CLIMATE CHANGE
A Roundtable Discussion
FEATURING:
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Paul Gutermann, Esq.
Akin Gump Strauss Hauer & Feld
William Thomas, Esq.
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MODERATOR:
John Cahill, Esq.
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Former Chief of Staff to Governor George Pataki
TO THE READER:

The realities of climate change are here and now. With global warming, erratic world weather patterns, along with a former U. S. Vice President leading the global climate crisis charge, the citizens of the world have taken notice that tomorrow’s world lays in their hands.

The National Law Journal, an ALM publication, is pleased to present Climate Change: A Roundtable Discussion, moderated by John Cahill, energy and environmental counsel at Chadbourne & Parke LLP.

As former General Counsel and Commissioner of the New York State Department of Environmental Conservation, as well as former Secretary and Chief of Staff to New York Governor George Pataki, Mr. Cahill is no stranger to the constant environmental challenges we face. A leader also in the rebuilding of the World Trade Center site and the recovery of Lower Manhattan in 2005, Mr. Cahill brought a broad range of practical depth and civic perspective to the lively roundtable discussion.

Joining Mr. Cahill were three distinguished panelists, all of whom are affiliated with major law firms and who are also environmental practice leaders. Each offered a unique insider’s perspective of the legal, political, micro and macro global climate initiatives happening within our courts, corporations and within the state and federal regulatory framework. The panelists then topped off the discussion of how these initiatives are impacting law firms and clients.

William Thomas, head of Clifford Chance’s U.S. environmental law practice in Washington, D.C., discussed his thoughts on the seminal U.S. Supreme Court case, Massachusetts v. EPA, where the Supreme Court ruled that the EPA should consider regulating greenhouse gases. Lauded by environmentalists as one of the most important cases in environmental legal history, Mr. Thomas offered pragmatic thoughts on the impact, if any, the case will have on the global marketplace, within Washington D.C. and on Main Street. Mr. Thomas also shared discerning thoughts on carbon regulation.

Michèle Corash, a Partner at Morrison & Foerster, discussed how the impact of EPA is already being felt and will continue to grow, especially within California, in connection with its waiver request authorizing its tailpipe emissions standard. Ms. Corash provided perceptive commentary on the evolving role of the environmental lawyer and the education they now need to succeed in today’s marketplace. Lastly she touched upon the legal and moral responsibilities of corporations and how clients are being advised in terms of climate change.

Finally, Paul E. Gutermann, Partner and head of Akin Gump’s energy, land use and environment practice, commented on when can we expect something to happen in Washington. A veteran Washington attorney, Mr. Guterman shared his insightful views of the current environmental legislation direction and the net positive effects of long-term climate control goal setting. He also commented how U.S. corporations are really just starting to come to grips with climate change.

Of course, our entire panel weighed in on the upcoming 2008 presidential election and how climate control issues would fit in.

The text of the panelists’ comments, edited for clarity and brevity follows. The views expressed are those of the Roundtable participants and not necessarily the views of the firms or companies. The discussion was hosted by the marketing department of The National Law Journal and New York Law Journal and was produced independent of the NLJ and NYLJ’s editorial staff.

We are fortunate to have learned about the current climate change initiatives and challenges from such dynamic and experienced counsel. We know that you will benefit from their insights too.

Alicia Brown & Brian Corrigan
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**MR. CAHILL:** Well, I want to thank everybody for joining us this morning to talk about climate change and how it’s affecting the legal community. We’re having an exciting year on this issue from both a legal perspective and a public policy perspective — from the Academy Awards and Al Gore’s *Inconvenient Truth*; to the Supreme Court decision in *Massachusetts v. EPA*; to a slew of actions by federal, state, and local policymakers to deal with the issue of global climate change.

I’d like to start this morning with the seminal case, *Massachusetts v. EPA*, which has been lauded by environmentalists as one of the most important cases in environmental legal history, and decried by strict constructionists as overreaching by the Supreme Court. At the end of the day, the Supreme Court ruled that EPA should consider regulating greenhouse gases. Bill, maybe I can start with you. How significant is this case for climate change? Will it really have an impact legally with respect to what states are going to be doing? Or is it just simply an impetus for the federal government to start adopting a federal regulatory framework?

**MR. THOMAS:** Well, I think the full impact of the decision has yet to be felt. We’ll have to see what the Bush administration and EPA make of it, and clearly they are studying it closely and beginning to reframe their efforts. It’s also already altered litigation strategies, especially on the plaintiffs’ side, and had an impact on project permitting. The decision also spurred substantial advocacy by climate stakeholders to use the Clean Air Act as a vehicle to regulate greenhouse gas emissions. Clearly, it sent a profound signal to the global marketplace that regulation of greenhouse gas emissions in the U.S. was coming, and sooner than many anticipated. *Massachusetts v. EPA* is also fueling lively debate inside Washington about the viability of legislative solutions that don’t involve Clean Air reform. Are there other vehicles? Should there be a stand-alone climate bill? How does energy regulation reform enter in, if at all? The policy conversation is far reaching.

**MR. GUTERMANN:** In Washington, there were four big impacts from the decision. First, it added to the momentum of an aggressive movement to address global climate change issues underway on Capitol Hill since the November 2006 elections when the Democrats took over the House and the Senate. Second, the decision provided further support and additional arguments to the need for the United States to move forward at the federal level. The decision also encouraged the various actions at the state level, particularly the RGGI program in the Northeast; the Western Climate Initiative led by California and several other Western governors. Lastly, it gave important impetus to California’s request to the EPA seeking waiver of CAFE requirements, which if granted, will serve as a mechanism for several states adopting their own stringent rules governing the emission of GHGs from vehicles.

**MS. CORASH:** I don’t know anyone who does not agree that *Massachusetts v. EPA* was just a stunning decision. It even took the prevailing side by surprise in that the Court uncharacteristically — particularly for this Court — didn’t just stop at deciding the issues before the Court; it anticipated the issues to come and essentially said to EPA, “Don’t come back and tell us that you’re not doing something about climate change and greenhouse gas emissions.” It was about as result-oriented a decision as I can remember from the Court in the last decade or so. While I agree with Bill that the scope of its impact is yet to be decided, its impact is already being felt and will continue to grow. We haven’t seen the last of the states challenging the EPA on GHG emissions. In fact, however, the decision that the states have standing to bring actions to force the EPA to act will have implications beyond global warming.

But the ruling on standing is also interesting as a potential indicator of how the Court may deal with...
a substantive Clean Air Act issue on climate change. The Court’s conclusion that Massachusetts’s standing to force EPA to act could rest on the local, provincial impacts of a problem that EPA considered too broad and nonspecific to regulate, may be a harbinger of what the Court will have to say about California’s demand for a waiver of its tailpipe emissions standards.

