

# Where does scientific expertise reside: EPA or Congress?

Lake Mead is a shadow of its former self, holding just over a quarter of the water it once held. The Great Salt Lake is a third of the size it was just 35 years ago. In early May, Shasta Lake was at the lowest level it has been at that time of the year since record-keeping began in 1976.

What do these three have in common? They reflect the water situation in the western part of the US. Lake Mead and Shasta Lake hold water that is used to provide water for urban and agricultural uses. With the Great Salt Lake, it is the incoming water that has been tapped for human use resulting in the slow drying up of the lake.

More frequent drought conditions have affected all three lakes and the amount of water that is available for agricultural and urban uses. But the climate effects that are so clear in the arid west are at play in much of the rest of the country.

To reduce the emissions that contribute to global warming, the Environmental Protection Agency (EPA) developed the Clean Power Plan that included regulations to shift the generation of electricity from coal-powered plants to sources with lower carbon dioxide equivalent (CO<sub>2</sub>E) footprint. States were responsible for setting enforceable rules that meet the EPA emission limits.

West Virginia along with other plaintiffs sued the EPA arguing that, in effect, Congress had not given the EPA explicit authority to regulate emissions.

Historically, when faced with similar questions the Supreme Court deferred to the scientific expertise of various regulatory agencies including the EPA.

In *West Virginia v. Environmental Protection Agency*, the Supreme Court set aside its historic deference to scientific expertise and, in effect, required Congress to do the scientific work needed to provide specific authorization for various regulations needed to achieve broad various goals to protect society from emerging risks.

While some may cheer the “dismantling of the regulatory state,” we think the decision puts society, in general, and agriculture, in particular, at risk of succumbing to emerging threats like climate change and new diseases.

Regulatory agencies must address various segments of society that are affected by their rules and regulations. If Congress needs to specifically formulate agency rules and regulations then, in the House of Representatives, it only takes a majority and not a scientific consensus. And while that puts the whole of society at risk of being unable to address a fast-developing threat, it puts rural communities at particular risk because the majority of the members of the House of Representatives represent urban districts and lack an understanding of life in rural communities.

Will the earth survive the higher temperatures that result from increasing CO<sub>2</sub>E emissions? It has in the past and it will in the future.

But that is not the relevant question. The question is “will human beings survive our maltreatment of the small blue marble on which we live?”

The geological record attests to the survival of life forms under extremely toxic conditions. It also attests to massive die-offs.

It is one thing for the earth to get hit by an asteroid the size of the one that killed off the dinosaurs when there is nothing we can presently do. It is another to face a massive shift in productive agricultural zones because 538 people in Washington DC lack the scientific expertise

and political comity to address the multitude of challenges surrounding a complicated technical issue like global climate change.

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