

**To:** Dravis, Samantha[dravis.samantha@epa.gov]  
**From:** POLITICO Pro Energy  
**Sent:** Wed 5/10/2017 9:47:29 AM  
**Subject:** Morning Energy, presented by Trout Unlimited: Senate primed to decide methane rule's fate today — Huge workload awaits Trump's FERC picks — No contamination reported after Hanford tunnel collapse

By Anthony Adragna | 05/10/2017 05:42 AM EDT

*With help from Alex Guillén and Eric Wolff*

**METHANE RULE MEETS ITS FATE:** After months with its fate shrouded in uncertainty, the Obama administration rule to reduce methane emissions from oil drilling on public lands will face a procedural vote today at 10 a.m. in the Senate ahead of a subsequent filibuster-proof Congressional Review Act vote. Republicans projected confidence Tuesday that the measure would pass, but admitted the vote to kill the regulation would be close and subject to some late-breaking lawmakers voting their way. "I think we're okay, but it has tended to move around and some folks are being a bit guarded," Sen. [John Hoeven](#) told ME the night before the vote. Backers of the CRA resolution got some good news when Sen. [John Thune](#) told reporters a bloc of corn-state lawmakers seeking a waiver to allow sales of 15 percent ethanol blended fuel year-round were mostly behind the measure. Assuming the votes are there, expect the Senate to send President Donald Trump his last CRA measure to sign by the end of the day.

**Key votes to watch:** Publicly undecideds include Sens. [Cory Gardner](#) (R-Colo.), [Heidi Heitkamp](#) (D-N.D.), [Dean Heller](#) (R-Nev.) and [Joe Manchin](#) (D-W.Va.). Senate Judiciary Chairman [Chuck Grassley](#) pointedly declined to tell ME how he'd vote on the CRA late Tuesday. One other wildcard is Sen. [Johnny Isakson](#), who's recovering from back surgery and hasn't voted so far this week.

**Unproven promises:** One key vote CRA backers got was that of Sen. [Rob Portman](#), who signed on after Interior Secretary Ryan Zinke promised to address the lost revenue and the emissions of methane through a new rule based on different economic impacts. But as Pro's Ben Lefebvre [reports](#), that rationale hasn't been tested in court and the CRA bars issuing rules "in substantially the same form" without specific congressional authorization. Zinke's reasoning surprised at least one former Interior Department official. "There's no interpretations of what that the 'substantially similar' language means. So that's total speculation on their part," said David Hayes, a fellow at the Center for American Progress. And the Western Values Project filed a [FOIA request](#) Tuesday seeking communications between Portman's office and Interior prior to the senator's backing of the resolution.

**Never too late:** The American Petroleum Institute sent a [letter](#) to Senate leadership Tuesday afternoon urging them to carry the CRA across the finish line. "This rule from BLM, an agency which lacks the authority and expertise to regulate air quality, is an unnecessary layer of federal regulation," Jack Gerard, the group's president, wrote.

**WELCOME TO WEDNESDAY!** I'm your host Anthony Adragna, and Matt Herdman was the first to identify the six current senators (Cruz, McCain, Bennet, Van Hollen, Hirono and

Duckworth) who were born outside the U.S. For today: What Supreme Court justice twice led the NFL in rushing yards? Send your tips, energy gossip and comments to [aadragna@politico.com](mailto:aadragna@politico.com), or follow us on Twitter [@AnthonyAdragna](https://twitter.com/AnthonyAdragna), [@Morning\\_Energy](https://twitter.com/Morning_Energy), and [@POLITICOPro](https://twitter.com/POLITICOPro).

**DAUNTING WORKLOAD AWAITS FERC PICKS:** Trump's two FERC nominees — Neil Chatterjee, a senior energy adviser to Senate Majority Leader [Mitch McConnell](#) and Robert Powelson, a Pennsylvania regulator — will face a mountain of decisions about the future of power markets, the agency's relationship with the states, and its approach to enforcement once confirmed, [Pro's Darius Dixon reports](#). There's already a traffic jam of energy infrastructure projects needing the leadership's blessing, and staff have been lining up draft orders for new commissioners to review as soon as they're sworn in. And there's arguably no bigger task they'll face than addressing a growing number of state-level policies tailored to support specific energy sources — such as nuclear incentive programs recently approved in New York and Illinois — that are complicating the markets under FERC's jurisdiction.

**What's next?** Senate Energy and Natural Resources Chairman [Lisa Murkowski](#) wants to move quickly on the picks. "The FERC has been without a quorum since early February and they need the ability to get to work," she told reporters Tuesday. She also said she intends to move nominees through her committee as their paperwork comes in rather than trying to package three or four agency picks together.

**SERIOUS SITUATION AT HANFORD:** No contamination has been found, but officials are still figuring out how to address a partial cave-in of a tunnel at the Hanford Cold War nuclear weapons cleanup site in eastern Washington. In a statement late Tuesday, an Energy Department spokesman said: "The incident is moving from the emergency phase towards the recovery phase. After extensive testing the site remains confident at this point that there has been no indication of worker exposure or an airborne radiological release." Workers first discovered the situation during a routine inspection of the storage tunnel containing rail cars full of radioactive equipment on Tuesday morning. Here's the [emergency webpage](#) from Hanford on the incident.

**ZINKE WRAPPING UP UTAH TREK:** It's the final day of Zinke's four-day visit to national monuments in Utah and today he'll tour the Grand Staircase-Escalante National Monument, the designation of which is under review by the Trump administration. After his second day touring the controversial Bears Ears National Monument, the Interior chief told [one local station](#): "I think there's a solution out there." His day Tuesday included [a rainy hike](#).

**More than 100 hunting and fishing businesses** sent [a letter](#) Tuesday voicing support for "responsibly" using the Antiquities Act to protect public lands. "The Antiquities Act is a tool, and like any tool there is a right and wrong way to use it," they wrote. "We oppose any effort to undermine Theodore Roosevelt's legacy by undoing or modifying it."

**WHAT ARE WE DRINKING?** The Safe Drinking Water Act was supposed to eliminate toxins from American tap water. But not a single new contaminant has been banned under the act in the past 20 years, even as thousands of new chemicals have come onto the market. Even well-known toxins, like a rocket fuel ingredient called perchlorate, long known to damage brain

development, remain in the drinking water of dozens of states. POLITICO Pro's Annie Snider investigates in The Agenda how the most important law protecting our water got trapped between bureaucracy and the changing science — and got stuck there.

