

**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
**From:** POLITICO Pro Energy  
**Sent:** Fri 8/4/2017 9:43:13 AM  
**Subject:** Morning Energy: FERC back to work — Trump and Justice, a coal country bromance — Interior IG to probe Zinke's Obamacare call

By Annie Snider | 08/04/2017 05:41 AM EDT

*With help from Alex Guillén, Esther Whieldon, Eric Wolff and Emily Holden.*

**FERC IS BAAAAACK:** Just before slipping out for August recess Thursday night, the Senate confirmed Republican FERC nominees Neil Chatterjee and Rob Powelson, effectively restoring a quorum at the agency after nearly six fallow months, during which billions of dollars in shovel-ready energy infrastructure projects have stalled.

Even as President Donald Trump has touted plans for a major infrastructure overhaul and cleared hurdles for high-profile pipeline projects like the Keystone XL, his biggest and most tangible impact on infrastructure so far may well be the \$13 billion in projects, expected to generate more than 23,000 construction jobs, that went on hold during the bureaucratic morass that was partly of his making, Eric Wolff and Darius Dixon report this morning. For many of these projects, the loss of the quorum in February, shortly after Trump demoted FERC's former chairman, may have cost them a year of work, thanks to the limited construction season in much of the country.

**No small matter:** "I would not begin to minimize even the passage of another month," former FERC Commissioner Colette Honorable told Eric and Darius, "because there are high stakes in the matters that come before FERC each and every day — vast amounts of capital at issue, vast amounts of consumer cost or savings at stake."

Once Chatterjee and Powelson are sworn in — expected to happen in the next few days — the agency can begin working through the backlog. That's a win for project backers but a setback for anti-pipeline advocates, who accuse FERC of ignoring the climate and environmental implications of its decisions. Lena Moffitt of the Sierra Club blasted the confirmations Thursday night, arguing that the two soon-to-be commissioners are too aligned with the fossil fuel industry. "As the gas industry is threatening a massive expansion of fracked gas projects, it is more important than ever that our FERC Commissioners put the health and safety of the public and our climate first, not rubber stamp any project the industry puts in front of them," she said in a statement.

**It's not just infrastructure:** We previously laid out a lot of the policy work also piling up for FERC — and that was three months ago!

**More hands coming:** The Senate Energy and Natural Resources Committee has scheduled a September hearing for Trump's next two FERC nominees: Glick, a Democrat, and Kevin McIntyre, Trump's pick for the agency's chairmanship.

**FINALLY FRIDAY!** I'm your fill-in host, Annie Snider, and it's my last day with you. Susan Lafferty with Eversheds Sutherland US was first through the door answering that Transportation

Secretary Elaine Chao is constitutionally ineligible for the presidency, because she is originally from Taiwan. Here's Susan's question for today, inspired by a book she's reading with her kids: Which president is rumored to have been stuck in his bath on his Inauguration Day, and in what year did that inauguration take place? Send your guesses to Darius Dixon, who takes the ME reins for Monday — along with your tips, energy gossip and comments at [ddixon@politico.com](mailto:ddixon@politico.com), or follow us on Twitter [@Dariusss](https://twitter.com/Dariusss), [@aadragna](https://twitter.com/aadragna), [@Morning\\_Energy](https://twitter.com/Morning_Energy), and [@POLITICOPro](https://twitter.com/POLITICOPro).

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**BASKING IN THE APPALACHIAN LOVE:** After a rough couple of weeks for Trump in which Republicans failed to achieve their years-long bid to repeal Obamacare, a new communications director imploded and Russia allegations continued to dominate the news, the president turned to a friendly crowd Thursday night in Huntington, W.Va., where his favorite energy talking points drew roaring applause. After waving a supporter's "Trump digs coal" sign on his way to the podium, Trump touted his withdrawal from the Trans-Pacific Partnership and "the job-killing Paris climate accords" and took credit for an upswing in coal exports, which have seen a bump compared with 2016 but remain far below shipments in previous years.

West Virginia Gov. Jim Justice, a former coal businessman and the richest person in the state, also got a turn at the mic to announce that he will leave the Democratic Party to become a Republican. "I can't help you anymore as a Democrat governor," he told the crowd before lavishing praise on Trump's children and declaring, "Have we not heard enough about the Russians?" Justice said he's been in the Oval Office twice in two weeks to present ideas on coal and manufacturing.

**MANCHIN OUT ON A LIMB:** The announcement meant further political isolation for Sen. Joe Manchin, the sole Democrat in West Virginia's congressional delegation, as he faces reelection in 2018. The Senate Leadership Fund, a deep-pocketed GOP super PAC, launched a digital campaign Thursday attacking the Democrat. Manchin has refused to change parties and resisted entreaties to join Trump's Cabinet, a move that could have given Republicans one additional vote in the Senate (coincidentally, that's how many extra votes they needed on Obamacare last week). In a statement Thursday ahead of Trump's West Virginia rally, Manchin welcomed the president and said he is "particularly excited" to work with him on tax reform. "Our job is to fix things, not fight," Manchin said.

**WIND AT GREENS' BACKS — BUT FOR HOW LONG?** Environmentalists hope that EPA Administrator Scott Pruitt's deregulatory agenda is beginning to crumble after he hit two roadblocks this week, Alex Guillén reports: First a federal court reinstated an Obama-era methane regulation, and then Pruitt backed off on his attempts to delay implementation of a sweeping ozone rule. "This week's been a reality check for Pruitt and Trump that when they ignore the law, they're going to lose, and I think that may be starting to sink in," said Mary Anne Hitt, director of the Sierra Club's Beyond Coal campaign.

