

HUSCH BLACKWELL



Will President Trump Be Good for the Oil and Gas Industry?

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Energy generally, and the oil and gas industry in particular, are hopeful that President Trump's policies will benefit the development of new domestic energy resources. However, any determination that he can achieve results different from his predecessor remains uncertain. It's too early to know exactly what the new administration can accomplish.

A View From Inside

Shortly after Donald Trump secured the Republican nomination, his newly installed campaign manager, Stephen Bannon, met with top Republicans to discuss the management of the general election campaign. Even though the Trump staff remained unusually small, most Republican leaders believed the Trump team would expand dramatically in preparation for the upcoming onslaught expected from the Clinton machine.

Bannon told the Republican leadership there would not be a major expansion. He said that the campaign's approach was to remain small and decentralized. He outlined an approach that resembled a Silicon Valley startup playbook, allowing trusted surrogates to take the initiative and develop policy on behalf of the campaign without having to check with the campaign leadership or even with the candidate. What the press described as chaos was an example of the disruptive forces employed by the tech industry, which celebrates entrepreneurial risk-taking, especially when launching a technology startup. Bannon studied the tactics of successful digital advocacy groups like MoveOn.org and Black Lives Matter in order to reverse-engineer methods for rapidly mobilizing voters.

The influence of this startup philosophy extended to the day-to-day operation of the campaign and to early decision-making at the White House. With Bannon in charge, the Trump administration looked to tech industry management techniques to empower staff members to start policy initiatives, conduct internal digital testing and push policies from inside the White House without going through a traditional vetting process or consulting experts with Washington experience.

What evolved from the successful operation of the campaign did not transition well when it came to governing. Policy decisions that were never properly vetted resulted in the failure of many of the administration's early initiatives.

However, a new, more traditional approach appears to be emerging, and apparently the president is no longer relying on a single person like Bannon to run the show. President Trump seems to have broadened the decision-making process both domestically and internationally. He seems to be changing the game plan and is stabilizing the decision process by relying, in a more traditional sense, on trusted personal advisors like Jared Kushner and the subject matter experts he appointed to key Cabinet positions.

The good news, from your industry's perspective, is that President Trump has unequivocally sent a message demonstrating his support for expanding the use of fossil fuels. His emphasis, however, appears to focus more on oil and natural gas than on coal. Even though Interior Secretary Ryan Zinke comes from the coal state of Montana, EPA Administrator Scott Pruitt, Secretary of State Rex Tillerson and Energy Secretary Rick Perry have been associated with the oil and gas industry for a very long time.

I believe your industry is justified in being optimistic. The source of this optimism is the Trump administration's promise to reduce regulations and restrictions that have infringed upon industry's ability to explore, deliver and market domestic oil and gas resources. One of the first major accomplishments of the Trump administration and the Congress was the elimination of the EPA Clean Power Plan. It has been described as unreasonably affecting the market by imposing arbitrary, unnecessary and uneconomic restrictions and burdens that fail to give states credit for the early adoption of renewable and other pro-environmental energy actions.

Keeping in mind that many of the market factors that impact the oil and gas industry are beyond the federal government's control, it matters what Washington does, even though it has limited impact on the demand for energy and its price. Some of President Trump's policies, however, could have an adverse effect on demand. For example, trade barriers and immigration restrictions could jeopardize economic growth; tax cuts, infrastructure expenditures and the reversal of onerous regulations could strengthen the demand for fossil energy. My advice to the oil and gas industry is to remain vigilant and make sure that you have a seat at the table.

The Trump administration can also take credit for approving the Keystone XL and Dakota Access pipelines. In his effort to dismantle President Obama's environmental legacy, President Trump said that he was dismayed it took the Obama administration many years to review the pipeline projects and then reject both because their potential environmental damage outweighed the economic and domestic energy benefits. When President Trump signed executive orders and actions expediting environmental reviews, he complained about the legacy of the existing "incredibly cumbersome, long, horrible permitting process."

We really don't know what President Trump or his administration will do to expedite environmental reviews. Many of the environmental requirements that he criticizes are either statutory or regulatory. In most instances, change will require congressional approval. Despite President Trump's promises to unilaterally reverse the enforcement of existing law, his decision-making authority is limited to repealing actions taken by his predecessor administratively. Many of the laws and regulations he rails against cannot be reversed by executive action.

