

Climate Racketeering

Democrat attorneys general conspire to bring RICO charges against people who disagree.

By Michael S. Coffman, Ph.D.

Over the past three decades progressive Democrats have increasingly attacked anyone who disagreed with them on climate change, calling them Nazis, holocaust deniers, climate criminals, cultists and other even more shrill and atrocious names. They have demonstrated that they want to shut down all dissenting discourse, effectively denying the First Amendment of free speech

fraud charges against the petroleum giant for lying to its stockholders and the public under the Racketeer Influenced and Corrupt Organizations (RICO) Act.

Schneiderman was the first to launch what numerous law professors call a witch hunt by demanding 40 years of documents and emails from ExxonMobil and conservative organizations. He brazenly declared that

AGs from the Virgin Islands, committed a gross abuse of power by subpoenaing ExxonMobil and Competitive Enterprise Institute (CEI) on April 7, 2016, for all their emails, records, reports and donors from 1997 to 2007. The subpoena required that this monumental task be completed by the end of April 2016—23 days after the subpoena was issued. This was, of course, impossible. By not complying, CEI would have been in contempt of court and subject to enormous fines. It immediately filed for sanctions against Walker for violating its constitutional rights. Apparently running scared, Walker wrote CEI and said he was abandoning his request



Key Democrat leaders announce their “AGs United for Clean Power” assault on the First and Fourth Amendment rights of ExxonMobil and more than 100 conservative organizations skeptical of man-caused climate change. From left to right: Claude Walker, AG for Territory of Virgin Islands; Eric Schneiderman, AG for New York; Brian E. Frosh, AG for Maryland; George Jepsen, AG for Connecticut; former Vice President Al Gore; Maura Healey, AG for Massachusetts; Mark R. Herring, AG for Virginia; and Sen. Sheldon Whitehouse (D-RI). SOURCE: Independent Sentinel

**To these progressive scientists,
politicians and reporters,
reality means nothing.**

on April 18, but he let the subpoenas stand.

Not all legal experts agree with this attack on global-warming skeptics. Writing a scathing op-ed in the *National Law Journal*, Columbia Law School professor Merritt Fox said that Schneiderman was using the Martin Act to investigate ExxonMobil and called its use an abuse of power, saying: “The Martin Act grants the attorney general extraordinary powers to subpoena private documents without either obtaining a court order, which is required in most ordinary New York criminal proceedings, or the filing of a complaint, which is required in an ordinary civil action and is subject to court review. **The Exxon subpoena is an abuse of these extraordinary powers.**” (Emphasis added)

Fox isn’t a global-warming skeptic. He believes fossil fuels are causing global warming and wants strong action to be taken. Yet he went on to say, “While the Exxon investigation may nominally be about misled investors, **it is really about the attorney general acting as a champion in the fight against global warming.**” (Emphasis added) These subpoenas represent raw intimidation of the type that is common in tyrannical governments. Writing for CFACT, one of the targeted conserv-

to those they deem heretics. Until now, however, state and federal attorneys general (AG) have steered clear of attempting to prosecute skeptics on criminal charges. That changed on March 29, 2016.

This jaw-dropping attack on the First Amendment includes New York’s Eric Schneiderman, the lead AG in this effort, Sen. Sheldon Whitehouse (D-RI), and 16 of the 18 (eventually 17) progressive state and territorial Democrat attorneys general, plus Al Gore. The 32 AGs not involved are all Republicans. The Democrat AGs call themselves “AGs United for Clean Power.” They are on a potentially illegal search to find evidence in email trails or documents to link ExxonMobil to conservative think tanks in a conspiracy to defraud the public. If they find evidence, the AGs would bring criminal

if companies are “committing fraud...we want to expose it and pursue them to the fullest extent of the law” using RICO. He then pontificated: “Financial damages alone may be insufficient.... The First Amendment does not give you the right to commit fraud.” Schneiderman apparently is not merely seeking financially punitive actions; he wants to see prison sentences for anyone in his sight.

Likewise, Massachusetts AG Maura Healey proclaimed, “Fossil-fuel companies that deceived investors and consumers about the dangers of climate change should be, must be, held accountable,” even though she hadn’t even launched her investigation when she said it. Obviously, she had a blatant bias against ExxonMobil and other fossil-fuel companies.

