

Energy Inflation Was by Design

Joseph Toomey



FOREWORD

by **Rupert Darwall**

The West is experiencing its third energy crisis. The first, in 1973, was caused by the near-quintupling of the price of crude oil by Gulf oil producers in response to America's support for Israel in the Yom Kippur war. Their action brought an end to what the French call the *trente glorieuses*—the unprecedented post-World War II economic expansion. The second occurred at the end of the 1970s, when Iran's Islamic revolution led to a more than doubling of oil prices. This again inflicted great economic hardship, but the policy response was far better. Inflation was purged at the cost of deep recession. Energy markets were permitted to function. High oil prices induced substitution effects, particularly in the power sector, and stimulated increased supply. In the space of nine months, the oil price cratered from \$30 a barrel in November 1985 to \$10 a barrel in July 1986. It's no wonder that the economic expansion that started under Ronald Reagan had such long legs.

This time is different. The third energy crisis was not sparked by Saudi Arabia and its Gulf allies or by Iranian ayatollahs. It was self-inflicted, a foreseeable outcome of policy choices made by the West: Germany's disastrous *Energiewende* that empowered Vladimir Putin to launch an energy war against Europe; Britain's self-regarding and self-destructive policy of "powering past coal" and its decision to ban fracking; and, as Joseph Toomey shows in his powerful essay, President Biden's war on the American oil and gas industry.

Hostilities were declared during Joe Biden's campaign for the Democratic presidential nomination. "I guarantee you. We're going to end fossil fuel," candidate Biden told a climate activist in September 2019, words that the White House surely hopes get lost down a memory hole. Toomey's paper has all the receipts, so there's no danger of that. As he observes, Biden's position in 2022 resembles Barack Obama's in 2012, when rising gas prices threatened to sink his reelection. Obama responded with a ruthlessness that his erstwhile running mate lacks. He simply stopped talking about climate and switched to an all-of-the-above energy policy, shamelessly claiming credit for the fracking revolution that his own EPA tried to strangle at birth.

Passage of the comically mistitled Inflation Reduction Act places this option beyond Biden's reach, even if he were so inclined. Democrats are hardly going to take a vow of climate omertà when they've achieved a political triumph of pushing through Congress what they regard as the most significant climate legislation to date. Although the price of oil has slipped back from recent highs, the factors behind high gasoline

prices remain in place. Foremost among these is the steep decline in U.S. oil refinery capacity triggered when Covid lockdowns crushed demand but continued after the economy reopened. There has never been such a large fall in operable refinery capacity. Moreover, Gulf Coast refineries were operating at 97 percent of their operating capacity in June 2022. As Toomey remarks, “There isn’t any more blood to be squeezed out of this turnip.”

Toomey identifies five factors driving this decline in refinery capacity. EPA biofuel blending mandates impose crippling costs on smaller refineries. When conventional refineries are converted to processing biofuels, up to 90 percent of their capacity is lost. Biofuel mandates cost consumers far more than federal excise taxes. Toomey demonstrates that the Biden administration’s claim that biofuel mandates protect consumers from oil-price volatility is totally false; biofuel prices, he writes, “are essentially indexed to the price of crude oil.” Biden could order the reversal of the EPA’s retroactive biofuel threshold rules. That he has not done so demonstrates that the administration isn’t serious about making energy affordable again. High prices for fossil fuel energy are an intended part of the plan.

Corporate and Wall Street ESG policies are another factor driving refinery closures, especially of facilities owned by European oil companies to meet punishing decarbonization targets that will effectively end up sunsetting them as oil companies. If finalized as proposed, the Securities and Exchange Commission’s proposed climate disclosure rules, with the strong support of the Biden administration, will heighten the vulnerability of U.S. oil and gas companies to climate activists and woke investors to force them to progressively divest their carbon-intensive activities, such as refining crude oil, and eventually out of the oil and gas sector altogether. To these should be added aggressive federal policies aimed at phasing out gasoline-powered vehicles in favor of electric vehicles (EVs); an administration staffed from top to bottom by militants who believe that climate is the only thing that matters in politics; and an increasingly hostile political climate (“you know the deal,” Biden said of oil executives when campaigning for the presidency. “When they don’t deliver, put them in jail”).

These policies, argues Toomey, will see China become the world’s leading oil refiner for years to come. Will Biden find himself asking China for supplies of refined gasoline? He might well find himself being saved from such an unfortunate position, made more so by Speaker Pelosi’s recent trip to Taiwan, by help from the other side of the southern border. Mexico is constructing a \$12 billion refinery, due to start producing gasoline next year. Perhaps President Biden’s next foreign trip should be to Mexico City.

ABOUT THE AUTHOR

Joseph Toomey is a career management consultant with undergraduate (Xavier University) and MBA (University of Maryland) degrees in finance. His supply-chain-strategy consulting work for clients in the oil and gas, electric utilities, industrials, and renewable energy industries spans three decades across dozens of countries. He is the author of *An Unworthy Future* (2014), a book that provides an economic appraisal of Obama’s “green energy” economy.

Author’s note: I would like to acknowledge the thoughtful review and guidance of Rupert Darwall, whose contributions to the manuscript have proved invaluable.

The opinions expressed in this publication are those of the authors and do not necessarily reflect those of RealClearEnergy.

I. PROLOGUE

Immediately after taking the oath of office on January 20, 2021, Joe Biden revealed that he had a unique hearing ability:

“A cry for survival comes from the planet itself, a cry that can’t be any more desperate or any more clear.”

With these desperate voices urging him forward, the newly inaugurated president immediately set about implementing his answer to the planet’s “desperate plea,” an anti-energy agenda. The list of actions he took was lengthy and far-reaching. All had the effect of raising energy prices. Then came the inevitable voter blowback.

For months, the administration peddled the now-patented “Putin Price Hike” line to excuse away inflation whose beginnings had their roots in the fiscal excess of Biden’s first year in office. Unable to make traction with evasion, the Biden Brain Trust tried to convince us that high gas prices were about the future of the liberal world order, and later that it was the fault of Republicans. Although gasoline prices have retreated from their recent highs, draining the emergency Strategic Petroleum Reserve only buys time and the forces pushing up the cost of energy remain in place, forces that had been summoned in answer to the voices that the president claims he heard.

This essay will demonstrate that the energy supply and price crisis was a deliberate outcome of a policy that Biden promised to implement, the same one that Obama had supported during his time in office. It will review how and why we arrived here, why record energy prices were not happenstance, why domestic conventional energy supplies are inadequate in relation to levels of demand seen in recent years, and how the entire thrust of Obama’s—and now Biden’s—energy policy was designed to deliver these results. It’s not a bug but a core feature of his program. As Karl Rove observes:

“Since taking office, Mr. Biden has labored hard to make American fossil fuel production more costly so green energy alternatives become more attractive. He succeeded, and the result is record prices.”

Biden’s energy fiasco is reprising the Obama playbook. As then-candidate Obama outlined to a Portsmouth, New Hampshire, audience in October 2007:

“My plan isn’t just about making dirty energy expensive. It’s about making clean energy affordable.”

Obama failed to mention that his “clean energy” would require massive subsidies and market interventions, destabilize once-well-functioning energy markets, make energy grids unreliable, send energy prices soaring in places where “clean energy” exhibited high penetration rates compared with elsewhere, and endanger the nation’s energy security. Between making fossil energy expensive and making “clean energy affordable,” we’ll need to settle for half a loaf. Now that the Obama failure has been revived, we’re onto the second installment of their Long March to becoming the economic and industrial wasteland of Germany.

II. CAMPAIGNING FOR BARACK OBAMA'S THIRD TERM

Anyone who has followed Joe Biden's mercurial career knows implicitly that nothing he has ever said or done was really original. In the case of energy policy, Biden is cribbing from Barack Obama, who promised to send energy prices skyrocketing if elected. Obama was elected, and energy prices dutifully soared. Indeed, our present dilemma is an eerie echo of early 2012, when nationwide gas prices climbed to nearly \$4 a gallon, a move that, as today, clearly endangered then-president Obama's chances for reelection.

In response, the Obama White House cobbled together a convoluted series of contrived energy-policy speeches and road shows. Any mention of climate in early 2012 was conveniently jettisoned in an effort to assure apprehensive Americans that the president was laser-focused on reducing gas prices, not atmospheric CO₂. Nowhere in the text of Obama's February 2012 remarks on energy do the words "climate" and "weather" even appear, the themes he had hammered relentlessly during his run for office in 2007–08.

Fast-forward to 2022, where a similar drama is playing out in which Biden finds himself captive to the program he had advocated during his run for office. At a rally in February 2020, then-candidate Biden spoke bluntly about his program after receiving heckling from a few strident climate activists in the audience:

"We are going to get rid of fossil fuels. . . . That's okay. These guys are okay. They want to do the same thing I want to do. They want to phase out fossil fuels, and we're going to phase out fossil fuels."

There was nothing revelatory about that. Speaking to a New Castle, New Hampshire, crowd five months earlier, Biden was challenged by a climate activist attendee who claimed that the then-candidate had accepted contributions from fossil fuel interests. The reply was classic Joe Biden bravado:

"Look, kiddo, I want you to look at my eyes. I guarantee you. I guarantee you. We're going to end fossil fuel."

Ignore the theatrics and condescension. In this case, Biden meant what he said. As Washington Post columnist Henry Olsen noted later in the campaign:

"Transitioning away from fossil fuels is an essential component of any serious climate change policy, and Biden knows it."

Speaking at a town hall in Peterborough, New Hampshire, on December 29, 2019, candidate Biden assured his audience:

"We have to set certain guiderails down now. So between the years 2021 and 2030, it's irreversible, the path we've set ourselves on. And one in which is doing away with any subsidies for fossil fuels, number one. Number two, holding them liable for what they have done, particularly in those cases where your underserved neighborhoods and you . . . you know the deal, okay. And when they don't deliver, put them in jail. That's what I propose. I'm not joking."

Biden administration policy would be subservient to climate extremism, not affordable energy. The extremism is exemplified by outlandish claims like "*the planet really has only eight to 10 years to heal itself before irreversible climate change sets in.*" To some, it's already too late to avoid impending planetary doom, the planet is now uninhabitable, and so on. If oil-industry executives didn't toe the line, Biden intended to throw them in jail.

As Biden battled Bernie Sanders for the Democratic nomination, he was determined not to be outflanked from the left, as Hillary Clinton had nearly been in 2016. At a CNN Democratic debate on March 15, 2020, Biden made clear that his program was built upon a solemn promise to eliminate domestic oil production:

“No more drilling on federal lands. No more drilling including offshore. No ability for the oil industry to continue to drill, period. [It] ends.”

There was nothing about ramping up oil production as a patriotic duty, nothing about getting more refining capacity on line “or else.” Biden’s rock-solid promise was that the oil industry—in fact, all segments of the fossil fuel industry, including natural gas and coal, would go extinct in short order.

Phasing out fossil fuels was the aim of the plan. Less than 18 months into his presidency, Biden was beseeching oil companies to do the opposite of what the plan required. In a June 16, 2022, letter to oil-industry executives, Biden alleged that they had the power to take immediate actions to increase refinery capacity and refined product supply:

“Your companies and others have an opportunity to take immediate actions to increase the supply of gasoline, diesel, and other refined products you are producing and supplying to the United States market.”

Industry participants responded promptly and forcefully, reminding the president that he had promised to “end fossil fuels.” Why would oil-industry interests invest capital in a business that the president had vowed to put out of business within a few years? The American Petroleum Institute reminded Biden that he had directed his EPA to adopt a light-duty vehicle standard that incentivized electric vehicle sales equal to 17 percent of all units sold by 2026, had directed the SEC to adopt rules discouraging oil-industry capital investment, and had taken other actions, such as establishing record renewable fuel thresholds that all discouraged oil production.

III. THE REFINERY SQUEEZE

For the moment, Putin is off the hook, which is just as well, since nobody was buying that line, anyway. The list of nonbelievers in the “Putin Price Hike” apparently includes Federal Reserve chairman Jerome Powell, who unhelpfully acknowledged in sworn testimony that inflation long predated Putin’s Ukraine war.

In rambling, incoherent, almost indecipherable appearances, White House Press Secretary Karine Jean-Pierre tried to pin the blame for the “awful” inflation numbers on oil companies. Saying that “oil companies reduced their refining capacity by more than 800,000 barrels per day,” she claimed that they had a “patriotic duty” to increase production:

“We are calling on them to do the right thing, to be patriots here, and not to use the war as an excuse or as a—as a reason to not put—to not put out a production, not—to not do the capacity that is needed out there so that the prices can—so that the prices can come down.”

It’s not a matter of economics but patriotism, or a lack thereof, that explains soaring gas and diesel prices. To underscore the position, Biden sent a harshly worded letter to ExxonMobil, Chevron, Phillips 66, BP America, Shell, Marathon Petroleum, and Valero Energy, blasting oil companies for “the historically high profit margins for refining oil into gasoline.”

