

# Inside Energy

July 11, 2011

## GOP spending bill loaded with energy-related riders

The Obama administration would be stripped of its ability to regulate greenhouse-gas emissions from coal-fired power plants, oil refineries and other smokestack industries under a fiscal 2012 spending bill that was approved last week by the Republican-led panel that sets the Environmental Protection Agency's annual budget.

But a key GOP appropriator said the would-be ban on EPA's controversial climate regulations is just the tip of the iceberg, and that Republicans would seek to attach additional policy riders to the must-pass spending bill that would further handcuff EPA's environmental agenda.

"I think you'll see a whole lot of amendments," Idaho Republican Mike Simpson, who chairs the House Appropriations subcommittee that sets EPA's and the Interior Department's

budgets, said Thursday after his panel approved the measure by a party-line vote. "This bill could take some time on the floor."

Neither Republicans nor Democrats offered any amendments to the bill at the Thursday markup session of the GOP-led House Appropriations Subcommittee on Interior, Environment and Related Agencies. But that will likely change this Tuesday (July 12), when the full House Appropriations Committee is slated to mark up the bill. After that, the measure will move to the House floor, where even more amendments could be offered.

As approved by the subcommittee, the bill would provides \$27.5 billion in spending for Interior, EPA, the US Forest Service and other related agencies — a full \$3.8 billion below President Barack

*(continued on page 16)*

## Another company may reject a DOE loan guarantee

A California-based solar panel manufacturer appears ready to walk away from a \$275 million Energy Department loan guarantee, abandoning plans to open a plant in Ohio and leaving behind bruised egos and irate local officials who had been counting on the more than 1,000 jobs the project would create.

But while Calisolar's decision earlier this month to scrap the Ohio plant was extensively covered by the local media, it would not be the first time a company has turned down a DOE loan guarantee. Financial analysts and industry observers say the Calisolar incident illustrates larger problems that renewable-energy developers have with DOE's loan-guarantee program,

In May, for example, Diamond Green Diesel spurned its \$241 million loan guarantee offer from DOE to build a bio-

refinery in Louisiana, and in April, Suniva terminated its application for a \$141 million loan guarantee to build a solar cell plant in Michigan

DOE has not publicly commented on either of those companies' decisions, but analysts say the firms walked away because of the burdensome conditions that DOE and the White House Office of Management and Budget impose in order to close on the loan guarantees, which are intended to spur clean-energy development.

"It's no secret that the DOE imposes fairly strict terms that companies don't necessarily want to adhere to," said Matt Feinstein, a solar analyst with Lux Research. "When companies get loan guarantees, banks don't necessarily want to be involved with that because they

*(continued on page 2)*

### INSIDE THIS ISSUE

#### Congress

- Ethanol tax credit would end this month under deal linked to debt-ceiling talks 3

#### Loans/Loan Guarantees

- DOE aids Iowa cellulosic ethanol plant; Chu says anemic industry will rebound 4

#### Oil/Natural Gas

- Feds will consider Montana oil spill in judging fate of other major pipeline 5
- Repubs nix White House bid to boost inspection fees for oil, gas companies 7
- Warner, Webb buck party with bill allowing oil, gas drilling offshore Va. 8

#### Renewable Energy

- Long a hurdle for oil and gas drilling, sage grouse now threaten wind farms 8
- Rhode Island court rejects challenge to offshore wind farm's power contract 10
- Sub-sea power cables could harm turtles, other marine life, Interior study finds 10

#### Emissions

- Ruling could boost fines for utilities, refiners in areas with poor air quality 11

#### National Laboratories

- DOE still investigating cyber attack against PNNL, other national labs 12
- Los Alamos reopens after huge wildfire with no evidence of 'serious damage' 13

#### Inside DOE

- Wary of another spending impasse, DOE crafts new shutdown procedures 14

#### Environmental Management

- Chu will act on Hanford recommendations as board rejects DOE's records request 15

know of the strings. Calisolar might have been hoping they'd see more favorable terms."

On June 16, DOE offered Calisolar a \$275 million loan guarantee to transform a former General Motors plant in Ontario, Ohio, into a silicon manufacturing facility. But just two weeks later, on July 1, the company told local officials that it would not be able to meet a DOE-imposed September construction deadline in order to close on the financing, the (Mansfield) *News-Journal* reported last week.

The loan guarantee would have been funded through the 2009 American Recovery and Reinvestment Act, which mandates that projects commence construction by September 30.

Calisolar spokesman Bret Adams confirmed that the company is no longer going to build the Ohio plant, but declined to comment on the status of its loan guarantee.

DOE, for its part, also declined to comment specifically on Calisolar's decision, though agency spokesman Damien LaVera indicated the door is still open for the company to obtain its loan guarantee.

"As part of the loan process, applicants must comply with all terms in the agreement before the loan is actually issued," LaVera said in a statement. "As with all applicants who receive conditional commitments, the department stands ready to underwrite the Calisolar loan at the appropriate time. As a matter of policy, we do not comment on the terms and conditions related to specific applications."

When DOE announced its conditional offer, it touted Calisolar's ability to make silicon at half the cost of traditional processes, and it said the plant would produce 16,000 metric tons of solar silicon annually and create nearly 1,100 permanent jobs.

"This innovative manufacturing process offers significant competitive advantages that will help the US to out-innovate and out-compete our global competitors," Energy Secretary Steven Chu said in a news release at the time. "This project is part of our commitment to supporting important innovations that create jobs, strengthen our manufacturing base and posi-

tion the nation as a global solar leader."

Ohio officials have made clear their displeasure at Calisolar for backing out of the plant. Richmond County Commissioner Gary Ult told the *News-Journal* that the decision "doesn't make common sense." A columnist called the announcement a "sucker punch."

Walter Streight Howes, managing partner of Verdigris Capital and a former senior DOE official, said he suspects Calisolar's blaming of the September construction deadline for pulling out of the project is "a canard."

"In theory, [meeting the construction deadline] should be accomplishable," said Howes, who served in DOE during both the Clinton and Bush administrations and was the first director of the agency's loan-guarantee program. "A lot of other people are in the same situation, and they're going to get it done."

Rather, he said the decision was likely prompted by terms attached to the loan guarantee that Calisolar found too onerous. That was the situation with Diamond Green Diesel, said Howes, who worked with the company's attorneys.

"Everyone thought they were going to get to closing," he said. "They were very, very close. OMB drove such stringent terms that it made no sense for Diamond Green Diesel to go forward, an uncompetitive and non-acceptable structure to the loan. It's so unfortunate. Ultimately, the conservativeness of the term was completely uneconomic."

In general, he said OMB and its very conservative underwriting standards have been the main sticking point for many loan-guarantee applications. Ultimately, he said he expects about 5% of the companies who have received conditional loan guarantee offers to walk away from their applications. DOE has to date offered loan guarantees for 36 projects, ranging from wind farms to nuclear reactors to efficient electricity transmission lines.

OMB did not respond to a request for comment, but tensions between DOE and OMB over the loan guarantee were revealed in a leaked memo in October from some of President

(continued on page 18)

**platts** Inside Energy

July 11, 2011

ISSN# 0-278-2227

**Editorial Director**

William E. Loveless

**Managing Editor**

Brian Hansen

**Associate Editors**

Derek Sands, Herman Wang,

Keith Chu, Nick Juliano

**Contributing Editors**

Gary Gentile, Meghan Gordon,

Sarah Smith, Lisa Wood

**Contact the Editors**

+1-202-383-2240

**Editorial Director, Global Power**

Larry Foster

**Vice President, Editorial**

Dan Tanz

**Platts President**

Larry Neal

*Inside Energy* is published every Monday by Platts, a division of The McGraw-Hill Companies. Registered office Two Penn Plaza, 25th Floor, New York, NY 10121-2298

Officers of the Corporation: Harold McGraw III, Chairman, President and Chief Executive Officer; Kenneth Vittor, Executive Vice President and General Counsel; Jack F. Callahan Jr., Executive Vice President and Chief Financial Officer; John Weisenseel, Senior Vice President, Treasury Operations.

Copyright © 2011 by Platts, The McGraw-Hill Companies, Inc.

All rights reserved. No portion of this publication may be photocopied, reproduced, retransmitted, put into a computer system or otherwise redistributed without prior authorization from Platts.

Permission is granted for those registered with the Copyright Clearance Center (CCC) to photocopy material herein for internal reference or personal use only, provided that appropriate payment is made to the CCC, 222 Rosewood Drive, Danvers, MA 01923, phone (978) 750-8400. Reproduction in any other form, or for any other purpose, is forbidden without express permission of The McGraw-Hill Companies, Inc. For article reprints contact: The YGS Group, phone +1-717-505-9701 x105 Text-only archives available on Dialog File 624, Data Star, Factiva, LexisNexis, and Westlaw. Platts is a trademark of The McGraw-Hill Companies, Inc.

**To reach Platts**

E-mail: support@platts.com

**North America**

Tel: 800-PLATTS-8 (toll-free)

+1-212-904-3070 (direct)

**Latin America**

Tel: +54-11-4804-1890

**Europe & Middle East**

Tel: +44-20-7176-6111

**Asia Pacific**

Tel: +65-6530-6430

**Manager, Advertisement Sales**

Kacey Comstock

**Advertising**

Tel : +1-720-548-5508

The McGraw-Hill Companies

---

**CONGRESS**


---

## Ethanol tax credit would end this month under deal linked to debt-ceiling talks

Three key senators from both sides of the aisle struck a deal last week to end federal tax credit for ethanol fuels by the end of this month, saying eliminating the subsidies would help reduce the US' massive budget deficit.

