

December 22, 2008

In this issue:

[California Enacts Greenhouse Gas Reduction Plan; Sets Stage for Steep Cut in Emissions](#)

The plan outlines how individuals and businesses will be required to comply with Assembly Bill 32.

[Climate Policy: Californiton? Washifornia?](#)

We are entering an era when California's influence on environmental and energy policy seems likely to shift from being substantial to being determinative.

[Obama Energy Policy: A Very Crowded Kitchen?](#)

Previous administrations may have entered office with one or two true energy gurus on duty, but the Obama administration will start work Jan. 20 with at least nine.

[Obama Campaign Environmental Adviser Discusses Priorities of Incoming Administration](#)

Howard Learner's remarks were of great interest for those in the climate change and

California Enacts Greenhouse Gas Reduction Plan; Sets Stage for Steep Cut in Emissions

On Dec. 11, 2008, California air regulators adopted the nation's most comprehensive plan to date designed to battle global warming. The plan's development meets a requirement of Assembly Bill 32 (the Global Warming Solutions Act of 2006), a California law that requires statewide reduction in greenhouse gas emissions to 1990 levels by the year 2020, and an 80 percent reduction from those levels by 2050.

After an 18-month public process, the California Air Resources Board (CARB) adopted the Climate Change Scoping Plan, outlining how individuals and businesses will be required to comply with AB 32. Virtually every sector of the state's economy and every form of business will be affected.

The complex, highly-detailed plan includes a cap and trade system applicable to about 85 percent of GHG pollution sources; strategies to enhance and expand energy efficiency programs; carbon sequestration; implementation of California's "Clean Cars" standards (state authority sure to be approved by the incoming Obama EPA); increases in the amount of clean and renewable energy; and, implementation of a low-carbon fuel standard. The plan proposes full deployment of the California Solar Initiative, high-speed rail, water-related energy efficiency measures and a range of regulations to reduce emissions from trucks and from ships. There are also measures designed to safely reduce or recover industrial gases. Recommendations contained in the Scoping Plan must be in place by 2012. Funding for the administration of AB 32 will come from targeted fees.

The plan has faced opposition from some business interests due to projected compliance costs. Other business groups and the environmental community generally supported the plan, though some groups associated with the "environmental justice" movement have threatened litigation over the cap and trade program.

The state's political leadership has largely lined up in support of the plan. CARB Chairman Mary Nichols lauded the plan as the state's "prospectus for a more secure and sustainable economy," saying it will save the state money and break dependence on foreign oil by guiding capital investments into energy efficiency and renewable energy. She hailed the scoping plan as promoting "a new generation of green jobs for hundreds of thousands of Californians."

decarbonization industries.

Striking a similar tone, California Gov. Arnold Schwarzenegger maintains that AB 32 will stimulate the economy, and views the Scoping Plan as promoting "the full force of California's innovation and technology for a healthier planet, a stronger and more robust economy and a safer and more secure energy future." According to the governor: "Adoption of the AB 32 scoping plan...provides a roadmap for the rest of the nation to follow. When you look at today's depressed economy, green tech is one of the few bright spots out there, which is yet another reason we should move forward on our environmental goals."

Public opinion research (focus groups and polls) supervised by Sonnenschein's California Public Law & Policy Strategies team on behalf of firm clients shows unmistakably that the current developments in California represent not elected or appointed officials charging forth on their own, but a strong consensus on the part of California voters that the time has come to reduce the United States' dependence on petroleum.

The CARB plan is posted at

<http://www.arb.ca.gov/cc/scopingplan/document/psp.pdf>.

AB 32 is posted at http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_0001-0050/ab_32_bill_20060927_chaptered.pdf.

An interesting and readable analysis exemplifying how California policy makers equate GHG controls to economic growth and jobs is found at

http://www.next10.org/pdf/report_eijc/75_01-3_ClimateAction_Report_Mod_PDF_FINAL.pdf.

Climate Policy: Californiton? Washifornia?

It's hard to recall a time when California has not served as a bellwether for national environmental policy. The Golden State's size, measured in terms of consumer market, Congressional delegation, or cultural reach, has given California singular clout for many years. The state's aggressive early moves on air quality, greenhouse gas regulation, energy efficiency and renewables have set the terms for much of the national debate and policymaking on those topics, with California's recent influence unmistakably evident in the regulatory policies of dozens of other states.

