

An Environmental Agenda for the Future: Preserving the Environment and Strengthening the Economy

Liz Klein

Follow this and additional works at: <http://digitalcommons.wcl.american.edu/sdlp>

 Part of the [Business Organizations Law Commons](#), and the [Environmental Law Commons](#)

Recommended Citation

Klein, Liz. "An Environmental Agenda for the Future: Preserving the Environment and Strengthening the Economy." *Sustainable Development and Policy*, Spring 2004, 27-30.

This Article is brought to you for free and open access by the Washington College of Law Journals & Law Reviews at Digital Commons @ American University Washington College of Law. It has been accepted for inclusion in Sustainable Development Law & Policy by an authorized administrator of Digital Commons @ American University Washington College of Law. For more information, please contact fbrown@wcl.american.edu.

AN ENVIRONMENTAL AGENDA FOR THE FUTURE: PRESERVING THE ENVIRONMENT AND STRENGTHENING THE ECONOMY

by Liz Klein*

INTRODUCTION

In September 2003, with little fanfare or attention, the Office of Management and Budget (“OMB”) released *Informing Regulatory Decisions: 2003 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities*.¹ The report is a direct response to the Regulatory Right-to-Know Act, which requires OMB to report to Congress each year on the annual total costs and benefits of federal regulatory programs, the economic impacts of the regulations, and OMB’s recommendations for reform.

According to the report, major federal rules promulgated by the Environmental Protection Agency (“EPA”) realized between \$1.2 and \$4.8 billion in benefits and just under \$200 million in costs in fiscal year 2002.² For the ten-year period from October 1, 1992 to September 30, 2002, the report estimates that the benefits from major EPA regulations were between \$2.3 and \$6.4 billion, while costs were kept below \$2 billion.³ The report also notes that “of the 107 rules reviewed by OMB over the last ten years, four EPA rules...account for a substantial fraction of the aggregate benefits reported.”⁴ Two rules limit particulate matter and NO_x emissions from heavy duty highway engines, one rule limits emissions from light duty vehicles, and the other rule limits sulfur dioxide pursuant to acid rain provisions in the 1990 Amendments to the Clean Air Act.⁵

These results may be surprising considering the environmental stance of the current Administration, the rhetoric against environmental regulations, and the constant animosity between stakeholders involved in environmental policy debates. However, these results lend support to a growing recognition that sound environmental policies, even those which include regulations, can in fact increase efficiency and lower costs while also benefiting the quality of air, land and water. Although

most U.S. industries still resist the notion of regulations, more and more corporations are adopting higher environmental standards, realizing that such standards improve their performance by eliminating waste, encouraging technological innovation and providing stability for the future.

This article provides an introduction to some of the components necessary for a comprehensive environmental agenda for

the future. Such an agenda must include recognition and reward of sustainable corporate practices, increased emphasis on the value of stakeholder partnerships, and a strong government regulatory scheme supported by vigilant enforcement.

CORPORATE RESPONSIBILITY

The fight against further government regulation often focuses on how the costs imposed on industry will affect job security and the ability of businesses to remain economically viable. Many members of Congress and the current Administration are keenly aware of these concerns and are quick to vilify any form of government regulation. In the press release announcing OMB’s report, Dr. John Graham, Administrator for the Office of Information and Regulatory Affairs at OMB, stressed the Administration’s commitment to simplifying and streamlining regulations to ensure that “well-intentioned compliance requirements do not have the unintended effect of killing jobs.”⁶ S. Fred Singer, President of the Science & Environmental Policy Project, suggested in the early 1990s that the U.S. was “approaching a critical level where in fact the economy is strangled, where enterprise is restrained, where entrepreneurship is stifled.”⁷ Such assumptions about the negative effects of government regulations belittle the very substantial long-term benefits of environmental regulations.

Throughout U.S. industry, corporations of all sizes are developing policies that are environmentally friendly, but also good for business. The impetus to create such policies is varied – from a reactive response to critics or required regulations, to participation in a government incentive program, and in some cases, to a recognition that profits and sustainable practices can go hand in hand.