The agreement reached by Senators Dianne Feinstein, Democrat-California, Amy Klobuchar, Democrat-Minnesota and John Thune, Republican-South Dakota, represents a compromise approach between lawmakers who wanted an immediate end to ethanol subsidies, and others who wanted a gradual phase-out over several years.

But the agreement is far from a done deal, as it may well hinge on lawmakers being able to strike a broader deal with President Barack Obama to cut trillions in federal spending and to raise the debt ceiling. The senators have said they hope to have their ethanol agreement adopted as part of the ongoing deficit-reduction talks, or to another bill.

"If Congress fails to enact this proposal before it adjourns for August recess, the substantial levels of deficit reduction and investment achieved by this compromise will no longer be possible, and we cannot commit our support after that point," the three senators wrote to Senate Majority Leader Harry Reid, Democrat-Nevada, and Minority leader Mitch McConnell, Republican-Kentucky.

Specifically, the deal would institute a July 31 termination date on the Volumetric Ethanol Excise Tax Credit, or VEETC, which pays refiners and other entities 45 cents for every gallon of ethanol they blend into gasoline. The VEETC is slated to expire on December 31, and ending it early would save the US about \$2 billion, according to Feinstein.

Under the deal, about two-thirds of that savings, or \$1.3 billion, would be used to reduce the deficit. The remainder would go to extending tax credits for advanced cellulosic biofuels that are slated to expire at the end of 2012. Some of the savings would also be used to help pay for blender pumps and other ethanol infrastructure.

The bipartisan agreement would also end the 54 cents-per-gallon tariff on imported ethanol on July 31,

"This agreement is the best chance to repeal the ethanol subsidy, and it's the best chance to achieve real deficit reduction," Feinstein said. "Absent this agreement, taxpayers stand to lose \$1.33 billion — that was the bottom line for me."

Gone from the deal is the three-year phaseout of the VEETC that had been favored by Klobuchar, Thune and other senators, including Charles Grassley, an Iowa Republican.

"I wish it would have included a more robust investment in alternative fuel infrastructure and cellulosic ethanol,"

Grassley said. "Overall, the fact that this happened in a vacuum, rather than in an even-handed debate over all energy tax incentives, will always be a raw deal, especially for taxpayers and renewable-fuel producers."

Included in the deal is limited support for retail service station owners looking to install blender pumps, which allow for sales of various ethanol-gasoline blends.

That provision could generate opposition. Some senators, including John McCain, Republican-Arizona, oppose federal incentives for blender pumps. A bill to fund the Agriculture Department, which the Republican-controlled House passed last month, included an amendment banning federal support of blender pumps or ethanol storage facilities.

But on June 16, only 41 senators voted for McCain's amendment to block federal funds for blender pumps and ethanol storage tanks.

In addition to scrapping the VEETC and the tariff, the deal announced last week would also:

- Extend the Cellulosic Biofuels Production Tax Credit three years to December 31, 2015. The credit would remain at \$1.01/gal, but would be capped at 50 million gal in 2013, 100 million gal in 2014 and 155 million gal in 2015. Unused gallons would roll to the next year.

- Extend the Alternative Fueling Infrastructure Tax Credit for three years until December 31, 2014. But it would reduce the credit from 30% to 20%, effective January 1, 2012. The credit covers investments in blender pumps, electricity charging stations and natural gas fueling stations.

- Extend the Small Producer Tax Credit one year, until December 31, 2012. But it would reduce the credit from 10 cents/gal to 7 cents/gal.

The Renewable Fuels Association, a Washington-based trade group, said it could live with the deal.

"This is not the perfect compromise, but it does demonstrate the willingness of American ethanol producers and advocates to do their part to address budget concerns while not sacrificing the progress and evolution of the industry," said Bob Dinneen, the group's president. "I would challenge other industries to step up to the plate in the same manner. The status quo of American energy and tax policy simply won't work."

The deal was also praised by the Brazilian Sugarcane Industry Association, UNICA. The tariff was instituted mainly to prevent imported ethanol supplies from benefitting from the VEETC credit.

"Allowing other alternative fuels like sugarcane ethanol to compete fairly in the US will save Americans money, cut dependence on Middle East oil and improve the environment," said Leticia Phillips, UNICA's North American representative.

Growth Energy, another ethanol trade group, said they would work to lift the annual cap placed on the cellulosic tax credit.

"That is not a good idea. I don't know how it would ever work in practicality," Growth Energy CEO Tom Buis said

during a conference call with reporters. “We weighed in very strongly against going down that road. Having a cap, I’m sure that’s beneficial to the oil industry. We opposed it and will continue to work on that one.”

Feinstein, Klobuchar and Thune announced their deal on the same day that the Obama administration said it would provide a \$105 million federal loan guarantee for a cellulosic ethanol plant that POET Energy wants to build in Iowa. Energy Secretary Steven Chu acknowledged that the cellulosic ethanol industry has struggled to get off the ground due to the poor economy and other problems, but he predicted it would start to thrive in the not-too-distant future (*related story, this page*).

— Gary Gentile, Derek Sands

## LOANS/LOAN GUARANTEES

### DOE aids Iowa cellulosic ethanol plant; Chu says anemic industry will rebound

The Energy Department conditionally offered major ethanol producer POET a \$105 million loan guarantee last week to build what could be the first commercial-scale cellulosic ethanol plant in the US, even as the cellulosic industry struggles to gain traction in the face of dismal credit markets.

South Dakota-based POET would use DOE’s financial backing to help build its Project LIBERTY plant in Iowa, which is expected to produce 25 million gallons of ethanol a year, and bring \$14 million to local farmers. The plant will use corn cobs, leaves and husks to produce ethanol.

“This project will help decrease our dependence on oil, create jobs and aid our transition to clean, renewable energy that is produced here at home,” Energy Secretary Steven Chu told reporters in a conference call Thursday.

The project uses a new technology that produces ethanol as well as biogas, which will be used to power the plant and a nearby POET plant that produces ethanol from corn. POET plans to build similar cellulosic plants near 27 of the company’s corn-based ethanol plants, according to DOE.

Last year, POET announced plans to produce 3.5 billion gallons of cellulosic ethanol per year by 2022, either through its own expansion plans or by licensing its technology to other producers and through joint ventures.

Currently, commercial ethanol production in the US relies on corn, which critics say drives up food prices. The use of cellulosic ethanol is meant to address that issue, as well as provide a larger amount of source material.

POET’s Project LIBERTY, in Emmetsburg, Iowa, has a total cost of \$261.2 million, according to Chu. Construction on the project is expected to begin in August, and POET

hopes to have the plant operating by May 2013.

DOE announced the conditional loan guarantee the same day a bipartisan group of senators agreed on a plan to eliminate government subsidies for traditional ethanol and direct part of the savings to tax credits for cellulosic ethanol producers (*related story, p. 3*). The industry has said those cellulosic tax credits are important to spur large-scale ethanol production, and has pressed Congress to continue them.

Like many other loan guarantees for renewable-energy projects, DOE will be providing a credit subsidy funding for the project under the 2009 American Recovery and Reinvestment Act. The credit subsidy is a fee DOE charges to loan-guarantee recipients as a kind of insurance against default. The loan guarantee is conditional upon further lending negotiations, and still must be finalized.

POET CEO Jeff Broin said he was pleased with the loan guarantee offer.

“Financing has been one of the biggest challenges to scaling up cellulosic ethanol, and the offer for a conditional commitment for a loan guarantee from DOE’s Loan Programs Office brings us one step closer to commercial production,” Broin said.

The company has already begun construction at the site of a 22-acre storage yard for the agricultural waste it will use to run

Advertisement

# >GainInsight.

Download your complimentary copy of the Platts/Capgemini Utilities Executive Study.



[www.us.capgemini.com/PlattsStudy](http://www.us.capgemini.com/PlattsStudy)

platts

Capgemini  
CONSULTING. TECHNOLOGY. OUTSOURCING

the plant, and has started stockpiling 56,000 tons of biomass.

The cellulosic-ethanol industry has struggled recently to attract sufficient financing to scale up production to the commercial scale. The problems have led the Environmental Protection Agency, which writes federal cellulosic ethanol production targets, to reduce those targets in 2011 to only 5 million to 17.1 million gallons, a steep decline from the 250 million gallons originally targeted by Congress under the Renewable Fuel Standard in the 2007 Energy Independence and Security Act (*IE*, 27 June, 1).

Chu, in addressing that issue with reporters, said Congress was not expecting the US economy to collapse when it passed the RFS four years ago.

"Initially, the statutes were written that did not anticipate the credit market collapse," Chu said.

The pressures of funding new technologies in unsteady markets has already led to problems for some cellulosic producers. In one case, the Agriculture Department awarded Range Fuels an \$80 million loan guarantee in 2009 for a cellulosic biofuels plant in Georgia. However, the Broomfield, Colorado-based company shut down production earlier this year and the EPA has said it does not expect the company to produce any cellulosic biofuels next year.

Agriculture Secretary Tom Vilsack told reporters Thursday that the company had not defaulted on its loan guarantee, but was in negotiations with its lender.

Chu said he was confident the technology used by POET would be more successful than that pursued by Range Fuels.

"There is a very different technology," Chu said, adding that the POET project would also benefit by its location next to a traditional corn-ethanol plant. "Having said this ... we hope that all our loans will pan out and serve the taxpayers well, but you want to expect a few speed bumps along the way."

Despite the setbacks to the cellulosic ethanol industry, Chu said he was confident that production from the industry was at a tipping point.