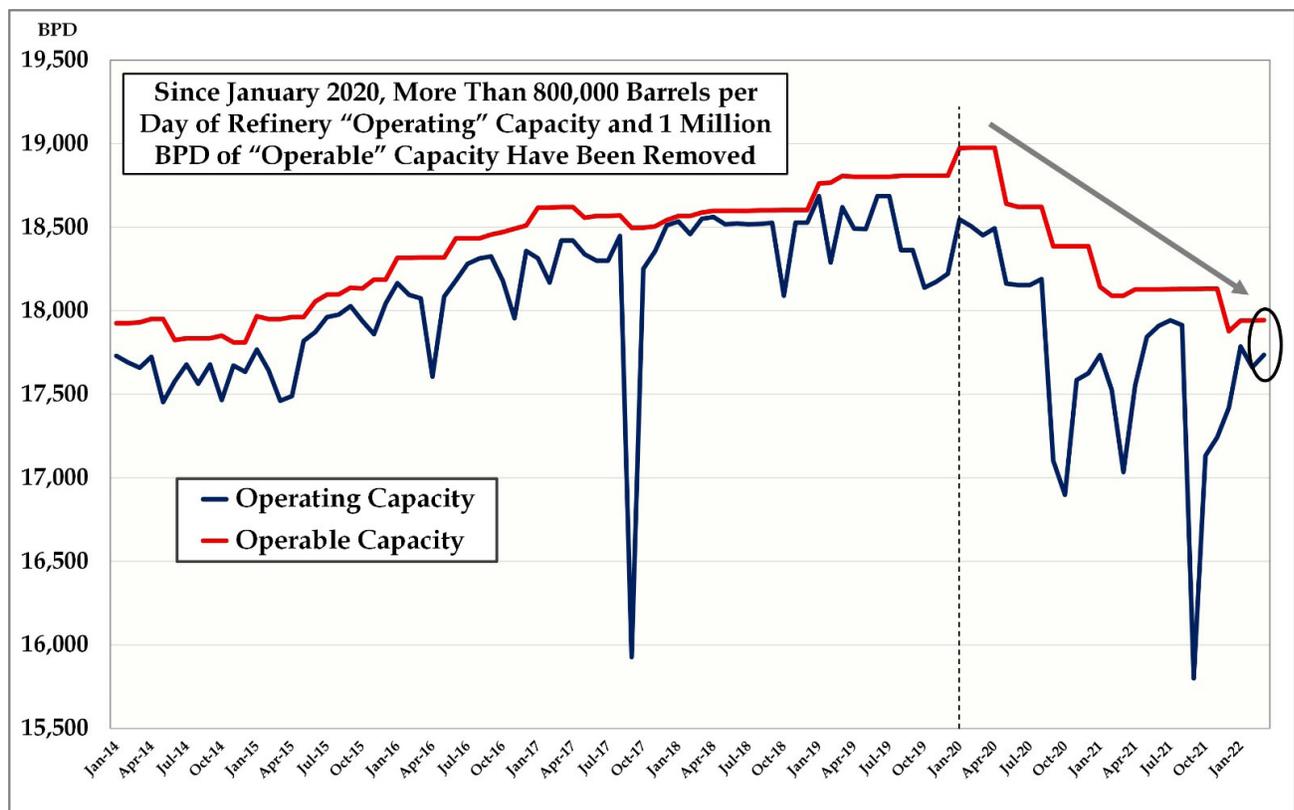
Why are refining gross margins so high? The Biden letter alludes to part of the reason:

“In the year before I took office, refineries in the United States reduced their capacity by more than 800,000 barrels a day, leaving American refinery companies today at their lowest level of capacity in more than a half decade.... At a time of war, refinery profit margins well above normal being passed directly onto American families are not acceptable.”

Existing refineries were operating at about 95 percent of capacity at the end of June. Refineries in PADD 3, those on the Gulf Coast, where the largest portion of capacity resides, were operating at 97 percent. There isn't any more blood to be squeezed out of this turnip.

Examining U.S. Department of Energy data for operating capacity from January 2020 to the latest figures available, 811,000 barrels per day of “operating” refinery capacity and more than 1 million barrels per day of “operable” capacity have been removed.

FIGURE 1. U.S. OPERABLE AND OPERATING CRUDE OIL DISTILLATION CAPACITY (THOUSAND BPD)



Source: EIA Refinery Utilization and Capacity Monthly Data; January 2014 to March 2022; thousand bbl per day

At the same time that the White House was hectoring oil-industry executives to increase oil infrastructure and capacity, the administration’s climate envoy, John Kerry, was broadcasting exactly the opposite message:

“You have this new revisionism suggesting that we have to be pumping oil like crazy, and we have to be moving into long-term infrastructure building, which would be absolutely disastrous. We have to push back, and we have to push back hard.”

In what must be a first for any president, Biden demanded that the nation’s gas-station operators and owners, the ones whom Biden is busy trying to put out of business, cut prices to zero out any markup on

gas. Station operators who are almost 100 percent independent entrepreneurial, small-business operators were told by the president to cut their net income on gasoline sales to zero:

“Bring down the price you are charging at the pump to reflect the cost you’re paying for the product. And do it now.”

Amazon founder and the nation’s most successful retailer, Jeff Bezos, described the presidential tweet as “*misdirection or a deep misunderstanding of basic market dynamics.*” To compound these incomprehensibilities, the Biden administration’s soon-to-be-relieved climate cheerleader Gina McCarthy hinted that oil-company messaging that ran afoul of the energy-restricting climate extremism might justify Big Tech censorship:

“The fossil fuel companies are still basically trying their best to make sure that people don’t understand the challenge of climate. What the industry is now doing is seeding doubt about the costs associated with [renewable energy] and whether they work or not.”

The debate about whether renewables can be made to work, in order to replace fossil sources that provide about 80 percent of U.S. primary energy, is over. The evidence is crystal clear that they cannot be a workable substitute at the necessary scale, cost, or technical feasibility. Green energy pioneer Germany’s reversion to massive coal usage and its impending economic and social chaos resulting from massive primary energy shortages should be seen as the handwriting on the wall. Blackouts are so frequent in green energy pioneer California that “*media outlets have largely quit reporting on them.*” Rather than allowing anyone to discuss the reality and implications of his energy-policy failure, Biden’s strike team will browbeat social media companies to simply censor the facts.

Also included in Biden’s program at one point was a plan to curtail federal gasoline excise tax of 18.4 cents a gallon, a measure that enjoys almost zero support, even among his fiercest partisan allies. That will serve to penalize road-infrastructure maintenance funding. It is a token amount when one recognizes that the nationwide average price had risen from \$2.46 a gallon on Inauguration Day to over \$5.10 a gallon by mid-June 2022. Contradictory messaging from administration officials such as Energy Secretary Jennifer Granholm, who acknowledged that a gas-tax holiday is “*a modest amount*” while 10 minutes later, the White House Press Secretary announced that the miserly cut “*is going to go a long way,*” isn’t helping advance the agenda.

IV. WHERE DID THE REFINERY CAPACITY GO?

The speed and scale of the recent decline in U.S. refinery capacity illustrated in Figure 1 is without precedent in the last four decades. There had been an earlier decline in refinery capacity, but it was much slower, as shown in Tables 1–3 below, and matched by a far larger increase in capacity utilization. Between August 1988 and February 1994, there had been a slow decline in operable capacity. In those five and a half years, operable capacity fell by 5.8 percent, equivalent to an average yearly reduction of 169,000 bpd.

TABLE 1. SLOW DECLINE AUG 1988–FEB 1994: U.S. OPERABLE CRUDE OIL DISTILLATION CAPACITY ('000 BPD)

Month	Capacity	Percentage change	Average change per year
Aug 1988	15,958		
Feb 1994	15,028		
Change	–930	–5.8%	–169.1

Despite the 930,000-bpd capacity reduction suffered during those five and a half years, capacity utilization climbed sharply, from an average of 84.4 percent during 1988 to 91.9 percent in the 12 months leading up to February 1994. Thus, a small reduction in operable capacity was more than compensated by a much larger increase in capacity utilization, which had the net effect of boosting actual refinery throughput.

This five-and-a-half-year slow decline in operable capacity between 1988 and 1994 was followed by a sustained, 26-year rise in refinery capacity at very nearly the same growth rate as the rate of decline of the previous period. By January 1999, operable refinery capacity of 16,261 thousand bpd exceeded the August 1988 peak of 15,958 thousand bpd and continued to grow so that by March 2020, operable refinery capacity stood at 18.9 percent above its August 1988 level and 26.3 percent above the level of February 1994.

TABLE 2. SUSTAINED GROWTH FEB. 1994 – MAR. 2020: U.S. OPERABLE CRUDE OIL DISTILLATION CAPACITY ('000 BPD)

Month	Capacity	Percentage change	Average change per year
Feb 1994	15,028		
Mar 2020	18,976		
Change	+3,948	+26.3%	+151.4

Operable refinery capacity peaked in March 2020, at just shy of 19 million bpd, coinciding with the pandemic lockdown. At that point, petroleum demand plummeted from nearly 20.1 million bpd to about 14.5 million bpd within two months. Nearly 80 percent of that rapid two-month consumption decline was for motor gasoline and jet fuel. By early 2022, refinery capacity had fallen below 18 million barrels per day, the lowest level in eight years, even as petroleum product demand had fully recovered to its early 2020 levels. More than 1 million barrels bpd of capacity had been removed just in the past year.

The third and last phase—one that, as yet, has no known end date—is one of precipitous decline in refinery capacity. In the 25 months from March 2020 to April 2022, operable refinery capacity shrank by 5.4 percent, taking it down to a level last seen in December 2014. More alarming is the pace of decline at an annualized rate of 496.2 thousand bpd—nearly three times faster than the 169.1 thousand bpd annual decline rate during the 1988–94 period of slow decline. Even worse is the fact that this time around, there is practically no ability for refineries to improve capacity utilization, as reports indicate that they are operating at or near record levels. July witnessed average utilization rates above 93.8 percent, which stands in stark contrast to the 84.4 percent utilization rate that was in place in August 1988. Any attempt to boost refinery utilization above present levels would risk damage to equipment that may be impossible to replace in the current political and supply chain–constrained environment.

TABLE 3. PRECIPITOUS DECLINE MAR. 2020 – APR. 2022: U.S. OPERABLE CRUDE OIL DISTILLATION CAPACITY ('000 BPD)

Month	Capacity	Percentage change	Average change per year
Mar 2020	18,976		
Apr 2022	17,944		
Change	–1,032	–5.4%	–496.2

It's important to note that the last large-capacity refinery opened in the U.S. was 45 years ago, when Marathon Petroleum began operating its Garyville, Louisiana, refinery, then rated at 200,000 bpd but since ex-

panded to 578,000 bpd. In the intervening years, the Department of Energy lists 14 mostly small refineries being opened, with an average capacity of 36,900 bpd. The vast majority of refining capacity expansion over those years came from existing facility upgrades rather than new greenfield sites. Observers cite onerous environmental regulations and permitting red-tape hurdles as the primary reasons for avoiding new refinery permit applications. The White House has considered using emergency powers to restart five idle refineries in the U.S. capable of producing 468,000 bpd. But how will that move play with climate activist allies who continually demand an end to the oil and gas industry?

Let's review activity in the U.S. domestic oil refinery industry in recent years, in order to understand where and how the capacity shortage occurred.

PES Refinery (Philadelphia): On June 21, 2019, a faulty pipe at the 335,000-bpd Philadelphia Energy Solutions refinery in South Philadelphia sparked a series of three explosions that caused massive damage at the behemoth Civil War-era facility, the largest on the East Coast. The enormous third explosion was powerful enough to send a 38,000-pound piece of equipment hurtling 2,100 feet to the opposite bank of the Schuylkill River. The damage was so extensive that the owners announced its permanent closure several days after the disaster. News of the explosion sent crude oil prices spiking more than 5 percent that day. Unable to find a buyer, the plant was dismantled. Despite the loss of hundreds of jobs, politicians praised the closure, citing the putative benefits of *"suppressing 20% of Philadelphia's greenhouse gas emissions every year that the refinery produced."* That sure came as great comfort to workers who lost jobs.

Shell Refinery (Convent, Louisiana): In early November 2020, Shell announced the closure of its 240,000-bpd refinery at Convent, Louisiana. The closure threw 700 company employees and 400 contractors out of work. Shell's closure was part of an announced plan to shutter seven refineries within the decade, to "transition to renewable energy resources" as the company embarks on a plan to achieve net-zero emissions by 2050. Unable to find a buyer, Shell confirmed plans to transform the plant into an "alternative fuels" facility. Planned output volumes haven't been announced but will doubtless be a small fraction of the original output and long-delayed, thus unable to have any meaningful impact on Biden's current economic and political crisis.

Equilon Enterprises Refinery (Martinez, California): Shell's subsidiary Equilon Enterprises announced plans to close its 157,000-bpd refinery at Martinez, California, in February 2020. The plant was sold to PBF Holding Co. LLC for \$1.2 billion. The new owners will convert the facility to producing "renewable biofuels," with an announced capacity of 48,000 bpd.

Phillips 66 Alliance Refinery (Belle Chasse, Louisiana): Phillips 66 announced the permanent closure of its 255,600-bpd refinery in Plaquemines Parish that closed prior to the extensive damage caused by Hurricane Ida in August 2021. A total of 470 company workers and 400 contractors lost their jobs.

Marathon Petroleum Refinery (Martinez, California): Shortly after the extreme consumption slump in 2020 caused by Covid lockdowns, Marathon Petroleum announced the closure of its 161,000-bpd refinery in Martinez, California. The plant employed 740 workers and as many as 2,500 contract workers. The company announced plans to convert the facility to a 47,600-bpd biorefinery, producing renewable diesel, slated to be fully operational in 2023.

