

Little Green Monsters

Advocates for the West and Other State and Local Environmental Groups Push the Policy Envelope

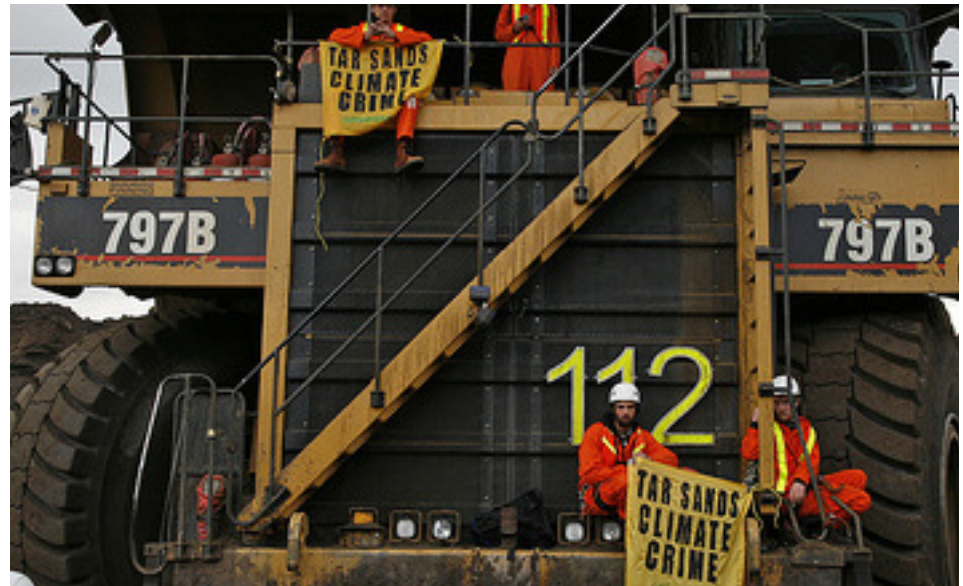
By Kevin Mooney

Summary: Large groups like the Sierra Club receive the national media's attention when energy and environmental issues are in the news. But across the United States and Canada hundreds of small and local green groups promote an anti-freedom, anti-prosperity agenda that threatens both America's economic health and its national security. A group called Advocates for the West is one of these obscure organizations. Savvy and tenacious, it is on the cutting edge of environmental extremism. But there are many others. How do they do it, and how can they be stopped?

With America's military fighting terrorists in politically unstable and faraway regions of the world and rogue states like Iran and North Korea building their nuclear arsenals, you would think that having a safe, secure and reliable source of oil close to home would be a blessing and a relief, and an easy sell to a public that worries about the price of gasoline and home heating oil. You would be wrong.

Green groups are working to turn public opinion in the U.S. and Canada against the production of crude oil extracted from the oil sands in Alberta, Canada. And they are succeeding.

The Alberta oil sands (also known as tar sands) occupy an area in the middle of western Canada that is roughly the size of Florida. The oil sands are ideally positioned to meet America's growing energy needs. Yet green groups, often tiny but determined, have mobilized protests on the state and local levels using pressure



Environmentalists Protesting the Tar Sands as a 'Climate Crime'

tactics that are highly personal and, hence, effective. Their goal is to compel changes in corporate decision making, sway public opinion, and influence government policies. The groups often coordinate their efforts with the big national and international environmental organizations, but they are careful to maintain their independence which guarantees their freedom of action.

Canada currently supplies about 20 percent of U.S. oil imports. But as the technology for finding and extracting oil improves, the Alberta oil sands, once considered useful only for roofing and paving tar, will become more accessible and economically viable over time. The supply route between the U.S. and Canada is short and secure. And there are no political disputes between the two trading partners comparable to

the conflicts that bedevil other energy corridors in the Middle East, West Africa or across the Caucasus and Black Sea.