Speaking of which, in California there was rejoicing because the decision paved the way for a decision on our tailpipe emissions standard, which has been the subject of a request for an EPA waiver since 2005. The California tailpipe emissions standard was enacted in 2002, was the subject of implementing regulations in 2004, and has been on hold awaiting the Massachusetts v. EPA decision. Once the Supreme Court had spoken it did not take long for the State to act. Within three weeks of the decision, the Gubernator (as he is affectionately known) had sent a letter to the EPA putting the Administrator on notice that 180 days thereafter the state of California would file suit if the EPA did not grant the waiver California has requested authorizing its tailpipe emissions standard.

[On September 12, 2007, after this panel convened, the U.S. District Court of Vermont upheld the validity of California’s tailpipe standards and confirmed Vermont’s authority to subscribe to them once EPA’s Clean Air Act process is complete. ] It might be worth just a minute on what that emissions standard is.

**MR. GUTERMANN:** I think that would be helpful.

**MS. CORASH:** The tailpipe emissions standard regulates the level of greenhouse gas emissions from tailpipes of cars sold in California. As aficionados of the Clean Air Act know, the Act preempts regulation of mobile source emissions like these by states — except California. That is the result of a compromise when the Clean Air Act was adopted; at the time, California had in place fairly strict mobile source controls, largely to deal with the then nationally infamous smog in Los Angeles. Section 209 of the Clean Air Act allows California to seek a waiver for its mobile source regulations and for other states to adopt those same standards if California obtains a waiver. The statute says EPA must grant the waiver unless it finds that the regulation to which the waiver is applied was arbitrary and capricious, not consistent with EPA’s standards or that the State regulation proposed is not needed “to meet compelling and extraordinary conditions.” There will be a lot of litigation over all three of those criteria, but I suspect particularly that last one — whether or not EPA grants the waiver.

A year ago, I would have bet against the EPA granting the waiver because of the many issues raised, especially by the last criterion. But in the last year a lot has changed. There’s Massachusetts v. EPA, where the Supreme Court all but said that climate change is an extraordinary and compelling condition; there’s Al Gore and the penguin movies, all part of or catalysts for a bandwagon that probably has more steam behind it than most bandwagons we’ve seen in a long, long time in the environmental arena; and there is a bi-partisan sense that there is a serious problem here. It’s not that the public is expressing a particular view on the fine points of section 209 of the Clean Air Act, but rather that it may not be very receptive to administrative decisions that let those fine points get in the way of particular results. So, as a political matter, the EPA may grant that waiver whatever its misgivings may be on the legal issues and let the courts sort it out — since they will certainly get to do so in the end anyway.

**MR. CAHILL:** Well, I think we all agree that the decision by the Supreme Court has been an accelerant to the issue of climate change. But even prior to the decision of the Supreme Court, the states had been moving forward with their own regulatory scheme to address the issue of climate change and global warming. New York went forward with RGGI program. Last week, the Western governors announced their intention to do a similar program. Is this idea of having states create regional blocs a good thing? Or is it contrary to the national cap and trade program? What are the good points and the bad points about states moving forward independent of a federal framework to implement a cap and trade program?

**MR. GUTERMANN:** Well, one of the things it’s done is it’s brought a number of the industrial trade associations in Washington together to support a federal program. The threat of the waiver in California has domestic and foreign car manufacturers lining up behind federal action on the CAFE standards. They’re spending a lot of time with Chairman Dingell on the House Energy and Commerce Committee owing to his traditional support for the automobile industry. In the end, I’m not sure it would matter if California — and there’s several other states seeking waivers also — adopted tighter standards. What would the automobile industry be able to do in terms of complying with multiple federal and regional standards? If you have one state or a group of states with higher standards comprising enough of the market, they effectively establish the national standard because auto manufacturers are not going to make different cars for different parts of the country.

**MS. CORASH:** Your point is intriguing. I understand that some of the foreign car manufacturers are already developing and expect to have an automobile by 2012 to meet the California tailpipe emission standards because if that waiver is granted, there are already 13 other states that have adopted similar requirements and who will automatically get the waiver of section 209 of the Clean Air Act. That raises an interesting issue. Assume that global warming is “an extraordinary and compelling condition.” Does the state tailpipe emissions standard “meet” this condition? In answering that question, do you just count the impact on global warming of a California statute affecting only cars in California? If so, it’s not likely to have much impact and, without impact, can it be said to “meet” the condition? Or, do you consider the impact on global warming of all the cars in the 13 states whose statutes will automatically go into effect if California’s waiver is granted — now, you’re up to more than 50% of automobiles in the U.S.? Or can the EPA consider the reality that Paul just identified — as a practical matter, if a tailpipe standard applies to 50% of automobiles in the U.S., then every automobile sold in the United States is likely going to meet those standards. And if cars made for the U.S. must all meet these standards, it might be worth just a minute on what that emissions standard is.

**Irrespective of how the Congress changes in 2008 or whoever becomes President, it is likely we’ll get a bill passed with much less complexity than the one proposed and the details will be pushed off to an administrative agency.**
won’t many of the automobiles sold in the rest of the world meet them also, since they’re designed and made for sale all over the world. Pretty soon, that California standard starts having real impact. We will all find out, I guess.

**MR. THOMAS:** Well, obviously those potential implications are driving a lot of thinking within that sector about how to approach California, how to approach preemption, and how to approach federal legislation. Perhaps one of the helpful aspects of the active climate policy development at the state and local level is that it is bringing what is all too often an abstract global environmental discussion home to Main Street. When a governor or mayor talks about climate change and says here’s what we can do in our schools, here’s what we can do in our places of work, here’s what we can do in our communities to address global warning in an incremental way, it makes it relevant in a way it has not historically been in the United States.

If you look at the polling associated with climate change and the issue stream, you start to see interest and awareness in it creep up in the last few years. This may well reflect, at least in part, some of the pathbreaking work being done by leading governors and agency officials to try and convey a sense of why this matter matters, to do it in a balanced way that says we don’t know everything, but we know enough to know we need to be doing more, and to begin to invest in some of the solutions. I think ultimately the test will be whether that sentiment finds its expression in support for nationally elected officials and whether it becomes an issue that resonates with them and candidates seeking office.

It’s interesting to look at public opinion polling on climate change, which generally suggests Democrats are relatively more focused on climate change than Republicans, though there also seems to be greater convergence than there was on the issue even a few years ago. I’m not sure what this portends for candidates in the ’08 presidential election, but climate figures to factor into the conversation.