HollyFrontier Refinery (Cheyenne, Wyoming): August 2020 saw the last barrel of crude oil run through the HollyFrontier 52,000-bpd refinery in Cheyenne, Wyoming. The company plans to convert the facility to a renewable biodiesel refinery with a projected capacity of 5,871 bpd, which is 11.3 percent of the plant's original throughput capacity.

Marathon Petroleum Refinery (Gallup, New Mexico): In August 2020, Marathon Petroleum announced plans to permanently close its 27,000-bpd refinery in Gallup, New Mexico. The closure would result in

more than 200 company employees losing their high-paying jobs and would deprive the area of a vital supply of refined gasoline and diesel fuel.

Marathon Petroleum Refinery (Dickinson, North Dakota): Marathon Petroleum closed its low-sulfur gasoline and diesel refinery in Dickinson, North Dakota, announcing plans to convert the 19,000-bpd facility to a renewable biodiesel plant. The new facility began operations in 2021, with an announced throughput capacity of 12,000 bpd, representing a 37 percent reduction, compared with its previous volume.

The announced refinery closures and retrofits discussed above entail a loss of 1.246 million bpd of conventional fuels refinery capacity. Meanwhile, the announced biofuel replacement capacity amounts to just 113,000 bpd—a net replacement ratio of less than 10 percent.

V. WHAT IS DRIVING REFINERY CLOSURES?

A consistent pattern emerges when these closures and conversions are examined. Some will be permanent closures that were made in haste during the massive petroleum-demand decline of the early days of the pandemic. Others were driven by a belief that the gasoline-refining business is a relic of a bygone era, which today's fully restored demand shows was flawed thinking. Others involved conversion of high-throughput gasoline and diesel fuel capacities to low-capacity biofuel facilities, decisions that were largely driven by so-called Environmental, Social and Governance (ESG) policies aimed at reducing greenhouse gas (GHG) emissions, policies that corporate boards have increasingly adopted in response to demands from activist investors. With the exception of the PES Philadelphia Refinery that was almost completely obliterated by the explosions, all were shortsighted; all have contributed to the high fuel prices and capacity shortfall; all helped drive refining margins to record levels; and, with record crack spreads enriching those companies that weathered the downturn, all the companies involved likely now wish they hadn't been so hasty.

In addition to these closures and conversions, several significant refinery closures are planned for later in 2022 or 2023. Analysts cited an expected 1.69 million bpd of capacity to close in 2023 alone. They are all driven by one or more of three market or regulatory motives:

- (1) Decarbonization policies supported by corporate ESG policies and/or the Biden agenda;
- (2) Absurd renewable fuel standard (RFS) compliance incentives (i.e., Renewable Identification Numbers, or RINprices) inherent in the EPA regulatory framework; or
- (3) Concerns about declining petroleum market share from electric vehicle competition incentivized or inherently mandated by Biden policies.

Here are just a few examples:

* Phillips 66 announced in 2020 that it would stop refining crude oil at its 120,000-bpd refinery in Rodeo, California. It will permanently shutter another location in Arroyo Grande, California. Although the locations are 200 miles apart, they act as a single integrated operation via a pipeline connection. The retooled refinery operation will produce 50,000 bpd of low-carbon renewable fuels to comply with California's Low Carbon Fuel Standard (LCFS).

* Carl Icahn's CVR Energy announced plans in late 2020 to convert a portion of its 74,500-bpd Wynne-wood, Oklahoma, refinery to production of renewable diesel. Production got under way in 2021. It's not clear how much of the conversion operation reduced conventional fuels' refining capacity in order to achieve the announced renewable throughput capacity of 6,900 bpd. What is abundantly clear is that the economic justification stems from the company's "reliance on RIN purchases to comply with the flawed RFS program," created and administered by EPA, and from credits under California's LCFS program, an invented market created by state regulations.

* LyondellBasell announced plans to completely shut down refining operations at its 268,000-bpd Houston refinery by the end of 2023. The decision is part of the European company’s net-zero strategy to exit the transportation fuels refining business altogether.

* In pursuit of its companywide exit-from-refining plan, Shell sold its 90,000-bpd Mobile, Alabama, refinery to Vertex Energy in 2021. Vertex plans to convert the facility into a renewable fuels plant, with announced capacity of 14,000 bpd by 2023.

D3 RIN prices, those generated with renewable diesel, have nearly tripled since 2020. Without a doubt, European-based companies like Royal Dutch Shell Group, LyondellBasell, and BP are leading the de-capitalization exit from conventional fuels due to ESG investor pressure and GHG emissions concerns. As one industry analyst observes:

“There is another theme in Europe—it’s a much faster pace of decarbonization and energy transition. A lot of the European companies tend to be moving a little more quickly to try to divest heavier carbon assets.”

Good luck with that. Spare a moment for an honest appraisal of how it’s working out in green energy transition leader Germany. The country’s *Energiewende* has collapsed into ruins. This is not a path that has been approved by voters in the United States. It’s doubtful that many Americans would support those measures enacted thus far if they had any notion of how much EPA compliance and other decarbonization program costs are embedded into current fuel prices.

VI. HOW DID WE GET HERE?

Biden’s contentions about oil-industry profiteering and underinvesting are demonstrably false. ExxonMobil’s statement made clear that it had been “investing more than any other company” in oil and gas capacity, which globally accounted for “double what we’ve earned over the past five years.” A few days earlier, Biden had claimed that “Exxon made more money than God.” He failed to mention that ExxonMobil had lost \$22 billion in 2020.

One of the most pointed replies came from Michael Wirth, chairman and CEO of Chevron. Wirth turned the tables on Biden, pointing out the errors in Biden’s hypocritical narrative and blaming him for causing the problem, an assessment that was exactly correct:

“Your administration has largely sought to criticize and, at times, vilify our industry. These actions are not beneficial to meeting the challenges we face and are not what the American people deserve.”

Wirth pointed out that Chevron had established a record petroleum-production volume during 2021, the largest in the company’s 143-year history. Wirth told the *Washington Post*:

“I don’t think you are ever going to see a refinery built again in this country. . . . Where the policy environment is trying to reduce demand for these products, you are not going to find companies to put billions and billions of dollars into this.”

These policies will see China become the world’s leading refiner for years to come, and that fact doesn’t seem to bother anyone in Washington. What’s worse, more than a million barrels of “emergency” crude oil release from the Strategic Petroleum Reserve were shipped to China. Speculation is rife that, at some point, Biden may actually beg China for refined gasoline supply.

In a clear indication of his priorities and the seriousness that he accords to motorists struggling to cope with his soaring gas prices, Biden snubbed the oil-company executives, whose cooperation he desperately

needed—instead, sending his Secretary of Energy to meet with oil-company leaders about options to reduce gas prices. On the very same day, Biden met with offshore wind energy interests at the White House, a program that has zero chance of achieving its advertised timetable or goals.

As noted above, factors that are continuing to drive the precipitous decline in refining capacity include:

- biofuel mandates;
- investor and corporate ESG policies;
- federal support for electric vehicles (EVs);
- an administration staffed with people who regard fossil fuels as the work of the devil; and
- a generally hostile policy environment.

Let's review each in turn.

VII. THE MALIGN ROLE OF BIOFUEL MANDATES

In early June 2022, as Biden was threatening oil-company executives, urging them to refine more gasoline, his EPA released updated biofuel blending mandates for 2020–22. As the numbers imply, the rules would impose retroactive compliance requirements for the two previous years.

Biofuel blending mandates, known euphemistically as the Renewable Fuel Standard (RFS), were established in the Energy Policy Act of 2005 and significantly expanded two years later in the Energy Independence and Security Act of 2007 (EISA). The expanded standards under EISA, called RFS2, mandated a series of ever-expanding biofuel blending volumes that topped out at 36 billion gallons in 2022. Take a moment to check your calendar: it is now 2022. There isn't a chance that that ambition will ever be realized, let alone in 2022.

EPA's newly published biofuel thresholds for 2022 obligate blenders to utilize 20.6 billion gallons of biofuels. Of that total, 87 percent will be ethanol derived from corn. It is, by far, the largest EPA-mandated volume ever. EISA directed EPA to develop a biofuel compliance mechanism that EPA interpreted to mean that it was empowered to become America's uber energy regulator. The mechanism established a system of Renewable Identification Numbers (RINs) that are created for each gallon of renewable fuel produced or imported. The burden of compliance falls upon refiners, who must purchase RINs from renewable fuel certificate holders.

Average RIN prices through May 2022 for conventional corn ethanol (i.e., D6 RINs) are 3.6 times more costly than in 2020. Small refiners report that RINs are the largest single operating cost they face, more than the cost of payroll, electricity, and utilities. Refineries can avoid the costly compliance mechanism altogether by simply exporting gasoline, which runs exactly counter to the newly minted Biden strategy of increasing domestic gasoline supply. Because there is little likelihood that the nation can or will consume 20.6 billion gallons of renewable fuel, the mandate will serve to boost compliance cost needlessly by obligating exorbitantly priced RIN purchases for renewable fuel volumes not even consumed. What possible justification exists for EPA to establish onerous retroactive compliance thresholds for 2020 and 2021 except to punish refiners and drive up the cost of conventional biofuel-blended fuels?

Biden himself has the opportunity to take immediate action to increase the supply of gasoline, diesel, and other refined products. By a stroke of his pen, he could order EPA to reverse its retroactive renewable fuel threshold rules for 2020 and beyond, which would remove the incentive for oil companies to export refined products designed to avoid the costly realities of EPA's renewable fuels regulatory mechanism. Doing so would have the immediate effect of keeping oceans of refined product out of export vessels. When EPA

was offered an opportunity to do exactly this, the agency effortlessly brushed aside concerns in its usual Luddite regulatory fashion.

When Biden claimed in his heated letter to oil-industry CEOs that “my Administration is prepared to use all reasonable and appropriate Federal Government tools and emergency authorities to increase refinery capacity and output in the near term,” it was just Biden blather. There was zero chance that he would be willing to reverse an EPA program that would anger the Green New Deal fantasists who were driving his energy policies.

Predictably, Biden is weighing a plan to curtail refined product exports. But among the options being considered, waiver of ridiculous RFS2 thresholds is not on the table. Industry observers readily admit that “recent refining capacity reductions have been stoked by Biden administration policies designed to limit gasoline demand and transition from fossil fuels.” Since those objectives are sacrosanct, everything else is playacting.

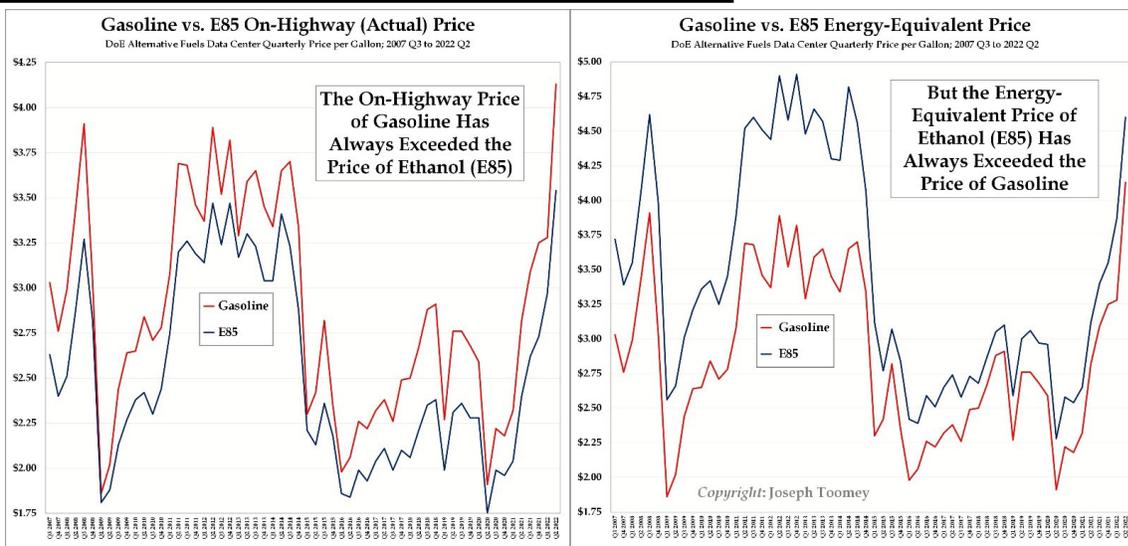
In April 2022, EPA announced that it would deny blending exemption petitions from small refiners (Small Refinery Exemptions, or SREs). The exemption denial order is retroactive back to 2016. Initially covering 36 small refineries, the order was later expanded in June to cover nearly 70 small-volume refiners. The order will impose enormous burdens on small-volume refineries, which produce nearly 30 percent of America’s gasoline and diesel supply. The measure will likely force some refineries out of business, further eroding refinery capacity that Biden claims he is desperate to increase. Once again, what possible justification could EPA have in implementing onerous retroactive SRE policies except to punish refiners and drive up the cost of conventional biofuel-blended fuels?

EPA likes to pretend that:

“Expanding the production and use of renewable fuels also helps protect Americans from volatile crude oil prices by reducing our reliance on fossil fuels.”

