SSDA News

Service Station Dealers of America and Allied Trades

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INSIDE THIS ISSUE:

Legislative Outlook and PAC Auction Highlights the 2016 Mega Show

By Roy Littlefield

A big thanks to everyone who took part in this year's legislative workgroup, our most productive session to date!

This year, the Mega Show took an expanded and focused approach on legislative issues affecting service station dealers and repair shop owners. Attendees of the "Industry Issues Forum" heard from a variety of speakers and representatives from AAA Mid-Atlantic, MD Dept. of Agriculture, Comptroller's Office, DANA Insurance, Ad Hoc Oil Committee, MDE, Governor's Task Force on Lottery, Suppliers, lawyers, in addition to independent repair shop owners and service station dealers.

There were also representatives from a variety of other state associations to give updates from around the country on pending legislative and regional issues. Topics covered pertained to both the state and federal levels.

With so many legislative battles on the horizon, the timing for such an event couldn't not have been more beneficial to members in attendance. With pending issues and legislation on the horizon, it is crucial that SSDA-AT members unite to protect the interests of their businesses.

We have a ton of momentum and unity going into the 2017 Maryland Session in Annapolis.
In addition, we thank all those who bought items in the silent auction to support the PAC!
SSDA-AT also held a silent auction to raise funds for the federal PAC at the Mega Show.

Attendees had the opportunity to bid on local sports memorabilia signed by professional athletes. A few lucky bidders were able to take home Orioles, Redskins, and Ravens memorabilia.

The event was more than successful and by the end of the auction we raised over $600 for the PAC!

With many legislative battles looming ahead, SSDA-AT would like to continue efforts to engage and involve the membership to unite against the government when unfair laws and regulations are encroached on small businesses. We must come together and speak in one voice to let our legislators know what our positions are.

Some bills have the potential to cost your business thousands of dollars a year, so stay involved! The 2016 Mega Show set the stage for legislative efforts to be stronger than ever in 2017 as SSDA-AT will remain an outspoken leader in Washington D.C.

Thank you for the support!

New Treasury Valuation Rules and Family Business

SSDA-AT is working with both the IRS and The Small Business Association on IRS's newly issued proposed regulations on valuation discounts which would make broad changes to Internal Revenue Code Section 2704.

While highly technical in nature, it is clear after a careful review of these proposed regulations, that if adopted as final in their current form, they would virtually eliminate all minority or lack of control discounts for family controlled entities for gift, estate, or generation skipping transfer tax purposes, regardless of whether the business is active or not.

Most estate planning practitioners expected these regulations to deal with a sophisticated planning technique used by wealthy families which employs a family owned LLC or partnership to own investments, usually largely comprised of marketable securities. The family entity is organized in such a way that causes the value of an interest in the entity to be worth less than an interest in the underlying assets would have been had they been retained outside the family entity. For example, imagine mom and dad own $5 million of marketable securities which they place into a family owned LLC.

The organizational documents place all of the control with the family so that an outsider would have no rights to distributions, no management rights, no voting rights, etc. Because of the restrictions, gifts of interests in the family entity to younger generations are discounted for lack of marketability and minority discounts. It would not be unusual for gifts of the family entity to be discounted by between 20% and 40% simply because of the operating agreement governing the entity.

Not surprisingly, this type of arrangement does not sit well with IRS. However, because the reality is that no rational outsider would want to own a part of such a family entity, the discounts have usually held up to court challenges initiated by the IRS.

Unfortunately, the IRS's proposed regulations would have implications way beyond this type of estate planning technique. Rather, the IRS came up with an approach that would also impact active family businesses (e.g., a family owned tire dealership, or repair facility, etc.)

The proposed regulations do this by creating a fiction under which every owner is deemed to have a six-month period during which he or she has the right to sell his or her interest (technically known as a put right) even where no right actually exists. Under this mechanism, all minority and most lack of marketability discounts will be eliminated or greatly suppressed.

These regulations will not be effective until at least 30 days after the IRS issues final regulations on the subject. There will be a hearing on December 1st and comments must be in to the IRS by November 2nd. SSDA-AT submitted comments in opposition to the proposal.

Congressman James Sensenbrenner (R-WI) has introduced a bill (H.R. 6042) that was intended to nullify the regulations in the event that these proposed rules are finalized. SSDA-AT supports H.R. 6042.

A Congressional approach to preventing the regulations could work. However, it is yet unclear whether this bill will have the necessary support to be passed, or at the very least, pressure the IRS to scale back its position in the final regulations. Unfortunately, it appears that the actual language of the bill does not seem to go far enough to stop the full import of these regulations. We will be discussing the problem with the language used in the bill with the Congressman's office in the near future.

Continued on page 3

New Treasury Valuation Rules and Family Business

Continued from page 2

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Once again, we caution members to be careful not to support any proposal that would repeal estate and gift taxes in exchange for losing the step-up in basis that every person gets for assets going through an estate. Today, the vast majority of small business owners will not be hit by the federal estate tax (each person has a $5,450,000 exemption from estate taxes and a couple has 10,900,000), but all will benefit from the step-up in basis of assets going through the estate.