Claude Walker, one of the more extremist

ative think tanks, Paul Driessen confronts the AG zealots, saying, “The AGs’ actions are intended to browbeat skeptics into silence and bankrupt them with monumental legal fees, fines, and treble damages.”

COUNTERATTACK

Chris Horner, CEI’s attorney, immediately filed a Virginia Freedom of Information Act (VFOIA) for all emails associated with the RICO investigations between George Mason University, environmental organizations, and AG Schneiderman’s office.

GMU said it couldn’t comply because there were no emails or records at all. Yet, other universities reported emails from GMU that showed the university did, in fact, have emails...a lot of them. CEI filed a lawsuit to force GMU to release the emails and any other records it had on the subject.

Panicking, two ringleaders within GMU, professors Jagadish Shukla and Edward Maibach, filed for an injunction to keep the emails out of CEI’s hands. The VFOIA request sought public records showing how a collaborating group of 20 scientists and academics (called the RICO-20) used public funding to organize their call for a federal racketeering investigation of “corporations and other entities” which disagreed with them on climate policy.

Horner and CEI prevailed in thwarting Shukla, Maibach and GMU from denying CEI the emails. The judge in the case ruled for CEI on April 22, 2016, that GMU did have the emails and simply relied on the lies of Shukla and Maibach that there weren’t any. The judge ordered GMU to release these emails and all records for Shukla and Maibach to CEI.

EMAILS

The emails made clear that the collusion between the Rockefeller-funded environmental organizations included the Democrat AGs a year before the March 29, 2016, press conference with Al Gore. The emails revealed that Democrat Reps. Raul Grijalva (D-AZ), Keith Ellison (D-MN), and Ted Lieu (D-CA) held a forum on Capitol Hill by the Congressional Progressive Caucus called “Oil Is The New Tobacco” on June 22, 2016. During the forum, Rep. Paul Tonko (D-NY) asked Naomi Oreskes, a Harvard University profes-

or and one of the most radical organizers for destroying the skeptics of man-caused global warming, “Have any of you had interactions with any of the AGs?”

Oreskes responded: “Yes, thank you. Thank you for your work. I have. **I was invited about a year or so ago to New York to speak to the staff of the New York attorney general’s office...**and I also participated a few weeks ago in a meeting in Boston with some colleagues from the Union of Concerned Scientists, **which also involved**

“The AGs’ actions are intended to browbeat skeptics into silence and bankrupt them with monumental legal fees, fines, and treble damages.”

the staff of attorney generals’ offices from a number of states.” (Emphasis added) The collusion between radical environmentalists and the AGs had obviously been going on for a long time.

The emails also revealed that university professors, alarmist scientists, and New York AG Eric Schneiderman were brought in by radical environmentalists during 2015 to seek RICO-type evidence in order to bring criminal charges against ExxonMobil and conservative think tanks. They were told by the Rockefeller-funded Union of Concerned Scientists (UCS) in an email dated July 31, 2015, that such an effort would fail and they had to get more clout to make it work. After all, wrote Peter Frumhoff of the UCS, “deception and disinformation isn’t itself a basis for criminal prosecution under RICO.” He should know, since progressives have developed deception and disinformation into an art form.

The Frumhoff July 31, 2015, email also stated that UCS was working to enlist state and territorial AGs to take action using RICO to support its claims and encourage other scientists and AGs to join the battle. That’s when Eric Schneiderman started. This eventually led to the March 29, 2016, announcement by the Democrat AGs and Al Gore that they were starting the RICO investigations, even though the collusion had

been ongoing for over a year. So the RICO-20 wrote President Obama, Attorney General Loretta Lynch, and others on Sept. 1, 2015, claiming, in part: “The risks posed by climate change, including increasing extreme weather events, rising sea levels, and increasing ocean acidity—and potential strategies for addressing them—are detailed in the Third National Climate Assessment (2014), Climate Change Impacts in the United States... We are now at high risk of seriously destabilizing the Earth’s climate and irreparably harming people around the world, especially the world’s poorest people.”

