



# Alaska Energy & Environmental Policy Update

*February 4, 2009*

Over the course of the last two weeks, Congress has moved forward on an \$800 - \$900 billion stimulus package, confirmed key federal Department and agency nominations, and promised major shifts in federal energy, environmental, and natural resource policies. Early this spring, Congress is expected to consider major energy legislation that could encompass a federal renewable electricity standard and address energy production on public lands. Expanded development on the Outer Continental Shelf also is likely to be addressed in the energy legislation. Shortly before the proverbial clock hit midnight, the Bush Administration proposed a new five-year Outer Continental Shelf oil and gas leasing program that calls for new lease sales off Alaska and other areas. President Obama and Secretary Salazar have indicated that they are open to new offshore drilling as part of a comprehensive energy program, but they are reviewing the new program and have not yet taken a position on specific tracts that should be open to development. And, in a positive development for Alaska's congressional representation, in addition to serving as Ranking Member of the Senate Energy and Natural Resources Committee, Senator Murkowski was recently seated on the Senate Appropriations Committee.

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## CONGRESS

### ***111th Congress Moves Forward on Stimulus –***

On Tuesday, January 27, the House of Representatives approved the American Recovery and Reinvestment Plan, H.R. 1, by a vote of 244-188. The legislation passed the House without a single Republican voting for the package.

The Senate Finance and Appropriations Committees reported proposals that are being debated on the Senate floor as of the date of this newsletter. The Finance Committee portion of S. 1 includes \$342 billion in tax breaks and roughly \$180 billion in healthcare and other entitlement spending, while the Appropriations Committee measure includes \$365.5 billion in federal spending on infrastructure development, research and development, and other federal programs.

Senators on both sides of the aisle expect a contentious floor debate on the legislation, in which both parties are expected to offer a wide-array of changes to the package.

Senate Majority Leader Harry Reid (D-NV) and House Speaker Nancy Pelosi (D-CA) have vowed to deliver a final bill to President Obama's desk for signature by President's Day in mid-February. While the Democratic leadership and the White House have stressed urgency for passage of this measure, and a



resistance to sweeping changes to the text, Republicans seem poised to continue their opposition to a large portion of the measure, and concerns have surfaced among some Democrats as well.

Thus far, much of the debate in both houses has focused on the timeline of spending, with critics calling for much more rapid deployment of the bill's unprecedented spending initiatives. GOP leadership has indicated that it intends to focus on providing additional tax cuts and removing spending measures that they are calling "non-stimulative." In addition, some lawmakers have other reservations about the stimulative effect of the measure, arguing that a recovery of the overall economy will not proceed until the serious problems in the housing market are addressed.

Democrats in the Senate lack a filibuster-proof majority, meaning that they must court at least a few GOP votes to ensure passage of the measure in their chamber. While Senator Reid has made it clear the bulk of the text will not change, Democratic leaders likely will have to accept modest, targeted alterations to the package to garner enough votes to land this measure on President Obama's desk by their self-imposed deadline—a deadline that may be increasingly difficult to meet.

Be sure to watch our website for up-to-date coverage of the stimulus bills.

### ***Congress Will Consider New Energy Legislation in Coming Months, Including a National Renewable Energy Portfolio Standard –***

In 2009, major energy issues will likely arise in several legislative proposals, including the stimulus package now under consideration, a comprehensive energy bill, climate change legislation, a new transportation bill, and appropriations bills for the second half of FY 2009 and for FY 2010.

Early this spring, Congress is expected to begin work on a comprehensive energy bill that will have significant consequences for states and municipalities, the energy production and transmission industries, and consumers. The legislation likely will address a broad range of issues, including:

- A Federal renewable electricity standard that would require utilities to provide a specified minimum percentage of their electric service with service using renewable generation sources;
- New regulations and funding rules for electric transmission infrastructure to support the deployment of renewable energy resources in remote areas;
- Enhanced energy efficiency measures, including green building incentives and tougher fuel economy standards for automobiles;
- Energy production on public lands;
- Support for commercialization of carbon capture and sequestration technologies, including incentives, and regulation and liability issues; and
- Energy project financing, including restructuring of the Department of Energy's loan guarantee programs.

Many of these provisions will be designed to implement energy proposals made by President Obama during the campaign, which included (1) an aggressive renewable electricity standard, (2) substantial public investment in clean energy, (3) tougher fuel economy standards for automobiles, (4) a national



low carbon fuel standard, (5) support for commercialization of carbon capture and sequestration technologies and (6) support for the development of the Alaska natural gas pipeline.

It is worth noting that a Federal renewable electricity standard could have a critical economic impact in Alaska. According to the State of Alaska, renewables account for 24 percent of the state's current electricity portfolio, but most of that power comes from hydroelectric generation. Congress has over the last several years proposed several federal renewable electricity standards that would require utilities meet as much as 20 percent of their sales with renewable generation sources on a 15- to 20-year timeline. Federal proposals have included incremental hydropower gains at existing hydroelectric facilities for purposes of calculating renewable energy increases, but generally exclude existing hydropower and new conventional hydropower generation. Senator Murkowski has advocated a so-called "clean portfolio standard" that would include new non-conventional hydropower gains, such as power from small hydro projects and from lake taps. But even a clean portfolio standard would require significant new investments in small hydro and other renewables in Alaska.

