



September 28, 2017

Comments from the Natural Resources Defense Council On the List of Candidates for the EPA Chartered Science Advisory Board September, 2017

Submitted by email to
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In a Federal Register Notice on June 27, 2017 (Vol. 82, No. 122, 29077 - 29079) the EPA invited comments on a list of nominees to be considered for membership on the EPA Science Advisory Board (SAB).¹ We appreciate the opportunity to provide comments in advance of the selection of members to the SAB. The Natural Resources Defense Council (NRDC) has no direct or indirect financial or fiduciary interest in the manufacture or sale of any chemical or methodology that would be the subject of the deliberations of this Committee.

Background

The SAB is a scientific/technical advisory committee. The objective of the SAB is to provide independent advice and peer review on the scientific and technical aspects of environmental issues to the EPA's Administrator. For the Agency to accomplish its mission to protect human health and the environment, members of the community that review its regulatory priorities and health concerns must not financially benefit from lax or failed environmental safeguards. We respectfully remind the Agency of its duty under the Federal Advisory Committee Act (FACA) to transparently vet financial conflicts of interest that bias panel members toward undervaluing scientific evidence of health harms or adverse environmental impacts.

Include representatives from labor unions, environmental justice groups, and environmental health advocacy organizations.

The SAB would benefit greatly from members with first-hand knowledge and experience in the way that workplaces and communities experience the issues, policies, and subjects that are the deliberations of the SAB. These include for example workers, union health and safety representatives, industrial hygienists, nurses, community health experts, and social scientists. It also includes tribal representatives, environmental justice representatives, and spokespersons for susceptible populations. Experts that may

¹ <https://www.gpo.gov/fdsys/pkg/FR-2017-06-27/pdf/2017-13332.pdf>



lack the privilege of formal academic degrees bring a field expertise that is tremendously valuable to ground-truth EPA policies and practices.² NRDC recommends that EPA include community experts on the SAB. EPA already recognizes this; for example, EPA supports citizen science projects with several tools including public databases, sensors and monitors, information and training.³

Conflicts of interest for *ad hoc* panel members must be publicly disclosed and minimized

The scientific credibility of the EPA is damaged by committees with real or perceived bias

The mission of the SAB is to provide credible and independent scientific analysis and advice to the EPA. Panels whose members have conflicts of interest, or a strong bias toward the perspective of regulated industries, undermine the credibility of the Agency. EPA should protect its objectivity, integrity, independence, and competence as its most valuable asset. The scientific credibility of the Committee and the EPA is damaged by panels with real or perceived bias.

EPA committees must be composed in order to ensure that industry bias is publicly disclosed, minimized, and eliminated if possible.

The Federal Advisory Committee Act (FACA) imposes requirements on agencies when they establish or utilize any advisory committee, defined as a group of individuals including at least one non-federal employee which provides collective advice or recommendations to the agency.⁴ When an agency seeks to obtain such advice or recommendations it must ensure the advisory committee is, "in the public interest"⁵ is, "fairly balanced in terms of points of view represented and the function to be performed,"⁶ and does not contain members with inappropriate special interests.⁷

Need for transparent and effective disclosure policies

EPA must strictly enforce its own ethics policies regarding disclosure and financial conflicts.⁸ Effective disclosure policies play an essential role in protecting EPA and committee work products. If such interests are discovered later, it may seem that either the EPA or the individual was intentionally hiding this information from the public, thereby casting doubt on the Committee's work products, and on EPA's ability to identify conflicts and enforce its own policies.

Comment period must be meaningful

² Anderson, B.E., Naujokas, M.F. and Suk, W.A., 2015. Interweaving knowledge resources to address complex environmental health challenges. *Environmental health perspectives*, 123(11):1095-1099.

³ <https://www.epa.gov/citizen-science>

⁴ 5 U.S.C. App. II, § 3(2)

⁵ id. App. II, § 9(2)

⁶ id. § 5(b)(2)

⁷ id. § 5(b)(3).

