



ML Strategies Update

David Leiter, DJLeiter@mlstrategies.com

Sarah Litke, SLitke@mlstrategies.com

Jordan Collins, JMCollins@mlstrategies.com

Neal Martin, RNMartin@mlstrategies.com

FOLLOW US ON TWITTER: [@MLStrategies](https://twitter.com/MLStrategies)

ML Strategies, LLC
701 Pennsylvania Avenue, N.W.
Washington, DC 20004 USA
202 434 7300
202 434 7400 fax
www.mlstrategies.com

OCTOBER 6, 2014

Energy & Environment Update

ENERGY AND CLIMATE DEBATE

The fifth annual United States-India Energy Partnership summit took place in Washington last week. The United States and India created the Clean Energy Finance Forum September 30 after Indian Prime Minister Narendra Modi met with President Obama in Washington for the first time since his election in the spring. The forum will bring together public and private sector officials to consider ways to mobilize financing for India's expanding renewable energy market. The two countries also announced a \$1 billion financing deal between the U.S. Export-Import Bank and India's Renewable Energy Development Agency to help increase U.S. renewable energy exports to India and help India transition to a low-carbon economy. In the last four years, India's solar market has grown more than a hundredfold to reach more than 2.5 GW of grid-connected installed solar energy. India is the world's fifth largest wind energy producer, with 20 GW of installed wind capacity.

President Obama and Prime Minister Modi agreed to cooperate closely in addressing climate change, but fell short of a pact to accelerate the phasing down of hydrofluorocarbons, agreeing instead to continue high level talks on the issue. A week after India said that global emissions reductions should come primarily from developed countries as India and other developing nations focus on growing their economies, President Obama and Prime Minister Modi agreed to working toward a new global climate agreement at negotiations in Paris next year. Climate issues were largely overshadowed by other economic and security issues September 29-30, from differences over trade, alleviating Indian poverty, and the challenges of battling Middle East extremism. The two promised to cooperate more on nuclear energy, including via a new group working to make electricity more available in India using American nuclear power plant technology. President Obama and Prime Minister Modi also discussed new efforts under the U.S.-India Partnership to Advance Clean Energy, from an Energy Smart Cities Partnership to deliver energy more efficiently to India's urban areas, to helping the country integrate renewable energy into its electricity grid. The leaders also announced a U.S.-India Partnership for Climate Resilience and a U.S.-India Climate Fellowship Program.

CONGRESS

Strong Fracking Rule Sought

Eleven Senate Democrats led by Senator Ed Markey (D-MA) sent a [letter](#) to the White House Office of Management and Budget September 30 urging the office to include strict chemical disclosure standards in the Bureau of Land Management's forthcoming fracking rules on public lands.

House Natural Resources Leadership

Representative Rob Bishop (R-UT) is likely to chair the House Natural Resources Committee next Congress. Current Committee Chair Doc Hastings (R-WA) is retiring, and Representatives Don Young (R-AK) and Louie

Gohmert (R-TX) have greater seniority on the committee, but Representative Young is term limited, and Representative Gohmert said October 2 that he would not run for the chairmanship.

ADMINISTRATION

Energy Jobs

Speaking at Northwestern University October 2, President Obama touted economic and employment gains tied to more natural gas and clean energy production. He also noted that the United States is the world's top oil and gas producer.

DEPARTMENT OF COMMERCE

UT Emissions Linked to High Ozone Levels

The National Oceanic and Atmospheric Administration published a study October 1 in *Nature* finding that high levels of air pollutants in Utah's Uintah Basin can trigger a reaction in wintertime conditions that fuels ozone production. Understanding why emissions in mountain basins, where oil and gas development takes place, act differently than in other areas could help regulators and industry officials address ozone pollution. The Administration is planning additional research, including papers on what activities result in specific types of emissions.

Solar Duty Scope Expansion

The International Trade Administration proposed October 3 expanding the scope of duties on billions of dollars of solar energy products from China and Taiwan in a case brought by SolarWorld AG that is advancing toward a final decision in December. The change would bring American anti-dumping and countervailing duties more in line with those the European Union imposed, making them easier to enforce.

