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Where next for the wrecked US climate bill?

There is a chance build on the rubble of the Senate's failure to cap carbon emissions, says Eric Pooley

Eric Pooley for **Yale Environment 360**, part of the **Guardian Environment Network**
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Senate Democrats hope to pass a narrower energy bill this week that would increase the liability of companies for oil spills, for instance in the Gulf of Mexico. Photograph: Sipa Press / Rex Features

Following the rocky path of climate legislation in the U.S. Congress these past years brought me back to the 1980s, and my time as a crime reporter in New York City. After a shooting in those days, a homicide detective named Marty Davin would go to the hospital and intercept the gunshot victim on a gurney outside the emergency room. If the victim was conscious, Davin would lean over and ask, "Who killed you?"

That usually got the victim's attention, along with an *I'm-not-dead-yet* protest. Davin would reply, "You are going to die. You might as well tell me who did it."

As I interviewed the sponsor of whichever emissions-reduction bill had just been gunned down, I often thought of Davin. The politicians and climate campaigners would assure me that they were still alive — passage of a carbon cap was inevitable, they'd say — and I'd remind myself that they had survived countless near-death experiences.

But what happened last week, when Senate Majority Leader Harry Reid announced he would not even try to bring a compromise climate bill to the Senate floor, was not just another setback. Sometimes dead really is dead — and for this Congress, barring a miracle, climate action is finished. With an ugly election looming in November, it may be years before we get another chance to debate a bill that prices carbon. And the consensus approach to federal climate action — the idea that cap-and-trade was the most politically viable policy — may well be dead, too.

This is a time to take stock. The first question is whether this was a failure of policy; a failure of politics, message, and messenger; or both? Second, is there a Plan B around which the climate campaign should now unify? And third, what needs to be done to allow a better outcome when the next opportunity finally does appear?

No one who follows climate politics could have been very surprised by Reid's move. The bigger shock was his decision to remove from the bill a mandate that utilities must generate 15 percent of their electricity from renewable sources. (Proponents hope to

offer it as a floor amendment.) It was if the Senate was saying: Anything remotely effective, we're not going to do.

When Reid pulled the plug, I thought back to a snowy afternoon in Copenhagen last December. Sitting with Al Gore in an empty hotel café, I asked him to contemplate this very moment. "If the United States doesn't act," he replied, "if the Senate defeats the legislation or waters it down to a point where it is not even worth having a bill, that is an event horizon beyond which it is difficult to see."

He parsed the same issues then that climate campaigners are parsing now: "It may mean there is a fundamental flaw in the international political approach, but I'm not sure there is a good alternative. The reality is so dire that a new plan would have to emerge — but just now I can't imagine what it would be."

Gore had a point. When the goal is emissions reduction, there aren't many alternatives: You've got to reduce emissions. The Plan B options now being offered by various advocates should be vigorously debated, but all of them seem vulnerable to the same polluted politics that killed the cap. Advocates of the carbon tax are ready to take a run at their goal, and Godspeed — but it is hard to see how politicians who were terrified to support a cap (because opponents labeled it a tax) will suddenly become bold enough to support a carbon tax. Policy groups such as the Breakthrough Institute argue that instead of making dirty fuels more expensive, it's time for intensive energy research and development to make clean fuels cheaper. That sounds reasonable, but without the revenue stream that a cap or tax would provide — and in an era of budget cutbacks — it is hard to see government supplying the massive, long-term funding their plan requires.

Is the cap so fundamentally flawed that it should be abandoned forever? I don't think so. I believe it needs to be liberated from legislative bloat and rehabilitated as a modest first step: a tool for regulating power sector emissions, the job it performed so successfully in the 1990s, when America tamed acid rain. It's worth remembering that while climate politics were bogging down, climate policy mechanisms were being improved. Clever wonks found ways to cushion consumers and high-carbon industries from the price impact of the cap, while preserving a price signal for generators. Trading restrictions were added to keep speculators out of the carbon game. Though the term cap-and-trade has been demonized, the cap itself isn't broken.

Some will argue that this latest setback is proof that the U.S. will never cap carbon. I reject that view. All we can say for sure is that the U.S. will never cap or price carbon *until the politics of the issue change* — so the first order of business must be to begin improving the political atmosphere. During the three years I worked on *The Climate War*, a narrative of the campaign to pass a carbon cap, I came to realize I was writing a political thriller, a whodunit with multiple culprits. Let's look for lessons by considering some of the culprits, starting with the most obvious.