But Pruitt supporters aren't hanging their heads yet. For one thing, this week's losses were relatively minor, with the biggest battles over the most contentious Obama-era rules yet to come.

Moreover, argued Christi Tezak of ClearView Energy Partners, Pruitt has multiple paths to victory. "You can certainly win by vaporizing a rule, no doubt. You can win by putting in place a different rule that makes it harder to do a stricter rule later. You can win through delays, even if courts reverse you later," she told Alex.

**INTERIOR IG LAUNCHES PROBE OF ZINKE-MURKOWSKI CALL:** The Interior Department's inspector general has begun a preliminary investigation into Secretary Ryan Zinke's call to Sen. [Lisa Murkowski](#) in which he conveyed the administration's dissatisfaction with her vote against a motion to proceed on the GOP health care bill. IG Mary Kendall told Reps. [Raúl Grijalva](#) and [Frank Pallone](#) in a [letter](#) Thursday that she is looking into "potential legal and ethical violations" by Zinke during the July 26 call. But the Alaska Republican has said she didn't take the call as a threat, and Zinke [posted](#) a photo Thursday on Twitter of the pair sharing a beer. "My friends know me well," he wrote. Esther Whieldon has all the [details](#).

**SCHWARZENEGGER FLEXING CLIMATE MUSCLES AGAINST TRUMP:** Former California Gov. Arnold Schwarzenegger today will announce an ambitious national effort aimed at countering Trump's withdrawal from the Paris climate accord by providing state and local lawmakers with a toolbox for passing substantive climate change legislation, POLITICO California's Carla Marinucci [reports](#).

The project, dubbed a "[digital environmental legislative handbook](#)," offers a curated list of legal and legislative research, voting records, bill language and data to help lawmakers prepare bills on everything from air quality to renewable energy to climate change. "With his decision on the Paris agreement, it is even more so important to make this information available — because it shows the kinds of wonderful things states can do — without waiting for the federal government," Schwarzenegger told Carla. He's set to unveil the toolbox before the National Caucus of Environmental Legislators.

**GREEN GROUPS PRESS COURT ON CPP RULING:** Environmental groups are asking the D.C. Circuit Court of Appeals not to hold off on ruling on the Obama administration's Clean Power Plan, arguing that the White House's Unified Agenda indicates that it could be at least 12 months before the Trump administration will propose its repeal of the contentious rule. The classification of the CPP repeal as a "long-term" action "demonstrates that even the preliminary step of a *proposed* rule may be delayed for at least another year," the green groups wrote in a court filing Thursday, arguing that the court should not hold off on a fully-briefed case "for a period far longer than the Supreme Court presumed when it issued its stay pending this Court's disposition of the merits." Here's Alex with [more](#).

**ANOTHER SAGE GROUSE REBELLION?** The team of Interior politicals and career staff assigned to review the agency's land-use conservation plans for sage grouse in Western states could send Zinke their recommendations as soon as today. The Obama administration's plans, which sparked ire across the West, aimed to avoid an Endangered Species Act listing by boosting protections on broad swaths of federal land. The new recommendations, due to Zinke by Sunday, could include ideas for easing the path for fossil fuel development on federal land in the bird's range.

**EPA REMAINS QUIET IN METHANE APPEAL:** EPA is staying mum in the ongoing legal battle over Pruitt's 90-day stay of the methane rule for new oil and gas wells. The agency did not file any brief taking a position on requests from industry groups and states that support the stay seeking a rehearing before the full D.C. Circuit Court of Appeals, and a spokesman had no comment on the record. The stay's supporters made one last argument Thursday for an *en banc* review, saying the court didn't have the jurisdiction to hear the case in the first place. It's not clear when the D.C. Circuit will decide whether to hear the appeal, but time is of the essence: Pruitt's stay would have expired in 27 days anyway.

**EPA, DOT READY TO TAKE COMMENT ON MPG REVIEW:** EPA and the Department of Transportation could move to reopen comments on a review of the 2022-2025 mileage standards as soon as today, a source tells ME. As part of setting vehicle emission requirements for both 2017-2021 and 2022-2025, EPA agreed to review the second set of standards for appropriateness. The review was completed over a year early under former Administrator Gina McCarthy, and she affirmed the mileage standard of 54.5 miles per gallon. Under pressure from the auto industry, Pruitt and Chao revoked that affirmation in March, and now the agency will announce that it will take the next step in the review by reopening the docket for further input.

**GAO SEES ROOM FOR IMPROVING PHMSA'S SAFETY CALCULATIONS:** The Government Accountability Office recommended Thursday that the Pipeline and Hazardous Materials Safety Administration take steps to ensure that the formula it uses to identify which pipelines pose the greatest safety risk is effective. PHMSA uses the formula to set its priorities each year and decide how often it checks on parts of the nation's 2.7-million-mile pipeline network. GAO said the agency needs to document its reasoning behind each component of its formula and create a process to periodically review its effectiveness.

**SPRING'S COMING SOONER IN THE HIGH NORTH:** Snow is melting earlier in the spring and coming later in the fall on the North Slope of Alaska, according to a study by NOAA and the Cooperative Institute for Research in Environmental Sciences published in the *Bulletin of the American Meteorological Society*. Between 1975 and 2016, the researchers found the snow-free season was growing by about one week per decade, with major ecosystem implications. Native birds have been laying eggs earlier, and rivers have broken through the ice to flow earlier in the season, the researchers found.

**ENVIROS PLAN BORDER WALL RALLY:** Dozens of environmental and social justice groups are planning a two-day rally and walk in southern Texas on Aug. 12-13 aimed at highlighting the potential social and environmental impacts that Trump's plan to expand the border wall could have on nearby towns and wildlife. The rally, which will include speakers such as Sierra Club President Loren Blackford, will also take aim at Trump's anti-immigration policies. The move is part of a new strategy by environmental groups to combine forces with social justice groups on this issue.

