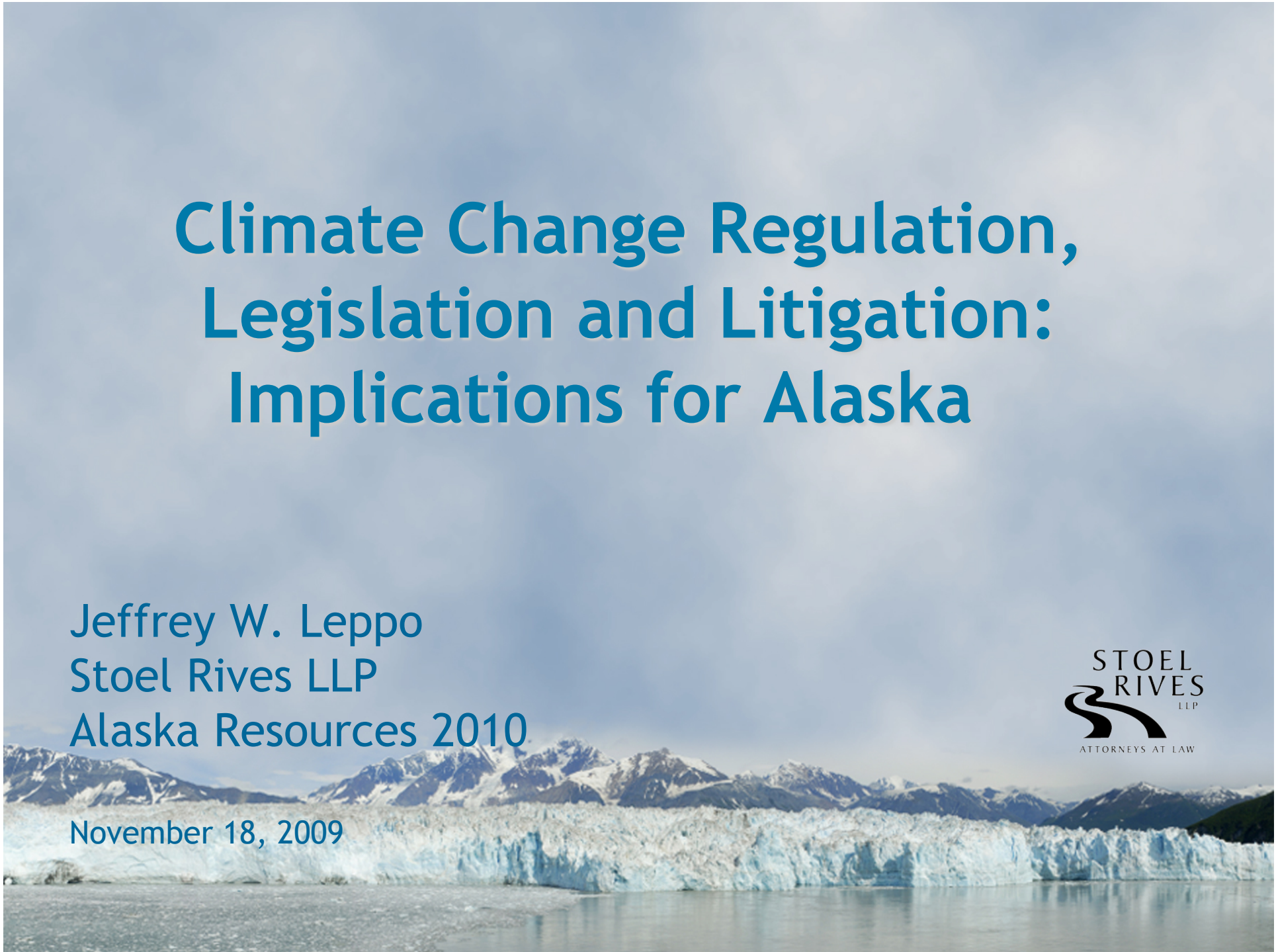


Climate Change Regulation, Legislation and Litigation: Implications for Alaska

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Climate Change Legislation

- No legislation will be enacted in 2009
- Leading bills pending in Congress
 - *Waxman-Markey*: American Clean Energy and Security Act (ACESA)
 - *Boxer-Kerry*: Clean Energy Jobs and American Power Act (CEJAPA)



Climate Change Legislation *(cont.)*

- Programmatic options for GHG emissions legislation
 - Performance standards
 - Carbon tax
 - Cap and trade



Draft Legislation - GHG Emission Reduction Levels

- Stringent reduction targets
 - 97% of 2005 levels in 2012
 - 80% of 2005 levels in 2020
 - 58% of 2005 levels in 2030
 - 17% of 2005 levels in 2050
- GHGs = CO₂, CH₄, N₂O, SF₆, HFCs, PFCs, NF₃
- Sources emitting 25,000 mt/yr of CO₂e subject to mandated GHG emissions regulation



Climate Change Regulation

- Regulatory initiatives by EPA pursuant to existing Clean Air Act program
 - EPA final GHG Reporting Rule
 - EPA/NHTSA proposed CAFE Standards
 - EPA proposed PSD Tailoring Rule
 - EPA proposed “cause and contribute” endangerment finding
- U.S. Fish & Wildlife Service’s proposed Climate Change Policy
- NEPA process



Climate Change - ESA Listings

- Pending listing and critical habitat decisions directly involving Alaska

Kittlitz's Murrelet

Pacific Walrus

Spotted Seal

Ringed Seal

Polar Bear

Ribbon Seal

Bearded Seal

Yellow-billed Loon



Climate Change Litigation

- Common law claims
 - *Connecticut v. American Electric Power* (2^d Cir. Aug. 2009)
 - *Comer v. Murphy Oil* (5th Cir. Oct. 2009)
 - *Native Village of Kivalina v. ExxonMobil* (N.D. Cal. Sept. 2009)



Climate Change Litigation *(cont.)*

- Statutory claims
 - Lawsuits to force government to act
 - CAA, ESA, MMPA, CWA, Energy Policy Act, FOIA
 - Lawsuits to stop government action
 - eNGOs
 - Industry
 - Lawsuits to regulate private conduct



Climate Change in Alaska

- What you can expect
 - Ongoing efforts to enact stringent federal cap-and-trade legislation in 2010
 - Increasing CAA regulation of GHGs
 - More petitions, listings and critical habitat proposals, and more Section 7 consultations in Alaska
 - More litigation challenging project authorizations
 - Agency enforcement actions to demonstrate attentiveness



Climate Change in Alaska *(cont.)*

- What you can do
 - Think ahead and develop science/data
 - Proactively engage in legislative, regulatory and judicial proceedings





Thank You

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