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David Leiter [DJLeiter@mlstrategies.com](mailto:DJLeiter@mlstrategies.com)  
Bryan Stockton [BStockton@mlstrategies.com](mailto:BStockton@mlstrategies.com)  
Jordan Collins [JMCollins@mlstrategies.com](mailto:JMCollins@mlstrategies.com)  
Neal Martin [RNMartin@mlstrategies.com](mailto:RNMartin@mlstrategies.com)

**ML Strategies, LLC**  
701 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004 USA  
202 434 7300  
202 434 7400 fax  
[www.mlstrategies.com](http://www.mlstrategies.com)

## ENERGY AND ENVIRONMENT UPDATE

### March 4, 2013

#### ENERGY AND CLIMATE DEBATE

This week Congress rejected both Democratic and Republican proposals to avert the so-called budget sequestration cuts that took effect March 1. The Senate failed on a procedural vote (51-49) to pass a Democratic package (S. 388) to delay the sequester with a combination of spending cuts, a surtax on wealthy taxpayers, and elimination of two so-called tax loopholes for business. The Senate also failed to pass (38-62) a Republican proposal to give President Obama more flexibility on where to cut spending while prohibiting any tax increases. Both measures needed 60 votes for passage.

Attention now turns to a continuing resolution or omnibus spending bill that is needed to keep the Federal government operating past March 27. The House could vote as early as March 6 on a continuing appropriations package authored by House Appropriations Committee Chairman Hal Rogers (R-KY).

The Bipartisan Policy Center issued a plan February 27 that is intended to serve as a blueprint for congressional action on comprehensive energy legislation. The plan, *America's Energy Resurgence: Sustaining Success, Continuing Challenges*, is the result of a two-year project co-chaired by former Senators Byron Dorgan (D-ND) and Trent Lott (R-MS). It makes 50 recommendations aimed at diversifying the nations' energy supply, accelerating innovation and technology improvements, and coordinating government oversight and accountability.

#### CONGRESS

##### ***Inspectors General Asked For Input***

On February 25, the co-chairs of the recently formed Bicameral Task Force on Climate Change called on 69 inspectors general from federal agencies, departments and commissions to compile a list of actions that could be taken to combat the effects of global climate change. Rep. Henry Waxman (D-CA) and Sen. Sheldon Whitehouse (D-RI) asked the inspectors general to help "in assessing whether government entities are doing all they can to confront this threat" and to provide that information by March 29.

### ***GAO Requested To Investigate Hanford***

On February 26, Senate Energy Committee Chairman Ron Wyden (D-OR) asked the Government Accountability Office (GAO) to investigate leaking underground storage tanks at the Hanford Nuclear Reservation in eastern Washington. In his letter to GAO, Wyden asked the agency to determine the adequacy of the maintenance and remedial programs to limit water intrusion and the risk of releases from the Hanford high-level waste tanks.

### ***Stabenow to Chair Finance Subcommittee***

On February 26, Senator Debbie Stabenow (D-MI) was named the new chairwoman of the Senate Finance Committee's Energy, Natural Resources and Infrastructure Subcommittee. Senator Stabenow replaces retired Senator Jeff Bingaman (D-NM), who had simultaneously chaired both the Finance subcommittee and the Energy and Natural Resources Committee in the 112<sup>th</sup> Congress.

### ***Nuclear Fuel Management Legislation***

On February 27, Senate Energy Committee Chairman Wyden (D-OR) said he and Ranking Member Lisa Murkowski (R-AK) are drafting legislation that would address how to manage the nation's spent nuclear fuel and other high-level radioactive waste. The legislation, expected to be unveiled later this month, would be modeled on legislation introduced last Congress by former Senator Jeff Bingaman (D-NM), but would likely prioritize interim storage of nuclear waste and would remain silent on nuclear fuel recycling.

### ***Nuclear Regulatory Commission***

On February 28, all five Nuclear Regulatory Commissioners appeared before the House Energy and Commerce Subcommittee on Environment and the Economy. During this Congress's first oversight hearing of the Nuclear Regulatory Commission, House Republicans told the commissioners that the cost and piecemeal nature of new post-Fukushima safety reforms could have an adverse impact on the nuclear industry in the United States.

