

**To:** Wagner, Kenneth[wagner.kenneth@epa.gov]  
**Cc:** Jackson, Ryan[jackson.ryan@epa.gov]; Cheatham-Strickland, Latonia[Cheatham-Strickland.Latonia@epa.gov]  
**From:** Greg Schildwachter  
**Sent:** Mon 12/4/2017 6:55:32 PM  
**Subject:** RE: species issues

Thanks, Ken – yes that’s a good slot for me. Might need to make it a phone call, but please book me. Thanks again -Greg

cell: (202) 329-9493

Greg Schildwachter

Watershed Results – [www.watershedresults.com](http://www.watershedresults.com)

**From:** Wagner, Kenneth [mailto:wagner.kenneth@epa.gov]  
**Sent:** Monday, December 4, 2017 12:33 PM  
**To:** Greg Schildwachter <greg@watershedresults.com>  
**Cc:** Jackson, Ryan <jackson.ryan@epa.gov>; Cheatham-Strickland, Latonia <Cheatham-Strickland.Latonia@epa.gov>  
**Subject:** Re: species issues

Greg:

Sorry for the delay in responding. I would be happy to set up a meeting, although time this month is scarce due to travel. I have some availability on the morning of the 13th after 10 am? Let me know if you could do 10 am -10:30am

Ken

**Kenneth E. Wagner**

*Senior Advisor to the Administrator*

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***This email is for official EPA business only and is subject to disclosure under the Freedom of information Act***

On Nov 29, 2017, at 8:06 AM, Greg Schildwachter <[greg@watershedresults.com](mailto:greg@watershedresults.com)> wrote:

Ken - introducing myself with Jackson as my calling card. He and I were at Senate EPW together and I've tried to keep him supplied with high-quality endangered species counsel ever since, as I moved over to the White House for GWB term two, and now making an honest living consulting and lobbying. Hoping to meet you and ask some questions about species issues that intersect your EPA agenda and that I expect are still a big deal to Admin Pruitt on general principles. Can we find a time for a visit? Regards -Greg

cell: 202-329-9493

Greg Schildwachter

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The Homer Building

**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
**From:** Morning Transportation  
**Sent:** Tue 12/5/2017 3:06:29 PM  
**Subject:** POLITICO's Morning Transportation: Nielsen nom moves along — DOT puts the brakes on ECP mandate — Brown sentenced to 5 years for fraud

By Tanya Snyder | 12/05/2017 10:00 AM EDT

*With help from Brianna Gurciullo*

**NIELSEN MOVES ALONG:** The Senate Monday evening cleared a procedural hurdle to bring debate to a close on the nomination of Kirstjen Nielsen to serve as Secretary of Homeland Security. The vote was 59-33, with all Republicans, 10 Democrats and Independent [Angus King](#) of Maine voting in favor. Majority Leader [Mitch McConnell](#) called Nielsen "a qualified candidate with the talent and experience to succeed," saying that her previous work with the department "makes her an ideal candidate to be ready to lead the agency on day one."

**Her résumé:** Nielsen would be the first DHS secretary to have prior experience in the agency. She started and ran TSA's offices of legislative policy and government affairs, and later served as DHS Secretary John Kelly's deputy (and moved over to the White House when he did). Some conservatives have targeted her for taking a softer line on immigration than President Donald Trump, and some Democrats have expressed concern about her role in FEMA's response to Hurricane Katrina, but no roadblocks are expected on her path to confirmation.

**DOT PUTS THE BRAKES ON ECP MANDATE:** DOT Monday rescinded the mandate for trains carrying crude oil and ethanol to be equipped with electronically controlled pneumatic (ECP) brakes, a rule that the freight rail industry has fought against since its inception. The 2014 FAST Act ordered a scientific evaluation of ECP brake performance in emergencies, with a requirement for a final decision on the rule's fate by Monday - the two-year anniversary of the law's passage.

