

WE'RE BEING WATCHED

How Corporations and Law Enforcement Are Spying on Environmentalists

by Adam Federman

IN FEBRUARY 2010 TOM JUNTA and a small group of residents in northeastern Pennsylvania formed the Gas Drilling Awareness Coalition (GDAC), an environmental organization opposed to hydraulic fracturing in the region. The group sought to appeal to the widest possible audience, and was careful about striking a moderate tone. All members were asked to sign a code of conduct in which they pledged to carry themselves with “professionalism, dignity, and kindness” as they worked to protect the environment and their communities. GDAC’s founders acknowledged that gas drilling had become a divisive issue misrepresented by individuals on both sides and agreed to “seek out the truth.”

The group of about 10 professionals — engineers, nurses, and teachers — began meeting in the basement of

a member’s home. As their numbers grew, they moved to a local church. In an effort to raise public awareness about the risks of hydraulic fracturing (or “fracking”) they attended township meetings, zoning and ordinance hearings, and gas-drilling forums. They invited speakers from other states affected by gas drilling to talk with Pennsylvania residents. They held house-party style screenings of documentary films.

Since the group had never engaged in any kind of illegal activity or particularly radical forms of protest, it came as a shock when GDAC members learned that their organization had been featured in intelligence bulletins compiled by a private security firm, The Institute of Terrorism Research and Response (ITRR). Equally shocking was the revelation that the Pennsylvania Department of Homeland Security had



distributed those bulletins to local police chiefs, state, federal, and private intelligence agencies, and the security directors of the natural gas companies, as well as industry groups and PR firms. News of the surveillance broke in September 2010 when the director of the Pennsylvania Department of Homeland Security, James Powers, mistakenly sent an email to an anti-drilling activist he believed was sympathetic to the industry, warning her not to post the bulletins online. The activist was Virginia Cody, a retired Air Force officer. In his email to Cody, Powers wrote: “We want to continue providing this support to the Marcellus Shale Formation natural gas stakeholders while not feeding those groups fomenting dissent against those same companies.”

The tri-weekly bulletins featured a wide range of supposed threats to the state’s infrastructure. It included warnings about Al-Qaeda affiliated groups, pro-life activists, and Tea Party protesters. The bulletins also included information about when and where groups like GDAC would be meeting, upcoming protests, and anti-fracking activists’ internal strategy. The raw data was followed by a threat assessment — low, moderate, severe, or critical — and a brief analysis.

For example, bulletin no. 118, dated July 30, 2010 gave a low to moderate threat rating in reference to public meetings that anti-drilling activists planned to attend, and suggested that an “attack is likely... and might well be executed.” The threat assessment was accompanied by this note: “The escalating conflict over natural gas drilling in Pennsylvania may define local fault lines and potentially increase area environmental activity or eco-terrorism. GDAC communications have cited Northeastern Pennsylvania counties, specifically Wyoming, Lackawanna and Luzerne, as being in real ‘need of our help’ and as facing a ‘drastic situation.’” Another bulletin referenced an August 2010 FBI assessment of the growing threat of environmental activism to the energy industry. Because of Pennsylvania’s importance in the production of natural gas, ITRR concluded, an uptick in vandalism, criminal activity, and extremism was likely.

Although the Pennsylvania scandal caused a brief public outcry, it was quickly brushed aside as an unfortunate mistake. In fact, the episode represents a larger pattern of corporate and police spying on environmental activists fueled in part by the expansion of private intelligence gathering since 9/11.

By 2007, 70 percent of the US intelligence budget — or about \$38 billion annually — was spent on private contractors. Much of this largesse has been directed toward overseas operations. But it is likely that some of that money has been paid to private contractors — hired either by corporations or law enforcement agencies — that are also in

the business of spying on American citizens. As early as 2004, in a report titled “The Surveillance Industrial Complex,” the American Civil Liberties Union warned that the “US security establishment is making a systematic effort to extend its surveillance capacity by pressing the private sector into service to report on the activities of Americans.” At the same time, corporations are boosting their own security operations. Today, overall annual spending on corporate security and intelligence is roughly \$100 billion, double what it was a decade ago, according to Brian Rutenbur, a defense analyst with CRT Capital.