**MS. CORASH:** I have a question for you, John.

**MR. CAHILL:** Sure.

**MS. CORASH:** Imagine you were the right-hand man to the governor of the second biggest state in the country and, you’re looking at what’s going on in the cities and the states that Bill described; supposing what you see among your sister states or even among your cross border neighbors to the North is a little bit of raising the bet: “I’ll see you and raise you one” when it comes to environmental regulation. There is a desire to address a problem, sure, but also a bit of competition, perhaps — “anything you can do, Massachusetts, we can do better.” For example, Oregon just passed a statute that topped California by 25% — they’re going to get to 75% reduction of 1990 emission levels by 2050; California’s ‘only’ aiming for 50% by that time. But you, as the main guy, know that the way to make this happen is through organizations like RGGI and WCI, where no one governor gets the credit. You’ve had to face this type of situation. How much competition is there among the governors to be viewed as leading on the issue, and how productive is that?

**MR. CAHILL:** When we first announced RGGI roughly five years ago, there wasn’t much competition at the time. People were basically saying, Governor Pataki, you’re crazy trying to put this group together. You’re going to run into oppositions from every interest group, etc. But we believed we identified the issue and we believed it had to be addressed. Since that time, I think you’re right, Michelle, there has almost been, if you would, a race to the top who can leap frog over the other person with respect to the climate change proposal. That’s not necessarily a bad thing. I think what it does is it puts increasing more pressure on the federal level.

When, as Bill mentioned before, you see this movement now from the ground up on climate change, you understand that it’s not something that is just “global” in nature. It has impacts locally. When mayors get up there and say that they have their own plan and then a governor gets up there and says we’re joining with other states in the region and last week going bi-national by bringing Canada into the mix, I think the end result is going to be a federal program. A federal program is the end goal — not just to have a regional greenhouse gas initiative. Yes, a regional program can contribute to reducing greenhouse gases if you combine the economies of all of those states there’s a substantial amount of greenhouse gas emissions from the electrical sector. But the real point here was: Let’s build a national consensus towards a regional cap and trade program.

Since that time, we have seen elected leaders announce more aggressive initiatives, broader in scope and higher-end targets. That’s all good because at the end of the day, you’re going to have a federal program that in some way will basically subsume all of these regional programs. And, you know, talking about the regional program, where that is going, you know, Paul I’d like to hear from you about national efforts down in Washington, D.C.

And Paul, talking about a national program, I’d like to start with what we can expect? There are at least seven bills out there of various magnitudes. What do you see as the end product of these discussions and when can we expect something to happen down in Washington?

**MR. GUTERMANN:** Most of the action so far has
A question to you — by my count, I wanted to say a little bit about the
It will also be interesting to observe what the Bill looks like and whether
MS. CORASH: Sounds right.
MR. THOMAS: It will also be interesting to observe where people position themselves around other points of the bill including this notion of allowing for an economic safety valve, and on the concept of international activities, and to what extent do project activities undertaken outside of the U.S. qualify for treatment, and under what time frame. That has real-time implications for those of us advising clients in the project finance and carbon finance sectors. I don’t think the debate over those nuances is by any means resolved.
MR. CAHILL: I would agree with that, Bill. The points that Paul had raised on the issue of the auctioning of the allowances I think is another very critical piece in a successful cap and trade program. Now grant you, most of the states in the northeast are looking at auctioning 100% of the allowances with them provide for Federal preemption at all — and two of those are just a little tiny bit preemptive, especially when you consider that the programs affect not only EPA administered rules but also areas of complex interstate markets like the power transmission statutes regulated by FERC. How do you allow a state to control the terms for production and delivery of energy or how it is generated when the grid is so difficult to confine within borders? In the case of mobile sources regulation, many industry stakeholders also see conflicts with laws governing fuel standards that have had a hard time pressing that view so far. For example, The Vermont District Court was not persuaded. Yet of all those bills, only one of the federal legislative proposals is broadly preemptive. What’s your sense of what we’re going to see in terms of express preemption in new legislation?
MR. GUTERMANN: My guess is that preemption will be addressed later in the process. People will see
MR. THOMAS: I wanted to say a couple of things about this sort of issue stream. One is, that it harkens back to a previous subject, which was how are we moving from state to national, and likely ultimately toward some degree of integration in an international scheme.
And so on the one hand it’s important that states innovate and collect ideas. On the other hand, it’s important that everyone involved in that innovation anticipates the implications of tying up into a global framework. That makes the mechanics of getting the emissions trading proposition right — even in California itself — exponentially more important and more challenging. All of us will have to grapple with this in advising our clients, even those of us who are in New York or Washington looking out to California and from California looking at New York and etc. One of the interesting things about the conversation in Washington about Lieberman/Warner is an apparent emerging consensus — admittedly, perhaps, outside of the Bush administration but within the folks talking about the bill — that cap-and-trade ought to be part of a set of policy solutions.
And as Paul mentioned, this notion of getting the mechanics right is important, and I don’t think they’ve had a chance to work out the details yet on Capitol Hill.

Thought Leadership Series

Michèle Corash

been on the Senate side where there has been a coalescing around the notion of a cap and trade system. One of the major things that’s happened is the creation of an ad-hoc coalition called the U.S. Climate Action Partnership. We actually happen to represent a number of the entities that are part of that effort. U.S. CAP really stretches the breadth of our economy from coal fired utilities to utilities like PG&E that are more heavily gas-oriented, some that have more nuclear capability, automobile manufacturers, oil companies, as well as public interest groups like Environmental Defense, the PEW Center, the Nature Conservancy, and they’ve really come together around having a cap and trade system. The U.S. CAP entities are supporting one of the most recent of the proposals that will ultimately become the Lieberman/Warner bill slated for introduction this Fall. The staffs are working on the legislative language, and they’ve published some fairly detailed outlines of what the Bill will contain. As Bill mentioned earlier, the breadth of the coalition supporting cap and trade has been helped by the fact that they haven’t really got into the nuts and bolts of issues such as allocation; whether there’s an auction; how much of it’s going into an auction.

Another issue in which there’s a fairly large divergence is whether the legislation is going to include a safety valve, which refers to basically a kick-out of the system if the cost of carbon credits reach a certain amount, it effectively caps the cost. The environmentalists, of course, hate that, but interestingly the Chamber of Commerce has also come out in opposition to that notion. From the financial markets’ perspective, one of the things that investors are going to be looking for is a level of certainty that the market is going to operate and they’re going to be able to do their analysis and plan on the market and not have government intervention through cost caps. So there’s a lot of activity. There’s real momentum to try to get something in this session of Congress, even with the expectation that if they’re able to pass a Bill, the president might veto it. There’s a lot of push right now to try to have it happen before the 2008 elections. There’s not a lot of time for that and it may be wishful thinking, but that’s the goal for many of these groups.

