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Obama's Green Team 2.0 Implications for Canadian Energy and Environmental Policy

by Kenneth P. Green and Elizabeth DeMeo

Main conclusions

- Barack Obama's second-term "Green Team" (the cabinet officials and agency leaders who will set energy and environmental policy) are nearly all in place: John Kerry (Secretary of State), Sally Jewell (Secretary of the Interior), Ernest Moniz (Secretary of Energy), and Gina McCarthy (Administrator of the EPA, still to be confirmed). They are enthusiastic about taking action on energy and environmental policy.
- Obama's choices have significant implications for Canada. Because the US consumes virtually all of Canada's energy exports, changes to US policy could either facilitate or hinder Canada's energy export ambitions.
- Because of the tradition of harmonizing US and Canadian environmental policies, the positions of the Green Team members on three core issues (climate change, green energy, and "fracking") will likely have direct impact on Canada.
- Should the US move ahead on highly restrictive environmental regulations, Canada's energy producers could find themselves facing new hurdles, as Canada has a policy of harmonizing environmental regulations with the US through NAFTA.
- However, an even bigger risk to Canada's energy exports to the US could result from the recent massive boom in US oil and gas production because the US will have less appetite for Canadian oil. In fact, environmental groups are already using the energy self-sufficiency argument to campaign against increasing Canadian access to US markets via the Keystone XL pipeline.

The four leaders of Barack Obama's second-term "Green Team" (the cabinet officials and agency leaders who will set energy and environmental policy) are nearly all in place: John Kerry has been confirmed as Secretary of State, Sally Jewell has been confirmed as Secretary of the Interior, and Ernest Moniz has been confirmed as Secretary of Energy. Only the confirmation of Gina McCarthy remains in play. The members of Green Team 2.0 are clearly intelligent, experienced and enthusiastic about taking action on energy and environmental policy.

President Obama's second-term choices for Secretary of State, Secretary of the Interior, Administrator of the EPA, and Secretary of Energy carry significant implications for Canada, where the federal and several provincial governments are currently promoting Canada's energy export goals (EPIC, 2012: 11). With the United States consuming virtually all of Canada's energy exports, changes to US policy could either facilitate or hinder Canada's energy export ambitions.

On the negative side of the ledger, should the US move ahead on highly restrictive environmental regulations, Canada's energy producers could find themselves facing new hurdles, as Canada has a policy of harmonizing environmental regulations with the US through NAFTA, the North American Free Trade Agreement (Canada, Department of Foreign Affairs and International Trade, 1994). This is a lesser known element of NAFTA that was discussed

in more depth in an essay written for the Fraser Institute by Chris Horner, an environmental policy analyst at the Competitive Enterprise Institute:

With the United States consuming virtually all of Canada's energy exports, changes to US policy could either facilitate or hinder Canada's energy export ambitions.

The primary implications for Canada rest on the fact that Canada has long held a policy of harmonizing environmental regulations with those of the United States, at least the major ones such as National Ambient Air Quality standards. Part of this is due to the North American Free Trade Agreement which urges harmonization of rules as they tighten, but not if they loosen (Bedros, 2009). If the US is particularly aggressive in tightening such environmental standards at high cost, Canadians could soon see their own economy affected through the harmonization process. (Horner, 2012)

Horner lists some of the components of what he terms a "regulatory cliff" that the US is poised to encounter:

Among other expensive EPA regulations expected in 2013 and listed in a report by Senator James Inhofe of Oklahoma are: regulation declaring coal ash to be a hazardous substance, "Tier III gas regulations" reducing the sulfur content in gasoline from 30 parts per million to 10 ppm (US Senate Committee on Environment and Public Works, 2012). In late December, the EPA finally issued two delayed regulations, National Emission Standard for Hazardous Air Pollutants for industrial, commercial, and institutional boilers and for cement kilns. These are widely expected to force the shutdown of massive numbers of boilers and dramatically increase the cost of producing cement domestically. (Horner, 2012)

But a bigger risk to Canada's energy export ambitions could be the result of a non-regulatory, even non-governmental activity: the massive boom in US oil and gas production that has revolutionized energy

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markets in recent years. As one of us (Green) noted in an essay in the same series as Horner's, the first Obama Administration was relatively ineffective at stifling the boom in US hydrocarbon production, which happened mainly on privately owned and state-controlled lands (Institute for Energy Research, 2012). The continuation of that boom may be the greatest threat to Canada's energy export ambitions. The US Energy Information Agency recently predicted that the US will be a net exporter of natural gas by 2016, and a net oil exporting country by 2035 (U.S. Energy Information Administration, 2013).

