

A Guide to the Laws and Treaties of the United States for Protecting Migratory Birds

A fairly large number of international treaties and domestic laws have been enacted that provide protection for migratory birds. To help put the legal authorities into perspective, we have categorized them as primary and secondary authorities. Primary authorities are international conventions and major domestic laws that focus primarily on migratory birds and their habitats. Secondary authorities are broad-based domestic environmental laws that provide ancillary but significant benefits to migratory birds and their habitats.

Primary Federal Authorities for Migratory Birds

For purposes of discussion, it is helpful to group the primary authorities of the United States for migratory birds into those that protect [bird populations](#) (primarily) and those that protect [bird habitats](#).

Protecting Bird Populations: Federal Laws

Table of Contents

- [Lacey Act](#)
 - [Weeks-McLean Law](#)
 - [Migratory Bird Treaty Act](#)
 - [Endangered Species Act](#)
 - [Other International Treaties](#)
 - [Other Domestic Laws](#)
-

Lacey Act

By the late 1800s, the hunting and shipment of birds for the commercial market (to embellish the platters of elegant restaurants) and the plume trade (to provide feathers to adorn lady's fancy hats) had taken their toll on many bird species. Passenger pigeons, whose immense flocks had once darkened the skies, were nearing extinction. Populations of the Eskimo curlew and other shorebirds had been decimated. The snowy egret and other colonial-nesting wading birds had been reduced to mere remnants of their historical populations. The Lacey Act (passed on May 25, 1900) prohibited game taken illegally in one state to be shipped across state boundaries contrary to the laws of the state where

taken. The Lacey Act has become a very effective tool for enforcing the wildlife protective laws of the States and the Federal government (a [detailed synopsis](#) is available). However, in the early years of the 20th century the Act was ineffective in stopping interstate shipments, largely because of the huge profits enjoyed by the market hunters and the lack of officers to enforce the law. These early failures of the Lacey Act led to passage of the Weeks-McLean Law.

Back to [Table of Contents](#)

Weeks-McLean Law

The Weeks-McLean Law (which became effective on March 4, 1913) was designed to stop commercial market hunting and the illegal shipment of migratory birds from one state to another. The Act boldly proclaimed that:

All wild geese, wild swans, brant, wild ducks, snipe, plover, woodcock, rail, wild pigeons, and all other migratory game and insectivorous birds which in their northern and southern migrations pass through or do not remain permanently the entire year within the borders of any State or Territory, shall hereafter be deemed to be within the custody and protection of the Government of the United States, and shall not be destroyed or taken contrary to regulations hereinafter provided therefor.

The Weeks-McLean Law rested on weak constitutional grounds, having been passed as a rider to an appropriation bill for the Department of Agriculture, and it was soon replaced by the Migratory Bird Treaty Act of 1918.

Back to [Table of Contents](#)

Migratory Bird Treaty Act of 1918

Following close on the heels of the Lacey Act and the Weeks-McLean Law, the framers of the Migratory Bird Treaty Act were determined to put an end to the commercial trade in birds and their feathers that, by the early years of the 20th century, had wreaked havoc on the populations of many native bird species.

The Migratory Bird Treaty Act decreed that all migratory birds and their parts (including eggs, nests, and feathers) were fully protected.

The Migratory Bird Treaty Act is the domestic law that affirms, or implements, the United States' commitment to four international conventions (with Canada, Japan, Mexico, and Russia) for the protection of a shared migratory bird resource. Each of the conventions protect selected species of birds that are common to both countries (i.e., they

occur in both countries at some point during their annual life cycle). A [List of Migratory Birds](#) protected by the Migratory Bird Treaty Act is available.

For those desiring additional information on the Migratory Bird Treaty Act, a [detailed synopsis](#) is available. That section of the [United States Code](#) pertaining to the Migratory Bird Treaty Act can also be accessed.

Back to [Table of Contents](#)

Migratory Bird Conventions

For synopses of the four migratory bird conventions, first jump to the [List of Treaties](#) and then, from the menu list that appears on your screen, click on the treaty or treaties of interest (your options will be **Canada, Japan, Mexico**, and the **Soviet Union**). A checklist of the species covered by each of the conventions is available at [List of Migratory Birds](#).

