

50. ENERGY AND THE CONSTITUTION #2

Harrison H. Schmitt
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Obama's Anti-Keystone Pipeline Decision: The Latest in Unconstitutional Moves in Energy Policy

Conscious and deliberate decisions by President Obama and his Administration reduce future domestic supplies of energy. These actions violate the President's constitutional mandate to "provide for the common Defence."

The withholding of approval for the development of the Keystone Pipeline to bring Canadian crude oil to refineries in the United States constitutes merely the latest in these unconstitutional moves against maintaining national security. In aggregate, Obama's restrictions on use of domestically available energy increase the Nation's vulnerability to unstable and unfriendly foreign energy sources. Simultaneously, the military and essential industries lose access to secure supplies of fuels and electricity.

Along with the anti-Keystone decision, the President and his Administration have undertaken the following policies that, in total, are unconstitutional:

1. Severe limits and regulatory delays in permitting offshore oil and gas exploration and production in the Gulf of Mexico and other offshore regions.
2. Continued administrative inaction by the Department of Interior to

make the Alaskan *ANWAR* and other potentially productive public land areas accessible to oil and gas exploration, development and production.

3. No action taken by the Environmental Protection Agency to remove the regulatory hurdles preventing the construction of new domestic oil refineries that produce domestic gasoline, diesel and jet fuels.
4. Multiple regulatory actions and threats by the Environmental Protection Agency that will force the closure of many coal-fired power plants, threaten the stability of the national power grid, and increase the price of electricity.
5. Plans by the Environmental Protection Agency to limit or prevent the use of hydraulic fracturing and reservoir treatment to release abundant shale gas and tight crude oil reserves.
6. Political and ineffective releases of oil from the Strategic Petroleum Reserve that reduce its availability for crisis defense needs.

7. Termination by the Department of Energy of Federal construction of a central repository for spent nuclear fuel, forcing the eventual shutdown of nuclear power plants that now supply 20% of U.S. electricity.
8. No action taken to remove the domestic regulatory hurdles preventing the construction of modern nuclear power plants.
9. Department of Interior's withdrawal of one million more acres of Southwestern land from uranium exploration and production required to fuel future nuclear power plants.
10. Threats by the White House and Department of Interior to use illegally the Antiquities Act and other arbitrary orders to withdraw vast areas of public lands in several Western States from energy and mineral exploration.
11. No action to reverse the Clinton Administration's similar withdrawal of millions of acres of Utah's public land with great energy resource potential.
12. Using taxpayer and debt resources to subsidize economically unsound solar, wind and bio-fuel energy development and production and equally unsound passenger rail systems.
13. Forcing Americans to pay far more than necessary for transportation fuel and vehicles through excessive regulation, taxation, subsidies, unsafe automobile mileage standards, and mandated use of costly and inefficient ethanol additives.
14. No effective diplomatic efforts to secure long-term access to Iraq's petroleum exports in the context of the premature withdrawal of American forces from that country.
15. No effective diplomatic efforts, if any, to contain China's efforts to control Western Hemisphere energy resources, as well as energy transportation routes across Central America.
16. Abetting China's moves to control U.S. access to energy by regulatory limitations on domestic exploration and decisions like "Keystone" that force Canada to look elsewhere to sell its tar sand resources.
17. No assertive or effective efforts to contain the adverse consequences of takeovers or intimidation of energy-rich portions of the Middle East by new radical Islamic dictatorships.
18. No assertive or effective efforts to prevent Iran from gaining access to nuclear weapons, weapons that could effectively prevent access to all Middle Eastern energy resources as well as pose a direct danger to Americans and their allies.
19. Ceding the Moon's resources for future helium-3 fusion power to China.

The continued drawdown of the national defense programs and the armed forces through actions by the President, his Administration, and the Congress only compound these and other adverse energy and economic actions and inactions. Of particular note are anti-growth policies that lead to higher tax rates, increased financial and environ-

mental regulation, and inflation stimulated by artificial expansion of the money supply.

The constitutional mandate for a rational and scientifically and economically sound national energy plan lies in energy's close modern relationship to the Federal Government's mandate to "provide for the common Defence" found in the Preamble and Article I. These provisions are reinforced by the Article II designation of the President as Commander in Chief and an Oath of Office that requires the President to "preserve, protect and defend of the Constitution".

Both near and long-term national security options are limited by projected increases in our dependence on foreign sources of oil. That dependence also creates an economic burden on our struggling economy that restricts the liberty of Americans, their 9th Amendment guarantee of the pursuit of happiness, as well as their ability to respond to crises of all kinds.

Dependence on imported oil gives existing and potential adversaries leverage to control our defense and foreign policies. Additionally, imports subsidize both the financial supporters of terrorism and, through additional national debt, our major economic and security adversary, China.

Dependence has the further effect of giving the United States no influence over the price it pays for oil. If the price of oil came under the direct economic influence of the United States through use of abundant domestic and Canadian resources, for example, Iran would have great difficulty affording the development of nuclear weapons and their delivery systems.

Dependence on oil and gasoline imports that are vulnerable to attack at sea also gives China further means to intimidate our na-

tional leaders into acquiescence to its continuing ambition for international dominance. China's rapidly growing economy, fueled by U.S. debt, has a major influence on world energy supply and cost, competing directly with our needs. Additionally, that country's growing conventional and asymmetric military capabilities directly threaten our sources of energy.

Cold War II has begun; however, it is being fought on an economic and energy front as well as through military capabilities. Relative to its geopolitical influence, China's rapidly developing space capabilities and its expressed interest in lunar helium-3 energy resources cannot be ignored [See Essay [No. 49](#)].

Many varied elements are necessary to a long-range national, free market plan that would ultimately provide for energy independence and a more stable economy. A scientifically and economically based, long-range strategy also would provide far more benefit to the preservation of the environment and natural resources than possible today [See Essay [No. 44](#)]. The absence of such a strategy has led to a national security crisis through progressively increased dependence on foreign sources of oil and restrictions on use of North American coal, tar sand, natural gas, and uranium resources.

The "common Defence" provisions of the Constitution require that the next President and Congress have a concerted and immediate focus on energy independence as well as on reducing spending and debt. No choice remains other than capitulation to the economic, military and terror intimidation of the enemies of liberty.

Harrison H. Schmitt is a former United States Senator from New Mexico as well as

a geologist and Apollo 17 Astronaut. He currently is an aerospace and private enterprise consultant, a member of the new

Committee of Correspondence, and author of "Return to the Moon".