It should not be overlooked that the horror stories in the above letter are a fraud. (See “Raw Deception” on page 17.) It sounds good to the uninformed, but very little or none of it is true. Man-caused global-warming skeptics have deceived no one. They have hard scientific evidence detailed in previous issues of *RANGE* that man has

a minimal, or zero input, on global warming. After the GMU letter was sent, the assault behind the scenes really got started. On Sept. 16, 2015, the Rockefeller-funded *Inside Climate News* and the Columbia School of Journalism started their attack on ExxonMobil by publishing a series of articles allegedly revealing how that company suppressed its knowledge for 40 years from its stockholders that man-caused global warming was real. The series was called #ExxonKnew. The *Inside Climate News* article was titled, “Exxon Sowed Doubt About Climate Science for Decades by Stressing Uncertainty.” The claim of supposed fraud by Exxon appears to rest on this uncertainty.

However, ExxonMobil and every scientist should have been uncertain. That’s what science is all about—testing null hypotheses and theories to determine if something is not true. Most early climate scientists, including this author, were initially very open to the man-caused warming theory, including ExxonMobil, which even published its research. So there was never any effort to defraud its investors. The science seemed to support it. As time went on, however, more and more evidence accumulated that CO₂ had minimal effect on global warming. The skeptical pushback against the man-caused theory started.

Today, hard empirical evidence strongly

suggests that man's use of fossil fuel has little to do with global warming. The over 100 climate computer models predict warming that is up to 300 percent greater than reality. Yet to these progressive scientists, politicians and reporters, reality means nothing. They continue the fraudulent claim that models prove man is causing the problem. So much so that NASA published a study in July 2016 claiming that the climate models are so accurate that the actual real-world temperatures should be adjusted to conform to the models. In other words, make up any data you want and change the real-world data to agree with it. Has NASA gone insane? Time and research are proving ExxonMobil right in its uncertainty. It now appears that warming alarmists are the ones who are making fraudulent claims.

The progressive wing of the Democratic Party took this attack to new heights during the Democratic National Convention in July. In its platform it asked the "Department of Justice to investigate allegations of corporate fraud on the part of fossil-fuel companies accused of misleading shareholders and the public on the scientific reality of climate change." Apparently the Democratic Party also has no problem with stripping Americans of their constitutional rights.

MORE SECRECY

To further add to the appearance of a conspiracy, the Energy & Environment Legal Institute (E&E Legal) discovered that the AGs had secretly signed a Common Interest Agreement (CIA) that prohibited the 18 AGs from sharing any information to outside interests. E&E Legal is an organization engaged in strategic litigation, policy research, and public education on important energy and environmental issues. Chris Horner is also a senior fellow with E&E Legal. It took months of hard work and a lawsuit for E&E Legal and Horner to figuratively rip the Common Interest Agreement from the AGs' clenched hands.

The CIA showed that the environmentalists and AGs were actively hiding their collusion and stonewalling the press. It, however, is not what a traditional CIA may cover. According to E&E Legal: "**To be legitimate, parties to a common interest agreement must have imminent litigation, a clear scope and clearly shared interests.**

Instead, documents obtained to date show that these AGs and their Green-group colleagues with inherently disparate interests have entered not a legitimate CIA, but a pact of secrecy, covering broad topics, not specific matters, simply to avoid scrutiny of otherwise public records relating to their extraordinarily controversial abuse of political opponents' First Amendment rights." (Emphasis added)

Secrecy was at the heart of this effort. Matt Pawa, an environmental attorney with the Pawa Law Group, was asked by Lem Srolovic of the New York AG's office to not tell a *Wall Street Journal* reporter that the environmentalists briefed the AGs ahead of the press conference: "My ask [sic] is if you

Make up any data you want and change the real-world data to agree with it. Has NASA gone insane?

speak to the reporter, [do] not confirm that you attended or otherwise discuss the event."

RICO—THE TWO-EDGED SWORD

If anything should be under RICO investigation, it should be George Mason University and the lead environmental groups which secretly colluded with the progressive AGs, especially Schneiderman, to level these RICO charges using fraudulent "science" to justify their actions.