"There has been a delay, but this is a signal that things are beginning to take off at the commercial scale," Chu said.

The POET project is in a race with several others to be the first commercial-scale cellulosic plant in the US. Under a USDA loan-guarantee program, three other companies received loan guarantee commitments in January for cellulosic facilities.

Coskata would receive a loan guarantee of \$250 million for a cellulosic plant in western Alabama capable of producing 55 million gallons of ethanol; Enerkem would receive \$80 million loan guarantee for a plant in Pontotoc, Mississippi that would be able to produce 10 million gallons of cellulosic ethanol per year from municipal waste; and INEOS New Planet BioEnergy would receive a \$75 million loan guarantee for a 8-million-gallon-per-year facility in Vero Beach, Florida, that uses agricultural and municipal solid waste.

— *Derek Sands*

---

## OIL/NATURAL GAS

---

### Feds will consider Montana oil spill in judging fate of other major pipeline

The State Department will consider the recent leak of crude oil from an ExxonMobil pipeline into the Yellowstone River in Montana during its ongoing review of TransCanada's Keystone XL Pipeline, which would cross the same river, a department spokeswoman said last week.

"Since we're in the decision process, of course we're looking at what's happened in the ExxonMobil case, and we're interested in any input that the public has," Wendy Nassmacher, a State Department spokeswoman, said Wednesday.

On July 1, ExxonMobil's Silvertip Pipeline leaked 750 to 1,000 barrels of crude into the Yellowstone River near Laurel. The 12-inch diameter, 70-mile line runs from Elk Basin, Wyoming, to Billings, Montana, where ExxonMobil has a 60,000 barrel-per-day refinery which is now operating at minimal rates.

While the pipeline was buried only five to eight feet below the river bottom, according to ExxonMobil, TransCanada's application calls for burying Keystone XL 30 feet beneath the riverbed, Nassmacher said.

The \$7 billion Keystone XL pipeline would ship crude from Canada's oil sands to refineries on the Texas Gulf Coast. It would cross eight states, including Montana.

The State Department said it would act on TransCanada's nearly three-year-old application by the end of the year. Because the pipeline crosses international borders, State must sign off on an environmental review and declare the project in the national interest.

Told about Nassmacher's comments, TransCanada spokesman Terry Cunha said "that's the first I've heard of it," adding that he had not "seen or heard anything from our lawyers about that."

Environmental groups object to the pipeline spurring more oil sands production, an extraction process that requires vast amounts of water and energy. The ExxonMobil incident and two recent spills on TransCanada's existing Keystone line also have amplified opponents' concerns about ruptures along the 1,660-mile-long route.

The State Department announced last month an unexpected new round of public hearings along the project's route. Nassmacher said Wednesday that the agency has not yet scheduled the meetings.

Montana Governor Brian Schweitzer said in an interview Wednesday that ExxonMobil's oil spill should not impede the construction of Keystone XL, and that the recent spill has no bearing on the project.

A supporter of Keystone XL, Schweitzer said he took comfort in two key ways TransCanada's design would dif-

fer from ExxonMobil's Silvertip. Schweitzer, a Democrat, said the Keystone XL pipeline would sit at least 25 feet below the riverbed and have automatic shutoff valves.

"Keystone is a completely differently designed system," he said. "They don't lay that pipeline in the bed of the river the way the Silvertip was. They actually use horizontal boring, and that's actually the kind of technology that all new pipelines are using today ... So there is no physical contact with the water."

"I don't think one ought to confuse what happens with this particular old technology, Silvertip, with what will occur in the future," he added. "Unless people are willing to park their cars and move into a cave and live naked and eat nuts, we're going to continue to produce energy, and that energy needs to be moved to the source of consumption."

As for the cleanup happening along the Yellowstone River, Schweitzer said he gives ExxonMobil an "incomplete" grade, but is pleased with the federal response, led by the Environmental Protection Agency.

### Governor: Boulders to blame

Schweitzer said boulders scouring the bottom of the flooded Yellowstone River likely ripped into ExxonMobil's Silvertip Pipeline, sending as much as 1,000 barrels of crude hundreds of miles downstream.

"If that pipeline's five feet deep down there, it wouldn't surprise me a bit if something hooked onto that thing," he said.

Schweitzer said he has not had a consistent answer from the company about how deep it buried the pipeline. But he suspects its proximity to the water and the recent flooding caused the pipeline to fail.

"Last year they said it was 12 feet deep in the sediment," he said. "Now they're saying it was maybe five to six feet deep. Who knows? I can tell you what the Yellowstone River looks like right now. That is a raging torrent, trees the size of your house, they are floating down that river."

"Underneath, you've got boulders working their way down from the Rocky Mountains, and their full intent is to get to North Dakota," he continued. "By the time they get to North Dakota, they'll be the size of a baseball, but right now they're the size of your car and they're scouring and gouging the bottom of that river."

Schweitzer has said the state would inspect 88 other pipelines that cross major streams and rivers. He said inspectors are asking companies about the pipeline designs, flow rates, products being shipped, what valves they use and documentation of their latest inspections for corrosion.

The governor declined to identify the pipeline operators by name, but said he had received no pushback from the companies.

"It's just due diligence," Schweitzer said. "We'd hate to have another one like this occur, so we want to make sure we are once again reviewing the integrity of those pipelines."

Environmentalists and landowners opposed to Keystone

XL said they think the ExxonMobil oil spill could have strengthened opposition to TransCanada's project.

"You really can't bury it deep enough to not have a serious impact if there is a spill," said Alex Moore of Friends of the Earth.

After the Silvertip incident, "you'll be hearing a lot from environmentalists and agriculture groups" about Keystone XL, Moore said.

### Valve reopened?

Gary Pruessing, president of ExxonMobil Pipeline Company, told reporters Wednesday that the restart of the Silvertip pipeline is weeks away. Pruessing said it took ExxonMobil a total of 49 minutes to finally shut down the pipeline.

The company had earlier said it took 30 minutes. ExxonMobil's response to the oil spill came under criticism by a leading US pipeline safety engineer and government adviser.

According to a regulatory report of the incident, which the Transportation Department released Tuesday, an ExxonMobil worker reopened a pipeline valve after initially closing it.

"It's very, very rare that reopening the valve would help," said Rick Kuprewicz, president of the Accufacts engineering consulting firm and a member of the US Pipeline and Hazardous Materials Safety Administration's technical hazardous liquids pipeline safety committee. "In the vast majority of sites I've investigated, that's junk science."

According to a corrective action order on the incident by the PHMSA, an ExxonMobil worker shut the pumps and valve of the Silvertip Pipeline after the leak was discovered, then reopened the valve 10 minutes later. The worker "finally closed it" 21 minutes later, PHMSA said.

Reopening the valve likely "increased the size of the spill," Kuprewicz said in a phone interview from Accufacts' Redmond, Washington, headquarters.

"I'm not here to judge the operator," Kuprewicz said. "They might have had a procedure where they're supposed to reopen" the valve.

Starting in the 1990s, some pipeline companies began advising their employees to reopen a valve on the incorrect belief that it would divert oil into the line, Kuprewicz said.

"Some members in the industry think that reopening [the valve] will help oil siphon and discharge ... that it would help empty oil in the line, but that's extremely rare," he said.

Kuprewicz advises clients to remove instructions about reopening a valve from operating manuals because "it's setting up your management for a really big hit."

ExxonMobil spokesman Kevin Allexon, commenting on Kuprewicz's remarks, said, "I'm not saying it's right or wrong" to reopen the valve. But "it was done to allow crude oil drain out of the system."

"You've got to take action to close those valves in such a way ... to isolate the crude oil in the system," Allexon said. "All that process takes time. It's not just flipping a switch."

— Meghan Gordon, Leslie Moore Mira

## Repubs nix White House bid to boost inspection fees for oil, gas companies

The Republican-controlled panel that sets the Interior Department's annual budget approved a fiscal 2012 spending bill last week that rejects the Obama administration's proposal to impose new and more expensive inspection fees on oil and natural gas companies.

But in one of the few areas where the GOP-led House Appropriations Subcommittee on Interior, Environment and Related Agencies did provide a funding boost — for Interior's Bureau of Ocean Energy Management, Regulation and Enforcement — a top Obama administration official blasted Republicans for not increasing the agency's budget enough.

The Interior Department spending bill that the subcommittee approved by a party-line vote on Thursday would boost funding for BOEMRE from about \$116 million this year to \$154 million in fiscal 2012. But that would still be \$37 million less than President Barack Obama requested for the agency.

The difference came largely because the Republican spending bill does not include the Obama administration's proposal to raise inspection fees for oil and gas companies by some \$55 million to a total of \$65 million starting in fiscal 2012, which begins on October 1. Of that amount, \$17 million would have come from new fees on drilling rigs, and \$48 million from new and existing fees on fixed structures on the Outer Continental Shelf, according to the agency's budget request.

Republican appropriators also rejected the administration's request to add \$38 million in new inspection fees for onshore oil and gas producers, who are regulated by Interior's Bureau of Land Management.

Still, Representative Hal Rogers of Kentucky, the Republican chairman of the full Appropriations Committee, said the bill "increases funding for the newly formed Bureau of Ocean Energy Management to hire new inspectors and move forward with offshore oil and gas leasing while also improving safety."

But Interior Secretary Ken Salazar, echoing concerns by congressional Democrats, blasted the Republican bill during a conference call with reporters on Wednesday.

"The cuts are significant everywhere," Salazar said.

Salazar took exception to Republican claims that the bill would improve the safety of offshore oil and gas drilling.