The surveillance of even moderate groups like GDAC comes at a pivotal time for the environmental movement. As greenhouse gas emissions continue unchecked, opposition to the fossil fuel industry has taken on a more urgent and confrontational tone. Some anti-fracking activists have engaged in nonviolent civil disobedience and the protests against the Keystone XL tar sands pipeline have involved arrests at the White House. Environmentalists and civil libertarians worry that accusations of terrorism, even if completely unfounded, could undermine peaceful political protest. The mere possibility of surveillance could handicap environmental groups’ ability to achieve their political goals. “You are painting the political opposition as supporters of terrorism to discredit them and cripple their ability to remain politically viable,” says Mike German, an FBI special agent for 16 years who now works with the ACLU.

The Pennsylvania episode is not an isolated case. The FBI and Americans for Prosperity (AFP), a Koch Brothers-backed lobbying group, have both taken an interest in anti-drilling activists in Texas. In the fall of 2011, according to an investigation by *The Washington Post*, the FBI was digging for information on the leader of Rising Tide North America, a direct action environmental group, because of his opposition to hydraulic fracturing (Rising Tide has also been active in organizing protests against the Keystone XL pipeline). Ben Kessler, a Texas-based activist, told the *Post* that the FBI had received an anonymous tip to look into his activities. The agency also showed up at the office of Kessler’s philosophy professor, Adam Briggie, who teaches an ethics course that covers nonviolent civil disobedience and the history of the environmental movement. Briggie, who has been involved in organizing residents to impose tougher regulations on gas drilling in Denton, Texas, told the *Post* that, “it seemed like a total fishing expedition to me.”

About a month after he was approached by the FBI, Briggie received a notice from his employer, the University of North Texas, asking him to turn over all emails and other

written correspondence “pursuant to City of Denton natural gas drilling ordinances and the ‘Denton Stakeholder Drilling Advisory Group,’” an organization Briggle founded in July 2011 whose mission is similar to that of GDAC. The university had received a request under the state’s Public Information Act and Briggle was forced to hand over more than 1,300 emails. He was later told that the request had been made by Peggy Venable, Texas Director of Americans for Prosperity.

Rising Tide activists had speculated that the anonymous tip came from one of the gas companies active in the region. Although there was no way to prove a connection between the FBI’s investigation and AFP’s mining of Briggle’s emails, both were viewed within the activist community as acts of intimidation. Briggle says, “The message is, you’re being watched.”

DURING THE LAST DECADE the FBI and, to a lesser extent, corporations have elevated the threat of eco-terrorism to a top priority even as environmentally motivated crimes have declined. In 2005, John Lewis, an FBI deputy assistant director, said the animal rights and environmental movements were “one of the FBI’s highest domestic terrorism priorities.” In the post-9/11 era, the outsourcing of intelligence gathering to private companies has ballooned, the bar for investigating domestic threats has been lowered, and a premium has been placed on information sharing with the private sector. “What changed after 9/11,” the ACLU’s German says, “was the lowering of the threshold for FBI investigations and the promulgation of these radicalization theories that while specifically written about Muslim extremists — the same theory that people move from ideas to activism to terrorism — justified increased surveillance against activists and against people who were just part of the environmental rights movement but had no association with violence or criminal acts.”

Since 9/11 accusations of eco-terrorism have proliferated and a number of individuals and groups have been prosecuted under new laws, which have profoundly impacted the radical environmental movement. The broad crackdown and subsequent fear and paranoia that swept through activist circles have been referred to as the “Green Scare.” “The shift was gradual,” Will Potter writes in *Green is the New Red: An Insider’s Account of a Social Movement Under Siege*, “slowly merging the rhetoric of industry groups with that of politicians and law enforcement.”

