

<sup>71</sup> Letter from Reps. Christopher Shays, Jim Ramstad, James A. Leach, Nancy L. Johnson, Benjamin A. Gilman, Stephen Horn, Constance Morella, Wayne T. Gilchrest, Sherwood L. Boehlert, Marge Roukema, Sue W. Kelly, and Mark Foley to President Bush (March 25, 2002) (online at <http://www.ombwatch.org/regs/2002/032502miningltr1.pdf> and <http://www.ombwatch.org/regs/2002/032502miningltr2.pdf>).

<sup>72</sup> *Kentuckians for the Commonwealth v. Rivenburgh*, 204 F. Supp. 2d 927 (S.D.W.Va. 2002).

<sup>73</sup> *Kentuckians for the Commonwealth v. Rivenburgh*, 317 F.3d 425, 439 (4th Cir. 2003).

<sup>74</sup> 69 Fed. Reg. 1036 (Jan. 7, 2004).

<sup>75</sup> Earthjustice, White House Watch Administration Profiles: Mike Parker (2002).

<sup>76</sup> *Id.*

<sup>77</sup> Earthjustice, Bush Administration Proposes Rewriting of Stream Protection Rule In Favor of Mountaintop Removal Coal Mining (Jan. 7, 2004) (online at <http://www.earthjustice.org/news/display.html?ID=756>).

<sup>78</sup> Department of the Interior, Memo: Mill Site Location and Patenting Under the 1872 Mining Law (Oct. 7, 2003) (online at <http://www.doi.gov/patenting.pdf>).

<sup>79</sup> Democratic Policy Committee, supra note 36.

<sup>80</sup> Earthjustice, White House Watch Administration Profiles: William Geary Myers, III (2002).

<sup>81</sup> Mineral Policy Center, Unlimited Toxic Waste Dumps Allowed on Public Lands (Oct. 10, 2003).

<sup>82</sup> 66 Fed. Reg. 54833 (Oct. 30, 2001)

<sup>83</sup> John Heilprin, Interior Secretary Urges Congress to Reform Mining Rules, Associated Press (Dec. 11, 2001).

<sup>84</sup> Earthjustice, White House Watch Administration Profiles: Rebecca W. Watson (2002).

<sup>85</sup> Natural Resources Defense Council, *Rewriting the Rules*, 3rd Annual Edition (April 2004).

<sup>86</sup> *Id.*

<sup>87</sup> EPA Toxics Release Inventory.

<sup>88</sup> *Mineral Policy Ctr. v. Norton*, 292 F. Supp. 2d 30 (D.D.C. 2003).

<sup>89</sup> Earthjustice & Public Campaign, PAYBACKS (September 2002); Public Citizen, supra note 27.

<sup>90</sup> Natural Resources Defense Council, Data Show Industry had Extensive Access to Cheney's Energy Task Force (May 21, 2002) (online at <http://www.nrdc.org/media/pressreleases/020521.asp>).

<sup>91</sup> Natural Resources Defense Council, Heavily Censored Energy Department Papers Show Industry is the Real Author of Administration's Energy Task Force Report (March 27, 2002) (online at <http://www.nrdc.org/media/pressreleases/020327.asp>).

<sup>92</sup> OMB Watch, Transition Advisory Teams (online at <http://www.ombwatch.org/ombwatcher/Transition.pdf>).

<sup>93</sup> [www.whitehouseforsale.org](http://www.whitehouseforsale.org)

<sup>94</sup> *California v. Norton*, 311 F.3d 1162 (9th Cir. 2002). The administration declined to appeal the case, brought by the state of California and environmental groups, to the Supreme Court.

<sup>95</sup> Natural Resources Defense Council, The Bush Energy Plan & America's Public Lands (Dec. 23, 2003) (online at <http://www.nrdc.org/land/use/qwest.asp>).

<sup>96</sup> Don Van Natta, Jr., and Neela Banerjee, Bush Policies Have Been Good to Energy Industry, New York Times (April 21, 2002).

<sup>97</sup> Natural Resources Defense Council, BLM Approved Powder River Basin Development (April 30, 2003).