### ***Revenue Sharing Legislation***

The Senate Energy Committee Chairman also said that he and Senator Murkowski are in the early stages of talks on a revenue sharing measure that would create new funding for renewables. Those discussions have reportedly included House Republicans such as House Natural Resources Committee Chairman Doc Hastings (R-WA).

### ***ARPA-E Reauthorization Bill***

A bipartisan Senate effort is underway to reauthorize the Energy Department's ARPA-E program before it expires later this year. Senators Chris Coons (D-DE), Lisa Murkowski (R-AK), and Lamar Alexander (R-TN) all called for preserving the program this past week at DOE's ARPA-E Energy Innovation Summit.

### ***State Authority to Regulate Fracking***

Reps. Lee Terry (R-NE), chairman of the House Commerce, Manufacturing and Trade Subcommittee, and Bill Shuster (R-PA), chairman of the House Transportation and Infrastructure Committee, and other House Republicans are drafting a bill that would give individual states exclusive authority to regulate hydraulic fracturing used in natural gas production.

### ***Bills Introduced***

- On February 27, Rep. F. James Sensenbrenner (R-WI) introduced H.R. 875, a bill that would block the introduction of gasoline containing 15 percent ethanol (E-15) into the marketplace until the

fuel can be studied by the National Academies. On February 14, Senators Roger Wicker (R-MS) and David Vitter (R-LA) introduced S. 344, a bill to overturn the Environmental Protection Agency's waivers approving E-15 for newer vehicles.

- On February 27, Rep. Ron Kind (D-WI) introduced H.R. 860, a bill to make qualified biogas property eligible for the energy credit and to permit new clean renewable energy bonds to finance qualified biogas property.
- The same day, Senator David Vitter (R-LA) introduced S. 17, the Energy Production and Project Delivery Act of 2013, aimed at opening up more federal acreage for oil and gas development, streamlining regulatory processes, and limiting legal challenges. The bill also would increase federal revenue sharing for offshore oil and gas production. The measure has 21 Republican cosponsors and was referred to the Energy and Natural Resources Committee.
- On February 28, Senators Tom Carper (D-DE) and Susan Collins (R-ME) introduced S. 401, the Incentivizing Offshore Wind Power Act, which would provide for a 30 percent investment tax credit related to the production of electricity from offshore wind. The bill, similar to legislation that Senator Carper and former Senator Olympia Snow (R-ME) introduced last Congress, would extend the investment tax credits for the first 3,000 megawatts of offshore wind facilities placed into service. On the same day, Representatives Frank LoBiondo (R-NJ) and Bill Pascrell (D-NJ) introduced companion legislation in the House.

#### ***Upcoming Hearings***

- The Senate Energy and Natural Resources Committee has scheduled a March 7 hearing on the nomination of Sally Jewell to be Secretary of the Interior.
- The House Energy and Commerce Subcommittee on Energy and Power will hold a hearing March 5 on "American Energy Security and Innovation: The Role of a Diverse Electricity Generation Portfolio."

## **ADMINISTRATION**

President Obama is expected to announce, in the coming weeks and months, actions that the Administration plans to combat climate change. Heather Zichal, deputy assistant to the president for energy and climate change, said at a February 27 Center for Strategic and International Studies event that those actions will align with the Administration's "all of the above" energy strategy and will be reflected in the president's Fiscal Year 2014 proposed budget.

## **DEPARTMENT OF ENERGY**

### ***DOE Sequestration Impact***

The Energy Department's energy accounts are being reduced by 5 percent for the remainder of Fiscal Year 2013 as a result of sequestration. The Office of Management and Budget (OMB) identified the following cuts:

- Title 17 Innovative Technology Loan Guarantee Program (1703) cut 5% (\$2 million from \$38 million in FY'13)
- Office of Energy Efficiency and Renewable Energy (EERE) cut 5% (\$91 million from \$1.8 billion)
- Advanced Research Projects Agency (ARPA-E) cut 5% (\$14 million from \$277 million)
- Fossil Energy Research and Development cut 5% (\$25 million from \$495 million)
- Office of Science cut 5% (\$245 million from \$4.9 billion)

- Nuclear Energy cut 5% (\$39 million from \$771 million)

### ***EIA Today In Energy***

On February 27, the Energy Information Administration's Today in Energy report said that emissions of sulfur dioxide and nitrogen oxides from power plants in 2012 were at their lowest levels since passage of the Clean Air Act Amendment of 1990. Power plants emitted less than 4 million short tons of sulfur dioxide in 2012 (down from 16 million short tons) and emitted less than 2 million short tons of nitrogen oxides (down from more than 6 million short tons) in 1990.

