



David Leiter DJLeiter@mlstrategies.com
Sarah Litke SLitke@mlstrategies.com
Jean Cornell JKECornell@mlstrategies.com
Bryan Stockton BStockton@mlstrategies.com
Jordan Collins JMCollins@mlstrategies.com
Neal Martin 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

ENERGY & ENVIRONMENT UPDATE

September 3, 2013

ENERGY AND CLIMATE DEBATE

Administration officials used the week before the Labor Day holiday to undertake domestic public outreach events. Energy Secretary Ernest Moniz, Interior Secretary Sally Jewell, and Environmental Protection Agency Administrator Gina McCarthy hit the road to discuss the administration's energy and environment priorities, often with other federal officials. Secretary Moniz addressed the Columbia University Center on Global Energy Policy and stressed the importance of energy infrastructure. On Tuesday, Administrator McCarthy held a community open house and met with tribal leaders in Alaska. On Friday, Secretary Jewell visited Izembek National Wildlife Refuge with Senate Energy and Natural Resources Ranking Member Lisa Murkowski (R-AK) and the site of a proposed project that connects the King Cove community to Cold Bay airport by single-lane gravel road. She spent the weekend at the North Slope and the National Petroleum Reserve-Alaska with Senator Mark Begich (D-AK) and saw the Arctic National Wildlife Refuge. She is expected to host a press conference in Anchorage and hold additional meetings with officials today.

When Congress returns next week, the focus will undoubtedly be on Syria. Senate Majority Leader Harry Reid (D-NV) announced today that since the Senate will consider a resolution authorizing American strikes in Syria before beginning debate on the Shaheen-Portman energy efficiency legislation, which was scheduled to be considered on the floor September 10, the energy efficiency debate will be delayed. At the same time, President Obama is expected to formally nominate Janet McCabe to serve as Environmental Protection Agency Assistant Administrator of Air and Radiation; she is currently acting assistant administrator for the clean air office.

CONGRESS

Bishop, Duncan Form Clean Water Caucus

Representatives Tim Bishop (D-NY) and John Duncan (R-TN) informed the House Administration Committee August 2 that they are planning to form a caucus to promote clean water issues. Water

utility groups have requested a caucus to refocus the Clean Water Act onto broader issues rather than the current point source approach.

Bipartisan Letter Supports Renewable Energy Tax Issues

In an August 19 [letter](#) to the House Ways and Means Committee, Representatives Earl Blumenauer (D-OR), Raul Ruiz (D-CA), and Jon Runyan (R-NJ) advocated for renewable energy as the committee considers tax reform. Cosigned by 60 representatives, the letter urged to the committee to retain provisions that promote renewable energy technology deployment and investment, noting that biomass, geothermal, hydrokinetic, hydropower, landfill gas, solar, and wind power are critical to the energy economy.

Bipartisan Trio Urges Quick Keystone Decision

An August 29 joint [statement](#) by Senators Max Baucus (D-MT), John Hoeven (R-ND), and Mary Landrieu (D-LA) urged President Obama to make a decision on the Keystone XL pipeline in an expedited manner. The trio said the recent State Department Inspector General review of the environmental impact statement marks the fourth delay of the project.

EPW Field Hearing on Energy and Jobs Scheduled

The Senate Environment and Public Works Subcommittee on Green Jobs and the New Economy will hold a public field hearing September 4 in Oregon on how energy efficiency spurs job growth and saves money. Oregon Governor John Kitzhaber (D) will testify.

ND Energy Tour

Senators Ron Wyden (D-OR) and John Hoeven (R-ND) will tour Western North Dakota on September 6 and 7 to meet with community leaders and energy employees to review the area's energy development and community infrastructure needs. The senators will hold media availability in Bismarck prior to their two-day tour of the Bakken Region.

ADMINISTRATION

CATF Meets with Officials on CCS, New Source Rules

Clean Air Task Force members Bruce Hill, John Thompson, and Ann Weeks met with Obama administration officials August 22 to [discuss](#) carbon capture and sequestration technology and proposed emissions standards for new power plants. Administration officials included representatives from the Council on Environmental Quality, the Environmental Protection Agency, and the Office of Information and Regulatory Affairs.

Zichal on Proposed Energy Efficiency Rules

In an August 29 [blog post](#), Deputy Assistant to the President for Energy and Climate Change Heather Zichal commented that proposed energy efficiency rules for commercial refrigerators and walk-in coolers and freezers will result in significant energy and monetary savings. The refrigerators rule will save \$4 billion and curb carbon dioxide emissions by 55 MMT over 30 years and the walk-in coolers and freezers rule will save \$24 billion and cut 298 MMT of carbon dioxide emissions over the same time frame. The rules will be finalized next year.