Back to [Table of Contents](#)

Endangered Species Act of 1973

The relevance of this landmark legislation to migratory bird conservation needs little elaboration. For the curious, you can access the [full text](#) of the Endangered Species Act on-line. For the less curious but still interested, a [detailed synopsis](#) is available. For a full list of birds protected by the Endangered Species Act in the U.S., first click [here](#) then click on the bird icon that appears at the top of the screen. A checklist of the species protected by both the Endangered Species Act and the Migratory Bird Treaty Act is posted at [List of Migratory Birds](#).

The Endangered Species Act is also the domestic law that confirms, or implements, the United States' commitment to two international treaties that contain important provisions for the protection of migratory birds:

- [CITES](#) (the Convention on International Trade in Endangered Species of Wild Fauna and Flora)
- [Pan American Convention](#) (the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere).

CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora)

A [detailed synopsis](#) of the CITES convention is available. A checklist of the species covered by both the CITES and the Migratory Bird Treaty Act is posted at [List of Migratory Birds](#).

Back to [Table of Contents](#)

Other International Treaties

In addition to the conventions implemented by the [Migratory Bird Treaty Act](#) and the [Endangered Species Act](#), the United States is party to two other international treaties that afford special protection to migratory birds.

- [Ramsar Convention](#) (The Convention on Wetlands of International Importance Especially as Waterfowl Habitats)
- [Antarctic Treaty](#) (designed to protect the native birds, mammals, and plants of the Antarctic)

Back to [Table of Contents](#)

Other Domestic Laws

- [Bald Eagle Protection Act](#)
- [Waterfowl Depredations Prevention Act](#)
- [Fish and Wildlife Conservation Act](#)
- [Wild Bird Conservation Act](#)

Back to [Table of Contents](#)

Protecting Bird Habitats: Federal Laws

- [Duck Stamp Act](#)
- [Wetlands Loan Act](#)
- [Emergency Wetlands Resources Act](#)
- [Migratory Bird Conservation Act](#)
- [North American Wetlands Conservation Act](#)

Back to [Table of Contents](#)

Duck Stamp Act

Formally known as the Migratory Bird Hunting and Conservation Stamp Act (passed in 1934), it provides a mechanism for generating money for the acquisition and protection of important migratory bird habitats. The habitat protection authorities of this Act have been significantly modified and strengthened in recent years by provisions of the [Wetlands Loan Act](#) (1961) and the [Emergency Wetlands Resources Act](#) (1986).

| [Home Page](#) | [Bird Laws and Treaties](#) |

Last Revised: 05/21/2002

Migratory Bird Treaty Act of 1918

[Migratory Bird Treaty Act of 1918](#) (16 U.S.C. 703-712; Ch. 128; July 13, 1918; 40 Stat. 755) as amended by: Chapter 634; June 20, 1936; 49 Stat. 1556; P.L. 86-732; September 8, 1960; 74 Stat. 866; P.L. 90-578; October 17, 1968; 82 Stat. 1118; P.L. 91-135; December 5, 1969; 83 Stat. 282; P.L. 93-300; June 1, 1974; 88 Stat. 190; P.L. 95-616; November 8, 1978; 92 Stat. 3111; P.L. 99-645; November 10, 1986; 100 Stat. 3590 and P.L. 105-312; October 30, 1998; 112 Stat. 2956

The original 1918 statute implemented the 1916 Convention between the U.S. and Great Britain (for Canada) for the protection of migratory birds. Later amendments implemented treaties between the U.S. and Mexico, the U.S. and Japan, and the U.S. and the Soviet Union (now Russia).

Specific provisions in the statute include:

- Establishment of a Federal prohibition, unless permitted by regulations, to "pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, included in the terms of this Convention . . . for the protection of migratory birds . . . or any part, nest, or egg of any such bird." (16 U.S.C. 703)

This prohibition applies to birds included in the respective international conventions between the U.S. and Great Britain, the U.S. and Mexico, the U.S. and Japan, and the U.S. and the Russia.