### ***NREL Geothermal Regulatory Roadmap***

The DOE's National Renewable Energy Laboratory plans to publish a Geothermal Regulatory Roadmap by the end of 2013. The roadmap is intended to help Federal officials and the geothermal industry understand that the current timeline for regulatory approval and will identify areas of concern with the regulatory process.

### ***Nuclear Waste Fee***

On February 27, the U.S. Court of Appeals for the DC Circuit agreed to reopen a federal lawsuit challenging the Department of Energy's authority to suspend its nuclear waste fee until there is a national nuclear waste repository program. The National Association of Regulatory Utility Commissioners and the Nuclear Energy Institute requested that the case be reopened.

## **ENVIRONMENTAL PROTECTION AGENCY**

### ***EPA Sequestration Impact***

The EPA's energy accounts are being reduced by 5 percent for the remainder of Fiscal Year 2013, as a result of sequestration. The Office of Management and Budget (OMB) identified the following cuts:

- State and Tribal Assistance Grants cut 5% (\$210 million from \$4.2 billion)
- Science and Technology cut 5% (\$40 million from \$799 million)
- Environmental Programs and Management cut 5% (\$135 million from \$2.69 billion)
- Buildings and Facilities cut 5% (\$2 million from \$37 million)
- Office of Inspector General cut 5% (\$2 million from \$42 million)
- Pesticide Registration Fund cut 5% (\$1 million from \$15 million)
- Hazardous Substance Superfund cut 5% (\$74 million from \$1.4 billion)
- Leaking Underground Storage Tank Trust Fund cut 5% (\$6 million from \$110 million)
- Inland Oil Spill Programs cut 5% (\$1 million from \$18 million)

### ***Lead Air Standards Plans***

The Environmental Protection Agency announced on February 26 that seven states have not submitted complete implementation plans for the 2008 lead air quality standards. New Jersey, Oregon, Vermont and Washington have not submitted plans, and Hawaii, Illinois and Massachusetts have submitted incomplete plans for prevention of significant deterioration requirements.

### ***Camelina Oil Fuels Approved***

On February 25, the Environmental Protection Agency approved new pathways under the renewable fuels standard for fuels produced from feedstocks such as camelina oil and energy cane. EPA said the fuels meet the life-cycle greenhouse gas emissions reductions required under the Energy Independence

and Security Act as a renewable fuel. EPA also clarified that the definition of renewable diesel fuel to explicitly include jet fuel.

### ***Tier 3 Gasoline Standards***

On February 27, Gina McCarthy, assistant administrator for air and radiation, told the Clean Air Act Advisory Committee that EPA hopes to release the Tier 3 gasoline rule in early March. The Office of Management and Budget has been reviewing the proposed rule, which is expected to limit the sulfur content of gasoline to 10 parts per million, since January 29. EPA is anticipated to issue a final Tier 3 rule by the end of the year and the standard is expected to take effect for model year 2017.

### ***Power Plant GHG Rule***

Gina McCarthy, assistant administrator for air and radiation, would not commit at the February 27 EPA Clean Air Act Advisory Committee to her agency meeting an April deadline for finalizing greenhouse gas standards for new fossil fuel power plants. She said the agency would not finalize the rule until it has fully considered the 2.5 million public comments it received. The Office of Management and Budget has not yet begun its review of the final rule.

### ***Chamber Study Disputes EPA Jobs Claims***

On February 27, the Chamber of Commerce released a study that says the Environmental Protection Agency's contention that its air pollution rules often result in net job gains is flawed. The Chamber study took a look at dozens of air pollution rules dating from the 1990s. The study, *Impacts of Regulations on Employment: Examining EPA's Oft-Repeated Claims That Regulations Create Jobs*, was conducted by NERA Consulting.