⁸ <https://yosemite.epa.gov/sab/sabproduct.nsf/Web/ethics?OpenDocument>



Under Section 4 of the Administrative Procedure Act, a federal agency is required to provide a meaningful opportunity for public comment on any proposed rule (5 USCS § 553). EPA has been clear that opportunities for comment must be meaningful in non-rulemaking processes as well. For example, on its NEPA website, EPA states, “Agencies are required to provide meaningful opportunities for public participation” during the National Environmental Policy Act (NEPA) process.⁹ A comment period is not meaningful if the Agency has already made its decision and is unwilling to consider relevant or substantive points raised in public comments.¹⁰ If EPA has already determined the final composition of all or part of the SAB, then the comment period is nothing more than a meaningless charade.

The following nominees with financial interests should be excluded

Advocates for the industry and regulated perspective are over-represented in EPA’s list of 2017 candidates,¹¹ and could be over-represented in the final panel composition. The financial interests of candidates must be fully disclosed so that EPA and the public can accurately assess the candidate’s perspectives, biases and financial conflicts. Committee membership should exclude experts with financial interests.

While we do not mean to disparage the qualifications or personal reputations of the following people, NRDC opposes the following individuals due to their financial interests on behalf of the regulated industries that could be directly impacted by the deliberations of this Committee.

Opposed chemical industry nominees are listed below in alphabetical order:

Richard Belzer - Frequent consultant and collaborator with the regulated chemical industry. Although his bio says that he is a “regular contributor to scholarly professions through journal peer review and service to professional societies” he seems to have very few actual publications. A search on PubMed, the NIH library of over 10 thousand scientific and medical journals, turned up only three publications with his name in the last fifteen years.¹² A search of his name on ‘Google Scholar’ turned up even less than that.¹³ His most recent article – in 2008 – is a co-publication with James Bus (also an SAB nominee) in the notoriously industry-friendly journal, *Regulatory Toxicology and Pharmacology (Reg Tox Pharm)*.¹⁴ The journal is financed in part by the tobacco, pharmaceutical, and chemical industries¹⁵ – all industries

⁹ How Citizens Can Comment and Participate in the National Environmental Policy Act Process, U.S. EPA, <https://www.epa.gov/nepa/how-citizens-can-comment-and-participate-national-environmental-policy-act-process>.

¹⁰ Cf. *Air Transport Ass’n of Am., Inc. v. Nat’l Mediation Bd.*, 663 F.3d 476, 487 (D.C. Cir. 2011).

¹¹

[https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebProjectsCurrentBOARD/09ED9DB7B1C5BFF18525814B00711533/\\$File/SAB%202017%20biosketches%20LOC%20post%2009062017.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebProjectsCurrentBOARD/09ED9DB7B1C5BFF18525814B00711533/$File/SAB%202017%20biosketches%20LOC%20post%2009062017.pdf)

¹² <https://www.ncbi.nlm.nih.gov/pubmed/?term=Belzer+RB+%5Bau%5D>

¹³ https://scholar.google.com/scholar?hl=en&q=richard+belzer&btnG=&as_sdt=1%2C21&as_sdtp=

¹⁴ Belzer RB, Bus JS, Cavalieri EL, Lewis SC, North DW, Pleus RC. The naphthalene state of the science symposium: objectives, organization, structure, and charge. *Regul Toxicol Pharmacol*. 2008 Jul;51(2 Suppl):S1-5.

¹⁵ Egilman, David, ed. (2003). "Correspondence about Publication Ethics and Regulatory Toxicology and Pharmacology". *International Journal of Occupational and Environmental Health*. 9 (4): 286–391. doi:10.1179/oeh.2003.9.4.386



with a financial interest in the deliberations of the EPA and its SAB. Belzer's clients include Exxon Mobil, the American Chemistry Council, and California Manufacturing Technology Association according to his SAB bio.¹⁶

James Bus - Frequent consultant and collaborator with the regulated chemical industry. Employed by Exponent, Inc, whose clients include many regulated chemical manufacturers and users. Exponent has a portion of its practice dedicated to "Chemical Regulation and Food Safety" where it promises its clients, "high-quality, creative, and practical solutions to problems that affect our clients' ability to conduct business globally", including access to its staff of "technical and regulatory consultants".¹⁷ The Exponent website says, "We assist chemical manufacturers, pesticide registrants, grower/commodity groups, and trade associations in dealing with issues that affect their ability to do business effectively...We specialize in resolving difficult pesticide and non-pesticide issues involving the U.S. EPA..."¹⁸ All these client services are directly financial impacted by EPA actions and SAB deliberations. That is, weakening or avoiding EPA regulations would directly financially benefit Exponent's clients; placing Exponent staff on the SAB provides a means for Exponent to deliver on these promises to their industrial clients.