There has likely never been a time when the key energy and environmental policymaking seats in Washington have been filled by so many senior political figures steeped in California's view of policy. We are entering an era when California's influence on environmental and energy policy seems likely to shift from being substantial to being determinative. For those who have interests in the areas of climate, energy and environmental policy, this roster probably should have the feel of a crystal ball:

- Speaker of the House of Representatives: Rep. Nancy Pelosi (D.CA)
- Chairman, House Committee on Energy and Commerce: Rep. Henry Waxman (D.CA)
- Chairman, Senate Committee on Environment and Public Works: Sen. Barbara Boxer (D.CA)
- Nominee, Chairman of President's Council on Environmental Quality: Nancy Sutley, Deputy Mayor for Energy and Environment, Los

Angeles

- Nominee, Secretary of Energy, Dr. Steven Chu, Director, Lawrence Berkeley National Laboratory
- Nominee, Chair, Council of Economic Advisors, Christina Romer, Professor, UC Berkeley

If you have questions about California policy or policy-makers, please don't hesitate to contact Darry Sragow (213-892-2925 or dsragow@sonnenschein.com) or Glenn Gritzner (213-892-5151 or ggritzner@sonnenschein.com), both of whom have been active participants in California energy and environmental policymaking. Darry's work related to California greenhouse gas policy includes a substantial role in the Clean Cars Bill of 2002, and every subsequent major statute and rulemaking.

Obama Energy Policy: A Very Crowded Kitchen?

What do President-elect Obama's nominees to serve as Secretary of Commerce, Secretary of Energy, Secretary of the Interior, Secretary of Agriculture, EPA Administrator, OMB Director, National Security Advisor, Science Advisor, Council on Environmental Quality Chair, and "Climate and Energy Czarina" all share beside their recent nominations? Each has a legitimate claim to being an "energy policy expert."

Previous administrations may have entered office with one or two true energy gurus on duty, but the Obama administration will start work Jan. 20 with at least ten, and likely more, senior officials who know a great deal about energy and climate policy, and will have strong positions from which to advance their views. The President-elect and Vice-President-elect also know a good bit about climate and energy. And, of course, so does the nominee to serve as Secretary of State, Sen. Hillary Clinton.

One of the most interesting and important challenges facing the new administration will be coordinating among and tapping the respective skills of this extraordinary team. For those who have interests in the areas of climate, energy and environmental policy, there will be few points of greater interest in Washington than the unfolding drama of how these officials choose -- or are led -- to work together.

If you have questions about Executive Branch energy and environmental policy, please don't hesitate to contact Mike McNamara (202.408.6477 or mmcnamara@sonnenschein.com), Joe Andrew (202.408.5210, 212.398.5271 or jandrew@sonnenschein.com), or Tom Jensen (202.408.3956 or tjensen@sonnenschein.com).

Obama Campaign Environmental Adviser Discusses Priorities of Incoming Administration

The Multi-State Working Group and the ABA Committee on Climate Change, Sustainability and Ecosystems were hosted by Sonnenschein on Nov. 8 in Chicago. Howard Learner, an environmental adviser to the Obama campaign, was the keynote speaker, and his remarks were of great interest

for those in the climate change and decarbonization industries.

Mr. Learner is the CEO and executive director of the Environmental Law and Policy Center (ELPC), based in Chicago. As introduced by his long-time acquaintance, Sonnenschein partner Jeff Fort, the ELPC has demonstrated strong leadership in environmental issues over two decades in the Midwest. While some may complain that ELPC is an advocacy group, others complain that it is too pragmatic. Fort pointed out that the reputation enjoyed by ELPC, under Mr. Learner's leadership, has been one of moving environmental policy issues forward while demonstrating an understanding of the practicalities involved in that progress.

The balance of this article is a summary of some observations on the key priorities of the incoming administration.

