

McCain vs. Obama on Environment, Energy, and Resources

Michael B. Gerrard

For the first time in living memory, the environment is receiving significant attention in a presidential election. Both Senator John McCain (R-AZ) and Senator Barack Obama (D-IL) have given speeches and run television advertisements on the issue and (after a slow start) are being asked questions by the national press about where they stand on climate change and energy.

This article compares the actions and positions of the two candidates on environmental, energy, and resources issues. It begins by looking at their voting records, presents their endorsements and campaign contributions, and then discusses their positions as shown in their campaign position papers, speeches, responses to voter questionnaires, and similar sources. The intent here is to provide an objective comparison without evaluating the merits of the stances taken.

Voting Records

The League of Conservation Voters (LCV) rates the voting records of all members of Congress. A perfect score, by LCV's measures, is 100 percent. For the 110th Congress, 1st session (2007), McCain had a score of 0 percent and Obama had a score of 67 percent. However, when a legislator does not vote, that counts the same as a wrong vote. In fact, in 2007 McCain did not participate in any of the fifteen votes that the LCV scored; thus the score does not clearly identify his positions on any of the bills. (Eight other senators had a 0 score in 2007.) Obama voted on ten of the fifteen bills; his vote agreed with the LCV's positions in nine of them. (The one exception was a water resources bill.)

Looking across a greater period of time, McCain's LCV score for the 106th Congress (1999–2000) was 6 percent; for the 107th (2001–02), 36 percent; for the 108th (2003–04), 56 percent; and for the 109th (2005–06), 41 percent. His lifetime score is 24 percent. (In all, thirty-eight current senators have a lower lifetime score.) Obama entered the Senate in 2005; his LCV score for the 109th Congress was 96 percent. His lifetime score is 86 percent. (There are nineteen senators with a higher lifetime score.)

Republicans for Environmental Protection (REP) also scores votes, but only for Republican members of Congress.

Mr. Gerrard heads the New York office of Arnold & Porter LLP. He was the 2004–05 Chair of the ABA Section of Environment, Energy and Resources. He may be reached at Michael_Gerrard@aporter.com.

McCain missed all fourteen of the votes that REP scored in 2007. (He was the only senator to do so.) His 2005–07 average score was 55 percent; only two Republican senators had higher scores.

Endorsements and Contributions

LCV has endorsed Obama, as have the Sierra Club and Friends of the Earth Action. (LCV endorsed McCain for reelection to the Senate in 2004.) REP endorsed McCain in October 2007, when he was still a long-shot for the Republican nomination, concluding that he was the Republican candidate with by far the best understanding of environmental and energy issues.

The Center for Responsive Politics tallies campaign contributions to presidential candidates by industry, measuring Political Action Committee contributions and donations from individuals giving more than \$200, categorized based on the donor's occupation/employer. For the 2008 election cycle, based on Federal Election Commission data released on June 30, 2008, McCain had received \$1,039,768 from the oil and gas industry, compared to \$351,550 for Obama. For the overall energy and natural resource sector, the figures were \$1,940,195 for McCain and \$1,214,896 for Obama. The Center has also said that the electric utility industry has contributed \$350,000 to McCain and \$416,300 to Obama, while the coal industry gave McCain roughly \$49,000 and Obama \$12,000.

Climate Change

Climate change is the environmental issue that is receiving the most attention in the campaign. (High gasoline prices are another reason why energy is getting a lot of coverage.) In 1997 McCain was one of the ninety-five senators who voted for a resolution opposing the Kyoto Protocol. In 1998, as a member of the Illinois Legislature, Obama voted for a bill condemning the Kyoto Protocol and barring state efforts to regulate greenhouse gases (GHGs). But in more recent years both candidates have spoken out strongly for the importance of addressing climate change.

McCain has been one of the earliest proponents in Congress of mandatory GHG regulation, and he and Senator Joseph Lieberman (I-CT) co-sponsored one of the first climate bills, the Lieberman-McCain Climate Stewardship Act, in 2003. McCain often speaks of a trip he took in 2004 (with, among others,

Senator Hillary Rodham Clinton (D-NY)) to Svalbard, Norway to see the effects of climate change on Arctic glaciers.