<sup>98</sup> Michael Grunwald, Interior Official's Memo Raises Conflict Issue, Washington Post (May 25, 2002).

<sup>99</sup> *Id.*

<sup>100</sup> See Griles recusal agreement online at <http://www.firegriles.com/pdf/griles-recusal.pdf>.

<sup>101</sup> Earthjustice, White House Watch Administration Profiles: J. Steven Griles (2002).

<sup>102</sup> *Id.*

<sup>103</sup> Eric Pianin, Administration Official's Lobbying Ties Decried, Washington Post (Sept. 25, 2002); Jeffrey St. Clair, Meet Steven Griles: Big Oil's Inside Man, Counterpunch (June 28, 2003) (online at <http://www.counterpunch.org/stclair06282003.html>).

<sup>104</sup> Environmental Media Services, Environmental, Ethics Groups Call for Special Counsel to Conduct Criminal Investigation of Deputy Interior Secretary's Conduct (June 3, 2003) (online at [http://www.ems.org/interior/griles\\_release.html](http://www.ems.org/interior/griles_release.html)).

<sup>105</sup> Campaign to Protect America's Lands, BLM Plan Changed to Suit Donor (March 4, 2004) (online at [http://www.protectamericaslans.org/special\\_blmotero.asp](http://www.protectamericaslans.org/special_blmotero.asp)).

<sup>106</sup> 68 Fed. Reg. 67467 (Dec. 2, 2003)

<sup>107</sup> John Heilprin, New Plan to Drill for Oil, Gas In Alaska, Seattle Post-Intelligencer (Nov. 21, 2003).

