

**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
**From:** POLITICO Pro Energy  
**Sent:** Thur 6/15/2017 9:44:07 AM  
**Subject:** Morning Energy: Judge hands tribes major Dakota Access victory — Pruitt returns to Hill today — Uphill challenge seen for E15 bill

By Anthony Adragna | 06/15/2017 05:41 AM EDT

*With help from Esther Whieldon, Darius Dixon, Eric Wolff and Alex Guillén*

**THIRD TIME'S THE CHARM!** Opponents of the Dakota Access pipeline received a major legal victory late Wednesday as a federal judge ruled the government's environmental review of the project was inadequate and that the U.S. Army Corps of Engineers must redo its analysis under the National Environmental Policy Act. In his 91-page ruling, U.S. District Court Judge James Boasberg said the government "did not adequately consider the impacts of an oil spill on fishing rights, hunting rights, or environmental justice, or the degree to which the pipeline's effects are likely to be highly controversial."

**But he stopped short** of immediately ceasing the pipeline's operation, calling that a "separate question" subject to additional briefing to be discussed at a status conference next week. Tribal opponents of the pipeline, which began operating this month, had failed twice before in legal challenges seeking to block its completion. But they hailed Wednesday's decision: "We applaud the courts for protecting our laws and regulations from undue political influence, and will ask the Court to shut down pipeline operations immediately," Standing Rock Sioux Chairman Dave Archambault II said in a statement.

In a statement, the Grow America's Infrastructure Now coalition said the outstanding claims in the case "do nothing to impact the ongoing operation of the pipeline" and expressed confidence the Corps would allay the judge's concerns. "While we have little doubt that the Corps will ultimately be successful in satisfying the Court's concerns, tonight's decision continues the public saga of the project and jeopardizes ongoing infrastructure investment," Craig Stevens, a spokesman for the group, said.

**PRUITT RETURNS TO THE HILL:** Capitol Hill is still reeling after Wednesday's shocking shooting of House Majority Whip Steve Scalise and four others at a congressional baseball practice, but House appropriators plan to move forward as scheduled and hear testimony from EPA Administrator Scott Pruitt on President Donald Trump's fiscal 2018 budget request for the agency. That request sought a 31 percent cut for the agency, from \$8.2 billion to \$5.6 billion, though even fellow GOP lawmakers have bristled at such steep proposals. Look for lawmakers from both parties to press Pruitt — offering his first congressional testimony since being confirmed — on cuts to their pet programs but for Democrats to also press him on ongoing efforts to roll back a number of Obama-era regulations.

**One key issue to watch:** Whether Pruitt gives a full-throated defense of the budget that not only slashes climate change spending but does not spare his favored programs — including Superfund and brownfields. If he does, he's chaining himself to Trump's proposal and signaling even his own priorities are at risk. If not, he may double-cross the boss. On the other hand, Pruitt is

talented at sidestepping thorny issues and returning to his comfort zone, a high-wire act he could pull off once more.

**Ahead of his appearance,** Pruitt's critics will hold a "resistance rally" outside the Independence Avenue entrance to Rayburn at 10 a.m. Participating groups include Hip Hop Caucus, Green for All, Sierra Club, Environment America, Moms Clean Air Force, WE ACT for Environmental Justice, Sojourners, Green Latinos, Climate Action Campaign, the Union of Concerned Scientists and Franciscan Action Network, among others.

**WELCOME TO THURSDAY!** I'm your host Anthony Adragna, and NRDC's Edwin Chen was first to name President Gerald Ford as the last sitting chief executive to testify before Congress. For today (and in honor of the awesome [Congressional Baseball Game](#)): What congressman hit the first known grand slam during the game back in 1957? Send your tips, energy gossip and comments to [aadragna@politico.com](mailto:aadragna@politico.com), or follow us on Twitter [@AnthonyAdragna](#), [@Morning\\_Energy](#), and [@POLITICOPro](#).