- Authority for the Secretary of the Interior to determine, periodically, when, consistent with the Conventions, "hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any . . .bird, or any part, nest or egg" could be undertaken and to adopt regulations for this purpose. These determinations are to be made based on "due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times of migratory flight." (16 U.S.C. 704)
- A decree that domestic interstate and international transportation of migratory birds which are taken in violation of this law is unlawful, as well as importation of any migratory birds which are taken in violation of Canadian laws. (16 U.S.C. 705)
- Authority for Interior officials to enforce the provisions of this law, including seizure of birds illegally taken which can be forfeited to the U.S. and disposed of as directed by the courts. (16 U.S.C. 706)
- Establishment of fines for violation of this law, including misdemeanor charges. (16 U.S.C. 707)
- Authority for States to enact and implement laws or regulations to allow for greater protection of migratory birds, provided that such laws are consistent with the respective Conventions and that open seasons do not extend beyond those established at the national level. (16 U.S.C. 708)
- A repeal of all laws inconsistent with the provisions of this Act. (16 U.S.C. 710)
- Authority for the continued breeding and sale of migratory game birds on farms and preserves for the purpose of increasing the food supply. (16 U.S.C. 711)

The 1936 statute implemented the Convention between the U.S. and Mexico for the Protection of Migratory Birds and Game Mammals. Migratory bird import and export restrictions between Mexico and the U.S. were also authorized, and in issuing any regulations to implement this section, the Secretary of Agriculture was required to consider U.S. laws forbidding importation of certain mammals injurious to agricultural and horticultural interests. Monies for the Secretary of Agriculture to implement these provisions were also authorized.

The 1960 statute (P.L. 86-732) amended the MBTA by altering earlier penalty provisions. The new provisions stipulated that violations of this Act would constitute a misdemeanor and conviction would result in a fine of not more than \$500 or imprisonment of not more than six months. Activities aimed at selling migratory birds in

violation of this law would be subject to fine of not more than \$2000 and imprisonment could not exceed two years. Guilty offenses would constitute a felony. Equipment used for sale purchases was authorized to be seized and held, by the Secretary of the Interior, pending prosecution, and, upon conviction, be treated as a penalty.

Section 10 of the 1969 amendments to the Lacey Act (P.L. 91-135) repealed the provisions of the MBTA prohibiting the shipment of wild game mammals or parts to and from the U.S. or Mexico unless permitted by the Secretary of the Interior. The definition of "wildlife" under these amendments does not include migratory birds, however, which are protected under the MBTA.

The 1974 statute (P.L. 93-300) amended the MBTA to include the provisions of the 1972 Convention between the U.S. and Japan for the Protection of Migratory Birds and Birds in Danger of Extinction. This law also amended the title of the MBTA to read: "An Act to give effect to the conventions between the U.S. and other nations for the protection of migratory birds, birds in danger of extinction, game mammals, and their environment."

Section 3(h) of the Fish and Wildlife Improvement Act of 1978 (P.L. 95-616) amended the MBTA to authorize forfeiture to the U.S. of birds and their parts illegally taken, for disposal by the Secretary of the Interior as he deems appropriate. These amendments also authorized the Secretary to issue regulations to permit Alaskan natives to take migratory birds for their subsistence needs during established seasons. The Secretary was required to consider the related migratory bird conventions with Great Britain, Mexico, Japan, and the Soviet Union in establishing these regulations and to establish seasons to provide for the preservation and maintenance of migratory bird stocks.

Public Law 95-616 also ratified a treaty with the Soviet Union specifying that both nations will take measures to protect identified ecosystems of special importance to migratory birds against pollution, detrimental alterations, and other environmental degradations. (See entry for the Convention Between the United States of America and the Union of Soviet Socialist Republics Concerning the Conservation of Migratory Birds and Their Environment; T.I.A.S. 9073; signed on November 19, 1976, and approved by the Senate on July 12, 1978; 92 Stat. 3110.)

Public Law 99-645, the 1986 Emergency Wetlands Resources Act, amended the Act to require that felony violations under the MBTA must be "knowingly" committed.

