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Cc: Alsalam, Jameel[Alsalam.Jameel@epa.gov]
From: Sherry, Christopher
Sent: Wed 3/8/2017 5:36:09 PM
Subject: US Biennial Report Question
2016_second_biennial_report_of_the_united_states_.pdf

Cindy,

I'm coordinating responses for OAP to questions from UNFCCC Parties that we have received on the Second US Biennial Report (BR2 - attached). We received the following question that SPD seems to be in the best position to answer. State Dept. has asked for initial EPA responses back by next Tuesday, March 14.

1. HFC emission

Question by China at Monday, 27 of February 2017

Category: Progress towards the achievement of its quantified economy-wide emission reduction target

The U.S. has implemented, adopted and planned several measures to mitigate HFC emission, nevertheless, fast increases in HFC emission have been projected in both WEM and WAM scenarios. Could the Party provide information on the drivers for those increasing trends?

Is this something your group would be in a position to draft a response? Please feel free to give me a call if you have questions.

Chris

Christopher Sherry
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To: Ohrel, Sara[Ohrel.Sara@epa.gov]; Alsalam, Jameel[Alsalam.Jameel@epa.gov]
From: Lewandrowski, Jan - OCE
Sent: Wed 8/5/2015 1:30:25 PM
Subject: Requested drafts - please do not share outside your teams
For EPA - Working draft CEQ_OMB interagency request sent Aug 5 2015.docx
To EPA Projections of nonForest LULUC categories - sent Aug 5 2015.xlsx

Jameel and Sara:

Here are the files you requested. Please have a look and send along any questions/comments/suggestions etc. Also, please treat them as drafts for internal use – they are very much works in progress.

Thank you

Jan

Jan Lewandrowski

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2016

SECOND BIENNIAL REPORT of the United States of America

Under the United Nations Framework Convention on Climate Change

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Acronyms and Abbreviations

AEO	Annual Energy Outlook
AFV	alternative fuel vehicle
ARPA-E	Advanced Research Projects Agency–Energy
ASHRAE	American Society of Heating, Refrigerating, and Air-Conditioning Engineers
BAU	business as usual
BR	Biennial Report
Btu	British thermal unit
C_2F_6	hexafluoroethane
CAFE	corporate average fuel economy
CAA	Clean Air Act
CBET	cross-border electricity trade
CCAC	Climate and Clean Air Coalition
CCS	carbon capture and storage
CEADIR	Climate Economic Analysis for Development, Investment, and Resilience
CESC	Clean Energy Solutions Center
CH_4	methane
CO_2	carbon dioxide
CO_2e	carbon dioxide equivalent
COP	Conference of the Parties
CPP	Clean Power Plan
CRP	Conservation Reserve Program
CTCN	Climate Technology Centre and Network
CTF	common tabular format
DASP	Disaster Assistance Support Program
DC	direct current
DFI	development finance institution
DOD	United States Department of Defense
DOE	United States Department of Energy
DOI	United States Department of the Interior
DOS	United States Department of State
DOT	United States Department of Transportation
ECA	export credit agency
EC-LEDS	Enhancing Capacity for Low Emission Development Strategies
EIA	United States Energy Information Administration
EPA	United States Environmental Protection Agency
EPSA	Energy Policy and Systems Analysis
EV	electric vehicle

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EXIM	Export-Import Bank of the United States
FSF	fast-start finance
FY	fiscal year
GCCI	Global Climate Change Initiative
GDP	gross domestic product
GEF	Global Environment Facility
GHG	greenhouse gas
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
gpm	grams per mile
GW	gigawatts
GWP	global warming potential
HCFC	hydrochlorofluorocarbon
HDV	heavy-duty vehicle
HFC	hydrofluorocarbon
HUD	United States Department of Housing and Urban Development
IBRs	integrated biorefineries
IPCC	Intergovernmental Panel on Climate Change
ISGAN	International Smart Grid Action Network
kt	kiloton
kWh	kilowatt-hour
LDCs	least-developed countries
LDV	light-duty vehicle
LEAP	Global Lighting and Energy Access Partnership
LEDS	low-emission development strategies
LULUCF	land use, land-use change, and forestry
MAC	marginal abatement cost curve
MCC	Millennium Challenge Corporation
MDB	multilateral development bank
mpg	miles per gallon
MSW	municipal solid waste
Mt	million metric tons
MW	megawatts
MY	model year
N_2O	nitrous oxide
NAP	National Adaptation Planning
NASA	National Aeronautics and Space Administration
NDE	National Designated Entity
NEMS	National Energy Modeling System
NF_3	nitrogen trifluoride
NOAA	National Oceanic and Atmospheric Administration
NSIs	national systems of innovation
OAP	Office of Atmospheric Programs
OECD	Organisation for Economic Co-operation and Development
OPIC	Overseas Private Investment Corporation
PACE	U .S .–India Partnership to Advance Clean Energy
PEACE	Promoting Energy Access through Clean Energy

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PFC	perfluorocarbon
R&D	research and development
RCSPs	Regional Carbon Sequestration Partnerships
REDD+	reducing emissions from deforestation and forest degradation
RFS	Renewable Fuel Standard
RPS	renewable portfolio standard
SEAD	Super-efficient Equipment and Appliance Deployment
SF_6	sulfur hexafluoride
SLCP	short-lived climate pollutant
SNAP	Significant New Alternatives Policy
TEC	Technology Executive Committee
Tg	teragram
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UNFCCC	United Nations Framework Convention on Climate Change
USAID	United States Agency for International Development
USDA	United States Department of Agriculture
USFS	United States Forest Service
USTDA	United States Trade Development Agency
USWP	U .S . Water Partnership
VOC	volatile organic compound

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1 Introduction: Delivering Ambitious U.S. Climate Action

Addressing nearly 150 world leaders at the 2015 Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC) in Paris, President Obama stated: "Nearly 200 nations have assembled here this week—a declaration that for all the challenges we face, the growing threat of climate change could define the contours of this century more dramatically than any other ." The United States is strongly committed to taking action and leading internationally to meet this challenge . Working together, we can set a new global course that will reduce the greatest risks of climate change and keep the world on a pathway to limit warming to less than 2 degrees Celsius .

The effects of climate change are already being felt around the world and across our nation . Certain types of extreme weather events with links to climate change have become more frequent or more intense, including heat waves, heavy rainfall, and in some regions, floods and droughts . These extreme weather events—from the recent severe droughts and wildfires in the West to record heat waves throughout the country—are hitting communities across the United States . Fourteen of the 15 warmest years on record have all occurred in the first 15 years of this century; 2014 was the warmest year ever, and 2015 is on track to be warmer still . The most vulnerable among us—including children, older adults, people with heart or lung disease, and people living in poverty—are most at risk from the impacts of climate change .

These and other aspects of climate change are disrupting people's lives and damaging our economy . Delaying our response will only make the situation worse for people around the world; thus, taking meaningful action now is critical .

President Obama understands the urgency of the issue and has been leading domestic and international efforts to confront this challenge . Building on major first-term actions, such as fuel economy standards, the President released the *Climate Action Plan* in 2013, which outlines his vision to cut greenhouse gas (GHG) pollution, prepare American communities for the impacts of climate change, and engage internationally (EOP 2013) . Since then, the United States has initiated and completed an ambitious series of policies and measures across all sectors of the U .S . economy . These actions are already driving down carbon pollution and other GHG emissions, and are also creating cleaner air, better health for our communities, increased energy security, and new economic opportunities .

Our longstanding, consistent investments in science and technology have combined with policies and market developments to spur dramatic decreases in the costs of clean energy, assisting the U .S . transition to a low-carbon economy . We are working with communities and state, tribal, and local governments to build resilience and adapt to climate-related hazards . We have also been leading internationally and working closely with the global community to deliver the components of an ambitious and durable international approach to climate change .

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These effortsinclude creating new and bolstering existing agreements, such as the U .S .–China Joint Announcement and Joint Statement, the U .S .–Brazil Joint Statement, U .S .–Mexico participation on a high-level bilateral clean energy and climate policy interagency task force, and our engagement with the UNFCCC process and other multilateral and bilateral forums .

The *2016 Second Biennial Report of the United States of America* presents the actions we are undertaking to deliver on our climate goals and to support our global partners . It begins with an overview of the *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2013* (U .S .EPA / OAP 2015) and recent trends in U .S . emissions . It then details the components of *The President's Climate Action Plan* (EOP 2013), shows how we are on track to reach our 2020 emission reduction target, and demonstrates how we are setting up the foundation to reach our ambitious 2025 target . It then describes how the United States is supporting the global effort through financial, technological, and capacity-building support to developing countries .

In 2007, U .S . emissions peaked at about 0 .5 percent above 2005 levels . Since then, they have generally been on a downward trajectory, led recently by policy actions . In 2013, U .S . emissions were 10 percent below 2005 levels . Since 2005, fuel economy standards, appliance efficiency standards, building codes, and private-sector innovation have reduced energy consumption by roughly 2 percent, even as real gross domestic product (GDP) increased by 13 percent . This record demonstrates our ability to grow our economy and reduce energy consumption and emissions simultaneously .

This report is organized as follows: Chapter 2 describes U .S . GHG emissions and trends, summarizing historical and current information for all sectors and gases covered in the U .S . GHG inventory; Chapter 3 outlines the major policies and measures we have implemented and plan to implement to drive our emissions down to meet our economy-wide 2020 and 2025 emission reduction targets; Chapter 4 presents our estimates of how existing and additional policy measures will drive down emissions, and demonstrates how they place us on track to hit our 2020 target and lay the foundation for reaching our 2025 target; and Chapter 5 shows how we are supporting the global community through technology, climate finance, and capacity building, and details our efforts to ensure that developing countries have the ability to respond to climate change in a way appropriate for their circumstances .

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2 U.S. Greenhouse Gas Emissions and Trends

The United States is committed to providing regular, transparent updates on progress toward meeting our 2020 target, based on our most recent assessment of current and historical GHG emissions. Progress is tracked and reported annually, via the *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2013,* which is grounded in Intergovernmental Panel on Climate Change (IPCC) and UNFCCC inventory guidelines (U.S. EPA/OAP 2015). The U.S. GHG inventory reports provide regular information on the full scope of gases covered in our economy-wide emissions targets (Table 1). They are based on emissions and removals (taking into account emissions absorbed by U.S. forests and other lands) resulting from all sectors of the economy, and include all GHGs (carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF_6), and nitrogen trifluoride (NF_3)). This inventory-based accounting approach means that the U.S. target is truly comprehensive, covering the full scope of emissions under the UNFCCC guidelines that contribute to global climate change.

According to the most recent national GHG inventory, in 2013 U.S. GHG net emissions, including land use, land-use change, and forestry (LULUCF), were 5,791 million metric tons (Mt) of CO_2-equivalent (CO_2e) emissions (U.S. EPA/OAP 2015). This represents a

Table 1 **Key Parameters of the U.S. 2020 Economy-wide Emission Reduction Targets**

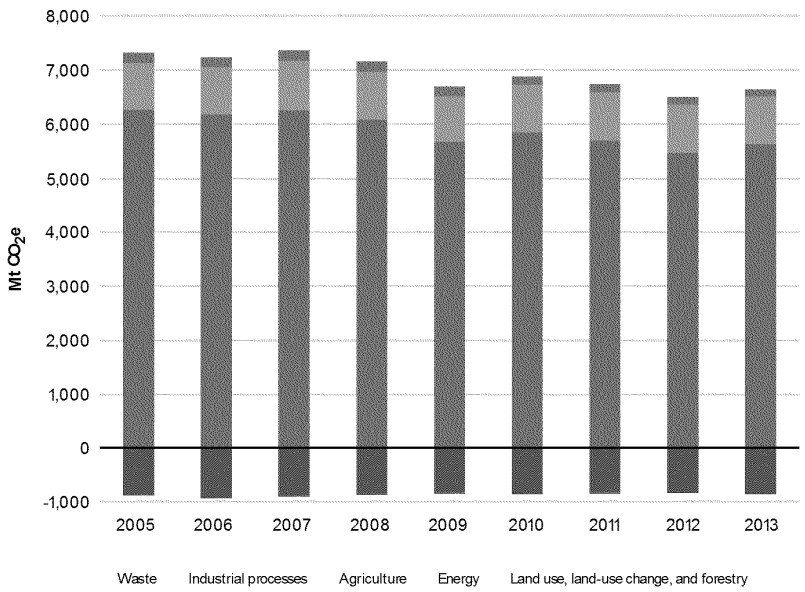
Parameters	Targets
Base Year	2005
Target Year	2020
Emission Reduction Target	In the range of 17% below 2005 levels.
Gases Covered	CO_2, CH_4, N_2O, HFCs, PFCs, SF_6, and NF_3.
Global Warming Potential	100-year values from the IPCC Fourth Assessment Report (IPCC 2007).
Sectors Covered	All IPCC sector sources and sinks, as measured by the full annual inventory (i.e., energy, transport, industrial processes, agriculture, LULUCF, and waste).
Land Use, Land-Use Change, and Forestry (LULUCF)	Emissions and removals from the LULUCF sector are accounted using a net-net approach and a 2005 base year, including a production approach to account for harvested wood products. The United States is considering approaches for identifying the impact of natural disturbances on emissions and removals.
Other	To be in conformity with U.S. law

Notes:

- The United States does not currently intend to use international market-based mechanisms to meet our target.
- The United States is fully committed to reducing emissions in the range of 17 percent below 2005 levels in 2020. The set of actions the President outlined in the *Climate Action Plan* will put us on a path to achieve this ambitious goal. We have not ascribed a specific margin to the range on one side or the other. The range recognizes the important effect of external factors in determining emissions in a single year. The range is not a conditional commitment, and there are no underlying assumptions.
- The *Inventory of U.S. Greenhouse Gas Emissions and Sinks* coverage of sectors and use of global warming potential values is consistent with the formal United Nations Framework Convention on Climate Change inventory reporting guidelines for developed countries (UNFCCC 2013).
- CH_4 = methane; CO_2 = carbon dioxide; HFCs = hydrofluorocarbons; IPCC = Intergovernmental Panel on Climate Change; N_2O = nitrous oxide; NF_3 = nitrogen trifluoride; PFCs = perfluorocarbons; SF_6 = sulfur hexafluoride.

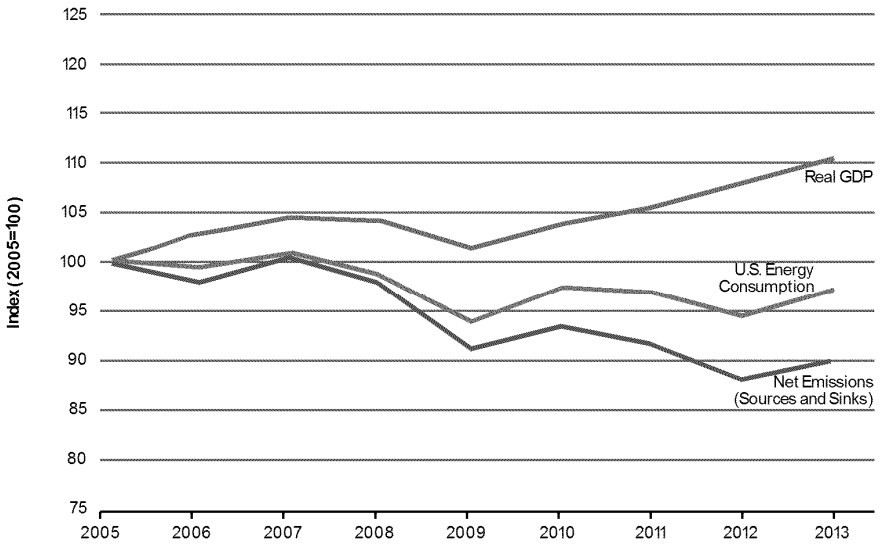
10 percent reduction below 2005 levels . Despite continued economic growth, annual net emissions have declined by 1 .3 percent on average since 2005—a reversal of past trends of average annual increases of 1 .1 percent per year from 1990 to 2005 (Figures 1 and 2) .

Figure 1 **U.S. Greenhouse Gas Emissions and Removals by Source: 2005–2013**



Source: U .S . EPA / OAP 2015 .