- <sup>108</sup> Earthjustice, Bush Administration Makes Fresh Grab for Alaska Oil (Jan. 22, 2004) (online at <http://www.earthjustice.org/news/display.html?ID=765>).
- <sup>109</sup> Maureen Clark, Norton Defends Choice for Special Assistant to Alaska, Juneau Empire Online (June 21, 2001).
- <sup>110</sup> Earthjustice, Bush Administration Makes Fresh Grab for Alaska Oil (Jan. 22, 2004) (online at <http://www.earthjustice.org/news/display.html?ID=765>).
- <sup>111</sup> Sierra Magazine, Power Ties, (Nov./Dec. 2001) (online at <http://www.sierraclub.org/sierra/200111/ol8.asp>).
- <sup>112</sup> Juliet Eilperin, Utah Oil and Gas Leases Stir Criticism, Washington Post (March 1, 2004).
- <sup>113</sup> Environmental Working Group, Website Reveals Size, Scope and Locations of Utah Public Land Giveaways To Oil and Gas Companies (Feb. 18, 2004) (online at [http://www.ewg.org/reports/UT\\_oil&gas/](http://www.ewg.org/reports/UT_oil&gas/)).
- <sup>114</sup> Cummings v. Norton, No. 2:99-CV-0321PGC, 2003 U.S. Dist. LEXIS 19433 (D. Utah Oct. 20, 2003).
- <sup>115</sup> Natural Resources Defense Council, An Environmental Profile: Gale Ann Norton (Jan. 12, 2001).
- <sup>116</sup> Center for Responsive Politics, Contributors to Gale Norton's '96 Senate Run (Jan. 11, 2001) (online at [http://www.opensecrets.org/alerts/v6/alertv6\\_05.asp](http://www.opensecrets.org/alerts/v6/alertv6_05.asp)).
- <sup>117</sup> President Nixon signed NEPA into law in 1970.
- <sup>118</sup> 67 Fed. Reg. 72769 (Dec. 6, 2002)
- <sup>119</sup> Earthjustice, White House Watch Administration Profiles: Mark Rey, (2002).
- <sup>120</sup> Id.
- <sup>121</sup> 68 Fed. Reg. 33581 (June 4, 2003)
- <sup>122</sup> 68 Fed. Reg. 44597 (July 29, 2003)
- <sup>123</sup> 69 Fed. Reg. 1529 (Jan. 9, 2004)
- <sup>124</sup> Defenders of Wildlife, Sabotaging the Endangered Species Act: How the Bush Administration Uses the Judicial System to Undermine Wildlife Protections (December 2003) (online at <http://www.defenders.org/wildlife/esa/report/>).
- <sup>125</sup> This includes two separate public comment periods.
- <sup>126</sup> Natural Resources Defense Council, supra note 86.
- <sup>127</sup> Earthjustice, Earthjustice Defends Against Major Assaults on Roadless Rule (July 15, 2003) (online at <http://www.earthjustice.org/news/display.html?ID=640>).
- <sup>128</sup> Dan Berman, Feds Will Not Appeal Ruling Striking Down Roadless Rule, Greenwire (Sept. 15, 2003).
- <sup>129</sup> Natural Resources Defense Council, supra note 85.
- <sup>130</sup> Id.
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- <sup>132</sup> 68 Fed. Reg. 68451 (Dec. 8, 2003)
- <sup>133</sup> This analysis is drawn from Earthjustice, Bush Administration Proposes Weakening Grazing Rules (Feb. 5, 2004) (online at <http://www.earthjustice.org/news/display.html?ID=774>).
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- <sup>135</sup> Earthjustice, Quick Facts About Grazing (online at <http://www.earthjustice.org/background/display.html?ID=81>).
- <sup>136</sup> Natural Resources Defense Council, supra note 86.
- <sup>137</sup> Southeast Alaska Conservation Council, Taxpayer Losses and Missed Opportunities: How Logging and Road Building in the Tongass National Forest Costs Taxpayers Millions (2003) (online at <http://www.seacc.org/Publications/Subsidy.pdf>).
- <sup>138</sup> Natural Resources Defense Council, Bush Administration Backtracking on Policy of "No Net Loss of Wetlands" (Dec. 26, 2002) (online at [http://www.nrdc.org/bushrecord/water\\_wetlands.asp](http://www.nrdc.org/bushrecord/water_wetlands.asp)).
- <sup>139</sup> Center for Responsive Politics and [www.whitehouseforale.org](http://www.whitehouseforale.org), supra note 25.
- <sup>140</sup> Public Citizen, supra note 27.
- <sup>141</sup> 67 Federal Register 2019 (Jan. 15, 2002)
- <sup>142</sup> Michael Grunwald, White House Relaxes Rules on Protection of Wetlands, Washington Post (Jan. 15, 2002).
- <sup>143</sup> Board on Environmental Studies and Toxicology, Compensating For Wetlands Losses Under the Clean Water Act (2001).