MS. CORASH: A question to you — by my count, which may be overly inclusive there were 130 bills in this Congress and about 100 and some last Congress, right? I’ve wondered why only three of

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revenues coming to the states as some system benefit funding that would be reinvested in energy efficiency and alternative renewable energy. That's going to be met with stiff resistance I think from the energy sector. But again, RGGI is just energy sector focused, not economy-wide. It is the same thing with the safety valve issue that Paul had mentioned. The safety valve issue is a primary reason that Massachusetts essentially backed out of the program initially. They were very much concerned and they were looking for a price cap on the system. And going to Paul's point, I think a number of states were adamantly opposed to any interference with the free market system from a public policy standpoint. People down on Wall Street were as much concerned as the environmental community was. The auctions and the safety valve are just two details, but they're absolutely critical details in a successful program.

MS. CORASH: On both of your points, I think you know that in California, the climate change legislation set up a market advisory committee, which was made up not only of people representing the different stakeholder sectors — environmental activists, bankers, developers of alternate energy sources, etc. — but they were also largely from outside of California. It was not a California-focused group, even though their charge was implementation of a state climate change law. One has to assume, therefore, that they were writing with a broader geographic brush than just California. It's instructive to look at the report they came out with, which addresses many of the points you mentioned.

One of their recommendations was that a cap and trade program in California be linked to other cap and trade programs. And they specifically identified RGGI as one such program. They weren't going right next-door — they were looking across the country to RGGI and across the Atlantic to the EU. So the California Market Advisory Committee very much contemplated that if there was going to be a cap and trade program in California, it should be structured in such a way as ultimately to become part of a global scheme. In fact, our Governor has already gone out on his own to strike international agreements with the UK and with Canada.

The Market Advisory Committee also recommended against a safety valve, which was interesting given the makeup of that group. On auctioning, they hedged their bets and said that they felt that auctioning should be part of a system eventually, but any system should be flexible enough to make allowances for free allocations to certain sectors of the economy and also to avoid impacts that adversely affect environmental justice concerns for local populations.

MR. GUTERMANN: The Lieberman/Warner Bill proposes free allocation of credits in the early years, gradually phasing them out over time and as the allowable emissions levels get lower. To go back to the issue of complexity, I'm sure we can all think of the enormous obstacles in passing legislation. Having lived in Washington for 25 years, I can sometimes be a cynic. I believe that as the legislation moves through the process, the tough issues will tend to become more general and the statutory language more ambiguous, as necessary to pick up the number of votes needed to pass. Irrespective of how the Congress changes in 2008 or whoever becomes President, it is likely we'll get a bill passed with much less complexity than the one proposed and the details will be pushed off to an administrative agency. Then, of course, the fight becomes whether it is the EPA alone, or do you have other parts of the executive branch involved in setting some of the details. Ultimately, that is where I think the legislation will have to be in order to get passed.

MR. CAHILL: Well, Bill, we recognize that there's going to be complexities either on the legislative level or on the regulatory level, whether it's a safety valve, allocation of allowances, the inventory, the baseline of the CO2 emissions. Isn't it a lot easier to just go ahead and do a carbon tax?

MR. THOMAS: Although some advocate that as an option, I have strong doubts about its political viability, especially given the current state of energy prices. I'd be interested in the views of others around the table.

MR. CAHILL: Michele?

MS. CORASH: I can't imagine it happening. It's a question that comes up all the time and has for decades. To go back to the tailpipe emission standard, one of the arguments that will surely be made to the EPA and the courts is that California doesn't need a tailpipe emission standard to address global warming because it could "just tax" emissions. No matter what political changes there may be, anything that's called a tax just is not going to go anywhere. But that's not to say we can't have a tax by another name.

In one sense, we have a carbon tax already in California, and in at least a number of states. These are camouflaged as "supplemental energy payments" or similar name, and are used to implement Renewable Portfolio Standards. The program in California is probably a model for other states, so we can look at how it works. Those delivering power in California must use a certain percentage of renewable resources — I'll call them utilities. California allows these utilities to purchase their renewable resources from inside or outside the state to meet in-state standards. If the price paid for the renewable resource is at or below what the Public Utilities Commission has determined to be the cost of an equivalent non-renewable resource (market reference price), the utility pays it all and it automatically goes into the rate base. If the price is above the market reference price, the utility can still buy it, but it pays only the market reference price; the state pays the rest through a supplemental energy payment which is funded by a public purpose program "surcharge" — but it is not a tax. If it were, it wouldn't be there.

MR. GUTERMANN: I think part of what John Dingell, the leader of the carbon tax in Washington, is saying that this is going to be very expensive. The point he is trying to make is that it's all nice to talk about the cap and trade and to have these fairly stringent emission reductions over a long period of time, but he believes it's going to be expensive. If we cut away and set a carbon tax level that makes the costs clear, the public will have an opportunity to decide whether - and to what extent it really wants to do that. I think it's a valid point, though I don't agree that the cost needs to be catastrophic.

To go back to a question we talked about before regarding local or regional actions to address climate change — in many respects, and particularly at the more local level where county governments or cities are involved, the types of greenhouse gas initiatives that are being undertaken don't really cause much pain among the citizenry. And as you get farther up in scope to initiatives like Governor Pataki's leadership on RGGI and the federal level, it starts to impose real costs on people and it gets more difficult.

If I can take Michele's precedent and ask you a question, John, as the political insider, part of the whole cap and trade system is that the really stringent reductions are 30 years off in the future, well beyond the political life of the officeholders supporting stringent measures. To what extent do you think, if at all, does the ability to have that pain pushed off into the future make it easier for the states or the feds to go with that scheme.
Climate affects clients from a competitive standpoint, from a potential regulatory compliance standpoint, from a litigation and risk management standpoint, and from a reputational risk management standpoint, and it is rewarding to work with them across this continuum.

—William Thomas

As the piece in The Wall Street Journal points out this morning, those investments are not without some risk, but helping clients manage such risks is also part of our role in both the environmental advisory space and the climate advisory space. Climate affects clients from a competitive standpoint, from a potential regulatory compliance standpoint, from a litigation and risk management standpoint, and from a reputational risk management standpoint, and it is rewarding to work with them across this continuum. This means, however, that you need to perceive the service stream as broader than purely environmental, and have climate team with complementary skills and expertise, including project finance, derivatives and structured products, securities and insurance to help today's multinationals not only reduce their carbon footprint, but to do it in a way that allows it to maintain competitiveness. There's also increasing value in the ability to think beyond the borders of U.S. environmental law and frame strategies and solutions that account for the wide range of climate regulation in developed and developing country markets and help clients frame solutions that will be effective.