For a comprehensive overview of what to expect from Congress and the Administration with respect to energy and climate change policy in 2009, read "U.S. Energy and Climate Change Policy: What to Expect in 2009," an article available at our website, [www.vnf.com](http://www.vnf.com).

#### ***Senator Murkowski Appointed to Appropriations Committee, Hires New Staffers –***

Although the Republicans are in the minority in the Senate, Senator Murkowski's stock has risen exponentially in the first month of the 111th Congress. Not only is the senior Senator now the Ranking Member of the Committee on Energy and Natural Resources, but she was also appointed last week to serve on the Committee on Appropriations. Senator Murkowski also will be one of three U.S. Senators who serve as counsel to U.S. Senate Republican Leader Mitch McConnell (R-KY). The counsels will offer input, guidance and advice to the Republican leadership.

As the Ranking Member of the Committee on Energy and Natural Resources, Senator Murkowski has hired several people to staff the Committee. As reported in our last Update, McKie Campbell will serve as the Republican Staff Director for the Committee. Chuck Kleeschulte, a long-time member of Murkowski's staff, will handle Alaska energy and lands issues. Kevin Simpson, formerly an L.A. for Senator Ted Stevens, will join the staff in March, and will also handle Alaska energy issues. Colin Hayes, formerly a member of the Committee's minority staff, will cover climate change issues. Isaac Edwards will cover international issues. Robert Dillon will be the Committee's new Republican Communications Director and Anne Johnson will be the Republican Press Secretary. Frank Gladics will retain responsibility for public lands issues. Kellie Donnelly will manage electricity issues. And, Karen Billups will serve as the Republican Chief Counsel.

On her personal staff, Senator Murkowski also recently hired Ed Hild as her new Legislative Director. Hild was formerly Senator Domenici's Deputy Chief of Staff.

#### ***Senate Stimulus Bill Would Provide \$2.8 Billion for Native Americans –***

The stimulus bill adopted by the House of Representatives and now being considered by the Senate includes between \$2 and \$3 billion for Native American programs. Both the House and Senate versions of the stimulus package include new construction money for the Bureau of Indian Affairs (BIA), the



Indian Health Service (IHS), the Indian Housing program in the Department of Housing and Urban Development, the Indian roads program at the Federal Highway Administration, and Environmental Protection Agency water projects. The Senate bill also contains new program funds, such as supplemental funding for the IHS Contract Health Service program. While there are relatively few BIA facilities in Alaska, some of the money allocated for roads, housing, IHS facilities and other programs will benefit the Alaska Native community. Most of these funds will be allocated through their regular channels, such as the BIA Roads allocation formula, of which Alaska is a part. If recipients cannot spend the allocated money quickly, the Federal agency is required to take it back and re-allocate the funding.

There are major differences between the Senate and House bills in regard to funding for Indian and Alaska Native programs, as well as in many other areas. Firm spending numbers for programs funded by the stimulus bill will not be clear until conference has taken place between the Senate and the House, which is scheduled for sometime next week so the bill can be sent to the President by the middle of February. However, major disagreements have begun to arise during the Senate debate on its bill, which could push this schedule back.

## ADMINISTRATION

### ***New Appointees Reflect Administration's Interest in Energy and Environmental Policy Changes –***

Several key agency and department heads were confirmed by the U.S. Senate immediately following the swearing-in of President Obama.

#### ENERGY –

Dr. Steven Chu was unanimously confirmed by the Senate on January 20 as the 12th U.S. Secretary of Energy. Dr. Chu was most recently the director of DOE's Lawrence Berkeley National Laboratory and won the Nobel Prize for physics in 1997. Dr. Chu has indicated that he will focus on renewable energy infrastructure, energy efficiency, vehicle fuel economy, "responsible" development of domestic oil and natural gas, research and development of new energy technologies, electric transmission infrastructure, and development of a carbon cap-and-trade system.

On January 23, Jon Wellinghoff was named Acting Chairman of the Federal Energy Regulatory Commission (FERC), the agency that oversees wholesale electric transactions and interstate electric transmission and gas transportation in the United States. Wellinghoff has been a member of the Commission since 2006, and was reconfirmed to a full, five-year term in December 2007. Prior to joining FERC, he was the State of Nevada's first Consumer Advocate for Customers of Public Utilities and the primary author of the Nevada Renewable Portfolio Standard Act.

Carol Browner has been appointed to fill a new White House position of Assistant to the President for Energy and Climate Change. The media has dubbed Browner the Administration's new energy "czarina." Browner served through both terms of the Clinton presidency as Administrator of the Environmental Protection Agency. She has called climate change "the greatest challenge ever faced" and supports a cap-and-trade system to control emissions.