Samuel Cohen - Frequent consultant and collaborator with the regulated chemical industry including the Flavor and Extract Manufacturers, the Sumitomo Chemical Company, and Kumiai Chemical Company according to his SAB bio.¹⁹ The Intercept reported that Cohen, along with Michael Dourson (a highly contentious Trump nominee to EPA) was an industry witness for DuPont in litigation over kidney cancers associated with exposure to PFOA chemicals.²⁰ Cohen also co-authored a paper paid for by the American Chemistry Council (ACC); co-authors include James Klaunig (another SAB nominee) and Dourson.²¹ The paper argues against the recommendations of the National Academies landmark report "Science and Decisions"²², instead positing that linear low-dose extrapolation for non-cancer effects should not be a default presumption, an industry-favored position that would weaken regulations and is not EPA policy.

Thacker P. 2017. Inside the Academic Journal that Corporations Love: A recent Monsanto lawsuit opens a scary window into the industry of junk science. <https://psmag.com/news/inside-the-academic-journal-that-corporations-love>

¹⁶ https://www.eenews.net/assets/2017/09/08/document_gw_03.pdf

¹⁷ [https://www.exponent.com/services/practices/environmental-sciences/chemical-regulation--food-safety/?serviceId=0546eed8-a627-4fed-b360-](https://www.exponent.com/services/practices/environmental-sciences/chemical-regulation--food-safety/?serviceId=0546eed8-a627-4fed-b360-0de396c65f96&loadAllByPageSize=true&knowledgePageSize=3&knowledgePageNum=0&newseventPageSize=3&newseventPageNum=0)

[0de396c65f96&loadAllByPageSize=true&knowledgePageSize=3&knowledgePageNum=0&newseventPage-](https://www.exponent.com/services/practices/environmental-sciences/chemical-regulation--food-safety/?serviceId=0546eed8-a627-4fed-b360-0de396c65f96&loadAllByPageSize=true&knowledgePageSize=3&knowledgePageNum=0&newseventPageSize=3&newseventPageNum=0)

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[eNum=0](https://www.eenews.net/assets/2017/09/08/document_gw_03.pdf)
¹⁹ https://www.eenews.net/assets/2017/09/08/document_gw_03.pdf

²⁰ <https://theintercept.com/2017/07/21/trumps-epa-chemical-safety-nominee-was-in-the-business-of-blessing-pollution/>

²¹ Rhomberg LR, Goodman JE, Haber LT, et al. Linear low-dose extrapolation for noncancer health effects is the exception, not the rule. *Critical Reviews in Toxicology*. 2011;41(1):1-19. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3038594/>

²² <https://www.nap.edu/catalog/12209/science-and-decisions-advancing-risk-assessment>



John Graham - Founding director of the Harvard Center for Risk Analysis which was partially supported by tobacco, chemical, pharma and other industries.²³ According to a website that is no longer publicly available, the Center receives unrestricted grants from 3M, American Chemistry Council, BP America, BASF, Chevron Texaco, Dow Chemical Co, DuPont Agriculture Products, DuPont de Nemours, Electric Power Research Institute, Eastman Chemical Company, ExxonMobil Corporation, FMC Corporation, General Motors, Kraft Foods, Monsanto.²⁴ Subsequently, as a political appointee under President GW Bush, Graham defended the controversial “senior discount” in risk assessment, which essentially devalues the benefits of clean air and safe drinking water for older Americans, weakening environmental safeguards.²⁵ Recently, he has defended unconventional gas development (fracking), writing that, “objective risk assessments suggest that risks are low and controllable through best risk management practices” in a paper funded by his own industry-funded Harvard Center for Risk Analysis.²⁶ Graham’s SAB bio states that he currently the Principal investigator on grants from the Alliance for Automobile Manufacturers and the Searle Freedom trust on regulatory reform,²⁷ clients with financial interests in avoiding mandatory environmental safeguards.