DEPARTMENT OF ENERGY

Poneman Departs

Deputy Secretary of Energy Dan Poneman, who departed October 2 for a fellowship at Harvard, told the Wilson Center for International Scholars September 29 that two of the greatest threats the United States faces are climate change and nuclear weapons proliferation. He reiterated his call for international efforts to address both. Elizabeth Sherwood-Randall assumed the post October 6.

\$12.6 Billion for Next Generation Nuclear

The Department of Energy announced September 30 that as much as \$12.6 billion in loan guarantees could be extended to help finance the next generation of nuclear energy technologies. The draft solicitation is not yet final, and the agency is seeking public comment.

Data Center Efficiency

The Department of Energy announced September 30 that eBay, Home Depot, and Staples are among the companies that have committed to reducing their energy usage by at least 20 percent over the next decade through data center efficiency improvements. Data centers consumed roughly 100 billion KWh in the United States last year, and the effort is part of a program to create the next generation of data centers.

\$25 Million for Algal Biofuels

The Department of Energy [announced](#) September 30 up to \$25 million to reduce the cost of algal biofuels to less than \$5 per gasoline gallon equivalent by 2019 at to \$3 per gge by 2030. Funding will support projects in two topic areas. One to three Topic Area 1 awards of \$5-\$10 million will focus on the development of algae cultures that produce valuable bioproducts that increase biomass' overall value. Three to seven Topic Area 2 awards of \$500,000 to \$1 million will focus on the development of crop protection or CO2 utilization technologies to increase biomass productivity in order to create higher algae yields.

AC Efficiency Standards

The Department of Energy [proposed](#) energy efficiency standards September 30 for large unitary air conditioners, which cool more than half of the commercial buildings in the country. If finalized in its current form, the proposal would result in energy savings of nearly 12 quadrillion BTUs, the equivalent of more than half of all domestic residential electricity in a year. Shortly thereafter, industry officials cautioned that the proposed rule could cost manufacturers hundreds of millions of dollars, increasing the cost of the units and contributing to an ongoing decline in sales.

DEPARTMENT OF INTERIOR

CA Wind Farm Challenged

Protect Our Communities Foundation filed a lawsuit September 24 in the U.S. District Court for the Southern District of California challenging the Bureau of Indian Affairs' approval of the Tule Wind Phase II solar farm on the Ewiiapaayp Band of Kumeyaay Indians reservation, challenging the project's impacts on migratory birds and birds of prey. The Bureau of Land Management issued an environmental impact statement for Tule Wind Phase I, but failed to consider alternatives to Phase II.

Castle Departs

Assistant Interior Secretary for Water and Science Anne Castle departed the agency October 3 after more than five years. She oversaw the Bureau of Reclamation and the U.S. Geological Survey, and her work included supporting hydropower and the agency's WaterSMART program. Jennifer Gimbel will serve as principal deputy assistant secretary and acting head of the Water and Science Office.

ENVIRONMENTAL PROTECTION AGENCY

Indian Land CO2 Standards at OMB

The Environmental Protection Agency sent to the White House Office of Management and Budget for interagency review September 26 a proposed rule establishing CO2 emissions standards for power plants in Indian country, including the Navajo Generating Station.

MATS Lawsuit Dismissed

The Environmental Protection Agency and a coalition of power generators filed an agreement September 29 that would dismiss a legal challenge to numeric emissions limits for mercury and air toxics that are no longer in effect. The suit has been held in abeyance since September 2012, after the agency agreed to reconsider the emissions limits for new power plants. The agency then revised the emissions limits for mercury, hydrogen chloride, and other pollutants in March 2013.

Water Worries

Environmental Protection Agency Administrator Gina McCarthy told participants at the Water Environment Federation's Annual Technical and Exhibition Conference September 29 that addressing nutrient pollution, strengthening water infrastructure, and preparing communities for climate change and extreme weather events are among the most significant domestic environmental challenges. The agency is announcing the release of new guidelines for water utilities to guard against climate change and build flood resiliency.