**ARIZONA REGULATOR JOINS EPA:** Henry Darwin, Arizona's former environmental chief, has been named EPA's assistant deputy administrator, where he will help manage day-to-day operations. He's been the state's chief operating officer since 2015 but before that served five years as director of the Arizona Department of Environmental Quality, [Pro's Alex Guillén reports](#). Darwin "will deploy the same Lean Management System that he successfully deployed" in Arizona, EPA spokesperson Liz Bowman said. "He will focus the Agency on providing value to taxpayers by helping us measure performance, improve our processes and solve the issues that matter to Americans."

In 2014, Darwin [testified](#) before Congress that he did not believe EPA had the legal authority to regulate carbon emissions as it did with the Clean Power Plan. Darwin's position at EPA does not require Senate confirmation.

**NUCLEAR ENERGY CREDIT BILL GETS A VOTE:** The House Ways and Means Committee is set to vote today on legislation extending the nuclear energy production tax credit program that Southern Co. and SCANA need to [keep their nuclear projects](#) on sound financial footing. The credits — worth billions of dollars to the companies — currently require new reactors be in service by the end of 2020 to qualify, a timeline made just about impossible given the bankruptcy of contractor Westinghouse. The bill would open the credits to projects that power up after 2020. The markup is scheduled for 10 a.m. in Longworth 1100.

**YUCCA, OZONE, BROWNFIELDS BILLS ON THE MOVE:** House Energy and Commerce Environment Subcommittee members are expected today to advance their first three major environmental measures of this Congress. Chairman [John Shimkus](#) gets a vote on his [draft bill](#) rewriting the nation's nuclear waste policy. The measure contains language on interim storage sites, but seeks to advance Shimkus' long-held priority of completing Yucca's licensing process. Also on the docket is the [Ozone Standards Implementation Act](#) (H.R. 806), which would delay implementation of the 2015 ozone standard through 2025 and stretch the regular air quality standard review period from five years to 10. And the panel will consider [a draft bill](#) reauthorizing and tweaking the brownfields program to raise the cap on federal grant amounts

for individual sites. Similar versions of all three bills have been considered in prior Congresses, though none have come close to passage. The markup kicks off at 10 a.m. in Rayburn 2123.

**NRC CHAIRWOMAN GETS PANEL VOTE:** Moving quickly just two days after her confirmation hearing, NRC Chairwoman Kristine Svinicki gets a vote this morning at 10 a.m. at Senate EPW. Time is of the essence because her term expires June 30, and Svinicki would have to step down, at least temporarily, if the Senate fails to confirm her by then. Her biggest hurdle may be securing time on the Senate's floor schedule, with ranking member Tom Carper telling reporters after the hearing Tuesday that she'd have little trouble clearing the Senate.

**LONG WAY TO GO FOR E15:** Sen. Deb Fischer got her promised hearing Wednesday on a bill to promote sales of 15 percent ethanol gasoline, but she's going to need a lot of help to get the legislation out of the Senate Environment and Public Works Committee. Five cosponsors of the bill, S. 517, sit on the panel, but no other EPW members have declared their support, leaving it six votes short of a committee majority.

As Pro's Eric Wolff reports, Chairman John Barrasso, top Democrat Tom Carper, and Republican former chairman Jim Inhofe all opposed the bill or would require significant changes to win their support. GOP Sens. John Boozman and Richard Shelby told ME they oppose the E15 bill, and Republicans Roger Wicker and Shelley Moore Capito have sponsored anti-ethanol legislation in the past. The last Republican on the committee, Alaska Sen. Dan Sullivan, appears to have no public position on the RFS. Among EPW Democrats, Illinois Sen. Tammy Duckworth is the bill's only cosponsor. ME caught up with Sen. Ed Markey, who said he hadn't made up his mind, and Sen. Cory Booker told Eric he has "negotiations underway."