Unfortunately, many people and associations who are supporting a repeal of estate and gift taxes do not understand how important it is to maintain the step-up in basis. Here's an example that shows how important the step-up in basis is - Assume a small business owner dies with a house worth $5 million and financial assets worth $450,000. Further assume his basis in the house is $500,000 (the original purchase price plus the value of certain additions made to the house) and his basis in his financial assets was $200,000.

Under today's tax laws, there will be no federal estate tax due on his estate because the value of his assets equals the amount that is exempt from federal estate taxes. Imagine his son inherits all of his estate and decides to sell the house for $5 million, there will be no income tax on the sale because the son inherited the house with a step-up in basis to today's fair market value which is $5 million. However, if the estate and gift tax was repealed as well as the step-up in basis, then again there would be no estate tax imposed but the son would be hit with a capital gains tax on $4.5 million of gain or roughly $900,000 of tax. **It is critical that if there is a repeal of gift and estate taxes that the step-up in basis is preserved.**

Why is SSDA-AT so worried about this issue? Because very few groups calling for repeal of estate taxes ever discuss the importance of retaining the step-up in basis. Some of this is because for the ultra-wealthy such a tradeoff makes sense (i.e., better to be taxed at 20% than 40%). I was shocked recently while talking to one of the leading tax advisors for a major primarily small business association which is calling for repeal of estate taxes that he did not even understand the issue and after I explained it thought that it wasn't such a big deal for their members! Repealing the step-up would generate huge amounts of revenue while a repeal of estate taxes will generate a far more modest amount. Unless Congress hears from groups how important it is to preserve the step-up, it is possible that Congress could decide to repeal the step-up in basis to raise revenue knowing they would still be hailed as heroes for repealing the estate and gift tax by many small business groups and owners who will take many years to understand they had a fast one pulled on them.

SSDA-AT Reaches out to the Treasury

SSDA-AT has written to Treasury Secretary Jacob Lew to express our serious concerns over proposed regulation (REG-163113-02) published on August 4, 2016, under Internal Revenue Code section 2704 ("proposed regulation") that, if finalized in their current form, will significantly increase the estate tax burden on family businesses.

The proposed regulations eliminate or greatly reduce the discounts for lack of control and lack of marketability for family farms and business. We ask that the proposed regulation not be finalized in their current form as they directly contradict long-standing legal precedent, create new uncertainty for taxpayers, and put family-owned businesses at a disadvantage relative to other types of businesses.

In an October 3, 2014 letter SSDA-AT and other small business association communicated to the Treasury Department and the Internal Revenue Service our strong opposition to any regulatory effort that would artificially inflate the valuation of estates and eliminated the benefits of estate tax relief legislation that was enacted on a bipartisan basis by the American Taxpayer Relief Act of 2012. By raising taxes on family farms and business, the proposed regulations represent a step back from the recently enacted permanent estate tax relief.

SSDA-AT asserted, "Treasury should pursue policies that encourage the creation and growth of family businesses and not propose regulatory changes that make it more difficult and costly for families to transfer ownership to future generations.

We thus request that Treasury withdraw the proposed regulations and ask that any regulations that Treasury may issue in the future more directly target perceived abuses in the valuation of transferred interests in family business."

DOC: 40% Tariffs Due on Truck Tires From China

The DOC announced its preliminary results Aug. 29, 2016. In every tariff investigation, the DOC selects manufacturers to serve as mandatory respondents. Those companies then provide data and answer questions, and those figures and answers serve as the basis and gauge for the industry as a whole.

In the truck and bus tire investigation, Prinx Chengshan (Shandong) Tire Co. Ltd. and Double Coin Holdings Ltd. were the mandatory respondents.

The DOC says there was evidence that truck and bus tires were dumped in the U.S. soon after the United Steelworkers sought the investigation in January, and as a result the U.S. Customs and Border Protection will be instructed to retroactively impose the tariffs on products. The effective date will be 90 days prior to the forthcoming publication of this preliminary determination in the Federal Register. (It usually takes about a week for the Federal Register notice to be published, so the tariff retroactive date likely will be around June 7.)

These anti-dumping tariffs are on top of the countervailing tariffs the DOC preliminarily approved in June. Adding the two tariffs together determines the full penalty. For Double Coin, for example, it's 39.63%. Review the countervailing tariff details here.

The DOC cites U.S. Census Bureau data and says 8.9 million truck and bus tires were imported into the U.S. from China in 2015. Those tires are valued at more than $1 billion.

Small Business Health Care Relief Act

SSDA-AT has written to members of Congress in support of the Small Business Health Care Relief Act (H.R. 5447/s.3062).

SSDA-AT believes that this bipartisan legislation would protect small business from outrageous fines and, at the same time, allow employees to continue to receive assistance in paying health care coverage and qualified medical expenses.