**\*\* A message from Trout Unlimited:** For over 50 years, Trout Unlimited has been dedicated to conserving, protecting and restoring North America's coldwater fisheries and watersheds on behalf of today's anglers and coming generations of sportsmen and women. Join us as we support America's public lands and national monuments: <http://bit.ly/2paVoYB> \*\*

**NEXT STEP ON ESA MODERNIZATION:** Senate EPW takes its next step today toward action on one of Chairman John Barrasso's top priorities: overhauling the Endangered Species Act. Lawmakers will get testimony from three state officials on the whether to strengthen the statute, their capacities in species conservation and their existing roles in the process. The witnesses are: Nick Wiley, executive director of the Florida Fish and Wildlife Conservation Commission; Larry Voyles, director of the Arizona Game and Fish Department; and Janet Coit, director of the Rhode Island Department of Environmental Management. "I believe a bipartisan modernization bill can be developed to reform the ESA in a manner that improves efficiency and effectiveness and maintains the Act's original intent," Coit will say. The hearing kicks off at 10:30 a.m. in Dirksen 406.

**ICYMI:** Be sure to check out POLITICO's searchable database of everyone who has had individual interactions with Trump. Among the people who've met with the president from the energy world: American Energy Corp.'s Casey Crooks; Boich Companies' Matt Evans; Cambridge Energy Research Associate's Daniel Yergin; three people from GE; two people with Koch Industries; six people with Murray Energy Corp., including two interactions with Robert Murray; the National Mining Association's Hal Quinn; the Nature Conservancy's Lynn Scarlett; Harrison County Coal Company's Scott Martin; Marion County Coal Company's Michael Nelson; Marshall County Coal Company's Eric Grimm and TransCanada's Russ Girling. Send any names we may have missed to us at [trumpvisitors@politico.com](mailto:trumpvisitors@politico.com).

**NORTH DAKOTA GOES FIRST ON CARBON WELLS REGULATION:** Hoeven got a long-held wish yesterday when EPA Administrator Scott Pruitt signed a proposed rule granting North Dakota primacy over the federal government when it comes to regulating long-term storage wells for carbon dioxide, Pro's Eric Wolff reports. Hoeven has been laboring since 2009, when he was governor, to create a regulatory structure for those storage wells. The proposed rule will put regulation of the wells, along with certifying that they won't leak carbon back into the atmosphere, in the hands of the state. An EPA spokesperson told ME that North Dakota is the first and only state to ask for primacy on these wells. David Hawkins, director of climate programs for the Natural Resources Defense Council, said his group hasn't reviewed the rule yet, but in general it prefers a single federal rulebook for long-term carbon storage. "The characteristics of a well don't change based on which state they're under," he told ME.

**BLANKENSHIP OUT OF CUSTODY TODAY:** Don Blankenship is out on the streets today, released from a California prison where he served out a year following his misdemeanor conviction related to the 2010 Upper Big Branch mine disaster that killed 29 of his workers. Blankenship actually transitioned to home confinement back in March, according to the Bureau

of Prisons, and he still has one year of supervised release to go. While in prison and pursuing appeals that ultimately failed, Blankenship maintained he was railroaded by federal prosecutors and, in a booklet apparently composed in prison, portrayed himself as a "political prisoner." (He also broke his silence to tweet, two days before the election, that "Americans need to elect Donald Trump to build a wall.")

**MAIL CALL! ANSWERS SOUGHT ON ADVISER DEPARTURES:** Top Senate EPW Democrat Tom Carper wants details from Pruitt on the decision not to reappoint 12 scientists to the agency's Board of Scientific Counselors. "I am concerned that with these planned actions, along with previous steps you have taken to remove mention of climate change from EPA's website, censor the analysis of EPA's career staff and deny the consensus scientific views about the cause of climate change, you are engaging in a broad approach of denying the science that forms the basis of sound environmental regulation," Carper wrote Tuesday. He asked for all documents related to the decision not to bring the scientists back.

**HITCHING A RIDE:** Sen. Lindsey Graham isn't picky about how Congress extends a nuclear production tax credit but thinks he may be able to craft a standalone bill packed with popular renewable energy and carbon capture credits to get it through the chamber. "Maybe [we'll] have a standalone bill that maybe is so popular you can get it done without a vehicle, but I'm looking for anything that comes through the Senate. Naming the post office, I'll put that on it," Graham quipped Tuesday.

**STATES SUE OVER COAL LEASE LIFT:** California, New York, New Mexico and Washington joined an earlier coalition of environmental activists in suing Interior over Zinke's order to lift the federal coal leasing moratorium, Pro's Alex Guillén reports. They argue Zinke failed to conduct a new environmental review or update the program's decades-old one, in violation of the National Environmental Policy Act. And they say the agency should have studied whether the coal to be leased will get a fair market value as required under several laws.

**MANCHIN CHALLENGED FROM THE LEFT:** For the second time in two days, Sen. Joe Manchin has drawn a challenger — this time, from his left. Paula Jean Swearengin, the daughter of a coal miner and an environmental activist, faces a steep climb to beat the incumbent in the Democratic primary. "The question we face today is: What are we going to do when the coal is gone? And make no mistake, it's going. No one has given us an answer that doesn't require the sacrifice of our health and our environment. I believe our future is in building a 21st-century, clean economy," her website says.

**EARLY PITCH ON APPROPS:** More than 100 environmental organizations, including Clean Water Action, Earthjustice, the Sierra Club and the Union of Concerned Scientists, are sending a letter this morning to congressional appropriators urging them to keep funding for the agencies covered by the Interior, Environment and Related Agencies subcommittee at "no less than continued current funding levels."

**MOVER, SHAKER:** Sue Biniiaz has joined the United Nations Foundation as the new senior fellow for climate change; she was the lead climate lawyer for the U.S. State Department for more than 25 years and played a key role in negotiating the Paris agreement. "She possesses an

unsurpassed understanding of the legal nuances surrounding this and other critical international climate and environmental agreements, and is renowned for her ability to resolve the most contentious and seemingly intractable negotiating issues," Elizabeth Cousens, deputy chief executive officer of the foundation, said in a statement.