Dow Chemical, for instance, made a significant investment in its environmental management policies after a steady decline in stock value and increasing threats to its business.⁸ The policies focus on recycling, eliminating waste, and reducing the use of scarce resources. Cargill Dow, a joint venture of Dow Chemical Co. and Cargill Inc., now produces plastic through a corn milling process, rather than

“... sound environmental policies, even those which include regulations, can in fact increase efficiency and lower costs while also benefiting the quality of air, land and water.”

*Liz Klein is a J.D. Candidate, May 2006, American University, Washington College of Law.

making the material using petroleum or oil. Spending over \$900 million since the mid-1990s to improve its environmental practices, the chemical giant announced in 2001 that it had realized \$2.7 billion on its investment.

Citigroup, another major corporation, announced the adoption of a new, environmentally friendly corporate policy this year that added “environmental impact” among the criteria used to review financing projects.⁹ The move came after two years of criticism and pressure from the Rainforest Action Network. Included in the financial institution’s plan are investments in clean energy activities such as solar panels and fuel cells, reports on the amount of greenhouse gases emitted from projects it finances, and a ban on loans for commercial logging.

Even small companies, such as American Video Glass Co., are adopting environmentally friendly business practices.¹⁰ The Pennsylvania television picture tube manufacturing company recently signed on to the National Waste Minimization Partnership with the EPA and agreed to voluntarily reduce their generation of hazardous waste chemicals. The company reported that a one-time, \$90,000 investment in a dust recycling system is saving an estimated \$12,000 per year. These are just some of the many examples of efforts being made across the country by the corporate world.

In addition to being good for an individual company’s bottom line, the OMB report and many research studies suggest that environmental policies are also good for economic growth on a macro level. Daniel Esty and Michael Porter are two researchers analyzing the effects that environmental improvements can have on a country’s economic progress. In their report, *Ranking National Environmental Regulation and Performance: A Leading Indicator of Future Competitiveness?* they found “no evidence that improving environmental quality compromises economic progress.”¹¹ Instead, their statistical analysis suggests a strong correlation between sound environmental management and economic growth.

PRESSURE FROM ADVOCACY GROUPS AND CONSUMERS

Understandably wary that corporate environmental announcements are often no more than mere public relations efforts, nonprofit organizations have generally been reluctant to praise these projects. Many environmental groups are quick to characterize such corporate policies as “greenwashing” intended to shield the public from other environmentally devastating activities. The focus for many such groups has been attempting to force change through public criticism and advocating an increased role for government regulation and enforcement.

Investors and consumers have also become increasingly aware of the importance of corporations using renewable resources and adopting environmentally sound business practices. Many companies recognize the value that such practices bring to their brand identity, their attractiveness to investors, and their future stability in the marketplace. However, in their report, *World Resources 2002-2004: Decisions for the Earth: Balance, Voice and Power*, the World Resources Institute

(“WRI”) noted that much greater emphasis should be placed on providing businesses with the concrete data they need to “understand how good environmental practice can connect to good financial performance.”¹² The report noted that not enough corporations recognize the business value of adopting sustainable programs, thus there should be a greater focus on quantifying the benefits of sound environmental practices and making this information widely available to all stakeholders.

PROMOTING PARTNERSHIPS

In addition to advocating greater access to information, WRI has joined other organizations in calling for increased collaboration and partnerships between traditional adversaries. Such partnerships foster open communication and allow increased understanding about the concerns of all stakeholders. Two leaders in the movement toward cooperative partnerships are Environmental Defense (“ED”) (formerly the Environmental Defense Fund) and Pew Charitable Trusts.

In the late 1980s, ED created a pioneering partnership with the McDonalds Corporation, which led McDonalds to eliminate tons of packaging waste and implement a new recycling program.¹³ On the tenth anniversary of the alliance, ED President Fred Krupp noted how creating these relationships and “combining diverse talents and perspectives in a spirit of cooperation can yield sustained environmental results.”¹⁴ Following this

“Statistical analysis suggests a strong correlation between sound environmental management and economic growth.”

success, ED joined forces with Pew Charitable Trusts to create the Alliance for Environmental Innovation (“Alliance”).