While the Affordable Care Act mandates that employers with an average of 50 employees or more provide health care insurance to their employees, many association members have less than 50 employees and thus are not required to provide health care coverage to their employees.

Many SSDA-AT members want to support their employees by assisting them with health care costs by offering Health Reimbursement Arrangements (HRAs) to help defray costs associated with health insurance or medical expenses. While trying to do "the right thing" the Internal Revenue Service has asserted that such an arrangement is wrong.

HRAs do not meet ACA requirements for group health plans according to the IRS, Yes IRS Notice 2013-54 define HRAs to be group health plans and therefore subject to ACA market reforms.

Employers who provide workers with an HRA fail to meet these market reforms and can be fined $100 per day, per employee, beginning on July 1, 2015, under Section 4980D of the Internal Revenue Code. Over the course of a year, the fine can add up to $36,000 per employee, up to $500,000 in total.

In contrast, the penalty for businesses to comply with the employer mandate is only $2,000 per year. That means that the HRA fine is 18 times more than the $2,000 employer mandate penalty for not providing any coverage.

In order to fix this outrageous regulatory interpretation, SSDA-AT supports the Small Business Healthcare Relief Act (H.R. 5447/s.3060). This bipartisan, common-sense legislation would:

- Allow small business with less than 50 employees to continue to use pre-tax dollars to provide employees with a defined contribution for heal care expenses without being fined; and
- Allow employees to use HRA Funds to purchase health coverage in the individual market (on or off an exchange), or for qualified medical expenses like eyeglasses and annual physicals if the employee has qualified coverage.

The Small Business Healthcare Relief Act will allow small businesses that re not subject to the shared responsibility provision to provide small employers with necessary additional flexibility and allows those small companies - the majority of whom do not have human resource departments or benefits specialists - a simpler, easier way to help their employees with rising medical costs.

This is a bipartisan opportunity to improve affordable health care options for small businesses, and we urge Congress to move swiftly to pass this vital legislation so that more small employers can help their workers defray the high cost of insurance premiums and/or other out-of-pocket medical expenses.

On the Regulatory Front

Whereas things are winding down on the legislative front as Congress prepares to recess until the elections, issues continue to crop up on the regulatory front. The most recent example of this is IRS's newly issued proposed regulations on valuation discounts which would make broad changes to Internal Revenue Code Section 2704.

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A number of groups are trying to fight the proposed regulations by saying that estate and gift taxes should be repealed. This type of comment will simply be ignored by IRS.
On September 15, 2016, Congressman James Sensenbrenner (R-WI) introduced a bill (H.R. 6042) that was intended to nullify the regulations in the event that these proposed rules

Continued on page 7

Continued from page 6

On the Regulatory Front

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SSDA-AT Resolution for 115th Congress

Tax Reform Resolution

WHEREAS, tax reform is a top priority for both the Democratic Party and the Republican Party in the 115th Congress; and
WHEREAS, numerous policy proposals would have either a positive or negative impact on Association members; and

WHEREAS, the Association urges lawmakers to carefully consider the financial impact of tax reform on industry small businesses.

NOW THEREFORE BE IT RESOLVED by the Service Station Dealers of America and Allied Trades, assembled this 9th day of September 2016, in General Assembly, that the Association urges lawmakers to oppose legislation that will cause economic hardships on its members, specifically;

- Repeal of LIFO accounting system for tax purposes, targeting this industry and taking LIFO reserve and turning them into taxable income, causing havoc on cash flow, capital reserve, expansion opportunity, and for job opportunity.
- Raising the estate tax. We urge lawmakers to repeal this unfair tax so that small business service station dealer and repair facility operators can keep their family business operations for future generations.
- Repealing rather than raising fines, reporting requirements, costs, and workweek thresholds of the Affordable Care Act.
- Level the playing field with regard to state sales tax between “brick and mortar” retailers and online retailers.
- Repeal the Fair Labor Standards Act changes that raised the salary threshold for overtime pay and required time and a half pay for salaried managers and assistant managers that do not meet the salary threshold exemption.

SSDA-AT Supports the Overtime Reform and Enhancement Act (H.R. 5813)

SSDA-AT supports H.R. 5813 because it would incrementally phase in the new DOL salary threshold over the next three years to give businesses adequate time to adjust to the new standard while also ensuring workers are fairly compensated. The bill would also eliminate a provision in the final overtime rule that allows for automatic updates to the salary threshold every three years.

On May 18, 2016, the U.S. Department of Labor (DOL) issued a final regulation updating overtime rules for white-collar salaried employees for the first time since 2004. Using the 40th percentile of weekly earnings for full-time salaried workers in the lowest-wage Census region (currently the South), the rule raised the salary threshold for employees who are exempt from overtime pay from $23,660 ($455 per week) to $47,476 ($913 per week) effective December 1, 2016. Any salaried employee meeting the DOL's criteria making less than $47,476 a year and working more than 40 hours a week will be entitled to overtime pay.

