

## Federal and California Energy Policy

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Speakers:

**Susan Kennedy**

213-576-1124

[susan.kennedy@alston.com](mailto:susan.kennedy@alston.com)

**Max Williamson**

202-239-3223

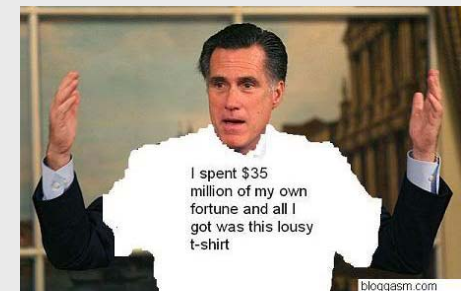
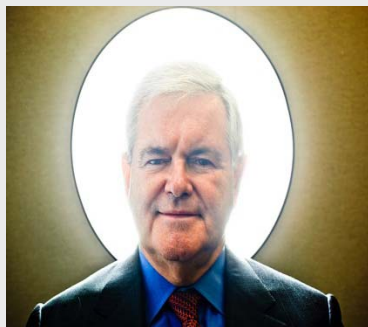
[max.williamson@alston.com](mailto:max.williamson@alston.com)

# What the Heck is Going On in Washington?

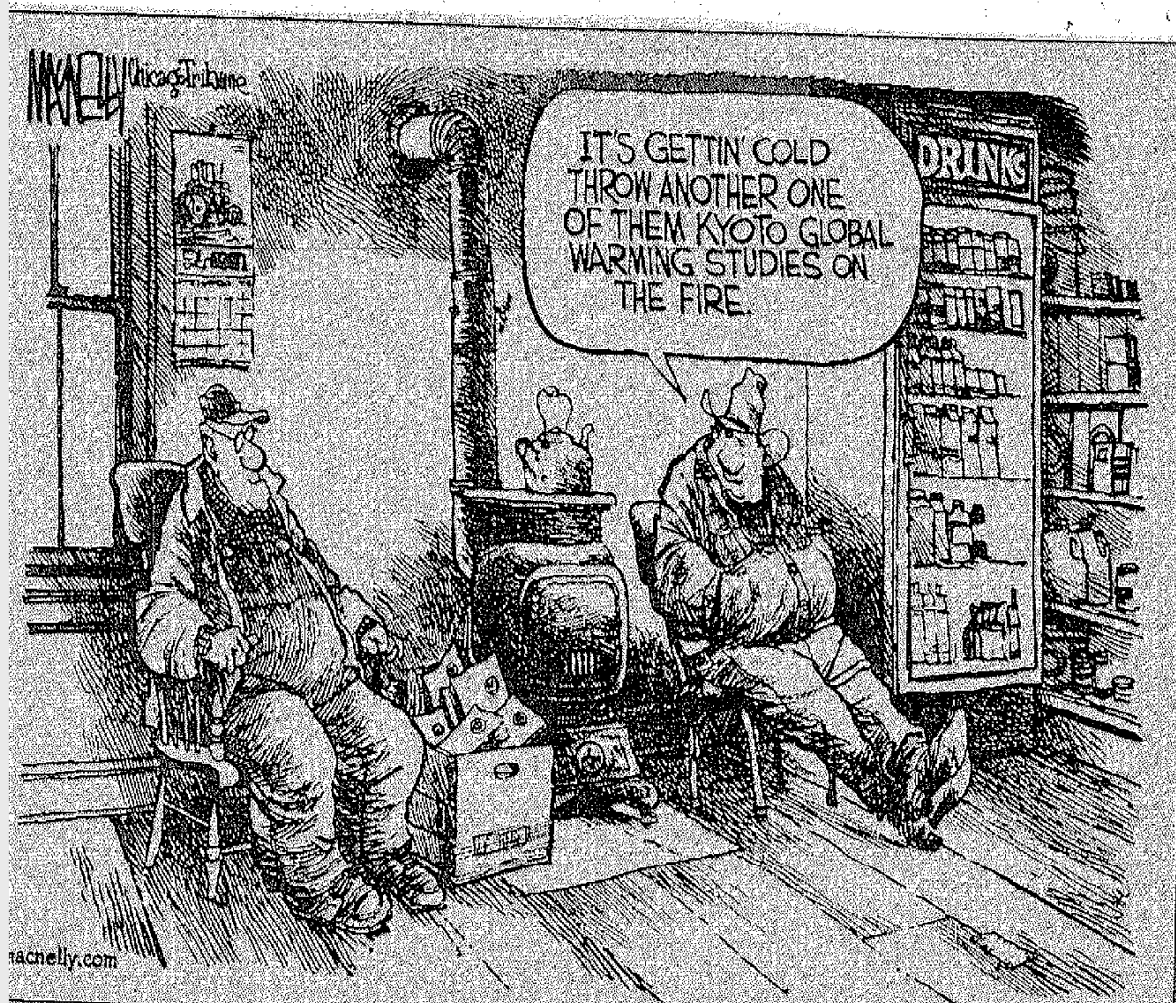


Presidential Candidates on Climate Change: **Then**

## Presidential Candidates on Climate Change: **Now**



# Skeptics Remain



# Legislative Calendar

- Mini-bus appropriations bills; CR currently funding government expires Nov. 18.
- Super-committee: Nov. 23 deadline for \$1.2 trillion deficit reduction.
  - Joint Select Committee on Deficit Reduction.
  - Failure triggers automatic cuts to defense and non-defense spending in 2013.
  - Indicative: food-stamp costs up almost \$9.8 billion above 2011 levels.
- Election cycle is all consuming.



# Energy Policy

## **JOBS, JOBS, JOBS**



## Trends:

- Congress is paralyzed.
- Projects caught up in larger strategy battle (e.g., Sierra Club anti-coal, post-cap/trade, fossil versus renewable energy).
- Increasing need for durable environmental strategy.
- Gridlock easier than common ground.
- Cloak all in jobs, jobs, jobs (eg, CCS to CCU).

## Federal Energy Policy

- Tax Extenders
  - Loan guarantee expired Sept. 30; Treasury grant expires effectively year end.
  - Various vehicles being pursued, including Supercommittee.
- Renewable Energy Standard
  - Sen. Bingaman lining up supporters, but long yardage.
- FERC Transmission Policy
- Ethanol Support and Infrastructure
  - Brewing clash of the titans.
- Highway Reauthorization
  - Electric vehicles; greenhouse gases ?

## Recent Dust-ups: Overblown or Indicative ?

- Repeal EPA bills (TRAIN bill passed in House).