**Noped:** The scientific study was [inconclusive](#), and a [GAO study](#) found that DOT didn't have enough data to make a call. But a [DOT analysis](#) in October found that the costs outweighed the benefits of an ECP mandate. Commerce Committee Chairman [John Thune](#) (R-S.D.) praised the repeal decision. "Repealing this rule puts sound science and careful study ... over flawed guesswork," he said in a statement.

**IT'S TUESDAY:** Thanks for tuning in to POLITICO's Morning Transportation, your daily tipsheet on all things trains, planes, automobiles and ships. Tanya is in the MT cockpit. Send tips, feedback and song lyrics to [tsnyder@politico.com](mailto:tsnyder@politico.com) or [@TSnyderDC](https://twitter.com/TSnyderDC).

"Everywhere with helicopter / hard to follow when I'm slow / everywhere with helicopter / sending off where lightning goes."

**LISTEN HERE:** Follow MT's [playlist](#) on Spotify. What better way to start your day than with songs (picked by us and readers) about lonely highways and south-bound trains?

**BROWN SENTENCED:** Former Rep. Corrine Brown (D-Fla.), the long-time top Democrat on the House Transportation subcommittee in charge of rail, was sentenced Monday to five years in federal prison for her role in a conspiracy and fraud scheme involving a sham scholarship charity. Brown's longtime chief of staff, Elias "Ronnie" Simmons, was sentenced to 48 months in prison, and the founder of the fraudulent charity, Carla Wiley, was sentenced to 21 months. "Corrine Brown abused her position as a member of Congress by defrauding charitable donors who wanted to help underprivileged young men and women receive a quality education," said Acting Assistant Attorney General Cronan. "Instead of helping those deserving students, Brown used the contributions she solicited to finance a personal slush fund to support her lavish lifestyle." Brown served 12 terms in Congress. Her top campaign donors were railroads and cruise lines.

**FROM THE DEPARTMENT OF DUBIOUS HONORS:** Transportation has overtaken power plants as the largest source of pollution in the United States for the first time in 40 years, according to data compiled by the U.S. Energy Information Administration and reported by Bloomberg. Important note: It's not that transportation is getting dirtier, it's that electricity generation is getting cleaner.

**LET'S MAKE A FRESH START:** After getting stood up by Democratic leaders last week, President Donald Trump will get his meeting with Senate Minority Leader Chuck Schumer and House Minority Leader Nancy Pelosi on Thursday. The three hope to hash out an agreement on government spending beyond Friday's deadline to avoid a government shutdown. "That year-end deal is also likely to include other long-stalled legislative priorities, including addressing funding lapses for the Children's Health Insurance Program and the National Flood Insurance Program," Jennifer Scholtes and Sarah Ferris report.

**LET ME FLY FREE!** The Association of American Railroads thinks the FAA should let railroads use small drones at night, past line of sight and over people, all of which require a waiver now to do. That's what the group wrote in comments submitted late last week in relation to President Donald Trump's order for agencies to take a look at their current regulations and put forward which rules could be repealed or tweaked. Drones "can be used to investigate accident scenes without exposing emergency responders and railroad personnel to dangerous conditions," the group wrote. Brianna breaks down AAR's other asks here.

**MENENDEZ GETS PRIMARY CHALLENGER:** Sen. Bob Menendez (D-N.J.), whose corruption trial ended in a jury deadlock last month, now faces a new battle: a potential primary challenge in the form of Democratic campaigner Michael Starr Hopkins. Hopkins announced in an op-ed piece for The Hill that he is "exploring" a bid against Menendez, though his website already says "Michael Starr Hopkins for United States Senate." Menendez's approval rating tanked during the trial, and 51 percent of New Jersey voters think he does not deserve to be reelected. Hopkins wrote that New Jerseyans deserve "the chance to vote for someone who hasn't been tainted by the culture of corruption in Trenton and Washington." Matt Friedman of POLITICO New Jersey has the full story.