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- <sup>146</sup> 68 Federal Register 1991-1998 (Jan. 15, 2003).
- <sup>147</sup> The following examples are borrowed with permission from Public Citizen, supra note 27.
- <sup>148</sup> Resignation statement of Bruce Boler (online at [http://www.peer.org/EPA/Boler\\_Statement.html](http://www.peer.org/EPA/Boler_Statement.html)).
- <sup>149</sup> This analysis is drawn from the Natural Resources Defense Council, EPA Proposal Allowing Water Treatment Plants to Discharge Partially Treated Sewage Threatens Health, says NRD (Nov. 3, 2003) (online at <http://www.nrdc.org/media/pressreleases/031103.asp>).
- <sup>150</sup> Id.
- <sup>151</sup> Solid Waste Agency v. United States Army Corps of Eng'rs, 531 U.S. 159 (2001).
- <sup>152</sup> Eric Pianin, EPA Scraps Changes to Clean Water Act, Washington Post (Dec. 17, 2003).
- <sup>153</sup> Daniel B. Wood, US Military Eyes More Environmental Leeway, Christian Science Monitor (June 3, 2002).
- <sup>154</sup> These laws include the Endangered Species Act; the Marine Mammal Protection Act; the Clean Air Act; the Comprehensive Environmental Restoration, Compensation, and Liability Act; and the Resource Conservation and Recovery Act.
- <sup>155</sup> Paul Wolfowitz, Deputy Secretary of Defense, Consideration of Requests for Use of Existing Exemptions Under Federal Environmental Laws (Mar. 7, 2003) (online at [http://www.peer.org/Military/Wolfowitz\\_memo.pdf](http://www.peer.org/Military/Wolfowitz_memo.pdf)).
- <sup>156</sup> Public Employees for Environmental Responsibility, Pentagon to Invoke "National Security" Exemptions in Environmental Laws (Mar. 20, 2003) (online at <http://www.peer.org/press/324.html>).
- <sup>157</sup> Earthjustice, White House Watch Administration Profiles: John Paul Woodley (2002).
- <sup>158</sup> Earthjustice, White House Watch Administration Profiles: Donald Schregardus.
- <sup>159</sup> William Sanjour, Bush Environmental Enforcement Appointee Is Bad News, TomPaine.com (July 26, 2001).
- <sup>160</sup> Id.
- <sup>161</sup> Eric Pianin, Environmental Exemptions Sought, Washington Post (Mar. 6, 2003).
- <sup>162</sup> Pentagon Takes First Steps Toward Tackling Pollution, Boston Globe (Sept. 9, 1990).
- <sup>163</sup> 65 Fed. Reg. 68261 (Nov. 14, 2000)
- <sup>164</sup> AFL-CIO, Women Workers Need An Ergo Standard (online at <http://www.aflcio.org/yourjobeconomy/safety/ergo/ergowomen.cfm>).
- <sup>165</sup> AFL-CIO, Big Business Influence on Congressional Ergonomics Opponents (online at [http://www.aflcio.org/yourjobeconomy/safety/ergo/upload/ergo\\_campaign.pdf](http://www.aflcio.org/yourjobeconomy/safety/ergo/upload/ergo_campaign.pdf)).
- <sup>166</sup> This included Dole Food CO; NASD (the parent company of NASDAQ); Protective Life; Vencor Inc.; Millipore; Raymond James Financial Corp.; North American Electric Reliability Council; C.R. Bard, Inc.; Clorox; Columbia/HCA Healthcare; Parsons Co.; and Kindmark, Inc.
- <sup>167</sup> Derrick Wetherell, The Bush 100, Center for Public Integrity (January 16, 2002) (online at [http://www.publicintegrity.org/cgi-bin/WhosWhoSearch.asp?Display=Details&Person\\_ID=1024](http://www.publicintegrity.org/cgi-bin/WhosWhoSearch.asp?Display=Details&Person_ID=1024)).
- <sup>168</sup> From 1999-2004, the airline industry gave \$12.5 million to GOP candidates – 61 percent of its total contributions – of which \$269,000 went to Bush campaign efforts. Airlines and employees also gave \$169,750 to Bush's Inaugural Committee, of which \$69,750 was from Northwest. See Center for Responsive Politics at [http://www.opensecrets.org/industries/indus.asp?Ind=T1100\\_and](http://www.opensecrets.org/industries/indus.asp?Ind=T1100_and) <http://www.opensecrets.org/2000elect/other/bush/inaugural.asp>.
- <sup>169</sup> Greenpeace, Monsanto's Criminal Record for Environmental Contamination (April 1997) (online at <http://archive.greenpeace.org/~usa/reports/biodiversity/corpcrim.html>).
- <sup>170</sup> Joshua Green, Ergonomic Enemy, The American Prospect (Sept. 10, 2001).
- <sup>171</sup> The Center for Responsive Politics, President Bush's