MR. CAHILL: And, you know, certainly the multifaceted nature of climate change is well noted, Bill. But when we talked about the framework, a regulatory framework, whether it's on a state or a federal level and you raised the specter of uncertainty on one of the issues that I wanted to chat a little bit about, corporate responsibility. You know, we've seen in the past that shareholders can be very active.

MS. CORASH: There were a lot of valuable points in there. One of them reminded me of a critical observation by the market advisory committee I mentioned earlier. When the Committee recommended a cap and trade program, it specifically stated that it was uncertain about whether or not such a program would actually be cost-effective or result in any cost savings for regulated entities. Now you would think that this would have been a stop to talk of cap and trade. But the Committee looked not only at whether there would be cost savings to those actual-

[If we're going to be serious about climate change, we do have to look at the long-term implication of our actions...[I]t's a very positive thing that we're looking beyond an election cycle because carbon is an issue that's going to go on for decades and generations.

—John Cahill
one else to reduce emissions. The second and separate goal — which may be far more important in the long term — is to create financial incentives for creating a sustainable market and producing the wherewithal for sustainable development.

**MR. GUTERMANN:** I also have a comment on Bill’s excellent points and, like Clifford Chance, Akin Gump’s climate change practice is multidisciplinary. To handle these issues effectively, it really is critical for lawyers from different disciplines in the firm to work together and communicate to solve the clients’ problems. I think that in terms of the carbon credit market, there are extremely important issues with respect to the integrity and credibility of the credits and the underlying projects that create the credits. Having a legal structure to ensure market integrity, particularly with respect to offset projects in the developing world, is going to be of enormous importance for investors. As lawyers, we need to be able to identify and analyze those risks for our clients so that they invest in projects where they’re going to be able to get credits that are valid and reliable. There will also be a role for lawyers in the corresponding development of a system of monitoring, reporting, and verification of credits — all of that is yet to come. I think those will be some of the huge challenges as the nations of the world that are starting to create the post-Kyoto world, which is rapidly approaching us, the 2012 deadline coming up. Having an ability to understand the enforcement and compliance structure is key.

**MR. THOMAS:** There is a changing conversation in the U.S. around this issue, recognizing that while we currently live in a voluntary environment in the U.S., it is part of a larger global carbon market informed by perceptions of corporate social responsibility and sustainability. Stakeholders scrutinize our clients’ carbon footprints and reduction commitments, and increasingly express views concerning the efficacy of offsetting. In fact, the financial press is looking at it on seemingly a daily basis. This represents both an opportunity and a challenge for all of us to participate in the effort to establish standards and guidelines for the voluntary carbon market.

**MR. CAHILL:** I think it’s fair to say that a carbon market without a national cap and trade program certainly poses its weaknesses. I mean, what is the viability of a voluntary carbon market long term without a structure to set the parameters by all participants in a cap and trade program.

**MR. GUTERMANN:** My partner Ken Mehlman, who I think John knows, tends to think in global political terms. And the way he puts it is ultimately the carbon market may need a Breton Woods conference.

**MR. CAHILL:** Yes.

**MS. CORASH:** I agree.

**MR. CAHILL:** All four of us are from international law firms, which is interesting because there was a time when this area of practice was considered more a province of specialty boutique firms. I think what our discussion so far demonstrates is that it is very difficult for law firms to have a niche practice in this arena and do right by clients. This is true whether you are talking geographically, or in terms of subject area or legal discipline. It is almost impossible to take one issue in isolation and address it properly. You need a firm with complementary synergistic practices.

When you talk about cap and trade or GHG reduction targets, you have to think about how it relates to the state next door, to the country next door (after all Schwarzenegger has his own mini-treaties with the UK and Canada), how you incentivize and then protect investments in alternative types of energy, energy efficiency and new technologies, how you capitalize new companies, how you develop contracts that recognize the risks of new markets, and all of the rest of it. It is a blanket in which the threads — environment, financial instruments, intellectual property, energy, corporate structure, international law, infrastructure, etc. — must all be interwoven if it’s going to succeed at all.

Which means we as counselors need to have practices that are similarly interwoven but in which the individual threads represent real and deep expertise. We can’t — and we don’t — expect our clients to come to us simply because there are first rate environmental lawyers in the firm, or first rate IP lawyers etc. — they all need to be there and need to have a focus on this new area of commercial enterprise and regulation.
MR. CAHILL: No question. I think that the practice of environmental law is changing dramatically because of climate change. I think that environmental law, whether you’re dealing with Super Fund or clean air, clean water issues, you’re almost at a — somewhat of a stovepipe mentality.

I know certainly at our firm that has dramatically changed. Climate change effects so many areas of our practice not just environmental, but energy, project finance, corporate and litigation — to one of the issues that we were just talking about before, corporate responsibility. How are we advising our clients with respect to risks that climate change pose? The science I think, for the most part is settled with humans contributing to climate change. Therefore corporations have a responsibility both legally and morally to react to that. So what are we telling our clients with respect to this issue, what steps should they take on the corporate liability/corporate responsibility front. Michèle, can I start with you?

MS. CORASH: Yes, thanks. This is a brand new world. There are several different features to identify: disclosure, fiduciary responsibility to shareholders, and avoiding liability.

As to disclosure, there is a lot of talk now about whether a company must or should disclose the impact on its bottom line of climate change, including increased energy costs, scarcity or increasing costs of produce, potential land use restrictions, new regulations, risk of flooding or loss of water supplies needed for production, etc. There is also disclosure of the flip side — the impact of the business and its operations on climate and its potential to affect others. It is not only manufacturers of products that emit GHGs who might be affected, but also facilities that emit GHGs, companies whose raw materials require others to emit GHGs or to consume resources that protect the climate from change. Will shareholder activists push litigation or shareholder proposals demanding such disclosure? It would have seemed unthinkable only recently. It is not happening yet to any significant degree, but that could change.

Then there is the question of whether boards of directors have a fiduciary responsibility to implement programs that reduce their carbon footprint as a long-term measure of financial stewardship. We know that corporations are required to have long-term programs that consider future consequences of their actions and the actions of others. And here there has been shareholder activism on the subject.

MR. CAHILL: I agree.

MR. GUTERMANN: What’s interesting to me is that the change from 2006 to 2007 in dealing with this issue, reviewing corporate disclosures — 10-Ks, 10-Qs — a year ago, if climate change was mentioned, it was very rare and very general. And this past spring, there were several clients where I had to go back and get them to say more about it because it had really become much more important of a disclosure issue for them. And I think as we continue down this path, that’s going to become even more and more important.