Figure 2 **Comparison of U.S. Real Gross Domestic Product, Primary Energy, and Net Emissions: 2005–2013**



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CARBON DIOXIDE EMISSIONS

Since 2007, the United States has seen significant reductions in emissions of CO_2, the primary GHG emitted by human activities. In 2013, CO_2 emissions represented more than 82 percent of total U.S. GHG emissions. The major economic sectors that contribute to CO_2 emissions from fossil fuel combustion are electricity generation; transportation; and industrial, residential, and commercial end use (Figure 3).

From 1990 through the mid-2000s, energy-related CO_2 emissions increased from approximately 4,900 Mt to a peak of just over 5,900 Mt in 2007. Policies and market developments have subsequently driven CO_2 emissions down sharply, to approximately 5,300 Mt in 2013—down 10 percent from 2005 levels.

Emissions from fossil fuel combustion, the largest source of CO_2 emissions (94 percent, excluding removals from LULUCF) and of overall GHG emissions (77 percent), decreased at an average annual rate of 1.3 percent from 2005 to 2013. Historically, changes in emissions from fossil fuel combustion have been the dominant factor affecting U.S. emission trends. According to the U.S. Energy Information Administration, in 2013, approximately 82 percent of the energy consumed in the United States (on a British thermal unit (Btu) basis) was produced through the combustion of fossil fuels (U.S. DOE/EIA 2015b). The remaining 18 percent came from other energy sources, such as hydropower, biomass, nuclear, wind, and solar energy (Figures 3 and 4).

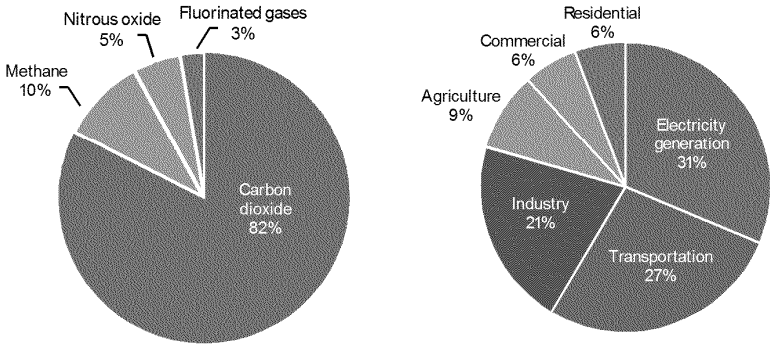
Electricity Generation

The United States relies on electricity to meet a significant portion of its energy demands. Electricity generators consumed 34 percent of U.S. energy from fossil fuels and emitted 40 percent of the CO_2 from fossil fuel combustion in 2013. Due principally to shifting from coal to natural gas, as well as rapidly growing deployment of renewable sources of energy, in 2013, CO_2 emissions from electricity generation decreased to 15 percent below 2005 levels.

Transportation End-Use Sector

Transportation activities (excluding international bunker fuels) accounted for 33 percent of CO_2 emissions from fossil fuel combustion in 2013. Virtually all of the energy consumed in

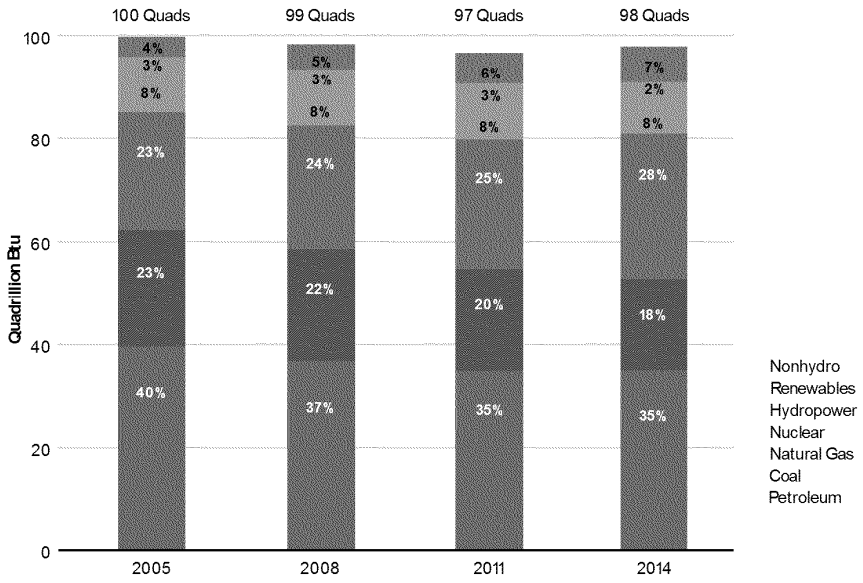
Figure 3 **U.S. Greenhouse Gas Emissions by Gas and by Sector: 2013**



Note: Percentages are based on Mt CO_2e.
Source: U.S. EPA/OAP 2015.

Figure 4 **U.S. Primary Energy Profile Highlights: 2005–2014**

Energy use has declined since 2005, while real GDP and population have increased . In addition, clean energy sources, including renewables, are growing as a fraction of the overall U .S . energy economy .



this end-use sector came from petroleum products . Nearly 62 percent of the emissions resulted from gasoline consumption for personal vehicle use, while the remaining emissions came from other transportation activities, including the combustion of diesel fuel in heavy-duty vehicles and jet fuel in aircraft . From 2005 to 2013, transportation emissions dropped by 9 percent due, in part, to increased fuel efficiency across the U .S . vehicle fleet and efficiency in the domestic aviation system .

Industrial End-Use Sector

Industrial CO_2 emissions, resulting both directly from the combustion of fossil fuels and indirectly from the generation of electricity that is consumed by industry, accounted for 25 percent of CO_2 from fossil fuel combustion in 2013 . Emissions from industry have steadily declined since 2005 (11 percent) due to structural changes in the U .S . economy (i .e ., shifts from a manufacturing-based to a service-based economy), fuel switching, and efficiency improvements .

Residential and Commercial End-Use Sectors

The residential and commercial end-use sectors accounted for 21 and 22 percent, respectively, of CO_2 emissions from fossil fuel combustion in 2013, including each sector's "indirect" emissions from electricity consumption . Both sectors relied heavily on electricity to meet energy demands; 72 and 79 percent of residential and commercial emissions, respectively, were attributable to electricity consumption for lighting, heating, cooling, and operating appliances .

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Emissions from the residential and commercial end-use sectors, including both direct emissions and indirect emissions from electricity consumption, have decreased by 8 percent and slightly more than 1 percent since 2005, respectively.

METHANE EMISSIONS

Between 2005 and 2013, CH_4 emissions decreased by more than 10 percent. These emissions primarily result from enteric fermentation associated with domestic livestock, natural gas systems, and decomposition of wastes in landfills. Emissions from natural gas systems, the second-largest anthropogenic source of CH_4 emissions, decreased by 11 percent since 2005, primarily as a result of a drop in emissions from field production.

NITROUS OXIDE EMISSIONS

Agricultural soil management, mobile-source fuel combustion, and stationary-source fuel combustion were the major sources of N_2O emissions, which decreased slightly from 2005 levels. Making up 74 percent of total N_2O emissions, highly variable agricultural sector factors affecting soils are the main factors that influence overall N_2O levels.

HYDROFLUOROCARBON, PERFLUOROCARBON, AND SULFUR HEXAFLUORIDE EMISSIONS

Despite being emitted in smaller quantities than the other principal GHGs, emissions of HFCs, PFCs, and SF_6 constitute a significant and growing share of U.S. emissions, because many of these gases have extremely high global warming potentials (GWPs) and, in the cases of PFCs and SF_6, long atmospheric lifetimes. Emissions of substitutes for ozone-depleting substances and emissions of HFC-23 during the production of hydrochlorofluorocarbon (HCFC)-22 were the primary contributors to aggregate HFC emissions, which as a class of fluorinated gases increased by 24 percent between 2005 and 2013 (although HFC-23 has dropped substantially as a component of this overall trend). PFC emissions declined by 12 percent, resulting from both the decline in aluminum production and actions taken by aluminum manufacturers to reduce emissions. Electrical transmission and distribution systems accounted for most SF_6 emissions, which were down 52 percent from 2005 levels in 2013 because of reductions undertaken through voluntary partnerships with the industry.

LAND USE, LAND-USE CHANGE, AND FORESTRY

In 2013, the land sector resulted in a net carbon sequestration of 882 Mt CO_2e, which, in aggregate, offset 13.2 percent of total U.S. GHG emissions. While the primary driver of the land sector carbon uptake was growth in the existing stock of U.S. forests, other practices further bolstered the carbon sink, such as forest management, tree planting and growth of existing trees in urban areas, the management of agricultural soils, and growth in other carbon pools. Forests (including vegetation, soils, and harvested wood) accounted for 88 percent of total 2013 CO_2 removals, urban trees accounted for 10 percent, mineral and organic soil carbon stock changes accounted for less than 0.5 percent, and landfilled yard trimmings and food scraps accounted for 1 percent of the total CO_2 removals in 2013. The net forest sequestration is a result of forest growth and increasing forest area, as well as accumulation of carbon stocks in harvested wood pools.

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The institutional arrangements for measuring progress toward the target are explained in more detail in the *Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990–2013,* in Section 1.2 on National Inventory Arrangements (U.S. EPA/OAP 2015). The U.S. Environmental Protection Agency (EPA), in cooperation with other U.S. government agencies, prepares the annual GHG inventory. Several agencies and individuals are involved in supplying data to, reviewing, or preparing portions of the inventory, including federal and state government authorities, research and academic institutions, industry associations, and private consultants. Within EPA, the Office of Atmospheric Programs (OAP) is the lead office responsible for the emission calculations provided in the national GHG inventory, as well as the completion of the National Inventory Report and the Common Reporting Format tables. EPA's Office of Transportation and Air Quality is also involved in calculating emissions for the inventory. While the U.S. Department of State (DOS) officially submits the annual inventory to the UNFCCC, EPA's OAP serves as the inventory focal point for technical questions and comments on the U.S. inventory. The institutional arrangements have not changed since the *First Biennial Report of the United States of America.*

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3 Policies Driving Progress toward Our Targets

Since President Obama took office, the United States has made substantial progress in advancing policies to reduce GHG emissions. These actions have accelerated during the past two years as the Obama Administration strives to meet the objectives set forth in *The President's Climate Action Plan* (EOP 2013). The policies and measures established in the *Climate Action Plan* put the United States on track to meet its 2020 target and lay the foundation to reach our 2025 target. Since the *First Biennial Report of the United States of America*, the United States has proposed or finalized many new policies addressing GHG emissions within the federal government and across multiple sectors of the economy, including the transportation, power, energy end-use, industrial, agricultural, land-use and forestry, and waste sectors (U.S. DOS 2014a). These actions will cut GHG emissions, improve air quality, and reduce waste, while saving consumers money and creating jobs in America. The emission reductions from these measures will build in effect and magnitude over time as older, less efficient cars and trucks are replaced with newer, more efficient vehicles; as consumers transition to cost-saving appliances; and as clean energy sources, such as wind and solar, are integrated into the electrical grid. This chapter outlines the major federal policies and regional, state, and local actions to reduce GHG pollution. Appendix 3 of this report presents a full list of policies and measures.

MAJOR FEDERAL ACTIONS ON MITIGATION

Carbon Pollution Standards for Power Plants

In the summer of 2015, the United States took historic action to target the largest source of GHG emissions by finalizing the *Clean Power Plan* (CPP), which will limit carbon pollution from power plants under the *Clean Air Act* (CAA). The CPP is one of the most significant single actions the Administration has taken to date to combat climate change. By targeting power plants, which were responsible for 31 percent of U.S. GHG emissions in 2013, the CPP strengthens America's progress toward cleaner and lower-polluting energy and will cut pollution to historically low levels by 2030. The final CPP sets flexible and achievable standards to reduce CO_2 emissions by 32 percent from 2005 levels by 2030—cutting carbon pollution by 870 million tons, or the equivalent of the annual emissions from more than 166 million cars. Beyond the carbon reduction benefits, the CPP, and other policies put in place to drive a cleaner energy sector, will decrease pollutants that contribute to soot and smog and reduce premature deaths from power plant emissions by 90 percent in 2030 compared with 2005. The public health and climate benefits of the CPP are estimated at up to $54 billion per year in 2030—much higher than anticipated costs of $5.1–$8.4 billion.

The final CPP rule was the result of two years of extensive outreach involving an unprecedented level of EPA engagement with stakeholders. In 2013, the President directed EPA to use its authority under the CAA to set carbon emission standards for existing power plants and established a timeline to complete this task. EPA released its draft CPP one year later. EPA took

1 While many new policies have been implemented and initiated, our domestic institutional situation has not changed since the *First Biennial Report of the United States of America*.

into account more than four million comments that were submitted during the public comment period when developing the final plan released in the summer of 2015 .

The CPP follows in the CAA's tradition of federal-state partnership in addressing air pollution problems . EPA identified the best system of emission reduction for regulated power plants, which considers the potential to improve the efficiency of fossil fuel-fired electric steam generating units, the potential to shift from existing steam generation to underutilized gas generation, and the potential to shift from fossil fuel-fired generation to new renewable generation . Based on that system, EPA established interim and final CO_2 emission performance rates measured in pounds of CO_2 per megawatt hour for fossil fuel-fired electric steam generating units and for natural gas-fired combined-cycle generating units . However, states, tribes, and U .S . territories have the flexibility to design plans to meet those targets .

To maximize the range of choices available to states, EPA used these performance rates to also establish interim and final statewide goals in three additional forms: a single rate-based state goal that would apply to all regulated sources, a mass-based state goal measured in total short tons of CO_2, and a mass-based state goal with a new source complement (to accommodate state inclusion of new power plants in the mass-based program) measured in total short tons of CO_2 . The performance rates were applied to all affected sources in each state to arrive at the individual statewide rate- and mass-based goals . Each state has a different goal based upon its own particular electricity generation mix .

States develop and implement tailored plans to ensure that their power plants collectively meet these standards . The final rule provides additional flexibility in how state plans can be implemented . It enables states to include emission reduction opportunities not identified as part of the best system of emission reduction, such as demand-side energy efficiency, in their plans, and allows states to develop "trading ready" plans to "opt in" to an emission credit trading market with other states taking parallel approaches without the need for interstate agreements . All low-carbon electricity generation technologies can play a role in state plans, including renewables, energy efficiency, natural gas, nuclear, and carbon capture and storage (CCS) . As part of the CPP, states will need to submit implementation plans by September 2016 or an initial submittal with a request for an extension for up to two additional years for plan development . The interim targets apply beginning in 2022 (allowing states to meet the interim goals over an eight-year averaging period), and the final goals must be met by 2030 .

Increased Efficiency of Cars and Trucks

National Programs for Light-Duty Vehicle GHG Emissions and CAFE Standards

Since 2009, the United States has been implementing policies to dramatically increase the efficiency of American vehicles to reduce carbon pollution . In 2010, EPA and the National Highway Traffic Safety Administration issued standards for light-duty passenger vehicles, including passenger cars and light trucks for model years (MYs) 2012–2016 . At the time of the final rule, the MY 2012–2016 standards were expected to result in average new vehicle tailpipe CO_2 emissions of 250 grams per mile (gpm) by MY 2016, based on corporate average fuel economy (CAFE) compliance testing . These actions are the equivalent of raising the average new vehicle fuel economy to over 35 .5 miles per gallon (mpg) in 2016 .

Following the first phase of vehicle efficiency standards, President Obama instructed the U .S . Department of Transportation (DOT) and EPA to issue standards for passenger vehicles for

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MYs 2017–2025 . In 2012, these agencies finalized the rule that will raise the average new vehicle fuel efficiency of cars and light trucks to roughly 54 .5 mpg and lower the CO_2 emission level to a compliance-based value of 163 gpm in 2025 . At the time of the rulemaking, the combined standards were expected to cut per-mile GHG emissions of new vehicles by approximately 40 percent . This would reduce U .S . oil consumption by 12 billion barrels cumulatively by 2025 and eliminate 6 billion metric tons of carbon pollution over the lifetime of vehicles sold . Already, they are delivering results; in 2014, new vehicles achieved their highest fuel economy ever .