P.L. 105-312, Migratory Bird Treaty Reform Act of 1998, amended the law to make it unlawful to take migratory game birds by the aid of bait if the person knows or reasonably should know that the area is baited. This provision eliminates the "strict liability" standard that was used to enforce Federal baiting regulations and replaces it with a "know or should have known" standard. These amendments also make it unlawful to place or direct the placement of bait on or adjacent to an area for the purpose of taking or attempting to take migratory game birds, and makes these violations punishable under title 18 United States Code, (with fines up to \$100,000 for individuals and \$200,000 for organizations), imprisonment for not more than 1 year, or both. The new amendments

require the Secretary of Interior to submit to the Senate Committee on Environment and Public Works and the House Committee on Resources a report analyzing the effect of these amendments and the practice of baiting on migratory bird conservation and law enforcement. The report to Congress is due no later than five years after enactment of the new law.

P.L. 105-312 also amends the law to allow the fine for misdemeanor convictions under the Migratory Bird Treaty Act to be up to \$15,000 rather than \$5000.

Section 2 of the Migratory Bird Treaty Act (16 U.S.C. 703) is amended—

(1) in the first sentence, by striking 'That unless and except as permitted' and inserting the following: '(a) In General—

Unless and except as permitted'; and

(2) by adding at the end the following:

'(b) LIMITATION ON APPLICATION TO INTRODUCED SPECIES—

'(1) IN GENERAL— This section applies only to migratory bird species that are native to the United States the occurrence

of which in the United States is entirely the result of natural biological or ecological conditions.

'(2) TREATMENT OF INTRODUCED SPECIES— For purposes of paragraph (1)—

'(A) a bird species shall not be treated as native to the United States if the species occurs in the United States solely as a

result of intentional or unintentional human-assisted introduction; and

'(B) a migratory bird species shall be treated as native to the United States if—

'(i) the species was native to the United States and extant in 1918;

'(ii) the species was extirpated after 1918 throughout its range in the United States; and

'(iii) after such extirpation, the species was reintroduced in the United States as a part of a program carried out by a

Federal agency.'.

SEC. 103. PUBLICATION OF LIST.

(a) IN GENERAL— Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall

publish in the Federal Register a list of all nonnative, human-introduced bird species to which the Migratory Bird Treaty

Act (16 U.S.C. 703 et seq.) does not apply that belong to biological families of migratory birds covered under any of the

migratory bird conventions with Great Britain (for Canada), Mexico, Russia, or Japan.

(b) PUBLIC COMMENT— Before publishing the list under subsection (a), the Secretary shall provide adequate time for public comment.

(c) EFFECT OF SECTION— Nothing in this section shall delay implementation of other provisions of this Act or

amendments made by this Act that exclude nonnative, human-introduced bird species from the application of the

Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).

TITLE II--CONSERVATION OF NEOTROPICAL MIGRATORY BIRDS

SEC. 201. SHORT TITLE.

This title may be cited as the 'Neotropical Migratory Bird Conservation Improvement Act of 2004'.

SEC. 202. AMENDMENTS TO NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT.

(a) FINDINGS— Section 2(1) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101(1)) is amended by

inserting ', but breed in Canada and the United States' after 'the Caribbean'.

(b) PURPOSES— Section 3(2) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6102(2)) is amended by

inserting 'Canada,' after 'United States,'.

(c) DEFINITION OF CARIBBEAN— Section 4 of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6103) is

amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by striking paragraph (1) and inserting the following:

'(1) CARIBBEAN— The term 'Caribbean' includes Puerto Rico and the United States Virgin Islands.'; and

(3) by inserting after paragraph (2) the following:

'(3) FUND— The term 'Fund' means the Neotropical Migratory Bird Conservation Fund established by section 9(a).'

(d) COST SHARING— Section 5(e) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6104(e)) is

amended—

(1) in paragraph (1), by striking '25 percent' and inserting '50 percent'; and

'SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

'(a) IN GENERAL— There are authorized to be appropriated to the Fund to carry out this Act—

'(1) \$5,000,000 for each of fiscal years 2005 and 2006;

'(2) \$10,000,000 for fiscal year 2007; and

'(3) \$15,000,000 for fiscal year 2008.