McCain has gone out of his way to differentiate himself from President Bush on climate issues. In one pointed remark at a speech in Portland, Oregon in May 2008 he said, "I will not permit eight long years to pass without serious action on serious challenges. I will not accept the same dead-end of failed diplomacy that claimed Kyoto. The United States will lead and will lead with a different approach—an approach that speaks to the interests and obligations of every nation." A month later one of his television advertisements declared, "John McCain stood up to the president and sounded the alarm on global warming, five years ago. Today, he has a realistic plan that will curb greenhouse gas emissions. A plan that will help grow our economy and protect our environment."

Since joining the Senate, Obama has been adamant about the importance of addressing climate change, and he has frequently discussed the issue in speeches and debates.

Both McCain and Obama support cap-and-trade legislation. However, they differ in some of the details:

GHG reduction targets—Both candidates have called for a return to 1990 levels of GHG emissions by 2020. By 2050, McCain wants to be 60 percent below 1990 levels, and Obama has set a goal of 80 percent. McCain has specified two additional interim targets: in 2012, return emissions to 2005 levels (18 percent above 1990 levels); and in 2030, 22 percent below 1990 levels.

Allowances—An important design feature of a cap-and-trade system is whether allowances (the legal right to emit GHGs) are sold or given away. Obama has said that 100 percent of allowances would be auctioned from the start. McCain would convene a commission to (1) recommend the percentage of allowances to be provided for free and the percentage to be auctioned, and (2) develop a schedule to increase the percentage auctioned over time.

greenhouse gas emissions practiced by other activities, such as agriculture." He has said that the agricultural sector alone can provide as much as 40 percent of the overall reductions required in GHG emissions. (This number has raised some eyebrows among climate experts.) Offsets could be from both domestic and international sources. Obama has said that he would permit international offsets, but he has not said that all of an emitter's obligations could be met through offsets.

McCain's site johnmccain.com says that a comprehensive approach to climate change should include adaptation as well as mitigation. Further, it says that "an adaptation plan should be based upon national and regional scientific assessments of the impacts of climate change" and "should focus on implementation at the local level which is where impacts will manifest themselves." It adds that this plan "will address the full range of issues: infrastructure, ecosystems, resource planning, and emergency preparation."

On the same Web site, McCain has pledged to actively engage in the United Nations negotiations for a post-Kyoto agreement and to "provide incentives for rapid participation by India and China, while negotiating an agreement with each." The prepared text of a speech in May 2008 called for punitive tariffs against China and India if they evaded international standards on emission, "but he omitted the threat in his delivered remarks. Aides said he had decided to soften his language because he thought he could be misinterpreted as being opposed to free trade, a central tenet of his campaign and Republican orthodoxy." Elisabeth Bumiller & John M. Broder, *Greenhouse Gas Must Be Capped, McCain Asserts*, N.Y. TIMES, May 13, 2008. McCain caused confusion when he gave an interview with *Greenwire* in February 2008 in which, according to the transcript, he stated: "It's not quote mandatory caps. It's cap-and-trade, OK. It's not mandatory caps to start with. It's cap-and-trade. That's very different. OK, because that's a gradual reduction in green-house emissions." In several other appearances he has also stated that cap-and-trade does not involve mandatory caps. The meaning of these statements has been subject to some debate.

Oil Drilling

Both candidates have had evolving positions on the issue of offshore oil drilling.

During his 2000 campaign, McCain opposed ending the federal moratorium on offshore drilling. In June 2008, in the face of tremendous voter concern about high gasoline prices, he said he now favors lifting the ban. Obama promptly attacked this shift, declaring that McCain's "decision to completely change his position and tell a group of Houston oil executives exactly what they wanted to hear today was the same Washington politics that has prevented us from achieving energy independence for decades." Elisabeth Bumiller & Jeff Zeleny, *McCain Seeks to Break With Bush on Environment*, N.Y. TIMES, June 17, 2008.

Obama's campaign literature supports continuation of the offshore drilling moratorium. However, in early August 2008

Both McCain and Obama support cap-and-trade legislation. However, they differ in some of the details.

Offsets—McCain would allow 100 percent of required GHG emission reductions to be achieved through offsets, which johnmccain.com defines as "financial instruments representing a reduction, avoidance or sequestration of

he stated that he might be willing to relax the moratorium if it were part of a broader bipartisan agreement on energy policy. He said in an August 1, 2008, interview with the *Palm Beach Post*, "My interest is in making sure we've got the kind of comprehensive energy policy that can bring down gas prices. If, in order to get that passed, we have to compromise in terms of a careful, well-thought-out drilling strategy that was carefully circumscribed to avoid significant environmental damage—I don't want to be so rigid that we can't get something done." In a more detailed talk at Michigan State University of August 4, 2008, he said that "we should start by telling the oil companies to drill on the 68 million acres they currently have access to but haven't touched. And if they don't, we should require them to give up their leases to someone who will. We should invest in the technology that can help us recover more from existing oil fields."

