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ENERGY AND ENVIRONMENT UPDATE **August 28, 2011**

Energy and Climate Debate

While the nation's capital faced an earthquake and a hurricane last week and Congress remained in recess, several pieces of the energy debate faced heightened intensity.

As the State Department is preparing to release an environmental assessment of the Keystone XL oil sands pipeline project that declares "limited adverse environmental impacts," environmentalists and the White House are finding themselves at odds. The Obama Administration will still need to conclude that the pipeline is in the national interest before granting it a permit, but the environmental assessment will significantly move the project closer to approval. Protesting in front of the White House last week, environmentalists threatened to stay away from the 2012 election if the Administration moves forward with the project.

Contributing to an even tenser situation, Administration attorneys urged a federal appeals court August 25 to reject several green groups' request that judges order the Environmental Protection Agency to finalize its delayed ozone standard, saying the court system lacks the authority to force the EPA to take action. Meanwhile, congressional Republicans are already looking to the Congressional Review Act as a method to overturn the smog rule once it is finalized. Also last week, the EPA told a federal court that it was justified in delaying the controversial air toxics rules for boilers and incinerators; environmental groups have asked the court to reject the agency's delay.

In other news, Friends of the Earth, Public Citizen, the Heartland Institute, and Taxpayers for Common Sense released a report August 24 that recommends cutting \$380 billion in "environmentally harmful" federal subsidies. The *Green Scissors 2011* report suggest the elimination of more than 100 subsidies, including those received by the fossil fuel, nuclear power, and alternative energy industries, as well as subsidies related to agriculture, land, transportation, and water projects. The Green Scissors Campaign, which has identified environment-related subsidies for elimination since 1994, directed this year's report to the Joint Special Committee on Deficit Reduction as it prepares to identify as much as \$1.5 trillion in deficit reduction.

Upon its return, Congress will be faced with the immediate task of passing fiscal year 2012 budgets to keep the federal government running. Leadership from both parties are hoping the same bipartisan blocs that approved the debt-ceiling deal will consolidate all outstanding appropriations bills into a single continuing resolution, buying time for a larger FY2012 budget deal closer to year's end. This deal would

provide some guidance to the Joint Special Committee on Deficit Reduction by offering a glimpse of prioritized spending, but the passage of the continuing resolution is far from certain and can expect opposition from the same groups that opposed the debt deal. House and Senate Republicans are also gearing up for a regulatory reform debate when they return from the August recess, and, as outlined below, the administration released reports last week identifying priority areas for reform. At the same time, Congressional Democrats, led by Senate Majority Leader Harry Reid (D-NV), are preparing a major jobs bill, and President Obama plans to make a speech soon after Labor Day about the need to create more domestic jobs.

Congress

Oil Shale Hearing Held

The House Natural Resources Subcommittee on Energy and Mineral Resources held a field hearing August 24 in Grand Junction, Colorado, to examine domestic oil shale development. The Department of Interior's Bureau of Land Management manages nearly 80 percent of U.S. oil shale lands, and must lease the land to companies for commercial development, but development prospects depend on demands for water and energy, cost, and regulatory approaches that allow for long-term investments.

Market Probe Sought

Senators Joe Lieberman (I-CT) and Susan Collins (R-ME) and Congressman Peter Welch (D-VT) released an August 12 letter last week that asks the Government Accountability Office to investigate whether the current structure of competitive electricity markets supports energy efficiency and renewable energy generation measures.

Department of Energy

Reg Reform Candidates Identified

The Department of Energy released its *Final Plan for Retrospective Analysis of Existing Rules* August 23, identifying as many as 13 rules for potential review as part of a final plan to reduce regulatory burdens. The plan is in response to Executive Order 13,563, which requires federal agencies to review and revise existing regulations to determine which could be eliminated or revised. Candidates for review include regulations on various water heater, electric motor, and commercial refrigerator efficiency standards, policy statements on fuel cycle analyses, ARPA-E reporting requirements, and administrative procedures for various industries.