In public, corporations have amplified the threat of eco-terrorism to influence legislation, such as the Animal Enterprise Terrorism Act. In private, meanwhile, they have

hired firms to spy on environmental groups. About a month after 9/11, for example, the crisis communications firm Nichols Dezenhall (now Dezenhall Resources) registered a website called StopEcoViolence.com (now defunct), which served as a sort of faux watchdog group and source for media outlets including *The New York Times*. Around the same time, Dezenhall — described by Bill Moyers as the “Mafia of industry” — was involved in corporate espionage. Along with two other PR companies, Dezenhall hired a now-defunct private security firm, Beckett Brown International, to spy on environmental activists. One of the targeted groups was Greenpeace. In 2011 Greenpeace filed a lawsuit charging that Dow Chemical, Sasol (formerly CONDEA Vista), the PR firms, and individuals working for Beckett Brown International (which was founded by former Secret Service officers) stole thousands of documents, intercepted phone call records, trespassed, and conducted unlawful surveillance. In a story for *Mother Jones*, James Ridgeway revealed that the security firm obtained donor lists, detailed financial statements, Social Security numbers of staff members, and strategy memos from several groups, and, in turn, “produced intelligence reports for public relations firms and major corporations involved in environmental controversies.” (In February a Washington, DC court ruled that the claims of trespass and misappropriation of trade secrets could proceed.)

More recently, according to a report in *The Nation*, the agricultural giant Monsanto contracted with a subsidiary of Blackwater, the private security firm, to gather intelligence on and possibly infiltrate environmental groups in order to protect the company’s brand name. “This is the new normal,” says Scott Crow, an author and longtime environmental activist who was the subject of FBI and corporate surveillance for close to eight years beginning in 1999.

While the above cases involved corporations hiring private security firms to carry out black-ops against environmental groups, the Pennsylvania scandal may be the first time that a state agency has contracted with a private security firm to gather intelligence on lawful groups for the benefit of a specific industry. Although the ITRR bulletins were produced for the Pennsylvania Department of Homeland Security, they were shared with PR firms, the major Marcellus Shale companies, and industry associations. For members of GDAC and other anti-drilling organizations, the revelations were profoundly troubling. Not only were they being lumped together with groups like Al-Qaeda, but the government agencies tasked with protecting the people of Pennsylvania were, in their view, essentially working for the gas companies. If a moderate group like GDAC wasn’t safe from the surveillance-industrial



complex, it seemed nobody was. “These systems and this type of collection is so rife with inappropriate speculation and error — both intentional and unintentional — that your good behavior doesn’t protect you,” German says.

Tom Giunta, the founder of GDAC, says the ITRR bulletins had a chilling effect. Attendance at GDAC meetings declined and some members left the group altogether. Organizers assumed that their phones had been tapped and that their emails were being monitored, a common perception among anti-drilling activists. At meetings they would leave their cell phones outside or remove the batteries. Giunta, who has a podiatry practice in downtown Kingston, began to take different routes to work because he was worried about being followed. “We kind of assume that we’re being watched,” he says. “Even now.”

Indeed, the intelligence gathering continues. Although the state canceled its contract with ITRR, the company still works for the natural gas industry, according to GDAC attorney Paul Rossi. “An employee with one of the gas companies has told me that he is willing to testify that ITRR is still conducting operations for the gas companies and they are focusing in on environmental groups,” Rossi says. (In 2010 GDAC filed a lawsuit against the Commonwealth of Pennsylvania and ITRR on First Amendment grounds. Because it’s a private company or a “non-state actor,” the judge ruled, claims against ITRR were dismissed. The terms of a settlement with the state have not been reached. ITRR did not return requests for comment.)

Like many of the activists I spoke with, Giunta underscored the fact that he’s never been drawn to conspiracy theories. GDAC’s code of conduct was designed to weed out those whom Giunta described as “wackos.” Giunta admits that he was pretty naïve when he first got involved in anti-drilling activism; he would print out large stacks of information on fracking to bring to state senators, who politely told him not to waste their time. Now, his faith in the role of government has been shattered. “People worried about being on a watch list,” he told me. “It was shocking.”

IN THE WAKE OF THE SURVEILLANCE SCANDAL Pennsylvania Homeland Security Director James Powers resigned and the state terminated its \$103,000 no-bid contract with ITRR. Then-governor Ed Rendell called the episode “deeply embarrassing” and a one-day Senate inquiry was held. In testimony before the committee, Virginia Cody, the retired Air Force officer who had become a critic of gas drilling, said: “For the first time in my life, I do not feel secure in my home. I worry that what I say on the phone is being recorded. I wonder if my emails are still being monitored.”