The likely effect of offshore oil drilling on gasoline prices is beyond the scope of this article. However, one clear difference between the two candidates is that in April 2008 McCain called for a suspension of the federal gasoline tax for the coming summer. Hillary Clinton agreed with him, but Obama opposed such a suspension.

Coal

Coal-fired power plants are the largest source of GHG emissions in the United States. Both candidates support significant federal investments in the development of carbon capture and sequestration technologies so that coal can be used cleanly.

McCain said in his LCV questionnaire, "I believe that new coal plants should be constructed in a manner that is capture-ready, and can accommodate the retrofit of this technology as it advances." He has said the federal government should commit \$2 billion annually to advancing clean coal technologies.

Obama has likewise supported rapid development of clean coal technologies. The energy policy paper on his Web site says he

will work to ensure that existing coal facilities are retrofitted with carbon capture and sequestration technology as soon as it is commercially available. Obama will use whatever policy tools are necessary, including standards that ban new traditional coal facilities, to ensure that we move quickly to commercialize and deploy low carbon coal technology. Obama's stringent cap on carbon will also make it uneconomic to site traditional coal facilities and discourage the use of existing inefficient coal facilities.

Nuclear

McCain is much more enthusiastic about nuclear power than Obama. McCain calls for the construction of forty-five new nuclear power plants by 2030, with the ultimate goal of constructing 100 new plants. His Web site says, "The barriers to nuclear energy are political not technological. We've let the fears of thirty years ago, and an endless political squabble

over the storage of nuclear spent fuel make it virtually impossible to build a single new plant that produces a form of energy that is safe and non-polluting. If France can produce 80% of its electricity with nuclear power, why can't we? Is France a more secure, advanced and innovative country than we are?"

Both candidates support significant federal investments in the development of carbon capture and sequestration technologies so that coal can be used cleanly.

McCain's LCV questionnaire said, "I strongly support greater reliance on nuclear power. I believe that if we are to be serious about addressing global warming, improving air quality, and achieving national energy security we must also be serious about ensuring that nuclear energy is permitted to play a more significant role in our energy mix."

McCain has indicated that a major reason he did not co-sponsor the Lieberman-Warner Climate Security Act (the climate bill that has advanced furthest in the Senate) is that it lacks sufficient provisions to benefit nuclear power.

For several years McCain has supported the federal government's plan to dispose of spent fuel rods from nuclear power plants at Yucca Mountain, Nevada. However, in May 2008, he stated, "I would seek to establish an international repository for spent nuclear fuel that could collect and safely store materials overseas that might otherwise be reprocessed to acquire bomb-grade materials. It is even possible that such an international center could make it unnecessary to open the proposed spent nuclear fuel storage facility at Yucca Mountain in Nevada." *Lisa Mascaro & Michael Mishak, McCain: Maybe We Don't Need Yucca*, LAS VEGAS SUN, May 27, 2008.

The Obama campaign's energy fact sheet states, "Nuclear power represents more than 70 percent of our non-carbon generated electricity. It is unlikely that we can meet our aggressive climate goals if we eliminate nuclear power from the table. However, there is no future for expanded nuclear power without first addressing four key issues: public right-to-know, security of nuclear fuel and waste, waste storage, and proliferation." www.barackobama.com/issues/pdf/EnergyFactSheet.pdf.

The same fact sheet says that Obama will

lead federal efforts to look for a safe, long-term disposal solution based on objective, scientific analysis. In the meantime, Obama will develop requirements to ensure that the waste stored at current reactor sites is contained using the most ad-

vanced dry-cask storage technology available. Barack Obama believes that Yucca Mountain is not an option. Our government has spent billions of dollars on Yucca Mountain, and yet there are still significant questions about whether nuclear waste can be safely stored there.