This massive witch hunt is neither constitutional nor legal under U.S. federal law. Not only are these subpoenas a violation of the First Amendment's prohibition of "abridging the freedom of speech," but they also trash the Fourth Amendment: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause." Just what is the "probable cause" to subpoena these organizations' records and emails? The fact that these organizations may have written articles or reports discussing the hard science that ExxonMobil used is not probable cause that they were conspiring with ExxonMobil.

Finally, according to 18 U.S. Code §241-

Conspiracy Against Rights, it is a felony "**for two or more persons to agree together to injure, threaten, or intimidate a person...in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States.**" (Emphasis added) This makes them very vulnerable to massive lawsuits. The AG subpoenas are a clear violation of §241.

That is the view of House Science, Space, and Technology Committee Chairman Lamar Smith (R-TX) as well: "What's good for the goose is good for the gander." Smith issued subpoenas on July 13, 2016, to New York Attorney General Eric Schneiderman, Massachusetts Attorney General Maura Healey, and eight environmental organizations "to obtain documents related to coordinated efforts to deprive companies, non-profit organizations, scientists, and scholars of their First Amendment rights."

In a press release announcing the subpoenas, Smith wrote: "The attorneys general have appointed themselves to decide what is valid and what is invalid regarding climate change. The attorneys general are pursuing a political agenda at the expense of scientists' right to free speech."

RICO cuts both ways in other areas as well. On June 15, 2016, 13 Republican AGs wrote the 18 Democrat "AGs United for Clean Power" a harsh letter warning them that their campaign would backfire. The letter opened with the statement, "Using law enforcement authority to resolve a public policy debate undermines the trust invested in our offices and threatens free speech." Although the Democrat AGs claimed the fraud case was "routine," the letter asserted: "This investigation is far from routine. We are unaware of any fraud case combining the following three characteristics: (1) the investigation targets a particular type of market participant; (2) the [a]ttorneys [g]eneral identify themselves with the competitors of their investigative targets; and (3) the investigation implicates an ongoing public policy debate."

The letter also warned the Democrat AGs that "this fraud investigation targets only 'fossil-fuel companies' and only statements minimizing climate-change risks. If it is possible to minimize the risks of climate

change, then the same goes for exaggeration. **If minimization is fraud, exaggeration is fraud.** (Emphasis added) The letter goes on to say: “Does anyone doubt that ‘clean energy’ companies have funded nonprofits which exaggerated the risks of climate change? Under the stated theory for fraud, consumers and investors could suffer harm from misstatements by all energy-market participants and the nonprofits they support. Yet only companies and nonprofits allegedly espousing a particular viewpoint have been chosen for investigation.”

According to Columbia Law School professor Merritt Fox, Schneiderman’s misuse of the Martin Act is wrong: “Use of this strategy is a tempting way for an attorney general to force changes in corporate behavior. But it is inconsistent with responsible government that one official, without any legislative guidance or judicial oversight, can use such a strategy to make public policy over almost any kind of business activity. At the extreme, the Martin Act subpoena power could be used to bully corporations into any kind of desired reform under the guise of a securities investigation.”

The good news is that the RICO effort is collapsing under its own lies. It is clear that these AGs intended to use taxpayer resources and the justice system to harass, investigate,

DEMOCRAT AGs IN “AGs UNITED FOR CLEAN POWER” USED RICO TO DENY FIRST AMENDMENT RIGHTS

California	Kamala D. Harris
Connecticut	George Jepsen
District of Columbia	Channing D. Phillips
Illinois	Lisa Madigan
Iowa	Tom Miller
Maine	Janet T. Mills
Maryland	Brian E. Frosh
Massachusetts	Maura Healey
Minnesota	Lori Swanson
New Mexico	Hector Balderas
New York	Eric T. Schneiderman
Oregon	Ellen F. Rosenblum
Rhode Island	Peter Kilmartin
Vermont	William H. Sorrell
Virginia	Mark R. Herring
Washington	Bob Ferguson
U.S. Virgin Islands	Claude Walker

intimidate, terrorize, and potentially prosecute or even jail global-warming skeptics. Liberal progressives in the United States have long salivated over the hope of eventually using the power of the law and the federal government to squash anyone who disagrees with their unworkable, destructive ideology. It’s up to all of us to speak out against it. Perhaps we should heed the warning in a commentary by Jacki Pick posted by the