**FOR SALE:** BLM [announced](#) plans for a mid-June online auction for oil and gas leases on 196,000 acres in three Nevada counties, Pro's Esther Whieldon [reports](#). The 10-year leases are for 106 parcels in the BLM's Battle Mountain District in Nye, Lander and Eureka counties. The last auction for the district was held in June under the Obama administration for 50,415 acres and generated \$54,340.

**SPOTTED:** House Majority Leader [Kevin McCarthy](#) "on a tour of Lake Okeechobee watershed & Everglades restoration projects" in Florida, per Rep. [Francis Rooney](#).

**REPORT: BIG BUCKS TO SAVE NAVAJO:** The Institute for Energy Economics and Financial Analysis is out with [a report](#) today finding the Navajo Generating Station would require \$740 million to \$1 billion to keep open through 2022 and between \$1.4 billion and \$2.4 billion in subsidies to stay open through 2030.

## QUICK HITS

— McConnell: Coal miners have suffered the consequences of federal regulation. [Kentucky Today](#).

— Arctic Nations to Meet Amid Unsettled U.S. Stance on Climate Change. [New York Times](#).

— Tiffany & Co. takes direct aim at Trump in new ad calling for action on climate change. [Business Insider](#).

— Seeing 'chilling effect,' unions push back on ethics memo. [E&E News](#).

## HAPPENING TODAY

10:30 a.m. — "[Conservation, Consultation, and Capacity: State Views on the Need to Modernize the Endangered Species Act](#)," Senate Environment and Public Works, 406 Dirksen

2:30 p.m. — Senate Energy and Natural Resources Committee [hearing](#) on various bills, 366 Dirksen

## THAT'S ALL FOR ME!

**\*\* A message from Trout Unlimited:** For over 100 years the Antiquities Act has been a bipartisan tool for conserving America's public lands and our outdoor heritage. Since the time President Theodore Roosevelt signed the Act into law, the Antiquities Act has provided for the long-term conservation of some of the best fish and wildlife habitat and hunting and angling opportunities in the country, spurring local economies. In these places, locally driven

conservation efforts need to be preserved and celebrated. Currently, the Department of the Interior is reviewing national monuments designations. Secretary Zinke has strongly supported keeping America's public lands in public hands. Join us in showing him that we support upholding our national monuments: <http://bit.ly/2paVoYB> \*\*

*To view online:*

<https://www.politicopro.com/tipsheets/morning-energy/2017/05/senate-primed-to-decide-methane-rules-fate-today-022756>

## **Stories from POLITICO Pro**

### **Thune: 'Most' ethanol holdouts now ready to back methane CRA [Back](#)**

By Anthony Adragna | 05/09/2017 03:14 PM EDT

Sen. [John Thune](#) (R-S.D.) said most of the corn state holdouts in the Senate were now ready to back a Congressional Review Act resolution to nullify an Obama-era methane rule after receiving assurances from Republican leadership that they would have a legislative path for a waiver to allow sales of 15 percent ethanol blended fuel year-round.

"I think most of us who are interested in that issue are probably in a place now where we're confident that we're going to get this dealt with," Thune said of the ethanol waiver. "I think most will be on board [with the methane CRA] but I can't speak for them all."

Thune has been part of a small bloc of Republicans, led by Sen. [Chuck Grassley](#) (R-Iowa), pushing for the waiver and withholding their support for the resolution axing BLM's rule aimed at curbing methane emissions from oil operations on public lands.

But he cautioned that "it'll be close" when asked about whether the GOP-led Senate had the votes to pass the CRA.

Even with the corn-state bloc, several key senators — [Cory Gardner](#) (R-Colo.) and [Heidi Heitkamp](#) (D-N.D.), chief among them — remained publicly undecided today.

*To view online [click here](#).*

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### **Zinke's methane CRA promise based on changing rule's cost [Back](#)**

By Ben Lefebvre | 05/09/2017 05:26 PM EDT

Interior Secretary Ryan Zinke is promising that he will be able to design a methane rule to replace one Republicans are seeking to repeal under the controversial Congressional Review Act as long as it is based on a different economic impact.

Zinke helped convince Sen. Rob Portman (R-Ohio) to support the CRA resolution to repeal an Obama-era rule cracking down on methane flared from oil wells and pipelines by promising to address the lost revenue and the emissions of the gas.

But Zinke's reasoning hasn't been tested in court, and environmental groups are accusing Portman of exchanging his vote for promises President Donald Trump's administration may not keep.

Republicans have made repealing the methane rule a priority this year. Congress targeted it with the CRA, a law that was only successfully used once before Trump took office.

The House voted in February to use the CRA to do away with the methane rule, but it's been stuck since then in the Senate, where some senators have praised the rule for forcing oil and gas companies to capture more methane to sell, which generates royalties for government coffers.

Until Monday, Portman had said he was undecided on using the CRA, which some Republicans have criticized for going too far because it would pre-empt agencies from creating new rules "in substantially the same form" without specific authorization from Congress. Portman had asked Zinke for specific steps Interior would take to minimize methane emissions.

In his reply letter, Zinke said he shared Portman's concerns and said BLM would look at new regulations curbing methane emissions even if the CRA repealed the Obama-era rule.

In meetings, the Interior Department assured Portman's office that any new rulemaking would not be substantially the same as the current rule, a source familiar with the discussions said. Specifically, Interior staff told the senator that the economic impact of any new rule would be different from the current rule, as would the reasoning supporting any new rule, the source said.

That reasoning surprised at least one former Interior Department official.

"There's no interpretations of what that the 'substantially similar' language means. So that's total speculation on their part," said David Hayes, a fellow at the Center for American Progress and former deputy secretary and chief operating officer for Interior under former presidents Barack Obama and Bill Clinton. "One would think a regulation's operative provisions would determine what's substantially similar or not, not the economic analysis around it."

Environmental groups also pounced on Zinke's letter, saying the steps he promised would not have much impact on methane emissions. Those steps included promises to "engage in robust assessment" of methane flaring requirements, strengthen policies to encourage drillers to capture methane, and revise existing BLM flaring restrictions.