'(b) AVAILABILITY— Amounts made available under this section shall remain available until expended.

'(c) ALLOCATION— Of amounts made available under this section for a fiscal year, not less than 75 percent shall be expended for projects carried out outside the United States.

DOING MORE FOR MIGRATORY SONGBIRDS: In 2000, the U.S Congress passed, and President Clinton signed into law, the Neotropical Migratory Bird Conservation Act (NMBCA)- our nation's first law aimed directly at protecting songbirds by helping to restore and to conserve their wintering habitat, ensuring the keep coming back to our backyards in the spring. Now, it's time for Congress to reauthorize the five-year program, and outline how the program will function in the future. Audubon seeks to enhance and expand the NMBCA so that more funding is available for more programs, so more people and more countries can participate in this program aimed at saving Neotropical migrants, including some of the most endangered birds in North America such as the Kirtland's Warbler, Hermit Thrush, Black-capped Vireo,

and Kentucky Warbler. This will undoubtedly be one of our top priorities in 2005, and one we will need your support to pass. *Stay tuned!*

MIGRATORY BIRD TREATY ACT CLARIFICATION VICTORY

The brightest spot in the FY05 Omnibus bill is the inclusion of an Audubon top-priority measure that restores Migratory Bird Treaty Act protection to the law's intended beneficiaries, America's native migratory birds. The provision, known as the "Migratory Bird Treaty Reform Act of 2004" was designed to strengthen the existing law by ensuring that invasive species causing harm to native migratory birds could not be extended legal protection under the Act. A court ruling earlier this year put America's migratory birds at risk from the very law designed to protect them. That decision, *Hill v. Norton*, turned the Migratory Bird Treaty Act on its end by extending the law's protection to destructive invasive species such as the European Starling, English Sparrow, and Mute Swan, which cause significant ecological damage and out-compete America's native birds for precious remaining habitat. The provision included in the Omnibus Bill closes the loophole created by this decision, ensuring that legal protection is not extended to the human-introduced and invasive species that are decimating some of America's most endangered bird populations. "Invasive species are a key factor in the decline of migratory birds," said Audubon's Assistant Director of Government Relations Mike Daulton. "To extend legal protection to invasive species under a key bird conservation law is a terrible idea. The Migratory Bird Treaty Act is meant to protect migratory birds, not protect the very species causing their destruction." The spread of the territorial Mute Swan, for example, has caused significant damage to many important ecosystems, including Chesapeake Bay. Mute Swans displace native birds including Tundra Swans, Least Terns, Black Skimmers, Common Terns, and Forster's Terns, and affect many species of waterfowl such as the American Black Duck, an Audubon WatchList species. *Many thanks for your phone calls and letters to your lawmakers on this issue - your efforts helped make this victory possible!*

THE NEOTROPICAL MIGRATORY BIRD CONSERVATION FUND (NMBCA)

The NMBCA provides grants for the conservation of migratory birds in countries in Latin America and the Caribbean, as well as within the U.S. The program leverages real conservation dollars on the ground. The money Congress has already appropriated for this program has been more than quadrupled by matching funds for projects that protect, restore and manage habitat for migratory birds and other wildlife.

Proposed Rule Fails to Protect Migratory Birds from Military Actions

Last week the Bush administration proposed a rule that would free the Department of Defense (DoD) from federal environmental regulations that protect migratory birds, and allow the military to make its own determination of whether its actions were causing harm to wildlife.

"It's the fox guarding the henhouse," Peter Galvin, conservation director for the Center for Biological Diversity, told BushGreenwatch. "When are they ever going to find on their own that their activities are causing a problem?"

The U.S. Fish and Wildlife Service rule, published in the June 2 Federal Register, allows for the "incidental taking" of migratory birds by the DoD during military readiness training. While it also requires DoD to develop "appropriate conservation measures" if proposed military activities would "have a significant adverse effect on a population of migratory bird species of concern," it allows DoD to determine whether any such adverse effects are occurring. [1]

The DoD has asserted that adhering to environmental protection laws compromises military training and readiness. However, a General Accounting Office report in 2002 found that the Pentagon could not substantiate this claim.

