



California Energy and Environment Update
November 23, 2010

This is a weekly series reporting on environment and energy related legislative, regulatory, and legal issues in California. It is intended as a supplement to ML Strategies' existing weekly Energy and Environment Weekly Update, which focuses on federal policy. If you should have any questions, please feel free to contact David Leiter (dileiter@mlstrategies.com) or Bryan Stockton (bstockton@mlstrategies.com)

OMB Director Zients responds to GOP efforts to cut unobligated stimulus funds

House Appropriations Committee Ranking Member Jerry Lewis (R-CA) last week introduced a bill, H.R. 6403, to rescind all Recovery Act funds that have yet to be obligated, such as the loan guarantee program. He also sent a letter to the President along the same lines. In reply, Acting White House Office of Management and Budget Director Jeffrey Zients sent a strongly worded defense of Recovery Act funding to Rep. Jerry Lewis. As Lewis is from California, the letter points out some of the spending that the state would lose if his bill were to pass. For instance, the bill would threaten \$2 billion for high speed rail in California, a loan guarantee for the \$1.4 billion BrightSource solar project in Lewis's own district, and two Department of Transportation grants for road and rail improvements.

We do not expect this bill to pass during the lame duck session. As part of Rep. Lewis's campaign to become Chairman of the Appropriations Committee, the bill and letter to the President are attempts to gain the support of fiscal conservative members. Lewis's bid to become chairman again has drawn opposition from fiscal conservatives who are frustrated by his years of earmarking, and Rep. Jack Kingston is challenging him for the gavel.

First California carbon allowances are traded

California carbon allowances were traded between Barclays Bank PLC and NRG Energy Inc. last week marking the first-ever exchange of greenhouse emissions in the state. Under the terms of the trade, Barclays will receive California carbon allowances guaranteed to be usable for compliance under state law in December 2012. The trade occurred well before the January 1, 2012 date for the market to go live in the state and before the California Air Resources Board (CARB) approves the rules to govern the exchange. Pending the passage at CARB's December board meeting, the cap-and-trade program will be implemented in stages, with utilities and large industrial sources of emissions regulated first in 2012 and fuel distributors (e.g. transportation fuels, natural gas and propane combustion) starting in 2015.

California regulators move to revise treatment of corn ethanol

It has been a good month for ethanol. Coming a few weeks after the EPA approved 15 percent ethanol blends for cars made in 2007 or later, California regulators are re-evaluating their indirect land use change (ILUC) considerations for ethanol. Currently, the low carbon fuel

standard's (LCFS) life cycle analysis assigns corn ethanol a carbon footprint roughly the same as gasoline and greater than other biofuels. Last week, the California Air Resources Board (CARB) staff decided CARB should adopt a form of modeling created by Purdue University, which effectively reduces corn ethanol's ILUC impact by one half over CARB's current value. Both UNICA, Brazil's ethanol and sugarcane industry association, and the Renewable Rules Association, an ethanol trade group, support CARB's decision to re-evaluate ILUC. The effect of the change could transform Midwest corn ethanol from being no better than gasoline or worse than gasoline in California for LCFS purposes to being 10 to 20 percent better than gasoline. However, the change won't be finalized until mid-2011, after the LCFS goes into effect Jan. 1.

Southern California Edison continues to ink renewable energy deals

As a result of Southern California Edison's 2010 Renewables Standard Contracts Request for Offers, a voluntary renewable procurement program for small projects, the utility has signed almost two dozen power purchase deals, totaling 259MW of electricity, from renewable sources. A majority of the contracts obtain power from solar photovoltaic projects. By the end of 2010, SCE anticipates that almost one-fifth of the power it delivers will be derived from renewable sources. Last year, renewable energy constituted 17 percent of the total power SCE supplied. SCE last year procured almost 80 percent of all the solar energy produced in the US last year, making it one of the largest domestic procurers of renewable electricity.

Possibility of solar subsidy cuts leads to review by L.A. City Council

The Los Angeles City Council has voted to review the Los Angeles Department of Water and Power (DWP)'s plan to scale back the size of solar rebates offered by the utility. About 1,500 Los Angeles homeowners and businesses have applied for \$70 million in rebates for the current year, but DWP only budgeted \$30 million, before any cuts. The City Council plans to review the plan for cuts over the next three weeks.

Governor Schwarzenegger signs R20 Charter

As he prepares to leave office, Governor Schwarzenegger is stressing his environmental initiatives. Last week he joined three international regional leaders to sign a memorandum of agreement on regional authority in climate change policy. Signatories included Ile-de-France President Jean Paul Huchon of France, Nigerian Delta State Governor Emmanuel Uduaghan and Association of Regions of Europe President Michele Sabban.

The R20 Charter establishes "regions of climate action" which will share best practices and technologies from private-public partnerships in executing clean energy pilot projects. The alliance plans to implement clean technology projects in developing countries financed by industrialized nations. The alliance will host an event at the U.N. climate summit in Cancun, Mexico, next month, where the goal is to have 20 percent of the world's economies participating in the alliance. Within five years, R20 aims to have at least 20 sub-national governments enact comprehensive low-carbon policies.

The Governor also signed a MOU with state-level governments in Brazil and Mexico creating a sub-national Reducing Emissions from Deforestation and Forest Degradation (REDD) working group to bring sub-national REDD programs into California's cap-and-trade program. By allowing California companies to use REDD credits for compliance, the governor hopes to improve the cost effectiveness of California's program. The MOU can be found here: <http://gov.ca.gov/pdf/gov/REDD-MOU-GGCS3.pdf>.

Work begins on first utility scale solar plants under watchful eye of regulators, environmentalists

While BrightSource Energy begins construction of the 3,600 acre Ivanpah solar plant, several dozen biologists are managing the relocation of endangered species in the habitat of the desert. As the first large scale solar projects to undergo licensing in many years start to break ground, environmentalists and regulators are closely monitoring the impacts that these projects will have on the desert ecosystem. BrightSource is not alone in having to assuage the concerns of regulators: In October, the commission approved the Tessera Solar Calico project only after the company halved its project to avoid having to relocate 104 tortoises. And another project has been put on hold to further assess impacts on ground squirrels. The solar projects have presented biologists with a unique opportunity for intense research on the desert tortoise, as regulations require solar developers to monitor tortoises for three years after relocation. Past efforts to transplant tortoises have resulted in a mortality rate of almost 50%; biologists are hopeful that current efforts will be more successful.

Consumer office urges California Public Utilities Commission to investigate smart meters for health effects

Due to public concerns about the health effects of electromagnetic radiation, the consumer advocacy office of the California Public Utilities Commission urged the commission to investigate the health effects of Pacific Gas and Electric Co.'s wireless SmartMeters that the company is installing on homes and businesses.

Los Angeles passes plastic bag ban

On November 16, Los Angeles County Supervisors voted 3-1 to prohibit stores from giving out disposable plastic bags in unincorporated areas of the county (not the county's 88 cities). If a store decides to use a paper bag, it must add a 10-cent surcharge per paper bag. The County Counsel has said that the 10-cent surcharge on paper bags is not a fee covered by Prop. 26 because stores keep the revenue and do not direct it to a government agency.