"The list of 'strategies' is so devoid of content that it acts to undercut, rather than bolster, the Secretary's assurances," Environmental Defense Action Fund Executive Director Fred Krupp said in an open letter to Zinke. "Only one potential action [on the list] could have any possible meaningful impact on methane waste, and the authority for that action may well be eliminated by

use of the CRA."

Portman himself doesn't represent a large oil and gas constituency. Oil production in Ohio ranks below that of Kansas and Montana, according to government data. The state has only 2,000 wells that would be affected by the new rule, according to the [Ohio Oil And Gas Association](#), which supports the repeal.

But as the vote nears, pressure groups on both sides are trying to sway any last-minute votes. The trade association American Petroleum Institute reiterated its support for repealing the rule, while in Denver, Todd Mitchell, son of fracking pioneer George Mitchell, penned an op-ed in The Denver Post that was most likely aimed at Sen. [Cory Gardner](#) (R-Colo.), saying the methane rule was overall a good thing.

Earlier on Tuesday, Sen. [John Thune](#) (R-S.D.) said most of the corn state holdouts in the Senate were now ready to back the CRA resolution after receiving assurances from Republican leadership that they would have a legislative path for a waiver to allow sales of 15 percent ethanol blended fuel year-round.

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## **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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## **EPA proposes letting North Dakota regulate carbon injection [Back](#)**

By Eric Wolff | 05/09/2017 11:14 AM EDT

EPA has proposed a rule to grant North Dakota primacy on regulating long-term storage of captured carbon, Sen. [John Hoeven](#) said in a statement today.

North Dakota has been among the leaders in developing policy to regulate the storage of captured carbon deep in rock formations, and the issue was a priority of Hoeven's when he was governor. The state passed legislation to address questions on carbon dioxide storage in 2009 and 2013. North Dakota first applied to become the primary regulator of long-term storage wells, called Class VI wells, in 2013.

"We've worked since 2008 to develop a states-first approach to regulating geological sequestration, which will help our energy industry, both traditional and renewable, to develop new technologies for storing CO<sub>2</sub>," Hoeven said in a statement. "This is important as we work to develop clean coal technologies, as well as projects to sequester CO<sub>2</sub> from ethanol production."

Carbon capture and storage is a long-term goal of the coal industry, as it would allow the continued burning of coal should regulators step up carbon dioxide regulation.

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### **Blankenship portrays himself as 'political prisoner' in new booklet [Back](#)**

By Alex Guillén | 10/05/2016 11:57 AM EDT

Coal magnate Don Blankenship says he is a "political prisoner" just weeks before his appeal will make its way before a federal court.

In a [blog post](#) and 68-page [booklet](#) published online, the former Massey CEO — now serving a one-year sentence in California for a misdemeanor conviction related to the 2010 Upper Big Branch mine disaster that killed 29 people — alleges that he was specifically targeted by prosecutors as "an American Political Prisoner."

The pamphlet argues that the Mine Safety and Health Administration was actually responsible for the blast, a claim he made previously in a self-produced 51-minute [video](#).

"The question to all of us is, do we care enough to do something when the government lies about a mine tragedy and imprisons an innocent man for exercising his freedom of speech?" Blankenship writes.

Blankenship said he will send 250,000 copies of the booklet to unnamed recipients. Along with a lengthy description of how Blankenship says federal prosecutors and the courts "railroaded" him, the booklet includes several favorable press clippings, as well as pages of supportive quotes from coal miners. It also swipes at President Barack Obama for calling the disaster a management failure and at Hillary Clinton for saying Blankenship received a light sentence.

The 4<sup>th</sup> Circuit Court of Appeals will hear Blankenship's appeal on Oct. 26.

*To view online [click here.](#)*

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### **Four states sue to block lifting of coal leasing moratorium [Back](#)**

By Alex Guillén | 05/09/2017 03:28 PM EDT

Four states today [sued](#) the Interior Department over Secretary Ryan Zinke's order to lift the federal coal leasing moratorium

California, New York, New Mexico and Washington filed the lawsuit in the U.S. District Court

for Montana — Zinke's home state and a producer of coal from the Powder River Basin.

Interior failed to conduct a new environmental review or update the program's decades-old one, in violation of the National Environmental Policy Act, the states argued. They also said Interior should have studied whether the coal to be leased will get a fair market value as required under several laws. Zinke has said previously he will continue the three-year-long program review started under the Obama administration.

The states ask the court to block Zinke's order, which was issued following an executive order from President Donald Trump, and to resume the leasing moratorium.

A coalition of environmental groups in March [also sued](#) over the lifting of the moratorium.

**WHAT'S NEXT:** A federal judge in Montana will consider the suits and whether to reinstate the moratorium.

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### **BLM to auction off oil, gas leases in Nevada [Back](#)**

By Esther Whieldon | 05/09/2017 05:02 PM EDT

BLM today [announced](#) it will hold an online auction in mid-June for oil and gas leases on 196,000 acres in three Nevada counties.

The 10-year leases are for 106 parcels in the BLM's Battle Mountain District in Nye, Lander and Eureka counties, and will include annual rental fees of \$1.50 per acre for the first five years and \$2 per acre after that until production begins. Once a developer is pulling oil or natural gas from the land, it will pay a 12.5 percent royalty fee.

The next oil and gas sale is scheduled for the week of Sept. 11. The last auction for the district was held in June under the Obama administration for 50,415 acres and generated \$54,340.

**WHAT'S NEXT:** BLM will hold the online auction on June 13.

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**Sent:** Tue 5/9/2017 9:46:24 AM  
**Subject:** Morning Energy, presented by Trout Unlimited: Senate inching toward methane vote Wednesday — White House Paris meeting postponed — Two FERC nominees formally announced

By Anthony Adragna | 05/09/2017 05:41 AM EDT

*With help from Esther Whieldon and Alex Guillén*

**INCHING TOWARD METHANE VOTE:** The Senate is closing in on a vote to nullify an Obama-era BLM rule targeting methane emissions from oil and gas operations on public lands Wednesday, but Republicans have not yet reached agreement on how best to mollify a small bloc inside their own caucus pushing for a waiver to sell 15 percent ethanol fuel year-round. "We're still discussing and having a good give and take," Sen. [John Thune](#), one of the holdouts, told ME. "We're just trying to get a pathway forward to deal with this issue at some point. We're making headway. The conversations have been productive." Sen. [John Cornyn](#) told reporters that leadership was still figuring out "how we can demonstrate good faith" to the members that the issue would be resolved, but four senior Republicans — Thune, [John Barrasso](#), [Jim Inhofe](#) and [John Hoeven](#) — all told ME to expect a final vote Wednesday.