Three Coal Mines Closed

Alpha Natural Resources, the country's second largest coal company, closed three West Virginia surface mines September 29, blaming the declining coal market and environmental regulations, citing specifically the mercury and air toxics standards and proposed emissions limits for CO2.

CPP Redesign Sought

American Electric Power Executive Vice President Mark McCullough told a U.S. Energy Association annual energy supply forum September 29 that the Environmental Protection Agency needs to redesign the goals and deadlines of its Clean Power Plan, citing reliability problems and anticipated higher costs. He praised a Southern States Energy Board resolution that calls for the agency to withdraw its current proposal and issue new guidelines with greater flexibility.

Emissions Increased

The Environmental Protection Agency released [data](#) September 30 finding that reporting industries emitted 2.18 billion MT CO2e in 2013, up from 3.13 billion in 2012, due to increased use of coal to generate electricity. The increase comes despite methane emissions from oil and natural gas systems declining by 12 percent since 2011, including a 73 percent decrease in fracking-associated methane emissions. The agency will release a strategy for addressing methane emissions from oil and natural gas wells this fall.

CPP Lacks Equity

Environmental justice advocates told the Environmental Protection Agency's National Environmental Justice Advisory Council and Environmental Protection Agency Acting Assistant Administrator for the Office of Air and Radiation Janet McCabe October 1 that the agency's proposed Clean Power Plan does not emphasize equity and offers too much flexibility to states in determining CO2 emissions reduction approaches.

Proposed RFS' Negative Biodiesel Impacts

The Governors' Biofuels Coalition sent a [letter](#) October 1 to the White House Office of Management and Budget saying that the Environmental Protection Agency's proposal to reduce the renewable fuel standard blending requirements for 2014 is already having a negative economic impact on biodiesel and cellulosic ethanol production and investment. The agency sent its final 2014 renewable fuel standard rule to the Office of Management and Budget for interagency review August 22.

Deputy Administrator Named

Environmental Protection Agency Administrator Gina McCarthy announced October 6 that retired Region 4 deputy Stan Meiburg will be the agency's new acting deputy administrator. Mr. Meiburg replaces Deputy Administrator Bob Perciasepe, who departed the agency this summer to serve as president of the Center for Climate and Energy Solutions. Lisa Feldt, who has served as acting deputy administrator, will return to her role as associate deputy administrator.

Supreme Court Denies Cert

The Supreme Court [declined](#) October 6 to take up two energy-environment cases as it begins its fall term. The court denied cert to Utility Air Regulatory Group v. EPA, et al., a challenge to a July 2013 appeals court ruling that upheld the Bush administration's air quality standard for ozone. The agency is scheduled to issue a proposed update to the standard on December 1. The court also denied Missouri Gas Energy, et al. v. Kansas Division of Property Evaluation, leaving in place a Kansas Supreme Court ruling that a personal property tax levied on gas moving via interstate pipelines does not violate the Commerce Clause.

FEDERAL ENERGY REGULATORY COMMISSION

Cove Point Opposition

Opponents of the Cove Point liquefied natural gas export terminal expressed disapproval September 30 at the Federal Energy Regulatory Commission's September 29 approval of the project, vowing to seek a rehearing within 30 days. Dominion still needs a Department of Energy export license to sell the natural gas to non-free trade agreement countries, though the agency granted conditional approval last September, pending a favorable environmental review and issuance of construction certificate from the Federal Energy Regulatory Commission. The department is not expected to grant final approval until the rehearing process concludes, which could take two to three months.

GOVERNMENT ACCOUNTABILITY OFFICE

Fluid Information Collection Varies

The Government Accountability Office did not make any recommendations in its October 1 [report](#) on the federal process for reviewing applications to export liquefied natural gas. The report concerns the status of LNG export applications, as well as the Department of Energy's process of review, and describes the status of applications to build the facilities and the review process for those applications.

INTERNATIONAL

EU Environmental Leadership Priorities

European Union environment commissioner-elect Karmenu Vella said September 29 that the main objectives of the bloc's environmental policy in the next five years should be to guarantee that economic growth is environmentally sustainable, that natural capital and biodiversity are protected, and that environmental health risks are avoided. European Commission president-elect Jean-Claude Juncker nominated Mr. Vella September 10.