If the EIA's prediction is accurate, that means a US market with less appetite for Canadian oil, and the EIA's predictions are already being used by environmental groups to campaign against increasing Canadian access to US markets via the Keystone XL pipeline. As *USA Today* reports, "Daniel J. Weiss of the Center for American Progress, a think tank opposed to Keystone, says the report shows that the US does not need the pipeline for its energy security. 'This is a very cautious projection, and even it says we'll be more energy independent,' he says" (Koch, 2012).

In this essay, we will examine the histories of each member of the team, with particular attention to their positions on three core issues: climate change, green energy, and natural gas/ hydraulic fracturing ("fracking"). Because of a tradition of harmonizing US and Canadian environmental policies, actions on these particular files would likely have direct impact on Canada.

John Kerry: Secretary of State

"No senator since Al Gore knows as much about the science and diplomacy of climate change as Kerry. He would not only put climate change in the top five issues he raises with every country, but he would probably rethink our entire diplomatic approach to the issue."

—David Goldwyn, international energy consultant and President Bill Clinton's special envoy and coordinator for international energy affairs (Davenport, 2012)

During his 28 years in the Senate, John Kerry has made clear his belief that government legislation is the proper response to global climate change. In 2001, he introduced the Global Climate Change Act, designed to expedite government action on global warming (Center for Climate and Energy Solutions, undated). He and his wife coauthored a book on environmentalism in 2008 (*This Moment on Earth*); in 2009, then-Senator Kerry and Senator Barbara Boxer proposed the Clean Energy Jobs and American Power Act, a highly ambitious cap-and-trade bill (Samuelsohn, 2009).

Following that bill's defeat, Kerry penned an optimistic commentary in October 2009 with Senator Lindsay Graham, claiming to, "have found both a framework for climate legislation to pass Congress and the blueprint for a clean-energy future that will revitalize our economy, protect current jobs and create new ones, safeguard our national security and reduce pollution" (Kerry and Graham, 2009). Accordingly, in May 2010, Kerry and Senator Joseph Lieberman introduced the discussion draft of the American

Power Act. Speaking of the Act, Kerry said, "Our framework embraces and encourages the use of all energy sources, including renewables, clean coal, natural gas and nuclear power... We also embrace significant energy efficiency initiatives as a critical short-term opportunity to reduce our nation's energy dependence as well as household energy bills" (Morford, 2009). Though laudable in scope, the bill was criticized for its economic implications (many billed it as a revamped version of his prior cap and trade proposal) and ultimately fell apart (Loris, 2010; Horner, 2010). Kerry, however, remains a supporter of an "all-of-the-above" policy, as he explained in September 2012:

You have to be all of the above. Look, I'm the most ardent advocate up here for doing something about climate change, but you're nevertheless gonna have to use fossil fuels. The question is, can you use them in clean and manageable ways? The answer is, *Yes, you can*, if you make the right sort of requirements... you have to

do what you have to do to meet our energy demand. You have to have scrubbers, you have to have standards, you have to take old power plants out of service and put in new power plants with higher standards. There are ways to do fossil fuels responsibly. (Little, 2012)

On a global scale, Kerry's record reveals an unwavering commitment to international cooperation on climate issues. Himself an attendee of the 1992 UN environment conference in Brazil and the 1997 Kyoto Conference, Kerry spoke out against George W. Bush's repudiation of the Kyoto Protocol 2001, criticizing the President for, "repeatedly question[ing] the underlying science of climate change and attempt[ing] to reignite the debate over whether the threat is real" (Greenberg, 2004; Huffington Post Green blog, 2012). He was also the sole US Senator present at UN climate-change negotiations in Bali, Indonesia, in 2007, and Poznan, Poland, in 2008 (Hymas, 2012). And according to an interview with former Senator Chuck Hagel, Kerry attempted, in 1998, to "essentially rescind the Byrd-Hagel Resolution" (Frontline, 2007) a sense-of-the-Senate resolution that specified what the Senate would find acceptable (or unacceptable) as the Clinton administration negotiated the Kyoto Protocol. Byrd-Hagel, as it was called, had passed the Senate by an overwhelming 95-0 vote.

