

## Court Ruling on Cap-and-Trade

On Friday, May 20th the San Francisco Superior Court issued its final ruling on the challenge of the Association of Irrigated Residents to CARB's cap and trade program. As in the earlier preliminary ruling, the final ruling prevents CARB from implementing the cap and trade program until it revises and re-certifies the Functional Equivalency Document required under the California Environmental Quality Act. However, the final ruling goes farther than the preliminary ruling in that it

also explicitly prohibits further rule-making until the Court determines that CARB has complied with the terms of the ruling.

CARB filed an appeal to the ruling on Monday, May 23rd. In previous statement, CARB has indicated that it believes that its appeal will result in an immediate, an automatic stay of the Court's ruling pending the outcome of the appeal. Legal analysis by other observers disputes this. If CARB does not win on appeal, its formal rule-making process will be

postponed by several months, with the time being dependent on when CARB releases a revised Functional Equivalency Document. (CARB spokespeople have stated that this work is underway.)

CARB's window of opportunity to finalize and implement the cap and trade program in 2012 is closing quickly. If CARB wins its appeal, it would be hard-pressed to finalize the regulation and establish the necessary architecture for a 2012 start date.

## Energy Price Summary and Outlook

The next several weeks are expected to show a marked increase in air conditioning demand with the southern portion of the U.S. expecting much hotter-than-normal temperatures for this time of the year. After a cooling period along the Northeast last weekend, the summer heat is back on the way, signaling more natural gas power generation capacity requirements going forward. Adding to the "bullish"

viewpoint in the natural gas markets is the ongoing slow return of nuclear power generating capacity that has plagued the power industry throughout the entire "shoulder" season and it is currently looking like it will linger as we enter the summer cooling season.

The oil complex price has been tethered to \$100 per barrel, now buoyed by inaction by OPEC at its Vienna meeting. Oil is facing

many "headwinds" to price advances, with the declining U.S. dollar about the only short term support, while just about every other driver has a "bearish" overtone for oil prices as well as most major commodity markets. From an external perspective, the slowing U.S. and global economies are the main impediment to oil demand growth for the near term.

*This summary was produced by Jackson W. Mueller, Jr.*

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*A coal power plant in Germany. Due to emissions trading, coal may become a less competitive fuel than other options*

### Susan Kennedy Joins Alston & Bird as Senior Policy Advisor

Susan Kennedy, former Chief of Staff to Governor Arnold Schwarzenegger, former Cabinet Secretary to Governor Gray Davis and a former Commissioner on the California Public Utilities Commission, has joined Alston & Bird LLP as the Senior Policy Advisor for California.

## The Gas is Greener

California is to obtain one-third of its electricity from renewable energy sources like sunlight and wind by 2020.

In April, Gov. Jerry Brown made headlines by signing into law an ambitious **mandate** that requires California to obtain one-third of its electricity from renewable energy sources like sunlight and wind by 2020. Twenty-nine states and the District of Columbia now have renewable electricity mandates.

While energy sources like sunlight and wind are free and naturally replenished, converting them into large quantities of electricity requires vast amounts of natural resources — most notably, land. Even a cursory look at these costs exposes the deep

contradictions in the renewable energy movement.

Consider California's new mandate. The state's peak electricity demand is about 52,000 megawatts. Meeting the one-third target will require (if you oversimplify a bit) about 17,000 megawatts of renewable energy capacity. Let's assume that California will get half of that capacity from solar and half from wind.

Industrial solar and wind projects also require long swaths of land for power lines. Consider the massive quantities of steel required for

wind projects. The production and transportation of steel are both expensive and energy-intensive, and installing a single wind turbine requires about 200 tons of it.

All energy and power systems exact a toll. If we are reducing the rate of growth of greenhouse gas emissions, we must exploit the low-carbon energy sources — natural gas and, yes, nuclear — that have smaller footprints.

*To read more on this topic and explore this article further please go to: <http://www.nytimes.com/2011/06/08/opinion/08bryce.html>*

## CPUC Leg Reports

- **Subject: SB 618 (Wolk) – Local government solar-use easement. As amended: May 11, 2011**

**LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT**

**SUMMARY OF BILL:** This bill would allow local governments and landowners to mutually rescind a Williamson Act contract on marginally productive or physically impaired land and simultaneously entered into a solar-use easement. The Williamson Act provides landowners with lower property tax assessments in return for a ten-year commitment to use land for only agricultural or open use purposes. The solar-use easement would require that the land be used for solar photovoltaic facilities under similar terms of a Williamson Act contract. The bill would also require any lead or responsible agency to expedite its review of permits for solar photovoltaic facilities that are located on marginally productive, physically impaired, or disturbed land, as defined in the bill.

- **Subject: SB 454 (Pavley) - Energy efficiency standards. As amended: May 31, 2011**

**LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT**

**SUMMARY OF BILL:** This bill has three main provisions. It would (1) authorize the California Energy Commission (CEC) to impose civil penalties to enforce its appliance standards pursuant to Title 20 of the California Code of Regulations; (2) requires the CEC and Contractor's State Licensing Board (CSLB) to identify and investigate the failure of contractors to comply with the Title 24 building standards and obtain necessary building permits, and to conduct an education and awareness campaign for contractors and consumers; and (3) require that an investor-owned utility (IOU) provide rebates or incentives only if the recipient certifies that a licensed contractor was used, as appropriate, and any applicable permitting requirements were followed.

- **Subject: AB 982 (Skinner) - Energy: School lands As amended: May 10, 2011**

**LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT**

**SUMMARY OF BILL:** AB 982 requires the State Lands Commission (SLC) to make "best efforts" to enter into a memorandum of agreement by April 1, 2012, with the U.S. Secretary of the Interior to facilitate land exchanges that consolidate school land parcels into contiguous holdings that are suitable for large-scale, commercial renewable energy-related projects.