The current salary threshold of $23,660 is woefully inadequate and an update to the overtime rules for white-collar salaried employees has been long overdue. It is indeed time to strengthen overtime pay protections for America's workers. The **Overtime Reform and Enhancement Act (OREA)** will update the overtime rules while allowing universities, non-profits, and businesses the necessary time to be able to plan and comply with the new rule.

Key Features of the Overtime Reform and Enhancement Act:

Using the administration's effective date of December 1, 2016, the Overtime Reform and Enhancement Act will immediately increase the threshold more than 50 percent from $23,660 ($455 per week) to $35,984 ($692 per week). This increase represents the 20th percentile of weekly earnings for full-time salaried workers in the same Census region used by DOL to establish the new threshold.

After the initial increase in 2016, the bill will initiate a reasonable three-year phase-in until the DOL's new salary threshold of $47,476 ($913 per week) is met.

The annual increases under the bill are:

- December 1, 2016 -- $35,984 ($692 per week)
- December 1, 2017 -- $39,780 ($765 per week)
- December 1, 2018 -- $43,628 ($839 per week)
- December 1, 2019 -- $47,476 ($913 per week)

The bill eliminates the automatic three-year increase to the salary threshold established under the new rule. The bill recognizes that future administrations can and should update the overtime rules, as they are required to under the Fair Labor Standards Act, but limits the ability of the DOL to update the rules on autopilot. This will allow stakeholders to comment on proposed changes and require the DOL to ensure the rules are working as intended.

Recognizing the Protection of Motorsports Act of 2016 (RPM Act)- Update

SSDA-AT, TIA and SEMA continue to partner on this bill looking for more co-sponsors.

Background: In July 2015, the U.S. Environmental Protection Agency (EPA) introduced a proposal that would have prohibited the conversion of street vehicles into race cars used exclusively for the track. While the EPA has withdrawn the proposal, the agency continues to assert authority under the Clean Air Act to regulate the modification of vehicles used for competition. Congressional action is the only way to guarantee that street vehicles can continue to be modified for the track, well into the future.
Race fans and parts makers are urged to support the Recognizing the Protection of Motorsports (RPM) Act of 2016, a bipartisan bill in Congress that will confirm that it has always been Congress' intent that racecars are not include in the Clean Air Act's definition of "motor vehicle." The RPM Act makes clear that it has always been legal to modify a street vehicle into a racecar used exclusively at the track, and confirms that modifying these vehicles for exclusive track use would not be considered tampering.

PASSAGE OF THE RPM ACT IS CRITICAL TO THE FUTURE OF MOTORSPORTS:
The Clean Air Act prohibits the EPA from regulating racecars used exclusively on the track. When Congress amended the law in 1990 to authorize the EPA to regulate non-road vehicles, it expressly exempted "vehicles used solely for competition" to ensure there was no confusion about the regulatory exclusion.
However, despite recently withdrawing troubling language from a proposed rule, the EPA maintains that converting a motor vehicle's emissions' system is "tampering" and that a vehicle is forever a "motor vehicle" subject to the Clean Air Act, even if it is unregistered, the license have been plates removed and the vehicle is never driven on the highway. It is at the EPA's discretion when it can enforce this authority.
The RPM Act would address this vulnerability and provide the public and regulated industry with certainty regarding how the Clean Air Act is applied, and allow Congress to confirm that it has ultimate authority.

IMPACT ON RACERS:
The EPA's enforcement authority could affect any vehicle, including sports cars, sedans and hatchbacks, that starts its life as a street car or motorcycle if it was originally certified to federal emissions standards. Federal emissions standards have been effective since 1968, so the EPA's prohibition would cover all motor vehicles dating back to that year. Note, the EPA is not claiming authority over purpose -built racecars like those used today in NASCAR, or "nonroad vehicles" (dirt bikes, ATVs, snowmobiles and boats) that are used exclusively for racing.

IMPACT ON MOTORSPORTS AND INDUSTRY:
The EPA continues to claim that it has the authority to regulate street cars modified exclusively for the track. Only clarifying legislation will confirm that such activity is legal and beyond the reach of future EPA regulations. Further, if the EPA decided to enforce this authority, it would have a devastating impact on motorsports since many types of racing rely on production vehicles that have been modified for use strictly at the track. It would also decimate the industry that supplies the products used in motorsports. The specialty equipment automotive aftermarket employs about one million Americans across all 50 states. Current retail sales of racing products make up a $1.4 billion annual market.

IMPLICATIONS FOR FUTURE REGULATIONS:
Regulators have already targeted manufacturers, distributors and retailers under current Clean Air Act authority. Installers may be the next target. Even if the EPA doesn't go after individual racers, this uncertainty could have a chilling effect on the supply chain. Legitimate racing products may no longer be developed and sold, and businesses may no longer be willing to modify vehicles.

US Leaders Should Know EPA Rules, Impact of Possible Changes

The next president should review the rules of the U.S. Environmental Protection Agency to give manufacturing a boost, according to trade groups and industry leaders.

