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Federal Environmental, Wildlife and Indian Policies Jeopardizing U.S. National Food Security

By Lawrence A. Kogan

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- I. The Post-Modern Sustainable Development Paradigm and Its Impact on Environment, Health & Safety (“EHS”) Regulations, International Trade and Private Property
 1. Local Sustainability Movement Rides Wave of Evolving Federalism to ‘Axe’ Private Property Rights (Kentucky J. of Equine, Agriculture & Nat’l Res. Law, Summer 2015)
 2. The European Strategy to Become the New Global Standards-Setter, (Presentation at U.S. Agricultural Export Development Council’s Fiscal Year 2011 Annual Workshop, Baltimore, MD, Nov. 2010)

- II. EPA Clean Water Act Sec. 404 Wetlands Policies
 1. Private Farmlands Designated as Public “Waters of the United States -Related Wetlands Without Compensation
 - a. United States v. Brace
 - i. Case Dockets
 - No. 1:90-cv-00229-SPB
 - No. 1:17-cv-00006-BR
 - ii. Media Reports
 - Erie County Farmer Continues Fight Over Wetlands Issue - United States Goes to Court, Again, Against Robert Brace, (Erie Times, January 12, 2017)
 - Erie County Farmer’s Case Headed for Mediation – A Waterford Area Farmer’s Legal Battle with the U.S. Government Continues, (Erie Times, March 2, 2017)
 - I Know How Robert Brace Feels; What’s Your Opinion? What Can You Do?, Editorial, (Farmshine, p. 4 and p. 7, March 24, 2017)
 - Erie Farmer Fights EPA Over Water Ruling, (Lancaster Farming (April 14, 2017)
 - Mediation Fails to End Fed Case Against Waterford Farmer, (Erie Times, March 22, 2017)
 - US Food Security and Farmers’ Livelihoods at Stake in “Waters of the US” Rule Rewrite, (The WLF Legal Pulse, April 20, 2017)
 - EPA Disregard for “WOTUS” Prior Converted Cropland Exclusion Kills Ag Jobs and Contributes to National Security Risk, (Canada Free Press, April 29, 2017)
 - US v. Brace, the 30 Year Battle (Farm and Dairy, May 4, 2017)
 - b. Duarte Nursery, Inc. v. U.S. Army Corps of Engineers, Case 2:13-cv-02095-KJM-AC (E.D. Ca 2017)
 - i. Case Filed by Duarte Against Army Corps
 - ii. Media Reports
 - A Land-Use Case That’s Enough to Furrow a Farmer’s Brow (LA Times, Jan. 15, 2016)
 - Duarte Nursery: Farm Families ‘Should be Scared’ About Lawsuit (AgWeb, Sept. 27, 2016)
 - Farmer Faces \$2.8 Million Fine After Plowing Field, (Record Searchlight, May 22, 2017)

- California Farmer Fined \$2.8M for Plowing His Own Field, (Breitbart, May 23, 2017)
- He Plowed His Field; Now He Faces a \$2.8 Million Fine, (USA Today, May 24, 2017)
- Feds Fine Farmer \$2.8 Million For 'Deep Ripping' Of Farmland, (Daily Caller, May 24, 2017)
- Trump's Regulatory Rollback No Help for Farmer Facing \$2.8M Fine for Plowing Own Land, (Fox News U.S., May 31, 2017)

III. DOI Fish & Wildlife Service Endangered Species Act-Driven Fish Biological Opinions & Policies Calling for Water Reallocation &/or Dam Removal

1. Upper Klamath Lake/Klamath River BiOps – Coho Salmon & Sucker Fish (Oregon-California)

- a. Hoopa Valley Tribe Files ESA Lawsuit to Protect Salmon, (Daily Kos, July 2016)
- b. Yurok Tribe Finds Deadly Disease in Klamath River Salmon, (North Coast, Aug. 2016)
- c. Calif. Tribes Win Battle Over Water Project's Salmon Impact, (Law360, Feb. 2017)
- d. Klamath River Dam Releases for Fish Health Begin Shortly After Court Order, (Times Standard, Feb. 2017)
- e. Federal Judge Orders Agencies to Create New Flow Plan to Protect Klamath River Fish, (Times Standard News, Feb. 2017)
- f. Reclamation Answers County On Flow Increase Decision, (Siskiyou Daily News, April 2017)
- g. Tribes, Enviros To Drop Salmon Suit Claims After Consultation, (Law360, April 2017)

2. Columbia River BiOps – Chinook & Coho Salmon, Steelhead (Washington-Oregon)

- a. Judge Rejects Feds' Latest Plan To Help Salmon Survive Columbia River Dams, (OPBFM.com, May 2016)
- b. Federal Court Again Rejects Columbia Basin Salmon/Steelhead Recovery Plan; Orders New BiOp by 2018, (The Columbia Basin Fish & Wildlife News Bulletin, May 2016)
- c. NOAA: NO Mitchell Act Funds to Hatcheries Till Opinion is Finished, (Wahkiakum County Eagle, Sept. 2016)
- d. Groups Urge Trump Administration To Protect Lower Snake River Dams In Washington State, (PR Newswire, Dec. 2016)
- e. Future of Snake River Dams Under Microscope, (K5TV.com, Dec. 2016)
- f. Dam Breaching Undermines Washington State Measures To Reduce Climate Change Impacts - Columbia-Snake River Irrigators Association Again Call For ESA 'God Squad' To Be Convened To Assess Salmon Recovery Measures, (PR Newswire, Jan. 2017)
- g. Legal Actions on Killed Columbia-Snake River Salmon in 2015 and the Impaired Future Fish Returns, (Fish Information & Services, March 2017)

