

THE Energy Council Quarterly

SUMMER

2020

The Energy Council Returns to the Nation's Capitol

The Energy Council's 2020 Federal Energy and Environmental Matters Conference was held March 12-14 in Washington, D.C., and featured an Opening Address by the Honorable Kelly Armstrong, U.S. Congressman from North Dakota.

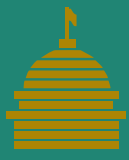
Presiding over the meeting was New Mexico Senator Steve Neville, Chairman of The Energy Council. Assisting in leadership duties were the immediate past Chairman of the Center for Legislative Energy and Environmental Research (CLEER), Arkansas Representative Ken Bragg; and the Vice President for the Federal Energy and Environmental Matters Conference, Arkansas Representative Rick Beck.

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Photo credit: Dr. Glenn Juday, University of Alaska, Fairbanks and UAB Member

The 2020 Federal Energy and Environmental Matters Conference was opened by Arkansas Representative Rick Beck, Vice President for the meeting; U.S. Congressman Kelly Armstrong of North Dakota; New Mexico Senator Steve Neville, Chairman of the Energy Council; and Arkansas Representatives Ken Bragg, Immediate Past Chairman of CLEER.



The Energy Council

The Energy Council Quarterly is the official publication of the Energy Council, a legislative organization comprised of 14 states and two international affiliates, drawn from the major energy producing regions of the United States and Canada. The Energy Council provides a forum for discussing government policies regarding energy and the environment.

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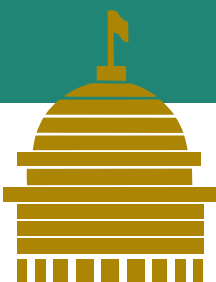
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Tell us what you think!

We welcome your suggestions and feedback. Please email erichards@theenergycouncil.org



The Energy Council Unanimously Adopts “Shipping and Exporting Energy Resources Through Interstate Commerce” Policy Statement

The Energy Council passed a policy statement regarding shipping and exporting energy resources, offered by Wyoming Senator Eli Bebout, unanimously at the 2020 Federal Energy and Environmental Matters Conference. The text of policy statement reads:

The Energy Information Administration (EIA) projects that, for the first time since the 1953, the United States will export more energy than it imports by 2020. Nor will this be a one-time accomplishment, the EIA also projects that the U.S. is likely to be a net energy exporter through at least 2050. The significance of this event should not be understated: the last time it occurred Eisenhower was President. This change has occurred due to the significant efforts of the states mentioned below, many of whom are Energy Council Members. With the support of federal policy makers our economy and nation will continue to advance.

Energy exports are crucial industries for the United States. In 2018, the United States exported about 116 MMst of coal, or about 15% of total production. In the same year, the United States exported 7.60 MMb/d of petroleum and 3.61 Tcf of natural gas. The increase in exports coupled with the resulting large decline in net energy imports has helped reduce the U.S. trade deficit significantly. Export growth during the latter part of 2018 reduced the trade deficit by an additional 5 percent.

Texas leads the nation in U.S. crude oil production, and the state's largest manufacturing export category is petroleum and coal products. North Dakota ranks second in crude oil production; its largest manufacturing export category is also petroleum and coal products. Other top crude oil producers include Alaska, in which 85% of the oil is shipped out of state; New Mexico, which has two refineries that deliver products around the country and to Mexico; and Oklahoma, where refineries distill in-state resources as well as oil from other states and Canada.

West Virginia overlies part of the nation's largest natural gas-producing area, and new pipeline projects are planned to transport

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Friday morning's general session began with a presentation on "Autonomous Vehicles' Impact on the Energy Industry" by Mr. Robbie Diamond, Founder, President and CEO of Securing America's Future Energy (SAFE). In his presentation to meeting attendees, Mr. Diamond stated that civilization has been shaped by transportation to move goods and people. "It is time for the U.S. to diversify its fuel system, and not be completely dependent on one commodity," he explained. "There has been a technological convergence, and the decisions made today on transportation and fuels will impact the next 100 years."

Mr. Diamond briefly discussed the impact of transportation innovation through autonomous vehicles. Autonomous vehicles, he said, hold tremendous potential to dramatically improve society by reducing accidents, improving productivity, increasing efficiency and enhancing energy security by precipitating a shift away from oil as the dominant transportation fuel.

SAFE has found that the widespread deployment of autonomous vehicles will result in annual benefits of \$800 billion by 2050 through accident reduction, congestion mitigation, reduced oil consumption and a variety of consumer benefits. Most critically, with 94 percent of traffic accidents due wholly or in part to human error, self-driving cars—which do not drive drunk, tired or distracted—hold the potential to save thousands of lives every year.

Next on the agenda was Mr. Chris Campbell, Chief Strategist at Duff & Phelps. He provided a "Status of the

USMCA," which was informed by his time as the Staff Director for the Senate Finance Committee and as Assistant Secretary of the Treasury.