- Solyndra / Beacon failures.
- Keystone XL delayed to 2013.
- NYT “Gold Rush” exposé NRG solar projects.
- Hydraulic fracturing.
- 50% DOE stimulus money unspent.

## Oil and Gas Regulation

- Devil's Bargain – ANWR for Renewables Tax Extenders.
- Gulf Oil spill regulation – surprisingly little movement.
- Pipeline safety following San Bruno.
- Hydraulic Fracturing
  - DOE Advisory Panel
  - EPA Diesel Permitting Rules.

## EPA Renewable Fuel Standard

- **RFS 2 Rules:** 75 Fed. Reg. 14670 (Feb. 2010); proposed 74 FR 24904 (May 26, 2009)
  - Refiners, importers and blenders of transportation fuels plus producers of biofuels.
  - Sets quotas for biofuels in U.S. fuel supply (36b gal. by 2022).
  - Nested quotas for corn ethanol, advanced, cellulosic, biodiesel.
  - 21b gallons cellulosic by 2022.
  - Requires LCA of greenhouse gas footprint below gasoline baseline.
  - Trading of “RINs” (i.e., renewable attribute) is allowed, separate from actual gallon of fuel.
  - Credits electricity from renewable biomass.



## DoD Energy and Biofuels Procurement

- Jet fuel, waste-to-energy, deployable renewables.
- Navy goal to source 50% of fuels from renewables.
- Sail the Great Green Fleet demos in 2012 (carrier striker, two subs, two destroyers, cruiser, aircraft).



## USDA Programs

- Grants
  - On-farm renewable energy.
  - Ag-based biofuels and biomass.
  - Biorefinery Assistance Program (loan guarantee).
  
- Partnerships with DoD, FAA
  - \$510 million for advanced, drop-in aviation and marine biofuels.



## Federal Procurement

- Greening the Government
  - Largest purchaser of goods and services \$245 billion.
  - Federal Acquisition Regulation interim rule effectuates EO 13423 and EO 13514.
  - Procurement of environmental preferable products and services.
  - Thus far, honored in breach, but renewed focus.



