

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Morning Energy
Sent: Wed 8/2/2017 2:02:34 PM
Subject: POLITICO's Morning Energy: Pruitt cleared by scientific integrity panel — New front in RFS battle — What will Southern have to say about Vogtle today?

By Annie Snider | 08/02/2017 10:00 AM EDT

With help from Esther Whieldon, Alex Guillén and Darius Dixon.

PRUITT'S CLIMATE COMMENTS CLEARED BY SCIENTIFIC INTEGRITY PANEL:

A panel of EPA employees has concluded that Administrator Scott Pruitt's controversial assertion that carbon dioxide is not the primary driver of climate change during a television interview in March did not violate the agency's scientific integrity policy. That policy "specifically encourages employees to express their opinion should the employee disagree with scientific data, scientific interpretations, or scientific conclusions," the panel of high-ranking EPA officials wrote, noting that Pruitt "did not suppress or alter Agency scientific findings."

Lost in the mail? The panel's conclusion was included in a [letter](#) from Thomas Sinks, director of EPA's Office of the Science Advisor, addressed to the Sierra Club, which had formally complained about Pruitt's climate comments. But the green group said Monday evening that it had not received that letter, which first appeared in conservative media outlets. For its part, EPA's press office circulated an [article](#) from the Washington Free Beacon to publicize the letter.

Elena Saxonhouse, a senior attorney with Sierra Club, said in a statement that her group was told by EPA staff that the proper process is for the complaining party to be informed first. Moreover, she added: "Pruitt's 'opinions' can have especially weighty consequences for the many scientists working below him, yet the letter treats him like any other employee."

HAPPY WEDNESDAY. I'm your guest host, Annie Snider, and I've got you for the rest of the week. The NRDC's Joan Matthews is the competition to beat, being the first to send in the correct trivia answer for a second day in a row. Benjamin Harrison, Herbert Hoover, Lyndon B. Johnson, Bill Clinton and Barack Obama were the five presidents born in August, and Warren G. Harding was the one to die this month. For today: On this day in 1939, Albert Einstein and Leo Szilard wrote to President Franklin D. Roosevelt; what did they ask him to do? Send your answers - and your tips, energy gossip and comments to asnider@politico.com or follow us on Twitter [@AnnElizabeth18](#), [@AnthonyAdragna](#), [@Morning_Energy](#) and [@POLITICOPro](#).

POLITICO Pro Policy Summit, Sept. 14: An all-day summit featuring deep-dive conversations and incisive interviews that explore policy trends inside and outside government. Space is limited to current Pro customers at the director level or above. [Learn More.](#)

NUCLEAR EYES TURN TO GEORGIA: Now that the V.C. Summer nuclear project in South Carolina appears to be on its last legs after the two owners announced plans to ditch the effort, the nuclear policy universe turns its attention to Southern Co., which holds its quarterly earnings call today. Southern, through its Georgia Power unit, is the lead owner of the two-reactor Vogtle plant expansion facing a lot of the same struggles Summer did: cheap natural gas,

cost overruns, anxious investors, and the bankruptcy of their primary contractor, Westinghouse. Taxpayers also have a stake in Vogtle. The Energy Department has provided loan guarantees for \$3.4 billion to Georgia Power, \$3.1 billion to Oglethorpe Power Co., and \$1.8 billion to the Municipal Electric Authority of Georgia. More than \$5.3 billion of that money has been advanced to the firms since Feb. 2014, according to Treasury Department records. SCANA, the majority owner of the Summer project, saw its stock rise 5 percent each day since announcing plans to abandon the reactors.

But many came to Vogtle's pre-defense since Monday, including two top members of Georgia's utility regulator (its vice chairman, Tim Echols, has tweeted on the subject more than a dozen times). It goes something like this: Georgia Power has more than three times as many customers (making the cost impacts of the project lower), Vogtle is getting a \$3.7 billion payout from Westinghouse parent company Toshiba (\$1.5 billion more than Summer is getting), and the Georgia project has been seen as being better managed. Still, every month of indecision costs the Vogtle co-owners about \$100 million. Rather than steal Southern's thunder, an Oglethorpe spokesman told ME the Vogtle co-owners are still working "to develop a detailed schedule and cost-to-complete for the project." Southern CEO Tom Fanning will hold court with investors starting at 1 p.m.

Meanwhile, in the Sunshine state nuclear critics see the South Carolina shut down as a signal that the supposed "nuclear renaissance is over, Politico Florida's Bruce Ritchie reports. Florida Power & Light Co. told the state's Public Service Commission regulators in May planning to continue its "pause" of two new nuclear units at its Turkey Point power plant south of Miami while it seeks to learn from efforts further north.

