

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Morning Energy
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Subject: POLITICO's 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 10:00 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, 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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