\$197 Loan Guarantee for Solar

The Department of Energy finalized terms on a \$197 million loan guarantee last week for a California manufacturer of thin-film solar panels. SoloPower Inc. will use the money to expand operations in San Jose and Portland, Oregon, creating 450 permanent jobs and 270 construction jobs at the plants.

EV Tools Launched

The Department of Energy's Office of Energy Efficiency and Renewable Energy launched two online tools August 22 designed to help communities better prepare for widespread adoption of plug-in electric vehicles. The first is a template to help local governments design permits for residential EV charger installations and accelerate the approval process, and the second is a training video that facilitates inspections and installations of home chargers.

Refrigerator Efficiency Standards Announced

On August 26, the Department of Energy, with the input of the Association of Home Appliance Manufacturers, more than 25 refrigerator manufacturers, and consumer and environmental advocacy groups, developed refrigerator efficiency standards that would save consumers \$21 billion by 2046. The standards will take effect in three years after publication in the Federal Register.

\$41 Million to CCS and Power Plant Efficiency

On August 25, the Department of Energy announced investments of \$41 million over three years in 16 projects (in California, Colorado, Georgia, Illinois, Maryland, New Jersey, New York, North Carolina, North

Dakota, Ohio, Pennsylvania, Texas, and Washington) seeking to remove at least 90 percent of a plant's carbon dioxide. DOE stated that the projects, to be jointly funded with participant companies, will raise the price of produced electricity by no more than 35 percent.

\$852 Million for NextEra Solar Project

On August 26, The Department of Energy announced it has finalized a partial loan guarantee of \$852 million for NextEra Energy Resources LLC's 250-megawatt Genesis Solar Project in Riverside County, California. The project's completion will increase the nation's installed concentrated solar power capacity by about 50 percent, and will fund approximately 800 construction jobs and 47 operating jobs.

Department of Interior

Reg Reform Candidates Identified

The Department of Interior unveiled its *Interior Plan for Retrospective Review* August 23, identifying areas where regulations can be clarified and simplified. Sections of the Endangered Species Act, certain offshore oil and gas regulations, and offshore and onshore renewable energy permitting processes will be targeted as part of the regulatory reform process.

Environmental Protection Agency

Reg Reform Candidates Identified

The Environmental Protection Agency released its *Final Plan for Periodic Retrospective Reviews of Existing Regulations* August 23, pointing out 16 regulatory initiatives for consideration as it determines whether specific rules are duplicative or in need of reform. Regulatory changes are anticipated in the areas of gasoline and diesel recordkeeping; EPA and Department of Agriculture coordination; chemical scientific methods; health and safety data reporting and permit requirements; drinking water and sewer rules; and greenhouse gas, emission reduction, air pollutant, and fuel economy standards.

GHG Reporting Tool Launched

The Environmental Protection Agency launched its Electronic Greenhouse Gas Reporting Tool August 22. The tool will allow 27 industrial sectors to submit their 2010 greenhouse gas emissions data electronically, and collected data will provide the public with information about the country's largest stationary source emissions. Non-confidential data will be made public by the end of the year, though some confidential business information will be provided to contractors as they fulfill EPA contracts, including verifying the data itself. For factors that can be quickly evaluated, industries will be required to report their calculation inputs by March 31, 2013; for longer evaluations, they will have until the end of March 2015.

Environmental Groups Support EPA GHG Ruling

On August 25, ClientEarth, America's Great Waters Coalition, and the Union of Concerned Scientists filed an amicus brief in the U.S. Court of Appeals for the District of Columbia Circuit supporting EPA's finding that GHG emissions from vehicles threaten inland and coastal waterways. The environmental groups argue that EPA's finding is supported by "ample" evidence and that challenges from states and industry groups should be rejected.