FAREWELL, DREAMS OF SUMMER RECESS: August got a whole lot sweeter when John Cornyn told reporters Tuesday that the upper chamber will, indeed, stay in session through next week, cutting its precious August recess time in half.

Minibus idling in the driveway: Majority Leader Mitch McConnell started the process to fast-track the House-passed appropriations measure funding the Defense and Energy Departments, as well as the Army Corps of Engineers, Veterans Administration and Legislative branch. But don't get your hopes up yet - leaders use the "Rule 14" process, which allows a measure to bypass committees and head straight to the floor, for dozens of bills each month that go exactly nowhere. Moreover, both McConnell spokesman Don Stewart and a Senate appropriations aide warned not to read too much into the majority leader's gesture (h/t Budget & Appropriations Brief).

But what about the noms? Odds aren't looking good for most (any?) of the energy nominees awaiting confirmation moving during that extra time either. ME caught up with Sen. Dean Heller about his hold on deputy Energy secretary nominee Dan Brouillette and the Nevada Republican said there's no deal, "just conversations and discussions." The two Republican FERC nominees also don't look like they'll be gaining any momentum before recess, in part because the White House still hasn't coughed up the Democratic nominee Trump announced in June.

When asked about the two GOP picks for the Nuclear Regulatory Commission, EPW Chairman

John Barrasso said he generally wants "every one" of the Senate's pending nominees confirmed. But Barrasso also said he hasn't talked to his ranking member, Sen. Tom Carper - which is a big red flag. Carper has been saying for months that he wants NRC Commissioner Jeff Baran, a Democrat, to get reconfirmed alongside the new commissioners, both of whom he supports. Without Carper's blessing, it's hard to see how they get into a big package that needs unanimous support.

BUT SOMEONE IS CONFIRMED: The Senate approved Lucian Niemeyer to be an Assistant Secretary of Defense for Energy, Installations and Environment Tuesday. Niemeyer, a retired Air Force lieutenant colonel, previously oversaw military installations and federal energy and environmental programs as a staffer on the Senate Armed Services Committee.

OLD PROBLEM, NEW HEADACHES: Another battle in the long-running war over the Renewable Fuel Standard may be ready to break out in the wake of last week's D.C. Circuit Court of Appeals decision voiding EPA's use of a waiver to lower the amount of ethanol that refiners had to blend into the gasoline supply in 2016, as compared with targets set by Congress more than a decade earlier.

The issue, Eric Wolff reports, is that the court offered little guidance on how to correct that problem for a year that is already in the history books, leaving EPA to decide whether to force refiners to spend up to a half a billion dollars on additional compliance credits for fuel that they've already sold, or find a way to let refiners off the hook.

The obvious solution - requiring additional Renewable Identification Numbers - has drawn protests from refiners. Instead, they argue the agency could simply rewrite the rule to reflect the actual amount of biofuels used in 2016, just as it did in previous years. But ethanol producers argue the agency should not be able to simply paper over its mistake. Here's Eric with more.

DEEPWATER, TESLA TEAM UP ON OFFSHORE WIND PROJECT: Tesla and Deepwater Wind are proposing an offshore wind project that would be paired with battery storage. The 144-megawatt "Revolution Wind" project Deepwater wants to build offshore Massachusetts would be paired with a 40 megawatt-hour battery storage system from Tesla. The companies were among dozens of wind, solar, hydropower and even high-voltage transmission line developers that last week bid for 15-year to 20-year "clean energy" contracts with utilities in Massachusetts. The commonwealth posted the bids online Tuesday. Deepwater Wind in December brought the nation's first offshore wind project online offshore of Rhode Island.

WEDNESDAY IS FOR WATER: Get ready for some Senate Energy and Natural Resources water wonkery this morning, when Arizona Republican Jeff Flake's Water and Power subcommittee will look at how infrastructure, management and innovation can improve water security in the arid West. The hearing will set the stage for the inclusion of Western water issues in the infrastructure package some lawmakers are still holding out hope for. With Arizona's top water official testifying, the hearing could also shed light on an emerging deal between the U.S. and Mexico to share in shortage along the over-allocated Colorado River.

If you go: The hearing is at 10 a.m. in 366 Dirksen.

DEMS QUESTION ZINKE'S REVENUE GOALS: Senate Energy and Natural Resources Committee ranking Democrat [Maria Cantwell](#) and House Natural Resources Committee top Democrat [Raul Grijalva](#) in a Tuesday [letter](#) to Interior Secretary Zinke questioned whether he is keeping his pledge to ensure the American people receive their fair share when companies use public land to extract oil, gas and coal resources. The agency's "actions so far this year have served to do the exact opposite, reducing the return that taxpayers receive instead of increasing it," they wrote. Cantwell and Grijalva asked Zinke to answer a number of questions, including how his reinstated and expanded royalty policy committee would address these fiscal issues.