1. The Professional Deniers. Gore and environmental leaders made a tactical error several years ago when they declared the science "settled" and refused to engage the forces of denial and delay. The basic science was indeed settled, but the resulting message vacuum was the perfect medium for those who sow doubt and confusion about global climate change. It shouldn't be surprising that so many Americans remain skeptical about global warming. For 20 years, this loose network of PR pros, working for industry associations and anti-tax think tanks, has spread doubt about climate science and fear about climate economics, claiming that any attempt to cap CO2 would wreck the American economy. Their disinformation, amplified via the Internet, helped poison the debate. To counter the deniers' campaign, President Obama needs to speak out forcefully, and champions of the clean energy economy must point to the new jobs that are already being created by the renewable energy economy and show Americans precisely where they fit into it.

2. Senate Republicans. Most climate campaigners understand the folly of trying to

remake the American energy system without bipartisan support. But it's hard to forge centrist solutions when an entire party is denying there's a problem and vilifying the solutions. A scaled-back approach, one that can be sold as a modest, incremental step and not a new industrial revolution, might fare better.

There was a time — 2007 and 2008, to be precise — when some Republicans were moving away from deny-and-delay tactics. (In 2007, briefly, Newt Gingrich supported the carbon cap.) More recently, opposition to climate action has become a litmus test in the GOP. Arizona

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Republican John McCain, who sponsored the Senate's first serious climate bills but now faces a primary challenge from the right, recently called a successor bill "a farce." His mantle of Republican climate courage passed to Lindsey Graham of South Carolina, who took so much heat from his own party that he withdrew from the climate bill he helped write. Graham's position has been incoherent since then, but he has signaled support for a cap on the power sector. That could be something to build on.

3. Senate Democrats. After Reid pulled the plug, Democrats were quick to blame Republicans for obstruction. But what about the obstructionists within the Democratic ranks? Harry Reid didn't have the clout to force action on this issue because a dozen or more centrist Democrats — from states that either mine coal or produce much of their electricity from it — were dug in against it. It is impossible to tell if the senators were truly concerned about what the cap would do to their state economies — nonpartisan studies suggest its impact would be minimal — or just worried about what attack ads would do to them. Again, a more modest first step could change the dynamic. The crucial thing is to get started.

4. The Green Group. At a meeting in February 2007, the Green Group, an unofficial association of the leaders of the big U.S. environmental non-profits, told Harry Reid they supported a single legislative goal: An economy-wide cap. Their strategy was to assemble the broadest possible coalition to push the broadest possible bill. Given the magnitude of the crisis and the need to reduce emissions quickly, this made sense. Politically, though, it proved disastrous, because it led to bills of such cost, scope, and complexity that they scared the pants off timid legislators.

The Green Group held out for an economy-wide bill even after it became clear, in late 2009, that it was unachievable in the Senate. Only recently did

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environmental leaders try to negotiate a compromise cap on electric power plants, which account for 40 percent of U.S. emissions. Passing a utility cap would have been a great first step, but the talks got started too late. The Green Group wanted too much and ended up with nothing.

5. The Power Barons. When the eleventh-hour search for a compromise began, the utilities got too greedy. If they had to go it alone, they argued, they deserved virtually all of the carbon allowances in the program for free. This left too few for other crucial purposes, such as cushioning manufacturers from higher electricity prices. Worse, in exchange for supporting a carbon cap, some utilities demanded relief from Environmental Protection Agency (EPA) regulations governing conventional pollutants such as mercury. Like the greens, they asked for too much and got nothing. (The greens, however, were overreaching on behalf of the planet, not their own coffers.) Some utility bosses were relieved to see the bill die. Those feelings may prove short-lived as the battle to reduce emissions moves to the EPA and the courts.

Some advocates, such as Lee Wasserman of the Rockefeller Family Fund, regard the

decision to negotiate with the power barons as the height of folly. Washington, they argue, should simply dictate the terms of surrender to the polluters. Such a stance ignores an important fact: It isn't possible to remake the U.S. energy system without negotiating with the power barons. Punishing generators means punishing households that pay electricity bills. That doesn't mean, however, that the politicians should give the barons everything they want. But there was only one player with the clout to cut a fair deal with them, and he was missing in action.