But biofuel prices merely keep pace with gasoline prices, which are closely correlated with crude oil prices. Government birthed a biofuel market into existence by legislative decree. The law obligates fuel blenders to accept government-mandated biofuel volumes each year. Biofuel refiners are naturally incentivized to charge the maximum price that the market will accept for required blending volumes. Those prices are essentially indexed to the price of crude oil.

FIGURE 2. ON-HIGHWAY ETHANOL VS. GASOLINE PRICE DATA ON AN ENERGY-EQUIVALENT BASIS, 2007–22



Source: U.S. Department of Energy, Alternative Fuels Data Center; Clean Cities Alternative Fuel Market Report, 1Q:2007–2Q:2022

There isn't a scintilla of evidence in the observable universe suggesting that biofuels have ever helped "protect Americans from volatile crude oil prices." But there is a mountain of evidence demonstrating the exact opposite: that biofuels merely impose needless regulatory cost and trade at a market-clearing price indexed to the global price of crude oil. In fact, U.S. Department of Energy data show that, on an "energy-equivalent basis," an 85 percent blend of ethanol with 15 percent gasoline has always sold at an on-highway premium to straight gasoline. Biofuels provide no protection against the volatility of crude oil prices. All the evidence suggests that the opposite is the case. As usual, EPA is blowing smoke.

Analysis of EPA 2021 RIN price and volume data shows that biofuel compliance imposed \$21 billion in extra cost that was passed along to consumers for no benefit. Based upon 134.8 billion gallons of motor gasoline consumed in the U.S. during 2021, that amounted to an additional 19.3 cents per gallon that the biofuel compliance program alone imposes upon motorists, without respect to the higher on-highway cost that ethanol imposes due to its thermodynamic disadvantage. At various times during 2021, the RIN penalty ran as high as 30 cents a gallon. That amount dwarfs the federal excise tax of 18.4 cents per gallon.

Even more humiliating for Biden's biofuel threshold inflation is the fact that ethanol from corn, which accounts for more than 87 percent of all biofuel production by volume, produces no GHG emissions improvement over gasoline and may actually cause as much as a 24 percent increase. That finding comes from a 2022 study published by the National Academy of Sciences. Researcher Holly Gibbs and her team found that biofuels had caused a 30 percent increase in corn prices between 2008 and 2016, which induced farmers to plow up vast expanses of grassland and increased the use of fertilizers by 3–8 percent. Products made from corn are found on 75 percent of the aisles in a typical grocery store. Thus, higher corn prices boost food prices throughout the entire store.

If you're still following, Biden's biofuel policy, far from reducing gas prices, will actually boost gas prices, increase smog during the summer, increase the compliance burden on energy companies, cause small refiners to bear soaring costs that will inevitably lead to capacity reduction as some of them simply shutter their operations, reduce engine performance, degrade fuel mileage ratings for every fill-up, require more fertilizer that diverts from food production, and cause corn and food prices to climb even higher.

VIII. INVESTOR AND CORPORATE ESG POLICIES

To further the objective of depriving the oil and gas industry of capital to survive and prosper, President Biden signed an Executive Order on Climate-Related Financial Risk on May 20, 2021. Section 3 of the order directed federal agencies to determine "climate-related financial risk to the financial stability of the . . . U.S. financial system."

The most costly and consequential measure that grew out of the executive order was an ESG rule proposed by the Securities and Exchange Commission (SEC) requiring firms to disclose so-called climate-related risks. The proposed rule would obligate firms to measure and obtain independent validation for their own Scope 1 and Scope 2 emissions and, eventually Scope 3 emissions footprints.

The SEC disclosure rules would give rise to an entire new industry of accountants, lawyers, lobbyists, and consultants who will busy themselves with the economically dubious work of counting the emissions intensity of industrial activity. Interestingly, the SEC had already adopted rules in 2010 obligating registrants to disclose material climate-related risks on their public income and balance-sheet statements. Pick up any company's 10-K, and scroll to the section "Material Adverse Risks"; it's right there. But that wouldn't be good enough. It's also worth pointing out that the SEC declared in 2016 that it lacked required statutory authority to implement such rules.

"The [SEC], however, has determined in the past that disclosure relating to environmental and other matters of social concern should not be required of all

registrants unless appropriate to further a specific congressional mandate or unless, under the particular facts and circumstances, such matters are material.”

The proposed rule, if adopted, would obligate companies to: (1) disclose climate-risk governance measures; (2) estimate and disclose how risks would affect the business; (3) determine how climate risks would affect a firm’s “strategy, business model, and outlook”; and (4) disclose how actual climate (i.e., weather-related) impacts have affected line-item measures on financial statements. If hurricanes temporarily shut down refineries, as hurricanes have done since long before the invention of human-caused climate change, they would now be described not as weather disasters but as “climate-related events.”

The most consequential and destructive is the proposed requirement to disclose Scope 1 and 2 GHG emissions and, if deemed material, Scope 3 emissions.

Scope 1 emissions refer to the “direct” energy actually consumed by the business, such as coal consumed in blast furnaces, diesel fuel burned in company truck fleets, or natural gas used for heating a firm’s buildings. Scope 2 emissions refer to “indirect” emissions that are consumed elsewhere but are employed in the business, such as electricity from natural gas turbine combustion that would be generated at an adjacent power plant not owned or operated by the firm but consumed at the firm’s factory.

Under the proposal, companies would be obligated to assess, measure, and disclose so-called Scope 3 emissions if deemed material. Kindly allow the U.S. EPA to explain what they are:

“Scope 3 emissions are the result of activities from assets not owned or controlled by the reporting organization but that the organization indirectly impacts in its value chain. Scope 3 emissions include all sources not within an organization’s scope 1 and 2 boundary. The scope 3 emissions for one organization are the scope 1 and 2 emissions of another organization. Scope 3 emissions, also referred to as ‘value-chain emissions,’ often represent the majority of an organization’s total GHG emissions.”

Got that? Companies would be forced to estimate emissions footprints of vendors, intermediaries, contractors, customers, and everyone else in the “extended value chain” of its business. Suppose that a U.S. reporting entity purchases a large piece of machinery from an offshore supplier. The purchasing firm will soon be obligated, under the proposed rule, to assess, measure, and report on the emissions that were created: (1) during the mining of raw materials used in assembly parts employed in the machinery fabrication, which would also include their production, staging, and storage; (2) in the physical transport of the raw materials or assembly parts to the assembly plant; (3) from actual assembly, production, and testing of the machinery; and (4) during transport to the purchasing firm’s final destination.

Consider just one single small aspect of the lengthy, complex, and burdensome value-chain assessment and measurement involved in this cross-border commercial transaction: the physical transport of the machinery from origin to destination. An estimate would need to be made about how much embedded emissions went into raw material sourcing, fabrication, assembly, testing, and delivery of the 45-foot ocean container that was used in the transportation of the purchased machinery in question—and which allocated life-cycle portion of that embedded emissions would be indirectly attributable to the consumed amount in the single transport event. The firm would also need to estimate how much energy was consumed in delivering the container from the vendor’s foreign factory to the foreign port, the energy consumed by the foreign port operator in staging and stevedoring the container onto a vessel, the fuel consumed by the ocean vessel in sea transport, and which part of that voyage was attributable to the single container in question, the energy consumed by the domestic port operator in staging and stevedoring the container off the vessel and making it ready for final delivery, the energy consumed delivering the container from the domestic port to the destination, including the rail operator’s portion as well as the two truck drayage operators at each

end of the intermodal move, the energy consumed in the financial transaction by banks, customs brokers, and third-party logistics operators who manage the physical logistics, and so forth.

Years ago, your humble author visited a lubricants blending plant in the Jurong area of Singapore, an operation owned by a U.S. oil company. That plant employed two full-time employees whose entire job was dedicated to managing Sarbanes-Oxley compliance and reporting requirements. One of those employees had previously been employed by an adjacent lubricants plant owned by a German company. We learned that that firm had no such data gathering, process assurance, and reporting obligation. Thus relieved of the burdensome Sarbanes-Oxley compliance cost, that firm was able to produce a competing product at lower total cost.

This is precisely the impact of the proposed SEC rule but with a vastly magnified impact. The practical result will be to make U.S. manufacturing of all products, not just oil and gas, far more costly and less economically competitive than foreign production. The rule will only incentivize deindustrialization in the United States. It would become just another Accountants, Lawyers and Consultants Full Employment Bill, as the 2010 Dodd-Frank Act was called, but with no recognizable benefit. With any luck, the Supreme Court's decision in West Virginia v. EPA will spell doom for the SEC's intrusive rule. But we may need to wait six or seven years for that result, as eventually happened in 2022 with Obama's 2015 Clean Power Plan.

The stated purpose of mandated GHG emissions disclosures is to alert investors to so-called climate transition risk—that is, the risks arising from the fiction that the world will achieve net-zero GHG emissions by mid-century. In reality, their underlying purpose is to facilitate multi-trillion-dollar investment managers and institutional investors to impose, monitor, and enforce corporate GHG-reduction targets on listed American companies, especially those in the oil and gas sector. The inclusion of Scope 3 emissions is a key component of the backdoor decarbonization of Corporate America, Inc. by Wall Street and woke institutional investors, without the bother of securing the approval of Congress. However, such a plan will not decarbonize energy consumption, as it will incentivize the shift supply of fossil fuels, indeed all manufactured products, from American producers to foreign ones at huge cost to investors, the economy, and America's energy security.

Big Green lobbying groups purchase a token number of shares in Company X common stock (as little as a single share is sufficient) for the express purpose of introducing shareholder resolutions urging the company to adopt economically crippling measures that align with their political goals—notably, GHG-reduction targets and requiring companies to set out their plans to achieve net zero by 2050. Because the lobbying group holds no material stake in the company, they are completely unconcerned with the cost or consequences of the proposal's adoption.

Particularly troubling is the recognition that most of the clamor for climate disclosures comes not from “investors” per se but from Biden administration political appointees whose policies are aligned with climate activists, ESG-influenced corporate boards, and proxy holders of equity shares whose fortunes are wholly divorced from actual corporate financial performance. The SEC misconstrues proxy holders of very large equity portfolios as “investors,” when, in reality, they are merely custodial stewards—portfolio managers presumably acting on behalf of the real investors, the people who tendered funds to purchase mutual funds or equity fund shares, or who have vested interests in pension funds. In light of cold, brutal reality, it doesn't make much difference to Larry Fink of BlackRock or Abigail Johnson of Fidelity Investments or Marcie Frost of CalPERS if the climate-disclosure proposals that they champion have a net negative impact on shareholder returns any more than it matters to a babysitter which age-inappropriate TV shows the children watch while the parents are out for an evening. It's not their money; it's yours and that of countless

others who have worked, saved, and invested. Compensation and earnings of investment-fund stewards are a function of portfolio size, not performance. Nor can any of them point to evidence demonstrating that adopting these onerous ESG measures improves financial performance, while there is a great deal of evidence suggesting that they would impose onerous, financially damaging, compliance costs.

IX. PRO-EV, ANTI-INTERNAL COMBUSTION

ENGINE FEDERAL POLICIES

A maxim in economics is that you tend to get more of what is subsidized and less of what is taxed. Biden's budget proposals (reviewed in more detail below) include tens of billions of new taxes on oil and gas production. Biden's program includes massive subsidies to promote the sale of electric cars. The bipartisan infrastructure bill that was signed into law in November included over \$50 billion in funds to the EV industry. Among the goodies doled out were \$7.7 billion for EV charge-station build-out. The legislation also included \$12.7 billion dedicated to promoting a range of clean vehicle infrastructure and fueling and an additional \$10.3 billion in grid and battery subsidies. Biden wanted a lot more than that in the Build Back Better bill that never made it out of the Senate. The Inflation Reduction Act that did pass extends EV purchase tax credits.

A few days after inauguration, Biden promised to put the immense purchasing power of the federal government behind a plan to acquire a fleet of non-emitting electric vehicles, claiming that the measure would lead to significant job gains. One need never be burdened with explaining why the federal government's acquiring non-emitting cars would create loads of jobs while existing federal fleet vehicle purchases of conventional vehicles presumably would not. One will merely serve as a substitute for the other.

The federal fleet vehicle averages about 6,000 miles per year. That is less than half the 13,476 annual mileage per vehicle that the average private vehicle achieves. A 2021 NBER study of privately owned EVs found that the average annual EV mileage was just 5,300 miles. Thus, the far higher acquisition price tag of an EV will have fewer miles over which to monetize its lower ongoing operating cost, making it far less economical than a conventional vehicle choice would be. The same is true of the low-utilization federal fleet.

In November, Biden signed the Bipartisan Infrastructure bill into law. It made \$7.5 billion of federal funds available that will force American taxpayers to fund a nationwide EV-charging network to help induce consumer EV adoption. Some 500,000 EV chargers would be built and deployed by 2030. Like Soviet-era central planners, Biden has decided that he can outthink consumer tastes and trends. It's not unreasonable to believe that high gas prices that are making EVs a more compelling choice to some motorists are a part of his master plan to speed consumer EV adoption.

The economic effect of this plan will be to degrade GDP growth as massive expenditures that could otherwise be used to finance improvements in societal well-being will be siphoned off to create a vehicle refueling infrastructure that is less efficient, more resource-intensive, less utilized, and more time-consuming for motorists than the one that already exists. The massive flood of expenditure will be used to create a network that adds nothing to net societal welfare and will likely subtract from it.