EPA APPROVES FLINT LOAN FORGIVENESS: The city of Flint is [off the hook](#) for \$21 million in federal drinking water loans, EPA said Tuesday. The move, requested by GOP Michigan Gov. Rick Snyder, frees up more money for the city's efforts to replace lead service lines and upgrade its infrastructure in the wake of a major lead contamination crisis. "Rebuilding our nation's infrastructure is one of the President's top priorities, and EPA is especially focused on those communities, like Flint, that need it the most," EPA Administrator Scott Pruitt said in a statement.

LEGAL FILING OF THE DAY: The American Civil Liberties Union's West Virginia chapter wants to defend TV comedian John Oliver in the lawsuit over his recent segment on coal magnate Bob Murray. The ACLU's "friend of the court" [brief](#) filed on Tuesday argues that Oliver had various constitutional rights to air the segment, which among other things referred to Murray as a "geriatric Dr. Evil." Murray's suit is an attempt "to chill protected speech and silence the marketplace of ideas," the ACLU told a federal court in a brief which includes sections titled "Anyone Can Legally Say 'Eat S---, Bob!'" and "You Can't Sue People for Being Mean to You, Bob."

The group notes that while its brief "pokes fun at the absurdity of this case, the legal issues raised by it are anything but comical." (Still, the ACLU included a photo comparison between Murray and the fictional Dr. Evil on page 14.) Murray and his company are currently trying to get the case sent to a state court and secure an order stopping HBO from sharing the segment further.

GREENS CALL FOR SCRUTINY OF ENHANCED OIL RECOVERY: In a [report](#) out this morning, Clean Water Action is calling for increased environmental protections around the common practice that uses fluids or gasses to push oil to the surface. Enhanced oil recovery is regulated under a Safe Drinking Water Act program that hasn't seen its regulations updated in decades, requires little monitoring and data collection, and is targeted for a 30 percent cut under Trump's budget proposal, the report finds. It argues that it's difficult for state and federal agencies to push for stricter oversight without evidence of violations or proven cases of drinking water contamination, but that with meek budgets, these are almost impossible to collect.

MAINE LEGISLATURE VOTING ON VETOED SOLAR BILL: The Maine Legislature is slated to vote today on an override of Gov. Paul LePage's veto of [L.D. 1504](#), a measure that would have utility regulators formulate new recommendations on the future of net metering in 2019. The bill does not stop the state from starting to phase out its net-metering program in the

meantime. The Legislature passed the measure in June with a veto-proof majority but it remains unclear whether lawmakers will hold their ground.

MOVER, SHAKER: Jamie Nolan leaves her post as communications director for DOE's SunShot Initiative today to launch her own communications consultancy focused on energy, clean tech, climate and transportation.

QUICK HITS

- Islamic State and climate change seen as world's greatest threats, poll says. [New York Times](#).
- Tesla's longtime battery technology director leaves company. [Bloomberg](#).
- 59,000 farmer suicides in India over 30 years may be linked to climate change, study says. [Washington Post](#).
- Big Oil Bites the Low-Price Bullet, [Wall Street Journal](#).

THAT'S ALL FOR ME!

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To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Morning Transportation
Sent: Wed 9/13/2017 2:05:43 PM
Subject: POLITICO's Morning Transportation: Self-driving car guidelines a plus for industry — No floor time for House FAA bill this week — 'Autopilot' a piece of the probable cause puzzle

By Brianna Gurciullo | 09/13/2017 10:00 AM EDT

With help from Stephanie Beasley, Lauren Gardner, Tanya Snyder and Theodoric Meyer

NO GIFTS, PLEASE: DOT released the long-awaited [revision](#) to NHTSA's policy guidance on self-driving cars Tuesday. As Tanya [reports](#), the new document is a big plus for industry, including significant changes to the previous guidance's voluntary 15-point safety assessment. It's been replaced by a 12-point plan that's not dissimilar, though planks on privacy, data sharing and ethics no longer exist. It also trades in the previous document's "model state policy" for a list of best practices.

Slim-fast: As before, the guidance includes all motor vehicles. And, all in all, the federal guidance on self-driving cars has shrunk from 112 pages to 27. NHTSA officials called the new guidelines "much cleaner and more streamlined," and said they were designed to clarify that the safety letter is truly voluntary.