Michael Honeycutt - The Texas Commission on Environmental Quality (TCEQ) under Honeycutt has downgraded the toxicity of about two-thirds of the 45 chemicals it has evaluated through its risk assessment program since 2007, resulting in weakened environmental safeguards, according to a 2014 investigation by the Center for Public Integrity.²⁸ In a 2015 report co-authored by Honeycutt titled, “Lowering the Ozone Standard Will Not Measurably Improve Public health,” the authors write, “The Texas Commission on Environmental Quality argues that the thoughtful integration of scientific data does not support the assumption that tightening the ozone standard will result in measurable health benefits.”²⁹ Honeycutt has repeatedly made public statements and testified in Congress to dispute the harmfulness of smog (ground-level ozone) and soot (PM_{2.5}) air pollution. His outlier views on these subjects have been rejected repeatedly and emphatically by EPA’s Clean Air Science Advisory Committee, the Scientific Advisory Board and a vast body of medical science. Some of these representative claims are as follows:

- “Results of ecological epidemiology studies are inconsistent and it remains unclear if ozone is truly related to increased health effects.”³⁰
- “Many of these studies do not show a statistical relationship between PM and premature death. Some studies even suggest PM makes you live longer. EPA could have chosen a

²³ <https://www.industrydocumentslibrary.ucsf.edu/docs/#id=pzmf0128>

²⁴ <https://web.archive.org/web/20060306123929/http://www.hcra.harvard.edu:80/unrestricted.html>

²⁵ http://www.progressivereform.org/commentary/heinzerling_senior_disc.pdf

²⁶ Graham, J. D., Rupp, J. A. and Schenk, O. (2015), Unconventional Gas Development in the USA: Exploring the Risk Perception Issues. *Risk Analysis*, 35: 1770–1788. <http://onlinelibrary.wiley.com/doi/10.1111/risa.12512/abstract>

²⁷

<https://yosemite.epa.gov/sab/sabproduct.nsf/0/09ED9DB7B1C5BFF18525814B00711533/%24File/SAB%202017%20biosketches%20LOC%20post%2009062017.pdf>

²⁸ <https://www.publicintegrity.org/2014/12/19/16546/one-stop-science-shop-has-become-favorite-industry-and-texas>

²⁹ <https://energyindepth.org/wp-content/uploads/2015/06/Shaw-Lange-and-Honeycutt-EM-2015-Ozone-Health-Benefits.pdf>

³⁰ https://science.house.gov/sites/republicans.science.house.gov/files/documents/hearings/100411_Honeycutt.pdf



number of studies just as well conducted as the Pope and Laden studies and would have determined there is no health benefit from further regulating PM.”³¹

In a 2016 report in the Texas Observer titled, “State Toxicologist, a Skeptic of Mainstream Air Pollution Science, Seeks Seat on EPA Panel” Honeycutt is described as follows: “Texas’ top toxicologist, who has accused the EPA of fear-mongering about toxic chemicals, is vying for a seat on the agency’s clean air committee. During the one-month public comment period that ended July 20, Michael Honeycutt sent at least 100 emails to state air pollution regulators, university professors and industry representatives and lawyers asking them to send the EPA a letter supporting his nomination to the Clean Air Science Advisory Committee (CASAC), according to emails obtained by the Observer.”³²

James Klaunig - Frequent consultant and collaborator with the regulated chemical industry. Along with Samuel Cohen (above) and other industry consultants, published a paper funded by the chemical industry that argued against health-protective EPA policies and National Academies recommendations (see Cohen above).³³