Mr. Campbell reported the USMCA (United States-Mexico-Canada Agreement) was ratified late last year and had been signed by Mexico. As it relates to the energy sector, USMCA has significant and new changes. He provided the following highlights of the newly ratified agreement:



The Honorable Kelly Armstrong, U.S. Congressman from North Dakota, welcomed meeting participants to the 2020 Federal Energy and Environmental Matters Conference.

- Zero tariffs on energy products and significant energy reforms that Mexico undertook;
- Liberalized and privatized Mexico's industry that facilitates the move of hydrocarbon by pipelines across borders;
- Eased certification requirements for oil and natural gas across all borders across the three governments;

- Streamlined the regulatory process for the United States' LNG.

In closing, Mr. Campbell feels the newly updated USMCA was a huge win for the energy industry and for the United States.

"An Overview of the Affordable Clean Energy Rule" was covered by the Honorable Anne Idsal, Acting Assistant Administrator in the Office of Air and Radiation at the

Environmental Protection Agency. Ms. Idsal began her report by thanking the state leaders for their efforts. She said that in collaboration with the Environmental Protection Agency (EPA), America is and will remain a global leader on clean air progress

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Photo credit: Dr. Glenn Juday, University of Alaska, Fairbanks and UAB Member

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and carbon dioxide reductions. She highlighted some particular statistics that she is most proud. From 1970 to 2018, the combined emissions of the six criteria air pollutants regulated under the Affordable Clean Energy (ACE) rule have dropped by 74 percent, while the U.S. economy grew by 275 percent at the exact same time.

More recently, she noted, since 2000 fine particulate matter concentrations in the U.S. have dropped by roughly 40 percent, and since 1990, concentrations of sulphur dioxide have fallen by 80 percent. Between 2000 and 2017, lead concentrations in the air fell in the U.S. by 90 percent. In her conclusion, she stated that she firmly believes that it is the mission of the EPA to ensure that continued progress on all emissions, and of all criteria air pollutants specifically, continue to drop, and they did just that between 2016 and 2018.

Following Ms. Idsal was Mr. Mike Nasi, Partner in the Environmental & Legislative Practice Group at Jackson Walker, LLP. Mr. Nasi transitioned easily into his discussion on the "States' Response to the Affordable Clean Energy (ACE) rule." The EPA released the ACE final ruling in June, 2019, replacing the 2015 Clean Power Plan.

Mr. Nasi noted that ACE adheres to the Clean Air Act and gives states the regulatory certainty they need to continue to reduce emissions and provide a dependable, diverse supply of electricity that all Americans can afford.

The ACE rule establishes emissions guidelines for states to use when

developing plans to limit carbon dioxide (CO₂) at their coal-fired power plants. Specifically, ACE identifies heat rate improvements as the best system of emission reduction for CO₂ from coal-fired power plants, and these improvements can be made at individual facilities. States will have three years to submit plans under the ACE rule, which is in line with other planning timelines under the Clean Air Act.

Mr. Nasi explained how the ACE rule and the Clean Power Plan differ in terms of statutory construction, delegation of authority, and flexibility to states, as well as potential legal challenges and judicial review timelines.

"One of the outcomes of the final rule is that this rule is a huge shift to a more state-controlled process, consistent with the statutory structure

under the EPA's 111(d) Rules," Mr. Nasi concluded.

Randi Reid, a Partner at Kontoupes, Dehnam, Carr and Reid, presented on the topic "How Federal Regulations Impact the States." Ms. Reid provided attendees with a brief overview of trends that are currently being seen on federal climate change policies that could impact states. She stated that there has been an uptick in the conversation around climate change legislative initiatives that ranged from carbon tax legislation to the proposed green new deal.

Ms. Reid explained that legislators in the U.S. House of Representatives have taken a more global approach to climate crisis, while the Senate has taken a more targeted approach by examining ways to reduce carbon emissions through legislative proposals that target specific

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The Honorable Anne Idsal, Principal Deputy Assistant Administrator for the EPA Office of Air and Radiation, spoke to meeting participants about the Affordable Clean Energy rule.

Photo credit: Dr. Glenn Juday, University of Alaska, Fairbanks and UAB Member



Photo credit: Dr. Glenn Juday, University of Alaska, Fairbanks and UAB Member

The Honorable Ken Humphreys, Principal Deputy Assistant Secretary for Fossil Energy, spoke to participants at the Federal Energy and Environmental Matters Conference about fossil energy issues including the future of the Strategic Petroleum Reserve.

technologies. According to Ms. Reid, she feels there are some challenges for the states with both approaches, and she encourages state leaders to get in on the discussions of climate change at the front end so that leaders can affect change early to federal policy.