**Markup?** Two ethanol sources who have had conversations with Senate staff said they expect a committee vote on Fischer's bill in July, but everyone agreed that the timing was in flux.

**X MARKS THE MOX:** Top lawmakers on the Senate energy appropriations panel seem more prepared than ever to defund the controversial MOX nuclear project after years of holding back their frustrations. The Obama administration spent years urging Congress to put the project, which was designed to dilute weapons-grade plutonium into reactor fuel, into cold standby before it eventually called for killing MOX outright in favor of a "dilute and dispose" program last year. Interestingly, Trump's budget last month agreed. "I think the fact that successive administrations have come to the same conclusion is very important," Sen. Lamar Alexander, the energy spending chief, said of MOX at a hearing Wednesday afternoon, after noting that a special "red team" said the dilution effort would be faster and cheaper. "I think we have a formula," said Sen. Dianne Feinstein, the top Democrat on the energy spending panel. Last year, Alexander, faced with opposition from South Carolina Sen. Lindsey Graham, extended MOX's life so other committees could discuss it.

**WAITING FOR REG REFORM:** Sen. Rob Portman told ME the regulatory overhaul he and Sen. Heidi Heitkamp sponsored will get to the floor, "Soon now, I hope!" The bill advanced out of committee last month, but Heitkamp was the only Democratic backer. Sen. Claire McCaskill, a centrist Democrat whose support Portman and Heitkamp probably need, promised her own bill that day with the hopes she'd have it out by Memorial Day. Wednesday she told ME she said

reviewed a draft last week, but that it still needed work. She hopes she'll release it before the July 4 break.

**Appreciate the scene:** Portman gave his answer while to ME while sitting on a Senate subway after a gaggle of reporters bombarded him with questions on the upper chamber's secretive healthcare bill. He called out his response on reg reform, a topic he would much rather discuss, as the train pulled away from the platform, almost as if the moment had been shot for a movie. ME would like to be played by Chris Pratt, thanks for asking.

**ANOTHER KEYSTONE MEETING SCHEDULED:** The Nebraska Public Service Commission has added a third public meeting on TransCanada's application for the controversial Keystone XL pipeline route through the state on June 28, Pro's Ben Lefebvre [reports](#). Comments during the meeting at the Divots Conference Center in Norfolk will be on a first-come, first-served basis. The commission expects to make a final decision before the end of the year.

**PAST EPA CHIEFS PAN TRUMP:** Former EPA administrators Carol Browner and Gina McCarthy got off a few jabs at President Trump during appearances at Wednesday night's League of Conservation Voters dinner. McCarthy said Trump's solar wall idea makes him "the definition of 'desperado,'" adding: "It's an interesting tactic, trying to pass a terrible idea by linking it with a good one. What's next? A wind-powered oil derrick?" Browner, meanwhile, joked that Trump's "covfefe" tweet "sounds like something EPA would regulate."

**MAINE MONUMENT STILL IN SPOTLIGHT:** Interior Secretary Ryan Zinke swings through Maine for a second day and again will focus on the controversial Katahdin Woods and Waters National Monument. Zinke today meets with tribal leaders, Gov. Paul LePage and other local elected and business representatives of varying opinions about the monument, according to the agency.

**GRIJALVA QUESTIONS METHANE PULLBACK:** House Natural Resources Ranking Member Raul Grijalva sent a [letter](#) to Zinke Wednesday questioning whether Interior violated the Administrative Procedures Act by [suspending](#) key parts of the methane waste rule. "Extending those compliance dates without another notice-and-comment period, and with only a cursory rationalization that is in large part based on written requests from oil and gas industry groups, is arbitrary and capricious," he wrote.

**RECORDS SOUGHT OVER DOE GRID STUDY:** The Center for Biological Diversity filed a FOIA [request](#) Wednesday seeking records of DOE communications with energy companies and other outside entities related to its ongoing electric grid reliability study. "We hope our request will shed light on the administration's communications with the dirty companies that would benefit most from hampering wind and solar," Howard Crystal, a senior attorney with the group, said in a statement.