DEPARTMENT OF ENERGY

NREL Study on Western Renewable Energy

[*Beyond Renewable Portfolio Standards: An Assessment of Regional Supply and Demand Conditions Affecting the Future of Renewable Energy in the West*](#), an August 23 report by the National

Renewable Energy Laboratory, found that solar and wind power could be cost-competitive with traditional energy sources in western states by 2025. The study warns that consumer preferences, natural gas supply and demand trends, and technological breakthroughs could change future energy demand.

Moniz on Efficiency Rules, Resiliency, LPO

Energy Secretary Ernest Moniz, in an August 26 [speech](#) at the Columbia University Center on Global Energy Policy, said that the department is collaborating with the Office of Management and Budget to deliver energy efficiency standards for commercial appliances in 2014. The U.S., and in particular the Northeast corridor, can be a leader in resiliency efforts in light of natural disasters. He also highlighted the successes of the Loan Program Office.

NETL Carbon Capture FOA

The National Energy Technology Laboratory announced a \$150 million funding [opportunity](#) August 26 for a cost-shared research and development effort for carbon capture technology. The average anticipated award totals \$50-75 million. Applications are due October 18.

Lawrence Berkeley Report on Wind Turbines and Home Values

The Lawrence Berkeley National Laboratory reported in its August 27 study [A Spatial Hedonic Analysis of the Effects of Wind Energy Facilities on Surrounding Property Values in the United States](#) that wind turbines have not negatively impacted neighboring home prices. The report found that turbines might decrease home values by no more than 3 to 4 percent, similar to homes situated near high-voltage transmission lines or busy roads.

Department Considering New ATVM Solicitation

Secretary of Energy Ernest Moniz announced August 27 that the agency is considering revising the lending criteria and soliciting a new round of requests for its Advanced Technology Vehicle Manufacturing Program. The \$25 billion loan program, which began in 2007, has not issued a loan since March 2011.

Gant, Friedmann Join Fossil Energy Office

The Department of Energy announced August 27 the appointments of Paula Gant to serve as Deputy Assistant Secretary for Oil and Natural Gas and Julio Friedmann to serve as Deputy Assistant Secretary for Clean Coal, both in the Office of Fossil Energy. Gant currently serves as the Senior Vice President for Policy and Planning at the American Gas Association and Friedmann is the Chief Energy Technologist at Lawrence Livermore National Laboratory. Gant will begin in her new role September 9.

Government Urges Dismissal of USEC Claims

An August 28 motion to dismiss filed by the federal government urged the U.S. Court of Federal Claims to dismiss two charges by the United States Enrichment Corporation against the Department of Energy. USEC alleged the agency had underpaid the company by \$38 million dollars over more than 35 contracts between 2003 and 2011. The government countered that the company does not have standing because the Department of Energy subcontractor agreements are between USEC and private contractors.

Proposal for Onshore Transmission Projects Pre-Application Process

The Office of Electricity Delivery and Energy Reliability [solicited](#) comments August 29 for a proposal to create a pre-application process for onshore electric transmission projects. The pre-application would consist of four interagency meetings to consider routing and transmission

corridor issues. Designed for projects larger than 230 KV, it would trigger the federal review process.

DOE Invests \$16 Million in Wave and Tidal Energy

The Department of Energy [announced](#) August 29 that it would provide \$16 million for 17 tidal and wave energy projects in an effort to increase tidal power production and improve reliability. Assistant Secretary for Energy Efficiency and Renewable Energy David Danielson said that tidal energy remains a largely untapped source, and the agency has said that wave and tidal energy have the potential to power up to 119 million homes nationwide. \$13.5 million will go to eight projects dedicated to developing more efficient wave and tidal generators while \$2.4 million will support nine projects researching environmental impacts of tidal power and potential development areas.

ARPA-E to Open SBIR to Majority VC Owned Firms

ARPA-E Deputy Director Cheryl Martin, in an August 29 letter to House Small Business Chairman Sam Graves (R-MO), announced that the program will open SBIR awards to firms that are venture capital majority owned small businesses. Martin explained that additional venture capital investment will be spurred, the mission of ARPA-E will be advanced, and the need for innovation and research will be filled. The letter is attached.

DEPARTMENT OF HOMELAND SECURITY

Napolitano Warns of Climate Change Impacts

In an August 27 speech at the National Press Club, Secretary of Homeland Security Janet Napolitano commented that the next secretary should be prepared to address climate change issues. She warned of the risk of simultaneous climate change-driven natural disasters in different parts of the U.S.