President Trump's executive orders and administrative decisions, however, have had an immediate impact in North Dakota, where the pipeline company is completing the 1.17 miles of the pipeline that runs under Lake Oahe. On April 13, Energy Transfer Crude Oil Company LLC filed an oil tariff at the Federal Energy Regulatory Commission, specifying details about the Dakota Access Pipeline. We expect the company to begin providing oil transportation from Patoka, Illinois, to Nederland, Texas, very shortly.

So What Does It All Mean?

EPA Administrator Scott Pruitt's statements on the environment and climate change satisfy President Trump's goal of empowering appointees to disrupt the status quo. When Pruitt served as attorney general in Oklahoma, he repeatedly took on the EPA in lawsuits against the Obama administration's climate change policies.

Now, as EPA administrator, he will have the chance to make real changes in the enforcement of environmental rules and regulations. He is expected to embrace a more collaborative approach with the industries that the agency is charged with policing. Pruitt fundamentally believes that states understand their needs best and should be allowed more authority to regulate their own environmental issues. Soon after his confirmation, he attacked the Obama Clean Power Plan and indicated that he wanted to scale back federal environmental regulations.

The Democrats are not going away quietly. On April 14, California Attorney General Xavier Becerra filed a Freedom of Information Act request asking that the EPA be compelled to turn over documents regarding potential conflicts of interest that its administrator might have based on his past ties to the oil and gas industry. Becerra and eight other Democratic attorneys general claim, "The emission and leakage of methane into the atmosphere caused by oil and natural gas production is harmful to our state, the environment, and devastates our efforts to combat climate change."

In November 2016, the EPA issued a Request for Information in order to help develop a rule limiting emissions under Section 111 of the Clean Air Act. On March 2, 2017, Administrator Pruitt withdrew the information request. Questions relating to the FOIA request and the legitimacy of the process used to withdraw the information request will ultimately be decided by the courts.

Recently, the Trump Department of Interior announced that it is rolling back an Obama administration rule, promulgated in March 2015, requiring companies that drill for oil and gas on federal lands to disclose the chemicals used in hydraulic fracturing (fracking). The administration also withdrew from a lawsuit challenging the existing rule and announced it will begin a new rulemaking process later this year. Before taking office, Secretary Zinke announced that he intended to review all of the environmental rules and policies issued by the Department of the Interior during the previous administration.

It appears that President Trump is prepared to ramp up fracking and drilling on public lands throughout the United States. However, his position on fracking has not always been consistent with positions taken by the industry. During the campaign, he generated concern when he said that even though he supports fracking, states and towns should be allowed to ban the practice. This is different from what congressional Republicans have been saying. They believe the practice is safe and should be permitted nationwide. Because of these contradictions, the industry faces problems trying to resolve what was said during the campaign with what the president might do as chief executive. Like Pruitt's position on global warming, President Trump's position on fracking is consistent with his broader message of moving power away from Washington.

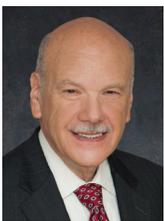
Conclusion

The good news is that President Trump is pro-oil and natural gas. I don't believe, however, with the exception of a policy he will endorse that promotes American energy independence, that the Trump administration has a comprehensive energy agenda in mind.

There is one overwhelming philosophy that I believe will govern every decision the Trump administration makes. Borrowing from former President Clinton's playbook, President Trump believes "it is the economy, stupid," and his success in growing the economy and creating real jobs will determine his legacy and his ability to be re-elected in 2020.

Wall Street and many of President Trump's supporters believe that the president is going to get the economy surging again. They have bought into his pro-growth agenda. The question is whether President Trump can get back on track and pressure Congress to enact his policies. If that gets done, and that is a heavy lift, a lot of the press reports regarding "chaos" in his first weeks in office will likely fade. Overall, things still look good economically, and if the economy continues to grow under his leadership, President Trump can legitimately claim that he has made America great again.

About the Author



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Robert's distinguished career includes service in both the private and public sectors. He serves corporate, nonprofit and international clients on public policy and regulatory issues in the areas of health and safety, energy, and environmental and economic development. His extensive experience includes positions at the White House and with the U.S. Department of Housing and Urban Development.