"For them to say they have invested in additional resources [to ensure] safe drilling in the nation's oceans is flat wrong," Salazar said. "It is an agency that has been underfunded for three decades while deepwater exploration continued to move forward. It's a disappointing budget."

Overall, the subcommittee's proposed spending plan would provide \$27.5 billion in spending for Interior, the Environmental Protection Agency, the US Forest Service and other related agencies — a full \$3.8 billion below Obama's budget request.

Spencer Pederson, spokesman for Natural Resources Committee Chairman Doc Hastings, a Washington Republican, said new fees are not needed because oil and gas companies already provide enough revenue to fund inspections.

"Those fees don't need to be increased," Pederson said. "The energy companies are already contributing billions of dollars to the treasury."

A spokeswoman for BOEMRE declined to comment on the House bill, or whether the proposed budget would slow permitting and inspections for offshore oil and gas development.

The National Ocean Industries Association, which represents offshore oil and gas companies, was still reviewing the bill last week and declined to directly comment on it, said spokeswoman Nicolette Nye. But Nye said NOIA would accept federal revenues from oil and gas leases going toward ramped-up inspections.

"Our position on increased fees is that the cost of additional inspections could be provided through the bonus bids, rents and royalties in combination with the additional appropriated funds," Nye said. "The oil and gas industry has provided billions of dollars to the federal treasury and would continue to do so, provided permitting and lease sales get back on track."

The Independent Petroleum Association of America opposes new fees, but is afraid BLM and BOEMRE will use budget cuts as an excuse to slow-walk new permits, said spokeswoman Nicole Daigle.

"If BOEMRE and BLM choose to increase development fees to pay for its costs, this will increase the costs of doing business and further reduce producers' capital budgets and plans for future projects," Daigle said in an email. "Rather than increasing fees, the agency should be looking for ways to reduce the bureaucracy and expedite the process to develop America's energy resources."

Washington Representative Norm Dicks, the top Democrat on the full Appropriations Committee, believes the oil and gas industry should pay more in fees, as recommended by the BP oil spill commission, said spokesman Ryan Nickel.

"Ranking Member Dicks agreed with the commission's recommendation and is concerned with the proposed lowering of inspection fees," Nickel said. "He'll be keeping a close eye on the potential impact of this proposal."

Overall, the bill would provide EPA with \$7.1 billion, \$1.5 billion less than the current-year level. It would fund Interior at \$9.9 billion, \$720 million below fiscal 2011.

The bill also includes a host of policy riders that would limit or derail key programs, such as the controversial climate-change regulations that EPA started putting in place earlier this year for oil refineries, power plants and other smokestack industries (*related story, p. 1*).

The full House Appropriations Committee is slated to mark up the Interior/EPA spending bill this Tuesday (July 12).

— Keith Chu

## Warner, Webb buck party with bill allowing oil, gas drilling offshore Va.

Bucking the no-new-drilling approach favored by most members of their own political party, two Senate Democrats introduced a bill last week that would allow oil and natural gas production in federal waters off the coast of Virginia.

The legislation, unveiled Wednesday by Virginia Democratic Senators James Webb and Mark Warner, would require the Interior Department to include an oil and gas lease sale offshore Virginia in its broader Outer Continental Shelf leasing plan for the years 2012 through 2017.

President Barack Obama had called for a Virginia lease sale early last year, but reversed course in April, when BP's deepwater Macondo well in the Gulf of Mexico blew out and triggered the worst maritime oil spill in US history.

In a statement Wednesday, Webb and Warner said they believe drilling can occur offshore their state in a "safe and secure manner."

"Our economy and national security will be strengthened by an 'all-of-the-above' approach to energy, including the expanded production of our own domestic energy resources," Warner said in a news release.

The senators said their goal was not only to reduce US dependence on foreign oil, but also to bring more jobs and revenue to Virginia. Their legislation requires the federal government to make royalty payments to Virginia, asking for 37.5% of the revenue to go toward development in the commonwealth.

But that revenue-sharing provision will likely be a non-starter with New Mexico Senator Jeff Bingaman, who heads a key Senate committee that could keep the Webb-Warner bill bottled up for months without so much as a hearing. Bingaman, the Democratic chairman of the Energy and Natural Resources Committee, has long opposed revenue sharing with states, saying it would deprive the federal government of hundreds of billions of dollars in drilling-related royalties.

Webb and Warner rejected that reasoning Wednesday, saying in their statement that Virginia residents "should benefit from any energy resources that are developed off of our coast."

The senators said their bill would direct half of any leasing revenues to be paid to Virginia to support a range of projects, including land and water conservation efforts, development of clean-energy resources, transportation and other infrastructure improvement projects.

The American Petroleum Institute, a Washington-based industry trade group, lauded the Webb-Warner bill.

"As Congress and the president search for solutions to our nation's budget challenges, Virginia's senators today highlight another important opportunity to provide for economic growth, job creation and energy security while generating billions in additional revenues for the state and federal governments," said Marty Durbin, API's executive vice president for government affairs. "Virginia represents just one of many opportunities that exist to access an enormous amount of energy reserves in the

United States."

Virginia's Republican governor, Bob McDonnell, echoed that view.

"Allowing environmentally-responsible offshore energy development off the coast of Virginia will help move our nation closer to energy independence, while bringing much needed jobs and revenue to the commonwealth," McDonnell said.

The Republican-controlled House passed a bill similar to the Webb-Warner measure earlier this year, over the objections of many Democrats and environmental groups.

— Sarah Smith

---

## RENEWABLE ENERGY

---

### Long a hurdle for oil and gas drilling, sage grouse now threaten wind farms

A proposed 425-MW wind farm on the Idaho-Nevada border is drawing sharp opposition from environmentalists who say the project would mar pristine sage grouse habitat, and that moving forward with the project would require additional protections for the birds under the federal Endangered Species Act.

But the project developer says those fears are likely overblown, pointing to its commitment to extensively research the wind farm's impact and set-aside habitat for the sage grouse, which the Obama administration said last year was qualified to be listed as endangered, but that other species were a higher priority.

The debate — reflected in letters and interviews last week — highlights what both sides acknowledge is a relative lack of knowledge about what happens when wind turbines are built on sage grouse habitat, and the dueling priorities of environmentalists and industry over how to proceed through that uncertainty.

The Interior Department's Bureau of Land Management is considering whether to allow development of the China Mountain Wind Farm, which would consist of some 170 turbines over about 30,700 acres in southern Idaho and northern Nevada. BLM released a draft environmental impact statement in March and accepted comments through last week on that document.

Conservationists say the lack of knowledge should cause development to proceed with an abundance of caution — meaning this particular wind farm should not be built at all. Numerous local and national environmental groups and wildlife departments urged BLM to block the project, and some said an approval would spur the Fish and Wildlife Service to move forward on listing the sage grouse as endangered under the ESA.

"If the BLM goes forward and chooses to give the development alternative the thumbs up, frankly I think the Fish and Wildlife Service will have to look at this particular precedent and say the BLM's missing the boat here, they're going to

continue to do this, we're going to have to list this species," said John Tull, conservation director for the Nevada Wilderness Project.

That view is backed up by comments FWS filed on the draft EIS.

"The proposed project will lead to the loss or fragmentation of high quality habitat that is essential to the survival of one of Idaho's stronghold sage grouse . . . populations," the supervisor of FWS's Idaho field office wrote. "[A]nd it will hasten the decline of the species on a local level and heighten rangewide population level concerns that were the basis for the Service's 2010 finding . . . that determined greater sage-grouse warranted Federal protection."

Wind-energy proponents, meanwhile, said concerns about their industry's effect on sage grouse relies too much on data extrapolated from studies of the oil and gas industry, and that only by proceeding with — and rigorously studying — the wind farm will they be able to get a better picture of how much development the little birds can handle.

"Because of the lack of information that's available, we believe that the best solution is to allow the project to move forward in a manner that ensures that research is done and ensures that there is comprehensive mitigation to allow for a net benefit to the species," said Suzanne Leta Liou, who is overseeing the project for Renewable Energy Systems Americas.

The level of protection federal agencies should offer the sage grouse has been a contentious and controversial issue for years. While it is not formally listed as endangered, FWS' finding that it warrants such protection puts it in a special class where formal policy for how much protection is needed is less clear.

"That is why we are in policy failure right now, because no one has a good answer to that question" of what obligation government agencies and private citizens have to protect the species, said Lara Rozell of the Idaho Conservation League.

FWS hopes to put off a decision on whether to list the sage grouse and several other species until 2015, under a pending lawsuit brought by Wild Earth Guardians in federal court in the District of Columbia. In a separate case, a federal judge in Idaho ruled that the Western Watersheds Project can proceed with a lawsuit seeking to force FWS to list the species.

Various industry groups, including the oil and gas sector, have resisted an endangered listing, arguing that listing the species would create significant roadblocks to energy development in most Western states.

RES Americas subsidiary China Mountain Wind LLC is partnering with NV Energy to develop the Idaho wind project. In their comments to BLM, the project developers point out that the proposed site has among the best wind resources in the region, as well as access to transmission lines. The developers also noted that they already have a contract in place to sell the electricity that the wind farm would generate.

The developers also fault BLM for relying on a "worst-case

analysis" approach that overemphasizes the potential harm to the sage grouse while downplaying the substantial benefit the wind farm would have in reducing greenhouse-gas emissions and sparking economic development in the region. The companies estimate that once the project is complete, reductions in GHGs and other air pollutants would be equivalent to taking 100,000 cars off the road per year.