DEPARTMENT OF INTERIOR

Report on Fracking Fluid, Fish Deaths Released

[*Histopathological Analysis of Fish from Acorn Fork Creek, Kentucky, Exposed to Hydraulic Fracturing Fluid Releases*](#), an August 29 report by the U.S. Geological Survey and the U.S. Fish and Wildlife Service, found that fracking fluid emissions led to the death of endangered fish in Kentucky. Samples of the water showed that the water was more acidic and that there was an increased presence of iron and aluminum.

DEPARTMENT OF STATE

Kerry on Climate Change

Speaking via video address at a climate conference in the Marshall Islands, Secretary of State John Kerry commented that scientific evidence of climate change is irrefutable. He contended that without undertaking mitigation efforts, the impacts of climate change would worsen. Secretary Kerry advocated for international efforts to curb the impacts.

ENVIRONMENTAL PROTECTION AGENCY

MSW to be Considered a Non-Waste Fuel

An August 22 comfort [letter](#) to Waste Management explained that the Environmental Protection Agency would consider the company's SpecFUEL as non-waste fuel rather than a solid waste. The

fuel contains 99 percent or greater post-recycled paper fiber or plastics, and it may be regulated as a fuel under the Clean Air Act when it is burned in certain boilers, incinerators, and kilns.

EPA PSA Series on Climate Action

In an effort to reduce the impact of climate change, the Environmental Protection Agency released a public service announcement [series](#) on August 26. The videos cover a wide range of topics including commuting, home heating, and light bulbs.

Case Urges SO2 Standard Attainment Designations

An August 26 lawsuit by the Sierra Club and the Natural Resources Defense Council asked the U.S. Court of Appeals for the Northern District of California to compel the Environmental Protection Agency to create additional attainment and nonattainment designations for the SO2 air quality standard for 2010. 29 areas were found to violate the standard, but the agency was not able to determine additional areas by the June 3 statutory deadline because monitoring has not been completed.

Court Grants Appeals Deadline Extension for Biomass Case

The U.S. Court of Appeals for the District of Columbia Circuit granted a petition August 26 to extend the appeals deadline for a ruling that vacated the Environmental Protection Agency exemption of biomass-burning industries from greenhouse gas permitting requirements. Groups from the forest industry, including the American Forest & Paper Association, asked the court to extend the deadline after the Supreme Court determines if it will consider cases involving greenhouse gas rules. The appeals court vacated the 2011 rule in July.

RFA Opposition to RFS Petition

The Renewable Fuels Association sent a [letter](#) to Environmental Protection Agency Administrator Gina McCarthy August 28 in response to a petroleum industry petition seeking a waiver for the 2014 renewable fuel blending mandate. The group argued that the American Petroleum Institute and the American Fuel & Petrochemical Manufacturers do not have the standing to file for a waiver because the two trade associations are not directly regulated by the Renewable Fuel Standard and are therefore unable to file for a waiver under the Clean Air Act.

Fine Particulate Deadline Suit to be Filed

On August 28, the Center for Biological Diversity [stated](#) that it would file a lawsuit against the Environmental Protection Agency for missing national ambient air quality standards for fine particulate matter deadlines. Seven states did not submit final strategic plans to implement the new fine particulate matter standards by the deadline set in the Clean Air Act. Accordingly, the Environmental Protection agency missed the June 14 statutory deadline for releasing formal findings on the state implementation strategies, which would trigger a two-year clock for the agency to devise a federal implementation plan. Furthermore, the notice cites other examples of missed statutory deadlines dating back to 2012.

OIG Report on STAR Grant Program

An August 29 finding by the Environmental Protection Agency Inspector General recommended that the agency improve training for officials who oversee the Science to Achieve Results federal competitive grant program. [EPA Needs to Improve STAR Grant Oversight](#) also recommended that terms and conditions be strengthened to decrease the rate of late or missing progress reports.

NUCLEAR REGULATORY COMMISSION

TVA Issued White Finding

Following an investigation of a December 2012 event that led to an automatic shutdown at the Browns Ferry nuclear power plant, the Nuclear Regulatory Commission [cited](#) the Tennessee Valley Authority for not following procedures. The commission finalized the white finding, indicating a low to moderate safety significance, of the Alabama plant; it will conduct a supplemental inspection of safety operations at the facility.

INTERNATIONAL

Brazil Energy and Power Conference

The Brazil Energy and Power Conference was held in Rio de Janeiro August 26, and American participants commented that U.S. companies want to provide Brazil technical expertise to develop its shale gas reserves. Undersecretary of Commerce for International Trade Francisco Sanchez promoted trade between the two countries. He added that the Select U.S. Summit in October and November would promote foreign direct investment.