Jeffrey Lewis - Employed by Exxon Mobil, one of the largest chemical manufacturers in the country, which has a direct financial interest in EPA policies and SAB deliberations. ExxonMobil has had over 160 environmental violations since 2000, resulting in penalties totaling \$670 million dollars.³⁴ In addition to a long rap sheet of environmental regulatory and criminal violations,³⁵ in 2015 Exxon was shown to have intentionally misled investors and the public about the financial risks of climate change, while funding climate-deniers and fighting climate-related legislation despite evidence in their own corporate documents acknowledging the real dangers of climate change.³⁶

Kimberly White - Employed by the American Chemistry Council (ACC), the trade organization for the chemical manufacturing companies including ExxonMobil (see nominee Jeffery Lewis). The ACC and its member companies have a direct and very substantial financial interest weakening or destroying EPA policies and regulations that would safeguard human health and the environment from toxic industrial products and pollution. For example, EPA enforcement actions in 2014 targeted Shell and DuPont – both ACC members³⁷ - for dangerous air toxics released during industrial flaring at their refineries and chemical plants; this was noted to be particularly harmful to the health of minority and low-income communities living nearby.³⁸ ACC member company Arkema Inc³⁹ recently made national news after it had explosions and toxic chemical spills associated with the flooding from Hurricane Harvey in Texas,

³¹ <https://science.house.gov/sites/republicans.science.house.gov/files/documents/hearings/HHRG-112-%20SY20-WState-MHoneycutt-20120606.pdf>

³² <https://www.texasobserver.org/state-toxicologists-seeks-epa-seat/>

³³ <https://www.nap.edu/catalog/12209/science-and-decisions-advancing-risk-assessment>

³⁴ <http://violationtracker.goodjobsfirst.org/parent/exxon-mobil>

³⁵ <https://www.corp-research.org/exxonmobil>

³⁶ <https://insideclimatenews.org/content/Exxon-The-Road-Not-Taken>

³⁷ <https://www.americanchemistry.com/Membership/MemberCompanies/>

³⁸

<https://yosemite.epa.gov/opa/admpress.nsf/2dd7f669225439b78525735900400c31/59847b4dd6dced8385257db30001b42e!OpenDocument>

³⁹ <https://www.americanchemistry.com/Membership/MemberCompanies/>



initiating an investigation by the Chemical Safety Board.⁴⁰ Weakening EPA rules and regulations would bring an immediate and substantial financial benefit to these chemical companies and other ACC members.

Opposed climate-denier nominees are listed below in alphabetical order:

In addition to the above chemical industry employees and consultants, E&E News reported on a dozen of the candidates that are climate science deniers. Such anti-science and anti-EPA ideologues should not be eligible to serve on a Board whose first word is "Science". Many of these science-deniers were nominated by the Heartland Institute, that promotes anti-climate propaganda.

As reported in E&E, by News Reporter Scott Waldman:⁴¹

Joseph D'Aleo runs climate skeptic websites and has appeared as a speaker at Heartland conferences. D'Aleo said his priority on the board would be attacking the endangerment finding, the legally binding document that holds that carbon dioxide and other greenhouse gases harm human health and must be regulated by the executive branch. He said he wants to challenge the finding because it could otherwise be used later to build back Obama-era environmental regulations. "We're going to push for reconsideration, start from scratch and put together the best science," he said. "If CO2 is not a serious pollutant, let's focus the attention of the EPA on other issues."

Edwin Berry funded his own climate research and says human carbon dioxide emissions do not cause climate change. He has compared those who believe in human-caused climate change to "Aztecs who believed they could make rain by cutting out beating hearts and rolling decapitated heads down temple steps." On his Twitter account, he has called Islam "a death cult" and has encouraged motorists to drive into protesters. Berry, in an email to E&E News, described his tweet as a joke and said he does not advocate violence.... Berry, who confirmed that he and a number of other skeptics were nominated by Heartland, said he wants to use his position on the board to show that humans barely contribute to atmospheric carbon dioxide levels, which he claimed are mostly driven by natural factors. "Let's get over this whole thing about climate change being an important thing, because in fact we humans have a negligible impact on climate," he said. "And if we had the Paris Agreement and everything else, it wouldn't do any good anyway."