## QUICK HITS

— On environment and energy, Trump often picks his own facts. [New York Times](#).

— U.S. shale oil producers cannot shake impulse to keep producing. [Reuters](#).

— Monsanto employee emails show efforts to marshal scientists. [Wall Street Journal](#).

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### **Stories from POLITICO Pro**

#### **New FERC picks face a mountain of difficult business** [Back](#)

By Darius Dixon | 05/09/2017 07:09 PM EDT

President Donald Trump's new picks for FERC should have little trouble winning Senate confirmation, and once they do they will face a mountain of decisions about the future of power markets, the agency's relationship with the states, and its approach to enforcement.

Trump's long-awaited announcement that he would fill two vacancies on the five-seat commission couldn't have come soon enough for Sen. [Lisa Murkowski](#), who is angling for quick confirmation hearings before her Senate Energy and Natural Resources Committee.

"The FERC has been without a quorum since early February and they need the ability to get to work," Murkowski told reporters Tuesday.

Trump nominated Neil Chatterjee, a senior energy adviser to Senate Majority Leader [Mitch McConnell](#), and Robert Powelson, a Pennsylvania regulator with strong relationships in Congress, to the commission, but he has yet to tap a permanent FERC chairman. That position has been expected to go to Kevin McIntyre, a Jones Day lawyer who also is an expert in the Federal Power Act, FERC's core statute. In more than two decades with Jones Day, McIntyre has had a slew of energy industry clients, including South Carolina Electric & Gas Co. and SCANA Corp., making his financial disclosures and ethics paperwork more complicated than those who have been in government for several years.

The agency has been experiencing a traffic jam of energy infrastructure projects needing the leadership's blessing.

"We are already building up quite a backlog," acting FERC Chairwoman Cheryl LaFleur said recently, noting that there'd been a steep drop-off in the number of orders issued since former Chairman Norman Bay's resignation in February dropped it to two members, preventing a quorum needed to conduct a lot of its most critical business.

Many of those orders, dealing with issues such as interstate natural gas pipeline projects and contested electricity rate plans, still require followup decisions to be made when more leaders are brought on. To help ease the agency's pileup, staff have been lining up draft orders for new

commissioners to review as soon as they're sworn in.

Perhaps the biggest issue looming over the agency is how it plans to address a growing number of state-level policies tailored to specific energy sources — such as nuclear incentive programs recently approved in New York and Illinois — that are complicating the markets under FERC's jurisdiction.

The Electric Power Supply Association, which represents independent generators, filed complaints in January calling on FERC to ensure electricity prices in upcoming spring auctions in the New York and the mid-Atlantic area PJM Interconnection markets were not artificially lowered by state programs that subsidize struggling nuclear plants. But until at least one new member is confirmed, FERC's hands are tied.

Meanwhile, Ohio, Connecticut, New Jersey and Pennsylvania have all started to mull their options for helping power plants in their states just as state regulators and a broad swath of the energy industry has increasingly looked to FERC for policy guidance.

Presidents and Congress typically aim to achieve geographic balance at FERC, and Powelson would be the only representative of a PJM state if he is confirmed.

In addition to being the largest power market overseen by FERC, PJM may test how the agency irons out differences — or butts head with — with states crafting lifelines for power plants. And Powelson has called for market operators to take a more forceful role in addressing issues such as aiding nuclear power through carbon pricing rather than leaving states to take bites out of the markets.

"I think it creates a bastardized market construct and at the end of the day, this issue is best resolved with the RTO — in our case PJM — putting that value on carbon and dealing with it," Powelson said in an interview with POLITICO last fall. "Sheepishly, RTOs are putting their heads down in the sand and not saying a word."

Carbon pricing got a lot of airtime at FERC's recent technical conference as perhaps the most market-friendly way to support nuclear power. Still, it was also clear that states within the same electricity market, like New England, couldn't agree on moving ahead with carbon pricing.

Another part of the policy deluge the new commissioners will feel pressure to act on is the agency's closely watched price formation initiative, which focuses on developing new market rules that boost how power plants are paid in an increasingly complex grid. That initiative, which was launched following the 2013-14 polar vortex that caused electricity prices in the Northeast to skyrocket, has been eyed particularly by companies with around-the-clock baseload power plants, like the nuclear industry.

The FERC vacancies also exacerbated uncertainty surrounding the commission's work to protect energy markets against alleged manipulation. Once a new commissioner is confirmed — and a permanent chairman in place — leaders will have to decide how to respond to recent court losses over how they run enforcement cases. While FERC lawyers handle the particulars of each case,

the commission leadership will have to debate any overarching change to its enforcement strategy, particularly if judges are going to force them to practically build the cases from scratch again.

FERC Commissioner Colette Honorable also recently announced that she will leave the agency later this year. Her departure provides another opening for Trump to fill but because FERC's board can't have more than three members of the same political party, tradition indicates that Democrats will pick who fills the seat.

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### **West Virginia Democratic governor switches to GOP [Back](#)**

By Matthew Nussbaum, Gabriel Debenedetti, Kevin Robillard and Daniel Strauss | 08/03/2017  
04:40 PM EDT

West Virginia Gov. Jim Justice announced a party switch Thursday evening in a surprise appearance with President Donald Trump in Huntington, West Virginia.

"Today, I will tell you, with lots of prayers and lots of thinking, I can't help you anymore being a Democrat governor," Justice said. "So tomorrow, I will be changing my registration to Republican."