National Programs for Heavy-Duty Vehicle GHG Emissions and Fuel Efficiency Standards

When President Obama came into office in 2009, heavy-duty trucks and buses—from delivery vans to the largest tractor-trailers—were required to meet pollution standards for soot- and smog-causing air pollutants, but were not required to meet fuel efficiency or carbon pollution standards . Fuel consumption and GHG emissions from heavy-duty vehicles (HDVs) had been growing; by 2013, these vehicles accounted for 23 percent of total U .S . transportation-related GHG emissions .

In 2010, President Obama directed EPA and DOT to develop the first-ever joint GHG and fuel efficiency standards for HDVs, which were finalized in August 2011 . These standards apply to HDVs for MYs 2014–2018, including combination tractors, vans, delivery trucks, buses, and garbage trucks . Due to the diversity of vehicle type and purpose, the standard is divided into three major categories . Within each of those categories, specific targets were established based on the design and purpose of the vehicle . In total, the MY 2014–2018 standards are expected to reduce oil consumption by 530 million barrels and GHG pollution by approximately 270 Mt over the lifetime of the vehicles .

EPA and DOT have proposed a second phase of HDV standards . The new, more stringent proposed standards are expected to lower carbon emissions by approximately 1 billion metric tons, cut fuel costs by about $170 billion, and reduce oil consumption by up to 1 .8 billion barrels over the lifetime of the vehicles sold under the program . The proposed rule would apply to MY 2021–2027 vehicles .

Developing Cutting-Edge Electric Vehicle (EV) Technology and Charging Infrastructure

In March 2012, President Obama and Energy Secretary Steven Chu launched EV Everywhere, an electric vehicle Grand Challenge that seeks to make EVs as affordable and convenient to own as today's gasoline-powered vehicles within a decade . This initiative is spurring dramatic technological and cost improvements in batteries, electric motors, power electronics, lightweight structures, and innovative charging technology, such as wireless charging U .S . Department of Energy (DOE) investments through the Grand Challenge have achieved a 50 percent reduction in the price of EV batteries over the past four years .

Since the program's launch, 250 employers have joined the Workplace Charging Challenge and pledged to provide charging access for their employees, significantly increasing charging access and convenience for EV owners . DOE investments in EV technology have addressed key technical and market barriers to achieving the Grand Challenge . Since January 2014, DOE has invested $167 million of funding for more than 33 industry, 26 national laboratory, and 20 university projects that explore how to make EV batteries more efficient and cost-effective . In

November 2014, DOE acted to support new, competitively awarded projects to facilitate aggregated purchases of EVs and announced commitments by more than 120 utility companies, businesses, nonprofit organizations, and schools to purchase EVs and to install workplace-charging stations, which will lead to $50 million in purchases by electric utility companies .

Building Renewable Energy

Under President Obama, the United States has made notable investments in renewable energy . Since 2008, wind power has tripled, and solar generation has increased by more than thirty-fold . The United States is on track to meet its commitment to double non-hydro renewable energy to 10 percent by 2020, and in a joint statement with Brazil, recently announced a commitment to increase this to 20 percent by 2030 . Non-hydro renewable energy now contributes almost 7 percent of total domestic generation, and this trend is expected to continue .

In 2014, renewable energy was half of newly installed generating capacity . This progress is credited to strong federal policies supporting research, development, and deployment of renewable energy, including such policies as the Production Tax Credit and the Investment Tax Credit . In December 2015, Congress passed a five-year extension of these important provisions, providing long-term certainty that will drive construction of new projects up to and beyond 2020 . This represents one of the biggest investments to deploy renewable energy in our nation's history, and sends a clear signal to the market that will spur investment in wind, solar, and other renewables . Additionally, EPA, DOE, and the U .S . Departments of the Interior, Agriculture, and Defense (DOI, USDA, and DOD) provide technical support to promote renewable energy deployment, including for low- and moderate-income communities .

Permitting Renewable Energy on Public Lands

President Obama's initial goal of permitting 10 gigawatts (GW) of renewable energy on public land was exceeded in 2012 . He has now committed to permitting 20 GW by 2020, with a $100 million fiscal year (FY) 2016 investment in core DOI renewable energy development programs . To date, DOI has permitted 55 utility-scale renewable energy projects—including 29 solar projects—with a total generating capacity of over 14 GW . And since June 2014, DOI has approved three utility-scale solar energy projects, with a capacity of up to 442 megawatts (MW), and four competitive offshore wind energy leases on 434,409 acres for a wind energy capacity of up to 3,450 MW . In September 2014, DOI also announced a competitive leasing policy to encourage solar and wind energy development on public lands, provide greater certainty to renewable energy developers, and ensure a fair market return to taxpayers . DOI has also paved the way for offshore wind by executing the first right-of-way grant for renewable energy transmission in federal waters .

Building Clean Energy in Rural America

Since President Obama took office, USDA has helped thousands of rural small businesses, farmers, and ranchers reduce energy costs by investing in renewable energy systems and energy efficiency programs . USDA has awarded $789 million through the Rural Energy for America Program for 10,700 projects nationwide to install renewable energy systems or make energy efficiency upgrades, which will save more than 8 billion kilowatt-hours (kWh) annually . USDA also offers loan guarantees and grants to help eligible applicants install equipment, such as solar panels, anaerobic digesters, efficient irrigation pumps, and ventilation systems .

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In October 2014, USDA committed up to $250 million to finance the Energy Efficiency and Conservation Loan Program, the first program of its kind to enable rural cooperatives to invest in energy efficiency improvements and renewable energy systems . In total, USDA has financed more than $1 .7 billion to help rural electricity providers reduce carbon pollution, as well as reduce costs and improve the quality of life for end users . Since 2007, the number of farms using a renewable energy-producing system has more than doubled .

Department of Energy Loan Guarantees and Grants

In July 2014, DOE issued a solicitation for up to $4 billion in loan guarantees available for innovative renewable energy and energy efficiency projects that avoid, reduce, or sequester GHGs . Eligible projects include advanced grid integration and storage, drop-in biofuels, waste-to-energy, enhancement of existing facilities, micro-hydro or hydro updates to existing nonpowered dams, and efficiency improvements .

In August 2015, DOE invited innovative distributed energy projects to apply for more than $12 billion in loan guarantee authority, as well as provided up to $1 billion in additional loan guarantee authority through its current solicitations for new Renewable Energy and Energy Efficiency Projects and Fossil Energy Projects . This significantly boosts the resources available to new applicants, which can accelerate the transformation of U .S . energy markets by spurring innovation in distributed energy projects .

Over the past two years, DOE has awarded $78 million to U .S . states to help them advance their clean energy economy while contributing to national energy goals . Additionally, DOE has supported advanced fossil energy, investing $167 million and breaking ground last year on its Petra Nova project, a post-combustion carbon capture, use, and storage retrofit of an existing coal-fired generating facility . In April 2015, in a landmark accomplishment, DOE announced that a group of its CCS projects had safely captured 10 Mt CO_2—the equivalent of removing more than 2 million passenger vehicles from the nation's roads for one year .

Additionally, in February 2014, DOE announced a guarantee of $6 .5 billion in loans to Georgia Power Company and Oglethorpe Power Corporation for construction of the Vogtle project, the first new nuclear reactors to be licensed and begin construction in the United States in three decades . In December 2014, DOE issued a solicitation for up to $12 .5 billion in loan guarantees available for advanced nuclear energy projects that avoid, reduce, or sequester GHGs . Eligible projects include advanced nuclear reactors, small modular reactors, uprates or upgrades at existing facilities, and front-end nuclear . In June 2015, DOE issued a guarantee of $1 .8 billion in loans to three subsidiaries of the Municipal Electric Authority of Georgia for their portion of the Vogtle project .

Cutting-Energy Waste in Buildings and Homes

Conservation Standards for Appliances and Equipment

Since 2009, the United States has finalized 34 new or updated standards to make appliances, homes, and equipment more efficient . In 2013 alone, consumers avoided more than 155 million tons of carbon emissions by using more than 70 categories of EPA's ENERGY STAR products . Actions taken by the Administration ensure that dishwashers, refrigerators, and many other products operate more cleanly and efficiently .

We are implementing these new standards at a rapid pace: as of September 2015, the Administration has proposed 11 and finalized 5 additional energy conservation standards . In total, standards completed during this Administration to date will avoid more than 2 .2 billion metric tons of carbon emissions and save consumers more than $520 billion on their utility bills through 2030 . This puts the United States on track to meet its goal set in the *Climate Action Plan* of cutting 3 billion metric tons of carbon pollution from efficiency standards for appliances and federal buildings by 2030 (EOP 2013) .

Making Buildings and Homes More Efficient

The President's Better Buildings Challenge continues to drive progress by helping American commercial, industrial, and multifamily buildings become at least 20 percent more energy efficient by 2020 . In total, more than 250 organizations have committed to the Better Buildings Challenge, including more than 60 new cities, school districts, universities, manufacturers, and businesses in 2014 . This has incentivized businesses to reduce energy intensity in more than 3 .5 billion square feet of building space since 2009 . The Better Buildings partners are making tremendous progress and saving on average 2 percent a year, with total savings to date of 94 trillion Btus .

Additionally, improved building codes have already saved U .S . homes and businesses $44 billion on their energy bills . DOE is committed to continuing its strong support and participation in the American National Standards Institute, American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), Illuminating Engineering Society of North America, and International Energy Conservation Code (IECC) model code development for residential and commercial buildings to help states and the federal government continue to save money and energy on building operations .

The U .S . Department of Housing and Urban Development (HUD) is also improving the energy efficiency of assisted and insured housing stock through a variety of programs, including Energy Performance Contracts in Public Housing, Property Assessed Clean Energy, and Federal Housing Administration financing programs, such as PowerSaver and Energy Efficient Mortgages . Finally, EPA's ENERGY STAR program is making buildings and homes more efficient across the country . In 2013 alone, commercial, industrial, and residential buildings and homes that received the ENERGY STAR label avoided nearly 140 million tons of carbon emissions .

Alternative Fuels for Vehicles

Renewable Fuel Standard

The Renewable Fuel Standard (RFS) program mandates the deployment and use of 36 billion gallons of renewable fuel annually by 2022 . The program includes volume requirements for biomass-based diesel and other advanced biofuels, such as 16 billion gallons of cellulosic biofuel . The requirements also include new definitions and criteria for both renewable fuels and the feedstocks used to produce them, with new life-cycle GHG emission thresholds for renewable fuels .

On November 30, 2015, EPA finalized the volume requirements and associated percentage standards under the RFS program for the years 2014 to 2016, and final volume requirements for biomass-based diesel for 2014 to 2017 . The final 2016 standard for cellulosic biofuel—the fuel with the lowest carbon emissions—is nearly 200 million gallons, or seven times more than the market produced in 2014 . The final 2016 standard for advanced biofuel is nearly

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1 billion gallons, or 35 percent higher than the actual 2014 volumes, while the total renewable standard requires growth of more than 1 .8 billion gallons of biofuel by 2016 . Biodiesel standards will grow steadily over the next several years, in order to reach 2 billion gallons by 2017 . Overall, the RFS program is anticipated to achieve significant reductions in both petroleum use and GHG emissions, providing for achievable growth in the biofuels industry .

Supporting Innovative Biofuel Technology

Biofuels are a key component of President Obama's energy strategy and play an important role in reducing America's dependence on oil . The Administration has supported research and engaged in public–private partnerships to pursue innovations in biofuel technologies, increase production of U .S . biofuels, and strengthen American energy security .

Through Regional Feedstock Partnerships, DOE's Bioenergy Technologies Office has worked to identify and analyze feedstock supply and conduct crop field trials to address barriers associated with the development of a sustainable and predictable supply of biomass feedstocks . DOE continues to invest in cutting-edge technologies to produce advanced biofuels from nonfood biomass feedstocks . As of 2014, DOE has awarded funds to 22 biorefinery projects working to prove the viability of various feedstock and conversion pathways and reduce the associated technical and financial risks . DOE has issued two loan guarantees available to support innovative cellulosic ethanol biorefineries . In addition, several USDA programs support the deployment of new and emerging technologies for refining advanced biofuels and utilizing renewable biomass as an energy feedstock, including the Advanced Biofuel Payment Program, the Biorefinery Assistance Program, and the Repowering Assistance Program .

Clean Energy Research and Development

While the United States is taking action to encourage the adoption of cleaner forms of energy today, we are also making major investments in research and development (R&D) to support the clean energy and climate change mitigation technologies of tomorrow . To accelerate the transition to a clean energy economy, the Obama Administration and Congress continue to enhance cutting-edge R&D of clean energy sources, such as solar, wind, and low-carbon fossil fuels, as well as energy-efficient technologies, products, and process improvements .

The President's FY 2016 Budget requested $7 .4 billion for clean energy technology research, development, demonstration, and deployment activities . This includes $325 million to continue the innovative work of the Advanced Research Projects Agency–Energy (ARPA-E), which, as of January 2015, has funded more than 400 high-potential, high-impact energy projects through 25 focused programs and open-funding solicitations . In August 2015, ARPA- E announced 11 projects in 7 states to develop innovative solar technologies to achieve a 50 percent increase in the amount of energy each solar panel can produce from the sun, while reducing the costs and space required to generate solar energy .

In addition to consistent and high federal R&D support, in February 2015, the Administration launched its Clean Energy Investment Initiative, aimed at promoting private-sector investment in clean energy technology innovation . Already, the initiative has leveraged more than $4 billion in commitments from foundations, institutional investors, and philanthropies to fund solutions to help fight climate change . These efforts will help increase the affordability and convenience of advanced vehicles and domestic renewable fuels, advance energy efficiency and building technologies, and integrate energy systems more easily into the electric grid .

U .S . investments are providing real payoffs . For example, the President's SunShot initiative has the goal of making solar power fully cost-competitive with traditional energy sources, without incentives, by 2020 . Already, the program is nearly 70 percent of the way to achieving its affordability goal . On batteries, we have reduced the modeled, high-volume cost of EV battery production from $1,000 per kWh in 2009 to $264 per kWh in 2015, with a goal of $125 per kWh by 2022 . On biofuels, we have reduced the modeled mature cost of cellulosic ethanol from more than $13 per gallon to about $2 per gallon .

DOE is also developing technologies that reduce the costs of carbon capture from fossil fuels and undertaking research to ensure the safe, permanent storage of CO_2 in underground geologic formations . DOE has also funded R&D to measure and mitigate methane emissions from hydraulic fracturing, and is supporting R&D in advanced nuclear reactor technologies, life extension for existing power plants, and innovative fuel-cycle concepts .

At the UN climate negotiations in Paris, President Obama and other world leaders launched Mission Innovation, a landmark commitment to dramatically accelerate public and private global clean energy innovation . By joining this initiative, 20 countries (including the five most populous nations—China, India, the United States, Indonesia, and Brazil) representing 80 percent of global clean energy R&D agreed to double their respective R&D investment over five years . The Breakthrough Energy Coalition, a global group of private investors spearheaded by Bill Gates, was also announced in conjunction with the Mission Innovation launch . To reinvigorate global efforts promoting clean energy innovation, all participants of both efforts share a common goal to develop breakthrough technologies and substantial cost reductions, which will enable the global community to meet our shared climate goals, increase access to clean and affordable energy, support economic development, and strengthen energy security .

Phasing Down Hydrofluorocarbons

Significant New Alternatives Policy Program

The United States remains firmly committed to phasing down HFCs through domestic and international actions . Domestically, the Obama Administration finalized a rule in July 2015 to prohibit some of the most harmful HFCs in various end uses under EPA's Significant New Alternatives Policy (SNAP) program . Additionally, in February 2015, EPA finalized a rule to expand the list of acceptable alternatives .

The Administration has also announced its intention to initiate a new rulemaking during the first half of 2016 that would prohibit certain uses of HFCs and further expand the list of acceptable alternatives . Over the last two years, the Administration has recognized private-sector leaders who are taking action to reduce HFCs . Taken together, private-sector commitments and federal regulatory action will cut HFC emissions and avoid more than 1 billion metric tons of CO_2e through 2025 .

Refrigerant Management Requirements

In October 2015, EPA proposed a rule that would improve the way refrigerants are sold, handled, recovered, and recycled . The proposal would strengthen the existing requirements for handling refrigerants and apply those rules to ozone-depleting and HFC refrigerants alike . EPA estimates that this rule would prevent annual emissions of GHGs equivalent to 7 .5 Mt CO_2e .