Alan Carlin, a retired EPA employee who is affiliated with Heartland fought the agency's crafting of the endangerment finding. Carlin, an economist, was at the center of a political firestorm under Obama after he produced a widely criticized 93-page report comprising cherry-picked

⁴⁰ <http://www.csb.gov/arkema-inc-chemical-plant-fire-/>

⁴¹ The skeptics who could snag science adviser slots. Scott Waldman, E&E News reporter. <https://www.eenews.net/climatewire/2017/09/14/stories/1060060647>



scientific data and blog entries concluding that regulating carbon dioxide was "the worst mistake that EPA has ever made."

Kevin Dayaratna, a statistician at the conservative Heritage Foundation: His report was cited by Trump as a reason to withdraw from the Paris climate accord. It claimed that the agreement could shrink U.S. gross domestic product by \$2.5 trillion within two decades (though Trump stated the impact as coming within a decade). The report was criticized by some as being misleading, because that amount is less than 1 percent of the aggregate GDP over that period and the report did not account for the cost of taking no climate change action. Dayaratna was invited to attend Trump's withdrawal announcement in June in the White House Rose Garden.

Craig Idso, a senior fellow at the Heartland Institute: He has researched the benefits of atmospheric carbon dioxide. His work has centered on highlighting how increased carbon dioxide will benefit plants.

Paul Driessen, a senior policy adviser at the Committee for a Constructive Tomorrow, a libertarian environmental think tank: His organization handed out leaflets at a climate protest this year in Washington, D.C., that said, "CO2 is not the 'control knob' of the climate." He also co-founded Climate Exit, or "Clexit," which criticized the science behind the Paris climate agreement and holds that spiking levels of atmospheric carbon dioxide benefit the Earth. "The world must abandon this suicidal Global Warming crusade," the group stated in its founding statement. "Man does not and cannot control the climate."

Gordon Fulks, a physicist and adviser to the Cascade Policy Institute, an Oregon-based libertarian think tank: He has denied that net sea ice melt is occurring and that the Earth is warming. He has said those who express concern about climate change are like a "societal pathogen that virulently spreads misinformation in tiny packages like a virus."

Anthony Lupo, another founding member of Clexit: He has received support from the Heartland Institute and helped in the unsuccessful fight against the endangerment finding in court.

Leighton Steward, a former energy company executive and a founder of groups that promote the rise of carbon dioxide as a benefit: He has also encouraged the United States to drop out of the Paris climate accord and says that natural warming is raising the temperature of the Earth.

David Legates, a professor of climatology at the University of Delaware: He has denied that human-caused climate change could have catastrophic consequences and has co-authored climate research claiming polar bears are not harmed by human-caused climate change that was quietly funded, at least in part, by Koch Industries Inc."



The above excerpts from the E&E article reveals startling insights into these nominees regarding both their anti-science and anti-EPA positions.⁴²

Industry experts can submit information and address the SAB as members of public

We recognize that industry experts have information that may be valuable to the deliberations of the SAB and the policies of EPA, including for example, technical, scientific, and market data. If industry representatives have relevant contributions to the SAB then invitations to address the committee during public meetings are appropriate.

NRDC supports the following nominees:

NRDC supports the following candidates being considered for membership. We believe these individuals are well-qualified for the FACA duties and meet the criteria, with considerable experience and expertise that would contribute valuable service to the EPA mission

Supported nominees are listed below in alphabetical order:

- Anderson, Henry – Expert in clinical medicine, occupational environmental health, and state policy and regulations.
- Hattis, Dale – Expert in risk assessment, risk analysis, interindividual variability, and modeling.
- Hollis, Adrienne. Expert in environmental public health, environmental law, environmental policy, and environmental justice.
- Hood, Darryl. Expert in environmental health, neurotoxicology, biochemistry, environmental justice, environmental policy.

Thank you for the opportunity to provide comments,

Jennifer Sass, Ph.D.
Senior Scientist, NRDC

⁴² E&E News, Sept 14, 2017. The skeptics who could snag science adviser slots. Scott Waldman, reporter. The full article is behind a paywall