The key organizing principle will be adding layers of activities in order to reach the environmental goals needed for climate protection. Reduction of emissions where feasible is clearly the first choice. Mr. Learner suggests that energy efficiency measures in government buildings, schools and other public buildings will be a key priority. Simple measures such as merely using CFL bulbs to replace incandescent bulbs could reduce energy consumption by 2-3 percent globally. Mr. Learner also cited the relative inefficiency of existing commercial and residential buildings as a great opportunity - simply replacing home heating systems could increase energy efficiency by 20 percent. Thus, conservation will be a key initiative in the new administration.

A second initiative may focus on using the government support for automobile manufactures and other entities to drive energy improvements. The Obama administration is on record as supporting a million hybrid vehicles by 2015. With the Big Three automakers seeking government support, much of that support will likely be tied to the Big Three taking measures to improve the supply chain energy efficiency and gaining technological advantage on hybrid and related technologies.

A third action may be to provide better signals on tax incentives for alternative energy technologies. Here, Mr. Learner spoke not just about the benefits of wind or solar, but the manufacturing jobs needed to produce the components for these technologies and developing the new technologies themselves. Mr. Learner cited the benefits to Midwestern jobs and manufacturing areas by having a clearer demand structure for wind and solar technologies. He is in favor of making Chicago and the U.S. the center of "green technology." Mr. Learner views green technology as the "next oil" and wondered whether the U.S. will "import or export" green technology. Mr. Learner's Chicago roots are indicative that he favors making green technology an engine for U.S. manufacturing and intellectual property.

Mr. Learner noted the difficulties faced because of the country's current economic challenges, and the "carbon constrained" conditions we face. He emphasized the scientific consensus that action on climate change is needed quickly. He commented on the convergence around environmental issues, energy issues and national security. He pointed out that Gen. James Jones, as national security adviser, favors energy independence, and the incoming EPA administrator will recognize the environmental needs. He also notes that the country's economic and energy needs will require a different look. In

short, he suggests that these issues will be the prism through which policy issues will be decided.

Lastly, Mr. Learner commented on the different perspective that President-elect Obama will bring. The last president from an urban background was Warren Harding, almost a century ago. Mr. Learner predicts Obama will be more attuned to urban mass transit, smart grids on a local distribution level, and other issues that are more apparent to a city experience, rather than a suburban or rural background. He projects the benefits of more mass transit and rail passenger support to be forthcoming from the new administration.

Sonnenschein serves the legal needs of many of the world's most admired businesses, nonprofits and individuals. With offices across the U.S. and a global reach throughout the Americas, Asia, Europe and the Middle East, we are well positioned to help our clients prosper and grow.

Our **Climate Change Group** includes more than 20 lawyers and other professionals working in offices throughout the United States. Our multidisciplinary approach helps our clients anticipate, shape and respond to the many emerging regulatory and market changes being driven by climate change. And with a number of our lawyers having been at the forefront of researching the early effects of global warming, Sonnenschein's team has been working on climate change issues for more than a quarter of a century.

For more information about the subject of this newsletter or Sonnenschein's Climate Change Group, please contact **Kevin Haroff** in San Francisco (415.882.5020 or kharoff@sonnenschein.com), **Darry Sragow** in Los Angeles at (213.892.2925 or dsragow@sonnenschein.com), **Jeff Fort** in Chicago (312.876.2380 or jfort@sonnenschein.com) or **Tom Jensen** in Washington, D.C. (202.408.3956 or tjensen@sonnenschein.com).

To register for this and other Sonnenschein publications, please visit <http://www.sonnenschein.com/misc/signup.html>.

To unsubscribe from the Climate Change list, please forward this e-mail to Sonnenschein_Marketing@sonnenschein.com with the words "unsubscribe Climate Change" in the SUBJECT field of your e-mail.

These materials should not be considered as, or as a substitute for, legal advice and they are not intended to nor do they create an attorney-client relationship. Because the materials included here are general, they may not apply to your individual legal or factual circumstances. You should not take (or refrain from taking) any action based on the information you obtain from this document without first obtaining professional counsel and you should not send us confidential information without first speaking to one of our attorneys and receiving explicit authorization to do so.

This e-mail was sent by Sonnenschein Nath & Rosenthal LLP, located at 7800 Sears Tower, 233 South Wacker Drive, Chicago, IL 60606-6404 in the USA.