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Montreal Protocol Amendment

HFCs are widely used alternatives to hydrochlorofluorocarbons (HCFCs), chlorofluorocarbons (CFCs), and other ozone-depleting substances that are being phased out globally under the *Montreal Protocol on Substances that Deplete the Ozone Layer*. In April 2015, the United States, Mexico, and Canada, for the fifth year in a row, jointly submitted an amendment proposal to the *Montreal Protocol* to phase down the production and consumption of HFCs and limit by-product emissions of HFCs. In response to the concerns expressed by some countries about the availability of alternatives to HFCs, the proposal recommended including a technology review provision that would call for parties to the *Montreal Protocol* to review progress at a specified future date in the deployment of climate-friendly alternatives as the basis to consider adjustments to the phasedown schedules. If adopted, the amendment would reduce HFCs through 2050 by more than 90 gigatons of CO_2e globally, which is about two years of current global anthropogenic emissions of all GHGs. Cumulative benefits from HFC-23 by-product emission controls, as estimated by the U.S. government, amount to 12,000 Mt CO_2e through 2050. In November 2015, in large part because of the leadership of the United States, Mexico, and Canada, countries across the world took the historic step to work together on a 2016 amendment to the *Montreal Protocol* to reduce the production and consumption of HFCs. The United States remains fully committed to this process, and we will continue to work with our North American partners and other *Montreal Protocol* parties to finalize an HFC amendment in 2016.

Reducing Methane Emissions

In March 2014, the White House released a *Strategy to Reduce Methane Emissions*. Methane accounts for 10 percent of domestic GHG emissions (EOP 2014a). The strategy identifies opportunities to cut emissions from landfills, coal mines, agricultural practices, and the oil and gas sector.

Cutting Emissions from the Oil and Gas Sector

In January 2015, the White House announced a goal of reducing methane emissions from the oil and gas sector by 40–45 percent below 2012 levels by 2025. To help meet that goal, in the summer of 2015, the Administration released proposed standards for methane and volatile organic compound (VOC) emissions from new or modified hydraulically fractured oil wells, as well as components located downstream from the production. These proposed standards complement the 2012 new source performance standards and cover equipment in the natural gas transmission segment of the industry that was not regulated in the 2012 rule.

The proposed rule requires "reduced emissions completion" or "green completion" that captures methane when drilling wells, and limits emissions from new or modified pneumatic pumps, compressor stations, and pneumatic controllers. It also proposes requiring owners and operators to find and repair leaks, which can be a significant source of methane and VOC pollution. The rule is expected to prevent emissions equal to 7.7–9.0 million Mt CO_2e by 2025, while also improving air quality. The benefits of these actions will total $120–$150 million in 2025.

Reducing Landfill Methane

In August 2015, EPA issued two proposals to further reduce emissions of methane-rich gas from municipal solid waste (MSW) landfills. MSW landfills are the third-largest source of U.S.

human-related methane emissions, accounting for 18 percent of methane emissions in 2013—or approximately 100 Mt CO_2e . Under the proposals, new, modified, and existing landfills would begin collecting and controlling landfill gas at emission levels nearly a third lower than current requirements . Combined, the proposed rules are expected to reduce methane emissions by an estimated 436,000 tons a year beginning in 2025—equivalent to reducing 10 .9 Mt CO_2e . EPA estimates the climate benefits of the combined proposals at nearly $670 million in 2025, or nearly $14 for every dollar spent to comply with the proposed standards

Agriculture and Forest Emissions

USDA Building Blocks for Climate Smart Agriculture and Forestry

Recognizing the role that forests and agricultural activities play in domestic GHG emissions, in April 2015 USDA announced a comprehensive and detailed approach to reduce GHG emissions from agricultural production, increase carbon storage in our forests and soils, and generate clean renewable energy . The strategy includes ten building blocks that promote the adoption of GHG mitigating technologies and practices in the context of working production systems . The building blocks focus on a specific set of USDA's agricultural, forestry, and energy-related programs to encourage GHG reductions, while also providing multiple economic and environmental co-benefits . These actions, such as cutting energy waste and promoting renewable energy in rural communities, are expected to reduce emissions by more than 120 Mt CO_2e per year by 2025 . These measures include those in the following subsections .

Soil Health

USDA programs are improving soil resilience and increasing productivity by promoting conservation tillage and no-till systems, planting cover crops and perennial forages, managing applications of organic inputs, and alleviating compaction . These efforts will increase soil carbon sequestration and prevent the release of CO_2 into the atmosphere .

Nitrogen Stewardship

Agricultural activities represent one of the largest sources of nitrous oxide emissions . N_2O, which has a high GWP, is emitted from the soil following application of nitrogen fertilizers . Overapplication of nitrogen causes excessive emissions and leads to nutrient runoff, which degrades water quality . USDA is working with farmers to help optimize nitrogen application by focusing on the right timing, type, placement, and quantity of nutrients, thereby reducing N_2O emissions while maintaining agricultural yield and increasing profits .

Livestock Partnerships

Livestock naturally produce methane as a part of the normal digestive process . Additionally, methane is emitted from livestock manure stored in lagoons or holding tanks . There is large potential to capture much of the methane from manure and use it for beneficial use . USDA aims to reduce methane emissions by expanding the use of anaerobic digesters, lagoon covers, composting, and solids separators .

Conservation of Sensitive Lands

USDA's Conservation Reserve Program (CRP) and Natural Resources Conservation Service programs aim to reduce GHG emissions on high-carbon, sensitive lands . These efforts include creating riparian buffers, planting trees, and conserving wetlands and organic soils . These actions will improve carbon sequestration in soils, enhance soil quality, and reduce erosion and

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runoff . By 2025, USDA aims to enroll 400,000 acres of CRP lands with high GHG benefits, protect 40,000 acres through easements, and gain additional benefits by transferring expiring CRP acres to permanent easements .

Grazing and Pasture Lands

Grasslands can act as carbon sinks by removing carbon from the atmosphere and storing it in soils . However, soil degradation caused by excessive grazing can release much of this carbon into the atmosphere . USDA's support of rotational grazing management will help to avoid soil carbon loss through improved management of forage, soils, and grazing livestock . By 2025, USDA plans to support improved grazing management on an additional 9 million acres, for a total of 27 million acres .

Private Forest Growth and Retention

America's forests play an important role in buffering the impacts of carbon pollution by offsetting roughly 13 percent of total GHG emissions every year . For this reason, promoting forest preservation, avoiding deforestation, and planting more forests have high climate benefits . USDA is working to promote private forest growth and retention through such programs as the Forest Legacy Program and the Community Forest and Open Space Conservation Program, which protect almost 1 million additional acres of working landscapes .

Stewardship of Federal Forests

The U .S . Forest Service (USFS) oversees 192 million acres of federal forestland . USDA is committed to maintaining federal forest health . One of the agency's largest areas of focus is reforesting areas damaged by wildfire, insects, or disease, and increasing forests' resilience to those disturbances . Under its stewardship strategy, USDA plans to reforest 5,000 additional post-disturbance acres by 2025 .

Promotion of Wood Products

Wood stores carbon, even after the tree has been harvested . USDA is striving to increase the use of wood as a building material to promote additional carbon storage in buildings and to offset the use of energy from fossil fuels associated with energy-intensive iron, steel, and cement manufacturing . USDA plans to expand the number of wood building projects supported through cooperative agreements with partners and technical assistance, in addition to research and market promotion for innovative wood building products .

Urban Forests

Carbon sequestration is just one benefit of forests; they also have the ability to improve water quality and regulate temperature . By encouraging tree planting in urban areas, USDA is helping to reduce energy costs, stormwater runoff, and urban heat island effects, while increasing carbon sequestration and property values . Working with partners, USDA plans to plant an average of 10,000 additional trees in urban areas every year through 2025 .

Energy Generation and Efficiency

Through its Energy Efficiency and Conservation Loan Program, USDA is working with utilities to improve the efficiency of equipment and appliances . Alternative energy generation also promotes emission reductions by decreasing the use of fossil fuels . Through the Rural Energy for America Program and other programs, USDA supports the development of additional renewable energy, bioenergy, and biofuel opportunities, as well as investments in farm energy efficiency and farm energy audits .

Enhancing the Resilience of America's Natural Resources

In October 2014, the Administration announced a *Priority Agenda for Enhancing the Climate Resilience of America's Natural Resources,* a first-of-its-kind comprehensive commitment to support the resilience of our natural resources and enhance carbon storage in the U .S . land sector (EOP 2014c) . While working with agencies, including USDA, EPA, DOI, and the National Oceanic and Atmospheric Administration (NOAA), the Obama Administration has been implementing actions focused on protecting important landscapes, fostering climate-resilient lands and waters; maintaining and enhancing U .S . carbon sinks in forests, grasslands, wetlands, and coastal areas; promoting innovative 21st-century infrastructure that integrates natural systems into community development; and modernizing federal programs and services to build resilience and enhance carbon storage in the land sector . The Administration also announced a collection of commitments from the private and public sectors that support resilient natural resources and the communities that depend on them .

Promoting Biogas Recovery

Run jointly by USDA and EPA, AgSTAR encourages the use of methane (biogas) recovery technologies at confined animal feeding operations that manage manure as liquids or slurries . Using technologies, such as anaerobic digesters, the program has captured and burned biogas that otherwise would escape into the atmosphere and has avoided GHG emissions (CO_2, CH_4, and N_2O) and other pollutants by using the captured biogas for energy generation . In 2013, AgSTAR's activities contributed to direct methane emission reductions from approximately 239 livestock farms . Cumulatively, anaerobic digesters on livestock farms have reduced emissions by 5 .6 Mt CO_2e since 2000 .

Federal Government Leading by Example

Federal Sustainability Targets

The federal government is the single-largest consumer of energy in the United States . In March 2015, President Obama signed Executive Order 13693, "Planning for Federal Sustainability in the Next Decade" (EOP 2015) . The order aims to reduce GHG emissions in the federal government by 40 percent over the next decade, and to increase the share of electricity the federal government consumes from renewable and alternative sources to 30 percent . These targets will save U .S . taxpayers up to $18 billion in avoided energy costs . The Administration also released a new scorecard to publicly track disclosure of emissions and targets by major federal suppliers, and announced commitments from these suppliers to reduce GHG emissions . The combined results of these actions are projected to cut GHG emissions by 26 Mt by 2025—the equivalent of taking nearly 5 .5 million cars off the road for a year .

Federal Renewable Energy Targets

Federal agencies are working toward achieving the federal renewable energy targets . DOD is making significant progress on the Administration's goal of deploying 3,000 MW of renewable energy on military installations by 2025 . DOD has completed a 16-MW solar array and has developed another 19 renewable energy installations that will provide more than 460 MW of power .

In 2015, HUD announced that 45 affordable housing and service providers across the nation have committed to installing more than 180 MW of on-site renewable energy—putting HUD on track to surpass the initial goal to install 100 MW of renewable capacity across federally

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subsidized housing by 2020 . In July 2015, the Administration set a new goal to reach 300 MW, as well as expanded the goal to include community and shared solar installations . HUD also announced that it will offer direct technical assistance to overcome barriers to installation for affordable housing organizations making a commitment toward the Administration's new 300-MW goal .

Other Federally Driven Measures

In addition to the major actions listed above, the Administration has been committed to combating climate change and cutting GHG emissions through a range of other programs and activities . Two examples of the Administration's domestic climate change mitigation strategies are the Coalbed Methane Outreach Program, which focuses on the reduction of coalbed methane, and the Advanced Outdoor Lighting Challenge, which seeks to upgrade public lighting and housing efficiency .

In addition, the Administration has been active in addressing aircraft CO_2 emissions through the International Civil Aviation Organization's process that will ultimately lead to EPA domestic rulemaking; collaboration with the aviation industry through the Federal Aviation Administration's Clean Low Energy, Emissions and Noise technologies program; and the modernization of the national airspace (Next Gen) . Furthermore, the Administration has actively worked to promote expanding and modernizing the electric grid and is transitioning to low-emission transportation fuels in shipping and public transit systems . Appendix 3 presents a full list of policies and measures .

REGIONAL, STATE, AND LOCAL ACTIONS ON MITIGATION

In the United States, local, tribal, state, and federal governments share responsibility for the nation's economic development, energy sector, natural resources, and many other areas that affect climate change . In addition to the major policies listed above, the federal government supports state and local government actions to reduce GHG emissions by sponsoring policy dialogues, issuing technical documents, facilitating consistent measurement approaches and model policies, and providing direct technical assistance . Separately, numerous state and local policies and measures complement federal efforts to reduce GHG emissions . State and local policies include those that target emission reductions from the electricity and transportation sectors, as well as complementary policies that indirectly reduce emissions .

Regional Emissions Trading

Regional Greenhouse Gas Initiative

The Regional Greenhouse Gas Initiative is a cooperative effort among nine states to reduce emissions in the power sector . In February 2012, the states agreed to make significant revisions to the program, capping CO_2 emissions at 91 million short tons per year in 2014—a 45 percent reduction from the previous cap of 165 million short tons . The cap will decrease by 2 .5 percent each year from 2015 through 2020, when it reaches 78 million short tons of CO_2—a level approximately 50 percent below 2005 levels .

California Global Warming Solutions Act

California's Global Warming Solutions Act (AB 32) requires the state to reduce GHG emissions to 1990 levels by 2020 . As part of a portfolio of measures to achieve this statewide cutback, the California Air Resources Board adopted cap-and-trade regulations, which set a

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declining cap on sources responsible for approximately 85 percent of statewide GHG emissions, including refineries, power plants, industrial facilities, and transportation fuels . Other measures include mandatory GHG emission reporting programs for large emitters, a renewable portfolio standard (RPS), and various energy efficiency measures and incentives . The state GHG inventory shows that emissions fell by 1 .5 Mt in 2013, which keeps California on track to meet its 2020 target .

In April 2015, the California governor issued an executive action to establish a GHG reduction target of 40 percent below 1990 levels by 2030 . This target aligns with those of international governments leading up to the December 2015 UNFCCC meeting in Paris . This interim goal will put California on a trajectory to meet its ultimate goal of 80 percent GHG reduction by 2050 . In addition, in October 2015, California passed a law requiring that the state generate half of its energy from renewable sources by 2030, up from a current target of 33 percent by 2020 .

Power Sector Programs and Standards

State Renewable Portfolio Standards

Thirty-seven states have implemented an RPS or renewable energy goals . The designs of these programs vary (e .g ., applicability, targets and timetables, geographic and resource eligibility, alternative compliance payments) . States with an RPS have demonstrated higher levels of capacity for developing renewable energy . Financial mechanisms and incentives for renewable energy of some form exist in most states, with more than 200 tax incentives across the nation .

In addition, nearly 100 performance-based incentives are offered from state and local governments, as well as utilities and nonprofit organizations . Currently, 18 states have performance-based policies, and in several other states, utilities have adopted programs with performance-based incentives, including feed-in tariffs, standard offer payments, and payments in exchange for renewable energy certificates .

Demand-Side Energy Efficiency

States have employed a variety of strategies to increase investment in demand-side energy efficiency technologies and practices . As of 2014, all 50 states have demand-side energy efficiency incentive programs, and annual expenditures for demand-side management programs reached an estimated $8 billion in 2013 . The most prevalent strategies are financial mechanisms and incentives for energy efficiency in the form of rebates and loan programs .

In addition, 23 states have mandatory energy efficiency resource standards, 2 states have voluntary targets, and 2 more states allow energy efficiency to be used to meet part of a mandatory RPS . Most states are meeting or are on track to meet their incremental savings goals, which typically range from an annual reduction in electricity of about 0 .25–2 .5 percent . Nine states and the District of Columbia have enacted appliance efficiency standards that go beyond federal standards . Additionally, building energy codes are found in most states, with 32 having adopted IECC 2009 or 2012 residential standards, and 38 states mandating ASHRAE 90 .1-2007 or 2010 commercial codes .