"I find it a bit unfortunate that the environmental issue that tends to be covered associated with this project is sage grouse, because that's what certain folks in the environmental community bring up," Liou said in an interview last week. "But the other side of it is all of the economic and air pollution benefits, and I think that unfortunately is missed. . . . That is why I am personally in this business, because I care about air pollution and I'm concerned about our long-term global health."

While the environmental groups criticizing the project all say they want to see renewable energy expanded, they fault the China Mountain project for causing unacceptable impacts to sage grouse. If BLM signs off on the wind project, after reviewing comments and finalizing the EIS, representatives of several local groups would likely file administrative appeals and perhaps even a lawsuit.

Among those submitting comments were the National Audubon Society and Defenders of Wildlife — both of which have at times partnered with the wind industry, as they did earlier this year in urging FWS to scale back requirements it included in bird and eagle protection guidance documents (*IE*, 23 May, 11).

The China Mountain project " typifies an application that should not have progressed to this stage in the permitting process — a fact that is illuminated by . . . the irreversible impacts that greater sage grouse and other special status species would suffer were the proposed project to move forward," Audubon and Defenders said in joint comments with the Natural Resources Defense Council.

— Nick Juliano

## Connect to Your Market Through Ours Platts' Readers Circle the Globe

Turn to Platts' newsletters for the most targeted ad buy in the industry. Leverage the power of Platts Gas Daily, Oilgram News, Petrochemical Report, International Coal Report, Energy Economist, and other top-of-the-line energy newsletters.

RFPs • RFQs • Job Listings



**platts**

Reserve your ad space today!

+720-548-5479 or [advertising@platts.com](mailto:advertising@platts.com)

## Rhode Island court rejects challenge to offshore wind farm's power contract

Deepwater Wind, one of three companies in the Northeast seeking to build the nation's first offshore wind farm, has won a key court ruling in a challenge to the 28.8-MW wind farm it wants to build offshore Rhode Island.

The Rhode Island Supreme Court rejected arguments from two manufacturers that National Grid, an electric utility that has agreed to purchase the electricity that Deepwater's Block Island project, will generate, will pay too much for the power.

Toray Plastics and Polytop challenged the Rhode Island Public Utilities Commission's 2010 decision approving National Grid's 20-year deal to buy the power at a beginning price of 24.4 cents/kWh, with a 3.5% annual escalation.

The favorable court decision paves the way for the \$250 million Deepwater Wind project to seek state and federal permits.

In its 75-page decision, the Rhode Island Supreme Court said the PUC acted according to state law when it approved National Grid's power-purchase agreement with Deepwater Wind. But at the same time, the court said it views "with trepidation the General Assembly's unwavering quest to sink this demonstration wind farm into the sediment of Rhode Island's continental shelf."

The case at issue began when the Rhode Island PUC initially rejected the 2009 power-purchase agreement, saying it was not "commercially reasonable." Shortly thereafter, the Rhode Island General Assembly amended state law so the PUC could take into account the economic and environmental benefits the project would bring. State lawmakers also instructed the PUC to reconsider the contract under the new standards. National Grid and Deepwater submitted a revised contract, which the PUC approved last August.

Shortly after, Toray Plastics and Polytop, two Rhode Island manufacturers, challenged the PUC decision before the state's high court.

Mike McElroy, an attorney for the two companies, said he was disappointed with the court's ruling, saying the more expensive power from the offshore wind farm will cost Rhode Island ratepayers some \$400 million.

"This project will create only six permanent jobs, but we believe the huge additional electric costs it will impose, especially on businesses, will significantly discourage growth in [Rhode Island's] sluggish economy which is struggling to overcome a deep recession," McElroy said.

Meanwhile, National Grid issued a statement hailing the decision.

"National Grid is very happy with the decision handed down by the Rhode Island Supreme Court regarding the power purchase agreement," the utility said. "We believe this project is in the best interest of our customers and the state of Rhode Island. We also believe the project is very

important for the development of this environmentally beneficial technology."

Deepwater Wind said the project will have several environmental and economic benefits. Among other things, if built, it will replace power from diesel fuel generators used on Block Island. The developer also expects the project to inject more than \$100 million in economic activity into Rhode Island and create about 200 construction jobs.

Deepwater Wind pegs the project cost at \$250 million, which includes the offshore wind turbines and a transmission line linking them to Block Island and mainland Rhode Island. The developer has invested more than \$10 million in the project so far.

Deepwater Wind plans to begin site preparation in 2012, and hopes to have the Block Island wind farm operating in 2013 or 2014. The project must first secure permits from the Army Corps of Engineers and the Rhode Island Coastal Resources Management Council, according to Meaghan Wims, a company spokeswoman.

Meanwhile, two other offshore wind projects in the Northeastern US are also nearing the finish line: Cape Wind's 420-MW project in Massachusetts, and Fishermen's Energy 24-MW project in New Jersey.

Cape Wind, by far the largest project, has a buyer for half its power and has its permits, but now seeks financing. Cape Wind also must ward off litigation from long-time opponents.

Fishermen's Energy has permits, but needs to secure a revenue stream for its power. The Fishermen's project will be the first under the state's offshore wind energy bill that establishes offshore wind renewable energy credits, which utilities must purchase at an as-yet-to-be-established price.

"The offshore wind industry has momentum," said Jim Lanard, president of the Offshore Wind Development Coalition, a Washington-based trade group. "We are beginning to move in the right direction with projects that are getting closer to being able to be financed and built."

— Lisa Wood

## Sub-sea power cables could harm turtles, other marine life, Interior study finds

Underwater power transmission cables used for offshore renewable-energy projects could hurt the feeding and migratory habits of sharks, turtles and other marine creatures, according to a government study released last week.

Companies that build offshore wind farms and other clean-energy projects on the Outer Continental Shelf will likely use sub-sea power cables to transmit electricity to onshore power grids. These cables emit electromagnetic fields that can be sensed by marine life, potentially affecting their migratory patterns, feeding habits and reproductive success.

Fish and other organisms that live and feed close to the

sea floor would be most affected by the EMFs, and would experience greater impact from direct-current cables than alternating-current ones, according to the two-year study by the Interior Department's Bureau of Ocean Energy Management, Regulation and Enforcement.

BOEMRE's study identified species that are known to use electric or magnetic senses, and looked at how their habitats would be impacted by proposed undersea cables.

The sandbar shark, for instance, is known to occupy shallow coastal waters where it uses an electrosensory system to find its prey and employs a magnetic sense to migrate. This species stands to be strongly affected by the EMFs emitted by sub-sea cables, the study found.

Similarly, bottlenose dolphins orient themselves based on the earth's magnetic fields, and research shows that changes in natural magnetism have been statistically linked to dolphins getting stranded in shallow waters and on beaches. But the study indicates that because the magnetic emissions from undersea cables would have a limited range, dolphins and other highly mobile marine mammals may not be affected.

"Marine mammals have a relatively low likelihood of being affected by power cable EMFs despite being magnetosensitive because their high mobility would limit the duration of exposure," the study said.

But Thursday's study identifies potential ways of mitigating the effects of EMFs, including routing the cables around hatching or migratory sites and armoring the cables to limit their emissions. Additionally, placing the cables close together can allow for magnetic waves to cancel each other out. In the case of loggerhead sea turtles, whose hatchlings might be unable to navigate away from their nest sites, BOEMRE suggests that potential problems could be minimized by situating the cables away from known nesting sites.

Problematically, the study said, available data primarily address how species respond to natural electric and magnetic stimuli, not EMFs produced by man-made cables. BOEMRE stipulated that more research and field-testing are necessary to assess the impacts of sub-sea power transmission.

The conclusions also lack specific data for individual power sites. As renewable-energy sites are developed, BOEMRE recommends identifying more about the characteristics of EMFs from a given cable, the composition of marine life in the area and species' habitat patterns.

— Sarah Smith

## PLATTS POWER IS ON TWITTER

FOR UP-TO-THE-MINUTE POWER  
NEWS AND INFORMATION FROM PLATTS

Follow us on [twitter.com/PlattsPower](https://twitter.com/PlattsPower)



## EMISSIONS

### Ruling could boost fines for utilities, refiners in areas with poor air quality

A federal appeals court earlier this month threw out an Environmental Protection Agency guidance memo outlining alternatives to assessing fees on power plants, oil refineries and other large emitters in areas of the country with excessive ozone pollution, after environmentalists challenged the move.

The US Court of Appeals for the District of Columbia Circuit ruled in *Natural Resources Defense Council v. EPA* that the agency violated procedural law and the Clean Air Act by authorizing alternative compliance mechanisms outside of a formal rulemaking process. At issue are fees the law mandates must be assessed on stationary sources in areas in severe or extreme nonattainment with national ambient air quality standards for ozone, and that EPA through the guidance would have allowed regions to avoid.

EPA declined to say if it would appeal the ruling, which was issued by a unanimous three-judge panel.

"EPA is reviewing the decision to decide on next steps," agency spokeswoman Enesta Jones said last week.

In the meantime, industry is struggling to determine how pollution rules will be enforced moving forward.

"That's the million dollar question, or maybe the million dollar penalty," said Leslie Hulse, assistant general counsel for the American Chemistry Council, which intervened on EPA's behalf to defend the guidance in court.

The court also said EPA would be unable to accept compliance with a weaker national ambient air quality standard, or NAAQS, for ozone as an alternative to compliance with a stricter standard.

The decision limits EPA's flexibility in authorizing state programs to implement the Clean Air Act's requirements, especially in areas that are in "severe" or "extreme" nonattainment of the standard, including Houston, New York, Baton Rouge and much of California.