NOT THIS WEEK: The House's FAA bill won't come to the floor this week, Rep. [Bill Shuster](#) (R-Pa.) [told Lauren](#) on Tuesday. Hurricanes "Irma and Harvey kind of blew us off schedule, so to speak," the Transportation Committee chairman said. But Shuster said he feels "pretty good" about the vote count for his bill, [H.R. 2997 \(115\)](#). As for the length of an extension? "We're working through the process, trying to figure out what makes the most sense," Shuster said.

Buying time: Meanwhile, Senate Commerce Chairman [John Thune](#) (R-S.D.) is hoping that an extension will give his colleagues additional time to work out the kinks on their version of the FAA bill. He told reporters again Tuesday that he wants an extension that lasts six months "or perhaps maybe longer." As Lauren [reports](#) for Pros, the upper chamber "has run into issues of its own with the Commerce Committee-reported legislation, [S. 1405 \(115\)](#), which includes language to loosen constraints on pathways for pilots to gain credit for flight time."

IT'S WEDNESDAY: Thanks for tuning in to POLITICO's Morning Transportation, your daily tipsheet on all things trains, planes, automobiles and ports. Be sure to send tips, feedback and lyrics to bgurciullo@politico.com or [@brigurciullo](https://twitter.com/brigurciullo).

"But I can't see the road / If I'm looking at the signs / I'm carrying a load / And stepping out of line."

GET LISTENING: Follow MT's [playlist](#) on Spotify. What better way to start your day than with songs (picked by us and readers) that are all about flying, driving, commuting and sailing?

A PIECE OF THE PROBABLE CAUSE PUZZLE: NTSB [determined](#) Tuesday that driver error and an over-reliance on automated technology were the primary factors that led to a deadly

crash last year of a Tesla being driven with the "Autopilot" function engaged. While the crash may not have happened if the driver of a tractor-trailer had yielded to the Tesla - and if the Tesla driver had been paying more attention to surrounding traffic - a significant contributing factor was the "operational design" of Autopilot, which allowed the driver a "prolonged disengagement" from operating the vehicle "in ways inconsistent with guidance and warnings from the manufacturer," NTSB said.

What now? The board sent seven recommendations to federal regulators and automakers, urging them to do more to improve data collection from automated vehicles involved in crashes and to promote greater safety around automated control systems being deployed in cars. NTSB implored manufacturers to do more to ensure that cars with advanced automated systems aren't being driven in conditions for which they weren't designed. (For example, ensuring software won't allow a car to be driven with automated controls engaged if it's on a local road with cross-traffic). The board also called on automakers to develop technology that better senses when a driver isn't paying attention, since the driver either didn't notice or ignored several visual and auditory warnings to put his hands back on the steering wheel before he crashed.

Theoretical dustbin: Two things NTSB staff debunked: a rumor that the driver had been watching a movie before the crash and a theory, suggested by Tesla officials, that the software couldn't detect the turning truck because of the glare of sunlight off its white trailer.

LOADING ZONE: The Senate Commerce Committee this morning is set to examine self-driving trucks and their potential impact on jobs and transportation systems - an issue that's held up the introduction of their bill. "Including trucks in the conversation about automated vehicles is important as we seek to improve safety; it also puts our economy on a level playing field as other countries around the world deploy automated freight trucks," Thune plans to say, according to excerpts of his opening statement provided by committee staff.

'Fundamentally different': One witness, Ken Hall, the general secretary-treasurer of the Teamsters, will say that "the issues facing autonomous commercial trucks are fundamentally different, and potentially more calamitous than those facing passenger cars, and warrant their own careful consideration" - both because of the workers they could displace and the safety concerns inherent to large trucks.

Hold on now: Another witness, American Trucking Associations President and CEO Chris Spear, will try to calm those fears. "Some may predict the elimination of all driving jobs, including both drivers of passenger vehicles and commercial vehicles, but that future, if it exists at all, is too far into the future to see," Spear will say. He'll look to assure drivers that there remains a role for them, even in a world of self-driving trucks.

MT MAILBAG: The Owner-Operator Independent Drivers Association argues that the Senate bill "should be limited to motor vehicles weighing less than 10,000 pounds." The group sent a letter Tuesday to Thune, Commerce Committee ranking member Bill Nelson (D-Fla.) and Sen. Gary Peters (D-Mich.).

YEAH, ABOUT THAT ... TSA may have vowed to keep a closer eye on rail and transit

security after Al Qaeda provided detailed instructions on attacking U.S. railways, but New Jersey Democrats said the agency needs to take more concrete actions. The group of lawmakers that included Sen. [Cory Booker](#) and Rep. [Bonnie Watson Coleman](#) sent a letter to TSA Administrator David Pekoske on Tuesday urging him to develop a plan to ramp up security for passenger rail and transit, Steph [writes](#). The lawmakers also invited Pekoske to visit an Amtrak station in New Jersey, where terrorists plotted to bomb a train station last year.