Other State and Local Initiatives

Across the country, state and local governments (i .e ., cities, counties, tribes, and regions) are implementing measures in their climate change action plans to reduce GHG emissions and

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prepare for climate change impacts . Small and large cities alike—from Homer, Alaska, and the Swinomish Indian Tribal Community to Philadelphia and Los Angeles—have been at the forefront of climate change action, with current and proposed measures already preventing millions of tons of GHG emissions . New York City and Portland plan to procure 100 percent of their electricity from renewable sources, and many other cities have installed solar and wind generation on public lands and buildings . Los Angeles, Phoenix, and San Francisco are replacing petroleum and diesel vehicles in the city fleets with alternative-fuel and electric vehicles . The City of Oakland has retrofitted 100 percent of its trucks, installed shore power at 11 port berths, and implemented Zero Waste franchise agreements, while the cities of Atlanta, Boston, Miami, and New York have committed millions of square feet of building space to energy efficiency and Green Building standards .

In September 2015, a diverse set of U .S . cities and states signed the U .S .–China Climate Leaders Declaration to support the achievement and implementation of each country's intended nationally determined contributions and enhanced actions . In signing the declaration, U .S . cities and states, like their Chinese counterparts, stated their intention to establish ambitious targets to reduce and regularly report on GHG emissions, develop climate action plans to reduce emissions, and enhance bilateral partnerships and bilateral cooperation . U .S . cities, counties, and states have put forward ambitious, long-term emission reduction targets, including a commitment from the State of California to reduce emissions by 80–90 percent below 1990 levels by 2050, and a commitment from the City of Seattle to become carbon-neutral by 2050—producing no net GHG emissions . The City of Lancaster, New York, committed to become one of the world's first net-zero cities, meaning it will procure and produce more energy via renewable sources than the total amount of energy the city consumes .

Additionally, 123 domestic and international states, provinces, and municipalities have signed the Subnational Global Climate Leadership Memorandum of Understanding, better known as the Under 2 MOU, which brings together states and regions willing to limit the increase in global temperature to below 2 degrees Celsius . At the UN climate negotiations in Paris, 43 new regions signed onto the agreement . In total, the states and local governments that have signed the Under 2 MOU account for 720 million people and $19 .9 trillion in combined GDP .

Through the U .S . Conference of Mayors, 1,060 mayors have joined the Climate Protection Agreement, committing to reduce GHG emissions in their cities to meet or beat the U .S . emission reduction goals . These mayors have committed to take action on climate change mitigation, resilience, and advocacy in their own communities by using best practice guidelines . They are actively urging state and federal governments to strengthen policies and programs to reduce emissions and prepare for a changing climate .

Other groups are also taking measures to reduce emissions, including American businesses and American colleges and universities . In July 2015, the White House announced the American Business Act on Climate Pledge . By signing this pledge, U .S . companies demonstrate their support for action on climate change both domestically and internationally . As of December 2015, a total of 154 companies, representing more than $4 .2 trillion in annual revenue with a combined market capitalization of more than $7 trillion, have signed the pledge . Separately, more than 200 universities and colleges located in 40 states announced actions to reduce GHG emissions and increase campus sustainability and resilience—including more than 100 schools that have pledged to become carbon neutral in the next few decades .

4 Projections: Delivering on Our 2020 and 2025 Targets

This chapter provides updated projections of U.S. GHG emissions through 2030, including the impacts of policies and measures in effect as of the summer of 2015, along with information on the potential range of further reductions from additional measures. The methodologies used to generate these projections, described in Appendix 2: Methodologies for *Current Measures* and *Additional Measures* consistent with the *Climate Action Plan*, are similar to those used in the *2014 Climate Action Report*, with updates noted where applicable (U.S. DOS 2014b). Table 2 summarizes the key variables and assumptions used throughout this projection analysis.

This chapter will show in detail how we are laying the foundation to hit our 2020 and 2025 targets. Already, policies finalized under the Obama Administration are driving down emissions, and this trend is projected to continue through 2025. Factoring in all of our planned additional measures, including measures that have been proposed, but not yet finalized, we are on track to be in the range of 17 percent below 2005 levels by 2020. These additional measures also have the potential to drive our emissions down to 22–27 percent below 2005 levels by 2025. The numbers for 2025 could go higher based on new action by Congress or on positive changes in the broader economy.

PROJECTIONS FOR *CURRENT* AND *ADDITIONAL MEASURES*

In this report, as for the *First U.S. Biennial Report* in 2014, we present two emission projections. These are designed to demonstrate (1) the likely impact of policies implemented to date, and (2) the likely impact of both existing policies and planned policies that can be implemented before the target dates. Both projections of U.S. GHG emissions described here reflect national estimates that consider population growth, long-term economic growth, historic rates of technology improvement, and normal weather patterns. They are based on anticipated trends in technology deployment and adoption, demand-side efficiency gains, fuel switching, and the implemented policies and measures discussed in the previous chapter and identified in Appendix 3.

One projection, which we call the *Current Measures* scenario,[2] reflects the impacts of only existing policies and measures (Tables 3 and 4). It includes a large number of policies that have recently been implemented or finalized through mid-2015 under the *Climate Action Plan*, but does not include additional reductions from any further measures formulated in coming years and implemented over the remainder of the decade to 2025 (EOP 2013). Notably, the *Current Measures* scenario includes the effects of the *Clean Power Plan* for the electricity sector, which was finalized in August 2015, as well as light-duty vehicle fuel efficiency standards, many recent appliance and equipment efficiency standards, and other important policies detailed in the previous chapter. Because the *Current Measures* scenario already includes the effects of numerous policy actions, it is important to note that it should *not* be interpreted as a

2 The *Current Measures* projection is the "with measures" scenario required by the United Nations Framework Convention on Climate Change *Reporting Guidelines on National Communications* (UNFCCC 1999).

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"Business As Usual" (BAU) or "No Policy" case . A genuine BAU or No Policy case would not include any of these policy actions, and would therefore produce a much higher emissions outcome . Also, because the *Current Measures* scenario includes policies only to mid-2015, it does not include the impacts of planned, additional measures, such as those that have been proposed, but not yet finalized, and thus produces a lower estimate of reductions compared with a projection that includes the impacts of all planned policies .

The second projection, which we call the *Additional Measures* scenario,[3] is based on an assessment of further reductions that could be achieved through implementation of additional measures consistent with the President's 2013 *Climate Action Plan* (EOP 2013) . This projection reflects reductions from planned policies and measures that have been proposed, but not finalized, and other measures that would fall under the initiatives laid out in the *Climate Action Plan* . *Additional Measures* reductions were estimated for CO_2, HFCs, and CH_4, and N_2O .

PROJECTIONS METHODOLOGY

Integrated Projections Approach

DOE, in consultation with an interagency team, provided the baseline projections of energy-related CO_2 emissions . The baseline projections are based on the U .S . Energy Information Administration's *Annual Energy Outlook 2015* (U .S . DOE/EIA 2015a), with modifications to reflect actions finalized after it was released .[4] Projected CO_2 emissions were adjusted to match international inventory convention .[5] EPA prepared the projections of non-energy-related CO_2 emissions and non-CO_2 emissions from the energy, transportation, industrial processes, and waste sectors . The methodologies used to project non-CO_2 emissions are explained in the background document *Methodologies for U.S. Greenhouse Gas Emissions Projections: Non-CO_2 and Non-Energy CO_2 Sources* (U .S . EPA 2013) . USDA prepared estimates of CO_2 sequestration and GHG emissions associated with agriculture, and USDA and EPA both provided estimates of carbon sequestration from forests . These estimates reflect more detailed modeling than has been used in past U .S . Climate Action Reports, which is described in the following section . Historical emissions data are drawn from EPA's *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013* (U .S . EPA / OAP 2015) . In general, the projections reflect long-run trends and do not attempt to mirror short-run departures from those trends . All GHGs in this document are reported in Mt CO_2e using the 100-year GWPs listed in the IPCC's Fourth Assessment Report (IPCC 2007) to convert non-CO_2 gases to CO_2e .

Updates to Land Use, Land-Use Change, and Forestry Methodology

Over the past two years, the U .S . government has made significant strides in improving data and modeling of emission trends in the LULUCF sector . A multiagency effort was initiated following the *First U.S. Biennial Report* in 2014 (U .S . DOS 2014a) . This effort resulted in a number of immediate improvements that will be included in the 2016 U .S . GHG inventory, as well as additional improvements that are being developed and will be included in subsequent Inventories . These improvements have been made through a joint effort among EPA, USDA, and NOAA . Immediate improvements or additions to the inventory include:

- Adopting a new Forest Carbon Accounting Framework to improve attribution of land-use change and disturbance across the inventory time series (1990–2014), estimate forest soil organic carbon based on nationwide in situ data, and implement corrections for missing historic data (Woodall et al . 2015) .
- Accounting for carbon stock changes in soils on federal grasslands .

3 The *Additional Measures* projection is the "with additional measures" scenario from the United Nations Framework Convention on Climate Change *Reporting Guidelines on National Communications* (UNFCCC 1999) .

4 The 2016 *Current Measures* scenario includes estimated impacts of the recently finalized *Clean Power Plan* .

5 AEO2015 estimates for CO_2 from fossil fuel combustion were adjusted for the purpose of these projections to remove emissions from bunker fuels and non-energy use of fossil fuels, and to add estimated CO_2 emissions in the U .S . territories (since these emissions are not included in AEO2015), consistent with international inventory convention . These changes are consistent with previous U .S . Climate Action Reports .

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- Completing preliminary estimates of carbon stock changes and non-CO_2 emissions from coastal wetlands .
- Integrating survey data from the National Resources Inventory to improve estimates of land cover change .
- Updating the time series for satellite-based data to improve estimation of biomass production and carbon inputs to agricultural soils .
- Replacing 32-kilometer-resolution weather data with 4-kilometer-resolution data, thereby improving climate drivers and subsequent estimates of land sector GHG emissions .
- Updating soils attribute data using the most recent database compiled by the National Cooperative Soil Survey .
- Improving accounting of methane emissions from rice cultivation .

A more detailed explanation of the forest inventory improvements can be found in a recent USDA General Technical Report (Woodall et al . 2015) . To reflect the most up-to-date understanding of the U .S . land sector, we have used these new results as the basis for the projections presented in this Biennial Report . In addition, results in this report reflect a synthesis of modeling results from a multiyear land-use modeling effort between USDA (particularly USFS) and EPA . As part of this effort, key modeling uncertainties have been identified, which underlie the range of potential future emissions and sinks from America's land sector .

Range of Land Use, Land-Use Change, and Forestry Projections

As described in Chapter 2, LULUCF activities in 2013 resulted in net sequestration of nearly 900 Mt CO_2e (U .S . EPA / OAP 2015) . Total LULUCF sequestration increased by approximately 14 percent between 1990 and 2013, largely due to a positive growth-to-harvest ratio for U .S . forests nationally and small expansions in forested land area . U .S . forest attributes and area are changing as the demand for forest products changes, as forests age, and as land uses shift . In addition, other factors, such as climate change, are altering forest characteristics and dynamics . Projecting emission fluxes from LULUCF is challenging due to the uncertainties in estimating future potential outcomes associated with complex carbon dynamics of different terrestrial ecosystems, related market interactions, and the potential extent of land-use change between sectors .

To reflect the uncertainties highlighted above, the U .S . LULUCF projections through 2030 are presented as a range . This range was developed via a collaborative multiagency effort using different models reflecting alternate modeling techniques . Using different model types in concert allows for a more robust range of projections . These models represent different perspectives on future macroeconomic outlooks (derived from recent U .S . government projections for GDP, population, and forest products demand) as well as forest characteristics and management trends .

The lower sequestration projection ranges reflect results from a USDA / USFS model scenario, which is driven by high population growth, related land-use conversion from forest to urban uses, and housing starts . This projection assumes that forested land begins to decline in 2020, which is driven by an assumption of a fixed relationship between increasing population and developed land and leads to a decline in forest area and forest carbon after 2020 . If the link between population and land use differs from the assumed scenario—for example, in the case of increasing dense development—this approach would underestimate the forest sink .

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The high sequestration projection ranges reflect results from a dynamic intertemporal optimization forestry model (the Global Timber Model), which estimates that U.S. forests will remain a large sink. This approach allows a simulation of planting that landowners might undertake in response to future market expectations. This response drives much of the forest sink increase, and is also positively influenced by increased forestland area, continued investment in productive private timberlands, moderated overall U.S. harvests resulting from landowner choice, and continued rates of carbon fertilization. Rising market prices in this estimate create new investments that stimulate increased carbon stocks. Some lands, especially in the eastern United States, see moderating harvests and management intensity as landowners increasingly value other outputs besides timber. There is also decreased harvest from less accessible regions over time and increased harvests from more accessible regions. If price expectations were to change, or if landowners did not act in accordance with these expectations, this approach would overestimate the forest sink.

The full range presented here reflects a synthesis of the two approaches. We present this range of LULUCF uncertainty to reflect many considerations about population dynamics, macroeconomic variables, forest product markets, and land sector response. Nevertheless, several considerations would suggest that the United States is trending on a higher-sequestration pathway. First, our recent experience has indicated a path trending toward the more optimistic range reported in the *First U.S. Biennial Report* (U.S. DOS 2014a). Second, the United States is undertaking a broad set of activities, described in the previous section on policies and measures, designed to bolster and enhance our carbon sink.

Table 2 **Summary of Key Variables and Assumptions Used in the Projections Analysis**

Key Variables and Assumptions	Historical GHG Emissions						Projected GHG Emissions			
	1990	1995	2000	2005	2010	2013	2015	2020	2025	2030
Population (millions)	250	266	282	296	309	317	321	334	347	359
Real gross domestic product (billion 2009 dollars)	$8,955	$10,175	$12,560	$14,234	$14,784	$15,710	$16,553	$18,801	$21,295	$23,894
Total primary energy consumption (quadrillion Btu)	84.5	91.0	98.8	100.2	97.5	97.1	97.9	100.5	100.8	100.3
Energy Intensity (Btu per chain-weighted dollar of GDP)	9.4	8.9	7.9	7.0	6.6	6.2	5.9	5.4	4.8	4.2
Natural gas consumption (dry gas) (quadrillion Btu)	19.6	22.7	23.8	22.6	24.6	26.8	27.3	26.1	27.3	29.8
Petroleum consumption (quadrillion Btu)	33.6	34.4	38.3	40.3	35.5	34.6	36.1	37.0	36.7	36.1
Coal consumption (quadrillion Btu)	19.2	20.1	22.6	22.8	20.8	18.0	18.1	17.0	15.8	12.8
Vehicle miles traveled, all vehicles (billion miles)	2,144	2,423	2,747	2,989	2,967	2,979	3,086	3,305	3,506	3,721

Notes:

• Fuller descriptions of factors and activities affecting specific sectors can be found in Chapter 2 of this report, and in the Sixth National Communication to the UNFCCC, pp. 61-73 (U.S. DOS 2014b).

• Projections are based on the *Current Measures* scenario. History is based on the *Monthly Energy Review*, October 2015 (U.S. DOE/EIA 2015c).

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Table 3 **Historical and Projected* U.S. Greenhouse Gas Emissions under *Current Measures*, by Sector: 2000–2030 (*Current Measures* only, Mt CO_2e)**

Sectors (2)		Historical GHG Emissions (1)				Projected GHG Emissions			
		2000	2005	2010	2013	2015	2020	2025	2030
Energy		4,280	4,345	4,097	3,898	4,004	3,860	3,816	3,657
Transportation		1,862	1,929	1,758	1,739	1,701	1,680	1,622	1,578
Industrial processes		397	367	354	359	388	430	477	497
Agriculture		460	494	525	516	512	504	499	494
Forestry and land use		32	26	20	23	28	28	28	28
Waste		182	189	145	138	138	138	138	137
Total Gross Emissions		**7,213**	**7,350**	**6,899**	**6,673**	**6,772**	**6,641**	**6,580**	**6,392**
Forestry and land use (sinks) (3)	High sequestration	–641	–912	–872	–882	–970	–1,191	–1,201	–1,118
	Low sequestration					–928	–1,044	–908	–689
Total Net Emissions	**High sequestration**	**6,571**	**6,438**	**6,027**	**5,791**	**5,802**	**5,451**	**5,379**	**5,274**
	Low sequestration					**5,844**	**5,597**	**5,672**	**5,703**

Notes:

*Projections are for the current measures and do not reflect the impact of additional measures .

(1) Historical values are from U .S . EPA / OAP 2015 .