**RIDE ON:** PeopleforBikes is rallying its members against the Senate tax bill's elimination of the \$20-per-month bicycle commuter benefit. "This modest reimbursement program has helped bike

commuting grow by more than 50 percent nationwide during the last decade," the advocacy group said in an action alert.

**ASCE WILL GIVE THIS REPORT A D-:** In a new [report](#), the RAND Corporation suggests "not everything is broken" with U.S. water and transportation infrastructure - a statement that will no doubt raise eyebrows in some camps. Researchers found that a 2.5 percent to 3 percent annual spending increase at the local, state, and federal level would essentially eliminate existing transportation and water infrastructure maintenance backlogs by 2030. Still, they said the problem isn't so much money as policy. Feds should stop trying to sprinkle transportation funds evenly throughout the country "without a sense of national purpose or priority," said lead author Debra Knopman. Rather, they should focus on "maintaining and modernizing vital federal infrastructure and on targeting nationally significant projects that are beyond the capacity of individual states and cities."

**SHIFTING GEARS:** Alison McAfee is the new new managing director of communications at Airlines for America. She worked in the comms shop of JetBlue from 2006 and 2013 and since then at Hawaiian Airlines. Harris Corporation chairman, president and CEO William Brown has been appointed the Vice Chairman of Aerospace Industries Association's Board of Governors for 2018.

#### **THE AUTOBAHN:**

- "How can the DOT deregulate? Almost 3,000 weighed in last week." [Supply Chain Dive](#).
- "VW unveils new electric van to go into production next year for its ride-sharing service." [Electrek](#).
- "Travelers asked to postpone Christmas trips to Bali." [Smarter Travel](#).
- "3 obstacles ahead for autonomous farm equipment." [Agriculture.com](#).
- "Supreme Court lets Trump fully impose latest travel ban." [POLITICO](#).

**THE COUNTDOWN:** DOT appropriations run out in 4 days. The FAA reauthorization expires in 117 days. Highway and transit policy is up for renewal in 1,031 days.

*To view online:*

<https://www.politico.com/newsletters/morning-transportation/2017/12/05/nielsen-nom-moves-along-039982>

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**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
**From:** Morning Energy  
**Sent:** Tue 12/5/2017 3:04:42 PM  
**Subject:** POLITICO's Morning Energy: Trying to turn GOP climate talk into action — First lawsuits filed over Trump monument decision — Greens seek new reviews in Keystone XL saga

By Anthony Adragna | 12/05/2017 10:00 AM EDT

*With help from Alex Guillén and Tanya Snyder*

**UPPING THE ANTE ON ANWR:** Environmental advocates and Democrats are upping the pressure on the House GOP's self-styled climate hawks to withhold their vote on the final tax package [H.R. 1 \(115\)](#) if it contains a Senate provision allowing oil and gas drilling in the Alaska National Wildlife Refuge. But those efforts don't appear to have borne any fruit yet, Pro's Ben Lefebvre and your ME host [report](#). The rider - a key priority for Senate Energy Chairman [Lisa Murkowski](#) - is just one of many dicey items Senate and House negotiators must work through as they go to conference to iron out differences in their bills, even as drilling opponents push Republican members of the Climate Solutions Caucus to back up their words with action.

**Six of the 12 House GOPers who signed a letter** last week opposing ANWR drilling backed the initial tax bill, and activists staged protests at the offices of Reps. [Pat Meehan](#) and [Carlos Curbelo](#) on Monday. Three of those six tax bill supporters who oppose ANWR - Reps. [Dave Reichert](#), [Ryan Costello](#) and Curbelo - suggested the fate of the ANWR rider wouldn't determine their final vote. "It would be very disappointing, but I doubt that I would deny all of my constituents the opportunity to experience tax relief because of any one provision," Curbelo told ME at Monday votes.

**Earthjustice, the Center for Biological Diversity and other groups** sent a [letter](#) to Climate Solutions Caucus Republicans asking them, among other things, to work against opening ANWR. And Democrats say the final tax bill vote offered a concrete opportunity for members of the group to demonstrate their pro-climate stance. "It would certainly be nice if the symbolic power of them acknowledging climate change through this caucus translated into action at some point," Rep. [Jared Huffman](#) told ME. "This would be a good point."