Washington Times on June 23, 2016: “These policies strip Americans of sovereignty and rights.... And if you state publicly that you do not fully buy into the premises or promises of Mr. Obama’s climate plan—with the requisite cash and rights concessions—you could find yourself on a prosecutor’s list of dissidents and heretics.... **What the prosecutors are doing to Exxon and scientists is moving from the Rule of Law to the Rule of Man....** Counter to the president’s claims, the greatest threat to Americans is not climate change, nor is it Exxon’s climate-change research; **the greatest threat is unfettered government.**” (Emphasis added)

There is hope, however. When the AGs realized that they might go to prison because they violated federal law and the Constitution, they withdrew their subpoenas and gradually slipped into their dark holes. ■

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Raw Deception

Continuation of the global-warming fraud.

By Michael S. Coffman, Ph.D.

Almost all the claims and horror stories listed in the George Mason University letter (see main story) or put out as headlines by NOAA, NASA, the EPA and other agencies are deceptively wrong.

For several years, *RANGE* has published articles providing hard science showing that man, at best, was only a small contributor to global warming from 1979 to 1997. The hard empirical evidence for man-caused warming is almost nonexistent. Unknown to most of the American public, the 1960s and 1970s experienced global cooling.

Previous key articles on the global-warming fraud can be found in the following *RANGE* issues at www.rangemagazine.com:

■ “Lies and Damned Lies” (Spring

The hard empirical evidence for man-caused warming is almost nonexistent.

2010)—Maybe Mark Twain predicted Climategate emails.

■ “Climate Fraud & the Decline of America” (Winter 2013)—The more that research shows mankind is not causing most global warming, the more shrill the warming

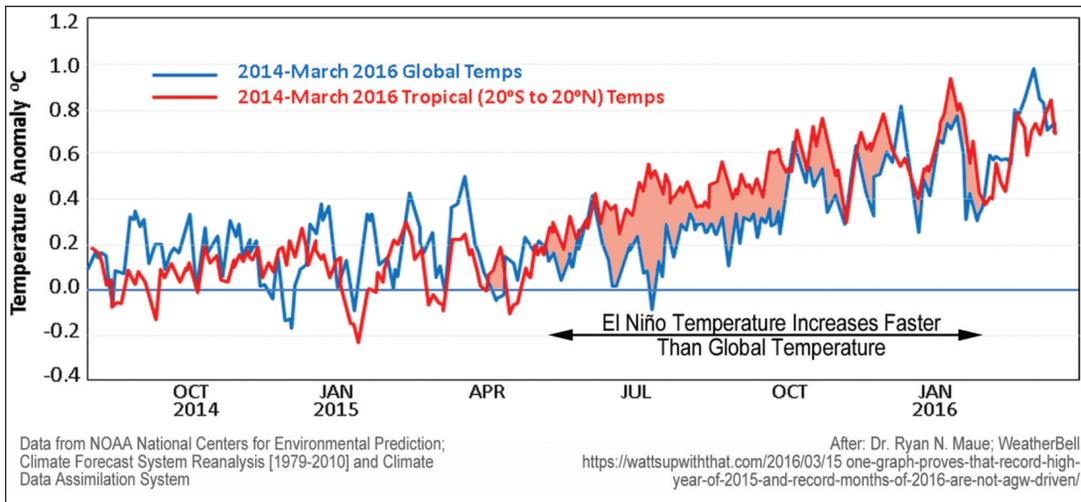
alarmists become. Worse, our public schools are teaching our kids that man-caused warming is an absolute fact.

■ “EPA’s Tidal Wave” (Summer 2013)—Within three months after Election Day 2012, nearly 6,000 new regulations were posted by the federal government, potentially costing businesses over a trillion dollars and crushing America’s economy.