Solar's Market Growth

The International Energy Agency found September 29 that solar power might become the world's largest source of electricity by 2050 as falling costs boost installations. The agency predicts that photovoltaic plants may provide as much as 16 percent of global electricity, while concentrating solar facilities could generate another 11 percent.

WTO US-India Solar Dispute Panelists

The World Trade Organization Dispute Settlement Body named three mediators September 29 to investigate the United States' claims that India's national solar energy program violates global trade rules. New Zealand Ambassador David Walker will serve as chairman, and Thailand's Pornchai Danvivathana and Guatemala's Marco Tulio Molina Tejada will also serve on the panel.

EU Nuclear Waste Management

The European Commission's Joint Research Center and the European Academies' Science Advisory Council published a [report](#) September 30 to assist European Union countries with preparing strategies on the management of spent nuclear fuel and radioactive waste. Countries are required to submit strategies to the commission by next August 23, at which point the commission will conduct a peer review process by which governments will be able to raise objections to national strategies.

WTO US-India Solar Dispute Panelists

The Organization for Economic Cooperation and Development [released studies](#) September 30 finding that wealthy countries' tax incentives for diesel fuel and economy cars encourage behavior that increases CO2 emissions, air pollution, and traffic congestion, harming human health and the environment.

EU Climate Leadership Priorities

European Union climate and energy commission nominee Miguel Arias Canete told the European Parliament October 1 that he favors advancing by several years a proposed fix for the bloc's emissions trading system and that he would consider proposing fracking legislation.

Global RE Investment Up

Bloomberg New Energy Finance released a report October 2 finding that about \$175 billion was spent globally on renewable energy projects during the first three quarters of 2014, up 16 percent from the same period last year. China made record investments in solar energy, increasing from \$7.5 billion to \$12.2 billion. U.S. investment reached \$7.3 billion from \$5.7 billion on increased demand for residential and commercial scale solar, offsetting a volatile wind power industry.

STATES

FL Coal Ash Suit

The U.S. District Court for the Northern District of Florida denied September 26 a motion to dismiss a Clean Water Act lawsuit in a case that accuses Gulf Power of allowing toxic metals to seep from coal ash ponds into the Apalachicola River. The court ruled against Gulf Power on all but one of the claims in its motion to dismiss.

NC RE Tax Credits

The North Carolina Department of Revenue issued [guidance](#) October 1 for determining the amount of North Carolina income tax credits available for investing in renewable energy property. The document provides background and a legislative history for the income tax credits aimed at promoting renewable energy generation as well as an explanation of the tax credit provisions for investing in renewable energy property and donating to nonprofits and government entities to support renewable energy property acquisitions.

MN Solar Proposals

The Minnesota Department of Transportation is seeking proposals to lease state right of way for the installation of solar arrays. Proposals will be accepted through November 3. Proposals would suggest locations and plans for building a solar array demonstration project similar to one the Oregon Department of Transportation built in 2008.

MISCELLANEOUS

Climate Change Linked to Heat Waves

An annual [report](#) published in the Bulletin of the American Meteorological Society September 29 found that human-caused climate change increased the severity and likelihood of 2013 heat waves in Australia and other parts of the world. Climate change's impact was more difficult to tie to droughts, heavy rainfall events, and storms last year. Fossil fuel burning and other human activities were sometimes evident for these events, but were often less clear than for heat waves.

Climate Change Linked to Heat Waves

The Coalition for Sensible Safeguards released the results of a [poll](#) October 1, finding that 87 percent of likely 2016 voters, including both Democrats and Republicans, want more enforcement of existing laws and regulations. The Lake Research Partners poll found that respondents believed that regulation enforcement would help protect seniors and children, prevent deadly mistakes, and reduce pollution, contradicting the narrative that most Americans oppose regulations.

* * *

Boston · Washington www.mlstrategies.com

Copyright © 2013 ML Strategies LLC. All rights reserved.