**One obstacle resolved:** Backers of the Congressional Review Act resolution got a big boost late Monday when Sen. [Rob Portman](#) — a much-watched undecided member — announced he would support axing the regulation after receiving assurances from Interior Secretary Ryan Zinke that he will address the emissions. As Pro's Nick Juliano [reports](#), Zinke committed in [a letter](#) to review venting and flaring requirements for oil and gas operations, among other steps. Chris Saeger, director of the Western Values Project, condemned Portman's decision as "a shameless attempt to repay the oil and gas companies that funded his political career," claiming the Ohio Republican took \$670,802 from oil and gas interests in 2016.

**Several other holdouts remained** publicly coy about their intentions on Monday, but ME will be on the lookout for additional clarity on their positions following party lunches today. Among those still to watch are Sens. [Cory Gardner](#), [Dean Heller](#), [Heidi Heitkamp](#) and [Joe Manchin](#).

**PARIS HUDDLE PUT OFF:** A scheduled meeting today between senior advisers to President Donald Trump about the Paris climate agreement has been postponed, Pro's Andrew Restuccia [reports](#). What to do about the pact to curb emissions between 195 nations has deeply divided the Trump administration. Even with today's delayed confab, a decision on whether to stick it out or withdraw from deal is expected before Trump travels to the G-7 summit in Sicily at the end of the month. A White House spokeswoman confirmed that the meeting is being rescheduled.

**Upping the international pressure:** French President-elect Emmanuel Macron vowed to protect the Paris agreement in his first phone call with Trump Monday, his spokeswoman said [on CNN](#). "He told him he's going to try to protect what was made in Paris," Laurence Haim said "He is going to protect the climate agreement." But, ICYMI, POLITICO Europe's Kalina Oroschakoff and Sara Stefanini [report](#) the rest of the world is already preparing to forge ahead without U.S. leadership in the international climate space.

**Schumer fears 'historic misstep':** Senate Minority Leader Chuck Schumer warned the Trump administration Tuesday not to make the U.S. an "international pariah" by withdrawing from the Paris agreement and joining Syria and Nicaragua as the only countries not part of the pact. "It would damage our standing on the world stage and allow China to take the high moral high ground — and the economic upper hand — in combating climate change," he said on the Senate floor.

Meanwhile, top Obama-era environmental officials even made the unusual case that the agreement allowed the U.S. to weaken its emissions reduction pledges and that it didn't affect domestic policies in an effort to sway the the Trump team to stick with it, Pro's Eric Wolff reports. "Does the Paris agreement constrain the party from revising downward? There the answer is no," Sue Biniatz, a former top State Department lawyer, said. "The second issue is does the Paris agreement constrain the ability of a party with respect to its domestic measures? ... There again the answer is no."

**WELCOME TO TUESDAY!** I'm your host Anthony Adragna, and Sanderson Strategies Group's Molly Moore correctly identified the oldest living former congressman, James D. Martin, as having served Alabama. For today: How many incumbent senators were born outside the U.S.? Send your tips, energy gossip and comments to [aadragna@politico.com](mailto:aadragna@politico.com), or follow us on Twitter [@AnthonyAdragna](https://twitter.com/AnthonyAdragna), [@Morning\\_Energy](https://twitter.com/Morning_Energy), and [@POLITICOPro](https://twitter.com/POLITICOPro).

**HOUSTON, WE HAVE SOME FERC PICKS:** After months of waiting, Trump announced the nominations of Neil Chatterjee and Robert Powelson to slots on FERC (as long expected by ME readers). Chatterjee is Senate Majority Leader Mitch McConnell's energy policy adviser, where he's played a crucial role in shepherding major energy, highway, and farm legislation through Congress. Powelson, who has been a Pennsylvania utility regulator since 2009, became the president of the National Association of Regulatory Utility Commissioners last fall. FERC has, of course, been without a quorum since February, hindering its ability to enact final orders dealing with interstate natural gas pipeline projects and contested electricity rate plans. Look for Sen. Lisa Murkowski to move quickly on these nominations In the Energy and Natural Resources Committee. Pro's Darius Dixon has more here.

Scott Segal, director of the Electric Reliability Coordinating Council, added: "It is essential for FERC to regain its quorum, particularly in light of the President's twin objectives in building infrastructure and stimulating gas production and use. The two nominees announced tonight are ideal in many ways." But praise for the picks was not universal: Tyson Slocum, director of Public Citizen's energy program, told ME in a statement: "Despite industry pleas to quickly return the Commission to quorum, the Senate must accordingly not sacrifice deliberation and diligence for expediency."

**\*\* A message from Trout Unlimited:** For over 50 years, Trout Unlimited has been dedicated to conserving, protecting and restoring North America's coldwater fisheries and watersheds on behalf of today's anglers and coming generations of sportsmen and women. Join us as we support America's public lands and national monuments: <http://bit.ly/2paVoYB> \*\*

**ANOTHER BUSY DAY IN UTAH:** Interior Secretary Ryan Zinke took an aerial tour of the Bears Ears National Monument Monday morning and followed up with an afternoon hike through the contested monument. He later tweeted "there's more than two sides" to the debate. And he told local reporters : "Of course what I've seen should be preserved. The issue is whether the monument is the right vehicle. Whether it's not the right vehicle, it's public land." Good local coverage of his visit here, here and here.

**As Zinke kicked off his listening tour**, Oregon Sens. Jeff Merkley and Ron Wyden sent a letter to him detailing the public input process that led to the designation of the Cascade-Siskiyou National Monument and urging a similar process as Interior reviews that decision.