Biofuels

Obama is a much stronger supporter of the use of biofuels than McCain. McCain's campaign literature does not present biofuels as an important element of solving the climate problem, though the energy fact sheet on www.johnmccain.com does say that "alcohol-based fuels hold great promise as both an alternative to gasoline and as a means of expanding consumers' choices." Some observers have said that his opposition to corn subsidies for ethanol production contributed to his loss in the Iowa presidential caucuses. He has proposed allowing the 54-cent tariff on ethanol imports to lapse as a way to lower gasoline prices and spur domestic innovation. He has said, "Instead of playing favorites, our government should level the playing field for all alcohol fuels that break the monopoly of gasoline, lowering both gasoline prices and carbon emissions. And this should be done with a simple federal standard to hasten the conversion of all new vehicles in America to flex-fuel technology—allowing drivers to use alcohol fuels instead of gas in their cars." www.johnmccain.com.

Obama has supported corn subsidies and co-sponsored several bills to increase domestic production, distribution, and use of biofuels. His energy fact sheet says he

will work to ensure that advanced biofuels, including cellulosic ethanol, are developed and incorporated into our national supply as soon as possible. Corn ethanol is the most successful alternative fuel commercially available in the U.S. today, and we should fight the efforts of big oil and big agri-business to undermine this emerging industry.

Renewables

Obama is a stronger supporter than McCain of government action to encourage the use of renewable energy resources. McCain has consistently opposed federal adoption of a renewable portfolio standard, which would require electric utilities to supply a certain percentage of their power from renewable sources, such as wind, solar, and geothermal. Obama supports such a program and has said that 25 percent of the electricity consumed in the United States should be derived from renewable sources by 2025. He has said that 30 percent of the federal government's electricity should come from renewable sources by 2020.

Obama supports the extension of tax credits for renewable energy. McCain has missed key votes on the extension. The energy fact sheet on johnmccain.com says that developing wind, solar, and other renewable energy sources "will require that we rationalize the current patchwork of temporary tax credits that provide commercial feasibility. John McCain believes in

an even-handed system of tax credits that will remain in place until the market transforms sufficiently to the point where renewable energy no longer merits the taxpayers' dollars."

Energy Efficiency

McCain supports "greening the federal government." His campaign's energy fact sheet states, "The federal government is the largest electricity consumer on earth and occupies 3.3 billion square feet of space worldwide. It provides an enormous opportunity to lead by example. By applying a higher efficiency standard to new buildings leased or purchased or retrofitting existing buildings, we can save taxpayers substantial money in energy costs, and move the construction market in the direction of green technology." He has not embraced numerical targets, however, and he has indicated that a cap-and-trade system would send price signals that would encourage conservation.

Obama co-sponsored the High-Performance Green Buildings Act, which would increase the energy efficiency of federal buildings and schools. Obama's environmental fact sheet promises to "ensure that all new federal buildings are zero-emissions by 2025, and to help reach that goal, he will ensure that all new federal buildings are 40 percent more efficient within the next five years." He said he would seek to improve the efficiency of existing federal buildings by 25 percent within five years. His goals also extend to the private sector; he said he would establish a goal of making all new buildings carbon neutral by 2030, with a national goal of improving new building efficiency by 50 percent and existing building efficiency by 25 percent over the next decade to help meet the 2030 goal.

Obama also favors "decoupling"—revising rate structures so that utilities benefit financially from energy efficiency. He would expand federal grant programs to help states and localities build more efficient public buildings by, for example, participating in the Leadership in Energy and Environmental Design (LEED) program of the U.S. Green Buildings Council.

Automobiles

McCain's energy fact sheet says he "will issue a Clean Car Challenge to the automakers of America, in the form of a single and substantial tax credit for the consumer based on the reduction of carbon emissions." This would be a \$5,000 tax credit for every customer who buys a zero carbon emission car. For other vehicles, a graduated tax credit would apply so that the lower the carbon emissions, the higher the tax credit.

In the same fact sheet, McCain has also proposed a \$300 million prize "for the development of a battery package that has the size, capacity, cost and power to leapfrog the commercially available plug-in hybrids or electric cars." He has also called for effective enforcement of the existing corporate average fuel economy (CAFE) standards.

At a town hall meeting in Detroit on July 2008, McCain said that states should be able set their own fuel economy

standards: "It's hard for me to tell states that they can't impose whatever standards they decide to impose." This may have interesting implications for the current controversy over the Environmental Protection Agency's refusal to grant a waiver to California to set its own vehicle emissions standards.

