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MEMORANDUM

TO: INTERESTED PARTIES

FROM: KAREN BUDD-FALEN
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DATE: MAY 29, 2013

RE: ANOTHER FEDERAL GOVERNMENT COVER-UP??

This is a plea for help, to raise awareness and public outcry regarding yet another federal government cover-up. The scandal -- the Justice and Treasury Departments' refusal to inform the American taxpayer how much, and for what, their tax dollars are being spent and despite individual well-meaning Congressmen, the inability of Congress to put forth legislation that requires this information to be available to the American public. How can there be reform of a crisis (or how can radical environmental groups prove that our claims of abuse are blown out of proportion) without transparency and an accounting?

According to a study from Drexel University, there are 6,500 national and 20,000 local environmental organizations with an estimated 20-30 million members. This study opines that the "environmental movement" dwarfs other modern social

movements such as the civil rights or peace movements. Because it would be impossible to study all 6500 national groups, we reviewed all the federal district court complaints over a series of years for just 3 of these groups and found:

–Thirty-five percent (35%) of federal court complaints are filed ONLY based on a missed procedural step under the National Environmental Policy Act ("NEPA");

–Twenty nine percent (29%) of federal court complaints are filed ONLY based upon missed timelines under the Endangered Species Act ("ESA");

–Eleven percent (11%) of all federal court complaints are filed because of a failure to complete the process for considering an action under "Section 7" of the ESA.

Importantly, these are not cases where the federal court can rule that there is harm to the environment or that additional substantive actions are necessary; the ONLY thing a court can do is send the case back to the federal government for more process.

But that is not why this litigation is filed: litigation is filed because the courts have the power to delay private lives and livelihoods while the federal government completes more process. The harm to American families is not whether the federal government can comply with a process, the harm is in the endless delay in issuing a decision so that America can move forward. It is red-tape at its best, and radical environmental groups are absolutely making the most of the red-tape and killing American families in the meantime.

Let me give you more details:

As stated above, this firm reviewed the federal court complaints to analyze the underlying claims each of their cases; the families that are being targeted by the litigation; and what a federal court could do to grant the relief requested. Over 400 federal court complaints were individually analyzed filed by either the Western Watersheds Project (“WWP”), WildEarth Guardians (“WEG”) or the Center for Biological Diversity (“CBD”). WWP’s Policy Memos list as a “to do” “Get all cows and sheep off federal lands ASAP!” The WEG uses “litigation, science, public outreach and organizing, the media, and lobbying” to make progress towards their goals of phasing out fossil fuels, obtaining formal listings of species under the Endangered Species Act; ensuring public lands “are not

destroyed” by “over development, over grazing, or natural resource extraction.” CBD is noted as a group that uses litigation and petitions to “effect change.” Its campaigns include listing species, stopping unsustainable human population growth and species extinction crisis and opposition to motorized recreation.

For these groups, we documented:

The National Environmental Policy Act (“NEPA”) is the litigation tool of choice for the WWP and CBD, with 58% and 36% of their complaints respectively including a NEPA claim. NEPA is a process; according to the Supreme Court, NEPA’s purpose is “to ensure a fully informed and well-considered decision, not necessarily a decision the judges of the Court of Appeals or of this Court would have reached had they been members of the decision making unit of the agency.” Thus, the courts enforce the NEPA process, but rarely over turn the substance of the federal agency decision.

The problem however is that the courts are willing to enjoin or stop a project or decision until the federal government complies with the NEPA process. So what does this mean for American families? Consider that 89% of the federal district court complaints filed by WWP directly attack livestock grazing by claiming a violation of a NEPA procedure and then seeking to stop (temporarily or permanently) a rancher’s use of the lands he has used for generations because the federal government violated the NEPA process. NEPA is a powerful hammer to eliminate these families because if they

rely on the federal government to make a decision and the federal government cannot get through enough procedural hoops to make a decision, that American family cannot continue to make a living.

These ranch families are not the only ones under attack because of litigation over process. The industries who produce America's energy from our natural resources are bearing the brunt of the NEPA litigation from the WEG and CBD, specifically 22% and 18% of the federal court complaints respectively oppose natural resource producing power plants, energy production and mining. Even "green energy" is now being attacked by the WWP, CBD and WEG as part of their litigation strategy. Again, the issue being litigated is not whether energy production is beneficial or detrimental to the environment, but whether the federal government properly completed the process. And just like the harm to the ranching families, the Courts can stop all movement until the NEPA process is complete and the radical groups cease their litigation wanting more and more process.

Another huge litigation arena is the federal government's compliance with the timelines in the Endangered Species Act. Over 46% of the cases filed by the WEG are ONLY to force the federal government to comply with these time-frames; 30% of the CBD cases and 25% of the WWP cases contain the same claims. As with NEPA, the courts cannot enforce any listing or critical habitat decision; the court can ONLY hold that the federal agencies failed to comply with the timelines and then pay attorneys fees to these radical groups

because the federal government cannot meet the time-frames set by Congress. Attorney hourly fees can range from \$500.00 per hour to \$750.00 per hour.

And it has cost the American taxpayers millions of dollars paying radical groups to harm American workers.

American families are being targeted by groups being paid your tax dollars to put Americans out of work—not in the name of environmental protection but in the name of procedures and technicalities. Please contact your Congressional Representatives; we have to stop yet another federal government cover-up. We need an accounting now.

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