### ***IG Report***

The Environmental Protection Agency's Office of Inspector General issued a report on February 28 that recommended several changes to improve the efficiency of the agency's regulatory development process. The report found the EPA's database "sparsely populated and did not contain the necessary documents or information" and recommended that EPA's Office of Policy establish guidelines clarifying who at EPA has the lead role and responsibility for data entry and recordkeeping.

### ***Partnership Key to Success***

On February 28, Acting Administrator Bob Perciasepe said at the 2013 Climate Leadership Conference that successful management of risk posed by climate change will require partnerships between federal agencies, local governments, and businesses.

### ***Cross State Pollution***

The Environmental Protection Agency will hold an April 8 meeting in North Carolina to discuss how the agency should regulate pollution that crosses state lines. A second meeting is planned at a later date with Western states.

## **INTERIOR DEPARTMENT**

### ***Court Rules in BLM's Favor***

On February 27, the U.S. District Court for the Southern District of California rejected claims in two lawsuits alleging the U.S. Bureau of Land Management violated the National Environmental Policy Act

and other laws in approving the Ocotillo Wind Energy Facility Project in California's Imperial County. The court ruled that BLM's decision was not arbitrary, capricious or an abuse of discretion.

## DEPARTMENT OF AGRICULTURE

### ***USDA Sequestration Impact***

The Agriculture Department's accounts are being reduced by 5 percent for the remainder of Fiscal Year 2013, as a result of sequestration. The Office of Management and Budget (OMB) identified the following cuts:

- Rural Cooperative Development Grants cut 5% (\$1 million from \$25 million)
- Rural Business Program Account cut 5% (\$4 million from \$75 million)
- Rural Energy for America Program (REAP) cut 5.1% (\$1 million from \$25 million)
- Rural Development Loan Fund Program Account cut 5% (\$1 million from \$11 million)
- Energy Assistance Payments cut 5.1% (\$3 million from \$65 million)

## DEPARTMENT OF STATE

### ***Keystone XL EIS***

On March 1, the State Department released a supplemental environmental impact statement for the revised route of the proposed Keystone XL oil pipeline. The Department's environmental review concluded the project would have minimal impact on Canadian oil sands production. However, it stopped short of making a specific recommendation on whether a permit should be granted or denied. The department is expected to issue a final review after a 45-day comment period. After the federal review process is completed, Secretary of State John Kerry and President Obama will decide whether a permit is in the national interest. While there is no mandatory deadline, a final decision is expected to come before summer.

### ***Geothermal Energy Funding***

On February 26, the State Department announced that it intends to offer up to \$6 billion in funding for geothermal companies interested in exploring in Southeast Asia.

## TREASURY DEPARTMENT

### ***Treasury Sequestration Impact***

The Treasury Department's energy accounts are being reduced by 5 percent for the remainder of Fiscal Year 2013, as a result of sequestration. The Office of Management and Budget (OMB) identified the following cuts:

- Grants for Specified Energy Property in Lieu of Tax Credits (Sect. 1603) cut 5.1% (\$187 million from \$3,671 million)
- Payment to Issuer of New Clean Renewable Energy Bonds cut 5.1% (\$1 million from \$24 million)
- Payment to Issuer of Qualified Energy Conservation Bonds cut 5.1% (\$2 million from \$32 million)

### ***CFIUS Court Ruling***

On February 22, the U.S. District Court for the District of Columbia rejected most claims brought by Ralls Corp., owned by two Chinese nationals, which challenged a presidential order directing it to divest its

interest in several wind farm projects located in the vicinity of a U.S. Naval base in Oregon. The court did allow a due process claim to move forward. On September 28, 2012, after the Committee for Foreign Investments in the United States (CFIUS) reviewed the proposed wind farm projects, the Department of Treasury announced a presidential order prohibiting the acquisition and ownership of four wind farm projects by the Ralls Corp.

## **DEPARTMENT OF HOMELAND SECURITY**

### ***Coast Guard's Arctic Readiness***

During a March 1 panel discussion on extreme weather at the 2013 Climate Leadership Conference, Alice Hill, the chairwoman of the Coast Guard's executive steering committee for climate change adaptation, said the Coast Guard is not prepared to secure the Arctic border due to increased shipping activity. Due to warming, Arctic shipping has increased 34 percent since 2008.