EC to Consider German Electric Rate Subsidies

The European Commission is set to take up the issue of German electric rate subsidies when they return from summer recess. After the 2011 Fukushima nuclear incident, the German government implemented a plan to phase out nuclear power by 2022. In order to move away from nuclear power while maintaining a robust economy, Germany began subsidizing the electricity costs of the manufacturing sector, much to the chagrin of competitors outside of Germany and German consumers. If the European Commission decides that the German electric subsidies constitute illegal state aid, then the German government will have to retrieve upwards of \$5.5 billion from corporations that received the subsidies.

STATES

WA Hog Fuel Tax Exemption Extension

In an August 20 [notice](#), the Washington Department of Revenue announced it would extend the tax exemption for “hog fuel” wood waste, debris from the logging industry grinded into small chips used in boilers and to produce biofuels. Stakeholders have estimated that the exemption and an associated tax credit have saved the industry between \$1.8 and \$2 million. The exemption had expired June 30, but the announcement extends the exemption until June 30, 2024.

CA Court Tentatively Upholds CARB Allowance Authority

The California Superior Court tentatively upheld the authority of the California Air Resources Board to issue and auction greenhouse gas allowances August 27, saying the language and additional statutes issued by the legislature shows their intention to create a cap-and-trade program. The board and the plaintiff, the California Chamber of Commerce, heard oral arguments the following day, and Judge Timothy Frawley said he stood by his tentative decision.

NY Appeals Court to Consider Fracking Bans

In an August 29 [announcement](#), the New York Court of Appeals said it would consider two fracking ban cases. Two lower courts had previously upheld the fracking moratoriums in Dryden and Middlefield, and Norse Energy Corporation and Cooperstown Holstein Corporation filed appeals with the court.

CA Fracking Bill Passes Committee

SB 4, a bill to require permits for fracking as well as public disclosure of fracking fluid, passed the California Assembly Appropriations Committee on September 30. The same day, the Los Angeles City Council Committee on Rules, Elections, and Intergovernmental Relations passed a resolution to endorse the bill. The Assembly has until September 13 to consider the bill.

MISCELLANEOUS

Growth Energy Launches Pro-Biofuels Ad Campaign

Growth Energy, a corn-ethanol group, announced August 26 that it would launch a multimillion-dollar advertisement campaign on how the oil industry has prevented biofuels from entering the market. The campaign will air for several weeks on CNN, FOX, MSNBC, and local channels.

Vermont Yankee to Close

Entergy Corp. announced August 27 that it would close its Vermont Yankee nuclear plant, citing competition from the natural gas market and wholesale market design flaws. The plant, which opened in 1972 and received a 20-year license extension in 2011, will be decommissioned in Q4 of 2014. The Vermont Legislature had made several attempts in recent years to close the plant, but the U.S. Court of Appeals for the Second Circuit struck down the laws earlier this month. Following the announcement, Nuclear Energy Institute President and CEO Marv Fertel echoed the company's concern about competitive market design issues. Senators Patrick Leahy (D-VT) and Bernie Sanders (I-VT) urged for a quick but safe decommissioning process.

NRDC Report on FCIP, Drought

[*Soil Matters: How the Federal Crop Insurance Program Should Be Reformed to Encourage Low-Risk Farming Methods with High-Reward Environmental Outcomes*](#), an August 27 Natural Resources Defense Council study, reported that the Federal Crop Insurance Program paid its highest level of losses in 2012. It continued that the \$17.3 billion in losses is linked to climate change-induced droughts and extreme temperatures. The report recommended that farmers use more low-risk and water-smart practices to decrease reliance on the program.

Sierra Club, Oil Change International Report on Keystone XL

The Sierra Club and Oil Change International released their joint report [*Fail: How the Keystone XL Tar Sands Pipeline Flunks the Climate Test*](#) on August 27, explaining that approval of the Keystone XL pipeline would go against the goals set up by President Obama's climate strategy. The pipeline would contribute 181 MMT CO2 every year for the next 50 years.

Clean Energy Jobs Report Released

Energy Entrepreneurs, in its August 28 report [*Clean Energy Works for Us: 2013 Second Quarter Clean Energy/Clean Transportation Jobs Report*](#), found clean energy jobs totaled 38,600 in the second quarter of this year, up from 37,400 this time a year ago. 58 projects, including efficiency projects in Alaska and Hawaii and light rail transportation projects in Maryland, were identified by the report. The study urged the government to continue to spur innovation and manufacturing to ensure that the U.S. remains a clean energy jobs leader.

Duke Energy to Stop Burning Coal at IN Plant

Stemming from a settlement with environmental groups, Duke Energy agreed August 28 to end burning coal at Wabash River Station in Indiana by 2018. The company will also increase investments in renewable energy. The plant, which went online this summer, was at the center of an ethics challenge when regulators were found to be discussing project costs with company officials.