First 100 Days: A Look At How the Special Interests Have Fared – Ergonomics (2001).

<sup>172</sup> OSHA, OSHA Announces Comprehensive Plan to Reduce Ergonomics Injuries (April 5, 2002) (online at [http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=NEWS\\_RELEASES&p\\_id=1230](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=1230)).

<sup>173</sup> 66 Fed. Reg. 5916 (Jan. 19, 2001)

<sup>174</sup> 67 Fed. Reg. 44037 (July 1, 2002)

<sup>175</sup> International Association of Machinists and Aerospace Workers, OSHA Rolls Back Requirements to Record Hearing Loss (July 31, 2002) (online at <http://www.goiam.org/visit.asp?c=3323>).

<sup>176</sup> 67 Fed. Reg. 77165 (Dec. 17, 2002)

<sup>177</sup> 68 Fed. Reg. 38601 (June 30, 2003)

<sup>178</sup> Cecil E. Roberts, International President, United Mine Workers of America, New MSHA Dust Rules Attempt to Turn Back the Clock, *Charleston Gazette* (May 3, 2003) (online at <http://www.umwa.org/pressreleases/may03/050303.shtml>).

<sup>179</sup> Cecil E. Roberts, International President, United Mine Workers of America, MSHA Should Pull the Plug on Proposed Dust Rules, *Charleston Gazette* (June 1, 2003) (online at <http://www.umwa.org/pressreleases/jun03/060203.shtml>).

<sup>180</sup> Ken Ward Jr., Massey Avoids Major Financial Hit for Spill, *Sunday Gazette-Mail*, (Oct. 12, 2003).

<sup>181</sup> Democratic Policy Committee, *supra* note 36.

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> Cecil E. Roberts, International President, United Mine Workers of America, New MSHA Dust Rules Attempt to Turn Back the Clock, *Charleston Gazette* (May 3, 2003) (online at <http://www.umwa.org/pressreleases/may03/050303.shtml>).

<sup>185</sup> United Mine Workers of America, UMW Hails Senate Passage of Legislation Requiring MSHA to Re-Craft Proposed Respirable Coal Dust Rule If Final Testing of the Continuous Personal Dust Monitor Proves Successful (Sept. 11, 2003) (online at <http://www.umwa.org/pressreleases/sep03/091103.shtml>).

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<sup>197</sup> Center for Responsive Politics and [www.whitehousefor sale.org](http://www.whitehousefor sale.org), *supra* note 29.

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<sup>203</sup> National Citizens' Coalition for Nursing Home Reform, NCCNHR Warns HHS Feeding Assistant Regulations Endanger

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<sup>204</sup> Letter from Rep. Henry Waxman and Sen. Charles Grassley to HHS Secretary Tommy Thompson (Sept. 26, 2003) (online at [http://www.house.gov/reform/min/pdfs\\_108/pdf\\_inves/pdf\\_nursing\\_hhs\\_feeding\\_sept\\_26\\_let.pdf](http://www.house.gov/reform/min/pdfs_108/pdf_inves/pdf_nursing_hhs_feeding_sept_26_let.pdf)).

<sup>205</sup> 68 Fed. Reg. 53221 (Sept. 9, 2003)

<sup>206</sup> Ceci Connolly, Hospital Rule Change Faulted, *Washington Post* (Sept. 4, 2003).

<sup>207</sup> 68 Fed. Reg. 41387 (July 11, 2003)

<sup>208</sup> Food and Drug Administration, FDA Implements Enhanced Regulatory Process to Encourage Science-Based Labeling and Competition for Healthier Dietary Choices (July 10, 2003) (online at <http://www.cfsan.fda.gov/~dms/nuttfbg.html>).

<sup>209</sup> Public Citizen, Groups Sue FDA Over Weakening of Health Claims Rule (Sept. 23, 2003) (online at <http://www.citizen.org/pressroom/release.cfm?ID=1545>).

<sup>210</sup> 68 Fed. Reg. 46363 (Aug. 5, 2003)

<sup>211</sup> Center for Science in the Public Interest, Olestra Linked to Gastrointestinal Disease (July 15, 2003) (online at <http://www.cspinet.org/new/200307151.html>).

<sup>212</sup> One staunch opponent to the COOL requirements is Cargill, whose chairman and CEO, Warren R. Staley, is a 2004 Bush Pioneer. Cargill met with OMB's Office of Information and Regulatory Affairs about COOL on Oct. 17, 2003 (see <http://www.whitehouse.gov/omb/oir/2040/meetings/172.html>).

<sup>213</sup> Democratic Policy Committee, *supra* note 41.

<sup>214</sup> *Earth Island Inst. v. Evans*, 256 F. Supp. 2d 1064 (N.D. Cal. 2003).

<sup>215</sup> Earth Island Institute: International Marine Mammal Project, Pacific Dolphins Make Waves for US Policy on Mexican Tuna (Feb. 3, 2004) (online at [http://www.earthisland.org/news/new\\_news.cfm?newsID=545](http://www.earthisland.org/news/new_news.cfm?newsID=545)).

<sup>216</sup> Frank Ahrens, 'Soldier's Ethic' Guides Powell at the FCC, *Washington Post* (Oct. 15, 2003).