In August 2012, Kerry told the US Senate that he believed climate change to be "of as significant a level of importance" as Syria's or Iran's nuclear ambition, as it "affects ecosystems on which the

oceans and the land depend" (Real Clear Politics, 2012). In his role as Secretary of State, Kerry has made good on this commitment. He recently announced ministerial level cooperation with Japan's Foreign Minister Fumio Kishida on the 2015 UN climate change treaty (Parnell, 2013), striking a deal similar to one he crafted with China (US Department of State, 2013; King, 2013).

Kerry's first real environmental test as Secretary of State lies ahead, in decision-making over the

controversial Keystone XL oil pipeline. As Chair of the Foreign Relations Committee, Kerry proposed a thorough review of the pipeline, but gave no clear indication of his personal feelings on the issue (Geman, 2011). As Secretary of State, he met with Canadian foreign affairs minister John Baird in February regarding the pipeline, but has made no formal recommendation on the project to date, promising only a fair, transparent, and prompt decision (Broder, Krauss, and Austen, 2013).

Gina McCarthy: Administrator of the Environmental Protection Agency

"How many more times, if confirmed, will this EPA director pull the regulatory lever and allow another [coal] mining family to fall through the EPA's trap door to joblessness, to poverty and to poor health?"

—Senator John Barrasso, on Gina McCarthy (Barrasso, 2013)

With a career that's spanned the terms of five Massachusetts governors, Obama's nominee to replace former EPA Administrator Lisa Jackson is clearly qualified for the position. Not only has Gina McCarthy had a great deal of experience, but she's also worked on both sides of the aisle: from 2003-2004, she served as Massachusetts deputy secretary of the Office of Commonwealth Development under Republican Governor Mitt Romney (she later became Connecticut commissioner of the Department of Environmental Protection before taking her present position under the current administration) (Tracy, 2013).

In her most recent role as EPA Assistant Administrator for the Office of Air and Radiation, McCarthy developed a reputation for her frank, straightforward manner and highly stringent rulemaking. In recent years, for example, she's helped craft limits that curb emissions of mercury and soot from power plants, and set more rigorous standards for car tailpipe emissions and sulfur levels in gasoline (Unger, 2013).

While many in the environmental community admire her efforts, others have spoken out against what they believe to be regulatory overreach on the part of the EPA. Said

Senator Mitch McConnell, “... I am concerned that Gina McCarthy would continue to foster this administration’s radical environmental and anti-coal jobs agenda... vast overreach and burdensome rules and regulations that stifle job creation have been the bedrock of this administration for too long” (Unger, 2013). Echoed Senator John Barrasso, “I’m not sure whether the nominee before us today is personally aware of so many folks who have actually lost their jobs because of the EPA and the role that I believe it is taking now, which is failing our country... How many more times, if confirmed, will this EPA director pull the regulatory lever and allow another [coal] mining family to fall through the EPA’s trap door to joblessness, to poverty and to poor health?” (Unger, 2013).

The courts, it would seem, side with the Senators. As the *Wall Street Journal* recently explained:

Critics have also started to take note of the embarrassing string of defeats the courts have recently dealt the agency regarding rules it issued in Mr. Obama’s first term. Those judicial slapdowns are making a mockery of former Obama EPA Administrator Lisa Jackson’s promise in 2009 to restore the agency’s “stature” with rulemaking that “stands up in court.”

This past year alone has proven a banner year for EPA rebukes, now that some of the first Obama rules have finally made their way to court. In March of 2012 a federal court said the EPA had exceeded its authority in vetoing a Clean Water Act permit for a

mountaintop coal mine. That same month, the US Supreme Court ruled in favor of an Idaho couple, after the EPA first refused to let them build their home and then refused to let them challenge the agency’s authority.

In July, a federal judge agreed with the coal industry that the EPA had (again) exceeded its authority in putting out new regulations that trampled on state rights to regulate surface mining. The very next month, the US Court of Appeals for the DC Circuit said the EPA had overstepped boundaries laid out by Congress in putting out a controversial regulation (the Cross-State Air Pollution Rule) that forced states to be “good neighbors.” The court later denied the EPA’s petition for a rehearing... (Strassel, 2013, April 9)

Despite pushback from the courts, McCarthy seems committed to an extensive regulatory agenda at the EPA. She appears primed in particular to take aggressive action on climate change, which, she explained, “is one of the greatest challenges of our generation and our great obligation to future generations” (Bernstein, 2013). “I am convinced,” she added, “that those steps [to reduce climate change] can and must be pursued with common sense.” In addition to public health benefits, she explained that climate change policy can “create markets for emerging and new technologies and new jobs.” McCarthy’s attitude dovetails closely with President Obama’s recent promise that if Congress doesn’t pass legislation to address climate change, he will get his agencies, including the EPA, to act in their stead.