#### ENVIRONMENT AND PUBLIC LANDS –

Secretary of the Interior Ken Salazar was unanimously confirmed by the Senate on January 20 as the 50th U.S. Secretary of the Interior. Salazar had served as U.S. Senator from Colorado since January 2005. The environmental community's reaction to this nomination has been mixed. Salazar is a strong supporter of legislation that addresses threats from climate change, and he has emphasized the need to integrate clean coal technologies and agricultural bioproducts into a new renewable energy infrastructure. Secretary Salazar has opposed drilling in the Arctic National Wildlife Refuge, but he has expressed his openness to new oil and gas leasing and development in appropriate areas as part of a comprehensive energy program.

Former Iowa Governor, Tom Vilsack has been confirmed as the new Secretary of Agriculture. He is a strong proponent of enhancing national security through development of domestic biofuels, and will likely work to ensure a leading role for agriculture in the new energy paradigm. In his oversight capacity with respect to the U.S. Forest Service, Vilsack will oversee 155 National Forests that comprise 190 million acres of land in the U.S. The State of Alaska accounts for 12 percent of National Forest lands. The Forest Service will confront efforts by Democrats like Congressman Raul Grijalva to reinstate Bill Clinton's 2001 roadless rule.

Lisa Jackson was confirmed by the Senate on January 22 as Administrator of the EPA. Jackson spent almost three years as the head of the New Jersey Department of Environmental Protection, where she introduced a plan to reduce carbon emissions 20 percent by 2020 and 80 percent by 2050. Jackson also spent 16 years with the federal EPA. She generally is regarded as a moderate, "get the job done" manager.

Nancy Sutley is President Obama's new Chairwoman of the White House Council on Environmental Quality (CEQ), and will serve as a principal environmental policy adviser to the President. CEQ coordinates federal environmental efforts, works with executive agencies in the development of environmental policies and initiatives, and oversees federal agency implementation of the environmental impact assessment process under the National Environmental Policy Act (NEPA). Sutley previously served as an EPA official during the Clinton administration and most recently, as Deputy Mayor for Energy and Environment for the City of Los Angeles.

#### ***Bush Administration Issues Last-Minute U.S. Arctic Policy –***

On January 9, 2009, President Bush issued a new Arctic Region Policy (Arctic Policy) for the United States.

The new Arctic Policy addresses several major topics, including homeland security, international governance, promoting scientific cooperation, maritime transportation, economic/energy issues, and environmental protection and natural resource conservation.

Special attention is given in the new Arctic Policy to the importance of preserving Inupiat culture and protecting subsistence hunting, fishing, and whaling; finding a balance between stewardship and resource development; supporting cultural organizations; and advancing Arctic science. One of the general policies of the new Arctic Policy is to "involve the Arctic's indigenous communities in decisions



that affect them.” The Policy requires the Secretary of State, in carrying out the Policy as it relates to international governance, to consider issues likely to arise in the Arctic region due to increased human activity, including “local development and subsistence.” In addition, the Policy requires the Secretary, in implementing the economic/energy policy, to “seek to increase efforts, including those in the Arctic Council, to study changing climate conditions, with a view to preserving and enhancing economic opportunity in the Arctic region. Such efforts shall include inventories and assessments of villages, indigenous communities, subsistence opportunities . . . oil and gas development projects” and others.

A so-called “presidential decision directive”, like the one issued by President Bush laying out the new Arctic Policy, remains in effect from one Administration to another, unless and until subsequent presidential action is taken. President Obama may therefore modify or override the current Arctic Policy.

***Bush Administration Proposes 5-Year OCS Plan –***

On Friday, January 16, 2009, the Interior Department proposed a new five-year Outer Continental Shelf (OCS) oil and gas leasing program that calls for 31 offshore lease sales in 12 planning areas between 2010 and 2015, including new sales in the Beaufort and Chukchi Seas and Cook Inlet off Alaska.

Issuance of the proposed plan initiates a multi-step planning process for the 5-year program that is governed by section 18 of the Outer Continental Shelf Lands Act. The required steps include development of the proposed program, proposal of a final program, and final approval by the Secretary of the Interior.

The current OCS five-year program expires June 30, 2012, and would be succeeded by the new program. The Minerals Management Service commenced the process on the new program after new areas became available for offshore oil and gas leasing and development in 2008, when President Bush lifted the executive moratorium on drilling and a separate congressional moratorium on offshore drilling expired.

The proposal has received a great deal of public criticism, and it will be up to President Obama whether or not to proceed with it. Although President Obama initially opposed offshore drilling in the presidential campaign, he has since indicated that he would support “responsible” OCS development. New Secretary of the Interior Ken Salazar suggested at a Senate confirmation hearing that the administration may look favorably on drilling in the Gulf of Mexico and Alaska.

The Administration will review and revisit the proposed plan, and could choose to scale it back or to scrap it altogether. The Administration has at least three clear options: (1) it might place a hold on the OCS leasing proposal until the Administration and Congress have considered national OCS development priorities, possibly in the context of new federal energy legislation; (2) it might extend the length of the initial public comment period, allowing States, affected local governments, and the public more time to respond to the proposed plan; or (3) it might simply allow the proposal to develop within the current, established timeline.



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### FOR ADDITIONAL INFORMATION

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