<sup>217</sup> Public Citizen, *supra* note 27.

<sup>218</sup> *Id.*

## White House Roadblock

<sup>1</sup> See OIRA web site at <http://www.whitehouse.gov/omb/inforeg>.

<sup>2</sup> This is not a comprehensive list of OIRA actions, but just a few of the known examples. Unfortunately, many OIRA actions are hidden from public scrutiny. For extensive discussion of these examples, see OMB Watch at <http://www.ombwatch.org/article/archive/132/>.

<sup>3</sup> OIRA's review authority flows from presidential executive order that dates to the first year of the Reagan administration. In 1993, President Clinton revised and replaced the previous Reagan executive order. Among other things, this limited OIRA reviews to "major" rules. This executive order (E.O. 12866) remains in place today.

<sup>4</sup> *Public Citizen, Inc. v. Mineta*, 340 F.3d 39 (U.S. App. , 2003) (Ruling online at <http://www.autosafety.org/TPMSRuling.pdf>).

<sup>5</sup> Public Citizen, *Safeguards at Risk: John Graham and Corporate America's Back Door to the Bush White House* (March 12, 2001) (online at <http://www.citizen.org/documents/grahamrpt.pdf>).

<sup>6</sup> *Id.*

<sup>7</sup> See letter to Transportation General Counsel Kirk K. Van Tine (Feb. 12, 2002) (online at [http://www.whitehouse.gov/omb/inforeg/dot\\_revised\\_tire\\_rtnltr.pdf](http://www.whitehouse.gov/omb/inforeg/dot_revised_tire_rtnltr.pdf)).

<sup>8</sup> Charles M. Farmer, New evidence concerning Fatal crashes of passenger vehicles before and after adding antilock braking systems, *Accident Analysis and Prevention*, 33 (2001), 361-369.

<sup>9</sup> OMB Watch, *In Rejecting NHTSA Rule, Graham Shows True Colors* (May 15, 2002) (online at <http://www.ombwatch.org/article/articleview/739/>).

<sup>10</sup> See OIRA meeting records online at <http://>

[www.whitehouse.gov/omb/oira/0910/meetings.html](http://www.whitehouse.gov/omb/oira/0910/meetings.html).

<sup>11</sup> 68 Fed. Reg. 58974 (Oct. 10, 2003)

<sup>12</sup> Statement online at <http://www.cspinet.org/new/200310091.html>.

<sup>13</sup> OMB Watch, OMB Guts EPA Standards to Limit Construction Runoff (Sept. 4, 2002) (online at <http://www.ombwatch.org/article/articleview/1071/1/132/>).

<sup>14</sup> 67 Fed. Reg. 42644 (June 24, 2002)

<sup>15</sup> This decision, which was announced April 1, 2004, is online at <http://www.epa.gov/guide/construction/final-action-fs.htm>.

<sup>16</sup> OMB Watch, OMB Weakens EPA Proposal to Limit Fish Kills from Power Plants (Sept. 4, 2002) (online at <http://www.ombwatch.org/article/articleview/1074/1/132/>).

<sup>17</sup> 67 Fed. Reg. 17122 (April 9, 2002)

<sup>18</sup> OMB Watch, OMB Waters Down Standards on Factory Farm Runoff (May 28, 2003) (online at <http://www.ombwatch.org/article/articleview/1540/1/132/>).

<sup>19</sup> See OMB web site at <http://www.whitehouse.gov/omb/oira/2040/meetings/81.html>. This meeting included a representative from Pilgrim's Pride, whose board chairman and majority owner, Lonnie "Bo" Pilgrim, is a 2004 Bush Pioneer.

<sup>20</sup> See Executive Order 12866, issued by President Clinton on Sept. 30, 1993.

<sup>21</sup> Environmental Defense, Snowmobiles: Weak EPA Rules Will Derail Attempts to Curb Pollution (Sept. 13, 2002).

<sup>22</sup> 66 Fed. Reg. 51098 (Oct. 5, 2001)

<sup>23</sup> See letter to Jeffrey R. Holmstead, EPA assistant administrator for air, at [http://www.whitehouse.gov/omb/inforeg/spark\\_engines\\_epa\\_sep2001.html](http://www.whitehouse.gov/omb/inforeg/spark_engines_epa_sep2001.html).