Cheap natural gas is driving a chemical boom in the United States, said American Chemistry Council CEO Cal Dooley at a September conference examining what the next U.S. president should do to strengthen manufacturing, but regulations need to help, not hinder for U.S. manufacturers to see long-term benefits.

Inexpensive natural gas has prompted $170 billion new investment in the United States' chemical sector, with more than $100 billion coming from foreign direct investment. North American polyethylene producers particularly are seeing huge expansions as a result of newfound supplies of natural gas throughout the region. These affordable supplies have been realized through the use of horizontal drilling and hydraulic fracturing, better known as fracking.

Whichever candidate prevails in November, U.S. manufacturers will be looking for "a legitimate commitment" to continue to access natural resources "in a responsible way" within the first 100 days of the new administration, Dooley said.

"We have a once in a generation opportunity to capitalize on this," Dooley said. "We need a Congress and an administration that wants to maximize the production of natural gas in the United States. That would send a strong message for a second wave of investments in the industry."

While fracking was viewed negatively by the general public initially, opposition from local governments has fallen off in recent years and had little impact on natural gas production, particularly as methods have improved and environmental concerns have waned.

The possibility of regulating fracking to the point of over-burdening industry remains very real, experts say. Even the best-intended regulations do not turn out they way they were intended and should be reviewed over their life, not just before they are implemented, said Susan Dudley, director of the George Washington University's Regulatory Studies Center and head of the Office of Management and Budget's Office of Information and Regulatory Affairs from 2007 to 2009.

"Not evaluating after the fact would be unheard of in any other sphere," Dudley said. The next administration should require EPA regulations to be evaluated by a third party, she said, and even then, they must be evaluated on a policy basis, whether current regulations are effective, what their ripple effects are and how outcomes could be improved — not just on science.

"Science doesn't tell you what the right policy choice is," she said.

Opponents of Hydraulic Fracturing Want to Kill America's New-Found Energy Abundance

U.S. shale oil production was expected to fall for a 12th consecutive month in November, according to a U.S. government forecast released on Monday, on the back of a two-year global rout in oil markets.

November oil production was expected to fall by 30,000 barrels per day to 4.43 million bpd, according to the U.S. Energy Information Administration's drilling productivity report, the lowest output since March 2014.

The biggest decline was in the Eagle Ford in Texas, which was set to drop by 35,000 bpd to 947,000 bpd. In North Dakota, oil production in the Bakken was set to drop by 21,000 bpd to 946,000 bpd.

While oil futures are trading at less than half their value of over $107 a barrel in mid-2014, they have recovered from a 13-year low near $26 in February, recently fetching $50 a barrel. That has allowed drillers to start increasing production in the Permian, the largest U.S. shale basin.

Permian output from West Texas and eastern New Mexico was set to rise by 30,000 bpd to a record high over 2 million bpd, its third monthly increase in a row, according to EIA data going back to 2007.

Total natural gas production, meanwhile, was forecast to decline for a seventh consecutive month in November to 46.0 billion cubic feet per day, the lowest level since July 2015, the EIA said.

That would be down almost 0.2 bcfd from October, making it the smallest monthly decline since July, it noted.
The biggest regional decline was expected to be in the Eagle Ford, down almost 0.2 bcfd from October to 5.6 bcfd in November, the lowest level of output in the basin since November 2013, the EIA said.

Output in the Marcellus formation, the biggest U.S. shale gas field, meanwhile, was expected to rise by almost 0.1 bcfd from October to 18.2 bcfd in November. That would be its first increase since July.

EIA also said producers drilled 506 wells and completed 533 in the biggest shale basins in September, leaving total drilled but uncompleted (DUC) wells at 5,069, the least since January 2015.
The only region to gain DUCs in September was the Permian, which rose for a third month in a row, gaining 51, to a total of 1,378, its highest since at least December 2013, EIA said.

Exxon moves to block climate probes in New York, Massachusetts

ExxonMobil Corp. is asking a federal court to stop the attorneys general of New York and Massachusetts from carrying out climate change-related investigations of the company.

The nation's largest oil and natural gas company filed a motion on Monday challenging a subpoena issued last year by New York Attorney General Eric Schneiderman (D) that Exxon said shows impermissible bias against the company.

The motion in a Texas federal court seeks to add Schneiderman to an existing lawsuit in that court in which Exxon is trying to block Democratic Massachusetts Attorney General Maura Healey's demand for certain documents.
Exxon told the court that Schneiderman and Healey are part of a "conspiracy" against the company, fueled by "improper bias and unconstitutional objectives."

"Attorney General Schneiderman has publicly accused ExxonMobil of engaging in a 'massive securities fraud' without any basis whatsoever, and Attorney General Healey declared, before her investigation even began, that she knew how it would end: with a finding that ExxonMobil violated the law," Exxon wrote.

If the court granted Exxon's motion, it would be a major hit to the multipronged campaign by some Democrats and environmentalists to punish Exxon for its history with climate change.