Oil production from Alberta could rise dramatically if policymakers in the U.S. and Canada take steps to promote the right mix of policies and incentives. For the U.S., the arrangement could lead to less reliance on a Saudi Arabia, Nigeria or Venezuela. Get the picture?

January 2011

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But, as is frequently the case, policies that benefit America's economy and national security are abhorrent to green groups. In September 2009 Greenpeace activists from Canada, the U.S. and France grabbed lots of press coverage by chaining themselves to a gigantic dump truck at Shell's Albion mine, located just north of Fort McMurray in Alberta. The activists were protesting President Obama's meeting with Canadian Prime Minister Stephen Harper in Washington D.C. "Tar Sands: Climate Crime" read one of their signs.

Advocates for the West

One little-known green group has attracted much less media attention than Greenpeace, but it has proven to be a powerful adversary of Alberta oil producers. Advocates for the West, which is based in Boise, Idaho, has adopted a shrewd and carefully calibrated legal strategy that has prevented such oil giants as ConocoPhillips and Imperial Oil (an Exxon Mobil affiliate) from sending truckloads of heavy equipment through Idaho and Montana and into Alberta where it will be used to extract crude oil from the oil sands. The organization has filed suit arguing that when the Idaho Department of Transportation (ITD), which approved the shipment of Conoco oil drums through the state, was in violation its own "10 minute delay rule." This is a state regulation that says trucks carrying oversized loads of equipment cannot delay traffic by more than ten minutes.

Conoco acknowledges that in some

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Green Watch is published by Capital Research Center, a non-partisan education and research organization classified by the IRS as a 501(c)(3) public charity. Reprints are available for \$2.50 prepaid to Capital Research Center.

instances its oversized loads could delay traffic by as much as 15 minutes. But it notes that Idaho and Montana transportation officials have expressed confidence that state roads can handle the company's shipments by making certain modifications, which include constructing additional road pullouts along the route and adjusting power lines. The state's plans also call for the truck loads to be moved intermittently and only at night so that local and tourist traffic will not be inconvenienced.

The proposed route the trucks will take from the Columbia River port of Lewiston, Idaho goes across 175 miles of Idaho and 335 miles of Montana, and it would alleviate many logistical challenges. But should Advocates for the West prevail in court, the oil companies could be forced to ship their heavy equipment, manufactured in factories in Asia, through the Panama Canal to overland routes accessed from the ports of Houston or New Orleans.

Advocates for the West has allied itself with local residents and tourism groups to claim that the transportation plan adopted by the oil companies and the states will irrevocably harm some of the West's most beautiful scenic areas. For instance, one video called "Top 20 Reasons Why Highway 12 is Special" can be found at FightingGoliath.org. It suggests that landscapes depicted in the 1992 Robert Redford film "A River Runs Through It" will be ruined as trucks carrying massive loads plow their way along a meandering scenic road, turning it into an industrial transportation corridor.

Last month the Idaho Supreme Court heard both sides present their case, but a final decision date is not known at the time this report was filed. Conoco attorneys requested an immediate ruling against the plaintiffs, arguing that they failed to prove that IDT officials did not properly consider the public's need for safety and convenience. However, an administrative hearing officer denied this request.

The current court case only addresses four truckloads of equipment that Conoco proposes to move between Lewiston, Idaho and Billings, Montana. But there is no escaping the potential fallout for Exxon—

or for any other company that wants to transport oil industry equipment to Canada. Exxon's Canadian affiliate initially planned to begin the transport of certain equipment modules last October. But, as Pius Rolheiser, a spokesman for Imperial Oil was forced to explain to the press:

"It's too early to talk about what potential implications the decision has for our project until we have more clarity from the Idaho Department of Transportation on what the Conoco hearings will look like."

Exxon/Imperial Oil seeks permits to haul some two hundred so-called "mega-loads" shipped through Idaho into Montana and then some 700 miles north of the U.S. border to the Kearl Oil Sands in Alberta, Canada. Laurence (Laird) Lucas, the executive director and founder of Advocates for the West and the lead plaintiff lawyer in the Conoco case, has said his group will follow its Conoco legal strategy to oppose Imperial's plan.