Justice's flip is further confirmation of his state's sharp rightward turn, and reflects Trump's widespread popularity in a state the president won by a landslide in 2016.

Trump, who has promised to restore lost coal industry jobs, has lavished attention on West Virginia since taking office.

Justice, who seldom worked with other Democrats, recently spent a well-publicized day hunting with Donald Trump Jr. — a familiar political optic in a largely rural state with a strong hunting tradition. But his move still blindsided his old party, which is now left with control of just 15 governor mansions.

Rumors that Justice was going to make the switch circulated throughout the day, but West Virginia Democrats and multiple national Democrats who have worked for Justice in the past said he gave them no notice on the party switch.

"We are sitting here in our office, everyone of us that is capable of standing on two feet, looking at each other, saying, 'Oh my goodness, did anybody see this coming?'" said Steve Roberts, president of the West Virginia Chamber of Commerce. "I am surprised. However, when I worked with Gov. Justice during the last session of the Legislature, I could plainly see that he is a pragmatist who is trying to get things done and is not driven by ideological or party loyalty.

And he has a close connection to the Trump family and it is my hope that this will further solidify a national attention in favor of policies that will help economic development, job creation and education in West Virginia."

Former Democratic Rep. Nick Rahall described the governor as a close friend who put West Virginia first.

"Jim is a West Virginian true and blue and does what is best for West Virginia," Rahall said. "That's his No. 1 goal. His every move as governor has been in that direction. I have not discussed this situation with him to know what moved him to switch parties, but suffice it to say that much of West Virginia's been voting late this way. But most of the state is registered Democrats, so I'm sure he read the political winds."

Privately, the mood among many West Virginia Democrats was less understanding. Despite West Virginia's embrace of Republicans on the federal level, Democrats had held the state's governorship since 2001.

"Obviously, we're pissed. I mean let's face it, we put a lot of effort in the 2015 election to elect this man as governor," a top West Virginia Democratic operative said. "And we had two more progressive individuals in that primary but we knew that if Jim Justice went out of that primary he could win. So I mean, a lot people are pissed. There's a lot of hurt feelings. People are feeling betrayed right now."

The Democratic Governors Association had worked closely with Justice on his gubernatorial run, and combined with labor unions to spend about \$1 million helping defeat GOP state Senate President Bill Cole. Justice, a populist-minded billionaire like Trump, funded much of his run out of his own fortune, made in the agriculture, coal, timber and tourism industries. Despite his status as the richest man in the state, he still lived in the house he grew up in and coached high school basketball.

Justice will not be a stranger in his new party. He's friends with Senate Majority Leader Mitch McConnell, and donated to McConnell's super PAC in 2014. He also donated to the Republican Governors Association just a few years before the RGA spent millions of dollars trying to defeat him in 2016, attacking him for failing to pay taxes and fines related to his businesses.

The governor's move stands to make the coming months more complicated for Sen. Joe Manchin, who now stands as the state's most prominent Democrat ahead of a tough reelection challenge in 2018. Manchin — a moderate Democrat who is often criticized by his own party's left wing — was already a top GOP target, with Rep. Evan Jenkins and Attorney General Patrick Morrissey challenging him.

"I certainly have wondered what the impact is likely to be on Manchin," said Roberts. "There had been some speculation that Manchin was going to change parties from earlier on. If Manchin is taken by surprise, my guess is that he just has a lot to think about."

Manchin's office declined to comment on Justice's switch in party affiliation but said that the

senator would continue to "be a proud West Virginia Democrat."

In a sign of the charged politics surrounding Trump, Manchin — who has maintained good relations with the White House — issued a long statement welcoming Trump to the state Thursday.

"The president is coming to West Virginia, and I'm excited he is," Manchin said. "I know some Democrats, especially those in Washington, D.C., would not want the president to visit their state. As Americans, we should always be honored to have a president visit our state — whoever he or she is, regardless of political party. All Americans should hope for the president to succeed, because if he does, the country succeeds — and West Virginia does as well."

When Trump touched down in the state Thursday, he was set to visit the place that explains his surprise 2016 victory as well as the challenges of turning his campaign promises into tangible results.

Commentators were often left scratching their heads at Trump's dark campaign rhetoric and description of a nation in decline, crushed by job loss, drugs and rising crime. In much of the country, particularly the urban centers Trump so often derided, the rhetoric simply did not match with reality.

But West Virginia was an exception. Trump's promises to renew American greatness, to "bring back jobs" and restore an idealized version of the American worker struck a chord in a long-suffering state. Trump won 68 percent of the vote there against Hillary Clinton, carrying every one of the state's 55 counties. In the state's coal-producing counties, he regularly racked up more than 70 [percent] and 80 percent of the vote.

"The demographic profile sort of fits your hypothetical Trump voter — we're older, we're lower income, lower levels of education, not very ethnically diverse," said Sean O'Leary, a senior policy analyst at the West Virginia Center on Budget and Policy. "If you were to take a stereotypical Trump voter it would look a lot like a stereotypical West Virginian."

For many in the state, Trump's dystopian rhetoric felt like a long-awaited acknowledgment. The state's population peaked around 1950 and, after some rebounding growth over the past two decades, has begun to shrink again since 2010. It has one of the country's lowest median household incomes at \$42,824, well below the national average of \$56,516. The life expectancy is more than three years below the national average, and in 2015 the rate of opioid overdose deaths was 3.6 times as high in West Virginia as nationwide. The state also had the highest rate of drug overdose deaths overall.

The economic scene is almost as bleak: The state's labor force participation is just 53.1 percent, meaning almost half of the state's adults are neither working or looking for jobs.