MR. THOMAS: I agree that the pressure for greater, and more qualitative, climate disclosure is mounting. There is still, however, widely varying views as to what standards ought to apply, whether one looks at rules governing financial reporting, accounting, or even CSR/sustainability reporting. The success of the Carbon Disclosure Project, is marked and illustrates the appetite for information concerning climate risk and performance from both the public and the market. Meanwhile, he push for bodies like the Carbon Disclosure Standards Board reflects a need
Well, let me address both prongs. Indeed.

Mr. Cahill: This is a tough one, Michèle.

Ms. Corash: Indeed.

Ms. Corash: You know, Paul, one phenomenon here that has surprised me is the extent to which companies have signed up on these voluntary registries to quantify their GHG emissions. Just last week, I understand that one of the Texas oil companies that is not ordinarily on the list of the best environmental performers signed up for one of the voluntary registries. For those of us who have practiced in the environmental arena for a long time and remember when nothing was too small not to be fought over, the voluntary sign ups to meet emissions reductions goals are welcome to be sure, but also startling. It isn’t entirely clear to me why we’re seeing this or what the business rationale is when you consider the downstream consequences to a company for promises made today with no guarantee that it will buy them credits against future obligations or even good will.

Mr. Cahill: I think because no one really knows at this point what they’re going to have to do, how it’s going to be measured, how it’s going to be enforced. That’ll be a real challenge for many of our CEOs and general counsels and boards of directors to deal with those issues.

Ms. Corash: You know, Paul, one phenomenon here that has surprised me is the extent to which companies have signed up on these voluntary registries to quantify their GHG emissions. Just last week, I understand that one of the Texas oil companies that is not ordinarily on the list of the best environmental performers signed up for one of the voluntary registries. For those of us who have practiced in the environmental arena for a long time and remember when nothing was too small not to be fought over, the voluntary sign ups to meet emissions reductions goals are welcome to be sure, but also startling. It isn’t entirely clear to me why we’re seeing this or what the business rationale is when you consider the downstream consequences to a company for promises made today with no guarantee that it will buy them credits against future obligations or even good will.

Mr. Cahill: I think that Paul mentioned the learning curve. And for the companies that can get up on this learning curve quicker than competitors, there’s enormous financial and image awards. I can just give you one example. I didn’t do any work for General Electric when I was the EC commissioner in the state. I had significant battles with GE and the Hudson River. Since that time, they have transformed their company. Ecoimagination is probably one of the most well known corporate efforts to transform a company, both in the marketplace and the issue of public opinion. And they’ve done remarkably well doing that. And they see it as the right thing to do, but they also see it as an enormous economic opportunity for GE going forward. So I think when you put the right leadership in place, yes, going through the three Ps that Bill had mentioned, I mean, forward-looking companies, the more sophisticated companies see an enormous opportunity out there by being positioned at the front of this issue on climate change.

Mr. Thomas: Well, I think there are at least a couple of aspects to consider. First, we have to project the capabilities necessary to help our clients cover the breadth of issues we’ve been discussing, which, as Paul echoed, means delivering a multidisciplinary capability. In our case, this also means having the necessary skills and expertise in the Americas, Europe, and Asia. I also think law firms, like other major service providers, will be expected to better understand their own environmental footprints and undertake efforts to improve GHG performance.

Ms. Corash: Well, let me address both prongs. Morrison & Foerster is a global firm and our clients in this space have a global focus, wherever they may be located. We have been advising innovators in the Cleantech space for more than 30 years using a multi-disciplinary approach. This means our energy, environmental, water, litigation, private equity, venture capital, intellectual property, and project development lawyers work together — and have a great time doing so. We’ve been helping companies that are going into trading set themselves up so that they are not regulated as commodities traders under the Commodities Futures Trading Commission. We advise companies that want to assist the brokering of emissions, corporate clients on disclosures and fiduciary responsibilities.

At Morrison & Foerster, we have a large IP practice spread across virtually all of our offices. The IP lawyers have been busy helping innovators to protect and license their intellectual property. In that respect, the Clean Air Act is unique as an interface of environmental law with IP, in that it has a little appreciated provision, section 308, allowing the Attorney General to seek compulsory licensing of technology in certain cases — as Unocal discovered a few years ago. The more that climate becomes a serious issue, the more likely it is that these provisions may be subjects of concern and litigation involving inventors.

One thing we didn’t talk about is the entire land use picture or local project approval process, which is very interesting and perhaps we’ll get into that a little bit before we wrap up. What we are seeing now is that in the development of new projects, the impact of the project on climate change, and the impact of climate on the project, have both become in the last year a standard part of the EIS equivalent in California and is probably on the verge of becoming a standard part of EISs under NEPA. Indeed EPA has weighed in on some NEPA consultations as to climate change aspects of projects — like those reviewed by the Forest Service, for example, and it has considered whether climate impacts affect permit approvals. NEPA litigation has established that there is standing and I expect we will see an increasing number of challenges to new projects based on NEPA and state equivalents because of climate change impacts.
Representing clients in these disputes and advising them on how to avoid them has become a significant part of our practice. We have timber company clients whom we advise not only about how these new NEPA-type requirements can impact their activities, but also have analyzed the challenges and opportunities for them presented by carbon sequestration and credit schemes. We get to help our water clients think through the implications of climate change and its regulation for their businesses. The reach of climate change and the issues it is creating seem to have no limit.

In terms of the ABA certification, my hope is that it will prompt thinking about the subject and will prompt action — not just repackaging of actions already taken for other reasons.

At Morrison & Foerster, we also have a program to reduce our carbon footprint. We solicited input not just from a consultant, but also from everyone in the firm, since the best ideas are frequently those of the people right next to us. And since we wanted to be in front of the pack, we thought we would follow California’s lead in one respect, at least — having an Early Action Program. We have identified steps that can be taken in a short period of time and can be measured. And we will follow these with more long-term measures that take longer to implement. We are working on a program that will give everyone in the firm a menu of options that each can choose from individually, and that collectively will reduce our carbon footprint. And we hope to use market mechanisms to incentivize these actions by providing financial rewards to our personnel who get with the program. As with any of these programs, measurement is important — and we feel we need and want some metrics to prove that we are actually achieving our goals. Stay tuned.

MR. CAHILL: I think where we’ve seen it first is in responding to RFPs. One of the items that is in many RFPs — law firms are required to address the actions that it has taken with respect to reducing its carbon footprint, much as the way as Bill mentioned diversity has been a common RFP aspect in the United States. I think the climate change and the greenhouse gas issues will be something that we’ll be required to address in the near future.