Two reports last year said Exxon knew as early as the 1970s that greenhouse gases, caused mainly by fossil fuels, were responsible in large part for global warming. But until the last decade or so, they added, Exxon publicly tried to sow doubt about climate change in an effort to head off possible policies that could hurt its business. Schneiderman and Healey want to see if that amounts to fraud, as environmentalists allege.

But recently, Schneiderman said his probe would focus more on how Exxon calculates the value of its oil and gas reserves and how it accounts for future climate policies.
To Exxon, that kind of shift proves that the attorneys general don't have a legitimate reason for their investigations.
"Their true objective is clear: to fish indiscriminately through ExxonMobil's records with the hope of finding some violation of some law that one of them might be empowered to enforce, or otherwise to harass ExxonMobil into endorsing the Green 20's policy views regarding how the United States should respond to climate change," the company wrote.

The motion quotes extensively from a March press conference with numerous Democratic attorneys general during which Schneiderman revealed some details of his investigation and Healey announced the launch of her investigation.

It also cites documents obtained through open record laws by conservative groups, showing that Schneiderman, Healey and others met with environmental activists right before that event.

Representatives of Schneiderman and Healey slammed Exxon's court filing as a stonewalling tactic.
Amy Spitalnick, a spokeswoman for Schneiderman, called the claim "meritless."

"As we've seen for months, Exxon will do everything in its power to distract, delay, and avoid

Continued on page 20

Shale Boom Still Alive and Kicking

Shale Boom Still Alive and Kicking Energy prices have collapsed. Domestic rig counts have plunged. Energy loans have been going bust. The price of oil is stuck in the $40-50 range thanks to declining global demand, and U.S. natural gas prices remain weak in the face of rising LNG exports and increased demand from electric utilities.

There is nothing on the horizon that might point to higher prices. Foreign oil and gas producers are not willing to cut back for fear of a permanent loss in market share, while global demand shows no signs of picking up the slack. Amid such bleak conditions for the energy sector, you would not expect the shale drillers to engage in a land rush where they try to outbid each other for drilling rights in Texas and New Mexico.

Yet that's exactly what is happening in the Permian Basin. This unique situation speaks volumes about technology disruption and how it is creating abundance out of scarcity. The Permian Basin, one of the oldest and most widely recognized oil and gas producing regions, covers about 86,000 square miles in West Texas and New Mexico.

Its complex geography was initially considered a disadvantage, but in recent years oil and gas firms have discovered that its stacked layers of shale are an ideal match for long horizontal runs at multiple depths. And because these multiple runs can be drilled from a single vertical well, the return on investment can be significantly higher than "traditional" shale wells.

BP, after drilling a two-lateral test well that tripled the output of other gas wells in the area, went on to drill six tri-lateral wells – according to a recent article in The Wall Street Journal. While these wells resemble a chicken foot today, it's conceivable future shale wells could look like wagon wheel spokes. It may only take a few years to see an order of magnitude jump in oil output per well.

Tellingly, oil output in the Permian Basin has continued to climb since mid- 2014, even though the region has been operating with only a third as many rigs. That contrasts with other oil shale regions which have seen output declines of 20-40% over the same period.

Economic Implications

What used to happen with silicon wafers is now happening with oil and gas production. The U.S. is on track to become one of the world's lowest-cost producers, benefitting simultaneously from low energy costs and rising exports of oil and LNG.

There are positive implications for employment, manufacturing, balance of trade, and tax revenue. There is little economic benefit outside the U.S. and Canada. Other countries are trying to develop shale resources, but most face higher drilling costs, marginal geography, and the lack of a royalty system that compensates property owners. And the economic implications are downright negative for many emerging countries that depend heavily on oil and gas exports (including Russia, which already reduced its natural gas prices when the U.S. began LNG exports to Europe earlier this year).

Wake Up Millennials

By: Roy Littlefield IV

Like the rest of us, I am ready for this election cycle to be over. The negatively, personal attacks, and scandals have made things more of a soap opera than an election. Young voters also known as millennials (which includes you if you were born between 1981 and 1998) feel disenfranchised, neglected, and forgotten in the process.

We cannot relate to either Trump or Hillary and we see them both as poor choices. We are upset and the evidence is plentiful with daily posts that can be seen on our Facebook, Instagram, and Twitter accounts. We make fun of the candidates, we expose their faults, and bash their policies. We see few solutions to our challenges and no matter who is elected, we feel that things will only stay the same or get worse. There is no sense of hope, change, or new beginning. Instead, we are faced with picking between two of the most unpopular candidates in American History.

But this is not the time to protest, stay home, and decide not to vote. Because for the first time in an election, we now outnumber baby boomers by half a million in population. If we show up and vote, our generation could literally decide the election. But with less than half of registered college students voting in the last election, I fear the numbers could be even worse this cycle.

