Death of Ex-Im Bank will hurt Colorado

By Leah Curtsinger
Guest Commentary

On Tuesday, operation of the 81-year-old U.S. Export-Import Bank came to a halt because of Congress' inaction, directly harming Colorado businesses, workers and families.

The Ex-Im Bank provides loans and loan guarantees to overseas buyers for purchasing U.S. products.

Unfortunately, the Ex-Im has been caught up in the political cross-fire that plagues Congress, most recently with the quarrel about giving President Obama "fast track authority" to complete a trade agreement with the Pacific Rim nations.

If Ex-Im is shut down permanently, the effect will be felt in Colorado, where Ex-Im has recently supported $821 million in exports for 114 companies. More than half of those, 77, are small businesses.

Here are just a few of the Colorado companies that have used Ex-Im in the last two years and their export value: Zuke's LLC, Durango, $107,000; Sundyne Corp., Arvada, $1.22 million; Jack's Bean Co, Holyoke, $646,000; Magnolia Trading, Superior, $156,000; Micro-Motion, Boulder, $499,000; Coolerado, Denver, $703,000; and Cyclo Toolmakers, Longmont, $355,000.

These companies are important parts of their communities and Colorado's economy.

It's worth noting that every major developed country has a government bank dedicated to aiding and supporting its exporters.

The Ex-Im Bank is also one of the very few federal government programs that not only pays for itself but also returns revenue to the U.S. Treasury — to the tune of almost $1 billion per year.

Moreover, in the last six years, the Ex-Im generated $2.7 billion, mostly in fees collected from foreign buyers, and that money goes straight to the U.S. Treasury.

Since it was created during the Great Depression of the 1930s, the Ex-Im Bank has loaned and insured $590 billion in U.S. exports.

By stark contrast, in just two years, China has bankrolled its exporters to the tune of $670 billion and provided them a substantial competitive edge in virtually every manufacturing sector.

Of course, some Ex-Im deals do not work out, but its default rate is just one-tenth of 1 percent — meaning for every 10,000 loans, one fails. By contrast, the average default rate for U.S. banks for real estate loans is 6.23 percent and for consumer loans, 3.68 percent.

Unless Congress acts quickly, Colorado companies will suffer as opportunities for trade export are lost to places like China. As of Tuesday, no new loans can be made by Ex-Im until it is re-authorized by Congress.

When 95 percent of the world's customers live outside of the U.S., we need Ex-Im to keep our exporters competitive and our economy growing.

Leah Curtsinger is federal policy representative for the Colorado Association of Commerce and Industry (CACI).

...shows its power in emissions ruling

...sion to regulate."

Scalia then applied a legal standard known as the "Chevron" standard, which was also in the news last week in the ACA case — where Chief Justice John Roberts chose not to apply it. The Chevron rule says that where statute is ambiguous and applying it is the job of an administrative agency, the court should defer to the agency's interpretation, provided it is reasonable.

Scalia, writing for the majority, said that it wasn't reasonable for the EPA not to perform a cost-benefit analysis at the outset, before it began the regulatory process. This was an especially aggressive assault on the Chevron doctrine, which generally would give substantial leeway to an agency. Indeed, it's hard to understand it as anything other than driven by the political outcome of the case.

The reason for this understanding of Scalia's opinion is that, as Kagan pointed out in dissent, the EPA did engage in cost-benefit analysis — multiple times. She agreed with the majority, Kagan said, that the agency's actions would've been unreasonable if they'd given no thought to cost at all, as Scalia charged.

"But that is just not what happened here," Kagan wrote with more than a touch of annoyance. "Over more than a decade, EPA took costs into account at multiple stages and through multiple means as it set emissions limits for power plants." And when the EPA made its "appropriate and necessary" finding, she explained, it knew it would engage in these repeated analyses of costs and benefits.

According to the usual application of Chevron, once it was determined to be ambiguous whether the words "appropriate and necessary" require an immediate cost-benefit evaluation or whether it's sufficient to perform that task down the line, the court should defer to the agency's answer to that question.

For Kagan, the case should've been a standard instance of deference.

Justice Clarence Thomas concurred separately to say that Chevron is not just a bad idea, but also fundamentally unconstitutional. It's the province of the judiciary to say what the law is, according to the precedent of Marbury vs. Madison, the early 19th century case that established the principle of judicial review.

The longer version of this essay is at denverpost.com/opinion.