**Two interesting polls** suggest there's no widespread public support for opening ANWR despite the vocal backing of Alaska's delegation. [One](#), from the Harvard T.H. Chan School of Public Health and POLITICO, found 67 percent of respondents said opening ANWR "should not be a priority" for the federal government. The other [poll](#), conducted for the Yale Program on Climate Change Communication, found that 70 percent of Americans oppose drilling in ANWR.

**Late Monday**, Speaker [Paul Ryan](#) named four lawmakers of particular note to ME fans to the House's conference committee: Natural Resources Chairman Rob Bishop, Energy and Commerce Chairman [Greg Walden](#), [John Shimkus](#) and [Don Young](#). Also joining the Republican conference party: Ways and Means Chairman [Kevin Brady](#), [Devin Nunes](#), [Peter Roskam](#), [Diane Black](#) and [Kristi Noem](#).

**WELCOME TO TUESDAY!** I'm your host Anthony Adragna, and Squire Patton Boggs' Lem

O. Smith was first to identify Sen. Lamar Alexander as the one-time Trent Lott roommate. For today: Who was the original House sponsor of the Energy Policy Act of 2005? 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).

**FIRST MONUMENT LAWSUITS FILED:** A coalition of environmental groups filed the [first lawsuit](#) challenging President Donald Trump's long-expected move to shrink the Grand Staircase-Escalante National Monument just hours after he [announced](#) his decision to significantly pare two national monuments in Utah. The groups argue in their complaint filed in Washington federal court that the Antiquities Act "does not authorize Presidents to abolish [national monuments] either in whole or in part, as President Trump's action attempts to do." And the Native American Rights Fund, representing the Hopi Tribe, Navajo Nation, Pueblo of Zuni and Ute Mountain Ute Tribe, filed its [own challenge](#) the Bears Ears proclamation late Monday evening.

**Report's coming today:** While on hand for Trump's announcement in Utah, Interior Secretary Ryan Zinke told the press pool to expect the release of the results today of his review of several dozen national monument designations. And Natural Resources Chairman [Rob Bishop](#), as well as Utah Reps. [Chris Stewart](#) and [John Curtis](#), host a pen and pad briefing this morning at 11 a.m. where they'll discuss [Trump's visit](#) and the introduction of related legislation on Utah monuments.

**Pro's DataPoint** has whipped up a nifty graphic showing Trump's drastic reductions to the Bears Ears and Grand Staircase-Escalante national monuments in Utah. Check that out [here](#).

**The quote everyone's talking about:** "Does he know the interior. He's knows it, he loves it. He loves seeing it and riding on it," Trump on Zinke.

**NEW REQUESTS FOR KEYSTONE XL PROJECT:** Environmental groups are asking the Trump administration to conduct a new [supplemental environmental impact statement](#) and [Endangered Species Act consultation](#) after the Nebraska Public Service Commission approved a modified path for the Keystone XL pipeline last month. "Now the administration has no choice but to update its assessment to reflect the pipeline's current proposed route," Doug Hayes, a senior attorney with the Sierra Club, said in a statement. That comes as the Nebraska regulators scheduled a Dec. 12 hearing for TransCanada and environmental groups to argue it should reconsider its decision on the controversial pipeline, Pro's Ben Lefebvre [reports](#).

**Meanwhile,** the Pipeline and Hazardous Materials Safety Administration said a weight put in place to keep the Keystone pipeline from moving may have played a role in the 210,000 gallon oil spill in South Dakota last month, Reuters [reports](#). It's a finding that could trigger costly inspections of tens of thousands of miles of underground pipelines.