For an electorate that the Chamber's Roberts described as "rural populist," Trump's campaign pledge not to cut Medicare, Medicaid or Social Security carried special resonance. In supporting Republican health care plans since his inauguration, though, Trump has reneged on the promise

to protect Medicaid.

But that has done little to dent his popularity in West Virginia, where much of his appeal is wrapped in his promise to restore the state's coal industry. The industry, deeply entwined with the state's culture even as it wanes in economic importance, has seen a stark decline in recent years.

Coal mining jobs declined by half from 2011 to 2016, with the Commerce Department tallying just 11,343 coal miners in the state by the end of 2016 — down from more than 23,000 in 2011. Total mining and logging jobs, though, have increased by about 2,400 over the last year, with 1,200 of those jobs coming just between May and June — a sign that Trump's policies are working, supporters say.

"We love our coal miners. Great people," Trump said at an executive order signing in March. "Over the past two years, I've spent time with the miners all over America. They told me about the struggles they've endured. I actually, in one case, I went to a group of miners in West Virginia — you remember, Shelley — and I said, how about this: Why don't we get together, we'll go to another place, and you'll get another job; you won't mine anymore. Do you like that idea? They said, 'No, we don't like that idea — we love to mine, that's what we want to do.' I said, if that's what you want to do, that's what you're going to do. And I was very impressed. They love the job. That's what their job is. I fully understand that."

At a rally in the state during the campaign, Trump famously put on a coal miner's helmet and mimed as though he was shoveling while the crowd roared.

"We have a tradition of mining and producing coal that people here are really proud of," Roberts said, noting that Trump's pro-mining rhetoric — particularly after the Obama administration sought to curtail coal production due to environmental concerns — was a breath of fresh air.

"Plain-spokenness is not considered offensive here, the fact that he just sort of calls it like he sees it," Roberts said. "There probably is a very real feeling that the nation hasn't done much to help our state during at least the eight years of the Obama administration and now we have a president that says, 'I like coal, I support the military, I love the Boy Scouts.'"

"The president is proud to have the support of the men and women in places like West Virginia who had been left behind by the policies of the previous administration," White House spokesperson Lindsay Walters said in a statement to POLITICO. "He's working for them each and every day, unleashing American businesses and protecting their communities. Just look at the results he's already gotten. 42,000 mining and logging jobs have been added since January, and a new coal mine has opened its doors. The much-needed resources of the federal government are refocused towards combating the epidemic of drug and opioid addiction. He's getting better trade deals with our partners around the world. And this is only the beginning."

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## **Senate Leadership Fund launches digital campaign vs. Manchin** [Back](#)

By Kevin Robillard | 08/03/2017 02:44 PM EDT

Senate Leadership Fund, the deep-pocketed GOP super PAC, is launching a digital campaign attacking Democratic Sen. [Joe Manchin](#) ahead of President Donald Trump's visit to West Virginia tonight.

The campaign will direct voters to a [website](#) labeling Manchin "The Joe You Don't Know," which notes Manchin voted against repealing Obamacare and has voted against 60 percent of Trump's judicial nominees. It's the first of what will be a slew of attacks aimed at pitting the former governor and second-term senator against Trump, who is ultra-popular in the state.

"The launch of this digital campaign is the first step in Senate Leadership Fund's commitment to ending the career of Joe Manchin," SLF spokesman Chris Pack said.

Manchin is the last Democrat remaining in West Virginia's congressional delegation, and Republicans have made him a top target in 2018. Pack said the West Virginia campaign is the first of multiple digital campaigns the group will launch around the country.

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## **Early hurdles slow Pruitt's deregulation push — but maybe not for long** [Back](#)

By Alex Guillén | 08/03/2017 05:35 PM EDT

EPA Administrator Scott Pruitt is starting to hit roadblocks in his efforts to undo the agency's Obama-era regulations — a trend that has environmentalists crowing but may prove to be symbolic and short-lived.

Green groups were happy to take the wins this week after a federal court [reinstated](#) an Obama-era methane regulation and Pruitt [backed off](#) on his attempts to delay implementation of a sweeping ozone rule. Both rules are among dozens targeted by President Donald Trump's push to relieve regulatory burdens on businesses.

"This week's been a reality check for Pruitt and Trump that when they ignore the law, they're going to lose, and I think that may be starting to sink in," said Mary Anne Hitt, director of the Sierra Club's Beyond Coal campaign.

"I think these cases show the plain language of federal statutes will not be Administrator Pruitt's Achilles' heel, they'll be his Achilles' torso," said John Walke, the NRDC's clean air director.

Not everyone believes Pruitt's and Trump's deregulatory agenda is in danger, however.

Christi Tezak, managing director at ClearView Energy Partners, said these early snags represent "more of an evolution versus a faltering" for Pruitt's attempt to revoke, rewrite and delay as many Obama administration regulations as possible.

"They're pushing the envelope, just as the administration before them did, just 180 degrees in the other direction," Tezak said. "Winning in this administration is a broad term that can change. You can certainly win by vaporizing a rule, no doubt. You can win by putting in place a different rule that makes it harder to do a stricter rule later. You can win through delays, even if courts reverse you later."

Indeed, Trump's agencies have already scored a lot of early success in undermining Obama administration regulations, including the major water and climate rules that Pruitt has put on the chopping block.

EPA downplayed its setbacks on the methane regulation, which Pruitt had halted early this year following requests from the oil and gas industry to reconsider the rule.

"EPA is moving full speed ahead to enact common sense regulations, as evidence by the number of significant regulatory actions taken to implement President Trump's executive orders to protect the environment, save manufacturing jobs and reduce America's dependency on foreign energy sources," agency spokeswoman Liz Bowman said in an email.