**CALIFORNIA PUSHES BACK ON EPA REQUEST TO DELAY WAIVER CASE:**

California Monday night urged a federal court not to put off oral arguments slated for May 18 over a Clean Air Act waiver that allows the state to go beyond the federal rules in regulating diesel engines on industrial vehicles like tractors and bulldozers. EPA on Monday asked to put off the case so it could review and potentially "reconsider" the waiver, which was granted in 2013. In a response filing, an alarmed California Air Resources Board said delaying the case would hurt the state "by perpetuating indefinitely the cloud of uncertainty this appeal has cast over its regulatory program since 2013." CARB said the court could potentially come to a decision without holding any oral arguments.

**The bigger picture:** This case could prove important if the Trump administration ever tries to go after a separate waiver giving California the authority to enact auto emissions limits that are stronger than the federal standards. The state says EPA doesn't have the authority to revoke a waiver once granted, particularly years after the fact.

**JOHNSON SEEKS GAO INVESTIGATION OF ARPA-E FREEZE:** Top House Science Democrat Eddie Bernice Johnson sent a letter Monday to GAO to probe whether the Energy Department is illegally withholding funding for projects under the agency's ARPA-E program, Pro's Darius Dixon reports. "I have serious concerns that the actions which have been reported to me at ARPA-E may constitute violations of the Impoundment Control Act," she wrote. "I would ask that you look into these allegations with all due haste, and take any actions you feel are necessary to ensure Executive compliance with Congressional direction."

**CONCERN OVER SCIENCE ADVISER CUTS:** A chorus of voices condemned EPA Administrator Scott Pruitt's decision not to bring back approximately a dozen people to an agency scientific advisory panel. "Without independence and sound peer review of the science conducted by the Agency, it will be impossible to distinguish between good science and bad science at the US EPA," John O'Grady, president of EPA's top union, said in a statement. American Association for the Advancement of Science CEO (and former New Jersey Democratic congressman) Rush Holt urged Pruitt to reconsider the decision and asked for a meeting with him to discuss their concerns. "Academic scientists play a critical role in informing policy with scientific research results at every level, including the federal government," Holt said.

**HOT DOC:** A memo obtained by ME from acting EPA Chief Financial Officer David Bloom

walking through the agency's budget and budget riders in the fiscal 2017 omnibus bill.

**MORE CRITICISM OF PERRY'S GRID STUDY:** Six environmental groups sent a [letter](#) Monday to Energy Secretary Rick Perry challenging his ongoing study of the electric grid's resilience for ignoring subsidies fossil fuel companies have received for years. "Instead of ordering the Department of Energy to produce arguments against clean energy, we ask you to commission a study into how polluter welfare continues to bias our grid in favor of dirty energy," they wrote.

**GAO FINDS BLM SHOULD IMPROVE OIL AND GAS PERMIT OVERSIGHT:** A GAO [report](#) out today recommends BLM improve the way its field office staff track and report their gas leasing and drilling permit site inspections, and that the agency should let the public know when they grant exceptions, like giving a developer a couple of additional days to drill. House Natural Resources Committee ranking Democrat [Raul Grijalva](#) of Arizona requested the GAO review the issue. BLM Acting Director Mike Nedd in a letter attached to the report said the agency plans to improve the tracking and data gathering process and he promised to make public any approved exceptions. But Nedd added that doing so will take time and the public will not be able to weigh in on such decisions as that would require changing the agency's regulations.

**PAGING WHITEHOUSE:** Hundreds of protesters will descend on the Trump Hotel this morning urging the administration to "wake up" — to borrow a phrase from Sen. [Sheldon Whitehouse](#)'s famous floor chart — to the need for action to address climate change. Organizers plan to ring a "startlingly loud alarm clock" to awaken hotel guests.

**MANCHIN GETS AN OPPONENT:** Clips from Sen. [Joe Manchin](#)'s infamous [2010 ad](#) shooting the cap and trade bill played in the background as Rep. [Evan Jenkins](#) announced his bid to unseat the Democratic incumbent. But there's hardly any discussion of EPA or coal issues in his [announcement video](#). "[W]ith Donald Trump in the White House we've got a real chance to turn things around. He needs our help and I need your help. West Virginia needs your help," Jenkins says. But he may not have the Republican field to himself: Attorney General Patrick Morrisey, known for his aggressive lawsuits fighting EPA regulations, is also mulling a bid.

**TIME TO LEAD:** A bipartisan group of senior retired military officers and national security officials sent letters Monday to Defense Secretary [James Mattis](#) and Secretary of State [Rex Tillerson](#) urging them to lead on addressing the security implications of climate change.

**GREEN GROUP ENDORSES IN VIRGINIA GUBERNATORIAL:** Food & Water Action Fund endorsed Tom Perriello in the Virginia governor's race Monday. "Perriello's bold stance against two fracked natural gas pipelines, the Atlantic Coast Pipeline and the Mountain Valley Pipeline, shows he will be ready to stand up against the oil and gas industry's stranglehold on the state," the group said in a statement.

**EARTHJUSTICE HIRES LUNA+EISENLA:** Earthjustice, the environmental law nonprofit, has hired LUNA+EISENLA media to do media outreach work on its efforts to combat the Trump administration's environmental and climate policies. "We are employing aggressive media relations and engaging with national political media to ensure President Trump's executive

orders attacking access to clean air and water while denying climate change don't go unchecked," the firm said in a statement (h/t POLITICO Influence).

**HAPPY BIRTHDAY:** Pruitt turns 49 today. EPA didn't respond to requests for how he's celebrating.

**MOVER, SHAKER:** Michael Walz has joined POET, the country's top ethanol producer, as director of public affairs and state government relations in Washington; he was previously vice president of public affairs for Captra Capital LLC and director of public affairs for InfraREIT Capital Partners LLC.

## QUICK HITS

— Rep. Lamar Smith laid groundwork for Trump EPA science advisers ouster. [Austin American-Statesman](#).

— Rep. Debbie Dingell: Trump's EPA cuts a 'short-sighted' step backward. [Crain's Detroit Business](#).

— Murray Energy Lodges Defamation Suit Over NY Times Op-Ed. [Law360](#).

— U.S. vows commitment to Arctic climate change research. [Reuters](#).

— Pipeline spill by Dakota Access company could have a 'deadly effect'. [Washington Post](#).

— Board Member's Donation Shows Power Of Oil And Gas Industry. [International Business Times](#).