However, at least one region believes the ruling will not hamper its ability to comply with the law, without assessing fees.

"We believe that it's not going to have a detrimental impact on our continuing to meet the standard," said Sam Atwood, a spokesman for the California South Coast Air Quality Management District, which is in extreme nonattainment with the ozone NAAQS and missed a 2010 deadline to come into compliance with a one-hour ozone standard that has since been suspended.

Atwood said the district earlier this year devised an alternative "fee-equivalent" program aimed at reducing emissions of smog-forming volatile organic compounds and nitrogen oxides from mobile sources, rather than assess-

ing fees on mobile sources. He said that because the court did not rule on the merits of such equivalent programs — vacating the guidance on procedural grounds — the district expected it to ultimately be upheld.

However, Adrian Martinez, of NRDC, said the court's ruling would force areas in extreme or severe nonattainment to revisit their plans. In a post on the organization's blog, Martinez said the ruling "compels regions to engage in the difficult task of revising their failed plans to clean the air."

Industry groups defended EPA's guidance because they said reducing production at sources such as power plants and refineries, which would be subject to the fees, would be the only way to reduce air pollution without alternative compliance mechanisms, because most of those facilities already had best-available pollution controls installed. The fees were added in the Clean Air Act amendments of 1990.

"Twenty-one years later, these major stationary sources for the most part have, through regulations and numerous permitting occurrences, have installed really state-of-the-art control equipment to mitigate air emissions," Hulse said.

At issue in the case were EPA's one-hour ozone NAAQS, which prohibited hourly concentrations of the smog-forming pollution from exceeding 0.12 parts per million.

EPA replaced that standard in 1997 with a stricter, eight-hour standard of 0.08 ppm, but it allowed areas in attainment with the less stringent one-hour standard to avoid assessing fees on stationary sources until the entire US was in attainment with the new standard.

EPA has tried several times to reconcile the Clean Air Act's fee requirements with its stricter eight-hour standards, and several earlier efforts have been overturned in court.

The most recent attempt was the guidance document released in January 2010 allowing regional air directors to authorize alternatives to assessing fees on stationary sources, such as power plants and refineries, as long as the alternatives achieve reductions in ozone pollution.

The guidance document also said a region that missed its deadline to meet the revoked one-hour standard would not have to assess fees, as long as it had in place a plan to achieve compliance with the eight-hour standard.

The guidance was thrown out for violating the Administrative Procedure Act's requirements that binding new regulations be promulgated through a formal notice-and-comment rulemaking process.

The court ruled that allowing compliance with the weaker standard in lieu of the stricter standard violated the Clean Air Act's "anti-backsliding" provisions and would be illegal even if promulgated through a formal rulemaking. However, the court did not rule on the merits of allowing program alternatives to fee collection, finding that to weigh in on that question now would improperly bias any rulemaking process EPA may pursue.

— Nick Juliano

---

## NATIONAL LABORATORIES

---

### DOE still investigating cyber attack against PNNL, other national labs

The Energy Department's Pacific Northwest National Laboratory was still recovering from an attack on its computer systems last week that began over the Fourth of July holiday weekend, which was apparently coordinated with hacker attacks against another lab in Virginia and lab contractor Battelle, a PNNL spokesman said.

The attack began Friday night and involved dozens of lab cyber-security personnel working around the clock to analyze and fix the problem. No classified information was compromised in the attacks, PNNL spokesman Greg Koller said.

"We were being targeted by a highly sophisticated cyber attack, so as a precaution we immediately shut down most of our internal network services, including our internal email, our wireless network, access to the Internet. We also blocked those trying to contact the lab by email, or connect to the lab's web sites," Koller said.

The lab's classified networks contain information stemming for research and development done for the Defense Department, the National Nuclear Security Administration and the Homeland Security Department.

Koller said cyber attacks against PNNL are commonplace, with the bulk of them consisting of spam-type emails that are easily rebuffed.

"The vast majority of these attacks are simple to detect and defend," Koller said, adding that the attack that began over the Fourth of July was "much more sophisticated."

By early Tuesday the lab had restored the internal network, but did not have external email access until Wednesday, according to Koller. The lab was still isolated from the Internet late Thursday.

"Full access will be restored once we are able to thoroughly diagnose what occurred and once we have added security patches that will be able to repel any further attacks," Koller said. The lab anticipated that could be done as early as the close of business on Friday, July 8, he added.

Many of the lab's employees were on vacation last week due to the Fourth of July holiday on Monday, and they will see "minimal" impact from the attack, Koller said.

Lab officials are still trying to determine where the attack originated, according to Tom Reynolds, a DOE spokesman. He added that DOE headquarters in Washington was alerted as soon as the attack began.

"We are monitoring cyber security 24-7," Reynolds said. "When the intrusion was detected, all of our DOE labs and sites, as well as other government agencies, were notified of the problem."

Koller declined to say if there were indications the attack

had any connection to a massive cyber attack on Oak Ridge National Laboratory in Tennessee in April, which shut down computer systems there for days.

Attackers also targeted DOE's Thomas Jefferson National Accelerator Facility in Virginia over the weekend, as well as the headquarters of Battelle, a management and operations contractor that manages PNNL and is involved in managing five other DOE labs, including Oak Ridge National Laboratory.

At Jefferson lab, technicians took down the facility's website as a precaution, but did not disable email service, according to lab spokesman Dean Golembeski. The lab is not involved in any classified work.

The lab does primarily does fundamental research into the basic building blocks of matter, such as quarks and gluons, among other things, using a powerful electron beam accelerator. The accelerator is currently undergoing upgrades, so no experiments were underway during the cyber attack, Golembeski said.

Battelle's computer systems, which are separate from the systems PNNL maintains, were attacked July 1, and workers there shut down Internet and email connections as a precaution against intrusion until early Tuesday, according to Katy Delaney, a company spokeswoman.

"There was not loss of critical data here at Battelle," Delaney said. Apart from managing and operating national laboratories, Battelle also does research for the Defense and Homeland Security departments.

While Oak Ridge, PNNL, Jefferson lab and Battelle said they were able to protect their data, cyber security remains an ongoing issue for DOE. Every year since 2005, DOE's inspector general has identified cyber security as a major management challenge.

In its most recent report outlining management issues at DOE, in December, IG Gregory Friedman said that despite the countermeasures developed by the agency, the threat is constantly evolving.

"Given the importance and sensitivity of the department's activities, along with the vast array of data it processes and maintains, cyber security has become a crucial aspect of the department's overall security posture," Friedman said. "Adversaries routinely attempt to compromise the information technology assets of the department."

— *Derek Sands*

## Los Alamos reopens after huge wildfire with no evidence of 'serious damage'

The Energy Department's Los Alamos National Laboratory in New Mexico is up and running again, after having been shuttered for a week by the largest wildfire in the state's history. And so far, the only casualty appears to be a research facility that lost power when a squirrel scurry-

ing across a transformer sparked a separate small fire on the lab grounds.

The Las Conchas wildfire, which scorched about 137,000 acres in the Land of Enchantment, led to the evacuation of LANL and the adjacent town of Los Alamos two weeks ago. It threatened the lab for five days, with intense fires burning along the southern and western boundary of the lab site and hopping the border to start a one-acre spot fire on June 27, which was quickly put out.

By Saturday, July 2, however, lab officials had begun planning to reopen, with the fire moving to the north of the 26,000-acre laboratory. The next day Los Alamos County officials reopened the town.

"Los Alamos National Laboratory appears to have escaped serious damage from the Las Conchas fire," LANL Director Charles McMillan said in a memo to staff on Sunday. "As we begin preparations to re-open the laboratory, we must remain cognizant of the fact that many members of our workforce may still be affected by this emergency while the Las Conchas fire continues to threaten other communities in the region."

Employees began returning to the lab on Wednesday, even as crews worked to restore power to the Los Alamos Neutron Science Center Facility, which was hobbled by the squirrel-caused power outages since Saturday.

Lab officials inspected the 2,000 buildings at the site in preparation for workers to come back, and McMillan told employees to return to work with an attitude of "flexibility and tolerance," and that it may take several days to get all facilities up and running.

"You should not necessarily expect a fully operational LANL during your first days back to work," he said. "Some of our systems will require several days to be fully operational."

While the lab is still assessing the cost of the closure and how work there will be affected by the fire closure, they are not "seeing any serious issues with schedule and delivery on our commitments," LANL spokesman Kevin Roark said Thursday.

"We're finding that many teams and programs were actually able to continue work remotely during the fire. Others are getting back on line very quickly," Roark said. "We will see some schedule delays with our largest supercomputers, Roadrunner and Cielo, but those should be back on line soon."

Given the extremely dry conditions, some work there may still be delayed.

"Fire conditions around the Laboratory are still considered extreme, so we're being very conservative in evaluating any activity that could potentially start a fire — such as high explosives research," Roark said.

LANL is one of DOE's three national laboratories that develop nuclear weapons for the federal government, and is home to stores of US plutonium, as well as supercomputers

and other unique scientific apparatus worth hundred of millions of dollars.

The lab is also home to thousands of steel drums containing solvents, chemicals and waste contaminated with plutonium. The 55-gallon drums are stored above ground in an eastern part of the site called Area G, which the lab said was free of trees and brush, making a fire there unlikely.

In the wake of the wildfire, LANL's nuclear and hazardous material is all "safe, protected and accounted for," and had not been under direct threat at any time during the fire, the lab said.

McMillan attributed the lab's safety during the fire to improvements made since the May 2000 Cerro Grande fire, which burned 48,000 acres. That fire destroyed about 40 buildings on the lab's grounds, and caused about \$1 billion in damages to LANL and the surrounding community.