**PRO-WIND GROUP LAUNCHES CAMPAIGN IN D.C.:** American Wind Action launched a multimillion-dollar digital, TV and radio advertising issue advocacy campaign Wednesday in Washington that [features](#) workers at an Iowa wind turbine manufacturing facility who say the industry "powers American jobs."

**REPORT: CLEAN ENERGY MOMENTUM CONTINUES:** A [report](#) released Wednesday by Deloitte finds renewable energy sources are competitive with conventional energy and 63 percent of residential consumers said they're very concerned about climate change and their carbon footprints. "Green energy no longer solely means environmental concerns, 'green energy' also means the dollars that can be saved by investing in wind, solar and other clean energy sources," Deloitte's Marlene Motyka said in a statement.

**CLIMATE CAUCUS GROWS AGAIN:** There are now 42 members of the bipartisan Climate Solutions Caucus with the addition of four more lawmakers: Reps. [Jimmy Panetta](#) (D-Calif.), [Scott Taylor](#) (R-Va.) and [Barbara Comstock](#) (R-Va.), as well as Del. [Stacey Plaskett](#) (D-V.I.).

**MOVER, SHAKER:** James Schindler, a member of the Trump administration's Interior beachhead team and prior legislative aide to former Sen. David Vitter, took an official job as special assistant in the Bureau of Ocean Energy Management effective May 28, according to a [Public Financial Disclosure Report](#) obtained by ME.

**YOU'RE HIRED:** Akin Gump has signed four new clients, including Gulfport Energy Corporation and Otis Eastern Service (h/t POLITICO Influence).

## QUICK HITS

— Scott Pruitt used two government email addresses in his last job. He told Congress he used one. [Washington Post](#).

— Even China-Backed Development Bank Won't Touch Coal Projects. [Foreign Policy](#).

— Iowa regulator recuses himself from Dakota Access Pipeline case. [Des Moines Register](#).

— Oil Tumbles to Lowest Since November as Gasoline Supplies Surge. [Bloomberg](#).

— Morgan Stanley CEO says Saudi Arabia could be 'major opportunity'. [Reuters](#).

## HAPPENING TODAY

9:30 a.m. — "[U.S. launch of the BP Statistical Review of World Energy 2017](#)," Atlantic Council, 1030 15th Street NW, 12th Floor

10:00 a.m. — "[Legislative Hearing on Discussion Draft of Resilient Federal Forests Act of 2017](#)," House Natural Resources Subcommittee on Federal Lands, 1324 Longworth

10:00 a.m. — [Markup](#) of Legislation to Modify the Nuclear Production Tax Credit, House Ways and Means Committee, 1100 Longworth

10:00 a.m. — Green groups hold resistance rally ahead of Pruitt's budget testimony, Independence Avenue entrance to Rayburn

10:00 a.m. — Subcommittee votes on three environmental pieces of legislation, House Energy and Commerce Environment Subcommittee, 2123 Rayburn

10:00 a.m. — "Hearing to examine the President's budget request for the U.S. Forest Service for Fiscal Year 2018," Senate Energy and Natural Resources, 366 Dirksen

12:30 p.m. — Natural Gas Roundtable with BP Group Chief Economist Spencer Dale, American Gas Association, University Club, 1135 16th Street, NW

1:00 p.m. — "Environmental Protection Agency - Budget Hearing with Administrator Scott Pruitt," House Appropriations Interior, Environment, and Related Agencies Subcommittee, 2007 Rayburn

## **THAT'S ALL FOR ME!**

*To view online:*

<https://www.politicopro.com/tipsheets/morning-energy/2017/06/judge-hands-tribes-major-dakota-access-victory-023314>

## **Stories from POLITICO Pro**

### **Trump budget request maintains steep EPA cuts [Back](#)**

By Alex Guillén | 05/23/2017 11:19 AM EDT

The Trump administration's proposed budget calls for slashing EPA's funding for fiscal 2018 by 31 percent, the most severe cut of any major federal agency.