"I think it (Imperial Oil) will be directly affected by this," said Lucas. "We'll certainly be making similar motions." Lucas is a 1986 graduate of Yale Law School who has built a reputation as an environmental lawyer. He has said he paid off his law school debts by becoming a San Francisco corporate lawyer and then redeemed himself by running the Boise office of the Land and Water Fund of the Rockies (now Western Resource Advocates, 2009 revenue: \$4 million) from 1993 to 2002. In 2000 Lucas teamed with famed Jackson, Wyoming trial lawyer Gerry Spence in stopping a proposed \$1.2 billion nuclear waste incinerator in eastern Idaho.

"Obviously we're watching and awaiting the outcome of that (Idaho court) situation," Rolheiser, the Imperial spokesman, told an interviewer. "From our perspective, the only 'blight' on tourism that would occur from this would be a tourist driving by might see one of these modules parked during the daylight hours." He doubted this would impact area tourism.

But there's no disputing the impact a court ruling against Conoco would have on the economy of the Route 12 region of

northern Idaho and northwestern Montana. Industry groups have compiled key facts and figures available on the website Drive Our Economy.org. They show that transportation on Rte. 12 provides \$1.8 billion annually to the area economy and that delaying oversized shipments could cost the region \$80 million.

These figures and other data supporting the companies' position have not found their way into media reports. Erik Stidham, a ConocoPhillips attorney, says the company has worked for three years with the state to ensure the loads can be hauled safely and at a minimal risk to public safety and convenience. He also points out that the highways, even those with scenic qualities, are designed for commercial purposes: "The reality is there are no commercial restrictions placed on this activity. This is a working road that reflects commercial use."

Conoco says the setbacks have cost it \$2.5 million to date and additional losses could go as high as \$40 million if it cannot truck its coke drums to Billings by next spring. This industry has found it hard to circulate its side of the story. That may be because Lucas's tiny group, Advocates for the West, has successfully drowned out opposing arguments by integrating its legal filings with public petitions and inexpensive youtube videos, blogposts, and website archives of news stories and interviews.

With a staff of ten (five of them lawyers), Advocates for the West has attracted the attention of liberal-leaning philanthropic foundations that have rewarded it with a steady stream of contributions. For instance, Advocates for the West received \$100,000 in 2002 and \$155,000 in 2004 from the LaSalle Adams Fund in New York City (2008 assets: \$25 million). The Good Works Institute, funded by Sun Valley, Idaho philanthropist Ann Down, contributed \$125,000 in 2003 and \$116,508 in 2005. Seattle's Bullitt Foundation (2009 assets: \$90 million) gave \$42,000 in 2003, \$40,000 in 2004 and \$40,000 in 2005. Bullitt is a significant donor to environmental causes. Established in 1952 by a founder of Seattle's King Broadcasting Company, its current president is Earth Day founder Denis Hayes. Portland, Oregon's Lazar

Foundation (2008 assets: \$20 million) gave \$15,000 in 2004, \$20,000 in 2005, \$20,000 in 2006, \$20,000 in 2007 and \$30,000 in 2008.

The most recently available IRS 990 tax form shows Advocates of the West had a mere \$740,000 in revenue in 2008. But because Lucas is well-known in the world of environmental litigation he should be able to tap funding support for his organization's legal activities whenever it's necessary.

How Small Environmental Groups Exercise Great Power

If environmental groups like Advocates for the West have their way, green pressure will prevail over economic development and individual rights in the U.S. and Canada and can even harm U.S. national security. In pursuit of their goals environmental groups have assembled a "tool-kit" of capacities. It combines litigation with lobbying support for regulation at all levels of government. It teaches activists how to solicit and make grants to nonprofits and government agencies, and how to balance public protests with private deal-making. The common denominators are disdain for economic development and an almost religious passion for "the environment."