The hearing sought to answer questions about how the contract was awarded, why citizen groups exercising their First Amendment rights were included, and, crucially, who received the information. Powers explained that the information was distributed to various chemical, agricultural, and transportation companies mentioned in the bulletins. At least 800 individuals were on the distribution list. In the case

of gas drilling activism he explained, “It [the bulletins] went to the security directors of the Marcellus Shale companies and DEP (Department of Environmental Protection).”

This is only partially true. A list of the individuals and groups who received the bulletins shows that industry associations and PR firms that have nothing to do with protecting the state’s infrastructure were also included. For example, one of Powers’s key contacts on Marcellus-related

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activity was Pam Witmer, then head of the Bravo Group’s energy and environmental practice as well as president and CEO of the Pennsylvania Chemical Industry Council, a business advocacy group. The Bravo Group is a public relations and lobbying firm based in Pennsylvania. Its clients include Chief Oil and Gas, Southwestern Energy, and People’s Natural Gas, all of which are deeply invested in Marcellus Shale production.

The Marcellus Shale Coalition, an industry lobbying group, was also on the distribution list. In 2010 the coalition signed a \$900,000 lobbying contract with Ridge Global, a private security firm founded by Tom Ridge, former head of the Department of Homeland Security under George W. Bush. As part of its energy consulting services Ridge Global offers “advisory support for natural gas and other infrastructure security.” Ridge is just one of many former security officials who now have private consulting services. Others include John Ashcroft, Michael Chertoff, and Richard Clarke.

The blurring of public and private spying is what Dutch scholar Bob Hoogenboom calls “grey intelligence.” In a 2006 paper of the same name, Hoogenboom noted that in addition to well-known spy agencies like MI6 and the CIA, hundreds of private organizations involved in intelligence gathering have entered the market to meet corporate demand. “The idea was to do for industry what we had done for the government,” Christopher James, a former MI6 officer who founded Hakluyt, a private intelligence company whose clients have included Shell and BP, told the *Financial Times*. Many corporations now have their own private intelligence networks, or “para-CIAs,” to gather information on consumers, critics, and even their own shareholders.

Walmart, for example, has an office of global security headed by a one-time CIA and FBI official with a staff that includes former State Department security experts. As Eveline Lubbers writes in her recent book, *Secret Manoeuvres in the Dark: Corporate and Police Spying on Activists*, “Because these business firms hire former spies and analysts from the ranks of government, the informal links with government intelligence increase.”

This is a global phenomenon. Corporations in Europe and Canada have also spied on environmental groups. In 2006 French energy giant EDF, the world’s largest operator of nuclear reactors, hired Kargus Consultants, a private intelligence gathering agency run by a former member of the French secret service, to spy on Greenpeace. Kargus hacked into a lead Greenpeace organizer’s computer and compiled a dossier on the organization’s European campaign strategy. In 2011 a French court fined EDF 1.5 million euros and sent two of its employees to jail on charges of illegal spying.

Although it was not raised at the Pennsylvania Senate hearing, the ITRR bulletins also were shared with the Royal Canadian Mounted Police (RCMP). In January a Montreal paper reported that the RCMP itself has been tracking anti-shale gas activists in Quebec. The Critical Infrastructure Intelligence Team, a branch of the RCMP, produced two reports that described the possibility of Canadian activists collaborating with “extremist” groups in the US, such as Earth First! and Occupy Well Street — an offshoot of Occupy Wall Street opposed to fracking. According to Jeff Monaghan, a researcher with the Surveillance Studies Center at Queen’s University in Ontario, the Canadian government likely shares intelligence with the energy industry. Since at least 2005 the Canadian government has held biannual intelligence briefings to share sensitive information with the private sector. In 2007 Gary Lunn, former Minister of Natural Resources, admitted his agency had helped more than 200 industry representatives obtain high-level security clearances. “This enables us to share information with industry and their associations,” Lunn said at a pipeline security forum.

Similar arrangements have been uncovered in the UK. In 2009 it was revealed that the British police and the Department of Business, Enterprise and Regulatory Reform had provided information about Climate Camp demonstrations to E.ON, the company that runs the Ratcliffe-on-Soar power station. E.ON also hired private security firms like Vericola and Global Open to spy on protesters; both companies are staffed by former intelligence agents.