The budget would see EPA's funding drop to just over \$5.6 billion, down from the \$8.2 billion EPA ultimately got for fiscal 2017, in line with the figures the administration issued in its previous "skinny" budget.

Only a few areas would see modest budget increases, such as the State Revolving Funds that make low-interest loans for water infrastructure projects and a chemical review program that is expanding to keep pace with last year's overhaul of the Toxic Substances Control Act.

But almost every other EPA office would face significant cuts that have already been criticized by lawmakers from both parties. Those cuts target climate change-related programs, hundreds of millions of dollars' worth of state grants, regional water cleanup efforts in places like the Chesapeake Bay and the Great Lakes and the agency's enforcement efforts.

Appropriators on the Hill have expressed skepticism that Congress will cut EPA's budget as deeply as the White House is requesting.

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## **Former Arizona environmental chief tapped for EPA operations job** [Back](#)

By Alex Guillén | 06/14/2017 06:58 PM EDT

Arizona's former environmental chief has been tapped to be EPA's "chief of operations," according to a [release](#) from Gov. Doug Ducey's office.

Henry Darwin has been the state's chief operating officer since 2015, and is also acting director of the state's Department of Economic Security. Before that he spent five years as director of the Arizona Department of Environmental Quality. Darwin will remain in his Arizona post until June 30.

It is not clear what the job of chief of operations entails, or how it is different from deputy administrator, who traditionally runs day-to-day operations at EPA. Agency spokespeople today did not immediately answer questions about the position.

In 2014, Darwin [testified](#) before Congress that he did not believe EPA had the authority to regulate greenhouse gases as EPA did under its Clean Power Plan. He has a degree in engineering from the University of Arizona and a law degree from Lewis & Clark College.

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## **Nuke utilities warn failure to extend tax credit could upend new reactors** [Back](#)

By Darius Dixon | 05/03/2017 06:31 PM EDT

Utilities building new nuclear reactors in Georgia and South Carolina say they will have to rethink those projects if Congress does not extend tax credits they had been counting on.

The nuclear projects, already suffering delays, were on track to be finished just before those tax credits would expire, and now they are expected to fall further behind because of the bankruptcy of contractor Westinghouse, which designed the new reactors being installed. The tax credit does not expire until the end of the decade, and South Carolina lawmakers failed to get it included in an omnibus spending bill expected to pass this week. But nuclear proponents say quick action would go a long way to help the new reactors come online.

"The most obvious thing the U.S. government can do is to lend support to extend the timeframe on the production tax credit," Southern Company CEO Tom Fanning told investors on a quarterly earnings call Wednesday.

Southern subsidiary Georgia Power and its partners are evaluating whether to change course on its two-reactor Vogtle nuclear expansion project in the wake of Westinghouse's bankruptcy, and Fanning said reworking the tax credit would be "central" to how it proceeds.

A similar evaluation is underway at South Carolina-based SCANA Corp., which is building two Westinghouse-designed AP1000 reactors at its V.C. Summer Nuclear Station. SCANA Executive Vice President and CFO Jimmy Addison told investors last week that the future of the nuclear tax credit was one of three "critically important" variables that will determine the future of the project.

Both Southern and SCANA had recently expected to bring a Vogtle and Summer reactor online in 2019 and 2020. Those projects have already faced numerous delays, and any additional slippage in the schedule may mean they won't come online in time to claim the tax credits investors had assumed would be there.

At issue is a nuclear production tax credit that the industry estimates would be worth as much as \$6 billion over eight years. The credit is only available for reactors that come online by 2020.