(2) Sectors correspond to inventory-reporting sectors, except that carbon dioxide, methane, and nitrous oxide emissions associated with mobile combustion have been moved from energy to transportation .

(3) Sequestration is only included in the net emissions total .

Table 4 **Historical and Projected* U.S. Greenhouse Gas Emissions under *Current Measures*, by Gas: 2000–2030 (*Current Measures* only, Mt CO_2e)**

Greenhouse Gases		Historical GHG Emissions (1)				Projected GHG Emissions			
		2000	2005	2010	2013	2015	2020	2025	2030
Carbon dioxide (2)		6,003	6,134	5,705	5,505	5,578	5,409	5,305	5,094
Methane		716	708	667	636	647	670	674	682
Nitrous oxide		335	356	360	355	350	338	335	334
Hydrofluorocarbons		125	131	153	163	182	211	250	265
Perfluorocarbons		16	7	5	6	6	5	5	7
Sulfur hexafluoride		18	14	10	7	9	9	9	10
International bunker fuels (not included in totals)		102	114	118	101	102	108	113	118
Total Gross Emissions		**7,213**	**7,350**	**6,899**	**6,673**	**6,772**	**6,641**	**6,580**	**6,392**
Sequestration removals	High sequestration	–641	–912	–872	–882	–970	–1,191	–1,201	–1,118
	Low sequestration					–928	–1,044	–908	–689
Total Net Emissions	**High sequestration**	**6,571**	**6,438**	**6,027**	**5,791**	**5,802**	**5,451**	**5,379**	**5,274**
	Low sequestration					**5,844**	**5,597**	**5,672**	**5,703**

Notes:

*Projections are for the current measures and do not reflect the impact of additional measures .

(1) Historical emissions and sinks data are from U .S . EPA / OAP 2015 . Bunker fuels and biomass combustion are not included in inventory calculations .

(2) Energy-related CO_2 projections are calculated from U .S . DOE/EIA 2015 with adjustments to reflect the impacts of the *Clean Power Plan*, to remove emissions associated with international bunker fuels, and to add emissions associated with U .S . territories .

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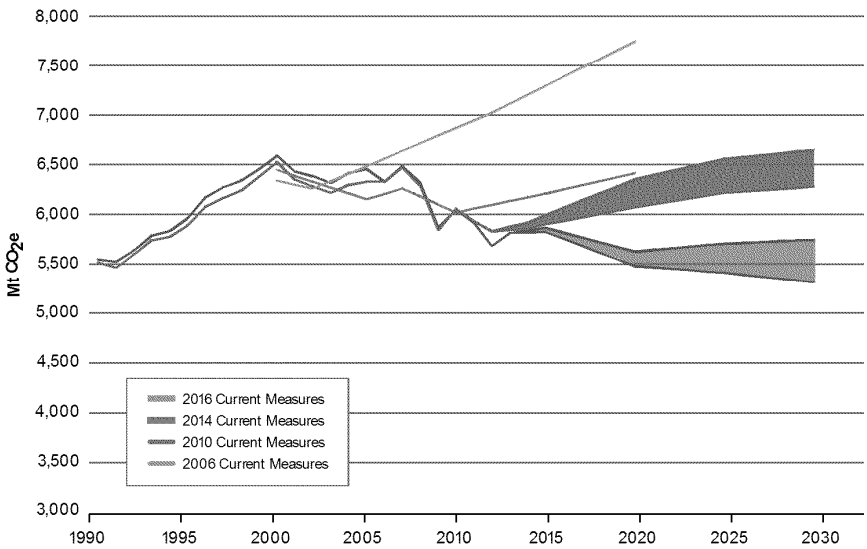
CURRENT MEASURES PROJECTIONS

Because of the many policy actions of the past two years, GHG emission projections under the *Current Measures* scenario are significantly lower than baseline emission projections presented in the *2014 U.S. Climate Action Report* (U.S. DOS 2014b). Whereas in the previous report baseline emissions were projected to rise from the base year through 2025, they are now projected to decline by between 2 and 7 percent from 2013 to 2025 in the new baseline scenario, resulting in emissions between 12 and 16 percent below the 2005 level in 2025 (Figure 5).

This report marks the first time that a U.S. Climate Action Report or Biennial Report projects GHG emissions to fall under the existing policies baseline. Moreover, these reductions occur even as the economy is expected to grow. As discussed earlier, this is because a large number of activity drivers and policies have been implemented in the past two years that are now included in our policy baseline (*Current Measures* projection).

Figure 5 **Comparison of 2016 Projection for Implementation of *Current Measures* and Projections from Previous U.S. Climate Action Reports**



Notes:

• 2006 line = "Full Implementation" from 2006 U.S. Climate Action Report (CAR); 2010 line = "Policy Baseline" from 2010 CAR; 2014 range = "With Measures" range from 2014 CAR/Biennial Report; 2016 range = "Current Measures" range from this report.

• Emissions displayed are net emissions and include CO_2 sinks from forestry. Emission projections in the 2014 CAR and in this report include a range of possible outcomes for CO_2 removals from land use, land-use change, and forestry, whereas the 2006 and 2010 reports used point estimates.

• For the purpose of comparability in this display, results from previous projection reports have been converted to use the Intergovernmental Panel on Climate Change's (IPCC's) Fourth Assessment Report global warming potentials (GWPs) where possible. This conversion was not possible for the hydrofluorocarbon and perfluorocarbon gas groups, because those groups combine a variety of gases with different GWP values that cannot be disentangled for past estimates.

• Projections from each CAR reflect a baseline or "with measures" scenario, including the effect of policies and measures implemented at the time that the projections were prepared, but not future additional measures. Each year, emission and sink estimates are recalculated and revised for all years in the *Inventory of U.S. Greenhouse Gas Emissions and Sinks*, as attempts are made to improve both the analyses themselves, through the use of better methods or data, and the overall usefulness of the report. In this effort, the United States follows the *2006 IPCC Guidelines for National Greenhouse Gas Inventories*, which states: "Both methodological changes and refinements over time are an essential part of improving inventory quality" (IPCC 2006).

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An indication of U.S. progress—and a rough substitute for a BAU or No Policy case—can be obtained by looking at the change over time in baseline projections from successive U.S. Climate Action Reports, as indicated in Figure 5.[5] It shows a very clear improvement in U.S. emission trajectories between 2006 and 2016. In 2006, emissions were projected to increase by about 20 percent above 2005 levels by 2020. In 2010, we anticipated an increase of just 4 percent over the same period. In 2014, we projected a 0–5 percent decline from 2005 levels (U.S. DOS 2010, U.S. DOS 2014b). In this report, emissions under the 2016 *Current Measures* scenario are expected to be 13–15 percent below 2005 levels in 2020.

ADDITIONAL MEASURES PROJECTIONS

While the projections in the 2016 *Current Measures* scenario show significant divergence from the *Current Measures* projections in the 2014 Climate Action Report due to a number of policies and measures that have been implemented and adopted in the last two years, additional measures are achievable under existing authorities that will lead to further reductions in 2020 and 2025. The *Additional Measures* projections are calculated by starting with estimates of U.S. emissions based on currently implemented and adopted policies and measures and projections of reductions from policies and measures that have yet to be fully implemented. This includes such policies as the proposed second round of heavy-duty vehicle standards, which were released in draft form in the summer of 2015 and will be finalized in 2016 (U.S. EPA 2015d). The reductions from *Additional Measures* were estimated for three categories of actions depending on the affected pollutant: CO_2, HFCs, and CH_4, and N_2O. These additional place us solidly on track to be in the range of 17 percent below 2005 levels by 2020, and have the potential to bring emissions to 22–27 percent below 2005 levels in 2025.

Carbon Dioxide

CO_2 represents the largest share of GHG emissions in the United States. Already, the Obama Administration has taken strong steps to cut carbon emissions from some of the most significant sectors. This includes the *Clean Power Plan*, which was finalized in the summer of 2015 and, thus, included in the *Current Measures* projections. Additional measures can achieve substantial reductions of CO_2 through implementation of the *Climate Action Plan* and other measures under existing authorities (EOP 2013). The estimates for CO_2 reductions under the *Additional Measures* projection are based on a range of actions, many of which are already proposed and listed in Chapter 3. These actions include but are not limited to:

- Full implementation of Phase II heavy-duty vehicle fuel economy standards.
- Finalization of proposed, new, or updated appliance and equipment efficiency standards.
- Increased efficiency of new and existing residential and commercial buildings.
- Reduction in industrial energy demand in several subsectors.
- Additional state actions in the electricity sector.
- Enhanced federal programs that lead to greater efficiencies in industry and transportation, including greater biofuel deployment and commercial aviation efficiency.

Appendix 2 contains further information on the *Current Measures* and *Additional Measures* scenarios.

As reflected in Table 5, this analysis shows that, taken together, additional actions have the potential to reduce CO_2 emissions by another 114–413 Mt CO_2e in 2025 relative to the 2016 policy baseline or, equivalently, to further reduce emissions from 2005 levels by 2–6 percent.

5 This approach is rough because it only excludes recently implemented measures and does not account for changes in macroeconomic drivers.

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Table 5 **Ranges of Potential Emission Reductions for the *Additional Measures* Scenario Relative to Emissions in the 2016 *Current Measures* Scenario (Mt CO_2e)**

Pollutant	Potential Reductions	
	2020	2025
Carbon dioxide	35–234	114–413
Methane and nitrous oxide	104–149	123–175
Hydrofluorocarbons	63	113
Total	**202–446**	**349–700**

Hydrofluorocarbons

The U.S. government has collaborated with the governments of Mexico and Canada for the past five years to propose an amendment to the *Montreal Protocol on Substances that Deplete the Ozone Layer* that would phase down production and consumption of, and control byproduct emissions of, HFCs (U.S. EPA 2015i). The amendment calls for progressive global reductions in the consumption and production of HFCs through 2046. In November 2015, in large part because of the leadership of the United States, Mexico, and Canada, the parties to the *Montreal Protocol* agreed to work toward an amendment to phase down HFCs in 2016. This was the first time the *Montreal Protocol* had endorsed using this forum to address HFCs. The United States remains fully committed to this process, and will continue to work with our North American partners and other *Montreal Protocol* parties to finalize an HFC amendment in 2016.

Estimates for potential achievable U.S. reductions for HFCs are considered under the *Additional Measures* scenario and are based on a new analysis conducted by EPA for a proposed global commitment to phase down production and consumption of HFCs under the *Montreal Protocol*. The United States is already taking steps domestically, and will continue to do so, as it moves toward an international agreement, including using EPA authority through the SNAP program and leveraging federal government purchasing power to promote cleaner alternatives. These actions, which are modeled in the 2016 *Current Measures* scenario, can set the United States on firm ground for reaching reductions proposed under the *Montreal Protocol*. HFC emission reductions through additional measures in 2020 and 2025 relative to the 2016 *Current Measures* scenario are presented in Table 5 and are estimated to be 63 and 113, Mt CO_2e, respectively.

Methane and Nitrous Oxide

In March 2014, the Obama Administration released the *Strategy to Reduce Methane Emissions* (U.S. EPA 2014a). The strategy builds on progress to date and identifies additional opportunities to cut methane emissions from a range of sectors, including landfills, coal mining, agriculture, and oil and gas systems. In January 2015, the Administration announced a new goal to cut methane emissions from the oil and gas sector by 40–45 percent from 2012 by 2025, and established a set of actions to put the United States on a path to achieve this ambitious goal. Since the release of the strategy, the United States has proposed policies and measures to significantly cut emissions from new oil and gas systems. Additionally, the Administration announced proposed standards regulating landfill gas from new and existing landfills. These proposed measures are expected to be finalized over the next year and, therefore, are included in the *Additional Measures* scenario.

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The *Additional Measures* scenario also incorporates reductions in methane and nitrous oxide from a range of measures, including, but not limited to:

- more efficient nutrient application techniques that reduce nitrous oxide emissions, and
- additional reductions that are cost-effective under EPA's Marginal Abatement Cost Curve (MAC) model .

Based on the analysis running the MAC model against the 2015 policy baseline emissions and projections, the range of CH_4 and N_2O abatement potential in 2020 relative to baseline for the purposes of this report is 104–149 Mt CO_2e; in 2025, this range is 123–175 Mt CO_2e .

SUMMARY OF PROJECTIONS: PROGRESS TOWARD OUR 2020 AND 2025 TARGETS

Figure 6 shows both the *Current Measures* and *Additional Measures* projections . It also includes projections from previous U .S . Climate Action Reports as an indication of how much the U .S . emissions trajectory has been driven down in the past decade . As noted earlier, since the last CAR published in 2014, the *Current Measures* projection has shifted significantly downward, reflecting the impacts of the *Clean Power Plan* and additional major actions, as described in Chapter 3 .

This projection only includes policies implemented to mid-2015; it shows substantial movement toward the 2020 and 2025 goals, though it does not reach them . The *Additional Measures* projection shows that we are on track to hit our 2020 target, in the range of 17 percent below 2005 levels . With the U .S . land sector sink tracking toward the optimistic end of the range, the projection shows U .S . emissions decreasing to 22–27 percent below 2005 levels in 2025 .

Due to the inherent uncertainty of projected emissions and removals from LULUCF, and the more limited ability to influence these outcomes relative to other sectors of the economy, both scenarios include a range of potential LULUCF outcomes . This range is represented graphically by the gray shaded areas in Figure 6 . In addition, a portion of the *Additional Measures* range results from uncertainty in policy implementation, as described in Figure 6; this range is represented graphically by the darker solid shading . As discussed earlier, we have reason to believe that the U .S . land sector will trend toward the optimistic side of the uncertainty range, but we are presenting the full range here for transparency .

These results indicate three important conclusions .

- First, our efforts of the past years, starting in the President's first term and accelerating under the *Climate Action Plan*, have already yielded significant emission reductions . This is evident from the dramatic reductions in Figure 5 from the 2006 and 2010 *Current Measures* to the 2014 and 2016 *Current Measures.*
- Second, a comprehensive implementation of the planned measures under the *Climate Action Plan* puts us on track to hit our 2020 target and builds the foundation for meeting our 2025 target . Under these scenarios, we will reduce emissions by up to 27 percent by 2025 at the same time that our economy is projected to grow by 50 percent from 2005 levels .

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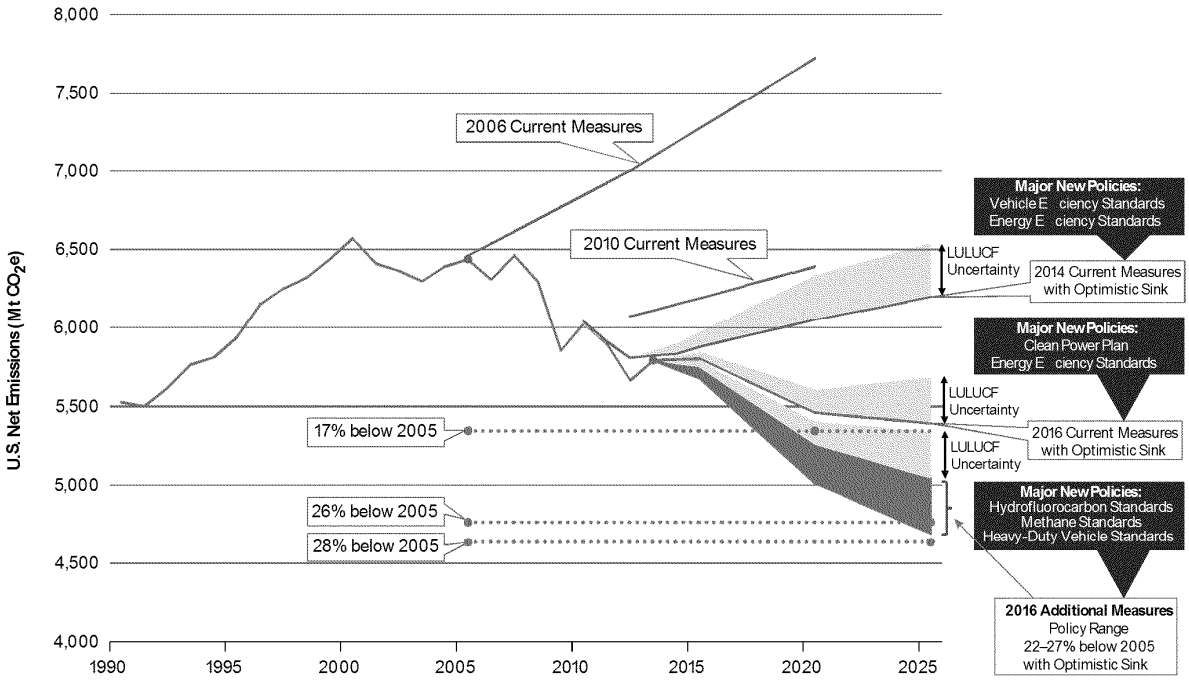
- Finally, we will continue to strive to achieve the upper end of our target of 28 percent below 2005 levels in 2025 . Our projection here includes only planned measures that can be undertaken or otherwise initiated by the Obama Administration . Future administrations or Congress have further options on the table that they can exercise to bring us to, or beyond, the upper range of our target .