## **INTERNATIONAL**

### ***Russian Arctic Development***

On February 20, Russian president Vladimir Putin approved a new Arctic development strategy that establishes the basis for development through 2020. The plan, Strategy of the Development of the Arctic Zone of the Russian Federation and Providing for National Safety for the Period to 2020, precedes a law, On the Arctic Zone, which is currently being considered by the parliament. The strategy emphasizes environmental protections as well as resource extraction.

### ***Climate Technology Center***

A joint session of the U.N. Environment Program Governing Council and Global Ministerial Environment Forum approved the creation of a new Climate Technology Center and Network, aimed at reducing barriers that limit access to climate change mitigation technologies in developing countries. The center will establish an information platform for improved sharing of knowledge of climate change technologies and become the implementing arm of the U.N. Framework Convention on Climate Change's technology mechanism.

### ***UNEP Report***

On February 22, the United Nations Environment Program (UNEP) released a report that warns of the environmental threats to the Arctic ecosystem. The UNEP Yearbook 2013 cited a record low 2012 summer ice cover of 1.3 million square miles in the Arctic. The 2012 record was 18 percent below the previous recorded minimum in 2007.

### ***Partnership for Action on Green Economy***

A new Partnership for Action on Green Economy was announced by four U.N. agencies (the United Nations Environment Program, the International Labor Organization, the United Nations Industrial Development Organization, and the United Nations Institute for Training and Research) to assist 30 developing countries establish green economy strategies. Initially, the Partnership will focus on seven pilot countries before scaling up to 30 countries.

### ***EU Delay Aviation Inclusion***

On February 26, the European Parliament's Environment Committee voted 50-0 to back the European Commission's "stop the clock" proposal on the inclusion of international aviation in the European



Emissions Trading System (ETS). The European Union is expected next month to finalize the decision to delay by one year the implementation of the ETS.

### ***Canada-US Align Heavy-Duty Vehicle Regulations***

On February 25, Canada announced the finalization of regulations aligning the country's greenhouse gas emissions for new, on-road, heavy-duty vehicles with those of the United States. The regulations are expected to take effect sometime this month.

### ***IPCC Realistic Scenarios***

The Chairman of the Intergovernmental Panel on Climate Change (IPCC) Rajendra Pachauri said on February 28 that the IPCC will continue to outline what it considers realistic scenarios for stabilizing global temperatures.

### ***German Hydraulic Fracking Regulation***

Germany's proposed changes to mining projects and water regulations to address hydraulic fracturing are drawing opposition from environmentalists. The proposed changes would mandate an environmental impact assessment for deep drilling for gas, oil or geothermal energy involving fracking. Environmentalists claim the restrictions on fracking are merely cosmetic.

### ***EU Anti-Subsidy Trade Investigation***

On February 28, the European Commission launched a trade defense inquiry into Chinese solar glass imports. The Commission, which conducts trade policy on behalf of the 27 European member states, said the Chinese solar glass antidumping investigation was separate from the antidumping and anti-subsidy investigation launched last year.

### ***Africa Environment Outlook***

The African Ministerial Conference on Environment (AMCEN) issued a report on February 21 focusing on the links between health and the environment. The report, titled African Environment Outlook 3, identified air pollutants as a major concern and claimed that 28 percent of the disease on the continent is attributable to the environmental hazards.

### ***Solar Lighting Partnership***

The United Nations Environment Program (UNEP) announced a partnership with Global Off-Grid Lighting Association (GOGLA) to assist 80 countries replace kerosene lamps and candles with solar lighting. According to the partners, the shift could decrease carbon emissions by 74 million metric tons annually as well as improve indoor health.

## **STATES**

### ***CARB GHG Sale Price***

On February 22, the California Air Resources Board (CARB) announced that the settlement price for greenhouse gas emissions allowances was \$13.62 in its February 19 auction, exceeding the \$10.71 per ton floor price CARB set in December for 2013.