Because we have such low voter turnouts, millennials get a bad reputation for being uninformed. But with social media and internet blogs, we often find out about information well before our elders do. I believe that actually, we are the most informed generation yet, because in a matter of seconds we can pull out our phone and prove someone wrong with the facts. In the case of this election, I think millennials are more informed than they have ever been on two particular candidates. We follow the candidate's social media pages, we watch their speeches live on Facebook at no charge, and we can watch a reply of anything controversial that might have been said.

With Trump and Hillary being such poor choices, many millennials have turned their attention to third party candidates such as Jill Stein and Gary Johnson. Their message of fighting the two party system appeals to younger voters as some do not feel a strong connection to either major party. Although these alternative candidates provide an appealing platform to some I want to caution my fellow millennials on supporting a third party candidate.

As a recent history reminder, in the 1992 presidential election, Ross Perot, a third party candidate, took 18.9% of the popular vote, but not a single Electoral College vote. So as much as I hate to say it, voting for a third party candidate is essentially throwing away your vote.

But just because you are struggling with who to vote for in the presidential race, it does not mean you should skip voting. In addition to the president, there are so many other important races on the ticket for seats in Congress. Many of which will be closely contested. It is important that we elect the right members to Congress to oversee the new president and fight for our issues.

I believe that if young people truly want to create a revolution, we have to vote again and again, in local elections, midterm elections, and presidential contests. To change the country, we must do something truly revolutionary and vote. Wake up millennials.

LETTER TO THE EDITOR

Dear SSDA-AT,

The American energy revolution continues to deliver significant economic benefits, putting downward pressure on gas prices and helping to lower costs for homes and businesses. And greater availability of clean-burning natural gas has driven U.S. power sector carbon emissions to 20-year lows.

Any regulatory policy that jeopardizes that progress, while providing little to no environmental or consumer benefit, should be scrutinized. New methane regulations under consideration by the Environmental Protection Agency (EPA) and the Bureau of Land Management (BLM) fall into this category.

For starters, implementing two sets of regulations from two different agencies on the same issue virtually guarantees duplicative, costly overlap. More broadly, methane regulations from even one agency would be unnecessary considering industry's success in lowering methane emissions, even as production has increased. As the primary component of natural gas, producers prioritize capturing methane for delivery to consumers to heat homes and generate clean-burning electricity.

Industry innovation and continuous commitment to emission reductions have achieved results. Methane emissions associated with the natural gas industry declined by 14.8 percent from 1990-2014 while natural gas production increased by 47 percent, according to EPA data.

The U.S. oil and natural gas industry has invested $90 billion since 2000 in technologies to cut greenhouse gas emissions. That's far more than the next largest industry sector ($38 billion) and almost as much as total, direct federal spending on this sort of research ($110 billion).

Applying a one-size-fits-all approach to regulating an industry that varies greatly in the type, size and complexity of operations jeopardizes success in developing emissions-reducing innovations, and it could even threaten our status as a world energy leader. Analysis from ERM consultants and API estimates just one of EPA's new methane rules could result in net costs of nearly $1 billion in 2025.

When the industry is already investing, innovating – and succeeding – in reducing methane emissions, costly, prescriptive new regulations make no sense.

Sincerely,

Jack Gerard
President and CEO
API

The November Elections

The political dynamics of the coming two years will be shaped significantly by which party emerges from the elections with control of the Senate (the House is expected to stay in Republican control). The fact that both parties' presidential candidates boast historically high disapproval ratings has made the outcome of many of the down ballot races, including those for the Senate, all the more uncertain.

At present the breakdown of the 2016 Senate elections can be summarized as follows:

- The Senate is currently comprised of 54 Republicans, 44 Democrats and two Independents both of whom caucus with the Democrats. To take control of the Senate, the Democrats either need to pick up five Senate seats or pick up four Senate seats and hold the White House (with the Vice President casting the tie breaking vote in the Senate).
- There are 34 Senate seats up for election in 2016. Ten of these seats are currently held by Democrats and 24 are currently held by Republicans. Even if the Democrats win control of the Senate this year, they will be facing tough odds in 2018 with 25 Democratic seats up for election and only eight Republican Seats.
- Now that Senator Rubio has changed his mind about running, just five of the 34 seats up for election are open while the remaining 29 have incumbent candidates. Of the five open seats, three are presently held by Democrats (CA, NV, MD) and two are held by Republicans (LA, IN).
- Of the ten Democratic seats up for election this year, nine of them, including two of the three seats open seats, are (at this time) considered safe seats for the Democrats (CA, CO, CT, MD, NY, HI, OR, VT, WA). This number has increased since our last election alert as Colorado went from being one of the Democrat's biggest defensive challenges to being a near sure thing for incumbent Senator Michael Bennet. After a number of the Republican establishment's top choices declined to run, El Paso County Commissioner Darryl Glenn won what the Denver Post referred to as a "bizarre primary that featured a menagerie of chaos" and has since been trailing Senator Bennet by double digits in the polls.
- Of the 24 Republican seats up for election in 2016, 15 of them are (at this time) considered safe seats for the Republicans (AL, AK, AR, AZ, GA, IA, ID, KS, KY, LA, OK, ND, SC, SD, UT). This list has changed since our last election alert due to a number of developments. First, as discussed further below, former Senator Evan Bayh's late decision to run has thrust Indiana into play for the Democrats. Additionally, Senator John McCain survived a primary challenge from the right and is now leading by double digits. Finally, while the Republicans are still favored to carry Missouri, the polling margin between Republican Senator Roy Blunt and his Democratic challenger, Missouri Secretary of State Jason Kander, is now less than five percent, casting Missouri as less of a sure thing for Republicans than was previously expected.