Local green groups may engage in scary talk as if they were prepared to take "all means necessary," but they frequently act with careful deliberation in ways that show a savvy understanding of how to use existing political and legal processes to advance their agenda.

For instance, in 2001, just two weeks before the 9/11 terrorist attacks, Greenpeace, the Natural Resources Defense Council (NRDC), Physicians for Social Responsibility and a slew of Alaska-based groups filed a lawsuit against the Pentagon to halt the siting of ground-based missile defenses in Alaska. The lawsuit argued that the 1969 National Environmental Policy Act (NEPA) required the federal government to file an Environmental Impact Statement (EIS) before any missile siting or testing could take place. The groups asked a federal judge to issue an injunction blocking construction of the test range.

The green groups did not get their injunction. But in light of North Korea's recent belligerence and the threat from other rogue nations and terrorist groups eager to gain control of nuclear weapons, it is clear that the importance of maintaining operational anti-missile facilities can't be overstated. Yet many nonprofit groups seek to frustrate U.S. national security by filing endless lawsuits claiming violations of environmental protection.

Rep. Cathy McMorris Rodgers, who represents eastern Washington state in the U.S. House of Representatives, has chaired a congressional task force to reform NEPA. In an interview she said, "Unfortunately, the law has been used to delay and ultimately halt projects through extensive litigation, and this is not good policy. The law began with just a few paragraphs but grew into hundreds of pages of regulations and there are now thousands of court cases. It has become very tangled."

McMorris Rodgers recognizes the source of environmentalists' power. Congress has created limitless opportunities for legal and regulatory mischief-making in the name of protecting the environment. By giving agencies broad rulemaking authority, the federal government has opened the door to endless legal appeals by hundreds of environmental nonprofits. These groups are funded not only by foundations and wealthy donors but by taxpayers through court-ordered legal fees and settlements.

Rodgers' Washington State is itself replete with small and obscure but aggressive green groups bent on limiting the right to economic development. Removing the right to economic development for private and public lands is a key tool for these groups.

Take, for instance, the Community Alliance to Reach Out and Engage (CARE), which claimed a Renton businessman endangered a nearby wetland by seeking to open a car sales business. It persuaded the city council to overturn its position allowing the business. CARE President Gwendolyn High is also administrative director of the Washington Wildlife and Recreation Coalition (WWRC). It has secured over a billion dollars in state and federal grants during the past 20 years. WWRC "invests" over \$35 million a year in land acquisition

using taxpayer funds for parks and conservation easements. It also partners with the Cascade Land Conservancy (CLC), a land trust whose Transfer of Development Rights program has shielded thousands of acres of potentially profitmaking (and taxpaying) property through the use of conservation easements.

Other Washington state-based groups with similar goals include People for Puget Sound, Jefferson Land Trust, North Olympic Land Trust, Washington Wilderness Coalition, the Washington Environmental Council, Earthshare of Washington, and Conservation Northwest.

Green land grab schemes are not limited to the American West. The Clearfield County Natural Heritage Inventory is produced by the nonprofit Western Pennsylvania Conservancy (WPC) (2008 assets: \$74.5 million). The inventory, which lists dozens of county areas deemed to be of “ecological significance” or possessing “biological diversity,” was funded by a grant from several Pennsylvania state government agencies, and it is made available to the county’s planning office.

Warns private property advocate Dale Anderson: “This has the potential to shut down any natural resource production in the state, county by county. The WPC is actively gathering up large tracts of private lands and flipping those lands to either the Allegheny National Forest, the Pennsylvania Dept of Conservation & Natural Resources, the Pennsylvania Fish Commission, or the Pennsylvania Game Commission. They also actively pursue Conservation Easements and “inholdings” to existing Pennsylvania government lands.”