EV purchases are unlikely to generate any net economic growth because they merely substitute for conventional models. Anecdotal evidence thus far suggests that these EV purchases may actually degrade economic performance with their higher price tags, which will shrink demand for new autos and therefore auto production. Also, their higher percentage of foreign content will worsen GDP growth along with the balance of trade and current account deficits. China controls 70 percent of global EV battery production while the U.S. controls less than 10 percent. All the nickel, cobalt, and lithium used to produce EV batteries is sourced from outside the U.S.

Meanwhile, nationwide installation of an EV charge-point network will entail digging up streets, buildings, parking lots, homes, and other places to install very low-productivity charging systems. The cost of charging infrastructure investment required to support EVs will be many times the embedded investment required to support conventional vehicle refueling. And this all assumes that there is adequate electric generation capacity throughout the country to meet vastly expanded refueling demand.

Concurrently, the administration is hammering sales of conventional autos. In April 2022, the Department of Transportation announced new vehicle mileage standards that were far more stringent than those previously in place and even stricter than the rules proposed by EPA. The new standard would force automakers to more than quadruple market share of more expensive EVs within the next four years.

The intended effect of this measure would be to remove market share from internal combustion engine vehicles, which will reduce the attractiveness of further investments in oil drilling, refining, transportation, and distribution. The net effect will be to worsen the primary problem plaguing Biden’s anti-energy political problem: underinvestment in oil production capacity. The White House Press Secretary can wail until eternity about how oil companies have a “patriotic duty” to furnish more capacity. That will, and properly should, fall on deaf ears. Biden’s measure will make motoring more expensive while discouraging petroleum supply.

X. APPOINTING ANTI-ENERGY ZEALOTS

One of Biden’s favorite bromides concerns budget priorities. It goes something like this:

“*Don’t tell me what you value. Show me your budget, and I’ll tell you what you value.*”

If Biden’s platitude about measuring someone’s values by the budgets they support is true, then understanding how they plan to implement those values is best understood by examining the type of people they hire. Biden has surrounded himself with some of the most radical anti-energy zealots available without a prison visitor pass.

Two of Biden’s earliest and least defensible appointments to posts that didn’t require Senate confirmation were announced early after inauguration. Biden’s worst appointment was John Kerry to be his climate envoy. Kerry’s championship of the Paris Accord is in perfect keeping with his own party’s cynical approach to global treaties. His position on the Paris Agreement mirrors Bill Clinton’s Kyoto fiasco—make extraordinary and needless concessions from a position of strength, negotiate terms that can never be enforced, agree to frameworks that weaken the U.S. economy while strengthening the world’s most problematic regimes, and then cynically withhold the agreement from Senate ratification, as is required by Article II, Section 2 of the Constitution.

Second only to Kerry is the appointment of Gina McCarthy, the EPA administrator under Barack Obama, to be Biden’s senior climate advisor. Appointed in 2013 to replace Obama’s first EPA administrator, Lisa Jackson, aka Richard Windsor, who had run afoul of ethics rules, McCarthy had previously occupied the second-highest-ranking role at the agency. She was instrumental in enabling EPA to adopt its “endangerment finding” that the agency used to regulate GHG emissions under its over-expansive reading of Section 111 of the Clean Air Act, which the Supreme Court struck down in 20–1530 West Virginia v. EPA (2022). McCarthy is stepping down in mid-September amidst heavy Democratic criticism of her decision-making. The administration jumped from the frying pan into the fire with its appointment of political hack John Podesta as McCarthy’s replacement.

Easily the most ridiculous nomination Biden sent to the Senate for consideration was that of Saule Omarova as comptroller of the currency. Born in Kazakhstan and educated in Moscow during the Soviet era, Omarova has written extensively of her admiration for the Soviet command economy that . . . collapsed

into failure in 1991. Speaking about oil and other fossil fuel industry companies, Omarova made clear to attendees at a virtual event this year:

“A lot of the smaller players in that industry are going to probably go bankrupt in short order—at least we want them to go bankrupt if we want to tackle climate change.”

Democrats were left scrambling, hoping to convince people that she didn't really mean what she had said. It was unfair to take someone at their word. Later in her remarks, Omarova claimed:

“The way we basically get rid of these carbon financiers is we starve them of their source of capital.”

This was the “*starve them*” mind-set that Biden wanted to see confirmed by the Senate. Omarova told Chris Hayes of MSNBC in 2021 that she supported creation of a government agency that:

“acts directly in financial markets and acts as a venture capitalist, as a private equity investor, as a lender, as a guarantor, as an insurer, to basically make it easier not only for the public capital but for the private capital to flow into more sustainable industries.”

The public venture capitalist, private equity investor, lender, guarantor, and insurer she had in mind would be exactly like Obama's Department of Energy's Loan Portfolio Office, which financed Solyndra, SpectraWatt, Abound Solar, Evergreen Solar, A123 Systems, Range Fuels, Beacon Power, Nevada Geothermal, ENER1, Fisker Automotive, Willard and Kelsey Solar Group, ECotality, Raser Technologies, Energy Conversion Devices, Stirling Energy Systems, Azure Dynamics, GreenVolts, Nordic Windpower, Konarka Technologies, Solar Reserve, Crescent Dunes, Thompson River Power, Vehicle Production Group, and many other entities. All these had been lent massive amounts of money totaling billions of dollars of taxpayer capital, and all had collapsed in failure despite below-market interest loans, mandated markets, and over-priced revenue streams enabled by government-directed renewable energy thresholds.

Following a disastrous hearing before the Senate Banking Committee, which saw the nominee walk back past statements and stumble over numerous dishonest replies, her nomination was doomed. In early December 2021, Omarova withdrew from consideration. She blamed “the banks” for her defeat, not her own indefensible statements.

The most troubling nomination Biden sent to the Senate for consideration was that of Sarah Bloom Raskin as Federal Reserve's Vice Chair for Supervision. Raskin is a former Treasury Department political appointee during the Obama administration and is the wife of high-ranking Maryland Democratic House member Jamie Raskin. Law professor Sarah Bloom Raskin is a vocal proponent of expanding the statutory mandate of the Federal Reserve to include climate-change considerations in bank-lending practices and risk-management measures. If statutory authority cannot be secured, Raskin could be counted upon to step outside the law and implement her objectives using administrative authority.

The Federal Reserve has two statutory mandates: (1) to maintain a stable price level, which means moderate price inflation with a stable exchange rate of the U.S. dollar; and (2) full employment. Both these mandates grew out of two separate pieces of legislation that passed both houses of Congress and were signed into law by presidents. Note the absence of a legal mandate to manage climate-related risk. That objective is driven not by financial considerations but by politics.

Using the typically tortured terminology of the university faculty lounge where the Duke University law professor can be found during working hours, Raskin has been clear that the Fed must take matters into its own hands. In her explicit words:

“Financial regulators must reimagine their own role so that they can play their part in the broader reimagining of the economy.”

“Reimagine” is coded progressive faculty lounge language meaning that government officials should feel empowered to act outside their statutory authority if their actions can be tarted up in the gaudy costumes and garish makeup of a climate-change justification. Progressives were urging financial regulators to “reimagine the economy” in the same way that they had urged society to “reimagine policing” during the social chaos of 2020. The trail of smoking buildings, looted stores, firebombed police cars and precincts, and mass human exodus from crime-ridden cities and states provides a clear indication of how well that went. The result from economic “reimagining” will be no different.

Raskin asked in a New York Times editorial, “*Why Is the Fed Spending So Much Money on a Dying Industry? It should not be directing money to further entrench the carbon economy.*” Americans of a certain age may remember back to April 1977, when President Jimmy Carter warned that “*we could use up all the proven reserves of oil in the entire world by the end of the next decade.*” That, too, was a call to deprive the oil and gas industry of capital and transition our energy and economic system to renewables. How well did that go? Fortunately, key senators announced that they opposed the nomination. The nominee reluctantly withdrew, rather than endure a withering set of televised hearings that would ultimately have led to Senate rejection.

President Biden lamented the withdrawal of Raskin’s nomination, citing “baseless attacks” against her by industry groups and conservatives. Those “baseless attacks” primarily involved actually quoting her past writings and sworn statements. Quoting someone’s actual statements is always a “baseless attack” if it undermines the public’s acceptance of progressive priorities. And on the subject of undermining progressive priorities, pay no attention to the fact that two separate government studies by the Federal Reserve staff and the FDIC found that climate-related risks, such as they are, pose no meaningful negative impact on bank financial health.

If Biden really was serious about encouraging more oil and gas production that would help reduce skyrocketing energy prices, he would never have nominated such unfit nominees. And he would remove his anti-energy zealot John Kerry and find a more suitable replacement for the departing Gina McCarthy than John Podesta. Alas, there is zero chance that will happen because there is zero chance that Biden is really serious about abandoning his extremist agenda in order to make oil and gas plentiful and affordable.

XI. CREATING A HOSTILE POLICY ENVIRONMENT

In addition to the above, Biden embarked upon a set of initiatives that collectively were designed to vouchsafe his promises to extinguish the oil and gas industry. Indeed, his target was not only oil and gas but the entire array of fossil fuel energy sources.

1. Canceling the Keystone XL Pipeline: On his first day in office, Biden signed executive orders designed to implement his anti-energy agenda. The most controversial move was to cancel the previously approved permit for the Keystone XL pipeline, designed to carry 830,000 barrels per day of Canadian crude oil to U.S. refineries. Thousands of high-paying union jobs, the ones that Biden claimed his plan would create, were destroyed by the stroke of a pen. Despite his clearly articulated opposition to U.S. pipelines, Biden would have no qualms about sending his personal recommendation for approval of Russia’s Nord Stream 2 pipeline. The Keystone XL cancellation is a largely symbolic act, as the oil will find its way to market by other means. The climate impact from the volumes of crude oil it was designed to handle would have accounted for only four ten-thousandths of a degree Celsius of climate impact by 2100.

2. Reviving the Social Cost of Carbon: Also on Day 1, Biden signed Executive Order No. 13990, which, among other things, reestablished an Obama-era Interagency Working Group (IWG) charged with developing a measure for the “Social Cost of Carbon” (SCC) within 30 days of inauguration. While SCC is obscure to most Americans, what its significance may be, or that its scientific and economic rationale is

completely indefensible, it holds far-reaching consequences in federal rulemaking. In late February, IWG announced that, after a lengthy review of so-called Integrated Assessment Models, SCC would be set at \$51 per metric ton of CO₂. That authorized the administration to place an extraordinarily burdensome cost threshold on any activity involving fossil fuel usage or development.

U.S. District Court Judge James D. Cain, finding in favor of states suing Biden for his reckless SCC program, cited a staggering, completely imaginary, cost derived from its application:

“The total cost of these 83 regulatory actions [using social costs] is estimated to be between \$447 billion and \$561 billion (in 2020 dollars).”

In his ruling, Judge Cain noted that the Biden SCC order: (1) was capricious and arbitrary; (2) was likely to cause irreparable harm in the form of staggering costs to plaintiff states; (3) failed to follow the 7 percent discount rate rules in Office of Management and Budget (OMB) circulars that articulate procedures for federal cost-benefit rulemaking; (4) lawlessly applied “global” rather than purely “domestic” impacts, as required by law; and (5) illegally ignored Section 552 of the Administrative Procedure Act, which obligates federal agencies to establish a “public comment” period designed to assess the public impact of federal rulemaking. In short, the Biden SCC measure was an executive-branch power grab intended to kill off fossil fuel development in the U.S.

Despite Judge Cain’s flawlessly reasoned 44-page ruling, the Supreme Court issued a one-line order in May 2022, allowing the continued use of SCC in its current form while legal challenges are ongoing. To gauge what and who is motivating Biden administration SCC policy, consult the remarks offered by Maya Golden-Krasner, deputy director of the shadowy lobbying group Climate Law Institute, in response to the Supreme Court’s unexplained ruling:

“Now the Biden administration must get serious about fighting climate change by ending federal oil and gas leasing and stopping approvals for new fossil fuel infrastructure.”

Is that clear enough? The SCC would become the regulatory tool to eliminate leases, pipelines, refineries, and drilling. It’s clear that invoking a \$51-per-tonne SCC is completely aligned with Biden’s intent and oft-repeated campaign promises to extinguish oil and gas production in the United States. It’s simply astonishing to this observer that throughout the extensive literature covering Biden’s disastrous energy policy, the far-reaching, enormously consequential, and quite arbitrarily-implemented (if the Supreme Court’s “major questions” doctrine has any application, and how could it not?) SCC measure, established under purely executive-branch authority without the consent of Congress, is rarely or never discussed. It is designed to mimic the effects of an actual tax, thereby constraining the ability of American energy producers to compete, forcing them to relinquish market share to foreign producers.

3. Halting Lease Sales in Alaska’s ANWR: Another energy-constricting measure that Biden implemented on his first day in office was halting any new leases in the Arctic National Wildlife Refuge (ANWR). The White House referred to the order as a “temporary moratorium.” Despite calls for unity in his inaugural address, Biden unleashed highly divisive and punitive orders against oil and gas companies as well as Alaska’s economic and labor-force interests the minute he was inside a warm room. The obvious goal was to prohibit one of America’s most promising oil fields from ever producing energy to be used by American families and businesses.