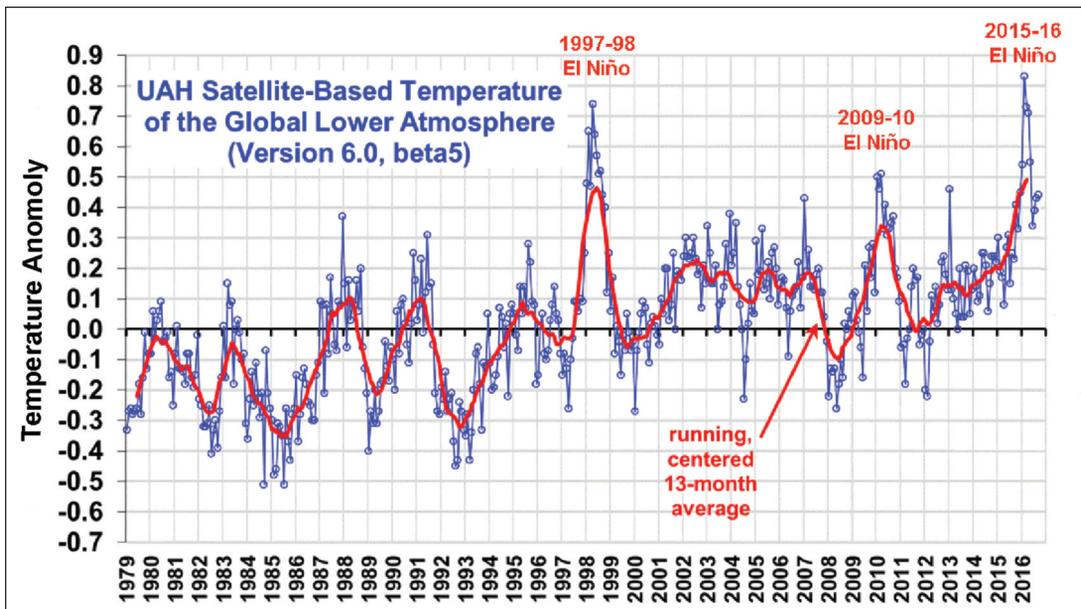
■ “The Disconnect” (Fall 2013)—European green energy turns into a nightmare.

■ “Hot Air” (Fall 2014)—The president’s National Climate Assessment is a total disconnect from reality.

■ “The Inmates Are In Charge” (Spring 2015)—Global-warming fanatics have fallen into a climate asylum.



The Eastern Pacific tropical temperatures associated with El Niño started warming up faster than global temperatures in May/June 2015 and continued well ahead of global temperatures through the end of the year, clearly showing that El Niño conditions have nothing to do with man-caused global warming. If man-caused global warming caused the 2016 warming, global temperatures would have exceeded Eastern Pacific tropical temperatures. El Niño can cause temporary global warming, but global warming does not cause an El Niño. El Niños have been occurring for thousands of years. All the stories that 2016 may be a record warm year because of climate change are either a lie or ignorance.



Global temperatures from 1997 to 2016 show the two strong El Niños of 1998 and 2016 with plummeting temperatures following their peaks. It is clear that both El Niños are independent of overall global temperatures. Whether a La Niña follows the 2016 El Niño won't be known until late in 2016. Some scientists claim that a strong El Niño may set a new, slightly higher baseline for future global temperatures as occurred following the 1997-1998 strong El Niño. SOURCE: Dr. Roy Spencer of the University of Alabama for NASA's Marshall Space Center

- “Racing to Tyranny” (Fall 2015)—Climate change is the Trojan Horse in the war to destroy capitalism and private property.
- “Wow!” (Winter 2016)—Scientists are now warning that global cooling is the real danger.
- “The Big Cure” (Spring 2016)—One-hundred-ninety nations accepted the new United Nations climate agreement, but it's mostly toothless.

More recently, the alarmist claim that climate change caused the warm 2016 is

patently false. The warm early months of 2016 had nothing to do with global warming and everything to do with a very strong El Niño, which, by the way, collapsed as Earth's temperature plunged 0.37°C in May/June 2016, and about 0.45°C since February when El Niño reached its peak.

In spite of this, unscrupulous scientists and the liberal media immediately claimed that the record warm early months of 2016 were the result of climate change. For instance, writing for *The Week* on July 7,

called this plunge in temperature “spectacular.”