Accepting no funding from its corporate partners, the Alliance works with private companies to create and implement environmentally friendly practices that are also friendly to the business’ bottom lines. Current partners include United Parcel Service (“UPS”), SC Johnson, Bristol-Myers Squibb and Starbucks. The focus of these partnerships has been on reducing waste, decreasing emissions, and minimizing the environmental impact of formulated products. In addition to working with individual companies, the Alliance has encouraged other organizations to form similar partnerships. The Alliance provides a model partnership agreement on their website¹⁵ and has published *Catalyzing Environmental Results: Lessons in Advocacy*

Organization-Business Partnerships,” a report of the Alliance’s successes and failures over the years.¹⁶

Pew’s Center on Global Climate Change has also established the Business Environmental Leadership Council, which is composed of a wide variety of companies that acknowledge the threat of climate change and work closely with Pew to find solutions.¹⁷ Member companies pledge to address the threat of climate change through measures such as reducing greenhouse gas emissions and implementing waste reduction programs. Pew receives no monetary contributions from any members of the Council. In creating the Council, Eileen Claussen, founder and now President of the Pew Center for Global Climate Change, recognized that “solutions that do not make economic sense will eventually follow the declining path of the oceans,

“By working as partners rather than adversaries, advocacy organizations achieve a greater understanding of the economic pressures businesses face, while businesses learn the importance of sustainable practices.”

ecosystems, species and natural resources the Pew Center is trying to protect.”¹⁸ By working as partners rather than adversaries, advocacy organizations achieve a greater understanding of the economic pressures businesses face, while businesses learn the importance of sustainable practices.

IMPORTANCE OF ENFORCEMENT

Improved information about the benefits of environmentally friendly business policies, increased adoption of such policies by corporations, and better collaboration between nonprofit organizations and the corporate world mean little without a strong government regulatory scheme supported by vigilant enforcement. In its *Decisions for the Earth* report, WRI stresses the continuing need for government regulation in environmental disclosure policies. The report notes that the government is the only institution able to ensure adherence to environmental goals, and it is uniquely positioned to provide important data to businesses on the economic value of environmental programs.¹⁹

As the OMB report shows, government regulation in the

last ten years has led to significant benefits for the environment, while keeping costs manageable. Former EPA Director William Reilly noted that through Clean Air Act regulations, the EPA “has been directly responsible for fostering new technologies and promoting the genuine integration of the nation’s environmental aspirations with its economic goals.”²⁰ Unfortunately, when such regulations are vilified, they are less likely to be enforced, and further regulation is jeopardized.

The Bush administration has faced significant criticism for its apparent unwillingness to enforce environmental regulations, particularly through the issue of sanctions or fines. A recent *Philadelphia Inquirer* article reported that violation notices against polluters have dropped significantly in the current administration.²¹ While the first Bush administration averaged 195 citations a month and the Clinton administration averaged 183, the current administration average is just 77, and the average is falling with each year of Bush’s presidency. Additionally, many are charging that the current administration is not committed to strong enforcement policies, as evidenced by the resignations of several top enforcement officials at the EPA, and by the White House’s annual call for budget cuts for EPA enforcement. While administration officials contend that they use alternative methods to ensure compliance with regulations, many experts insist that violation citations are one of the most effective tools of enforcement. As former EPA Enforcement Chief Sylvia Lowrance pointed out, “[Violation citations] measure presence. They measure whether the enforcement cop is on the beat. And increasingly the cop is absent.”²²

CONCLUSION

A comprehensive environmental agenda for the future will be one that recognizes the compatibility of sustainable development and economic growth. We need to change the tone of the environmental debate and find increased opportunities for interaction and cooperation among nonprofits, industry, and the government. We also need to focus on the importance of quantifying the benefits of environmentally friendly practices in order to educate the corporate world about how such practices raise their bottom line, spur technological innovation, and promote stability into the future.

As the OMB report illustrates, while so many regulations are dismantled due to concerns about costs, the effects of some of the most contentious regulations, such as those promulgated under the Clean Air Act, clearly have benefits that far outweigh the costs. A strong regulatory scheme does not lead to economic disaster; instead, the government has a responsibility to assess the very real threats against the environment and establish the goals and guidelines that we must follow to address those threats. These goals must be backed by vigilant enforcement in order to be meaningful and in order for the full benefits of regulations to be realized. Not only can such a regulatory scheme lead to the preservation of our nation’s environment, it can also lead to the preservation of our nation’s economy.