Miscellaneous

Wind Industry Calls for Tax Credit Extension

The Governors' Wind Energy Coalition sent a letter last week to President Obama asking that he work with Congress to extend for seven years the production tax credit and investment tax credit. The PTC, which expires at the end of 2012, provides an income tax credit of 2.2 cents per kilowatt-hour for electricity from utility-scale wind turbines, and the investment tax credit provides a thirty percent credit through Section 1603 of the Recovery Act. The 24 governors also requested that the administration establish a Council on Environmental Quality-led intergovernmental state-federal task force on wind energy development.

Japan Replaces Nukes

The Japanese government announced August 22 that it will return to old oil and gas plants to replace its nuclear power plants. As a result, the nation's yearly fuel costs could increase by \$39 billion, and emissions are expected to dramatically increase. Three days prior, the Japanese government proposed to raise the average fuel economy requirement for passenger cars to 47.7 miles per gallon by 2020, up 25 percent from the current standard; the draft plan would go into effect in 2012.

Joint Hybrid Development Planned

Ford Motor Company and Toyota Motor Corporation announced plans August 22 to develop a rear-wheel drive hybrid system for light trucks and sport utility vehicles. Both companies sell gas-electric hybrid front-wheel drive vehicles, and have been working independently on rear-wheel drive systems. The announcement follows the Administration's July 29 proposal to increase corporate average fuel economy standards for cars and light duty trucks to 54.5 miles per gallon by 2025.

Italian Energy Sector Tax Hike

Italy's Ministry of Economic Development unveiled a new plan August 24 to widen the tax base to generate more revenue from the energy sector. On September 1, the "Robin Hood tax" will raise the 6.5 percent IRES tax to 10.5 percent for energy companies with at least \$14.4 million in annual revenue for at least three years.

Global Transaction Tax Requested

The United Nations Economic Commission for Latin America and the Caribbean recommended August 24 that the world adopt a financial transactions tax currently being discussed by the European Union. A 0.05 percent tax on short term financial transactions could garner \$661 billion to fund development projects and promote climate change adaptation and mitigation efforts globally.

Oregon Creates Energy Credits

Oregon enacted legislation (H.B. 3672) August 5 that will retire the business energy tax credit program and create new energy credits. The bill, which includes a renewable energy development contributions credit and an energy conservation project credit, will take effect September 29.

Online Emissions Data Promoted

Representatives from 138 cities signed the Global Cities Covenant on Climate, the Mexico City Pact, at the World Mayors Summit on Climate in November 2010. Last week, representatives of the pact began urging cities to submit greenhouse gas emissions data into an online registry as part of the agreement. Currently, only 10 cities are registered to use the site, and only nine are submitting data.

Scientific Collaboration Needed

The National Research Council published a report August 24 calling for greater collaboration among climate and water scientists and engineers to aid in the understanding of a changing climate's impact on floods and droughts. The study, *Global Change and Extreme Hydrology: Testing Conventional Wisdom*, was based on a workshop of atmospheric scientists, hydrologists, water managers, and policy makers in January 2010.

CARB Re-Adopts Cap and Trade

The California Air Resources Board unanimously approved a completed, expanded environmental analysis of alternatives for reducing greenhouse gas emissions and readopted a plan to implement the Global Warming Solutions Act of 2006 (A.B. 32) on August 24. The re-adoption allows the board to finalize regulations for the cap and trade program in October, with the trading program beginning in 2012, and the compliance period beginning in 2013.

Canadian Biofuels and Bioproducts Initiatives

On August 25, the government of Canada announced the launching of two bioenergy initiatives, Natural Resources Canada's Investments in Forest Industry Transformation program and the NextGen Biofuels Fund. The Investments in Forest Industry Transformation program is providing \$101.9 million over four years for high-value forest and renewable energy products, and Sustainable Development Technology

Canada (SDTC) will continue funding the NextGen Biofuels Fund with \$509.5 million. The NextGen Biofuels Fund supports large, demonstration-scale facilities producing next-generation renewable fuels (derived from forest waste as well as other agricultural residues, municipal waste, and perennial crops on marginal land) and co-products, produced through emergent conversion techniques.