In her new role as EPA Administrator, one of the first major tests for McCarthy will be developing the regulations governing emissions from new power plants. As the *New York Times* observed:

The EPA, which the Supreme Court granted authority to regulate carbon dioxide and other heat-trapping gases, is in the midst of writing regulations governing such emissions from new power plants. Those rules, expected to be completed this year, would essentially bar construction of any new coal-fired power plants unless they included the means to capture carbon gases, a technology that does not yet exist on a commercial scale.

But to make a real dent in the nation’s emissions, the agency must then devise emissions limits for existing plants, a hugely controversial project that could force the shutdown of dozens of older coal-burning power plants, cause a steep drop in domestic demand for coal and trigger a sharp rise in energy prices.

No matter how carefully written—and Ms. McCarthy is an expert on federal air quality under law—any such regulations would be subject to intense opposition in the courts, and in Congress, which could seek to overturn the regulations. (Broder and Wald, 2013)

McCarthy’s history of tough rulemaking could push Canada’s own environmental standards toward greater stringency, imposing extra costs on the Canadian economy.

Ernest Moniz: Secretary of Energy

“We would stress to Mr. Moniz that an ‘all of the above’ energy policy only means ‘more of the same,’ and we urge him to leave dangerous nuclear energy and toxic fracking behind while focusing on safe, clean energy sources like wind and solar.”

—Michael Brune, Executive Director of the Sierra Club (Brune, 2013)

Like McCarthy, Ernest Moniz brings with him extensive experience in the policy arena, having served under President Bill Clinton as the Undersecretary of Energy from 1997 to 2001 (and previously as Associate Director for Science in the Office of Science and Technology Policy in the Executive Office of the President), and as a member of President Obama’s Science and Technology Advisory Council since 2009 (Chokshi, 2013). He also brings an impressive academic background, having been on the MIT faculty since 1973 and in his present role as Director of the MIT Energy Initiative. Moniz was confirmed on April 18, 2013 (Juliano, 2013).

Though Senator Murkowski billed him as the “rare nominee who gathers wide bipartisan acclaim” in his nomination hearing (Murkowski, 2013), there are a few areas in which Moniz’s record has landed him in controversy. The first is nuclear power. Despite reservations held by many in the wake of the 2011 disaster at the Fukushima plant in Japan, Moniz argued that the US should continue to pursue nuclear power as a renewable energy source (Chokshi, 2013).

In a *Foreign Affairs* commentary in 2011 entitled “Why We Still Need Nuclear Power,” he wrote:

It would be a mistake, however, to let Fukushima cause governments to abandon nuclear power and its benefits. Electricity generation emits more carbon dioxide in the United States than does transportation or industry, and nuclear power is the largest source of carbon-free electricity in the country. Nuclear power generation is also relatively cheap, costing less than two cents per kilowatt-hour for operations, maintenance, and fuel. (Moniz, 2011a)

Moniz views natural gas as simply one piece of a larger energy agenda, and also a piece that will be phased out over time.

To mitigate the safety and capital cost challenges associated with conventional nuclear operations, Moniz proposed a shift towards a newer, smaller class of modular reactors known as SMRs. As he explained,

“Since SMRs are smaller than conventional nuclear plants, the construction costs for individual projects are more manageable, and thus the financing terms may be more favorable. And because they are factory-assembled, the on-site construction time is shorter” (Moniz, 2011a).

A second issue likely to cause controversy is Moniz’s continued support of hydraulic fracturing, colloquially known as “fracking.” Though he offered his unconditional support for McCarthy’s nomination, Sierra Club Executive Director Michael Brune appeared to have reservations about Moniz based on his stance towards fracking. In a recent press release, Brune urged Moniz to “prioritize clean, renewable energy as climate solutions over destructive fossil fuels and boondoggles like liquefied natural gas exports” (Brune, 2013). He added, “We would stress to Mr. Moniz that an ‘all of the above’ energy policy only means ‘more of the same,’ and we urge him to leave dangerous nuclear energy and toxic fracking behind while focusing on safe, clean energy sources like wind and solar.” At the core of the issue lies an MIT report led by Moniz that supports the practice, as well as the fact that (as the *Washington Post* points out), “major oil and gas companies, including BP, Shell, ENI

and Saudi Aramco, provided as much as \$25 million each to the MIT Energy Initiative. Other research money came from a foundation bankrolled by shale gas giant Chesapeake Energy” (MIT, 2011; Mufson, 2013).