On the Doorstep of Montana Widows

One notable state-level group of this type is the Sonoran Institute, headquartered in Bozeman, Montana. Kerry White, a fourth generation resident in the Gallatin Valley and an executive board member with Citizens for Balanced Use, describes Sonoran’s tactics:

“They come into small counties and put up money that is used to formulate land planning documents like ‘Transfer Development Rights,’ ‘Cluster

Development,’ ‘Model Subdivision Regulations’ and use false studies and science to promote their agenda,” he explained. “Counties buy into this because of the money given by Sonoran.”

“I have seen them on the doorstep of widows within a week of their spouse dying to promote placing conservation easements on private property,” White continued. “I have been at meetings where Sonoran has solicited money from the Nature Conservancy by telling them how their skills can take control of private property through the methods I have just described. Yes, the Sonoran Institute is a very dangerous organization.”

Another Montana group worth watching is the Montana Wilderness Association. The wife of its past president has been elected to the state’s Supreme Court, observes Tim Ravndal, a local Tea Party activist. Beth Baker, who will join the Montana Supreme Court this month is married to Tim Baker, the Association’s former executive director. She raised money for her successful judicial campaign from environmental groups, according to Citizens for Balanced Use.

“We are going to be in for a real fight,” said Ravndal, who serves as the executive director for the Lewis and Clark Conservative Tea Party. “The other side has the market cornered in judicial eco-extremism and we need to be wary. We are going to introduce and stimulate discussion in the upcoming legislative session so we can have results by the 2013 legislative session.”

How to Fight Back

By focusing attention on the nexus between the actions of elected officeholders and the demands of local area green activists, Ravndal may have seized upon an appropriate and productive counter-strategy for free market activists. The results of the last election suggest that determined efforts to link politicians to activists can pay off.

Media reports suggest that the various Tea Party groups helped overturn the Democratic majority in the House of Representatives and seriously weakened the prospects for global warming legislation

in Congress. Republican supporters of “cap-and-trade” legislation like Rep. Mike Castle (R-Del.) lost his party’s Senate primary while a chastened Rep. Mark Kirk (R-Ill.) experienced an epiphany on the campaign trail.

“I voted for it [cap and trade] because it was in the narrow interest of my Congressional district,” he explained to voters while campaigning for the U.S. Senate. “But as your representative, representing the entire state of Illinois, I would vote no on that bill coming up.”

Kirk was among the top 20 recipients of PAC donations from environmental groups in the 2008 election cycle. He received \$1,000 from the League of Conservation Voters (PAC), \$4,000 from Ocean Champions (PAC) and \$4,000 from Republicans for Environmental Protection (PAC). Nevertheless, the congressman’s artful somersault helped distinguish him from his Democratic opponent.

Piedmont Environmental Council

In Virginia, Republican candidate Bob McDonnell deftly turned the global warming issue back on his Democratic opponent in the state’s 2009 gubernatorial election. The public’s antipathy toward “cap and trade” was a significant factor in McDonnell’s landslide victory, political analysts have observed. McDonnell’s televised response to President Obama’s first State of the Union address should be seen as a template for candidates who ran for Congress in 2010 as economic conservatives.

“We are blessed here in America with vast natural resources, and we must use them all,” he declared. “Advances in technology can unleash more natural gas, nuclear, wind, coal, and alternative energy to lower your utility bills. Here in Virginia, we have the opportunity to be the first state on the East Coast to explore for and produce oil and natural gas offshore. But this Administration’s policies are delaying offshore production, hindering nuclear energy expansion, and seeking to impose job-killing cap and trade energy taxes. Now is the time to adopt innovative energy policies that create jobs and lower energy prices.”

Unfortunately, McDonnell won't realize his robust vision of economic development if state-level environmental groups like the 37 year-old Piedmont Environmental Council (PEC) (2009 revenues: \$9 million) succeeds in stopping farmers, landowners and private companies from harvesting natural resources and initiating industrial activities. PEC has greatly enlarged its influence in Virginia by promoting the use of "conservation easements," strict stipulations that preclude meaningful development of private lands. The non-profit concentrates its efforts within a bucolic area of the state that cuts across nine counties: Albemarle, Clarke, Culpepper, Fauquier, Greene, Loudon, Madison, Orange and Rappahannock.