Those “temporary” measures would be extended the following June, when Interior Secretary Deb Haaland announced that the department had discovered “deficiencies” in the previous lease award. The “defects” that the administration discovered involved a recognition that the oil produced would have unacceptably added to domestic supply, helped assure energy self-sufficiency and would contribute to lowering gas prices. Because the leases had been authorized by the Tax Cuts and Jobs Act of 2017, a bill passed by Congress and signed into law by President Trump, while the Biden prohibition was authorized only by executive

authority, the administration's measure is lawless in that neither Biden nor the Secretary possesses the authority to reverse the obligation to hold lease sales that were mandated by a federal law passed by both houses of Congress and signed into law by a president. Obligated by law to publish a five-year lease sales plan, the Interior Department ignored its own statutory deadline, the first "miss" since 1958. It's obvious that Biden has no intention of complying with the law. The president doesn't possess the authority to defy the law any more than he has to disregard a Supreme Court decision. Even if a court were to order the administration to resume lease sales, industry observers note that Biden would look for other ways to unleash what Senator Sheldon White calls "executive Beast Mode" as a work-around of the executive branch's legal obligations.

4. Placing a Moratorium on Drilling on Federal Lands: A few days after inauguration, Biden issued a moratorium on oil and gas drilling on federal lands. When 13 states' attorneys general sued the Interior Department over the ruling, a federal judge in Louisiana issued an injunction against the administration. Realizing that it had no options left, in the face of judicial opposition, the administration announced in April that it would resume onshore lease sales on federal lands but would boost tax royalties by 50 percent and reduce the acreage available for drilling by 80 percent, measures designed to thwart the judicial order, discourage oil and gas production, and boost prices. In August, a federal judge in Louisiana issued a permanent injunction against the Biden order, claiming that it was a violation of the Mineral Leasing Act (MLA) and Outer Continental Shelf Lands Act (OCSLA). The judicial injunction applies only to the 13 states that had sued the administration. As part of his devil's bargain—the provably misnamed Inflation Reduction Act, since it won't reduce inflation—Senator Manchin agreed to include authorization and funding for solar and wind deployments on federal lands, provided oil and gas leases are offered first.

5. Rejoining the Paris Climate Accord: Another measure that Biden took with his expansive executive order on the first day in office was to rejoin the energy-constraining Paris Climate Accord. The message sent to the world was articulated by Todd Stern, lead negotiator for U.S. commitments under the agreement. "It will be deliberate, aggressive and strategic." As Stern makes clear, Biden was committing his administration to move "aggressively" to curtail fossil fuel consumption. The chief mechanism to achieve that goal would be curtailing domestic supply.

Under what are euphemistically called "Nationally Determined Contributions" (NDCs) to deindustrialization . . . er . . . emissions reductions, the U.S. must reduce its GHG emissions to 26–28 percent of 2005 levels by 2025. The thresholds would be revisited and increased every five years. CO₂ represents nearly 80 percent of GHG emissions, and the vast majority of that comes from fossil energy usage. By year-end 2021, the U.S. had reduced its 2005 CO₂ emissions by about 19 percent. Short of inducing a massive energy-curtailling economic recession, which may well be what is in store, there is no hope that the U.S. will meet its first NDC obligation. But there is nothing unique about that. Nearly every signatory nation has fallen short. Even if most nations were somehow on track to meet their NDCs, those measures would fall short of the Accord's articulated goals. The bottom line is that Americans will pay exorbitant energy prices to curtail usage and reduce economic growth, which will be insufficient to meet national obligations under a treaty that practically no nation abides by and that won't achieve its stated climate mitigation objectives, anyway. That represents a perfect encapsulation of Biden energy policy.

6. Proposing Energy-Inhibiting Budgets: As observed earlier, Biden likes to invoke one of his most famous self-aggrandizing platitudes: "Don't tell me what you value. Show me your budget, and I'll tell you what you value."

It's worth taking a look at his budget proposals to see what he values. Biden's first budget proposal for FY 2022 included \$35 billion in new taxes targeting oil- and gas-producing companies. These onerous proposals were a pure cut-and-paste of the pointless budget pieties during the eight years of Barack Obama's presidency, proposals that were never enacted. Think that's just polemics? Pull up the Obama budgets for

FY 2016 or FY 2015 or any other year. Biden didn't bother to change the Obama budget phraseology or even the sort order of his "newly proposed" tax measures.

In his FY 2023 budget, Biden proposed a tax boost on oil and gas producers of \$43.6 billion. The budget would "invest" \$44.9 billion in "discretionary budget authority to tackle the climate crisis." Included in this spending would be funds to create a "Solar Manufacturing Accelerator" at the Department of Energy. That sounds a lot like the epic failures that were funded during the Obama years, megaflops that included Solyndra, Abound Solar, Evergreen Solar, SpectraWatt, Amonix Solar, BrightSource, Crescent Dunes Solar, and countless others. All these projects and more, funded with Obama Solar Manufacturing Accelerator money, collapsed in failure. We have a clear line of sight on where Biden's "values" reside. He values repeating Obama's taxpayer-funded green energy failures.

Biden's Treasury Department says that the \$150 billion in additional tax measures that will penalize oil and gas producers "will help build a better America." I'll wager they won't.

7. Canceling Oil and Gas Drilling Leases: Despite promises to work tirelessly to increase oil supply and help reduce runaway gas prices, the Biden administration announced in May 2022 that it was canceling three offshore lease sales in the Gulf of Mexico and Alaska. Rather than follow the law that requires the government to hold lease sales, the Biden administration responded to calls for more oil supply by looting the Strategic Petroleum Reserve. But that plan won't produce any additional supply, since those volumes had already been produced and were sitting in reserve. In addition, the measure will further drive down the nation's strategic stockpile, which in June was sitting at its lowest level since 1986.

8. Initiating Punitive Government Investigations: Another measure that the Biden administration is taking to discourage capital formation is to utilize the investigatory powers of the federal government in a punitive manner against oil and gas companies. In November 2021, Biden called upon the Federal Trade Commission (FTC) to open an investigation against oil and gas producers to determine if price gouging was occurring. Biden claimed in his letter to the FTC that there was "mounting evidence of anti-consumer behavior by oil and gas companies."

There was mounting evidence of anti-energy behavior by the Biden administration that was having an adverse impact on consumers. But there wasn't gasoline price gouging any more than there was price gouging for eggs, which had climbed 33.1 percent in a year, or men's suits, which had soared 24.9 percent, or airline fares that were 34.1 percent higher than last year as of June 2022 Consumer Price Index (CPI) measurements. What had happened was consumer inflation. It was broad-based, higher than at any time in 41 years, and completely engineered by Biden fiscal excess. The last time a president had sicced the FTC against oil companies for gasoline price gouging was in 2006, in the wake of Hurricane Katrina. After a year of investigating, the FTC concluded:

"In light of the amount of crude oil production and refining capacity knocked out by Katrina and Rita, the sizes of the post-hurricane price increases were approximately what would be predicted by the standard supply and demand paradigm that presumes a market is performing competitively. The regions of the country that experienced the largest price increases were those that normally receive supply from areas affected by the hurricanes. In the cities with the largest price increases, the sizes of the increases were consistent with the standard supply and demand competitive paradigm."

In its 222-page report, the commission went on to note:

"In general, the wholesalers and retailers that raised prices the most . . . were not firms that experienced increases in market power. Rather, they were firms that experienced the largest reductions in their own supplies and the greatest increases in their own costs."

Expect the same measure of success in locating illegal gasoline price gouging this time around.

9. Restricting Permian Basin Drilling Using Ozone Rules: Another far-reaching, potentially devastating, action that the Biden administration might take involves imposing harsh air-quality rules on certain counties in Texas and New Mexico. The counties in question reside in the heart of the country's most promising oil and gas production area, the "shale play" known as the Permian Basin. The massive basin accounts for 43 percent of U.S. oil production. It stretches over large tracts of West Texas and eastern New Mexico.

EPA issued an ultimatum to the counties in question that they may face stringent ozone emissions enforcement measures if emissions are not reduced below the range of acceptable levels. The rules would have the practical effect of curbing oil and gas drilling. The current compliance concentration standard is 70 parts of ozone per billion parts of atmosphere. Ozone, or O₃, is one of the six "criteria pollutants" under the Clean Air Act that the EPA is statutorily authorized to regulate. EPA considered inserting CO₂ on the list during the Obama years but abandoned that effort as unlikely to withstand court challenges in favor of achieving the same outcome through the Clean Power Plan, which has now been rejected by the Supreme Court.

The obvious intent of the new rules would be to increase uncertainty in new production operations, and thus curtail output, by imposing more stringent emissions requirements, increasing abatement equipment spending, and expanding site monitoring. The rules threaten to permanently erase the historic achievement of America's private-sector oil and gas companies in securing what presidents since Jimmy Carter aimed for but failed to deliver—namely, American energy independence.

Fearful that the nation's security would be endangered by dependence on foreign energy sources, President Jimmy Carter in April 1977 embarked on a crash course of replacing what he believed were dwindling supplies of oil and gas with novel forms of energy that included solar, biomass, coal gasification, and deep conservation measures. Imports accounted for about 18.5 percent of energy needs during his term. In a purely symbolic gesture, Carter ordered the White House roof to be outfitted with solar panels. His plan didn't stand a chance of success and was largely abandoned by his successor.

What did stand a chance was employing advanced technology and recovery methods to unlock the country's massive hydrocarbon potential locked in shale formations, resources that had largely been mapped out by the U.S. Geological Survey (USGS) nearly 100 years earlier. The U.S. became energy-self-sufficient on a primary energy BTU basis in 2019 for the first time since 1957. In 2020, for the first time since before World War II, the U.S. became petroleum-self-sufficient on a volumetric basis (i.e., positive trade balance or a negative net imports), as measured by the U.S. Petroleum Balance Sheet. In both cases, those achievements were due almost exclusively to the enormous expansion of oil and gas production from the advanced technology and recovery methods of hydraulic fracking that began in earnest in 2003.

If the U.S. is going to maintain energy self-sufficiency and a positive petroleum volumetric trade balance, it will need to exploit the massive hydrocarbon bounty bestowed by nature. There is no more productive region in the country than the Permian Basin. The Wolf Camp and Bone Spring formations alone are estimated to hold 46.3 billion barrels of recoverable oil, according to USGS.

Because the majority of America's oil- and gas-drilling activity occurs on privately owned land, a president intent on exerting the power of the federal government "to phase out fossil fuels" has a limited ability to achieve his objective. A regulatory mechanism must be devised, or invented, to demonstrate that the activity poses a danger to people, livestock, property, or infrastructure.

Barack Obama decided that he knew just the mechanism to achieve that aim. His EPA would initiate a concerted program to ban fracking, by claiming, without any evidence, that fracking fluids could migrate through layers on nonporous substrate from shale seams buried thousands of feet below the surface upward into aquifers that are just several hundred feet down. The program would target fracking activity in three states: Texas, Pennsylvania, and Wyoming. The EPA would initiate a series of enforcement actions in these states, designed to disrupt and penalize drillers.

A lengthy recitation of the sordid, eventually unsuccessful, Obama EPA enforcement effort is [available here](#) for readers with sturdy constitutions. After a successful outcome was achieved in these three “test bed” cases, the new enforcement rules would be rolled out across the country to shut down all drilling sites employing this revolutionary technology, an innovation that would eventually lead to the aforementioned U.S. energy self-sufficiency.

The fact that EPA’s then-director, Lisa Jackson, was on record claiming that “I’m not aware of any proven case where the fracking process itself has affected water” and “in no case have we made a definitive determination that the fracking process has caused chemicals to enter groundwater” would not be allowed to intrude on the Obama administration’s anti-fracking crusade. And so it will be with ozone emissions in the vicinity of Permian Basin drilling sites. Absence of evidence for harm will not be interpreted as evidence of absence.

If there was a measure designed to kill the goose that lays the golden eggs, a new ozone abatement rule would be it. The intent isn’t to address health concerns, since none has been demonstrated. The rules would serve as a [backdoor strategy](#) to disrupt fossil fuel production and the real target: GHG emissions. Climate campaigners [don’t even bother disguising](#) that fact. In all likelihood, the Permian action serves as another test bed that, if successful, will be rolled out across every oil- and gas-producing region in the country. The program will mirror Obama’s eventually unsuccessful multistate EPA fracking fluid “migration” enforcement measures that were designed to thwart fracking between 2009 and 2012.

If there were any truth in Biden’s oft-repeated assurance that he’s working feverishly to ramp up production of oil and gas in order to lower runaway energy inflation, EPA would never have been authorized to issue such a draconian ultimatum.

10. Imposing Stricter Methane Emissions Rules: In June 2021, Congress passed resolutions under the Congressional Review Act to reverse Trump-era methane emissions rules from oil- and gas-drilling wells. Those measures were [signed into law](#) by Biden on June 30, 2021.

Four months later, Biden used that authority to propose new [EPA rules](#) curbing methane emissions. Unlike most of the climate-related executive-order measures undertaken by this president, his [methane rules](#) were actually based upon bills passed by Congress and signed into law. [Standing alongside EU president Ursula von der Leyen](#) at the Glasgow climate summit, Biden announced a “[Global Methane Pledge](#),” a global compact of [more than 100 nations](#) that commits the U.S. to curtail methane emissions 30 percent by the end of the decade. The world’s three largest emitters—China, Russia, and India—have not joined the pledge.

