



new energy economy

Opportunity for New Mexico
Energy Independence for America

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**In the Face of Washington Inaction New Mexico Moves Ahead
Expert Endorses New Energy Economy’s Pollution Cap as
“The Most Effective Method to Address Climate Change”**

President Obama and the Senate have failed. They promised legislation to transform our energy system to protect the nation, create jobs and reduce pollution and they will not deliver it.

The blame is shared by Republicans and Democrats, the President and Senate leadership, and especially the fossil fuel industry whose appetite for government subsidies knows no limit. But the cost is paid by American families living in a more dangerous world.

Republicans must stop obstructing. Democrats must decide they want to help working families instead of writing polluter-supported energy bills that ensure billions of dollars in corporate giveaways. The President must do more than talk about energy -- he needs to force action in the Senate.

“The word from Washington is that the only bills we are going to see this year are a national renewable energy standard and oil-reform so that makes New Energy Economy’s Petition before the EIB even more crucial. We need to put a price on carbon and cap dirty carbon pollution. Literally, our survival depends on it. New Mexico is threatened by polluters who think their bottom line is more important than the next generation’s clean air, water, and healthy wild places. They are robbing us of the jobs of the future, our natural heritage, our national security. If we actually embrace this change New Mexico could lead the nation,” said New Energy Economy Senior Policy Advisor Mariel Nanasi.

New Energy Economy’s Petition will spur investment and innovation, create thousands of green jobs, and cut pollution. It is the kind of transparent solution we need to end our dependence on fossil fuel.

Republican Retired Executive Director of Utah’s Department of Environmental Quality, Rick Sprott, concluded about New Energy Economy’s Carbon Cap: “The rule proposed by this petition is among the most effective and efficient strategies I have seen to address global warming and climate change - the most complex yet compelling environmental problem of our generation. After considering numerous state, regional, and national regulatory frameworks, I have found it useful to consider their merit using three common sense criteria: Does the regulation address an actual environmentally significant problem, does it achieve real environmental results, and is it feasible and simple to implement for those regulated as well as regulators? This rule succeeds remarkably. The results required for New Mexico under the proposed rule are what the science demands and could serve to drive national policy makers to act on the larger stage for global results. Finally, the mechanics of the rule are straightforward and flexible to industry and the Department. The Board should approve this petition and put New Mexico, and hopefully other jurisdictions, on the path to reducing GHG emissions.”

Rick Sprott is the former Executive Director of Utah's Department of Environmental Quality under Republican Governor, Jon Huntsman. For the last 14 years, Sprott implemented state and federal air quality programs and directed major policy initiatives related to energy, multi-pollutant strategies, agriculture, climate change, regional haze, air toxics, and other environmental issues. Sprott has submitted written testimony bolstering New Energy Economy's Petition to cap carbon pollution and is expected to testify mid-August.

Background on the Petition

New Energy Economy filed a Petition with the EIB asking the Board to set a cap on global warming emissions. New Energy Economy's Petition would require fossil fuel industries to reduce greenhouse gas (GHG) emissions based on a theory that GHG emissions constitute "air pollution" and threaten the health of people and natural resources, under the Air Quality Control Act. Further, the Petition requests that the EIB impose a cap on GHG emissions pursuant to its authority to abate and prevent nuisances¹ under the Environmental Improvement Act. Urgent strong EIB regulations are needed to protect public welfare.

The public testified in March at a hearing to cap greenhouse gas pollution before the EIB. At the March hearing, New Mexicans from all walks of life and from diverse areas of the state expressed their concerns about further climate change inaction.

However, in January, PNM and other industry groups and four state legislators filed a lawsuit in oil and gas country to stop the EIB from even hearing the Petition, arguing that the EIB had no authority to even consider the Petition. On April 13th, Lea County District Judge William Shoobridge adopted all of PNM's arguments and ordered the EIB to halt consideration of the Petition.

New Energy Economy filed an appeal to the New Mexico Supreme Court and on June 7, 2010, in a unanimous and unprecedented decision, the Justices overruled Judge Shoobridge (from the bench) and reinstated the Petition before the Environmental Improvement Board. The Supreme Court dismissed PNM's frivolous lawsuit; basing their decision on a "separation of powers issue" the Justices ruled that a Judge cannot interfere with an "ongoing, uncompleted agency process."

"The Supreme Court essentially decided that a district court has no power to interfere with a state agency's ongoing administrative proceeding. PNM's lawsuit, to stop the EIB from even considering our regulatory proposal, was vacated. Essentially the democratic process prevailed and the Petition to cap carbon pollution is back on track with hearings resuming on August 16th," said Bruce Frederick, attorney with the New Mexico Environmental Law Center, representing New Energy Economy.

"The EIB will hear from communities that will be most adversely affected by and have the fewest resources to respond to global warming, they will hear from scientists and other experts who will present testimony about the current and expected health, economic and environmental impacts of global warming, and then we hope they will decide that our future and our children's future is worth protecting. The EIB hearings will continue on August 16th and we will make the case to regulate harmful carbon pollution," states Dr. John Fogarty, a physician and President of New Energy Economy.

¹ On September 21, 2009, the 2nd Circuit Court of Appeals reinstated a case filed by eight states, New York City and three land trusts against fossil-fueled-fired-power plants claiming that their carbon dioxide emissions significantly contributed to global warming and caused a public nuisance, threatening human health and natural resources, under federal and state nuisance law.