The specter of environmental extremism has been used to justify information sharing between law enforcement and the private sector. Last year, Joe Oliver, Canada’s Minister

of Natural Resources, warned that environmental groups “threaten to hijack our regulatory system to achieve their radical ideological agenda.”

“It’s the new politics of the petro-state,” Monaghan says. “Anything that’s remotely linked with direct action or nonviolent civil disobedience is being described as extremism, which is the new code word of security agencies.”

The fossil fuel industry’s targeting of its critics goes beyond mere surveillance. Natural gas drilling companies have also flirted with using the dark arts of psychological warfare, or “psy ops.” In comments recorded by an anti-drilling activist at a 2011 natural gas conference in Houston and leaked to CNBC, Matt Pitzarella, director of corporate communications at Range Resources, said Range had hired “several former psy ops folks” with experience in Iraq and Afghanistan. “Having that understanding of psy ops in the Army and in the Middle East has applied very helpfully here for us in Pennsylvania [sic],” Pitzarella said.

At the same conference, Matt Carmichael, a PR specialist with Anadarko Petroleum, referred to the anti-drilling movement as an “insurgency” and advised industry representatives to download the US Army/Marine Corps Counterinsurgency Manual. “There’s a lot of good lessons in there and coming from a military background, I found the insight in that extremely remarkable,” he told his colleagues.

The oil and gas industry has good reason to feel besieged. Opposition to fracking, especially, is on the rise. New York State has in place a moratorium against the drilling technique, and legislators in California are considering a similar ban. A white paper prepared by FTI Consulting, a DC-based PR firm with ties to the shale gas industry, recently warned, “Environmental activists are looking to undermine the strategies and operations of energy companies.... Adding to the activists’ momentum is the fact that a growing number of mainstream shareholders are supporting their proposals.” But given the absence of any physical attacks against drilling company assets, the industry’s view of its opponents smacks of paranoia. In August 2012, iJET International, a private security firm founded by a former National Security Agency operative, issued a risk assessment of anti-drilling protests in New York State. In one of its daily intelligence bulletins distributed to corporate clients the firm observed, “Protests against hydraulic fracturing have gained considerable momentum over the past few months...While most demonstrations have been peaceful, participants say they are hoping to intensify actions in hopes of disrupting operations at targeted facilities.”

THE US ARMY COUNTERINSURGENCY MANUAL that was offered as suggested reading for shale gas industry representatives includes an appendix on Social Network Analysis, defined as “a tool for understanding the organizational dynamics of an insurgency.” In an age of digital networks and online activism, this often means using data-mining software, cyber surveillance, and in some cases outright computer hacking to track opposition groups.

At the 2011 natural gas conference in Houston the CEO of Jurat Software, Aaron Goldwater, gave a presentation on the subject of data mining and stakeholder intelligence. In his presentation he emphasized the importance of knowing the communities you work in, of tracking and mapping relationships, and compiling a sophisticated database that includes all offline and online conversations. He pointed to the military as a model. “If you look at the people who are experts at it, which is the military, the one thing they do is gather intelligence,” he told the audience.

Corporations have already taken advantage of network forensic software to keep tabs on their own employees. The new technology, which allows companies to monitor an employee’s activity down to the keystroke, is one of the fastest growing software markets. There is a fine line, however, between data mining — which is perfectly legal though largely out of view — and cyber surveillance, or hacking.

While it is difficult to prove hacking, many activists are convinced their computers have been tampered with. Kari Matsko, a professional software consultant and director of the People’s Oil and Gas Collaborative in Ohio, says her computer was hacked after she began to push for tougher regulation of the natural gas industry.

Matsko got involved in environmental activism after hydrogen sulfide gas was released from a well site near her home. In 2008 she started helping a group of citizens who had filed a lawsuit against one of the larger energy companies in Ohio on grounds of nuisance violations and loss of property value. She spent many months doing research and collecting files related to the case, some of which she described as damning.

Because of her profession Matsko has very strong computer security and says that prior to working on oil and gas issues she had never had problems with malware. But while assisting with the lawsuit Matsko’s computer was attacked by a sophisticated virus. Matsko was able to remove it and everything seemed fine. About a month later, though, she unsuccessfully tried to open the computer folder that contained the sensitive files related to the lawsuit. The files were either missing or corrupted. “I remember I was so terrified by it that I didn’t

even tell people unless it was in person,” she says.