MR. THOMAS: The challenge I confront on a daily basis is how to mesh our climate law expertise with other complementary practices within Clifford Chance in a way that maximizes the value we are delivering to our clients.

MR. GUTERMANN: Sure. I think what that calls for — and I absolutely agree with you — is that not only do you need a multidisciplinary team, but you need depth within the environmental practice so that you’ll have people, lawyers within your practice who have dedicated a significant amount of their time to climate change and to be able to handle the water-front of issues and to be able to respond locally, regionally, nationally, globally.

MS. CORASH: You know for a long time in environmental practice, you needed to be both a lawyer and a biochemist, toxicologist or hydrogeologist. But today in a climate change, environmental lawyers also need some understanding of economics, finance, intellectual property and energy regulation — because that is the way this area of the law is developing. We really are leaving command and control behind and moving, at long last, to more flexible ways of getting to a goal — it’s driven by economics, but founded in the law.

MR. CAHILL: Yes.

MR. THOMAS: I think it is also helpful to have a grasp of organizational behavior and corporate strategy basics. I am privileged to serve on the Advisory Board to the Erb Institute for Global Sustainable Enterprise, a partnership between the School of Natural Resources and Environment and the Ross School of Business at the University of Michigan. That experience has been enormously valuable in understanding how businesses, and business leaders, approach environmental issues. In an era where regulators are seeking to harness the market to promote environmental benefit, it is important to be able to work with clients to implement systems that not only ensure compliance, but also help them maximize competitiveness.
MR. CAHILL: Yes. Well, I'm going to wrap it up by turning to politics. As we face the 2008 presidential campaign that's well underway, I see climate change as the one issue that unites our foreign policy concerns as it relates to dependency on fossil fuel — particularly from unstable regimes, whether it's Venezuela or the Middle East — our economy, Michèle, you talked about the economic impact or analysis has to happen and where are we going to grow jobs or high value jobs and be able to transport technology abroad, and of course, we have the environmental issues we discussed at length today. So here we have this broad issue that really transcends major issues in public policy debate, you would think that climate change would be a major issue in the upcoming presidential campaign. What are your thoughts? Will climate change be a major issue in the upcoming presidential campaign? Tom Friedman mentioned last week out at RMI that there was one question in the 2004 presidential debates on climate change. Can we expect more on that this year?

MS. CORASH: Oh yes.

MR. CAHILL: Should it be the issue, a crucial issue for the presidential campaign? And is there anybody out there that has made climate change if you would a defining issue in their presidential campaign thus far? Michèle, could I start with you?

MS. CORASH: Well, I'll once again give you the California perspective. When I left Washington, I really thought that I was leaving exciting politics and going out to the boonies. Then I got there. I must say, California's the capital of the entertainment business and politics is entertainment in California. We have our Governor, who we all have to remind ourselves is a Republican and who wants this issue to be his legacy. He's not going to be president, but he is not averse to setting and leading the national agenda on this issue. He remains the guy that every political candidate wants to have at his side at a rally and it would be hard for me to imagine that he will get behind a candidate who does not pay some attention to this issue.

If you look at his travel record lately, it seems like whenever he visits a Republican governor, the next thing that happens is there is an announcement of some extremely ambitious climate change initiative coming from the host governor. Coincidence? The biggest surprise of all had to be when the state of Utah decided that it was going to join the WCI and announce that by 2008 it is going to have adopted statutory targets for reducing greenhouse gases. Utah?

I'm interested to hear what Paul and Bill — both in Washington have to say on the subject. But

“[N]ot only do you need a multidisciplinary team, but you need depth within the environmental practice [with] lawyers who have dedicated a significant amount of their time to climate change and [are] able to handle the water-front of issues and... respond locally, regionally, nationally, globally.”

—Paul Gutermann
MR. CAHILL: Paul?

MR. GUTERMANN: I think the issue of climate change and more broadly the environment has been a motherhood and apple pie issue for the Democratic Party for all of my adult life. I think what's happened is that the debate over the last six to nine months has moved from the science to what are we going to do about it? How is the United States going to be engaged? I think the difficulty politically is that the person who's made it a defining issue is Al Gore. And he is anathema to most in the Republican Party. Where there's an opportunity for the politics to come together, and John mentioned it in his introductory remarks is the national security aspect of at least a piece of the climate change puzzle with respect to fuels and oil and our dependence on foreign oil. I think that that is an issue that will have resonance among the Republican voters and also is an anchor for the Democratic candidates to not be campaigning merely on a pro-environment basis, but also to have a national security basis for making the arguments. So I think it is inevitable that climate change will be an issue, but I don't know that it will be a major issue for the campaign. I think the discussion in the campaigns will still be at a fairly general level. There won't - we won't have gotten far enough in the debate to get into the details, whereas four or eight years from now, it'll be — I think it'll be a much more specific issue.

MR. THOMAS: I agree with what's been said. I think the difference between the next presidential election and the last is that climate change will be on the agenda. It will be discussed, and possibly even debated, in part because of the confluence of circumstances that Paul mentioned — this perception of climate change as an issue that integrates other concerns like energy independence and security and environmental protection. I don't expect climate change to be a decisive factor in large part because I don't think it's yet a critical issue in the minds of most voters, and environmental issues rank below a number of other issues in most polling I've seen. And climate tends to rank around seventh of the environmental issues, which is slightly at odds with some of the polling that goes out when you just say do you think climate change is happening, do you think it's important, do you think we should be doing something, do you think we should be paying more for it? Most people when just given that menu will say yeah, we ought to be doing more.

But when you say okay, you only have this much time, this much energy, this much capital, where do you want to devote your focus, you know, you don't get the same sort of outcry for we've got to solve climate change tomorrow. And I think because of that, you'll see this issue, you know, sort of roll back a little bit. I do think it's probably the environmental issue that is sort of the — it's the reason to talk about environment with the candidates. And so you'll hear it talked about. But I wouldn't think it would make a meaningful difference in the outcome.

MS. CORASH: And yet on both coasts, you have these very aggressive and probably expensive requirements being adopted — not just adopted, embraced. How do you explain that?

MR. CAHILL: You know, Bill, I might in some way disagree with your analysis. I think that while I agree that environment is down on the list and climate change is probably even below that, I think if a candidate can articulate this issue of climate change on the national policy issue, on the jobs issue, and yes, also as an environmental issue, I think if a candidate can do it in a way that is not the Al Gore for the Republicans and maybe not even the Al Gore for the Democrats. I think if a candidate can smartly articulate the importance of this issue of climate change as related to national security and job opportunities, I think that person can make a compelling candidate to be president of the United States.