**KEEPING THE LIGHTS ON:** House Republican leaders think they'll have enough votes from their caucus alone to pass a two-week, stopgap spending package to keep the lights on this week, Pro Budget & Appropriations Brief [reports](#). But a warning signal went up Friday as the Florida and Texas delegations (that's 63 people for those counting at home) [threatened](#) to withhold

support unless they get a more generous disaster aid package. That threat didn't appear to refer directly to the two-week bill currently under consideration, but shows how much power the two delegations could exert on the spending debates going forward.

**Even amid the now-routine House hiccups over the short-term package,** Senate Majority Leader [Mitch McConnell](#) coolly predicted his chamber "will pass it before the end of this week."

**Green groups launch new push:** Ahead of the funding deadline, a collection of environmental and public health groups are unveiling a [new website](#) today highlighting local stories of the importance of environmental protections and what budget cuts could mean for health and safety. That comes as Mike Mikulka, president of the largest union for EPA Region 5 employees, warned a government shutdown would "create an unprecedented emergency for human health and our environment."

**And a dozen environmental and union groups** are sending a letter to congressional leaders calling for a disaster supplemental package that is "robust, funds recovery and rebuilding efforts in a way that results in stronger and more resilient communities." Link [here](#).

**Oh and ICYMI:** House Republicans, including Ryan, weighed stripping House Appropriations Chairman [Rodney Frelinghuysen](#) of his gavel after the long-time New Jersey Republican voted against their tax bill, POLITICO's Rachael Bade and John Bresnahan [report](#).

**AMERICA FIRST FOR SOLAR PLAN:** The Solar Energy Industries Association this morning rolls out [its plan](#) for Trump that it argues would keep America First and, at its core, reiterates the group's push against any tariffs or quotas on imported solar equipment. SEIA argues imposing tariffs represents a "bailout" for two foreign-owned companies that are exploiting U.S. trade law and would be a "bad deal for America." One idea floated in the plan is an import license fee that the group says would "get hundreds of millions of dollars in direct investment help to U.S. companies and our economy." They'll roll the whole thing out at 9:15 a.m. at the National Press Club.

**DOT PUTS THE BRAKES ON ECP MANDATE:** DOT Monday rescinded the mandate for trains carrying crude oil and ethanol to be equipped with electronically controlled pneumatic brakes, with the understanding that such brakes would reduce the risk of derailment in cases of emergency. The 2014 FAST Act ordered a scientific evaluation of ECP brake performance in emergencies, with a requirement for a final decision on the rule's fate by Monday - the two-year anniversary of the law's passage. The scientific study was [inconclusive](#), and a [GAO study](#) found that DOT didn't have enough data to make a call. But a [DOT analysis](#) in October found that the costs outweighed the benefits of an ECP mandate by a factor of three. Commerce Committee Chairman [John Thune](#) praised the repeal decision. "Repealing this rule puts sound science and careful study ... over flawed guesswork," he said in a statement.

**MOVING MORE NOMINATIONS:** The Senate Energy and Natural Resources Committee takes up the nominations of Timothy R. Petty to be Interior assistant secretary for water and science and Linda Capuano to run the Energy Information Administration today at 10 a.m. Watch [here](#).

**LAWSUIT ROUNDUP! SUIT FILED OVER MISSED SMOG DEADLINES:** Ten environmental and public health groups filed a [lawsuit](#) Monday over a missed Oct. 1 statutory deadline for EPA to say which parts of the U.S. were meeting the 2015 ozone standard, Pro's Alex Guillén [reports](#). A coalition of Democratic attorneys general is also expected to sue EPA soon.

**Interior appeals loss in methane rule stay suit:** The Interior Department said Monday evening it will appeal a federal judge's October [ruling](#) that said its delay of the Obama administration's methane waste rule was illegal. The judge said the Bureau of Land Management should have gone through notice-and-comment rulemaking to delay the rule since it had already taken effect. Interior [proposed](#) an 18-month delay and took public comments into November. It is unclear when that delay will be finalized. Interior's appeal will go to the 9<sup>th</sup> Circuit.

