



# CALIFORNIA Energy Circuit

AN INDEPENDENT PUBLICATION

## Adding Environmental Insult to Ecological Injury

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by Arthur O'Donnell

Throughout my San Francisco neighborhood, "For Sale" signs have appeared on the Toyota Tundras and Ford Expeditions. Our own Honda hybrid is no longer a novelty, and frequently I find myself parking behind a shiny new Prius or Accord.

That's a good development. Painful in the short term, yes, but exceedingly high energy prices have a way of resetting people's consumer priorities. Eat or drive? All of a sudden, conservation is no longer considered a blasphemous term in the White House. The Department of Energy is promoting efficiency - who would have thought?

But then again, the storm-weary Gulf Coast has not even begun to recover from this season's previous most-destructive hurricanes, Katrina and Rita, and the tropical storm season is expected to last another six weeks. That means with each change in air pressure, spot-market energy prices are going to swing up and down like a small ship lost at sea. Even with the Henry Hub anchor restored as the key designator of natural gas prices after being blown out by Rita a few weeks ago, panic and opportunism chart the course of energy markets.

Natural gas hovers in the \$11 to \$14/MMBtu range across the continent, oil price gauges vibrate between \$60 and \$70 per barrel, and gasoline is still more than \$3 at the local pump. Spot electricity markets, driven by higher fuel prices, have escalated to the rarefied atmosphere of \$90 to more than \$100/MWh. Retail electricity rates are also upward bound, though in most of the country there will be the usual regulatory lag that spreads the pain into the winter, spring, and perhaps beyond.

Having reached this point of pain, consumers are responding with classic price-elastic behavior, which some economists still doubt pertains to energy consumption. Perhaps drivers are not yet pumping a lot less gas, but they've certainly stopped buying SUVs in the numbers anticipated by Detroit when the 2006 model-year production schedules were set. How low thermostats in homes and businesses will be this winter remains to be seen.

**But there's another response** to the hurricanes and energy storms that is far more troubling than the short-term price swings. It's the knee-jerk response of politicians to jettison environmental controls and regulations, or worse, to blame environmental activists for causing all the trouble.

The most egregious accusation came when the Army Corps of Engineers tried to shed blame for its failure to pursue a Lake Pontchartrain, Louisiana, levee-bolstering project onto the activist groups who questioned whether an adequate environmental review had been conducted. Hearing a way to breach the dam of "extremist environmentalism," Senate Environment and Public Works Committee chair James Inhofe (R-Oklahoma) declared on October 6, "We all know that in 1977, lawsuits by environmental groups not only delayed the flood control solution for New Orleans, but forced the Corps to abandon its preferred solution."

Never mind that the Government Accountability Office in September had found that, despite higher costs to the project caused by environmental concerns and lawsuits, "none of the changes made to the project, however, are believed to have had any role in the levee breaches recently experienced. In fact, Corps officials believe that flooding would have been worse if the original proposed design had been built."

The energy-price impacts of Katrina and Rita, and now maybe Wilma (though she appears to be turning east across Florida), and disaster-response efforts already have been used as excuses to suspend various and sundry environmental protections.

**Here's a short list of other environmentally damaging actions:**

- In late August, the U.S. Environmental Protection Agency waived Clean Air Act requirements for low-emission "summer blends" of auto fuels throughout the nation, and lifted restrictions on production of high-sulfur diesel fuels
- Soon after, the California Air Resources Board suspended its own regulations for oxygenated gasoline, usually required through the end of October.
- Senator Inhofe in mid-September introduced a bill that would allow the EPA administrator to suspend any and all environmental regulations under his jurisdiction for three months or more following an emergency declaration. But the EPA was already busy waiving its rules in dozens of instances in the name of expediting post-hurricane cleanup efforts.
- Wyoming has quietly dispensed with environmental review of oil-drilling permits.
- Representative Joe Barton (R-Texas) crammed through Congress the "Gasoline for America's Security Act" -- the energy equivalent of the post-9/11 Patriot Act -- with House leaders unduly extending the House floor voting period while twisting lawmakers' arms to secure a 212-210 margin for passage. The law, among its other provisions, would preempt local permitting and citizen input on review of new or expanded oil refineries, hold localities responsible for all litigation costs if they lose a challenge to industry plans, and cut requirements for various clean-burning fuel blends.
- Only at the last minute because of opposition, Barton stripped away provisions in the act that would eliminate "new source review" regulations that might condition expansion of fossil-burning power plant operations with costly environmental controls. Almost immediately, though, EPA issued NSR revisions that have the same effect.
- Congress is actively considering legislation to undo prohibitions on oil and gas drilling in the Outer Continental Shelf (OCS). Senate Energy and Natural Resources Committee chair Pete Domenici (R-New Mexico) admits that such a bill might not be ready to move this year, but he is working on a broad measure to open federal waters to drilling, if adjacent states decide they want to opt out of the existing prohibition. In the meantime, Domenici is pushing President George Bush to allow drilling off the coast of Florida in the eastern Gulf--over the objections of Governor Jeb Bush and the Florida congressional delegation.
- After several years of debate and opposition, the Senate is finally ready to include a bill in its budget reconciliation package that "requires" oil and gas drilling in the Arctic National Wildlife Refuge.
- In Massachusetts this week, Governor Mitt Romney (R) is worried that, with natural gas prices so high, utilities and power generators will shut their generating plants and sell the gas on the open market for added profits. So he is proposing lifting air-quality rules on burning oil for electricity production.

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Yes, panic and opportunism rule.  
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