Since Cerro Grande fire 11 years ago, the lab has increased the size and number of fire breaks and roads across the site, thinned brush and trees, built an emergency command center and bought new fire engines and other fire-fighting equipment.

New Mexico fire investigators said Sunday the Las Conchas wildfire began after an aspen tree fell on a power line southwest of the laboratory.

In addition to the Las Conchas fire, LANL said a squirrel started a small fire at the site after touching contacts in a substation transformer at the Los Alamos Neutron Science Center Facility, or LANSCE. The squirrel died instantly, and the resulting one-acre fire was quickly extinguished, the lab said.

LANSCE is a power particle accelerator used for a wide array of experiments, including examining materials used in nuclear weapons and advanced energy technologies. Lab workers were able to reroute partial power to LANSCE to protect some systems there while they work to make repairs.

— *Derek Sands*

---

## INSIDE DOE

---

### Wary of another spending impasse, DOE crafts new shutdown procedures

With memories still fresh of the recent congressional spending battle that nearly forced the federal government to shut down, the Energy Department has crafted a new draft policy it would implement should Congress get mired in another budget stalemate and fails to pass a spending bill.

The draft, dated June 16, states that in the event of a shutdown, DOE would continue to operate for as long as possible using left-over money from previous years' budgets. But the policy says that if a shutdown lasts for a prolonged length of time, employees whose jobs are deemed "non-

essential" to safeguarding human safety and property would be subject to furloughs.

"Under [a shutdown], each organization must carefully manage the funds available to ensure that only mandatory requirements are funded until an appropriation or continuing resolution is passed," the draft policy says. "Payroll and related fixed costs must be given the highest priority."

The proposed policy dovetails with the more detailed instructions that Energy Secretary Steven Chu outlined in a memo to DOE employees this spring, as Congress neared an April 8 shutdown deadline. Lawmakers eventually brokered a deal at the 11th hour that kept the government operating for the remainder of fiscal 2011.

In anticipation of a shutdown, Chu's memo stated DOE would be able to avoid immediate furloughs by using its left-over funds, but he also cautioned that all but 926 of DOE's 15,085 federal employees could eventually be ordered to stop working, if those funds ran out.

A DOE official, who declined to be identified, said the agency would not comment specifically on the new draft policy, but added that "we don't expect that the updates would change the substance of the April memo."

Though the federal government's fiscal 2010 ended in September, Democrats and Republicans in Congress could not agree on a 2011 budget, choosing instead to pass a series of short-term "continuing resolutions" that extended the 2010 budget for weeks at a time to allow more time to negotiate a full-year deal.

A government shutdown loomed each time a CR neared expiration, and though Congress each time beat the deadline to pass another and keep the government open, the midnight April 8 deadline came closest to being missed.

Most of DOE's funding goes to contractors to run the national labs, nuclear waste cleanup sites, nuclear weapons facilities and other programs. DOE's new draft guidance, which only applies to federal employees and not to contractors, instructs program administrators to identify which of their employees should be "excepted" from potential furloughs, if another shutdown threat were to occur.

Excepted employees are those deemed to have emergency functions that include protection of federal property, emergency and disaster assistance, power production and maintenance of the power distribution system and protection of research property. According to Chu's April memo, excepted employees would include 140 military and law-enforcement employees, as well as people affiliated with DOE's nuclear weapons programs and Cold War-era cleanup sites, which contain tanks of high-level radioactive waste.

DOE's National Nuclear Security Administration, which is responsible for overseeing the US nuclear weapons complex, counts 132 federal employees at its Washington headquarters and another 208 feds at NNSA sites as excepted employees, Chu's memo said.

"The heads of department elements with the concurrence

of the general counsel ... will determine which functions are to be continued," DOE's draft plan states. "The chief human capital officer and the general counsel will jointly make the final decision on what personnel are to be excepted from furlough. Appeals of all decisions on excepted personnel will be taken to the deputy secretary or secretary."

Once a shutdown commences, employees would be instructed to cancel meetings, hearings and other official business, prepare files for permanent storage and taking any other steps necessary to ensure an orderly cessation of work, the draft states.

After non-excepted personnel are furloughed, the remaining skeleton staff would be prohibited from awarding grants, contracts, cooperative agreements and purchases, and workers also would not be able to travel or attend training classes, conferences and seminars. In short, all activities that could incur financial obligations by the department would be forbidden.

"If no unobligated amounts from unexpired prior-year appropriations exist, DOE may only incur obligations ... for activities involving the safety of human life or the protection of property," the draft plan states.

DOE did not say when it will finalize the draft shutdown policy.

— *Herman Wang*

---

## ENVIRONMENTAL MANAGEMENT

---

### Chu will act on Hanford recommendations as board rejects DOE's records request

Weeks after being dressed down by a federal oversight panel over safety-related issues at a major nuclear-waste project at the Hanford Site in Washington state, Energy Secretary Steven Chu said DOE would adopt a wide array of the panel's recommendations for improving safety there.

But notably, the move comes despite continued insistence by Chu and other senior DOE officials that the safety culture there is up to snuff.

In a recent letter to the Defense Nuclear Facilities Safety Board, Chu said DOE could not "accept the allegations" about supposed safety problems at Hanford's \$12 billion waste-treatment plant without looking DNFSB's full investigative record.

Nevertheless, Chu said DOE would adopt many of the board's recommendations, as well as cooperate with a continuing whistleblower investigation involving Walter Tamosaitis, an engineer at the site.

"In the spirit of continual improvement, DOE accepts the board's recommendations to assert federal control to direct, track, and validate corrective actions to strengthen the safety culture at WTP; conduct an extent of condition review to assess safety culture issues beyond the WTP proj-

ect; and support the ongoing Department of Labor review of Dr. Tamosaitis' case," Chu wrote in his July 30 letter.

In a June report, the independent DNSFB concluded that DOE and the contractors it is paying to build the Waste Treatment and Immobilization Plant, or WTP, have failed to implement an effective safety review process at the Cold War-era nuclear weapons facility.

The WTP is a massive group of facilities being built near Richland, Washington, by DOE contractors URS and Bechtel National. The project is aimed at converting 56 million gallons of radioactive waste now housed in aging, leak-prone tanks to glass-like logs that can be disposed of more safely.

The board's report came after an 11-month investigation that stemmed from allegations by Tamosaitis, who worked for contractor URS at the site, and who said in 2010 that he was yanked from his job in retaliation for pointing out safety hazards.

That removal chilled internal debate over decisions that could result in safety concerns, according to DNFSB, and has led to an investigation by the Labor Department, which investigates whistleblower retaliation complaints.

DOE on June 22 requested access to all of the board's investigation records, saying access to the records are needed to fully respond the allegations.

"The board's investigative record or other supporting information will allow us to provide further details on specific discrepancies between our finds and the board's and will be of great use in defining the structure and scope of follow-up safety culture improvement initiatives and actions," Chu said.

But Peter Winokur, DNFSB's chairman, said the board's investigations have always been confidential, and it declined to share the information DOE is seeking.

"Since the board began operation, confidentiality of communications from concerned employees or the public, coupled with expert technical integrity has served both the board and DOE to ensure adequate protection of public health and safety and appropriate resolution of public health and safety concerns," Winokur wrote to DOE in a response released on Tuesday.

Instead, Winokur pointed DOE to a review by the department's own Office of Health, Safety and Security, and an investigation by the department's general counsel's office, which looked at the same issues, as well as three internal safety-culture investigations by the site's contractors.

Since the board's original report in June, DOE has maintained that the project has a strong safety culture "framework," and that no DOE employees or contractors acted inappropriately. Deputy Secretary Daniel Poneman, who is heading DOE's response to the board's report, said days after it was released that it was flawed, and that the department would disprove the incorrect information.

The letter from Chu disputed the board's findings that a contract employee suppressed a technical report whose con-

clusions management disagreed with, as well as the board's conclusions that some employees working on the project feared retaliation for raising safety concerns, or that there was a loss of confidence in management support at the site.

While DOE and DNFSB continued to squabble over

### Cleanup office to report to NNSA chief as Triay steps down

Energy Secretary Steven Chu announced a major organizational shakeup last week, saying the Energy Department office responsible for cleaning up Cold War-era nuclear weapons sites will report to the head of DOE's semi-independent National Nuclear Security Administration.

The shakeup, announced Friday, came after Inés Triay, DOE's assistant secretary for environmental management, informed Chu that she was stepping down from her presidentially appointed post and returning to federal service because of her father's poor health.

"Inés has informed me that over the Fourth of July holiday, because of her father's poor health, she made the decision to return to the Career Senior Executive Service in the Department," Chu wrote in an email to DOE employees. "Throughout this transition and in the years to come, Inés will continue to contribute her wisdom and expertise to the Department and its mission. We are grateful for her continued service."

DOE's Office of Environmental Management does billions of dollars in work every year cleaning up nuclear waste, but has attracted continued criticism from Congress, the Government Accountability Office and the department's own inspector general for its long record of poor project management, with some projects billions of dollars over budget and decades behind schedule.

Under Chu's reorganizational plan, EM — as well as the Office of Legacy Management and the Office of the Chief of Nuclear Safety — will report directly to Thomas D'Agostino, DOE's under secretary for nuclear security.

"This reorganization will capitalize on the expertise that exists throughout the department on project management, nuclear materials and waste, and nuclear safety and security," Chu wrote in his email.