Obama's energy fact sheet says he "has developed an innovative approach to double fuel economy standards within 18 years while protecting the financial future of domestic auto-makers. His plan, which will save nearly a half trillion gallons of gasoline and 6 billion metric tons of greenhouse gases by 2028, will establish concrete targets for annual CAFE increases while giving industry the flexibility to meet those targets." He would "also provide retooling tax credits and loan guarantees for domestic auto plants and parts manufacturers, so that the new fuel-efficient cars can be built in the U.S. rather than overseas." Obama's August 4, 2008, speech at Michigan State University said "we will get one million 150 mile-per-gallon plug-in hybrids on our roads within six years," and "we will raise our fuel mileage standards four percent every year."

Other Environmental Issues

Environmental and resource issues not directly related to climate or energy have received little attention in the current campaign. However, the candidates' responses to the LCV questionnaire are revealing of their attitudes. These responses are available at <http://presidentialprofiles2008.org/>.

Superfund—In response to a question about the Superfund taxes for the cleanup of hazardous waste sites, Obama said, "The concept of 'polluter pays' is central to the effectiveness and ultimate fairness of our toxic laws. It must be reinstated." McCain's answer was more complex: "I believe in the 'polluter pays' concept, but we should be careful to ensure that the term 'polluter' is defined as those who actually pollute, not those simply in a business with the potential to do so because of irresponsible or negligent action."

Endangered Species Act (ESA)—In response to the question, "Do you support maintaining the strong protections of the [ESA], and do you think the Act is fundamentally sound?" Obama said simply "Yes." McCain responded,

Americans want and need a strong [ESA]. While the current law is sound and has produced a number of notable successes, I believe there are areas where it can be improved. As President, I would support reforms that maintain strong and responsible protection for threatened and endangered species and promote species recovery while bringing greater levels of cooperation, efficiency and cost-effectiveness to the effort. I believe that part of this effort must include achieving greater levels of coordination among federal, state, and local agencies, and working proactively and cooperatively with private landowners to protect habitat in a way that enhances species while respecting property rights.

National Environmental Policy Act (NEPA)—In response to the question, "Do you support NEPA as is, and what, if any, changes

to NEPA would you support?" Obama said, "I support NEPA, and do not believe changes are necessary." McCain responded,

I strongly support NEPA's goal of informing officials, stakeholders, and the public about the environmental implications of significant projects proposed to be undertaken by the federal government. Nevertheless, I believe instances occur in which legal procedures invoking NEPA are employed more for the purpose of delaying or obstructing a project, than to achieve the law's goal of helping produce a fully informed decision. As president, I will continue to support the NEPA process. However, abuses of the law by those seeking to ignore it or to exploit it should be addressed so that the law can be applied as intended, and so that public support for its important purposes can be sustained.

Mining—In response to a question about whether reforms are needed to the 1872 Mining Law, Obama said that the law should be updated "to improve environmental protection and require reasonable compensation for the use of federal land while taking into account the effect of new regulations on this important industry." McCain said he would "support reforms to ensure that mining activities, including reclamation, are conducted in an environmentally responsible fashion, that patented claims are used for their intended purpose, and that fees are fair both to miners and taxpayers." However, he cautioned that "such reforms should not be used as a means of chasing responsible small miners from the land or retarding the environmentally responsible development of mineral resources that are critical to our economy."

Conclusion

What is said during a campaign is an imperfect predictor of what a president will do in office. Indeed, five weeks before the 2000 election, then-Governor George W. Bush said he would regulate carbon dioxide emissions from power plants, a concept he rejected after his inauguration. But there are no perfect predictors. It is clear, however, that the outcome of the November election will have an important influence on the future of environmental, energy, and resource policy.

One final thing should be said about the impact of the voters' choice. McCain has said that, if elected, he would appoint Supreme Court justices "in the mold of" Chief Justice John Roberts and Justice Samuel Alito. Obama has praised Justices Stephen Breyer, Ruth Bader Ginsburg, and David Souter. Justices Breyer, Ginsburg, and Souter ruled for the plaintiffs in *Massachusetts v. EPA*, 127 S. Ct. 1438 (2007), the landmark climate change decision, while Chief Justice Roberts and Justice Alito dissented. The ideological split carries over into many other areas of law—environmental and otherwise. This highlights another important consequence of the November results. 

Editor's Note: Both campaigns were invited to comment on this article; the McCain Press Office declined, and the Obama campaign had not commented by the time this issue went to press.