## HAPPENING TODAY

9:30 a.m. — [Energy Efficiency Global Forum](#), Alliance to Save Energy, Walter E. Washington Convention Center, 801 Mount Vernon Place NW

1:00 p.m. — "[The Upcoming Aramco IPO: Strategy, Investment, Politics](#)," The Atlantic Council, 1030 15th ST NW, 12th Floor

2:00 p.m. — "[Water and Security in South and Southeast Asia](#)," Woodrow Wilson Center's Environmental Change and Security Program, Ronald Reagan Building, 1300 Pennsylvania Avenue NW, Sixth Floor

2:30 p.m. — "[Water Resources: The Role of the Public and Private Sectors](#)," Senate Environment and Public Works Committee, 406 Dirksen

## THAT'S ALL FOR ME!

**\*\* A message from Trout Unlimited:** For over 100 years the Antiquities Act has been a

bipartisan tool for conserving America's public lands and our outdoor heritage. Since the time President Theodore Roosevelt signed the Act into law, the Antiquities Act has provided for the long-term conservation of some of the best fish and wildlife habitat and hunting and angling opportunities in the country, spurring local economies. In these places, locally driven conservation efforts need to be preserved and celebrated. Currently, the Department of the Interior is reviewing national monuments designations. Secretary Zinke has strongly supported keeping America's public lands in public hands. Join us in showing him that we support upholding our national monuments: <http://bit.ly/2paVoYB> \*\*

*To view online:*

<https://www.politicopro.com/tipsheets/morning-energy/2017/05/senate-inching-toward-methane-cra-vote-wednesday-022735>

## Stories from POLITICO Pro

### Portman to back resolution overturning BLM methane rule [Back](#)

By Nick Juliano | 05/08/2017 06:24 PM EDT

Sen. [Rob Portman](#) says he will vote to block a BLM rule limiting methane emissions from oil and gas drilling after receiving assurances from Interior Secretary Ryan Zinke that he will address the issue.

Portman was among the most-watched Republicans who had remained undecided on the Congressional Review Act resolution. Republicans must vote on the resolution this week if they are to avoid a Democratic filibuster. Sens. [John Hoeven](#) and [Jim Inhofe](#), key backers of the resolution, said a vote is set for Wednesday.

"I believe that the Interior Department should do more to prevent methane venting and flaring on federal lands. The Secretary of the Interior has made clear in a letter to me that the Department is committed to acting on this important issue going forward, and he has outlined specific actions it would take to do that," Portman said in a statement today.

Portman [wrote](#) to Zinke last week asking what the department could do to address wasted methane from oil and gas operations. Zinke [responded](#) a few days later and committed to review venting and flaring requirements, among other steps.

While Portman's support gets Republicans closer to the 50 votes they need to overturn the methane rule, a few corn-state senators said they are still hoping to secure concessions that would make it easier to sell 15 percent ethanol blends before they agree to support the methane resolution. "Nothing more has happened" on that front, Sen. [Chuck Grassley](#) said today.

*Anthony Adragna contributed to this report.*

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## **White House advisers postpone Paris climate deal meeting** [Back](#)

By Andrew Restuccia | 05/08/2017 10:32 PM EDT

A key meeting of White House advisers to discuss the Paris climate change agreement won't happen Tuesday as planned.

A source familiar with the issue told POLITICO late Monday night that the meeting has been postponed. A White House spokeswoman confirmed that the meeting is being rescheduled.

It's unclear when that will occur.

It is the [second time](#) that a key meeting to discuss the Paris agreement has been delayed.

Trump's advisers remain divided over the accord, which won the backing of 195 nations in 2015. The president is expected to make a final decision on whether to withdraw sometime this month, perhaps as soon as this week.

European countries and other U.S. allies are [strongly encouraging](#) the U.S. to remain in the agreement, and Trump's daughter Ivanka Trump is also said to support staying, along with others such as Secretary of State Rex Tillerson. But senior White House adviser Steve Bannon and Environmental Protection Agency chief Scott Pruitt have called for the U.S. to withdraw, as Trump had promised during the presidential campaign.

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## **Obama team makes last ditch Paris climate deal plea** [Back](#)

By Eric Wolff | 05/08/2017 04:19 PM EDT

Former President Barack Obama's top environmental advisers John Podesta and Brian Deese issued a plea today to the Trump administration to not withdraw the U.S. from the Paris climate agreement.

Podesta and Deese, were joined by Sue Biniarz, a former top State Department lawyer, and Mindy Lubber, president of Ceres, a sustainability nonprofit group, in arguing that leaving the Paris agreement would hurt the U.S. economy.

"Right now across the globe, the race is on for which countries are going to be the 21st century clean energy super powers, and the question is whether the U.S. will continue to play in that race

or step off the field," Deese said on the call with reporters.

Biniiaz also challenged the concerns of White House counsel Don McGahn and EPA Administrator Scott Pruitt that remaining in the Paris agreement could create a legal problem for Trump's plans to repeal the Clean Power Plan. And sources have said that McGahn also argued that the 2015 agreement may not allow the U.S. to reduce its international carbon reduction pledge.

"Does the Paris agreement constrain the party from revising downward? There the answer is no," Biniiaz said. "The second issue is does the Paris agreement constrain the ability of a party with respect to its domestic measures? ... There again the answer is no."

**WHAT'S NEXT:** Trump's top advisers are expected to meet tomorrow to discuss whether the U.S. should remain in the pact.

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**Trump expected to tap Pennsylvania regulator for third FERC seat** [Back](#)

By Darius Dixon | 03/09/2017 01:52 PM EDT

President Donald Trump is expected to pick Robert Powelson, a Pennsylvania utility regulator, for the third Republican seat at FERC, according a source familiar with the discussions.

Powelson has been on the state's utility commission since 2009 and served four years as its chairman. He has stayed at the agency as a commissioner, and became the president of the National Association of Regulatory Utility Commissioners last fall.

Powelson would be joining two other Republican nominees that sources say the White House intends to nominate soon: Kevin McIntyre, who co-leads Jones Day's energy practice, and Neil Chatterjee, a senior energy adviser to Senate Majority Leader Mitch McConnell.

The new members would, if confirmed by the Senate, reestablish the GOP's majority on the commission and restore the agency's quorum.

