

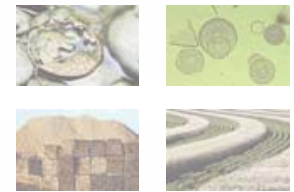


# **The Federal Debate on Climate Change**

**Tim Profeta**

**August 24, 2005**

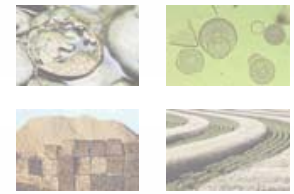




# Federal Debate – State of Play

- All of the action is in the U.S. Senate
- The G-8 confirmed that nothing has changed on behalf of the Administration
- The House is only beginning to educate itself on the topic
- Litigation efforts have moved the ball, but are still waiting for a breakthrough
- The U.S. Senate debate has matured over the past 5 years to the point that a majority of Senators want a program, but don't know the right recipe.



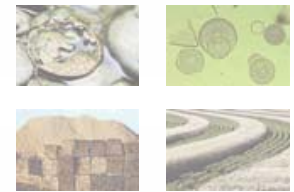


# Senate Activity: McCain/Lieberman

**The most advanced proposal is Senator McCain and Lieberman's Climate Stewardship Act**

- **Economy-wide Cap-and-Trade that limits emissions to 2000 levels by 2010**
- **“Hybrid” approach that caps point-source emissions “downstream” at smokestacks and transportation emissions “upstream” at the oil refinery**
- **Drew support of 44 Senators in October 2003, 38 Senators in June 2005**
- **Decrease in support because:**
  - **Loss of 2 votes in 2004 elections**
  - **Failed effort on nuclear power incentives lost 4 votes from anti-nuclear lobby**
- **McCain and Lieberman redoubling efforts**



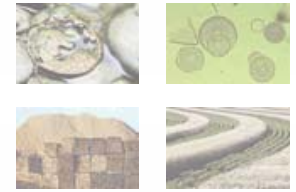


# Senate Activity: National Commission on Energy Policy

**2004 report of the Hewlett-backed, bipartisan commission recommended mandatory cap-and-trade**

- **Codification of the Bush Administration voluntary targets as mandatory program, allowing about a 14% increase in emissions over the next decade.**
- **Purely “upstream,” with obligation on fossil fuel providers.**
- **A “safety valve” would allow regulated entities to buy their way out of obligation at \$7/ton of Carbon.**
- **Created some interest, but “upstream” approach and weakness of cap prevented consensus.**
- **Not offered for vote in June 2005.**



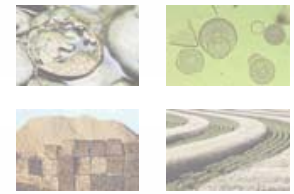


# Senate Activity: Bingaman/Domenici Resolution

**Failure of McCain/Lieberman and NCEP to pass left a need to demonstrate progress**

- **New Mexico Senators supported a resolution calling for a mandatory program of greenhouse gas reductions.**
- **Intended to slow, stop and reverse emissions and not damage the U.S. economy Committee has started a series of hearings and informal consultations to develop**
- **Resolution received the support of 53 Senators**
- **Energy legislation that comports with the intent of the resolution.**





# Litigation: Massachusetts v. EPA

Decision appears to establish EPA's authority to regulate greenhouse gases as pollutants

- Judge Randolph upheld EPA's decision not to regulate on the basis of Administrator discretion, not a lack of statutory authority.
- When a future Administrator determines that greenhouse gases “may reasonably be anticipated” to adversely affect the weather and climate, he or she should have the power to regulate based on Mass v. EPA.
- Opinion also evinces great deference to the National Research Council's statement of the science



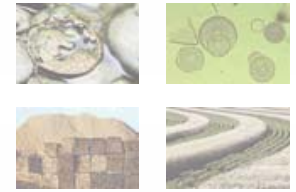


# Litigation: Yesterday's Ruling in San Francisco

Allowed lawsuit by Boulder, CO, Oakland, CA and two other CA cities to go forward alleging damage from federal support for climate change

- Alleged funding by Export/Import Bank and OPIC led to increased greenhouse gas emissions
- Judge stated: the evidence "is sufficient to demonstrate it is reasonably probable that emissions from projects supported by [the two agencies] will threaten plaintiffs' concrete interests"

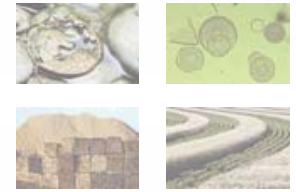




# Analytical Construct: Political Factors Affecting Climate Policy

- Delaying Factors
  - Institutional resistance to change
  - complexity of issue
- Forcing factors
  - Inevitability of need for policy response
  - Opportunities in the change

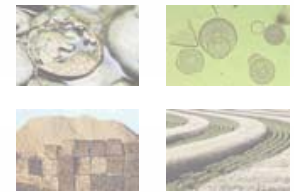




# The Delaying Factors are beginning to yield to the Forcing Factors

- Institutional resistance is becoming less monolithic
  - As more companies look to take the opportunities, there is less unanimity
- Institutional resistance is losing its greatest political force
  - A recent conversation with a VP at a Fortune 100 Corporation: “As we go further into the second term, you can see the White House’s foot come off of industry’s neck.”

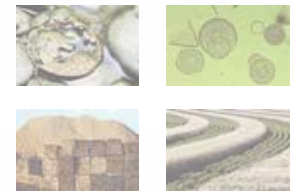




# The Delaying Factors are beginning to yield to the Forcing Factors (Cont'd)

- The barriers of complexity are beginning to yield – the American public believes.
  - May be due to tangible, observable consequences
- The inevitability of the policy response is forcing industry to ask for business certainty.
- Opportunities are becoming evident for new political actors
  - Agricultural sequestration
  - GE's Ecomagination





# State actions are essential apart from federal progress or paralysis

- Action by the States are extremely significant in their own regard in the effort to avoid the worst of global warming.
- Although inevitable, the effects of greenhouse gas programs will be better the sooner we begin – states should reposition their economies now.
- The economic opportunities inherent in the change will come to those who act.
- Our federal system will inevitably create large state roles in implementing a program, for which states should begin to prepare.
- State experiences will provide the precedent for the systems of the future.
  - over 200 separate types of policy actions related to energy and climate policy in the last few years across all economic sectors and policy approaches.





# Thank you.

Tim Profeta

Director, Nicholas Institute

919/613-8709

[Tim.Profeta@duke.edu](mailto:Tim.Profeta@duke.edu)

[www.nicholas.duke.edu/institute](http://www.nicholas.duke.edu/institute)