ENDNOTES: An Environmental Agenda for the Future

¹ Office of Management and Budget, *Informing Regulatory Decisions: 2003 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities*, available at http://www.whitehouse.gov/omb/inforeg/2003_cost-ben_final_rpt.pdf (last visited Feb. 28, 2004).

² *Id.* at 6.

³ *Id.*

⁴ *Id.* at 8.

⁵ *Id.* at 8.

⁶ Press Release, OMB, OMB Reports to Congress on Progress in Regulatory Reform (Sept. 22, 2003) available at <http://www.whitehouse.gov/omb/pubpress/2003-38.pdf> (last visited Feb. 28, 2004).

⁷ S. Fred Singer, *The Costs of Environmental Overregulation*, HUMAN EVENTS, Aug. 7, 1993, available at <http://www.sepp.org/env-jobs/reg-costs.html> (last visited Feb. 28, 2004).

⁸ See *Dow Reaches for a Greener Future*, BUS. WK. ONLINE, May 1, 2003 (discussing the company's role in leading chemical companies towards corporate sustainable development policies), available at http://www.businessweek.com/technology/content/may2003/tc2003051_6546_tc108.htm (last visited Feb. 28, 2004).

⁹ See Eileen Alt Powell, *Citigroup Adopts Environmental Policy*, Associated Press (Jan. 22, 2003), (commenting on Citi's announcement of its intent to become the first American bank to adopt an environmental policy), available at http://www.enn.com/news/2003-01-23/s_12380.asp (last visited Feb. 28, 2004).

¹⁰ See Bruce Geiselman, *Uncle EPA Wants You: Major Firms Have Joined Waste Minimization Effort*, WASTE NEWS, Nov. 10, 2003, (illustrating incentives for companies to implement EPA regulations. Details about the National Waste Minimization Partnership may be found at <http://www.epa.gov/epaoswer/hazwaste/minimize>), available at 2003 WL 9784090.

¹¹ Daniel Esty & Michael E. Porter, *The Global Competitiveness Report 2001-2002* 78, 79 (Oxford University Press, 2001) available at http://www.isc.hbs.edu/GCR_20012002_Environment.pdf (last visited Feb. 28, 2004).

¹² World Resources Institute, *World Resources 2002-2004: Decisions for the Earth: Balance, Voice and Power, 2003*, at 134, available at http://pdf.wri.org/wr2002fulltxt_107-136_chap06.pdf (last visited Feb. 28, 2004).

¹³ Press Release, Environmental Defense, McDonald's & Environmental Defense Fund Mark 10th Anniversary of Landmark Alliance (Dec. 21, 1999) available at <http://www.environmentaldefense.org/pressrelease.cfm?contentid=1299> (last visited Feb. 28, 2004).

¹⁴ *Id.* ¶ 5.

¹⁵ See Model Partnership Agreement, Alliance for Environmental Innovation, available at <http://www.environmentaldefense.org/alliance/partnersindex.html> (last visited Feb. 28, 2004), (listing sample agreement and corporations already working with the Alliance Partnership).

¹⁶ Alliance for Environmental Innovation, *Catalyzing Environmental Results: Lessons in Advocacy Organization-Business Partnerships* (1999) available at http://www.environmentaldefense.org/documents/563_kaplan.pdf (last visited Feb. 28, 2004).

¹⁷ Fact Sheet, Pew Center on Global Climate Change (summarizing the goals of the Business Environment Leadership Council), at

http://www.pewclimate.org/companies_leading_the_way_belc/ (last visited Feb. 13, 2004).

¹⁸ See Katie Sosnowchik, *The Pragmatist*, GREEN@WORK, July/Aug. 2001, (interviewing Ms. Claussen about her career and accomplishments at the Pew Center), available at http://www.pewclimate.org/press_room/opinion_editorials/article_greenatwork.cfm (last visited Feb. 13, 2004).

¹⁹ World Resources Institute, *supra* note 12, at 135

²⁰ William K. Reilly, *The EPA's Cost Underruns*, WASHINGTON POST, Oct. 14, 2003, available at 2003 WL 62222672.

²¹ Seth Borenstein, *Pollution Citations Plummet Under Bush*, PHILADELPHIA INQUIRER, Dec. 9, 2003, available at <http://www.philly.com/mld/inquirer/news/front/7446525.htm>