The bigger question, said Galvin, is why the DoD is allowed to operate under different rules in the first place. The Migratory Bird Treaty Act (MBTA), enacted in 1918, covers the United States' commitment to four international treaties -- with Canada, Mexico, Japan and Russia -- to protect numerous migratory birds and their habitats. But in 2002, Congress granted the DoD a temporary, one-year exemption from the MBTA under the premise that environmental regulations interfered with the military's ability to ready itself for battle.

During that year, the administration was to come up with a plan to minimize the killing of migratory birds during military training exercises. The newly published rule was due out six months ago -- last December.

"Should DoD be exempt at all?" asked Galvin. "We think the answer is no. This rule is merely a euphemism for gutting environmental protections."

Until the new rule takes effect, the DoD will continue to benefit from its previous, blanket exemption.

The military's push for an exemption stems from a case in which the U.S. military conducted bombing practice on an island in the Pacific that is a key nesting site for migratory birds, including frigatebirds, red-footed boobies and Pacific golden plovers. The public interest law firm Earthjustice successfully argued in federal court that the bombing exercises violated the MBTA.

The case further raised the ire of conservationists when the Pentagon argued in a legal brief that conservationists actually benefit from the military's killing of birds because it helps make some species more rare -- and "bird watchers get more enjoyment spotting a rare bird than they do spotting a common one." [2]

DOD gets bird law altered in final authorization bill

The Defense authorization bill, [H.Rpt. 107-772](#), received much attention from conservationists and other groups this year when the Department of Defense proposed changes to several environmental laws. By the end of Congress' lame-duck session, only a change to the Migratory Bird Treaty Act entered the bill, but DOD's continued concerns about encroachment may lead to other requests. DOD requested changes to the Endangered Species Act, MBTA and other laws in April, just days before the House Armed Services Military Readiness Subcommittee began its mark up of the bill. DOD felt the limitations these laws placed on land use and other activities adversely affected training missions at numerous military facilities.

In the request, DOD said it aimed to "ensure military readiness by addressing problems created by encroachment on military readiness activities and lands, marine areas and airspace reserved, withdrawn or designated for military use."

Drafts of the bill circulated in April included changes to the Resource Conservation and Recovery Act, Clean Air Act, Clean Water Act, Marine Mammal Protection Act, Noise Control Act and the Comprehensive Emergency Response, Compensation and Liability Act, which opponents viewed as meaning those laws would no longer apply to bombing ranges, air bases and training grounds or munitions and other materials related to such areas.

Defense authorization conferees -- and ultimately Congress -- only approved the change to the MBTA. The provision creates a one-year interim period where rules on incidental takings of migratory birds would not apply to military readiness activities. During the interim, the Interior Department is instructed to start designing regulations that exempt the Armed Forces from the incidental taking of migratory birds, and DOD must agree to the regulations before they take effect.

Conferees approved the agreement 12 November with the House quickly passing the report the same day and the Senate following on 13 November. President Bush is expected to sign the Defense Authorization bill into law later this year.

The House version of the bill, [H.R. 4546](#), that passed in May, included the MBTA change and an alteration to the Endangered Species Act that would allow the military to use an Integrated Natural Resources Management Plan instead of designating critical habitat for listed species. House Military Readiness Chairman Joel Hefley (R-Colo.) said the other changes needed more discussion before they could be added to the bill.

The original Senate bill, [S. 2514](#), which passed in June, did not include any of DOD's requested changes to laws, with Senate Armed Services Committee Chairman Carl Levin (D-Mich.) saying it was out of his panel's jurisdiction.

Some held the environmental provisions responsible for holding up the conference report, while others attribute it to President Bush's veto threat on the bill for a veteran's benefit issue. Critics of the legislation said they were not against military training per se, but rather objected to the blanket exemption DOD wanted and even argued that the laws already contain military exemptions.

An excerpt, as revised from an article by Suzanne Struglinski, a staff writer for the ***Environment & Energy Daily***