6. The President. Barack Obama chose not to lead on this issue. His decision to address health care reform before energy and climate change doomed the latter. With advisors Rahm Emanuel and David Axelrod whispering that climate was a losing proposition (a self-fulfilling prophesy, to be sure), Obama never threw himself behind a particular climate bill. He left it to the Senate, the Green Group, and the power bosses — all of whom were sorely in need of adult supervision.

The real grownups in this tale were Rep. Henry Waxman and Speaker Nancy Pelosi, who last year surprised the Obama Administration by taking a comprehensive climate bill to the House floor. The White House had no choice but to help whip the vote, and it passed. Then Obama stopped trying, and the Senate refused to take up the legislation. It was a colossal failure of nerve, and a decision that likely destroyed any chance of achieving climate action in Obama's first term.

Since the president and his political advisers thought an economy-wide cap was too heavy a lift, Obama should have led a tactical retreat to what, in the past several months, became the last-ditch compromise position: the cap on the electric power sector. Had negotiations focused on this months ago instead of weeks ago, and had the president thrown his weight behind it then, we might today be celebrating a step forward instead of mourning another failure. Only Obama had the authority to call this audible early. The environmental NGOs and their allies were too invested in the economy-wide approach; they needed Obama to lead them.

He refused. To the bitter end, the White House pursued what his aides called a "stealth strategy" that deployed the president only sparingly. As a result, he failed to take advantage of the BP oil spill. When its terrible scope became apparent, in June, Obama began talking about the need to

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cap carbon and accelerate the transition to clean energy. But it was a fleeting moment. Many climate campaigners knew the climate bill was dead on June 15, when Obama gave his long-awaited Oval Office address on the oil spill. Instead of making an explicit connection to the climate bill — and explaining that by capping carbon the U.S. could speed its transition to clean energy and help break its addiction to fossil fuels — Obama whiffed. He had a road map but didn't try to share it with the people. "We don't yet know precisely how we're going to get there," he said. Today, with that map in shreds, we surely don't.

As climate campaigners wait however long it takes to get another shot at legislation, there is important work to be done. Greenhouse gas emissions in the U.S. have been dropping — and not just because of the recession. The task is to build on this trend during the economic recovery. Changes in our energy infrastructure are making this possible. In Texas, our highest-emitting state and a bastion of climate skepticism, carbon emissions have been declining since 2004 thanks in part to a renewable energy standard — signed into law by then-Gov. George W. Bush — that accelerated the installation of wind power and created thousands of jobs along the way.

The Department of Energy now has 7,000 clean energy projects across the country — projects that save money, create jobs, and reduce emissions. According to an analysis by

the World Resources Institute, by leveraging existing authority over the next ten years the U.S. could reduce greenhouse gas emissions by 5 percent to 12 percent below 2005 levels. This is far short of the 17 percent reduction Obama promised in Copenhagen and nothing close to what needs to be done. But if we continue cutting emissions before asking voters to embrace a cap, we prove that cuts are both technologically feasible and economically sustainable. And we'll be in a better position when the next legislative opportunity comes.

Until then, the climate war will be waged by cities, states, regional cap-and-trade programs, and, above all, the EPA, which early next year is set to begin regulating stationary sources of CO2 — power plants and large factories.

Welcome to the "glorious mess" — Michigan Rep. John Dingell's phrase for the tangle of regulation and litigation that will follow when Congress fails to act. We are about to experience precisely the sort of costly, protracted, plant-by-plant trench warfare the cap was intended to avoid. Since the utilities and the manufacturers weren't willing to cut a deal, this is what they get. The fragile period of compromise and cooperation between environmentalists and big business may now be coming to an end. Green groups that have invested time and money into the legislative process are now putting on their war paint and returning to the courts, with a renewed focus on stopping new coal-fired power plants and shutting down the oldest and dirtiest ones.

Tough new EPA rules for conventional pollutants will help, and so will new EPA carbon regulations. Perhaps these strict new regulations will refresh the power bosses' appetite for a cap. But they have plenty of lawyers, and the long, ugly battles over implementation of EPA regulations could extend the current period of uncertainty by many years. Republicans (and some Democrats) will try to strip EPA of its authority over carbon, or at least delay implementation of its new rules.

In effect, the Senate will be saying that Congress alone should have the power to act — so that it can then not exercise that power. Obama's aides say the president will be fully engaged in the battle to save EPA authority over carbon. It is a fight that he can't possibly duck, because it is our last line of defense. As Gore reminded me in Copenhagen, "The fact that this is extremely hard doesn't mean we should quit."