However, Piedmont's greatest strength is its ties to local communities, especially to people of wealth and influence, lawyers and artists who live along rural roads and on country estates and who are determined to block industrial and commercial activity. Piedmont partners with the Virginia Conservation Network (VCN), a state affiliate of the National Wildlife Federation, and with other national groups such as the Union of Concerned Scientists, the Sierra Club, the Natural Resources Defense Council and The Nature Conservancy. But while the national groups may provide research and policy expertise, the ability to mobilize local people and resources is crucial. Big money media campaigns don't stand a chance against invitations to have coffee and discuss issues in a neighbor's parlor.

PEC's revenue stream has experienced steady growth in just the past few years, according to its 990 forms. In 2008, it reported total revenue of \$7,799,684 versus \$6,905,323 in 2007. Apparently, it is very popular with key donors.

In 2009, it received \$134,250 from the William M. Backer Foundation, \$100,000 from the Bank of America Charitable Foundation, \$150,000 from The Mousetrap Foundation, \$75,000 from the Community Foundation for The National Capital Region. In 2008 PEC received \$25,000 from The Keith Campbell Foundation for the Environment, \$25,000 from the Wolf Creek Charitable Foundation, \$50,000

from The Community Foundation for The National Capital Region and \$140,000 from The Frederick Henry Prince Testamentary Trust Nect, \$100,000 from the MARS Foundation, \$90,000 from the Wrinkle in Time Foundation, \$108,500 from the Vanguard Charitable Endowment Program, \$180,000 from the Frederick Henry Prince Trust 79 47 Nect, \$190,000 from the William Backer Foundation, \$245,000 from the Agua Fund and \$150,000 from the George L. Ohrstom Foundation.

"Small environmental groups as well as the large well known ones are systematically undermining the economic vitality of America," says Chuck Cushman, executive director of the American Land Rights Association. They are pushing land use regulations and land lock ups to such a degree that they are killing the economic ecosystem of rural America and blocking the development of jobs and communities while limiting access to productive lands. In the long run, the small environmental groups are hurting America while trying to do what they perceive as good. But the cumulative impact of all of them going in the same direction with a top down 'for the good of all' approach is strangling rural America and forcing rural people off their land, off Federal land, out of their jobs and business and into the cities. The economic competitiveness of America is being gradually undermined by this process."

Center for Climate Change Strategies

The Washington, DC-based Center for Climate Change Strategies (CCS) (2008 revenue: \$5.9 million) is not a state-based group, but it does work at the state level. CCS avoids dealing with state legislatures and works directly with compliant governors from both parties to devise state policies regulating carbon emissions. Chris Horner, a Competitive Enterprise Institute senior fellow, has tracked how the group operates. (See CRC's Organization Trends, April 2008) Created in 2004, Horner says CCS "bypasses the state legislatures' traditional role in formulating policy, supplanting them with an activist-led process. Only later are legislators brought in to ratify policies crafted by a rigged cookie-cutter process. When it's done right, the CCS process leaves lawmakers

the sole option of rubber-stamping its policy prescriptions. A legislator who fails to do that risks incurring the wrath of CCS allies in the environmental movement as well as political heat from the governor who brought CCS into the process in the first place." According to its web site, CCS has played a policymaking role in 36 states.

Conclusion

Tea Party activists celebrated when the big national environmental groups failed to secure a "cap and trade" law from Congress. But they should remain mindful that small environmental groups exercise great influence not only in local communities, but they can have a major influence on national politics. It's been said 'all politics is local.' If national policymaking is stymied by divided government during the next two years, environmental groups will turn their attention to the states. Let's not forget that it was California's Republican Governor Arnold Schwarzenegger who began the cascade of state-level "cap and trade" regimes four years ago. His Global Warming Solutions Act (AB 32), served as the model for restrictive policies in other states, including Washington, Oregon, Connecticut, Maryland and New Jersey.