In addition to serving as DOE's under secretary for nuclear security, D'Agostino is also the administrator of NNSA, which oversees the US nuclear weapons complex. But a DOE spokesman emphasized that EM, Legacy Management and the nuclear safety office will not formally fall under NNSA authority.

In his email, Chu said the reorganization will allow DOE "to leverage knowledge and skill sets between the offices dealing with nuclear materials and disposition."

"We would also be able to create additional synergies between our national laboratories and EM sites, and assure that we are effectively applying the lessons learned across all of our projects," Chu wrote.

Chu praised Triay's "unparalleled" work helming the EM office while it spent \$6 billion in funds under the 2009 American Recovery and Reinvestment Act. Chu said EM has made significant progress on Triay's watch, and is on track to reduce the total footprint at sites the office oversees by 63% by the end of 2011.

"At this point, 95% of the EM capital asset projects are on track for both cost and schedule," he said.

But problems persist. Last month, for example, the Defense Nuclear Facilities Safety Board criticized DOE and the contractor of the Hanford Site in Washington state for failing to fix a flawed safety culture. DOE has said the safety culture there is sound, but Chu also moved last week to implement a number of recommendations from the board aimed at improving that culture (*related story, this page*).

— Derek Sands

investigation records, Chu said in his letter to the board that the department and the contractors have already implemented a variety of measures to improve safety culture at WTP, and that department has plans to specifically address the board's recommendations.

Among the actions going forward, Chu said he and Poneman would be personally involved with tracking "corrective actions" to improve safety culture at WTP. In addition, DOE and the contractor intend to have additional safety training for their managers at the site and perform an independent executive-level assessment of the nuclear safety culture at the project.

Across the DOE cleanup complex, which includes 21 sites in 13 states, DOE also intends to hold a series of town-hall meetings to improve communication between managers and employees, and the agency's HSS will independently review the safety culture at the sites, as well as at headquarters, Chu said.

— Derek Sands

## Republicans add energy-related riders to Interior/EPA spending bill ... from page 1

Obama's budget request. Overall, the bill would provide EPA with \$7.1 billion, \$1.5 billion less than the current-year level, and fund Interior at \$9.9 billion, \$720 million below fiscal 2011.

While the House subcommittee meeting didn't modify the spending bill, it produced plenty of partisan sniping over provisions that would that would derail EPA's climate regulations and prohibit Interior from protecting additional animals under the Endangered Species Act, among other things.

Representative James Moran of Virginia, the subcommittee's ranking Democrat, said he counted 26 "legislative riders and funding limitations" that would weaken environmental reviews for energy development, agriculture and other industries.

"It is a dump truck of provisions for corporate interests," Moran said at Thursday's markup.

Moran said Democrats were holding their fire until this week's full committee markup, at which he predicted his colleagues would introduce a sweeping amendment to strip all of the legislative riders from the bill as well as individual amendments targeting particular provisions, although he declined to provide more specifics.

"I want to talk with the leadership and members of the committee before telling you what our strategy and process is going to be," Moran told reporters. "I expect it's going to be a drawn-out markup. This is a political vehicle much more than it is an appropriations bill."

But Simpson defended attaching the provisions to must-pass spending bills as the only avenue to rein in agencies Republicans see as out of control, especially EPA, when control of Congress is split between the parties. And he said even the riders that were included don't cover every request

from a member to target EPA.

Simpson predicted that among the myriad amendments to be offered in committee or on the floor would be measures to block the so-called “maximum achievable control technology,” or MACT, rules that EPA is writing for electric utilities and industrial boilers to control toxic air pollution.

Simpson said language blocking the utility and boiler MACTs was not included in the underlying spending bill because the House Energy and Commerce Committee was pursuing stand-alone legislation aimed at blocking those rules.

“We didn’t do anything in this bill that we didn’t have the OK of the authorizing committees on,” he told reporters after the markup. “Some things were left out because the authorizing committees said that might screw up what we’re trying to do in our committee.”

### Flap over ESA listings

During the markup, Simpson also defended his decision to prohibit funding for Interior’s Fish and Wildlife Service to list new species as threatened or endangered under the ESA, or to designate additional critical habitat for those species.

Democrats and environmental groups slammed the move, but Simpson said it was intended to spur congressional action to reauthorize the landmark environmental law.

Simpson noted that since the ESA became law in 1973, more than 2,000 species have been listed as threatened or endangered, but just 21 have recovered to the point they could be removed from the list. And he noted that the ESA has not been reauthorized for two decades.

“The authorization for that funding expired 20 years ago,” Simpson said. Cutting the funding was designed to “put pressure on all parties to come to the table” and work on an ESA reauthorization bill in the House Natural Resources Committee.

The provision sparked intense debate between top Democrats and Republicans on the subcommittee.

Moran dismissed Simpson’s concern about the ESA’s expired authorization, pointing out that many of the programs and departments funded have seen their authorization lapse, including the Bureau of Land Management, which is responsible for issuing onshore oil and gas leases.

“You’re masking what is really an ideological agenda,” Moran said, a charge Simpson disputed.

The ESA requires developers of energy or other projects in areas where threatened or endangered species are present to set aside habitat or take other steps to minimize or eliminate the impact on species.

EPA’s climate-change rules would suffer one of the biggest hits under the bill, which would block promulgation of new regulation of GHG emissions from stationary sources and declare that existing permitting requirements related to GHGs have “no legal effect.”

In addition, the bill would block several other rules that would impact utilities and oil companies, including EPA’s potential regulation of coal ash as a hazardous waste, and its new

Clean Water Act rule governing power plant cooling water intake systems. And the bill would limit EPA oversight of air permits for oil and natural gas drilling on the Outer Continental Shelf.

Mining interests also saw their priorities addressed in the Republican spending bill, which would prevent the Office of Surface Mining from finalizing a rewrite of the so-called “stream buffer zone” rule. The measure would also prevent EPA from imposing strict requirements on mountaintop-removal mining operations, block EPA from redefining which streams and wetlands are regulated by the Clean Water Act, and would prevent Interior from declaring more than 1 million acres near the Grand Canyon off limits to new mining claims.

The bill also addresses the continuing showdown between EPA and Texas environmental regulators over the state’s air permitting program by preventing EPA from taking any action “to disapprove or prevent implementation of any flexible air permitting program under which emissions from multiple sources may be combined for purposes of determining compliance with an emissions limitation,” an apparent reference to the Texas program.

Other limitations on environmental programs in the spending bill include a ban on new stormwater regulations for construction sites and forestry roads and a provision blocking the reporting of GHG emissions from livestock.

### Success this time around?

Many of the riders included in the bill rehash amendments that Republicans unsuccessfully tried to attach to a fiscal 2011 spending bill that Congress belatedly passed in April, after months of contentious negotiations that nearly resulted in a government shutdown (*IE*, 11 April, 1). The dozen or so environmental riders attached to that bill, H.R. 1, remained a key sticking point throughout the negotiations.

In the end Republicans conceded on most, but secured amendments de-listing the gray wolf as endangered in two states and ending Interior Secretary Ken Salazar’s “wild lands” policy, which Republicans charged would block energy and other development in some areas.

Simpson said he was “surprised” the wolf rider made it through to the final fiscal 2011 continuing resolution, suggesting that House Republicans were loading down the fiscal 2012 spending measure with a similar endgame in mind.

“The reality is I don’t know how this bill will end up,” Simpson said. “What I can do is what the House wants to do. ... I’m certain that there won’t be things that survive all the way to the end, and there will be things that will survive.”

Moran was less optimistic about his party’s chances to protect all of the administration’s priorities.

“My fear and my guess is that we’re not going to be as successful in eliminating all of the riders this time around,” he told reporters. But, he added, “I wouldn’t be at all surprised if it doesn’t all result in a long-term [continuing resolution].”

Senate appropriators have not yet released a companion Interior/EPA spending bill, nor a schedule for when the bill

would be considered. But a spokesman for Senator Jack Reed, who chairs the relevant subcommittee, says the House version already is dead-on-arrival in the other side of the Capitol.

“The House Interior appropriations bill would kill jobs and gut clean air and water laws. It has zero chance of passing the Senate,” Reed spokesman Chip Unruh said via email. “That is why Senator Reed will develop a more practical approach that puts public health and the health of our economy ahead of partisanship.”

— *Nick Juliano*

## Another firm may spurn a proffered DOE loan guarantee ... from page 1

Barack Obama’s top advisers, including Carol Browner, who at the time was the Obama’s chief energy and climate-change adviser. In their memo to the president, they recommended limiting OMB’s role in the loan guarantee vetting process, complaining that the agency has taken too long in its reviews.

“The Department of Energy supports a process that would limit OMB and Treasury [Department] review,” the memo states. The White House said at the time that the memo was simply

part of an internal debate within the administration on how best to make the loan guarantee application process more efficient.

Feinstein, of Lux Research, said the loan-guarantee program serves as a sort of “last resort” for companies who have failed to find private financing, but a loan guarantee can sometimes dampen prospects for financing even further, if the conditions attached are too restrictive.

“There’s a dynamic between government and the private sector that doesn’t necessarily want its money to be invested in projects where there are conditions set,” Feinstein said. “Companies are saying that if we have a loan guarantee, we might not necessarily be able to bring in private investment in some way.”

As for the Calisolar loan guarantee, Howes said he suspects the company may still be in discussions with DOE to close on the loan guarantee, despite its decision not to move forward with the Ohio plant.

“With Calisolar, it’s too early to call this the conclusion,” he said. “There are several variables involved at this stage. It just depends on if the parties can get themselves organized. Many of these deals have become public and political.”

— *Herman Wang*