Over the past week, a bipartisan group of lawmakers had been trying to move a package of tax extenders that would have included removing the in-service deadline for new nuclear reactors, but they have struggled to gain traction.

South Carolina Sen. Lindsey Graham briefly threatened to hold up the omnibus spending package Congress is set to pass this week in an effort to get the nuclear incentive included in the bill, but he and other nuclear advocates are now looking for other avenues.

"I'm not going to sit on the sidelines and watch the nuclear industry be destroyed," Graham said Wednesday. "For three years, we've been trying to get these tax credits extended. ... The [four] reactors that are being built are very much at risk."

Graham's Palmetto State colleague Sen. Tim Scott, who introduced legislation seeking to make changes to the credits, is already eyeing the next ride.

"We are hopeful that as we look forward to a tax package or another vehicle that seems to have the possibility of passing, that we will have this conversation in earnest again," he told POLITICO.

At the moment, Southern has an interim agreement with Westinghouse that has kept the project moving and thousands of workers on site, Fanning said.

That agreement runs through May 12, and Fanning said that Georgia Power and its Vogtle project partners are negotiating a broader "transition" plan with Westinghouse that will move the project to a new contractor, including Southern taking over as general construction contractor. He also emphasized that Westinghouse parent company Toshiba is still on the hook to spend at least \$3.7 billion for Vogtle and maintain commitments regarding intellectual property.

Fanning said the partners will send an assessment to state regulators outlining their options "within the next month or two." That could include three possible paths: full steam ahead on both reactors, continue with just one unit or walk away from the whole thing.

"If it looks likely that the best thing for customers is to not complete these plants, I think at that point you might take a completely different posture on site," he said. "So long as it is viable for us to complete the plant, it is absolutely important for us to not only maintain, but improve productivity on the site. ... [If we] were to start sending people home, the chances of us getting those people back on site would be awfully difficult."

SCANA's Addison said the future of its reactors would depend on confirming the project's existing cost estimates, recouping what it is owed by Westinghouse and extending the tax credits.

"And all three of those are in the billions of dollars. So they're all critically important," he told investors last week. "And we have impressed upon everyone that has a vested interest in South Carolina and in nuclear in America that'll listen to us, that the timeliness of this is very, very important to this evaluation."

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### **Ethanol politics bog down E15 bill** [Back](#)

By Eric Wolff | 06/14/2017 02:18 PM EDT

A bill to expand sales of gasoline with 15 percent ethanol appears to be stuck on long-running disputes over biofuel policy that may limit its support outside of corn states.

Sen. [Tom Carper](#) (Del.), the top Democrat on the Environment and Public Works Committee, said after a hearing today that he will oppose the E15 bill without an amendment addressing "transparency in the RIN market," a reference to the credits refiners must purchase to comply with the Renewable Fuels Standard. Merchant refiners in the Philadelphia area, along with Trump associate Carl Icahn and refining giant Valero, blame high RIN prices for threatening their profits.

Carper also raised concerns about increasing ozone emissions that already plague his state if more E15 were sold, a concern shared by several influential environmental groups. Sen. [Tammy Duckworth](#) (Ill.) is the bill's only Democratic co-sponsor on the committee.

Sen. [Cory Booker](#) (D-N.J.) did not ask any questions at today's hearing, but afterward he told POLITICO he is in "negotiations" over the bill, declining to offer details. Sen. [Deb Fischer](#) (R-Neb.), the lead sponsor of the bill, said she plans to speak to Booker but has not done so yet.

Republicans in the hearing seemed to have staked out their positions, with corn-state senators like [Mike Rounds](#) (S.D.), [Jerry Moran](#) (Kan.), and [Joni Ernst](#) (Iowa) promoting the bill and long-time RFS opponents like Sen. [Jim Inhofe](#) (Okla.) and Chairman [John Barrasso](#) (Wyo.) criticizing it.