There had been conflicting information about whether the spot was expected to go for Powelson or Wisconsin regulator Ellen Nowak, who was seen as getting support from White House Chief of Staff Reince Priebus. A senior Senate aide separately said today that Nowak would not be the FERC pick.

FERC leadership has been operating with just two sitting members for more than a month since Norman Bay resigned the chairmanship after Trump elevated Cheryl LaFleur to that position.

The White House did not immediately respond to a request for comment.

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## **Trump picks 2 for Federal Energy Regulatory Commission [Back](#)**

By Darius Dixon | 05/08/2017 10:11 PM EDT

President Donald Trump on Monday announced he planned to appoint Neil Chatterjee and Rob Powelson to fill two of the three vacancies in the FERC leadership, according to an official White House statement.

Chatterjee, a senior energy adviser to Senate Majority Leader Mitch McConnell, and Powelson, a Pennsylvania regulator, would take positions that expire in 2021 and 2020, respectively. POLITICO [has reported](#) that both were expected to be tapped for the Federal Energy Regulatory Commission.

The new Republican members would, if confirmed by the Senate, restore the agency's quorum.

FERC has been operating with just two sitting commissioners for more than two months, since Norman Bay resigned the chairmanship after Trump elevated Cheryl LaFleur to that position. While staff can address most of the agency's business, the absence of a quorum hinders FERC's ability to enact final orders dealing with interstate natural gas pipeline projects and contested electricity rate plans.

POLITICO has also reported that Kevin McIntyre, who co-leads Jones Day's global energy practice, is expected to fill the third FERC vacancy. Some sources have suggested that he may be in line for the chairmanship.

In recent months, [members of Congress](#) and more than a [dozen industry groups](#) have pressed the administration to appoint new members.

Senate Energy and Natural Resources Chairwoman Lisa Murkowski has vowed to prioritize moving new FERC nominees through her committee, although the full confirmation process could easily take several weeks to complete.

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## **EPA seeks delay of California waiver suit [Back](#)**

By Alex Guillén | 05/08/2017 11:44 AM EDT

The Trump administration has asked a federal court to postpone arguments in a case over EPA's 2013 approval of a Clean Air Act waiver allowing California to set stricter emissions limits for diesel engines.

In its [filing](#) in the 9th Circuit Court of Appeals Friday, EPA says the new Trump administration needs more time to review the waiver and "determine whether it will be reconsidered."

If EPA does reconsider and revoke that waiver, it could lead to a challenge of the agency's authority on that issue. California receives special treatment under the Clean Air Act to set stricter limits because of its history of high pollution levels, if EPA grants a waiver. However, the state and environmental groups argue the law does not specify that EPA has the authority to revoke a waiver once granted.

The lawsuit playing out in the 9th Circuit is over a waiver to set stricter particulate matter and oxides of nitrogen limits for "non-road" diesel engines on vehicles like forklifts and bulldozers. Various challengers, represented by the Texas Public Policy Foundation, say the limits aren't needed on a statewide level and should have been approved on a more local basis.

The Trump administration has also [indicated](#) it may decide to go after a similar waiver granted during the Obama administration to California to enforce stricter auto emissions standards than the federal limits.

EPA said the California Air Resources Board, which got involved to help defend the waiver, opposes delaying arguments.

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### **House Democrat asks GAO to probe DOE's ARPA-E funding [Back](#)**

By Darius Dixon | 05/08/2017 05:44 PM EDT

The top Democrat on the House Science Committee today asked the GAO to probe whether the Energy Department is illegally withholding funding for projects under the agency's ARPA-E program.

"I have serious concerns that the actions which have been reported to me at ARPA-E may constitute violations of the Impoundment Control Act," Rep. [Eddie Bernice Johnson](#) said in a [letter](#) to GAO Director Gene Dodaro. "I would ask that you look into these allegations with all due haste, and take any actions you feel are necessary to ensure Executive compliance with Congressional direction."

Sources told POLITICO last month that the agency was withholding money on grants already approved under ARPA-E, which selects technology projects and awards funding as those ventures meet development milestones. But those sources said even projects that received initial ARPA-E backing were having their money withheld regardless of whether they met their milestones because of a "procurement hold" or "no contract action."

Johnson said more than \$100 million in fiscal 2017 funds have been appropriated to ARPA-E. The spending bill that averted a government shutdown last week also included a budget increase for ARPA-E through the remainder of 2017.

"[T]he courts have declared that agencies may not attempt to thwart the intent of Congress by withholding or impounding funds intended for a specific purpose. If the Department of Energy has subjected ARPA-E to a 'no contract action' which has this effect, the Department could be in violation of the law," Johnson wrote.

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### **Pruitt to seek new EPA scientific advisers [Back](#)**

By Annie Snider | 05/04/2017 04:32 PM EDT

EPA Administrator Scott Pruitt is reopening the nomination process for outside scientific counselors to advise the agency on research and development, according to internal agency emails obtained by POLITICO.

In an email to staffers yesterday, Office of Policy chief Samantha Dravis said Pruitt would not be moving forward at this time with the reappointment of nine members of the [Board of Scientific Counselors](#) whose terms expired last week, and that political leaders "would like to re-open the nominations process." The board is a federal advisory committee currently made up of 18 members that provides advice and recommendations to EPA's Office of Research and Development. It has tackled issues ranging from methods for evaluating lead exposure to wildfire smoke risks in recent years.

The move comes as congressional Republicans have been pushing to alter the process by which science is overseen and used to inform regulations at EPA — changes that GOP lawmakers say would promote fairness and transparency, but that environmental groups argue would give more influence to industry.

EPA political leaders also opted to withdraw the agency program from consideration for a Harvard University Kennedy School of Government award. According to the emails, the [Federal Community of Practice on Crowdsourcing and Citizen Science](#), a program co-chaired by EPA to help government agencies with citizen science initiatives, is a finalist for the Innovations in American Government Awards. Pruitt needed to sign a form in order for the program to move

forward in the competition, but Dravis informed staffers yesterday that "the Administrator will not be moving forward at this time" with the award.

Last week, EPA said it removed "outdated language" referring to Obama-era programs that President Donald Trump has targeted for elimination, including virtually all mentions of climate change.

To view online [click here](#).

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