



For Immediate Release

Contact: Lawrence Kogan
609-951-2222 or
info@itssd.org

ITSSD:

Western Energy Plan Likely a Disguised ‘Takings’ Regime

Princeton NJ – June 30, 2006 - Earlier this month, a group of western governors unveiled their long awaited ‘clean’ energy plan. The governors know full well that the region’s immediate energy demands far exceed available supply. Yet, their plan seeks only to promote the use of expensive untested new technologies that cannot possibly meet such current or future demand. In addition, much like the Northeast Regional Greenhouse Gas Initiative (RGGI), it imposes onerous energy conservation and efficiency requirements, and seeks to strictly regulate business’ carbon dioxide emissions.

This plan, like its East Coast cousin, seriously underestimates the economic costs and the sacrifices that regional, state and local businesses and homeowners will inevitably be forced to bear. Indeed, it is difficult to see how the types of changes that must be made to the western states’ regulatory landscape to implement this plan would not also substantially diminish the economic values of existing business and personal assets and investments located throughout the region, so as to make them virtually worthless. Furthermore, it is troubling how these governors have failed to disclose that the regulations they propose will likely favor, in the end, some private interests over others.

The ITSSD is concerned that what these governors have designed is but another back-door’ environmental regulatory ‘takings’ regime, this time justified by the need to protect the public against the phantom menace known as global warming. While economic redevelopment-minded government officials throughout the U.S. have relied on the rationale of ‘economic blight’ to justify their actions, these governors have premised their proposed actions on the new public threat of ‘environmental blight’.

Without doubt, New London Connecticut homeowners and businesses victimized by last year’s *Kelo* decision have not been the only ones forced from their homes and businesses by government officials at less than market value. Indeed, many such instances have occurred throughout the country since then. This disturbing trend has prompted President Bush to issue a new Executive Order protecting the private property of the American people.

The Bush E.O. is consistent with and expands a prior executive order issued by former President Ronald Reagan. That E.O. recognized that “governmental actions that do not formally invoke the [eminent domain] condemnation power, including regulations, may [in fact] result in a taking for which just compensation is required.” It also established guidelines requiring government officials to consider whether governmental ‘actions’ and ‘policies’ could have ‘takings’



implications *before* rather than after *they are pursued*, i.e., to perform a ‘takings impact assessment’ where there is a high probability that a government action or policy could affect the use of any real or personal property.

In a short article, the ITSSD outlines the evolving rationale that will increasingly be used by government officials throughout the U.S. to take individuals’ private property for what appears to be a public use without paying just compensation. Unless the public becomes outraged and objects to what is really a disguised socialist wealth redistribution scheme, such actions are certain to continue.

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