MR. GUTERMANN: You're probably too modest to mention it. I think Governor Pataki did that very effectively.

Well, I guess the one caveat that I'd have for Bill is that if it is a close election and you've got states that have been in play like West Virginia and Kentucky that are heavily coal producing, a strong climate - pro or activist climate change position could become very difficult or a vulnerability for a candidate.

MR. CAHILL: That's true.

MR. THOMAS: Yes, I do think there is a bit of an outcry in the public domain for political leaders who evince a true sense of environmental stewardship and conservation that sort of live that ethos. And I think that Mr. Paulson is someone who tends to embody that. So when he talks about it and he talks about its relevance to energy independence and commercial progress with China for example, it really resonates. And I think, you know, we just need more leaders like that who really embody the integration of environment with political progress.

MR. CAHILL: Yes, I agree. Great. Well, thank you all.

MR. THOMAS: Thank you.

MR. GUTERMANN: Thanks.

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John Cahill’s practice concentrates on energy, environmental and corporate matters. Prior to joining Chadbourne, he served as George Pataki’s Secretary and Chief of Staff from 2002 through 2006. In May 2005, Mr. Cahill took on the additional role of leading and coordinating the rebuilding of the World Trade Center site and the recovery of Lower Manhattan. From 1995 to 2001, he was the general counsel and then commissioner of the state’s Department of Environmental Conservation. Mr. Cahill was also a partner at Plunkett & Jaffe, where he focused on environmental and municipal issues.

Mr. Cahill is a member of the New York State Bar Association (Environmental Law Section), the Independent Judicial Election Qualification Commission (Second Department) and the New York State Temporary Commission of Investigation. He also serves on the board of the World Trade Center Memorial Foundation.

Chadbourne & Parke is an international law firm headquartered in New York City, providing a full range of legal services, including mergers and acquisitions, securities, project finance, private funds, corporate finance, energy, communications and technology, commercial and products liability litigation, securities litigation and regulatory enforcement, special investigations and litigation, intellectual property, antitrust, domestic and international tax, insurance and reinsurance, environmental, real estate, bankruptcy and financial restructuring, employment law and ERISA, trusts and estates and government contract matters. Major geographical areas of concentration include Central and Eastern Europe, Russia and the CIS, the Middle East and Latin America. The Firm has offices in New York, Washington, DC, Los Angeles, Houston, London (a multinational partnership), Moscow, St. Petersburg, Warsaw (a Polish partnership), Kyiv, Almaty, Tashkent, Dubai and Beijing. For additional information, visit www.chadbourne.com.
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In the area of renewable resources and climate change, Ms. Corash advises clients on the challenges of new technologies and markets, regulatory regimes and litigation. She is consistently listed in ALM's Corporate Counsel among the “Best Lawyers in America for Environmental Law;” in Chambers and in numerous other publications as being at the top of her field.

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Paul Gutermann is co-head of Akin Gump's Climate Change practice. Mr. Gutermann has national practice resolving cutting-edge issues arising under all the major environmental statutes and handling environmental issues in corporate mergers, divestitures and restructurings. He assists clients before Congress and executive branch agencies on the development and implementation of environmental regulatory programs. Mr. Gutermann is a leading authority on climate change issues, including carbon trading mechanisms and the creation and sale of GHG offsets. He has structured CDM projects in the Middle East and Africa and represents public companies on disclosure of climate change risks and liabilities.

Morrison & Foerster
With more than a 1000 lawyers in 18 offices around the world, Morrison & Foerster offers clients comprehensive, global legal services in business and litigation. The firm is distinguished by its unsurpassed expertise in finance, life sciences, and technology, legendary litigation skills, and an unrivaled reach across the Pacific Rim, particularly in Japan and China. We have one compelling mission: to deliver success for our clients.

We have been advising the leading innovators in the world of cleantech and climate change for more than 30 years. In this time, we have represented a broad range of investors, emerging companies, and established companies developing new technologies and pioneering new approaches to reduce dependence on fossil fuels and sustainably use water and other natural resources. Our attorneys are dedicated to representing clients in these evolving industries. We combine our knowledge of the underlying science, technologies, and regulations to offer counsel with the depth and expertise needed to succeed.

Advising clients in this evolving sector requires experience and depth in all of the key practice areas, including energy, environmental, water, litigation, private equity and venture capital, IP and project development. We also have relevant experience with companies in such industries as: BioFuels for Transport; Carbon or Greenhouse Emissions and Carbon Sequestration; Clean Conventional/Fossil Fuels; Fuel Cells and Batteries; Green Building; Renewable Resources; Sustainability or Green Programs; Waste Reduction; and Water Investments.

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Clifford Chance is a truly integrated global law firm which operates as one organization throughout the world. Practical and forward-thinking, our aim is to provide market leading advice, combining technical expertise with a deep understanding of the commercial environment in which our clients operate. With 27 offices in 20 countries, the firm works within all business cultures and offers full service advice to clients in key financial and regulatory centers in Europe and the Middle East, the Americas and Asia.

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Combining pragmatism and creativity, we offer practical solutions; a down-to-earth approach to complex cases; in-depth industry knowledge, and market-leading expertise to address our clients' day-to-day business issues. We build long-term relationships with clients, and are proud of the trust they place in us, as we work together in developing and implementing the strategies to take their business further.

Akin Gump Strauss Hauer & Feld has long understood that solutions to many issues facing clients involve the very processes by which law and policy are conceived, developed, and implemented by governments in the United States and around the world. Akin Gump’s climate change lawyers have a pragmatic, business-oriented perspective, developed through representations of public-and-private sector clients around the globe and drawing upon our experience in business, government and politics. Global actions to address climate change and the economy-wide impact of those actions require precisely the type of multi-disciplinary approach that has long been Akin Gump's trademark.

Akin Gump's climate change lawyers advise clients across the spectrum of climate change issues. We counsel on the challenges and opportunities presented by regulatory and voluntary carbon markets. We develop unique compliance and mitigation strategies and help clients obtain approvals for major projects. We advise public jurisdictions creating new land use plans, policies and ordinances.

The challenges ahead for businesses seeking to operate in a carbon-constrained world are complex and Akin Gump's climate change lawyers are accustomed to tackling the thorniest issues. The legal obstacles that confront most large-scale projects must be overcome on several fronts at once, often in the face of shifting political, economic and legal landscapes. Coordinating these efforts—maintaining consistency and focus, while adapting quickly to changing circumstances—is among the greatest challenges facing our clients. Akin Gump's ability to coordinate services with the required degree of insight and execution is how we succeed for our client.