When reviewing the MIT report in question, it’s important to note that Moniz views natural gas as simply one piece of a larger energy agenda, and also a piece that will be phased out over time. In 2011 Testimony before the US Committee on Energy and Natural Resources, he clarified:

In broad terms, we find that, given the large amounts of natural gas available in the U.S. at moderate cost (enabled to a large degree by the shale gas resource), natural gas can indeed play an important role over the next couple of decades (together with demand management) in economically advancing a clean energy system. However, with increasingly stringent carbon dioxide emissions reductions, natural gas would eventually become too carbon intensive, which highlights the importance of a robust innovation program for zero-carbon options. (Moniz, 2011b)

Sally Jewell: Secretary of the Interior

“Probably the biggest challenge Ms. Jewell faces will be striking the right balance between the Secretary’s dual roles of both conserving and developing our resources.”

— Senator Ron Wyden, Chair of the Senate Energy and Natural Resources Committee (Wyden, 2013)

As former CEO of outdoor retailer REI, Sally Jewell is a somewhat surprising pick for Obama’s Secretary of the Interior. Though some view Jewell’s lack of experience in the political arena as a liability, others see her business background as a chip she can use to help her bargain across the aisle (Eilperin, 2013). Jewell was confirmed by the Senate on April 10, 2013 (*New York Times*, April 11, 2013). A review of Jewell’s history lends credibility to this claim: on the left, she’s likely to win praise from environmental groups for her clear concern over climate change (in response to a question on climate change, she explained during her confirmation hearing that there was “no question in [her] mind that it is real, and the scientific evidence is there to back that up”), as well as her strong support for the carbon tax (Goode, 2013).

Jewell has also earned respect from oil and gas industries for her former roles as a petroleum engineer and banker working with natural resource companies (Soto Ouchi, 2005). Such experience will prove particularly relevant to her new role, as she’ll oversee over 500 million acres of US public land (in

addition to 1 billion acres offshore) with vast potential for energy development and mining (Daly, 2013). While she’s expressed broad support for an all-of-the-above

Given her historic commitment to environmental conservation, it’s fairly certain Jewell will seek to increase protection of public lands in whatever policies she pursues.

approach to energy (during her confirmation hearing, she cited her previous experience working on the Alaskan pipeline as a source of “balance and perspective in [her] career”), it remains to be seen how, exactly, Jewell will balance competing energy priorities (Goode, 2013). Given her historic commitment to environmental conservation, it’s fairly certain Jewell will seek to increase protection of public lands

in whatever policies she pursues (Bump, 2013). While Jewell has generally been praised for her environmental protectionism, some have noted that it could be a potential conflict of interest in her upcoming role. As was recently noted in *Politico*:

[Sen. John] Barrasso [R-Wyo.] criticized Jewell's membership in the National Parks Conservation Association, which has sued the federal government dozens of times while she has served as vice chairman on its board of trustees.

"It's unsettling to many that you have a fundamental conflict of interest when it comes to leading the Department of Interior because many of these 59 lawsuits that your organization has filed against the government are still pending," he told her.

Jewell replied that she played no role in NPCA's decisions to sue the government and that if the lawsuits involved Interior while she was in charge, she would seek guidance from the agency's ethics officials. (Goode, 2013)

For Jewell, like Moniz, fracking could also prove to be a particularly divisive issue. One early issue she'll face as Secretary of the Interior is the finalization of a disclosure rule requiring drilling companies to list chemicals used in fracking operations (Daly, 2013). Already twice delayed due to industry protests of its stringency, the final rule issued under Jewell will need to walk a fine line between respecting business interests and satisfying environmentalists.

Conclusion

Despite some interesting variations in the positions of some of the players, Obama's second-administration "Green Team" is likely to maintain the same policy playbook from President Obama's first term: pushing for more aggressive environmental regulations, particularly regarding coal burning; pushing for a faster, more aggressive expansion of the renewable energy sector; and maybe adding a new element of increased regulation of natural gas production via hydraulic fracturing. The team's actions will have important implications for Canada, and the current government's dream of greatly increasing the country's energy exports.

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