A state government can constrict liberty just as effectively as the federal government; and a small green group can wreak just as much economic havoc as a large one.

Kevin Mooney is an investigative reporter based in Washington D.C.

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Many thanks,

**Terrence Scanlon
President**

GreenNotes

What could cause more economic damage than an environmental disaster? You guessed it – the government’s overreaction to that disaster. **John W. Kindt**, professor of business and legal policy at the **University of Illinois** and author of the six-volume treatise on the intersection of ocean conservation and resource acquisition “Marine Pollution and the Law of the Sea,” is blasting the Obama Administration’s ban on oil drilling in the Gulf of Mexico in the wake of last April’s **BP** spill. “It’s a ridiculous decision on the part of the **Interior Department**,” says Kindt, “The previous 180-day moratorium really hurt a lot of businesses. Well, a seven-year ban is going to sting even more.”

It turns out **Al Gore** was for ethanol before he was against it. Gore once said of the corn-based pipe dream, “the more we can make this home-grown fuel a successful, widely used product, the better off our farmers and our environment will be.” Now, he’s changed his tune, calling ethanol a “mistake” and admitting “It is not good policy to have these massive subsidies for first-generation ethanol.” Apparently, Congress has not yet seen the light: As columnist **Rich Lowry** notes, “they have graced the Obama-McConnell tax bargain with an extension of a tax credit for ethanol that costs about \$6 billion.” Lowry pegs the ethanol boondoggle perfectly: “Ethanol is so uneconomical that Congress supports it three different ways -- with a mandate for its use, a tax credit to subsidize it and a tariff to keep out competitors. Rarely are so many levers of government used to prop up one woeful product.” True that.

Save an animal, save a human? That’s according to **Carter Roberts**, president and CEO of the **World Wildlife Fund**. During a speech at **Princeton University**, Roberts tried desperately to stem the image of environmentalists as anti-human: “What’s become clear to me is that even though we got into this business to save animals, more and more our work is about saving us, the species *Homo sapiens*.” Who knows, maybe he’s right and, maybe, in the immortal words of **George W. Bush**, man and fish can coexist peacefully. Then again, maybe I’ll have tuna for lunch.

The environmentalists’ War on Jobs continues: In December, **The Sierra Club** and **Environment Texas** filed a federal lawsuit against **Exxon Mobil**. *Reuters* reports: “The lawsuit alleges Exxon’s refinery and chemical plant in Baytown, Texas, committed over 2,500 violation of the U.S. **Clean Air Act** between 2005 and 2010 and released over 8 million lbs of pollutants into the atmosphere, said **Neil Carman**, clean air director of the Sierra Club’s Texas chapter.” If successful, the suit could cost Exxon an estimated \$81 million in fines and fees; I wonder how many people Exxon could hire for \$81 million?

The choice of sunny Cancun, Mexico for the latest **United Nations**-sponsored climate confab was doubtless designed to avoid the embarrassment of last year’s Copenhagen fiasco, when a global warming conference was blasted by a brutally ironic blizzard. Yet once again, the choice of locale proved unfortunate: Researchers at the **National Autonomous University** of Mexico’s **Atmospheric Sciences Center** (CCA-UNAM) in Mexico City are now warning that the Mexican government’s own environmental policies may be based on seriously flawed science. As **Cecilia Rosen** reported for the website of the journal *Nature*: “The group, led by climate-change economist **Francisco Estrada**, is questioning the set of regional climate-change scenarios produced by **Victor Magana**, a well-known climatologist also based at the CCA-UNAM who is one of the key academics advising the government on climate impacts.” UN staffers planning the next global warming hype-fest should take note: Copenhagen or Cancun, it makes no difference. Bad science doesn’t get any better under the sun.