Senate candidates from both sides are facing challenges created by their parties' presidential candidates. In recent years, straight ticket party voting has increased significantly with 84 Senators currently being members of the same party that carried their state in the 2012 Presidential election. For Republicans this raises concerns as Hillary Clinton maintains a solid lead against Donald Trump in a number of states with competitive Senate races including Illinois, Pennsylvania, New Hampshire and Wisconsin.

On the Democratic side, the Clinton campaign's efforts to appeal to disillusioned Republicans by casting Donald Trump as an outlier from the party has made it more difficult for Democratic Senate candidates to try to link Republican Senate candidates to Donald Trump.

As a bottom line - there are now nine seats that

Continued on page 18

The November Elections

Continued from page 17

are expected to be very competitive and on which the control of the Senate will most likely hinge.

With Colorado essentially off the table, the biggest chance for the Republicans to pick up a seat is in Nevada where Minority Leader Harry Reid is retiring. At present, polls are showing the race between Democratic former Attorney General Catherine Masto and Republican Representative Joe Heck to be the closest Senate race in the country. Moreover, Donald Trump and Hillary Clinton are polling very close in the state, making it unclear how the presidential race could sway the Senate outcome.

Now that Senator Rubio is running, seven of the eight Republican seats expected to be highly competitive have incumbents running.

- The Republican Senator that appears to have the greatest risk losing is Illinois Senator Mark Kirk who won President Obama's former Senate seat in 2010. In 2010, a year that was very favorable overall for Republican candidates, Senator Kirk only beat his Democratic opponent by a close vote of 48% to 46.4%. Senator Kirk is being challenged by Democratic Representative and Iraq war veteran, Tammy Duckworth, who has been consistently leading in the polls.
- Also amongst the group of most at risk Republican Senators is Senator Ron Johnson in Wisconsin. Senator Johnson is facing former Senator Russ Feingold in a rematch of the 2010 election in which Senator Johnson unseated Senator Feingold by a vote of 52% to 47%. Senator Feingold has maintained a solid lead over Senator Johnson in the polls and some commentators have observed that Senator Johnson's campaign strategy has looked more like that of a challenger than of an incumbent.
- One of the elections that is expected to be most significantly impacted by the top of ticket dynamics is the Pennsylvania Senate race where Senator Pat Toomey is trying to defend the seat he won in 2010 by a margin of just 2%. Senator Toomey is running against former state and federal environmental policy official Katie McGinty. Recent polls have been split as to which candidate they show to be leading the race, however, the polls have shown Hillary Clinton to be maintaining a consistent lead over Donald Trump which could hurt Senator Toomey's chances if the party-line voting trend of prior years continues.

On the other hand, one race that was not expected to be particularly close but that has now fallen into the at-risk column is the North Carolina senate race. Senator Richard Burr is seeking a third term and facing a challenge from former state representative Deborah Ross. The polls have shown Senator Burr to be maintaining a slight lead, though a recent CBS poll showed Ross with a one point lead. As the presidential candidates have been polling very close to one another in North Carolina, this could prove to be another state where the outcome of a close Senate election may be driven largely by the top of the ticket.

At this point, the odds of one party having control of both chambers of Congress and the White House after November are not high, though possible. Rather it appears likely that we are looking at a split of control and the potential for continued partisan discord. On the other hand, and somewhat counter intuitive, small business often does well with split control in that both parties tend to try to court us more.

Exxon moves to block climate probes in New York, Massachusetts

Continued from page 13

any investigation into its actions, which may have violated state securities and consumer fraud laws," she said.

In New York state court, Schneiderman filed a motion Friday to compel Exxon's accounting firm PricewaterhouseCoopers to hand over documents he's requested. Spitalnick accused Exxon of filing the Monday motion as "forum-shopping," to avoid the New York court.

Chloe Gotsis, a spokeswoman for Healey, called the Exxon motion "yet another attempt by Exxon Mobil to impede state investigations into whether the company deceived consumers and investors about the impact of fossil fuels on the environment and Exxon's business."

Gotsis said Exxon is subject to Massachusetts' laws, and can be held responsible under them.

SSDGNY- Service Station Dealers and Automotive Services of Greater NY is holding their Annual Meeting on November 17th in White Plains, New York
Call: 914-698-5188 for more information

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