A federal court said in July that Pruitt had unlawfully halted the methane rule. On Monday the court reinstated the rule, saying it was unreasonable to let an unlawful stay remain in place any longer.

Then on Wednesday, Pruitt made a hard U-turn on a one-year delay in implementing an Obama ozone standard — a postponement that had drawn lawsuits from environmentalists and Democratic attorneys general. EPA said in a notice that, on second thought, the national delay was not supported by the data it had.

Pruitt's ozone retreat came a day before EPA was going to have to defend itself in court.

These are "initial victories," Hitt acknowledged, but she hopes they prove an omen.

Pruitt "may be very creative in how he tries to unravel [regulations], but at the end of the day he has an obligation to protect public health, and if he unravels the standards that protect public health, he is going to be breaking the law," she said.

Walke rejected the idea that even temporary delays that are later overturned could count as victories for Pruitt.

"A cynical agency head willing to break the law can get away with a lot, that is sure. But that's

not winning. That's recklessness," Walke said. "They pay a price in adverse court rulings, public scorn and negative publicity."

Still, these are relatively minor losses for Pruitt in the grand scheme of the Trump agenda.

EPA will have a new freeze placed on the methane rule within weeks, and this one may be less vulnerable to court challenge because Pruitt took public comment first.

The agency also hinted that Pruitt could still delay ozone implementation decisions on a case-by-case basis. That could mean issuing decisions for regions that are indisputably above or below the limit while giving more time for others, particularly in the intermountain West, where background ozone levels have emerged as a difficult issue.

"There's probably plenty of stuff you can put out the door, and then you fight over what really matters," Tezak said.

Meanwhile, the underlying ozone standard remains under review by Pruitt's team. That prompted Democratic states to step up in court this week to defend the 2015 rule, since EPA no longer will.

For now, environmental groups are pressing forward in the handful of cases where they can.

Green groups teamed up with a union last month trying to reverse Pruitt's two-year stay of a rule meant to prevent explosions at chemical plants. Environmentalists are also trying to reinstate the compliance deadlines for a rule on toxic discharges from power plants, which Pruitt stayed until litigation over the rule concludes.

Still to come are many of the biggest battles, as Pruitt eventually moves to revise or rescind major Obama-era rules that were tied up in court when Trump took power. Cases frozen while Pruitt works to undo the underlying rules include the Clean Power Plan, the carbon rule for future power plants, the ozone standard itself and the Waters of the U.S. rule.

Pruitt's work to rewrite or revoke those regulations could take a year or more, with intense litigation sure to follow.

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**D.C. Circuit orders EPA to resume enforcing methane rule [Back](#)**

By Alex Guillén | 07/31/2017 06:39 PM EDT

The full D.C. Circuit Court of Appeals today [ordered](#) EPA to resume enforcing its methane rule for new oil and gas wells, a potentially temporary but important loss for EPA Administrator

Scott Pruitt's deregulatory agenda.

A three-judge panel ruled on July 3 that Pruitt improperly imposed a 90-day stay of the rule amid a reconsideration of key leak detection and repair requirements.

The court agreed to keep the stay in place for two weeks to give EPA time to decide on an appeal, a timeline that expired last week. The agency has not asked for an appeal, but industry groups and states critical of rule have. The court ordered responses to those appeal petitions be turned in by Wednesday afternoon, with any further reply due Thursday, indicating the court will move quickly on the appeal.

The order was issued by a 9-2 vote. Judges Janice Rogers Brown, who will retire from the court effective Aug. 31, and Brett Kavanaugh voted against reinstating the rule immediately.

EPA is taking comment through Aug. 9 on a proposed two-year stay of the rule through 2019 and could have it in place by September. That longer-term stay may not face the same legal issues as the 90-day one since EPA will incorporate public comment.

**WHAT'S NEXT:** The court could decide as early as this week whether to hear an en banc appeal. Pruitt's 90-day stay would expire on Aug. 31 anyway, putting a ticking clock on the court proceedings before the matter becomes moot.

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**Pruitt drops delay of ozone rule implementation** [Back](#)

By Alex Guillén | 08/02/2017 07:55 PM EDT

EPA Administrator Scott Pruitt has dropped his one-year delay of an upcoming implementation step for the 2015 ozone standard, EPA announced today.

The withdrawal comes after lawsuits from [environmental groups](#) and [Democratic states](#) sued over the delay in deciding which areas meet the standard and which do not. EPA had been due to file its first defense of Pruitt's delay in court on Thursday.

Pruitt originally said he did not believe EPA had the necessary data to decide on the designations by the Oct. 1 deadline. But a [pre-publication Federal Register notice](#) signed by Pruitt on Wednesday says that "the information gaps that formed the basis of the extension may not be as expansive as we previously believed."

Some areas may be ready for designation in the coming months, and the notice hints that regional delays may be necessary on a case-by-case basis. "The Administrator may still determine that an extension of time to complete designations is necessary, but is not making such

a determination at this time," says the notice in withdrawing the nationwide delay.

"We believe in dialogue with, and being responsive to, our state partners. Today's action reinforces our commitment to working with the states through the complex designation process," Pruitt said in a statement.

Pruitt also said he intends to avoid any settlement agreements with "activist groups," a practice he has long opposed and said he ended at EPA. "We do not believe in regulation through litigation, and we take deadlines seriously. We also take the statute and the authority it gives us seriously," Pruitt said.

**WHAT'S NEXT:** EPA has until Oct. 1 to determine which areas of the U.S. meet the standard and which will have to submit plans to lower pollution, a years-long process.