EPA plans to ramp up monitoring of more than [300,000 oil and gas wells](#). Funding for the monitoring scheme will likely come from [fees assessed against gas- and oil-drilling operations](#). Those fees will be [passed along to consumers](#) in the form of higher fuel prices. With its new methane rules, EPA will now have statutory authority to take a wrecking ball to oil and gas drilling. Its actions will almost certainly withstand any court challenges, rooted, as they are, in actual legislation rather than agency rules. This is how Biden plans to lower gasoline prices at the pump, by implementing regulatory policies that will serve to curtail energy production and by imposing fees that will ultimately be borne by consumers.

11. Supporting a Range of Other Anti-Energy Policies: Biden’s plan “to get rid of fossil fuels . . . to phase out fossil fuels” would be served by a whole host of other measures, none of which would help install more production capacity.

Biden [threatened a windfall profits tax](#) on companies that, just two years earlier, had sustained the largest losses in their corporate histories. Never mind that the oil and gas industry bagged a massive [4.7 percent net margin in 2021](#) while the net margin for Microsoft that year was 39 percent, 30 percent for Facebook, 30 percent for Google, and 27 percent for Apple.

Biden has long claimed to support a carbon tax. While [carbon taxes](#) have been discussed for decades, they have never been enacted. The [main raps against them](#) include that they will have a disproportionate impact on the lowest-income consumers who spend the highest proportion of disposable income on energy.

Also, once enacted, it will be far simpler to push up tax rates than it will be to enact them in the first place. In addition, they will increase the price of energy without creating any incentive to produce more. At least today's high prices have the potential to spur additional production, even if significant investment increases will likely not be forthcoming for the aforementioned reasons. Once enacted in the U.S., they will hasten the exit of U.S. industrial activity, unless exemptions are granted to favored rent-seeking special interests.

Carbon taxes are popular nowhere. Senator Joe Manchin once shot a rifle bullet through a proposed carbon tax bill to show his disdain. The effects can be pernicious, even when they're not being shot at by coal-state senators. Lessons from where they are in place illustrate that point. A carbon tax in Alberta, Canada, imposed an additional \$3.3 million in levies for a school system, which was forced to reduce the size of its bus fleet, a move that kicked 400 students off school buses. Good work, Canada. Biden wants to import that same Canada-style success to the United States. Sweden and Finland both implemented carbon taxes. Both countries enacted exemptions for the most emissions-intensive industries, which promoted a land grab of rent-seeking favoritism among special interests. It would be no different in the U.S.

XII. THE OUTCOME: A FAILING ECONOMY

During her nomination hearing, Sarah Bloom Raskin testified in March 2020: *"If we ignore climate change, we in essence destroy the economy."* But all available evidence suggests that the opposite is true—that Biden has already succeeded in destroying the economy by focusing on, and even obsessing over, climate change. *"We are seeing . . . an inability to actually have smooth transitions around what should be the kind of shocks that the economy gets periodically,"* she proclaimed. That was true. But as the evidence shows, it was not due to climate change but to measures designed to mitigate it. The centerpiece of Biden economic policy was climate change. Box 1 summarizes where things stand.

BOX 1. PRESIDENT BIDEN'S ECONOMIC RECORD

- Consumer inflation propelled by soaring energy prices sits at a 41-year high. June's CPI reading soared past 9 percent on an annual basis. The average American worker has lost \$3,400 in annual earnings erosion as wage gains were more than erased by soaring prices. August saw the consumer food index climb 11.4 percent, the largest 12-month increase since May 1979.
- Producer Price Index (PPI) inflation is near an all-time high, with the June reading for PPI final demand reaching 11.3 percent, nearly eclipsing the all-time record of 11.6 percent set in March. PPI for all commodities soared by 23.4 percent, the highest reading since November 1974, which was 48 years earlier.
- Consumer confidence plunged to a record low level in June in the University of Michigan Consumer Sentiment survey, which dates back 70 years, to 1952.
- Consumer spending, which constitutes 69 percent of real GDP, has begun to run out of steam as anxious shoppers tighten purse strings.
- First-quarter real GDP suffered three successive downgrades and now stands at a negative 1.6 percent annualized rate of shrinkage. The second estimate of second-quarter GDP was negative 0.6 percent. That means that the U.S. economy is already in a technical recession. The Atlanta Federal Reserve Nowcast of third quarter GDP has been downgraded from a high of 2.6 percent on September 1st to just 0.3 percent on

September 27th, a reading that may well go negative before BEA's October Advance estimate.

- Business productivity declined 7.7 percent, and nonfarm productivity declined 7.4 percent in 1Q:2022. These were the largest quarterly rates of productivity decline in series history dating back to 1947. Nonfarm productivity in 2Q posted the largest 12-month decline in the series history. Both measures now stand at the lowest levels since 1Q:2020.
- Housing prices have been soaring at double-digit rates for most of the year as unsold inventory piles up, evidenced by the plunge in existing home sales.
- Mortgage demand has fallen to the lowest level in 22 years as home prices remain high, mortgage rates climb, and home sales plummet. New home sales plunged 12.6 percent in July. Existing home sales saw the seventh straight monthly decline in August.
- Housing affordability is the worst on record, as measured by the National Association of Realtors Home Affordability Index.
- Home showings plummeted 24 percent in May as mortgage rates soared to the highest levels since 2008. Prospective buyers are canceling purchase contracts at the highest rate since the pandemic's early days. Home builders in many markets are showing substantial declines in demand, with the National Association of Homebuilders index for July dropping to the lowest level since June 2020. It was the second-largest monthly decline since 1985.
- Many borrowers have now been priced out of the housing market as required mortgage debt-to-income ratios climb past acceptable levels, making potential borrowers ineligible for loans.
- Mortgage equity withdrawals in 2Q totaled \$82 billion, the largest amount in 15 years, rivaling levels from the housing crisis of the last decade.
- Home builder sentiment fell in September for the ninth straight month, the lowest non-Covid lockdown reading since May 2014 according to the National Association of Home Builders.
- Buying conditions for household durables, homes and motor vehicles have deteriorated to the lowest levels in decades primarily due to high prices.
- Construction spending declined in June and again in July according to the U.S. Census Bureau. The declines come on the heels of seven consecutive months of steady growth.
- Retailers report excess unsold inventory positions amid waves of heavy discounting to clear out overstock conditions.
- The average car payment for new cars continues to soar with record highs in May, June, July, and August, comprising seven successive monthly records. Auto delinquencies are on the rise as car owners struggle to make payments. Auto reposessions are surging, with repos, even among prime borrowers, doubling normal rates.
- The list of retailers reporting disappointing results is lengthy and growing, with retailers warning that worse is on the way.

- The stock market is caught in a downward spiral that seems to have a long way to go before a bottom is reached. U.S. equity mutual funds shrank by \$2.1 trillion in 2Q, the largest quarterly decline in history, negatively affecting consumers' "wealth effect" confidence. The S&P 500 index reached intraday lows on September 27th nearly 230 points below inauguration day market close in January 2021. That means equity investors are underwater in the Biden era.
- The benchmark S&P 500 logged the worst first-half performance for the index since 1970. That was 52 years ago. The S&P 500 Total Return in the first half was the worst on record since 1962. That was 60 years ago. The Dow Jones Industrials Average marked the worst first half since 1962. The NASDAQ Composite Index saw its worst first-half performance on record. And Deutsche Bank's 10-year Treasury proxy index was the worst on record since 1788. That was 234 years ago.
- The second quarter saw U.S. households suffer an unprecedented \$6.1 trillion decline in wealth, the largest drop on record.
- Interest rates are beginning to grow rapidly. The Treasury yield curve has already inverted twice, as measured by the 10–2 yield spread, once in April and again in July, a reliable sign of an impending recession. The August 9 inversion reached a gap of 48 basis points, deeper than any time since August 2000. Every recession in the past 60 years was preceded by a yield-curve inversion. The benchmark 10-year Treasury bond was plummeting in value in late September with the yield a whisker below 4.00 percent.
- Real hourly earnings and real weekly wages declined for eight months in a row through June. Real hourly earnings in May 2022 were lower than any time since January 2020, and real weekly earnings were lower than any month since February 2020.
- Real Disposable Personal Income (DPI) declined by 3.7 percent on an annualized basis in July. It was the seventh consecutive negative reading in that key benchmark index.
- Always a reliable leading indicator, freight spot rates for trucking have been on the decline since January while the capacity squeeze from last year has greatly eased with tender-rejection rates dropping to just 8 percent, indicating a softening in the freight haulage market.
- Eastbound Asia-to-U.S. ocean-freight rates are in deep decline at exactly the time when vessel operators would ordinarily be imposing peak season surcharges, signaling a steep falloff in merchandise ordering by retailers now sitting on a glut of inventory.
- The sell-off in transport equities indicates that industrial activity is set to decline. Transports bellwether FedEx shares have shed more than 53 percent of their value since peaking in May of 2021.
- High business and retail inventories mean that replenishment rates and new merchandise orders have slowed to a crawl.
- The U.S. trade deficit has soared to record levels, with the deficit in every month during 2022 up to May exceeding a record \$100 billion, a key factor in the erosion of GDP.
- Demand destruction is under way for petrochemicals used in a broad array of industries, which signals a deep decline in industrial and consumer goods manufacturing.
- Private-sector hiring as reflected in the ADP employment survey is at levels a small fraction of what it was just a few months ago.
- Despite being a supposedly bright spot in the economy, increasingly suspect BLS Payroll Survey Employment as of July has finally eclipsed the level of February 2020, which was

30 months earlier. In the BLS Household Survey, total employment remains 576,000 persons below the level of February 2020, despite nearly 4.4 million new adult entrants into the Civilian Noninstitutional Population, 61.2 percent of whom (i.e., 2.68 million workers) would have been expected to enter the ranks of employed persons at the pre-pandemic employment-population ratio of February 2020. The lagging Payroll Survey shows 1,888,000 jobs supposedly created in the past five months while full-time jobs declined by 383,000 over those same 5 months.

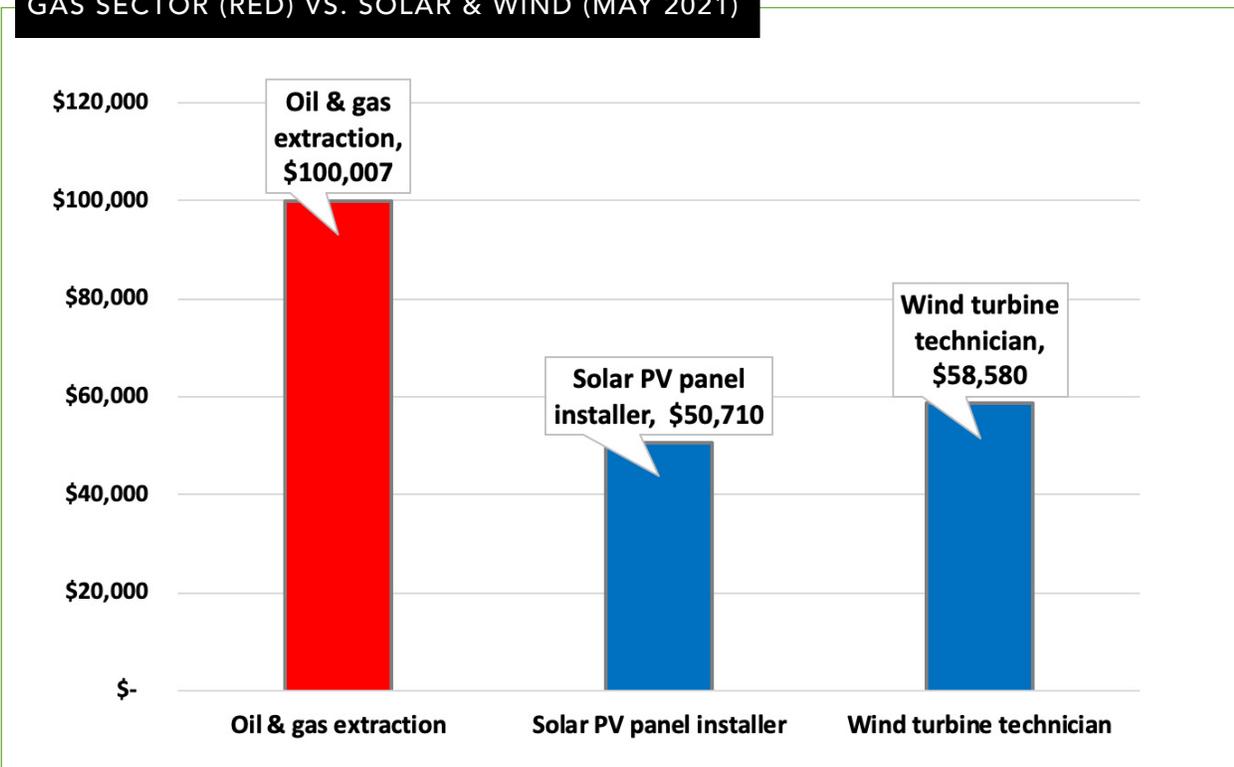
- Initial jobless claims soared in July to the highest level since November 2021. Initial claims in the last week of July were 54 percent higher than in early April.
- Goldman Sachs observes that the job market is rapidly cooling off. A succession of leading tech companies, including Apple, Tesla, Meta, and Google have announced job cuts or hiring freezes.
- April saw 2 million job postings disappear, as measured by real-time surveys from Revelio Labs. Online job platform LinkUp reports four successive monthly declines in job listings. July saw 89 percent of industries reporting declines. Job openings declined by 605,000 in June, the third-largest monthly decline on record. It was the third consecutive monthly decline in the otherwise badly lagged BLS Job Openings and Labor Turnover Survey (JOLTS) data. The three-month job-openings decline exceeds 1.15 million. Excluding the abnormal pandemic lockdown period, that was the largest three-month decline on record.
- Small and medium sized businesses report a record level of hiring freezes in September with nearly two-thirds of firms reporting freezes and 10 percent reporting layoffs.
- Job cuts soared 57 percent in June, compared with May and 58.8 percent from a year earlier, according to outplacement services firm Challenger, Gray & Christmas. July job cuts were 36 percent ahead of the year earlier while August increased by 30 percent from August 2021.
- Household debt has surpassed \$16 trillion, with non-housing debt balances for credit cards, autos, and student loans rising in 2Q at the fastest pace since 2016.
- Wall Street outlook is gloomy, with 60 percent of CEOs expecting recession by or before next year.
- U.S. manufacturing output declined in May and again in June, as measured by the Federal Reserve. Output declined 0.1 percent in May, following three previous months where growth averaged nearly 1 percent. Total industrial production declined 0.2 percent in June.
- June's ISM Manufacturing Report showed a contraction in the diffusion index readings for both new orders and employment, signaling trouble ahead. It was the lowest headline reading since June 2020. The new orders reading plunged 5.9 percentage points after growing for 24 months. July's ISM Manufacturing report also showed contraction in both new orders and employment.
- June's ISM Services Report shows contraction in the employment diffusion index, with a reading of 47.4.
- The S&P Global Flash PMI for July shows a "worrying deterioration in the economy" that, excluding pandemic lockdown months, saw output "falling at a rate not seen since 2009."
- A succession of Fed branch bank surveys (Philadelphia, New York, Richmond, Dallas) shows significant "unexpected" declines in economic activity.