In her closing, she covered next steps for state leaders to prepare for this issue now and after the 2020 elections. She urged meeting attendees to share information and data with federal policymakers on the impacts of climate change proposals on individual state's energy and business operations; develop advocacy messages to show one-sized fits all approaches do not work; and host federal policymakers at energy facilities to raise the industry's profile and increase awareness.

The final presenter of the day was Mr. Zak Baig, Managing Director at ClearPath, who reported on "Federal Energy Policy Trends." Mr. Baig began his presentation by providing

meeting attendees with an overview of ClearPath. ClearPath's mission is to develop and advance conservative policies that accelerate clean energy innovation by developing cutting-edge policy and collaborating with academics and industry. He emphasized that ClearPath is focused on new technologies in the energy space. "The U.S. needs more diversity in its power mix for national security and a clean-base load," he explained. "The solution on clean energy, regardless of climate, is we need to have more diversity in our power mix." Mr. Baig feels that a renewables only approach is very costly and a drill only approach does not give us the diversity and mix that the country needs in its power sector both on the national security side and for long-term market competitiveness.

In his closing, Mr. Baig highlighted some of the core technologies that ClearPath is currently working on to advance next generation nuclear power, carbon capture for natural gas

or coal, energy storage, hydropower and geothermal energy. These technologies, he feels, are essential to quickly and affordably reducing CO2 emissions across sectors of the global economy.

Closing out Friday afternoon were an Energy Council Business Meeting and a CLEER Program Advisory Board Planning Session.

Saturday morning's conference session opened with a Breakfast Address from the Honorable Kenneth Humphreys, Principal Deputy Assistant Secretary for Fossil Energy at the U.S. Department of Energy (DOE), who presented the topic "The Future of the Strategic Petroleum Reserve and Other Issues." Mr. Humphreys said that DOE's Fossil Energy Research & Development advances transformative science and innovative technologies that enable the reliable, efficient, affordable, and environmentally sound use of fossil fuels. Fossil energy sources constitute over 80 percent of the country's total energy use and are important to the nation's security, economic prosperity, and growth. He also briefly discussed the Fossil Energy Advanced Energy Systems program, which focuses on improving the efficiency of coal-based power systems, enabling affordable CO2 capture, increasing plant availability, and maintaining the highest environmental standards.

Mr. Humphreys also gave meeting attendees a brief overview of the Strategic Petroleum Reserve (SPR). He explained that the world's largest supply of emergency crude oil was established primarily to reduce the impact of disruptions in supplies of

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petroleum products and to carry out obligations of the United States under the international energy program. The federally-owned oil stocks are stored in huge underground salt caverns at four sites along the coastline of the Gulf of Mexico. The sheer size of the SPR (authorized storage capacity of 714 million barrels) makes it a significant deterrent to oil import cutoffs and a key tool in foreign policy.

In closing, Mr. Humphreys said the philosophy of the current administration is to unleash the full potential of America's energy resources and to establish the U.S. as a dominant energy force in the marketplace. It is an all of the above strategy with renewables, nuclear efficiency and fossil resources being important. "If we regulate a little less, and in a more targeted and prudent way, encourage production, and adopt pro-growth business policies by emphasizing technology innovation, we can grow the economy, ensure energy security and protect the environment all at the same time."

The final presenter of the conference was Mr. Andrew DeVore, an Attorney at Vinson & Elkins, and he covered the topic "Challenges Associated with Natural Gas Transmission Line Projects."

Mr. DeVore stated that applicants seeking to construct interstate natural gas transmission projects must navigate the certificate application process at the Federal Energy Regulatory Commission (FERC), which requires demonstrating that the project is required by the public convenience and necessity. He noted that there are some challenges in this process expected and the case law is well-established. However, FERC and project applicants continue to encounter novel issues in the development of interstate natural gas

transmission projects. How these issues are resolved and how they will impact current and future interstate natural gas transmission projects will depend on recent FERC initiatives, upcoming appellate court decisions, and advocacy by project applicants at FERC, he concluded.

The remaining topics on the agenda for the Federal Meeting were postponed due to travel limitations for our scheduled speakers.



Randi Reid, a partner at Kontoupes, Denham, Carr and Reid, addressed how Federal regulations impact the states at the Federal Energy and Environmental Matters conference in Washington D.C.

Photo credit: Dr. Glenn Juday, University of Alaska, Fairbanks and UAB Member

Of Special Interest

The Honorable April Weaver, former Alabama State Representative, a long-time member of the Energy Council's Executive Committee, and most recent Vice Chairman of the Energy Council, announced on May 12 that she would resign to join the Trump administration. On May 18, the U.S. Department of Health & Human Services (HHS) announced that Ms. Weaver had been appointed to serve as Regional Director for HHS Region IV.