# Looming EPA Air Regulation

## Conventional Pollutants – Ratcheting Down

- ✓ Ozone
- ✓ Nitrogen (NO<sub>x</sub>/NO<sub>2</sub>)
- ✓ Sulfur Dioxide (SO<sub>2</sub>)
- ✓ Particulate (dust) (PM/PM<sub>2.5</sub>)
- ✓ Mercury (Hg)
- ✓ Plus . . . greenhouse gas



## Air Quality Rules - Trends

- Ozone rules rescinded, but 5-year review in 2013.
- EPA finding SO<sub>2</sub>/NO<sub>x</sub> still causing acid rain and nutrient loading.
- Ozone and dust health impacts on vulnerable communities.
- Utility transport rule addresses SO<sub>x</sub> and NO<sub>x</sub>, incidentally Hg and PM.
- Carper “3 pollutant” bill may tackle NO<sub>x</sub>, SO<sub>x</sub> and Hg from EGUs (+ GHG ?).
- Greenhouse gases regulated as of July 2 from new/expanded regulations.
- Utility new source rules will have GHG standard for new sources.
- Air deposition as Clean Water Act violation.

## EPA Utility Transport Rule

- Renamed Cross-State Air Pollution Rule (CSAPR)
- Replaces CAIR rule
- Final rule requires 27 states to reduce interstate transport of nitrogen oxides and sulfur dioxide from power plants to allow downwind states meet ozone and fine particulate air standards (76 Fed. Reg. 48,208, 7/8/11).
- CRA vote to block CSAPR defeated in Senate on Nov 10.
- Litigation started already.

## Mercury HAP/MACT Rule

- New mercury emissions rule requires MACT emissions controls on new and existing plants
  - EPA's previous cap-and-trade program for mercury struck down by a federal court decision.
  - CAMR will reduce other hazardous air toxics such as arsenic, lead, dioxin/furans, and acid gas.
  - Final rule anticipated December 2011.
  - Compliance deadline by late 2015 (affected units would likely have three years to comply).

## New Source Performance Standards

- CAA 111 requires EPA to regulate new and existing source categories that contribute to pollution
  - Must review every 8 years.
  
- Forthcoming NSPS Reviews
  - Cement (June 2010) – punted on GHGs
  - Electric utilities (Mar. 2011)
  - Nitric acid plants (Nov. 2011) (Subpart G)
  - Oil/gas drilling
  - Petroleum refineries.

## Coal Combustion Residuals Rule

- Response to TVA Kingstown spill.
- Regulates coal ash impoundment and disposal.
  - Proposed Rule, 75 Fed. Reg. 35128 (June 21, 2010).
  - Final rule expected 2011.
  - Implement 2014-2018.
- Cost impact analysis required, but may force pond closures.
- Two options: (1) management standards approach; (2) performance standard approach.
- Debate whether ash is Subtitle C hazardous waste or Subtitle D solid waste.

## Cooling Water Intake Rule (CWIS)

- Clean Water Act 316(b) regulates “cooling water intake structures”
  - Must meet best technology available to protect aquatic organisms from impingement or entrainment.
  - May require cooling tower conversions at steam units (fossil, biomass and nuclear).
  - Could affect 400 power plants with retrofit costs between \$200 million and \$300 million per unit for coal plants (Rep. Upton).
  
- Schedule:
  - Final rule expected 2012.
  - Implement 2014-2018.

## EPA Greenhouse Gas Rulemakings

- ANPR “Regulating Greenhouse Gas Emissions under the Clean Air Act.” 73 Fed. Reg. 44,354 (July 30, 2008) (overview of GHG regulatory options)
- EPA Endangerment Finding, 74 Fed. Reg. 66496 Dec. 15, 2009) (GHG endangers public welfare)
- EPA Mandatory GHG Reporting Rule, 74 Fed. Reg. 56260 (Oct. 30, 2009)
- Vehicle Tailpipe Standards, 75 Fed. Reg. 25324 (May 7, 2010; signed Apr. 1, 2010) (light-duty auto fuel efficiency and greenhouse gas emissions)
- EPA “Tailoring” Rule, 75 Fed. Reg. 31514 (June 3, 2010) (100,000 tpy threshold for PSD)
- NSPS for power plants and oil refineries (announced Dec 2010).



## Sleeper Issue: GHGs As Criteria Pollutants ?

Petition by Center for Biological Diversity and 350.org to designate CO<sub>2</sub> as a criteria pollutant (Dec. 2, 2009)

- Clean Air Act § 108 requires listing of pollutants “in the ambient air” from “numerous or diverse” sources if “endangers” health or welfare.
- Petitioners say current levels at 390 ppm are above scientific safe levels of 350 ppm.
- Therefore, entire country will be nonattainment.

## Questions? Thank you .

- Max Williamson, [max.williamson@alston.com](mailto:max.williamson@alston.com) (202) 256-6155
- Susan Kennedy, [susan.kennedy@alston.com](mailto:susan.kennedy@alston.com) (213) 576-1124