

## CLIENT ALERT

### Election 2020: The DNC and RNC Conventions Present Stark Contrast on Energy and Environmental Agendas

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The Democratic and Republican National Conventions are now in the rearview mirror, which means the campaign season is officially underway. While some common ground emerged from the conventions – especially over the need for increased infrastructure investment – the conventions notably differed in tone and substance, highlighting a particularly large chasm between the parties’ and their candidates’ energy and environmental agendas. Given the wide gulf between the candidate’s platforms, American businesses, workers, and consumers will have to prepare for two very different worlds depending upon the outcome of what is expected to be among the most consequential elections in decades for the direction of energy and environmental law and policy.

So what, if anything, did we learn from the conventions?

#### Democratic Convention and Agenda

Energy and environmental issues played a prominent role in the messaging of the Democratic Convention, held from August 17-20. In his speech accepting the Democratic Party’s nomination, Vice President Biden identified “the existential threat posed by climate change” as one of the four “historic crises” confronting the nation. In the weeks leading up to and immediately following the convention, various factions within the Democratic Party coalesced around core elements of an interconnected energy and environmental agenda intended to address that “threat,” built around climate, clean energy, infrastructure development, and principles of environmental justice and equity. Notably, many elements of the Biden energy and environmental agenda would require new legislation, which in turn would depend on the composition and competing priorities of the new Congress, particularly the Senate, to be implemented.

Consistent with his view that climate change is a “historic crisis,” Biden recently proposed a \$2 trillion investment in combatting climate change by investing in the research, development and deployment of renewable energy and has set a goal of achieving a 100% clean energy economy and net zero emissions by 2050, which would be in addition to the \$1.3 trillion he has proposed in his infrastructure plan. Key planks of his energy and environmental agenda also include:

- Decarbonizing the electric grid by 2035;
- Investing in battery technology, advanced nuclear energy, and other negative emissions technologies;
- Halting the issuance of new oil and gas permits on federal lands and waters;
- Deploying 500,000 electric vehicle charging stations;
- Conserving 30% of U.S. lands and waters by 2030 to protect habitat and biodiversity and grow natural carbon sinks;
- Using the public procurement process to pursue climate resiliency objectives, such as the purchase of Zero Emission Vehicles and renewable fuels for use in government-owned fleets; and
- Employing 250,000 Americans to plug abandoned oil and natural gas wells and reclaim abandoned mines.

The Democratic agenda also states a desire to elevate environmental justice and equity concerns as central to addressing climate change and an important factor for improving the nation's infrastructure. Vice President Biden's plan would pursue environmental justice and equity through the deployment of new investment in disadvantaged communities, as well as by enforcing existing environmental laws in a way that prioritizes the protection of vulnerable communities disproportionately impacted by pollution, through creation of a new division within the Department of Justice, to be known as the Environmental and Climate Justice Division.

Vice President Biden's plan also portends significant challenges for the oil, gas and coal industries, as well as energy-intensive industries or industries that utilize fossil fuels in their manufacturing processes. The push to decarbonize the nation's energy and transportation infrastructure also raises questions about the country's reliance on international markets for key materials and components and how a Biden administration may support increased development of domestic natural resources to support the transition. Decarbonizing the power sector almost certainly means fewer coal and natural-gas fired power plants unless they can be retrofitted with carbon, capture and storage technology (which the Biden plan proposes to invest in), and more stringent fuel economy standards, but it may also mean increased mining of rare earth metals and manufacturing of batteries and other industrial components.

### **Republican Convention and Agenda**

President Trump's second term energy and environmental agenda was no less clear during the Republican Convention held this week. During his nomination acceptance speech last night, the president promised to "greatly expand energy development" in order to keep the United States a net exporter of oil and natural gas. He lauded his approval of the Keystone XL and Dakota Access Pipelines (the latter of which is tied up in litigation), and his withdrawal of the United States from the Paris Climate Agreement. On Wednesday, Vice President Pence promised that the Trump Administration would not pass a "regime of climate change regulations" in its second term.

Just prior to the convention, the Trump campaign released a high-level agenda for a second term. President Trump's agenda made only a few references to energy and environmental concerns, including his intention to:

- "Continue Deregulatory Agenda for Energy Independence,"
- "Build the World's Greatest Infrastructure System,"
- "Continue to Lead the World in Access to the Cleanest Drinking Water and Cleanest Air," and
- "Partner with Other Nations to Clean Up our Planet's Ocean."

Such second term policy goals can be paired with the record of his first term to further illuminate the president's energy and environmental policy agenda, one that is built primarily upon the principle of deregulating certain industries and promoting development on federal lands. The Trump Administration released a plan in 2018 to invest \$200 billion in new infrastructure, which was not passed by Congress, and has called for a renewed effort to get an infrastructure package through Congress if re-elected. Accomplishments often cited by the president include:

- Rescinding the Clean Power Plan and replacement with the proposed Affordable Clean Energy Rule;
- Redefining the term "Waters of the US" under the Clean Water Act;
- Rescinding a rule regulating methane emissions from oil and gas operations;

- Withdrawing from the Paris Climate Agreement;
- Expediting the environmental review process under the National Environmental Policy Act and implementing the One Federal Decision process for permitting infrastructure projects; and
- Imposing tariffs on solar photovoltaic panels and the steel used in wind turbines.

A second term would provide the Trump Administration the opportunity to see many of its achievements fully implemented, if successfully defended in court. It would also allow the Trump Administration to secure long-term changes to how agencies like the Environmental Protection Agency develop regulations by finalizing rules and policies concerning how costs and benefits are calculated, how science is used in decision-making, and how large infrastructure projects, utilities, and manufacturing facilities get permitted and built.

### **Conclusion**

As the fall campaign season swings into full gear, American businesses are faced with a competing vision for how best to protect jobs, the environment and national security. The different policy goals being pursued by the candidates are expected to have significant impact on industries involved in resource extraction, use of fossil fuels, and energy generation as well as where and how to invest in infrastructure. As a consequence, industry must be prepared for at least two, very different regulatory environments flowing from the election on November 3, 2020.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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