- h. Fish Kill the New Story in Dam Breach Saga, (Sun Tribune, April 2017)
- i. McMorris Rodgers Sends Letters to Administration Officials on Snake River Ruling, (Cathy McMorris Rodgers, Press Release, May 2017)
- j. Fish Kill the New Story in Dam Breach Saga, (Sun Tribune, April 2017)
- k. McMorris Rodgers Sends Letters to Administration Officials on Snake River Ruling, (Cathy McMorris Rodgers, Press Release, May 2017)

3. Flathead River, Flathead Indian Reservation – Multiple (Northwest Montana)

U.S. DOI-Fish & Wildlife Service Threatened, Endangered and Candidate Species (March 2017)

IV. DOI Bureau of Indian Affairs and Bureau of Reclamation Water Reallocation Policies Facilitating Indian Aboriginal-Based Water Right Claims; DOI/USDA-National Forest Service Tribal Forest Management Policies Facilitating Aboriginal Water Right Claims

1. Montana – Flathead Indian Reservation; Confederated & Salish Kootenai Tribes (“CSKT”) Water Compact

a. Writeups

- i. Memorandum: Legal Analysis of S.3013 – The Salish and Kootenai Water Rights (Sept. 2016)
- ii. Transmittal Correspondences to Montana's Congressional Delegation and to relevant U.S. House and Senate Committee and Subcommittee Chairs Summarizing the Legal Memorandum (Sept. 2016)
- iii. Summary of Write-Ups for Western States Constitutional Rights, LLC

b. Media

- i. Montanans Must Seek Independence from CSKT Water Compact, (Canada Free Press, July 2015)
- ii. Honor the Rule of Law, (Western Ag Reporter Sept. 2015)
- iii. A UN and Tribal Takeover?, (Canada Free Press, Sept. 2016)

2. Oregon-California Klamath Basin; Klamath River Basin Agreements

a. Media

- i. Hydro Agreement Changes Made Without Using the Rule of Law, (Herald & News, April 2016)
- ii. Bureau of Reclamation Makes Offer Irrigators Can't Refuse, (Capital Press, April 2016)
- iii. Wyden-Merkley Amendment: The Dog That 'Don't Hunt', (Capital Press, June 2016)
- iv. Hill Letter Misleading to Save KID Board Payoff, (Herald & News, June 2016)
- v. KID Lawyer Claims Bias by Newspaper, (Herald & News, July 2016)
- vi. White House as Originator and Promoter of Klamath Basin Agreements, (Canada Free Press, Sept. 2016)

V. Turkish-Lobbied Congressional Legislation Enacted for Leasing of 'Sovereign' Reservation Lands to Foreign Entities and Persons Without DOI-BIA Oversight (e.g., from Islamic Republic of Turkey)

1. Filings

- a. Summary Record of Filings – Keenan v. Bay, Civil Action No. 1:15-cv-01440 – National Security Issues Engendered
b.

2. Writeups

- a. Highly Questionable Turkey, Open Border & Greater Tribal Sovereignty Policies Together Undermine U.S. National Security (Academia.edu (2016)

3. Media

- a. Lawsuit: Dam Transfer to Tribes Has Nuclear Purpose, (Breitbart, Sept. 2015)
b. Is Turkey Secretly Working on Nuclear Weapons?, (National Interest, Sept. 2015)
c. OPINION: More Questions About Turkey Role in Tribal Issues, (Daily Interlake, NW Montana, Dec. 2015)
d. Setting the Record Straight About Our Kerr Dam Lawsuit and Turkey, (Western Ag Reporter, Dec. 2015)
e. Turkey's Alliance with the West is Crumbling Under Islamic Militancy, (National Review, Dec. 2015)
f. London Book Review: Military to Military, Seymour M. Hersh on US Intelligence Sharing in the Syrian War (Jan. 2016)
g. Learn About Islam on April 8, Char-Koosta News, (March 2016)
h. Turkey Cracks Down on Academics, Anti-Israel Scholars Silent, (Blogcamera.org, July 2016)
i. Turkey IS Supporting Terrorists and Islamist Groups in Syria According to Leaked German Government Report (Aug. 2016)
j. Native Americans 'Disappointed' at Judge's Ruling on Dakota Pipeline, (Islamic Invitation Turkey, Sept. 2016)
k. "Sovereign" Indian Reservations Along U.S. Canada Border Endanger National Security (Dec. 2016)
l. Turkey's Radical Islamization Process Accelerating, (PJ Media, Jan. 2017)
m. Serious Questions Abound Regarding Interior Secretary Selection, (Western States Constitutional Rights, LLC, Feb. 2017)
n. Turmoil and Terrorism Breed Economic Uncertainty for Turkey, (PBS Newshour, March 2017)
o. NATO Ally Turkey Working With U.S. Muslim Brotherhood (April 2017)
p. Erdogan's Traveling Goon Squad, (Middle East Forum, May 2017)