Other activists have described similar cyber security-related issues. Around the time the ITRR bulletins were made public, Giunta told me, members of GDAC experienced persistent problems with their computers. “Everybody was getting suspicious,” he says. “I had computer issues. Some are still having issues.”

John Trolla, a 61-year-old musician and guitar instructor whose communications were also featured in the ITRR bulletins, has been an outspoken critic of shale gas development for several years. In 2007 Chief Oil and Gas offered him a signing bonus of \$1,400 to lease his mineral rights. Trolla, who lives in a modest two-story home in northeastern Pennsylvania, refused. He’s been fighting the industry ever since.

“This is something that’s bigger in my life than I ever wanted it to be,” he says. “Five years ago, when I first started getting involved in this and I started talking to people, I would say to myself, ‘these people are a little crazy.’ Five years later I sound like them.”

Immediately after the intelligence bulletins were made public Trolla’s computer became nearly unusable. Documents were corrupted and irretrievable; photos were disappearing and programs wouldn’t work. A relatively new machine with a high-end operating system, Trolla had it serviced at a Best Buy in nearby Muncy. He was told by the Geek Squad at Best Buy that a highly sensitive program that acts like a Trojan Horse had been installed on his computer. According to Trolla, “They said that the program monitors every key stroke, every email, everything you do on the computer.”

Nearly all of the activists I spoke with said the Pennsylvania Homeland Security revelations, while giving them pause, had not changed their behavior. They continue to speak out, to attend public meetings, and to push for greater oversight of the industry. Still, “it leads to some scary possibilities in the future,” says Eric Belcastro, an organizer with the Community Environmental Legal Defense Fund. “I don’t sit around being paranoid about this stuff. I just try to do what I have to do and get along with my life. But I admit the playing ground is rough and I think people need to be careful.”

EVEN AS CORPORATIONS EXPAND their surveillance of citizen-activists, they are seeking to obstruct public oversight of their own behavior. It’s a bit like a one-way mirror of democratic transparency — with corporations and law enforcement on one side looking in and activists on the other.

Pennsylvania is a case in point. In early 2012 legislators there passed “Act 13,” a set of amendments to the state’s Oil and Gas Act, which essentially stripped local municipalities

of the authority to regulate drilling activity through zoning ordinances and other measures. The law also requires doctors who treat patients exposed to fracking chemicals to sign a confidentiality agreement before receiving information about the substances. The gag rule would prevent them from sharing that information with the patient or even other doctors (GDAC’s current president, Dr. Alfonso Rodriguez, is challenging this provision).

Earlier this year, a bill was introduced into the Pennsylvania legislature that would make it a felony to videotape farming operations in Pennsylvania — so-called “ag-gag” legislation that has already passed in Utah and Iowa, and has been introduced in several other legislatures. Many of the ag-gag bills draw on language crafted by the American Legislative Exchange Council’s (ALEC) “Animal and Ecological Terrorism Act.” (In recent years ALEC has received considerable support from the natural gas industry). Section D of the ALEC bill defines an animal or ecological terrorist organization in broad terms “as any association, organization, entity, coalition, or combination of two or more persons” who seek to “obstruct, impede or deter any person from participating” not only in agricultural activity but also mining, foresting, harvesting, and gathering or processing of natural resources.

The proposed law has many anti-drilling activists worried. If such language were included in the bill (it is currently in committee and will be revised before it comes to the floor) it would greatly limit the ability of residents to photograph or video well sites, compressor stations, and pipeline development — all of which could be considered part of the “gathering or processing of natural resources.”

“It’s clearly legislation that could be easily expanded in any particular case to include folks like me who do whatever we can to get as close to some of these sites as we are able,” says Wendy Lee, a philosophy professor at Bloomsburg University who regularly photographs the industrial impacts of gas drilling and then posts them on her Flickr page.

Lee says that among anti-drilling activists there is a sense that 2013 is a do-or-die year. The state Supreme Court is set to rule on the constitutionality of Act 13. As the drilling boom moves into ever more populated areas, activists are gearing up for more focused organizing and larger nonviolent protests. With tens of thousands of wells yet to be drilled, at least this much is clear: The industry will be watching closely. ■

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