Climatologist and oceanographer Dr. Fredolin Tangang of the University Kebangsaan Malaysia and vice chairman of the Intergovernmental Panel on Climate Change from 2008 to 2015 warned that El Niño and climate change are not related. He says, “There is no conclusive evidence that the occurrence of El Niño [frequency and intensity] is influenced by climate change.” El Niños have been occurring as far back as

journalist Ryan Cooper asks: “Have conservatives noticed their favorite climate talking point has been obliterated? Conservatives have long been searching for a reason to do nothing about climate change.... Several years ago, it seemed like that crowd had a perfect argument to justify inaction on climate: the global warming ‘pause’.... But lo and behold, two years later warming has surged back with a vengeance.”

Cooper then obediently spouts the party line that most of the missing global warming had gone into hiding in the oceans—with no science to support his claim. He then enters the domain of the absurd by saying, “You should never hang an entire view of a chart on the last few data points,” and then hangs his entire story on the last few data points in the 2015-2016 El Niño, which show the spike in warming caused by the strong, but now dead, El Niño (check 1998 through 2016 on El Niño graph). He conveniently leaves out the near-record temperature plunge of 0.37°C in May/June 2016. Dr. Roy Spencer, lead scientist for analyzing NASA's satellite temperature data,

records go.

The 2015-2016 El Niño clearly shows this. The graph of tropical versus global temperature anomalies since 2014 shows that when El Niño was gaining strength April through October 2015, the tropical atmosphere anomaly (the variance from normal) warmed much faster than global temperatures. Global temperatures did not catch up with the tropical temperatures until late in the year, and then only erratically. If the warming was due to climate change, the global temperature anomaly would *exceed* the tropical. Tropical temperatures warmed first and much faster than global temperatures. Do not believe anyone who says the warm 2016 was man-caused global warming.

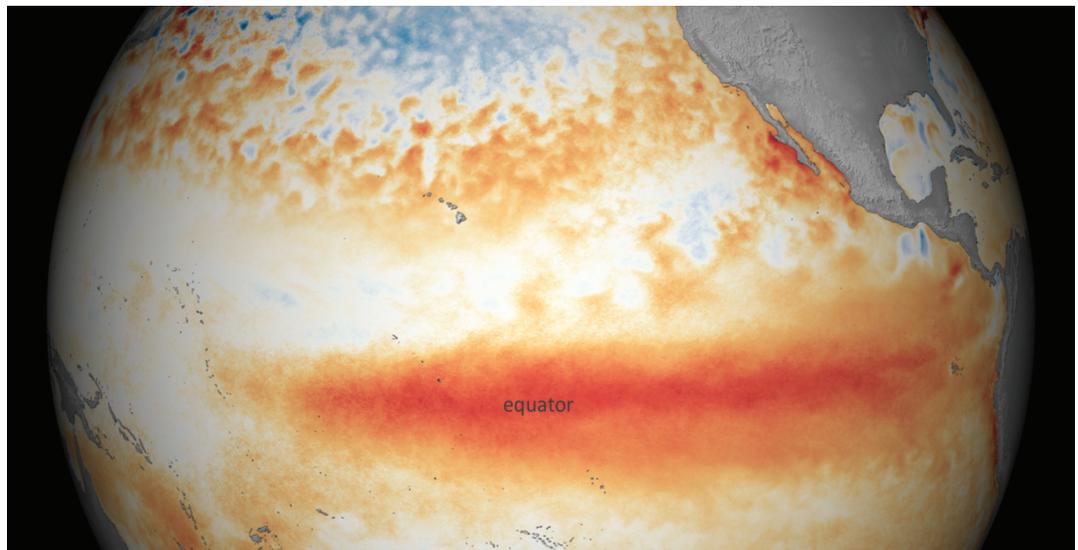
The equatorial ocean and atmospheric temperature comparison from January to June 2016 seems to indicate that we are entering into a La Niña event that should mature in late fall, if it occurs at all. NOAA announced in September that a La Niña is not likely to occur. If it does occur, however, the emerging La Niña is likely to be cool and long lasting.