DHS REAUTHORIZATION NOT FORGOTTEN: Steph also briefly caught up with Senate Homeland Security Committee Chairman [Ron Johnson](#) (R-Wis.) on Tuesday as he was on his way to [Mitch McConnell's](#) office. Johnson said the committee is working on a DHS reauthorization bill, but wouldn't give up the goods on a timeline. Johnson previously said he hoped to put out legislation similar to a House-passed DHS bill ([H.R. 2825 \(115\)](#)) this fall.

CHARGES DROPPED AGAINST AMTRAK ENGINEER: A judge dismissed charges Tuesday against the engineer who was behind the controls of the Amtrak train that derailed in Philadelphia in 2015, killing eight. The Associated Press [reports](#) that the judge determined it was "more likely an accident than criminal negligence."

CUOMO'S IMAGE PROBLEM: With an eye on the 2020 presidential election, New York Gov. Andrew Cuomo has attempted to "introduce himself to a national audience as a master-builder of infrastructure," our colleagues at POLITICO New York report, but the state of New York City's ailing subways is hurting his rep. Check out the story [here](#).

FOR YOUR CALENDAR: NTSB announced Tuesday that it will hold a meeting Dec. 12 on the probable cause of the El Faro sinking. The cargo vessel was close to the eye of Hurricane Joaquin two years ago when it sank, killing the almost three dozen members of the crew.

A THUMBS UP FOR SHUSTER: The American Action Forum published a [report](#) Tuesday essentially endorsing Shuster's air traffic control plan. The nonprofit group is the "sister organization" of the American Action Network, whose executive director also heads the Congressional Leadership Fund, a super PAC tied to House Speaker [Paul Ryan](#). American Action Forum's president is Doug Holtz-Eakin, who advised Sen. [John McCain](#) (R-Ariz.) on economic issues when he ran for president.

TWEET DU JOUR: [@SenJohnMcCain](#): "[The decision to suspend #JonesAct for #Harvey & #Irma relief shows why we must repeal. Let's make this permanent!](#)"

SPEAKING OF HURRICANES: While Florida's seaports, airports and toll roads will face losses in the short term because of Hurricane Irma, their credit over time shouldn't change much, according to Moody's Investors Service.

SHIFTING GEARS: Diana Birkett Rakow has a new gig at Alaska Airlines as vice president of external relations after doing public affairs for Kaiser Permanente Washington, our friends at POLITICO Influence [report](#). Caeli Mahon left the office of Rep. [Jeff Denham](#) (R-Calif.), the chairman of the House Transportation Railroads Subcommittee, where she served as press secretary, to be an associate at Targeted Victory. And Seth Coppe, formerly of the National

Governors Association, starts later this month as external affairs liaison for the American Bus Association.

An extra slice of PI: Adam Nordstrom, a former lobbyist at Chambers, Conlon & Hartwell, has set up a firm called Viking Navigation to lobby on rail and intergovernmental issues, PI reports. So far, he is registered to lobby for Anacostia Rail Holdings Company, OmniTRAX and the Kansas Department of Commerce. Nordstrom is still advising CC&H with respect to a big client, the American Short Line and Regional Railroad Association.

A NEW PREZ FOR IBTTA: The head of the E-470 Public Highway Authority in Colorado, Tim Stewart, will be the International Bridge, Tunnel and Turnpike Association's president for next year. Samuel Johnson, Transportation Corridor Agencies' chief tolling officer, will be second vice president.

THE AUTOBAHN:

- "Supreme Court lets Trump ban on most refugees stand." [The Associated Press](#).
- "Former Melgen girlfriend fumes at prosecutors during Menendez trial." [POLITICO New Jersey](#).
- "American Airlines marks down third quarter guidance." [The Wall Street Journal](#).
- "Maryland Gov. Larry Hogan wants to sue the FAA over airport noise." [The Washington Post](#).
- "Amtrak chairman doesn't rule out future 'summer of hell.'" [POLITICO New York](#).
- "Washington lawmakers oppose plan for highway tolls in Oregon." [FOX 12 Portland](#).

THE COUNTDOWN: DOT appropriations run out in 87 days. The FAA reauthorization expires in 18 days. Highway and transit policy is up for renewal in 1,114 days.

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<http://www.politico.com/tipsheets/morning-transportation/2017/09/13/self-driving-car-guidelines-go-easier-on-industry-222256>

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