**Are you new here?** A lawsuit challenging EPA's delay of a regulation limiting power plants' toxic wastewater discharge was transferred from an Obama appointee to newly confirmed Judge Dabney L. Friedrich on Monday, Pro's Alex Guillén [reports](#). Environmental advocates originally filed the case in May, and in September EPA [finalized](#) the delay of certain implementation deadlines.

**ANOTHER HIRE AT EPA:** Clint Woods, the head of an association that represents conservative state air agencies, will become the deputy assistant administrator of EPA's air office, Pro's Emily Holden [reports](#). Woods is executive director of the Association of Air Pollution Control Agencies. He previously worked for the energy and environment subpanel of the House Science Committee and for the American Legislative Exchange Council. He'll begin his new job at EPA in mid-December.

**NEW EPA PUSH ON PFAS:** EPA announced Monday it was launching a [cross-agency effort](#) to address PFAS contamination around the country that will include identifying a set of near-term actions it can take to help local communities. No details were given though. You'll remember that concerns over PFAS contamination in North Carolina waterways were one of the major concerns for that state's senators in [deciding they couldn't support](#) Michael Dourson's nomination to run the agency's chemical office.

**MUSICAL CHAIRS AT E&C:** Mississippi Rep. [Gregg Harper](#) takes over as chairman of the Energy and Commerce Oversight and Investigations Subcommittee, Chairman Greg Walden announced Monday. Also of interest to ME readers: South Carolina Rep. [Jeff Duncan](#) joins both the Energy and Environment subcommittees.

**PERRY'S IN UAE!** Energy Secretary Rick Perry's swing through the Middle East next takes him to Abu Dhabi in the United Arab Emirates, where he'll co-chair the Carbon Sequestration Leadership Forum along with UAE Minister of Energy Suhail Mohamed Al Mazroui. Agenda [here](#). The visit comes after he inked a memorandum of understanding with Saudi Arabia during his trip there to increase research and collaboration on carbon capture technologies. "This MOU outlines a future alliance not only in supercritical carbon dioxide, but also in a range of clean fossil fuels and carbon management opportunities," Perry said in a statement.

**Also, guys, he's having the best time!** Check out these pictures of Perry with his feet in the sand, shopping and doing other fun looking things [here](#).

**TAKE A GLANCE!** The American Council for Capital Formation is out with [a report](#) today blaming the struggles of the California Public Employees' Retirement System, the nation's largest public pension fund, in part on investments in "certain political causes and issues at the expense of doing what's necessary to improve fund performance." It argues prioritizing environmental, social and governance investments frequently comes "at the expense of other investments more likely to optimize returns."

**FOR YOUR VIEWING PLEASURE:** Vice President Al Gore is hosting The Climate Reality Project's seventh-annual 24 Hours of Reality through 6:30 p.m. today with people like California Gov. Jerry Brown, San Juan Mayor Carmen Yulín Cruz, Mariah Carey, Sheryl Crow, Ellie Goulding and others talking up the importance of climate action and activism. Watch online [here](#) and a schedule of speakers is [here](#).

**STREAMLINING UTILITY SUSTAINABILITY REPORTING:** The Edison Electric Institute announced Monday a pilot template that it said would help utilities more consistently provide investors with sustainability and other similar information. Utilities participating in the pilot project will begin using the template as they report 2016 information in the coming weeks.

**LIGHTER CLICK!** Pruitt tweeted out scenes from what seemed like a lovely holiday party in his office. Check them out [here](#).

## QUICK HITS

- Trump Disbands Group Meant to Prepare Cities for Climate Shocks. [Bloomberg](#).
- Trump's Attack Dog on the Environment. [Outside](#).
- OPEC oil output falls in November to lowest since May. [Reuters](#).
- Secrecy surrounds pro-coal group eyeing Ohio wind cases. [Midwest Energy News](#).
- Governor's staff struck climate change language from Act 250 report. [Burlington Free Press](#).

## THAT'S ALL FOR ME!

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<https://www.politico.com/newsletters/morning-energy/2017/12/05/trying-to-turn-gop-climate-talk-into-action-040348>

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