<sup>24</sup> Environmental Defense, *supra* note 21.

<sup>25</sup> See meeting log at <http://www.ombwatch.org/regs/2002/eomtgs2001090601s.gif>.

<sup>26</sup> 69 Fed. Reg. 9215 (Feb. 27, 2004)

<sup>27</sup> See original submission at <http://www.ombwatch.org/execreport/marinediesel preamble3.14.pdf>.

<sup>28</sup> OMB Watch, OMB Guts Marine Diesel Rule (Nov. 6, 2002) (online at <http://www.ombwatch.org/article/articleview/1172/1/132/>).

<sup>29</sup> 65 Fed. Reg. 55684 (May 29, 2002)

<sup>30</sup> INTERTANKO press release, INTERTANKO Applauds U.S. Progress Toward Ratification of International Pollution Accords (May 8, 2002).

<sup>31</sup> Bluewater Network, A Stacked Deck: Air Pollution from Large Ships (July 17, 2000) (online at [http://www.bluewaternet.org/reports/rep\\_ss\\_ships\\_stackeddeck.pdf](http://www.bluewaternet.org/reports/rep_ss_ships_stackeddeck.pdf)).

<sup>32</sup> The two industrial categories covered by the rules are plywood manufacturing and industrial boilers.

<sup>33</sup> See OIRA meeting logs on air and radiation at <http://www.whitehouse.gov/omb/oira/2060/meetings.html>.

<sup>34</sup> OMB Watch, Industry, OMB Press EPA to Offer Exemptions to Clean Air Standards (March 19, 2003) (online at <http://www.ombwatch.org/article/articleview/1382/>).

<sup>35</sup> For AF&PA white papers, see concentration-based approach at [http://www.ombwatch.org/regs/2002/afpa\\_deminimus.pdf](http://www.ombwatch.org/regs/2002/afpa_deminimus.pdf); delisting approach at [http://www.ombwatch.org/regs/2002/afpa\\_enforceable.pdf](http://www.ombwatch.org/regs/2002/afpa_enforceable.pdf); and risk-based applicability exemptions at [http://www.ombwatch.org/regs/2002/afpa\\_riskbased.pdf](http://www.ombwatch.org/regs/2002/afpa_riskbased.pdf).

<sup>36</sup> Covering auto surface coating and stationary reciprocating internal combustion engines.

<sup>37</sup> 65 Fed. Reg. 55684 (Sept. 14, 2000)

<sup>38</sup> 66 Fed. Reg. 58258 (Nov. 20, 2001)

<sup>39</sup> See OMB web site at [http://www.whitehouse.gov/omb/inforeg/oira\\_review-process.html](http://www.whitehouse.gov/omb/inforeg/oira_review-process.html).

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<sup>43</sup> See, for example, Katharine Q. Seelye and John Tierney, E.P.A. Drops Age-Based Cost Studies, *New York Times* (May 8, 2003).

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<sup>46</sup> Triazine was joined in its challenge by the Kansas Corn Growers Assn.

<sup>47</sup> Graham comments at National Academy of Sciences workshop (March 21, 2002) (online at [http://www7.nationalacademies.org/stl/4-21-02\\_Transcript.doc](http://www7.nationalacademies.org/stl/4-21-02_Transcript.doc)).

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<sup>49</sup> 68 Fed. Reg. 54023 (Sept. 15, 2003)

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<sup>3</sup> Eliot Spitzer, Regulation Begins at Home, New York Times (Nov. 17, 2003).

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<sup>23</sup> Public Employees for Environmental Responsibility, 2003 Survey of EPA Office of Criminal Enforcement, Forensics and Training Employees (April 28, 2003) (online at [http://www.peer.org/EPA/EPA-OCEFT\\_Survey\\_Results.pdf](http://www.peer.org/EPA/EPA-OCEFT_Survey_Results.pdf)).

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## Sworn to Secrecy

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## Irresponsible Contracting

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## Whose Government Is This ?

<sup>1</sup> These figures, from the Center for Responsive Politics, include donations to the Republican National Committee.