**WHAT'S NEXT:** Barrasso has said the committee will vote on the E15 bill, but no date has been set.

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### **Senate Armed Services panel to hold a hearing on MOX project [Back](#)**

By Darius Dixon | 04/13/2016 04:04 PM EDT

The Senate Armed Services Committee plans to hold a hearing on the controversial MOX nuclear project, lawmakers said today — and Sen. [Lindsey Graham](#) says it'll be a show.

"If you're looking for a good time, come listen to that hearing," Graham said at an energy and water appropriations markup.

The South Carolina Republican was pleased that Senate appropriators included \$270 million for the project in its fiscal 2017 energy and water spending bill, which was [approved in subcommittee](#) today. But he's been increasingly frustrated with the Obama administration's effort to shut down MOX, a project at the center of an agreement with Russia to divert 34 metric tons of U.S. weapons-grade plutonium.

"I'm going to weigh into these guys like Sherman going through Georgia," Graham added.

The hearing hasn't been scheduled yet, according to Graham's office.

The House approved a spending bill earlier this afternoon that also rebuffs the administration's official effort to spike MOX.

Sen. [Dianne Feinstein](#), the top Democrat on the energy and water panel who described MOX's ballooning costs as "exorbitant," said that Energy Secretary Ernest Moniz gave several lawmakers a presentation about the project this morning, including herself, Alexander, Graham and members of the Senate Armed Services Committee.

Sen. [Lamar Alexander](#), who chairs the energy and water subpanel, said that decisions about the fate of MOX rest with authorizers on the Armed Services panel.

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## **Nebraska regulators schedule new public meeting for Keystone XL** [Back](#)

By Ben Lefebvre | 06/14/2017 03:44 PM EDT

Nebraska regulators have added a third public meeting on TransCanada's application for the controversial Keystone XL pipeline to traverse the state.

The Nebraska Public Service Commission meeting will be held on June 28 at the Divots Conference Center in Norfolk. Public comment will be on a first-come, first-served basis, according to the NPSC notice.

Hundreds of people showed up at the previous session to give their views on whether Nebraska should allow the pipeline to follow the path that developer TransCanada has proposed. Environmentalists have criticized the 830,000-barrel-a-day pipeline for facilitating development of Canada's oil sands. Supporters have said the pipeline will provide jobs and reduce dependence on oil imported from unfriendly countries.

The NPSC expects to make a final decision on the Keystone route by the end of the year.

**WHAT'S NEXT:** After the new June 28 meeting, a public meeting will be held in August.

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## **BLM delays key parts of methane waste rule** [Back](#)

By Alex Guillén | 06/14/2017 10:08 AM EDT

The Bureau of Land Management will suspend key parts of the methane waste rule while litigation and an internal agency review plays out, the agency says in a Federal Register [notice](#) to be published on Thursday.

Oil and gas producers "should not be required to expend substantial time and resources to comply with regulatory requirements that may prove short-lived as a result of pending litigation or the administrative review that is already under way," BLM says in its notice.

Several provisions were scheduled to take effect on Jan. 17, 2018, but have been pushed back indefinitely, BLM said.

The postponed requirements include a mandate to capture a certain amount of waste gas

produced during production, along with storage tank vapors; measure flared gas; upgrade or replace some equipment; and have in place leak detection and repair programs. Those requirements would have required operators to buy and install significant new equipment at "substantial cost," BLM said.

Some other provisions have already taken effect and are not postponed, including a requirement that new permits to drill include waste minimization plans, certain maintenance mandates and limits on venting and flaring while in production.

The rule survived a nullification attempt via a Congressional Review Act resolution last month after several Republicans sided with Democrats to keep the rule alive.

**WHAT'S NEXT:** Opening briefs in the lawsuit in the U.S. District Court for Wyoming are due July 3, with briefing continuing through August. The requirements stayed by BLM will remain paused until litigation and an internal review are complete, a process that could take years.

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