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**Interior IG probing Zinke call to Murkowski over health care vote** [Back](#)

By Esther Whieldon | 08/03/2017 04:18 PM EDT

The Interior Department's inspector general's office told lawmakers today that it has launched a preliminary investigation into Secretary Ryan Zinke's effort to get Sen. [Lisa Murkowski](#) to back Obamacare repeal last week.

In a [letter](#) to Reps. [Raúl Grijalva](#) and [Frank Pallone](#), Deputy Inspector General Mary Kendall said she is looking into "potential legal and ethical violations" by Zinke. The secretary called Murkowski July 26 to convey the administration's dissatisfaction with her vote against a motion to proceed on the GOP health care bill.

Murkowski today said that pressure from the administration was one of several reasons she delayed a markup that had been scheduled for July 27 to consider several nominees. The panel [voted](#) today to advance the nominees.

"But we also were dealing with the very proximate timing of issues coming out of the White House related to health care that really had nothing to do with energy and yet some had made it tied to energy," Murkowski told POLITICO today. "But ... even if that had not happened, we still were looking at whether or not the timing was right to move forward with the markup."

Murkowski said that she did not take Zinke's call as a threat and that his department has not done anything to stop or slow down the issues she cares about since then.

Zinke [posted](#) a photo on Twitter today of him and Murkowski sharing a beer. "My friends know me well," he wrote.

Murkowski characterized their relationship as "very strong, professional, friendly, cordial and respectful."

**WHAT'S NEXT:** Murkowski said she is hopeful the Interior and Energy department nominees that cleared her committee today will be confirmed by the full Senate before adjourning for recess, which is expected later tonight. They were not part of a large batch of nominations confirmed earlier this afternoon, but negotiations continue.

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### **Schwarzenegger unveils initiative to tweak Trump on climate [Back](#)**

By Carla Marinucci | 08/04/2017 05:20 AM EDT

Former California Gov. Arnold Schwarzenegger, flexing his muscles in an effort to counter President Donald Trump's withdrawal from the Paris climate accord, will unveil an ambitious new national effort Friday aimed at providing lawmakers with a comprehensive set of tools to pass substantive climate change legislation at the state and local level.

The new initiative to tweak Trump on climate change is being touted as a first — a "[digital environmental legislative handbook](#)" which organizers say will provide political leaders around the nation with a comprehensive curated list of legal and legislative research, voting records, and bill language and data to help them prepare bills on a wide range of environmental action, including air quality, renewable energy, health and climate change.

The effort developed by the USC Schwarzenegger Institute and the National Caucus of Environmental Legislators will be unveiled Friday by the former California governor before more than 130 legislators at the NCEL's Boston conference.

"There's no reason why we shouldn't have a digital legislative handbook — and make it available to people who wanted to create environmental action now — because of the situation with Trump," Schwarzenegger told POLITICO in an interview Thursday. "With his decision on the Paris agreement, it is even more so important to make this information available because it shows the kinds of wonderful things states can do without waiting for the federal government."

"The message to legislators with the project is now 'you have the power to do it yourselves,'" he said. "The reality is each state now goes to work and passes great legislation that helps them...make great decisions."

Bonnie Reiss, global director of the Schwarzenegger Institute, and a longtime senior adviser to the former governor who helped developed the new digital website, told POLITICO that "even as governor, when he passed our landmark AB32, Arnold has always been a big believer in the

power of local and sub-national action on climate change."

"And now, with Trump both denying climate change and, frankly, reversing so much action on environmental protection across the board, Arnold is really doubling down on the need for action," she said.

The unveiling of Schwarzenegger's new effort comes just days after both he and California Gov. Jerry Brown appeared to seize the mantle as de facto national leaders on climate change — standing side by side at a triumphant ceremony to sign California's latest cap-and-trade bill. The Republican and the Democrat said the moment illustrated how California offers the nation an example of bipartisan cooperation on climate that benefits all Americans.

But in the first six months since Trump's inauguration, the former California governor and Hollywood star has been especially driven to spur international action on climate change to counter both a White House and an Environmental Protection Agency intent on rolling back some of the same environmental regulations and protections for which both he and Brown fought.

Schwarzenegger in Paris recently issued a direct challenge to Trump's position on climate change when he stood alongside French President Emmanuel Macron and vowed to "make our planet great again" on climate change issues. In a video message that has received nearly 2 million views, Schwarzenegger vowed: "One man cannot destroy our progress. One man can't stop our clean energy revolution. And one man can't go back in time."

Now, making good on a promise that states will move forward with environmental legislation — with or without the help of Trump — Schwarzenegger says the new resource site debuting today provides legislators with a range of categories in the area of environmental protection. The site provides comprehensive listings of examples of bills that have passed around the country, compete with data like fiscal impact and past votes, as well as full legal language. Lawmakers can also research new legislation including air quality, renewable energy, human health and climate change.

"It's interactive and it's about states helping states," said Reiss. "We've given legislators an opportunity to submit legislation in their states that may be duplicable in other states, and the research is done for them already."

The one-stop-shop is important "especially with Trump — what's happening in the Congress and the EPA and our parks," said Reiss. "Our focus is making sure we really reach out and create a meaningful resource that is huge for U.S. legislators," with the hope to eventually expand the effort internationally, she said.

Fran Pavley, the environmental icon and former California legislator who authored the landmark AB32 — the nation's first bill to take a long-term and comprehensive approach to the goals of cutting greenhouse gas emissions — said that the former governor, as a Hollywood star known to millions worldwide, is in a unique position to bring international spotlight to the issue.

"I'm thrilled that he's in this space," she told POLITICO. "Arnold consistently commands attention on a global stage like few people can...so it's critically important."

She told POLITICO that Schwarzenegger's determination to expand consciousness of a watershed moment in environmental protection has produced an entirely bipartisan new platform that will enable more legislation in the environmental arena.