Figure 6 **U.S. Emissions Projections—2016 *Current Measures* Compared with Potential Reductions from *Additional Measures* Consistent with the *Climate Action Plan***

Also shown are previous projections from the 2006, 2010, and 2014 U .S . Climate Action Reports, which demonstrate the dramatic ratcheting down of projected U .S . emissions over the past decade .



Notes:

- The 2016 *Policy Baseline* scenario assumes that no additional measures are implemented after 2015 .
- The range for the 2016 *Current Measures* scenario (gray shaded wedges) reflects uncertainty in projected net LULUCF sequestration rates, much of which will be determined by factors that cannot be directly influenced by policies and measures .
- The *Additional Measures* scenario (blue shaded wedge) incorporates post-2015 implementation of additional measures . The range for the *Additional Measures* scenario reflects both the LULUCF sequestration range (gray shaded wedges), as well as uncertainty regarding projected emission reductions from measures that will be implemented consistent with the *Climate Action Plan* (solid shading) . The solid portion labeled "policy range" illustrates the range of emission outcomes that can be directly influenced by implementation of additional measures, assuming higher land sequestration levels .

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5 Supporting the Global Community: International Climate Finance and Other Activities

The United States is committed to leading efforts to mobilize resources for developing countries to mitigate and adapt to climate change . Since the *First Biennial Report*, the United States committed more than $5 .5 billion in public climate finance in FYs 2013 and 2014 and pledged $3 billion to the Green Climate Fund . After meeting the fast-start finance (FSF) commitment, developed countries are working toward the collective goal of mobilizing $100 billion in climate finance per year by 2020 from a wide variety of public, private, bilateral, and multilateral sources . This climate finance will address the needs of developing countries in the context of meaningful mitigation actions and transparency on implementation . To accomplish this goal, we are using a full range of channels and instruments to mobilize climate finance efficiently and effectively .

Financing climate change action is integral to U .S . diplomatic, development, and global security efforts . Since the *First Biennial Report*, President Obama has continued to advance U .S . leadership on these fronts by signing an Executive Order that calls for integrating climate resilience considerations into the core of our foreign assistance work, calling for an end to public support of new coal-fired power plants overseas except in rare circumstances,[6] announcing that the United States intends to contribute $3 billion to the Green Climate Fund, and integrating climate change into our Quadrennial Diplomacy and Development Review—a blueprint for advancing America's interests in global security, inclusive economic growth, accountable governance, and freedom for all (U .S . DOS 2015) . By taking a multidimensional approach, the United States is working to build a low-emission, climate-resilient future across all relevant sectors .

These latest efforts play a critical role in advancing the 2010 Presidential Policy Directive on Global Development, which identified the Global Climate Change Initiative (GCCI) as one of three priority U .S . development initiatives . As part of the broader GCCI effort, the 2012 U .S . Agency for International Development (USAID) *Climate Change and Development Strategy* set out principles, objectives, and priorities for USAID climate change assistance from 2012 through 2016 (USAID 2012) . This strategy prioritizes not only clean energy, sustainable landscapes, and adaptation, but also integration—factoring climate change knowledge and practice into all USAID programs to ensure that all sector portfolios are climate resilient and, where possible, reduce GHG emissions .

FINANCING CLIMATE CHANGE ACTION—OVERVIEW OF U.S. CLIMATE FINANCE IN FYS 2013–2014

Throughout FYs 2013 and 2014, the United States committed **$5.5 billion** to help developing countries address the causes and impacts of climate change . As illustrated in Table 6, this finance can be explored across a number of dimensions—including the institutional channels through which it is delivered, the financial instruments used, the geographies targeted, and its ultimate end use in terms of building resilience, reducing emissions, or improving land use .

6 These include plants in the poorest countries where no economically feasible alternative exists or if the plant is equipped with CCS technology .

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Table 6 **Dimensions of U.S. Climate Finance**

Channels	Instruments	Geography	Use (or "Pillar")
Bilateral • Congressionally appropriated, bilateral assistance, including the U .S Global Climate Change Initiative • U .S . Export-Import Bank • U .S . Overseas Private Investment Corporation **Multilateral** • Multilateral development banks • Climate funds	• Grants • Loans – Concessional – Market rate • Guarantees and insurance	• Country-specific activities • Global, regional, and multicountry activities	• Adaptation • Clean energy • Sustainable landscapes

Climate Finance Channels

The United States provides climate finance through both bilateral and multilateral channels .

Bilateral Channels

In FYs 2013 and 2014, the United States committed more than **$4.5 billion** in bilateral climate finance to its developing country partners . This finance was provided in one of three forms:

- *Congressionally appropriated, grant-based bilateral climate assistance*—This finance is programmed directly through country-specific, regional, and global programs, principally GCCI . These programs are mainly administered by USAID, but are also supported by DOS, the Millennium Challenge Corporation (MCC), and other U .S . government agencies . This assistance amounted to more than **$1.5 billion** over FYs 2013 and2014 .
- *Development finance*—Under the Obama Administration, the United States—primarily through the Overseas Private Investment Corporation (OPIC)—has become one of the world's largest financiers of clean energy projects in developing countries, committing more than **$2.6 billion** through bilateral development finance agencies over FYs 2013 and 2014 . In addition to standard debt products, OPIC provides senior secured loans to private equity funds—making it one of the largest supporters of private equity funds in developing countries—and political risk insurance to project lenders and equity investors operating in emerging markets .
- *Export credit*—The Export-Import Bank of the United States (EXIM) continued to scale up its competitively priced, long-term, climate-related financing . During FYs 2013 and2014, EXIM committed **$379 million** of financing to support climate-specific activities in developing countries .

Multilateral Channels

- *Multilateral climate change funds*—These entities feature institutional structures governed jointly by developed and developing countries . They play an important role in promoting a coordinated, global response to climate change . During FYs 2013 and 2014, the United States committed **$921 million** to multilateral climate change funds, including the Clean Technology Fund ($406 million), Forest Investment Program ($12 million), Global Environment Facility (GEF) ($134 million), Initiative for Sustainable Forest Landscapes ($32 million), Least Developed Countries Fund ($53 million), Pilot Program for Climate

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Resilience ($162 million), Scaling-Up Renewable Energy Program in Low Income Countries ($12 million), and Special Climate Change Fund ($10 million).

- *Multilateral development banks (MDBs)*—U.S. contributions to the MDBs, as well as those from other development partners, play a key role in enabling these institutions to provide billions in climate support to developing countries. In 2013 and 2014, the MDBs committed more than $52 billion in total climate finance. However, since countries' contributions to MDBs are not earmarked for specific purposes, it is not possible to specify the exact proportion of U.S. support that ultimately finances climate change activities in developing countries. Thus, U.S. contributions to the ordinary capital resources of the MDBs are not included in figures presented in this chapter. Nevertheless, even though we do not include it here, MDB financing for climate activities is included in the $100 billion climate finance goal, according to the methodology developed in October 2015 by the Organisation for International Co-operation and Development (OECD).

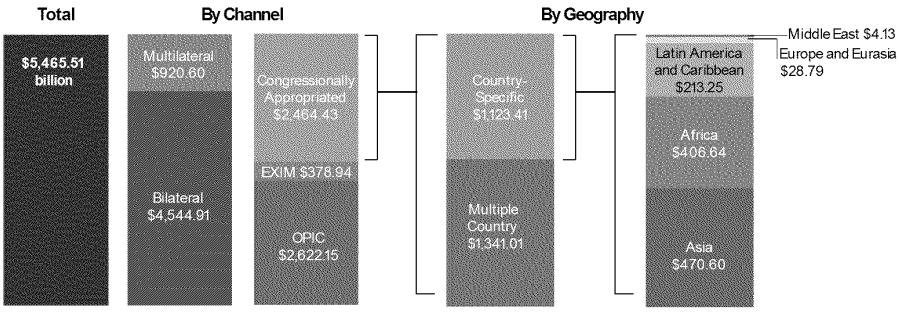
Financial Instruments

The United States uses a range of financial instruments and interventions to mobilize climate finance through these channels. These include grants; risk mitigation tools, such as guarantees and insurance; and low-cost, long-term debt financing, including both concessional and market-rate loans. Together, these instruments are helping to mobilize finance by providing a robust, yet flexible, toolkit that is prioritized and adapted according to each country's unique needs, circumstances, and specific financing and investment barriers.

Geography

U.S. climate finance is provided through both country-specific programs and multi-country programs that often have a regional or global focus. While finance provided by OPIC and EXIM is more demand driven and available for all eligible countries to access, U.S. grant-based assistance is typically appropriated by Congress for specific countries or regions, with the exception of funds that are appropriated for multilateral climate activities. Figure 7 presents a geographic breakdown of U.S. congressionally appropriated assistance that can be attributed to a particular region. In FYs 2013 and 2014, approximately 42 percent of this finance went to Asia, 36 percent to Africa, 19 percent to Latin America and the Caribbean, and the balance to developing economies in Europe and the Middle East.

Figure 7 **Geographic Breakdown of U.S. Climate Finance: FY 2013–2014**



Note: EXIM = Export-Import Bank of the United States; OPIC = Overseas Private Investment Corporation.

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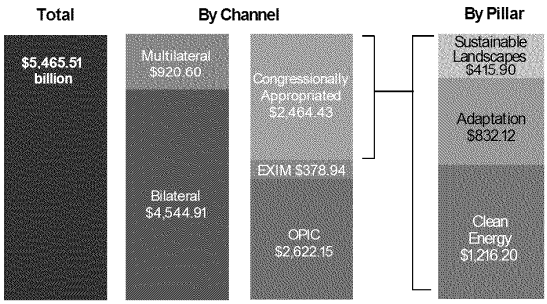
Pillars

U .S . climate finance supports activities across three main pillars: adaptation, clean energy, and sustainable landscapes . As illustrated in Figure 8, of U .S . congressionally appropriated climate finance, approximately 49 percent supported clean energy activities, 34 percent supported adaptation activities, and 17 percent supported sustainable landscape activities . Finance committed through more demand-driven U .S . climate finance channels, such as OPIC and EXIM, typically supported clean energy activities . The following sections provide a sample of initiatives within each pillar .

Figure 8 **Breakdown of U.S. Climate Finance by Pillar: FY 2013–2014**



Note: EXIM = Export-Import Bank of the United States; OPIC = Overseas Private Investment Corporation .

Adaptation

The United States is committed to helping poor and vulnerable countries adapt to climate change and enhance the resilience of their communities and economies . Dedicated U .S . financial support for adaptation has increased more than eightfold since 2009, and the United States committed **$834 million** in FYs 2013 and 2014 alone to activities that promote climate resilience in developing countries .

The United States prioritizes climate adaptation assistance for countries, regions, and populations that are highly vulnerable to the impacts of climate change, with particular emphasis on small island developing states, glacier-dependent countries, and least-developed countries (LDCs), especially in sub-Saharan Africa . By increasing resilience in key sectors, such as food security, water, coastal management, and public health, our support helps vulnerable countries prepare for and respond to increasing climate- and weather-related risks .

U .S . adaptation assistance is helping identify and disseminate adaptive strategies, and it is providing needed climate services—including actionable science, data, information, tools, and training—to developing countries working to strengthen their national resilience to the impacts of climate change . It is building the capacity of partner governments and civil society partners to respond to climate change risks through programs, such as the Climate Services for Resilient Development partnership . U .S . support is also helping developing countries make their own decisions on how to address the impacts of climate change and advance their National Adaptation Planning (NAP) processes through such programs as the NAP Global Network .

At the same time, the magnitude of the challenge requires not only dedicated adaptation finance flows, but also a broader, integrated approach to international development . To help

address this challenge, President Obama issued Executive Order 13677 in September 2014, which mandates federal agencies to integrate climate-resilience considerations in all U .S . international development work (EOP 2014b) . Development investments in areas as diverse as malaria prevention and treatment, building hydropower facilities, improving agricultural yields, and developing urban infrastructure will not be effective in the long term if they do not account for such impacts as shifting ranges of disease-carrying mosquitoes, changing water availability, or rising sea levels .

Clean Energy

In FYs 2013 and 2014, the United States committed **$4.2 billion** to finance clean energy activities in developing countries . This climate assistance focused on countries and sectors offering significant emission reduction potential over the long term, as well as countries that offered the potential to demonstrate leadership in sustained, large-scale deployment of clean energy . In terms of sector coverage, clean energy includes renewable energy and energy efficiency and excludes natural gas and other fossil fuel power plant construction or retrofits . The United States is supporting countries to place the building blocks to scale up renewable energy, for example, by providing technical assistance to energy system planners, regulators, and grid operators to improve the capability of regional energy grids to distribute clean energy . The United States also supports global programs that focus chiefly on information sharing and building coalitions for action on clean energy technologies and practices .

The United States is helping countries expand access to clean, affordable electricity through such programs as Power Africa, the Global Lighting and Energy Access Partnership (Global LEAP), and the U .S .-Africa Clean Energy Finance initiative . Our work through the Climate and Clean Air Coalition and Global Methane Initiative is reducing emissions of short-lived climate pollutants, such as methane, black carbon, and many HFCs . The United States is also supporting efforts to identify and pursue country-driven, low-carbon development strategies that make the most sense for them through the Enhancing Capacity for Low Emission Development Strategies (EC-LEDS) program and the LEDS Global Partnership .

Sustainable Landscapes

For activities related to land-use mitigation (or "sustainable landscapes"), including reducing emissions from deforestation and forest degradation (REDD+), dedicated U .S . climate change assistance works to (1) reduce GHG emissions from deforestation and other land uses; (2) increase the sequestration of carbon stored in trees, plants, and soils; and (3) generate additional social and environmental benefits, such as good governance, enhanced resilience, and biodiversity conservation . In FYs 2013 and 2014, the United States committed **$483 million** to promote sustainable landscapes in developing countries . Our support prioritizes the mitigation potential of investments; countries with the political will to implement large-scale efforts to reduce emissions from deforestation, forest degradation, and other land-use activities; and potential for investments in monitoring, reporting, and verification of forest cover and GHG emission reductions .

Reducing Emissions from Forests and Other Lands

GHG emissions from deforestation, agriculture, and other land uses constitute approximately one-quarter of global emissions . In some developing countries, land sector GHG emissions can account for as much as 80 percent of total emissions . To meet the challenge of reducing

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these emissions, the United States is working with partner countries to put in place the systems and institutions necessary to significantly reduce global land-use-related emissions, supporting the provision of data and information about forests and land use, and creating new models for rural development that generate climate benefits, while conserving biodiversity, protecting watersheds, and improving livelihoods .

Support for multilateral initiatives from the U .S . Department of the Treasury and DOS—such as the Forest Investment Program, the Forest Carbon Partnership Facility, and the BioCarbon Fund Initiative for Sustainable Forest Landscapes—is building capacity and facilitating implementation of REDD+ strategies and other sustainable landscape programs in dozens of developing countries . Together with the Consumer Goods Forum, a coalition of more than 400 global corporations, USAID and DOS launched the Tropical Forest Alliance 2020 to reduce tropical deforestation linked to major commodities and their supply chains . In Indonesia, MCC is funding a five-year Green Prosperity program that supports environmentally sustainable, low-carbon economic development in select districts .

PROMOTING EFFECTIVENESS

To promote effective use of climate finance, the United States works to ensure that our support is efficient, effective, and innovative; based on country-owned plans; and focused on achieving measurable results, with a long-term view of economic and environmental sustainability .