XIII. POLITICALLY DIRECTED RESOURCE MISALLOCATION

A weakening, inflation-prone economy is proving no impediment to Biden’s anti-energy excesses, pressing forward at full speed on heavily subsidized wind and solar projects. On July 20, 2022, he announced executive actions designed to “Accelerate Clean Energy, Create Jobs, and Lower Costs.” Chief among the executive actions to “lower costs” was to direct the Secretary of the Interior to designate certain offshore areas in the federal waters of the Atlantic and Gulf of Mexico for wind energy development. The measure was in furtherance of Biden’s plan to implement 30,000 megawatts of offshore wind-generating capacity by 2030.

Billions of dollars in subsidies and favorable regulation, such as states’ renewable portfolio standards, have not overcome the fundamental reality of wind and solar’s terrible economics, which, in turn, is reflected in lower labor remuneration. Consider Gina McCarthy’s self-satisfaction at the Aspen Ideas Festival, where she bragged about how oil and gas employment had shrunk since Inauguration Day, while wind- and solar-industry employment has grown. Hooray! America is shedding employment in an industry that supplies 79 percent of U.S. primary energy consumption. Then have a look at Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics survey data on average wages in solar and wind industry vs. those for workers in oil and gas production. BLS reports that a solar photovoltaic panel installer (Occupational Code 47-2231) earns a median annual wage of \$50,710 in May 2021, or \$24.38 per hour. A wind turbine service technician (Occupational Code 49-9081) earns a median annual wage of \$58,580, or \$28.16 per hour. These are the jobs that McCarthy brags are growing in number. By contrast, workers in the oil- and gas-extraction industry during the comparable period in May 2021 made \$1,923.22 per week, or \$100,007 per year. Their jobs are being destroyed to make way for solar- and wind-industry jobs that pay about half as much and require huge subsidies to be kept in existence.

FIGURE 3. MEDIAN ANNUAL WAGES IN OIL & GAS SECTOR (RED) VS. SOLAR & WIND (MAY 2021)



Examining the latest U.S. Department of Energy (DoE) report on the levelized cost of electricity, offshore wind is 3.4 times more expensive than combined cycle natural gas generation. In fact, it is, by a wide margin, the most expensive source of electricity generation listed among competing sources on the DoE report. Typical of those offshore projects that Biden says will lower costs is the Skipjack offshore project off the coast of Ocean City, Maryland. The project sponsor Ørsted, a Danish wind energy company, will be paid a first-year “offshore renewable energy credit” of \$166 per megawatt-hour of energy produced. That feed-in price of \$166 per megawatt-hour is exactly 3.4 times the average cost of wholesale electricity contracts reported by DoE for 2021 in the PJM service territory. Shouldering Skipjack’s overpriced electricity is how Maryland’s ratepayers will benefit from Biden’s “lower costs.” But the kicker’s in the offshoring: Skipjack’s GE Haliade X-12 wind turbines and blades will all be manufactured in France.

What benefit will the nation derive from this policy? It’s a great deal for France. But how about the U.S.? Examine the labor impact of renewable energy for an answer. The United States Energy & Employment Report 2022 claims that there were 120,164 wind-industry jobs in 2021. As the report indicates, those jobs are mostly in areas other than manufacturing. In addition, as the Lawrence Berkeley National Laboratory Wind Market Report for 2021 points out, “the U.S. wind industry remains reliant on imports.” The Skipjack project is Exhibit A, in that respect.

The real “net zero” that the U.S. is likely to achieve under the Biden plan is net-zero economic growth. It’s already happening, as we now have two successive quarters of negative economic growth in the rearview mirror. Under the Biden plan, we achieve net-zero economic growth as labor and capital productivity are deeply degraded. The outcome will impose lasting damage on the country, with little or nothing to show for it but soaring debt, low wages, slow or no economic growth, reduced household incomes, rapidly climbing energy prices, energy poverty, more grid blackouts, deindustrialization, and a nation at the mercy of unreliable trading partners.

XIV. EPILOGUE

As mentioned at the outset, Biden’s program is a rehash of Obama’s energy program—but on steroids. To understand how all this will work in practice, it’s worthwhile to examine how it worked the first time around. In his State of the Union speech in January 2012, President Obama spoke movingly about Jackie Bray, a laid-off single mother who had found work at the Siemens gas-turbine factory in North Carolina. It was a tear-jerking moment, indeed. But as with so much of Obama’s career, he failed to tell the whole story about why a German company had placed a gas-turbine plant in the U.S. that employs American workers, as opposed to keeping that production in Germany. After the Charlotte plant completion, Siemens announced that it would eliminate 1,400 jobs at three assembly plants in Erlangen, Offenbach, and Leipzig. The reason was that Germany’s EEG law, or Energiewende, had driven the cost of energy in Germany to among the highest levels in the world. Germany’s Green New Deal had resulted in a job-killing hollowing-out of its industry while throwing hundreds of thousands into energy poverty. It was exactly the program that Obama had in mind for America—and that Biden has now copied, word for word. America’s domestic economic and energy output will be substituted for far less productive output that originates in China, France, Denmark, and elsewhere.

By early 2012, Obama’s anti-energy program that he had vowed during his campaign to bring to America had succeeded in doing precisely what he had promised—to send energy prices skyrocketing. In a panic over bad polling data, Obama went into hypocrisy overdrive, ditching talk about the climate, playing up oil and gas drilling, and talking about oceans of versatile new carbon-based fuels in order to help voters forget everything they knew about why they were then paying \$4 a gallon for gasoline. Obama’s 600-word April 2012 Earth Day proclamation failed to invoke the word “climate” even once. The White House even refashioned its website, removing photos of wind turbines and solar panels and substituting a photo of

the president in a hard hat, walking past a massive stack of large-diameter oil pipes. The panic-stricken Biden response in June and July 2022 to nationwide \$5 gasoline prices was an identical replay of what we witnessed in 2012.

Obama had the rhetorical skill and guile to limit the political damage, get himself reelected, and then promptly resume his destructive anti-energy crusade. Biden enjoys none of those qualities. Who wants to defend \$5 nationwide average gas prices? The obvious problem for Biden was that he mistook voter fatigue with the relentless cult-of-personality psychodrama that characterized his immediate predecessor as a mandate to reprise Obama's colossal energy-policy failure.

At his Virtual Climate Summit in April 2021, Biden promised to double Obama's GHG emissions-reduction targets. He was clearly prioritizing climate policies that will have an inconsequential impact on global temperatures but significantly negative impacts on inflation rates, personal incomes, and economic growth. After energy prices had predictably soared to record levels, Gina McCarthy made it clear:

"We're not backing down. Nor are we giving up on our targets. They are aggressive. But we are on target domestically to do what we need to do."

Don't look for any reversal, despite what you already know to be the predictable outcome. Evidently, what the Biden team has decided they "need to do" requires the economy to slow down to spark runaway inflation and vastly expand energy poverty through the magic of high energy prices. As was the case with Obama, that part of the program will succeed. It already has. Indeed, high energy prices have always held totemic significance for the progressive Left. They were required "to save democracy," according to the globe-trotting, private jet-flying World Economic Forum. President Clinton's Director of the Energy Information Administration Jay Hakes once proclaimed that "there's no way we can create a better future without the price of energy going up." Eco-crank Paul Ehrlich infamously claimed that "giving society cheap, abundant energy . . . would be the equivalent of giving an idiot child a machine gun." Energy gadfly Amory Lovins says that "it'd be a little short of disastrous for us to discover a source of clean, cheap, abundant energy." Imagine how disastrous it would be if you could heat and cool your home, keep your refrigerator running, drive to and from work, and still have money left to put your children through college. Those views haven't evolved in the slightest and are guiding Biden energy-policy theorists now and into the immediate future, the one marked by spiraling inflation and impending recession.

To assure the success of their high-energy-price agenda, environmental activists urge Biden to act outside the law and declare a "climate emergency." This would enable the president to bypass the niceties of regular constitutional order and shut down all oil and gas production. Never mind that the public rates climate change to be the least important issue facing the country. The desire to act outside lawful constitutional order is yet another feature reminiscent of Obama, who often boasted that "I've got a pen, and I've got a phone," and is being copied by Biden. But pens and phones don't improve energy-supply availability. Sensible policies do that. If the Biden White House really intended to reduce oil and gas prices, why would they be quietly modeling for \$200/barrel oil?

Biden's plan to drive oil and gas companies into extinction by depriving them of investor capital has driven fuel prices up to historically high levels, which has served only to boost profitability of those very companies that he was trying to kill off. The supreme irony is that investors will not be willing to abandon an industry that is so profitable. Having been burned in the overinvestment flood that followed the expansion of fracking and subsequent collapse of oil prices in 2016 and 2020, banks may be loath to ramp up the capital spigots to full blast again. But they won't be looking for the exit ramps, either. If you really wanted to drive the industry out of business, you'd make gas and oil so cheap that nobody could make money, profitability would turn into massive losses, credit lines would evaporate, and widespread bankruptcies would ensue. These Biden "thought leaders" are not exactly the brightest bulbs on the tree.

Like Obama before him, Biden promised that the public would readily embrace his Green New Deal and that it would reduce energy prices, create millions of new high-paying jobs, boost economic growth,

enhance energy security, stabilize the electric grid, reduce energy dependency, and help save the planet. Rather than achieving any of its stated goals, Obama's plan was characterized by high prices, Solyn-dra-style megaflops, increasing grid instability, rent-seeking, soaring public debt, destabilizing subsidies, further offshoring of green energy components, substandard economic growth rates, growing social division, and precious little in the way of green energy job creation. The same will happen for Biden. The road map before us leads directly to the past, without the reverse gear that helped Obama get reelected.

Biden's EPA will undoubtedly continue to push threshold biofuel volumes higher, despite the inability of the market to absorb any more renewable fuel volumes and despite the recognition that higher thresholds will drive compliance costs only higher for obligated parties. Higher biofuel thresholds will serve two purposes: they will make conventional fuels more expensive, further incentivizing a switch to EVs; and, for the portion of conventional fuels that remains, the carbon emissions footprint scoring will be reduced, thereby helping gain ground toward the Paris Accord's NDC decarbonization goals. The economic payback on this policy will be strongly negative.

Absent significant state-level intervention, corporate ESG—or E\$G, as it should probably be described—policies will likely become more pronounced. SEC's carbon accounting power grab described in these pages will almost certainly meet defeat, once challenged in the Supreme Court—and you can bet that it will end up before the high court, eventually. The “major questions doctrine” laid down by the majority in *West Virginia v. EPA* is likely to apply when the SEC challenge is eventually decided. In the interim, the SEC will plow forward as though no opposition had ever been voiced to its proposal. And numerous corporations will begin the wasteful practice of enriching carbon-counting accountants, lawyers, lobbyists, and consultants.

The supposition underlying it all is that climate catastrophe is right around the corner. We've been assured by the leading lights of the movement that the world will end by 2031 “if we don't address climate change” by eliminating GHG-emitting energy sources. Assured of the righteousness of that cause, the Biden team has begun paring back the supply of CO₂-emitting fossil fuel output today, decades before the multi-exa-joule-producing low-carbon infrastructure is in place, which will presumably act as a substitute. They have driven us into “the energy transition's looming valley of death” without a compass, a map, or any idea of how to escape.

RealClear Energy