"We've proven since the passage of AB32, eleven years ago when we started the multi-sector approach, that our economy has grown and we've reduced greenhouse gas emissions in California," said Pavley, who closely advised Schwarzenegger and Reiss on how to maximize the site's usefulness for legislators. "You don't have to make a choice between a healthy economy and a healthy environment."

In the wake of Trump's Paris decision, Pavley said, "everyone realizes it's really going to be up to the sub-nationals to do even more — cities, states and provinces working collaboratively together." The move to provide legislators with tools they need "is a natural progression," she said, "given that the federal government level is not moving forward and states need to share information."

Schwarzenegger, who in 2010 founded the non-profit global environmental effort called the R-20 Regions of Climate Action to advance the climate change message, said his goal looking forward is for the new digital legislative handbook to expand its scope and to assist lawmakers worldwide.

"California is not the only state that has done great things....the key thing is to show leadership," Schwarzenegger said. "There's a lot of great laws..there's great information out there and brilliant minds. We want to share it with the rest of the world."

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## **Green groups ask court to issue Clean Power Plan ruling [Back](#)**

By Alex Guillén | 08/03/2017 02:49 PM EDT

Environmental groups today [asked](#) the D.C. Circuit Court of Appeals to issue its ruling on the Obama administration's Clean Power Plan because it remains unclear when the Trump administration will propose its repeal of that rule.

The groups cite the White House's Unified Agenda, which was released last month. The document provided no deadline for proposing or finalizing the CPP repeal, which it [classified](#) as a "long-term action," those for which the agency does not expect to act for at least 12 months.

That classification "demonstrates that even the preliminary step of a *proposed* rule may be

delayed for at least another year," the green groups wrote.

"These facts further underscore that this Court should not continue to postpone a decision in this fully briefed case, which was argued en banc on September 27, 2016, for a period far longer than the Supreme Court presumed when it issued its stay pending this Court's disposition of the merits," the groups wrote. "The Court should decide the case on the merits, or terminate it by remanding the case to EPA."

**WHAT'S NEXT:** If the court decides to consider the request, it likely will ask EPA and the CPP's challengers to weigh in first.

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**Green groups to huddle on plan to challenge Trump's border wall** [Back](#)

By Esther Whieldon | 02/08/2017 02:37 PM EDT

Environmentalists plan to meet this month to craft a strategy to try to stop President Donald Trump's plan to erect a border wall that they fear could wreak havoc on sensitive ecological areas and species.

The Feb. 23 meeting in Tucson, Ariz., among national and local environmental and human rights groups is part of green groups' broader goal to counter the Trump administration and Republican-led Congress' efforts to eliminate environmental laws and rules.

"The new administration is a game changer in terms of how we do our work," said Dan Millis, program coordinator for the Sierra Club's Borderlands Program, which is co-sponsoring the meeting along with Wildlands Network and the Center for Biological Diversity. "We have pivoted to a position of resistance on pretty much all of Trump's policies because they would be catastrophic for the environment."

The 1,954-mile U.S.-Mexico border includes designated wilderness areas and terrain with mountains so rugged that border guards can only patrol them on horseback. Green groups contend installing a high wall in ecologically sensitive spots along the border will not only drive up patrol traffic but also cut off important breeding and hunting grounds for wide-roaming species such as ocelots and jaguars.

The wall and fencing that are already along more than 650 miles of the border "have been a disaster for the environment," Millis said. "They have not stopped anybody from crossing the border except for the wildlife and the natural flow of water. ... Obviously, the problem would get much worse if Trump were to go through with his plans to build a larger and more solid wall."

Environmentalists hope to rally the progressive voter base that backed Sen. [Bernie Sanders](#)' (I-

Vt.) and the "Keep it in the Ground" movement, while drawing in civil rights, immigration, social justice and tribal groups that care about border issues.

"I think we have an opportunity to mobilize that energy in a way that maybe didn't necessarily exist back in 2005 or 2006 or some of the other times when the wall and border construction was being discussed," said Katie Davis, Western director for the Wildlands Network. Like the "Keep it in the Ground" movement, a stop-the-wall message could become a rallying cry that people use to pressure their lawmakers, she said.

The green groups are likely to push back against legislation like the bill House Natural Resources Chairman Rob Bishop (R-Utah) told POLITICO he would re-introduce that would expand the Homeland Security secretary's existing authority to waive environmental and other laws to build a wall.

Bishop wants to allow the DHS secretary to waive the laws in a zone extending 100 miles from the border, which would also give patrol officials more leeway to traverse the more than 40 percent of the Southwest border that is controlled by the Interior Department and the Agriculture Department's Forest Service. DHS secretaries have used the waiver authority five times in the past to build border fencing and walls, and the courts have upheld the constitutionality of those actions.

Environmentalists are also searching for new allies among right-leaning groups that are reluctant to fund a wall.

"There's a whole list of Republican deficit hawks who look at that price tag of \$15 billion, which is probably significantly low-balled in fact ... and they say, 'There's no way I'm going to vote for that,'" said Randy Serraglio, Southwest conservation advocate at the Center for Biological Diversity.

And Davis envisions alliances like those that solar advocates in the Southeast struck with tea party members to push for more customer access to rooftop solar.

"It really doesn't matter why you are opposed to a wall, we don't want to see a wall and if people are also of the same mind I could see there being some potential opportunities to, if not work together, at least be on the same page," said Davis.

If all else fails, some environmentalists are prepared to resort to more extreme measures. "In the end, there will be civil disobedience if necessary. If it comes down to it, we will put our bodies in front of the bulldozers if necessary," said Serraglio.

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