### ***NC Hydraulic Fracking Bill***

On February 27, the North Carolina Senate passed legislation that would permit North Carolina regulators to issue permits for hydraulic fracturing beginning in March 2015. The bill approved by the Senate by a vote of 39-7 now goes to the House for consideration.

### ***NY Hydraulic Fracking Bill***

New York's proposed hydraulic Fracturing rules expired on February 27. The proposed rules will not be finalized until the state's health commissioner conducts a public health review of fracking and the state's environmental conservation commissioner issues a final environmental impact statement. Assembly Speaker Sheldon Silver and the Chairman of the State Assembly Environmental Conservation Committee have introduced a bill (A. 5424) to place a moratorium on fracking until May 2014.

## **MISCELLANEOUS**

### ***NAM Carbon Tax Study***

The National Association of Manufacturers (NAM) released a study on February 26 that says a \$20 per ton carbon tax would negatively impact job growth in the manufacturing sector and hurt the U.S. economy. The study, Economic Outcomes of a U.S. Carbon Tax, was conducted by NERA Economic Consulting for NAM.

### ***M2M Potential***

A new report by the Carbon War Room titled "Machine to Machine Technologies: Unlocking the Potential of a \$1 Trillion Industry," was released on February 25. According to the report, the Machine to Machine industry (M2M), already estimated to be \$121 billion, is expected to be worth \$1 trillion by 2020. M2M technologies, which include sensors, wireless networks, and IT infrastructure, allow physical infrastructure and devices to connect to each other and exchange information. According to the report, smart meters and other energy efficiency devices have the potential to save 9 billion metric tons of greenhouse gas emissions annually by 2020.

### ***Geothermal Energy Forecast***

The Geothermal Energy Association released its 2013 Annual US Geothermal Power Production and Development Report on February 26. According to the report, the geothermal industry expanded by 5 percent or 147.05 megawatts in 2012. The association said 175 geothermal projects are currently under development and that an additional 14 geothermal plants are expected to be operational in 2013. In addition, the association forecast is that 9 more plants could be operational in 2014 and 10 more plants in 2015.

### ***Delta Efficiency and Emissions***

On February 28, Delta Airlines announced that it will begin retrofitting existing planes to reduce weight and increase fuel efficiency. Delta is looking at removing kitchens, reducing the amount of water it carries, and replacing seats with lighter ones. The company also said that it can save 20,000 metric tons of carbon dioxide-equivalent per year by reducing a plane's weight by just one pound.

### ***Sustainability Consortium***

The Sustainability Consortium (TSC), a consortium of 100 university researchers, companies, and non-governmental organizations, is seeking more companies to join its efforts to measure product

sustainability. TSC has to date developed tools to measure product sustainability for 100 product categories. However, TSC is not using its research to develop product labels.

***BRT Report***

The Business Roundtable released a report on February 25 that outlines various private-public investments that are needed to transform the energy sector. Included in the report, titled "Taking Action on Energy: A CEO Vision for America's Energy Future," was a recommendation that Congress extend master limited partnerships (MLPs) to renewables. Senator Chris Coons (D-DE) is expected to reintroduce a bill to extend MLPs to renewables later this month.

***Cell Phone Recycling***

A recycler of cell phones, eRecyclingCorps (eRC), announced on February 26 that it had reached the 10 million cell phone trade-ins milestone since its inception in 2009. In addition, eRC almost tripled its year-over-year volume with over seven million cell phone trade-ins in 2012. According to the Environmental Protection Agency, U.S. households have over a billion unused cell phones and only 10 percent of cell phones are being recycled.

***AFL-CIO Energy Announcements***

On February 26, the AFL-CIO Executive Council called for a comprehensive energy policy for the United States that includes an expansion of the nation's pipeline infrastructure. The AFL-CIO also announced that it is establishing an energy committee on the Executive Council to focus [its] work on energy, jobs, and the environment."

***AEP Settlement***

American Electric Power Services Corp. (AEP) announced on February 25 that it will accelerate reduction of sulfur dioxide emissions, stop burning coal at three power plants, and purchase 200 megawatts of wind and solar energy from facilities in Indian and Michigan. The announcement was part of a settlement with the Environmental Protection Agency, eight states, and a coalition of environmental organizations.