Weaver was first elected to the Alabama House of Representatives in November of 2010. In 2015, she became the first woman in Alabama history to be appointed as Chairman of the House Health Committee. Weaver is a registered nurse who holds bachelors and master's degrees in business administration.

Adoption of Policy Statement

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the gas to markets across the United States and Canada. Colorado is the fifth-largest natural gas producing state, and about 75 percent of that gas is transported out of state. Arkansas is also a top 10 natural gas producing states, and more than half of that gas flows out of state.

Wyoming accounts for two-fifths of all coal mined in the United States. In addition, almost one-third of the country's recoverable coal reserves are in Montana, and 30 percent of the state's coal is exported through Canada to Asia. In 2018, North Dakota became the largest producer of lignite coal.

Kansas has considerable crude oil, natural gas, and renewable energy resources and ships about 75 percent of its ethanol out of state. Mobile, Alabama was the fourth-largest port for coal exports in 2018. In Louisiana and Mississippi, the largest manufacturing export category is petroleum and coal products.

However, new port infrastructure development has been inhibited in California, Oregon, and Washington for facilities that handle fossil fuels. Due to this restriction several projects have been negatively impacted: including the proposed coal terminals at the Oakland Bulk and Oversized Terminal (CA), the Morrow Pacific (OR), Gateway Pacific (WA) and the Millennium Bulk Terminals (WA). Additional impacted oil and gas projects include the Vancouver Energy Distribution Terminal (WA), Jordan Cove LNG (OR), the Port of Grays Harbor (WA). Access to ports on the West Coast of the United States is critical to the economic viability of trade with Asia, including our allies in Japan and South Korea.



SAVE THE DATE!

The Energy Council's Annual Meeting
September 17 – September 20, 2020

San Antonio, TX 78205
OMNI La Mansion Hotel &
Conference Center
Reservations 800-843-6664

The U.S. Constitution gives the Congress the power to regulate international commerce as well as commerce among the states. Courts have interpreted this clause to prohibit, "States from discriminating against interstate commerce, and [bar] regulations that, although facially nondiscriminatory, unduly burden interstate commerce." Our member states and provinces support the Commerce Clause and the Dormant Commerce Clause, and want to ensure adequate trading opportunities for their resources and ports in order to continue to provide jobs in the energy and shipping sectors, support national security interests, and provide reliable and affordable energy.

The Energy Council urges federal policymakers to uphold the U.S. Constitution and protect all states' efforts to export resources through existing and new ports. This includes preventing any one state from impeding the free flow of commerce among the states, impacting the economic interest of another state

seeking to export commodities, or forcing its policy preferences regarding the use of fossil fuels or products such as electricity on another state. Not only does the Constitution support this recommendation, but such a recommendation helps to ensure further trade deficit reductions and significant state and national economic growth.

This policy statement, passed unanimously at the Energy Council on March 13, 2020, shall be distributed to the President of the United States of America, the Secretary of the U.S. Department of Energy, Secretary of U.S. Department of Transportation, Administrator of the U.S. Environmental Protection Agency and the Energy Council's Congressional delegations; as well as the energy ministers of the Council's member Canadian provinces.

A copy of the policy statement is available by contacting The Energy Council's office.

The Energy Council's 2020 Federal Energy and Environmental Matters Conference

March 12 – 14, 2020

Washington, D.C.

Welcome Remarks and Opening Address

The Honorable Steve Neville
New Mexico Senate and
Chairman, The Energy Council

The Honorable Ken Bragg
Arkansas House of Representatives
and Immediate Past Chairman,
CLEER

The Honorable Rick Beck
Arkansas House of Representatives
and The Energy Council's
Vice President for Federal Energy
and Environmental Matters

Opening Address

The Honorable Kelly Armstrong
of North Dakota
U.S. House of Representatives

Autonomous Vehicles' Impact on the Energy Industry

Mr. Robbie Diamond
Founder, President and CEO
Securing America's Future Energy

The Status of the USMCA

Mr. Chris Campbell
Chief Strategist
Duff & Phelps

An Overview of the Affordable Clean Energy Rule

The Honorable Anne Idsal
Acting Assistant Administrator,
Office of Air and Radiation
Environmental Protection Agency

States' Response to ACE

Mr. Mike Nasi
Partner, Environmental &
Legislative Practice Group
Jackson Walker, L.L.P.

How Federal Energy Regulations Impact the States

Ms. Randi Reid
Partner
Kontoupes, Denham, Carr and
Reid

Federal Energy Policy Trends

Mr. Zak Baig
Managing Director of Government
Affairs
ClearPath

The Future of the Strategic Petroleum Reserve and Other Issues

The Honorable Kenneth
Humphreys
Principal Deputy Assistant
Secretary for Fossil Energy
U.S. Department of Energy

Challenges Associated with Natural Gas Transmission Line Projects

Mr. Andrew DeVore
Attorney
Vinson & Elkins

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