What frustrates those who know what is really happening are the outrageous claims (like those of Ryan Cooper) that warm temperatures in 2015 and 2016 were generated by man-caused climate change—with El Niño barely mentioned as a result of global warming—which is false. Of course, news about the record-breaking heat of 2016 allegedly caused by climate change is now a fact in the public's mind. Anyone who says otherwise is treated as a brain-dead one-eyed monster.

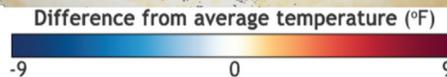
The corrupt scientists and radical envi-

ronmental leaders feeding the fraudulent information to an eager progressive media knew that climate change was not the cause of the 2015-2016 El Niño, yet they claimed it anyway. The bottom line is they successfully lied. Again. This has become the norm for any news on climate change. Almost anything they say is pure propaganda.

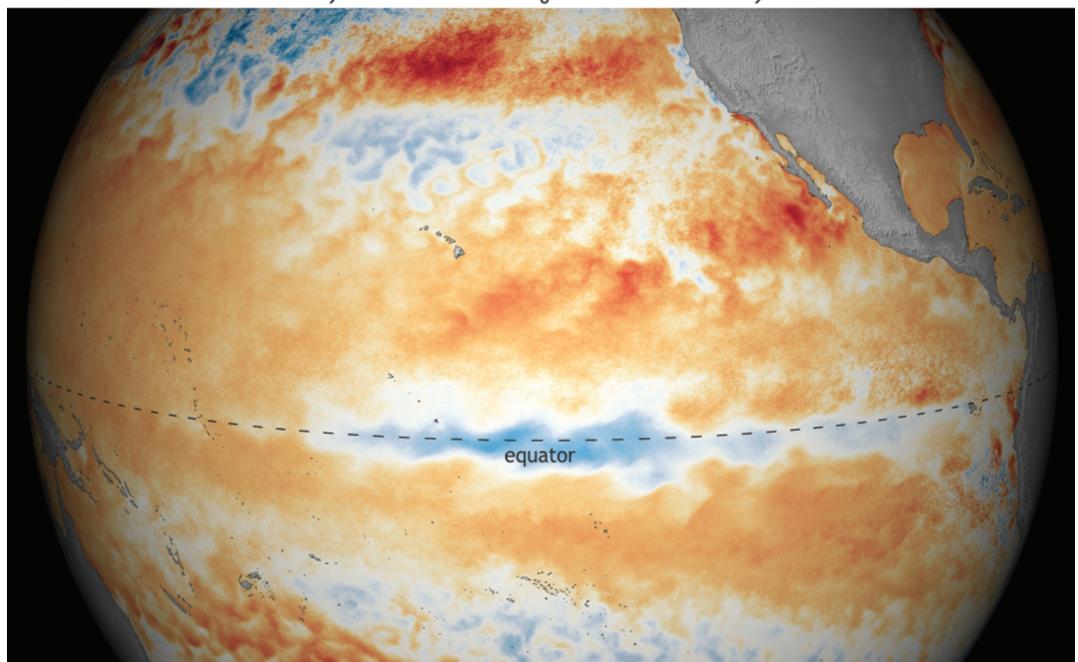
We can't expect the public to understand the complexities of climate change. We can and should expect the propaganda spewed by corrupt politicians, scientists and the media to be exposed by those in politics, science and the media who know the truth. ■



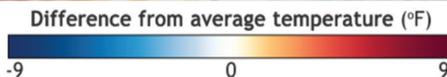
February 2016
compared to 1981-2010



Climate.gov/NNVL
Data: Geo-Polar SST



July 2016
compared to 1981-2010



Climate.gov/NNVL
Data: Geo-Polar SST

NOAA graphic depictions of ocean surface temperatures in the Eastern Pacific tropical zone (20°S to 20°N) that determine an El Niño or La Niña. Note the warm equatorial temperatures in February 2016 (top) at the peak of the 2016 El Niño, which is 5°F above “normal.” By July the equatorial ocean temperatures had plummeted to -1 to -4°F below normal—a drop of 6 to 9°F in just five months as the warm El Niño transited to a cool La Niña. Those who claim the warm 2016 was caused by global warming are either lying or too lazy to get the facts. NOAA correctly cautions, however, that the intensity of the cool La Niña won’t be known until late fall/early winter 2016.