Supporting Country-Driven Approaches

U .S . support for country-driven approaches involves engaging in strategic planning to ensure that climate finance is distributed effectively and is designed to meet partner countries' needs . For example, the EC-LEDS program is designed to provide partner countries the necessary tools (e .g ., technical support for developing GHG inventories and conducting technical and economic analyses) for developing their own low-emission development strategies that are driven by their unique circumstances and priorities . U .S . government funding for adaptation is also tailored to partner country needs and often works directly through country-led processes .

Building Effective Enabling Environments

The United States also acknowledges the critical role our partner countries play in promoting the effectiveness of climate finance . Where our partners set in place systems that reflect high standards of transparency, good governance, and accountability, we will respond directly to country priorities, making new investments in line with established national strategies and country development plans based on broad consultation, and will empower responsible governments to drive development and sustain outcomes by working through national institutions, rather than around them .

Moreover, our experience in climate finance has shown that any public financial instrument and intervention's ability to mobilize and deploy additional finance depends largely on the broader policy framework in place in developing countries . This can involve climate-specific policies, such as energy sector regulations and carbon pricing, as well as broader, non-climate-specific policies and legal frameworks . The United States remains committed to working with our development partners to identify complementary solutions for addressing

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domestic investment barriers and achieving their low-carbon, climate-resilient development strategies .

Scaling Down Support for High-Carbon Infrastructure

Achieving our shared climate objectives depends not only on how much we are investing in low-carbon activities, but also on how much we are scaling down support for high-carbon activities . To this end, in June 2013, President Obama called for an end to U .S . government support for public financing of new coal power plants overseas, except for (1) the most efficient coal technology available in the world's poorest countries, in cases where no other economically feasible alternatives exist, or (2) facilities deploying carbon capture and sequestration technologies . The United States has worked to secure the agreement of other countries, export credit agencies (ECAs), development finance institutions (DFIs), and MDBs to adopt similar policies . In November 2015, OECD reached a landmark agreement significantly reducing export credit availability for coal-fired power plants around the world—the first multilateral standards of this kind . In addition, a number of other MDBs and bilateral agencies have now adopted similar policies .

ENSURING TRANSPARENCY

The United States views transparent tracking and reporting of climate financeas key to ensuring accountability, promoting effectiveness, and building trust . To ensure robust reporting, each implementing government agency or entity follows strict guidelines and eligibility criteria when collecting information on support of activities related to adaptation, clean energy, and sustainable landscapes . For instance, activity descriptions provided by USAID missions are reviewed by climate change specialists to ensure compliance with USAID climate change goals .

For the purpose of our climate finance reporting to the UNFCCC, the United States only includes programs that have mitigation and / or adaptation objectives or significant co-benefits (e .g ., relevant biodiversity and food security activities) . In the case of programs for which only part of the activity is targeted toward a climate objective, only the relevant financial support is counted, rather than the entire program budget .

NEW AND ADDITIONAL CLIMATE FINANCE

International assistance for climate change continues to be a major priority for the United States . The Obama Administration seeks new funding from Congress on an annual basis . Since ratifying the UNFCCC in 1992, U .S . international climate finance increased from virtually zero to around $2 .7 billion per year in FYs 2013 and 2014 . During the FSF period alone (2010–2012), average annual appropriated climate assistance increased fourfold compared with 2009 funding levels .

Mobilizing Private Finance

While maintaining a strong core of public climate finance is essential, the United States is actively pursuing strategies to encourage private investment in low-carbon, climate-resilient activities in developing countries . We are working to combine our significant, but finite, public contributions with targeted, smart policies to mobilize maximum private investment in climate-friendly activities . It is important to note that more efficient leveraging of private investment can allow limited public resources to be concentrated in areas and sectors where

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the private sector is less likely to invest on its own, particularly in adaptation activities in the most vulnerable countries and LDCs .

U .S .-supported efforts to mobilize private finance include the following:

- The *Pilot Auction Facility for Methane and Climate Change Mitigation*, which is testing an innovative performance-based approach to allocate public finance for methane abatement projects and reduce risk for private investors .
- The *Clean Technology Initiative Private Financing Advisory Network*, which is helping promising clean energy entrepreneurs in developing countries to develop business plans and investment pitches, connect with private investors, and ultimately secure financing .
- The *R4 Rural Resilience Initiative*, which is improving the resilience and food security of vulnerable rural households across Africa (e .g ., Ethiopia, Senegal, Malawi, Zambia), by enabling some of the poorest farmers to gain access to insurance products .
- The *USAID Development Credit Authority*, which is addressing market barriers to private investment, including investment in forest conservation .

In many cases, the barriers to mobilizing private finance relate to a combination of factors, including poor incentives, challenges in engaging with host government regulatory processes, perceived risk, and lack of knowledge in the commercial banking sector about climate-friendly opportunities . U .S . bilateral assistance through USAID targets technical assistance to address these and other issues .

As we work to identify new ways to unlock billions more in private finance, the United States also recognizes the importance of developing new financing tools . This is why in June 2014, the United States, Germany, and the United Kingdom launched The Global Innovation Lab for Climate Finance . The Lab is a public–private initiative to identify and pilot cutting-edge climate finance instruments to unlock new private investment for climate change mitigation and adaptation in developing countries . After receiving more than 90 proposals for consideration from around the world, the Lab has selected four of the most promising proposals through an expert evaluation process to move toward the pilot phase . The intent is for the Lab to demonstrate the viability of innovative climate finance instruments for countries, MDBs, DFIs, and other institutions to potentially deploy .

Improving the Tracking of Mobilized Private Finance

Since the *First Biennial Report*, the United States and other developed countries have been working to enhance our ability to track the amount of private finance mobilized by public interventions . Building on the work of the Research Collaborative on Tracking Private Climate Finance,[7] we have worked with other developed countries to reach a common understanding of the scope of mobilized climate finance and a common methodology for tracking and reporting toward our collective goal . Our institutions and agencies will endeavor to use this framework as a basis going forward, and work with relevant multilateral and other institutions to harmonize our approaches over time .

For our common methodological framework and tracking progress toward the $100 billion goal, we consider mobilized climate finance to include the following:

- *Public finance* provided by our governments through a variety of institutions (including through the operating entities of the financial mechanism of the UNFCCC, bilateral aid

7 Hosted by the Organisation for Economic Co-operation and Development, the Research Collaborative on Tracking Private Climate Finance is a consortium of experts from international financial institutions, the private sector, governments, and nongovernmental organizations that is working to develop tools for more accurately tracking mobilized private climate finance .

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agencies, DFIs, ECAs, and multilateral entities) and instruments (concessional and non-concessional, including grants, loans, equity, and de-risking instruments), where such finance is identified as climate relevant using criteria agreed upon by relevant international organizations, such as OECD, IPCC, and MDBs . We intend to report transparently on different categories of public climate finance .

- *Private finance* for climate-relevant activities that has been mobilized by public finance or by a public policy intervention, including technical assistance to enable policy and regulatory reform .

While developing our methodology, we have been guided by the following principles: (1) ensure that only finance mobilized by developed country governments is counted toward the $100 billion goal and that, where multiple actors are involved, the resulting finance is only counted once in tracking our progress; and (2) ensure that our reporting framework encourages and incentivizes the most effective use of climate finance .

To account for mobilized private climate finance, we intend to assess the amount of private finance mobilized on an activity-by-activity basis and to report on private finance associated with activities both where there is a clear causal link between a public intervention and private finance and where the activity would not have moved forward, or moved forward at scale, in the absence of our governments' intervention . In recognition of the role that developing countries play in mobilizing private finance, our governments will report only on our share of private finance mobilized, excluding the share of private finance that developing countries' public finance has mobilized .

It is important to note that current data and methodological limitations prevent us from accounting for the full range of flows that we are mobilizing toward the $100 billion goal at this time—in particular, those mobilized through public policy interventions and improvements in institutional capacity and other aspects of the enabling environment . As such, any near-term estimate produced will necessarily be partial, and will omit some—and possibly a substantial amount of—climate finance mobilized . We intend to continue to improve our methodology as data availability increases and measurement methods evolve . As a result, we expect our reporting to become more complete over time .

TECHNOLOGY DEVELOPMENT AND TRANSFER

Since 2012, the United States has engaged in a number of activities to enhance the development, deployment, and diffusion of climate technologies and practices to developing countries and economies in transition .Table 7 provides an illustrative—though not exhaustive—list of efforts undertaken by the United States over the past several years to build endogenous capacities and technologies at the national level in developing countries . At all levels of activity, the principal U .S . focus is to facilitate the development of the policies, regulations, and overall institutional scaffolding that is required to enhance technology transfer actions .

Through this perspective, the United States led the effort to create the Task Force on National Systems of Innovation (NSI) under the policy arm of the Technology Mechanism of the UNFCCC—the Technology Executive Committee (TEC) . The United States has played an active role on the TEC since the *First Biennial Report* and is pleased to have seen the delivery of a TEC Brief on NSI in advance of COP-21 in Paris describing the conditions necessary for

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cultivating NSIs that will attract investment, grow local economies, and develop endogenous capabilities by educating the next generation of climate technology entrepreneurs .

One of the greatest advances in the climate technology domain over the past few years has been the launch of the operational arm of the technology mechanism under the UNFCCC—the Climate Technology Centre and Network (CTCN) . The United States has played a leadership role in the CTCN from its inception, with DOE's National Renewable Energy Laboratory serving as one of 11 regional core Consortium Partners from around the world . The CTCN has allowed the global community access to the advanced knowledge and policy planning expertise necessary to advance clean-energy and climate-resilient technologies at the national level . In 2015, the United States named its National Designated Entity (NDE) to serve as a focal point both for requests going to the CTCN as well as a proactive resource of information dissemination . The United States is also among the leading financial contributors to the CTCN, having delivered more than $2 million in core funding over its first two years of operations .

CHANGES IN POLICIES AND ACTIVITIES SINCE THE *FIRST BIENNIAL REPORT*

In addition to the information contained herein and in Table 7, we encourage readers to review U .S . contributions to the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement, specifically its reporting requirements under Article 66 .2 (which is similar to the UNFCCC Biennial Report obligation with some notable differences, including that Article 66 .2 only applies to LDCs and covers all technologies) . The United States also submits a parallel report under Article 67 of the TRIPS agreement regarding capacity-building programs, which provides a chronological list of programs conducted by the United States in 2014 .

CHALLENGES IN DELIVERING TECHNOLOGY TRANSFER AND DEVELOPMENT

While the initiatives listed in Table 7 provide insight into some of the success stories related to our engagement in technology transfer and development, challenges remain . Briefly addressing a few of them here will facilitate efforts to overcome these challenges, while also informing the efforts of others to find ways to avoid them altogether .

One challenge has been the relatively low number of requests being made to the CTCN from developing country NDEs . The vision of the CTCN was that the GEF- and United Nations Environment Programme-supported Technology Needs Assessments would provide developing countries with the foundation from which such requests for technical assistance could be made . Partly in response to our urging, the CTCN Secretariat has increased its outreach to developing country NDEs to help stimulate requests .

Another challenge has been the ability of some developing countries to attract the finance necessary to successfully transfer, develop, and deploy climate technologies . To address this challenge, we have formalized a partnership between the Clean Energy Solutions Center (CESC) and the CTCN, and have launched a new service under the CESC to assist countries in designing clean energy finance measures that will help mobilize investment in priority technologies .

Energy Activities at the National, Regional, and Global Levels

This section outlines technology transfer and development activities that relate specifically to mitigation at the national, regional, and global levels . These examples are illustrative in nature . Several others are contained in Table 7 .

Table 7 **Examples of Implemented U.S. Technology Development and Transfer Activities**

Recipient Country and/or Region	Targeted Area/ Sector	Measures and Activities Related to Technology Transfer	Sources of Funding and Implementation
Clean Energy Ministerial			
Members: Australia, Brazil, Canada, China, Denmark, European Commission, Finland, France, Germany, India, Indonesia, Italy, Japan, Korea, Mexico, Norway, Russia, Saudi Arabia, South Africa, Spain, Sweden, United Arab Emirates, United Kingdom, and United States	Mitigation/ Energy	This high-level global forum promotes policies and programs that advance clean energy technology, share lessons learned and best practices, and encourage the transition to a global clean energy economy . Initiatives (such as Global LEAP, 21st Century Power Partnership, SEAD, and ISGAN, described below) are based on areas of common interest among participating governments and other stakeholders .	Public
Global Lighting and Energy Access Partnership			
Africa, India, and South Asia	Mitigation/ Energy	Global LEAP (1) enhances the efficiency of the direct current (DC)-powered appliances designed for use in an off-grid context (e .g ., using home-based electricity systems, often powered by a solar panel on the roof, or community-level DC power via minigrids); (2) catalyzes markets through support for quality assurance frameworks, which build consumer and investor confidence; (3) encourages market transformation toward the best, most efficient off-grid energy service technologies through its awards programs; and (4) facilitates collaboration among donors in the off-grid lighting and energy access space .	Public
21st Century Power Partnership			
India, Mexico, and South Africa	Mitigation/ Energy	A global partnership that (1) provides in-depth technical assistance to support transformation of power systems and enable increased penetration of renewable energy, energy efficiency, storage, and smart grid technologies; and (2) conducts thought leadership reports and web seminars on innovations in clean power system transformation to enable global education and support for strategies for increased use of clean energy technologies .	Public
Super-efficient Equipment and Appliance Deployment (SEAD)			
India, Mexico, South Africa, and Indonesia	Mitigation/ Energy	This global partnership (1) provides direct technical assistance to support the development of best-practice appliance energy efficiency policies and programs, and (2) supports voluntary collaboration among governments working to promote the manufacture, purchase, and use of energy-efficient appliances, lighting, and equipment worldwide .	Public
International Smart Grid Action Network (ISGAN)			
Official participating countries: Australia, Austria, Belgium, Canada, France, Germany, India, Italy, Korea, Mexico, the Netherlands, Sweden, Switzerland, and United States	Mitigation/ Energy	ISGAN (1) facilitates dynamic knowledge sharing, technical assistance, and project coordination on innovative policies, regulations, and projects and related best practices; (2) develops testing standards for smart grid components; (3) facilitates coordination of testing efforts across a consortium of international laboratories; (4) authors reports and other resources on emerging smart grid concepts, with a focus on reaching policymakers, regulators, and technology developers and implementers; (5) develops tools for assessing the costs and benefits of implementing smart grid projects; and (6) convenes a network of country representatives, regulators, policymakers, and energy service and technology providers to exchange best practices and lessons learned .	Public

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Table 7 **Examples of Implemented U.S. Technology Development and Transfer Activities,** *continued*

Recipient Country and/or Region	Targeted Area/ Sector	Measures and Activities Related to Technology Transfer	Sources of Funding and Implementation
Readiness for Investment in Sustainable Energy Index			
Initially piloted in 17 countries (including Armenia, Chile, Ethiopia, Honduras, India, Kenya, Liberia, Maldives, Mali, Mongolia, Nepal, Solomon Islands, and Tanzania), with plans to extend to global coverage in future years	Mitigation/ Energy	The index (1) provides information on country performance in terms of the market conditions, policies, institutions, laws, and regulations that contribute to an enabling environment for private investment; (2) builds on existing measures, such as the World Bank's "Doing Business Index," while identifying sector-specific barriers and incentives; and (3) guides donors and developing country governments toward concrete measures for improving the enabling environment for private-sector investments in clean technologies .	Public
Power Africa			
sub-Saharan Africa	Mitigation/ Energy	This initiative (1) provides early-stage transaction support, financing support, assistance with regulatory and policy design and reform, capacity building, legal assistance, and other informational resources to facilitate the deployment of clean energy technologies throughout sub-Saharan Africa; and (2) aims to double access to power in sub-Saharan Africa through advancing the transfer of assets from the public to the private sector .	Public and private funding; public implementation
Climate Services For Resilient Development			
Subregions of Latin America (the Andean region and Caribbean), Africa (East Africa and the Sahel), and Asia (South Asia and Southeast Asia), starting with Colombia, Ethiopia, and Bangladesh	Adaptation/ Cross-cutting	This program (1) enables developing countries to access and use climate information to enhance decision making; (2) provides needed climate services—including actionable science, data, information, tools, and training—to developing countries that are working to strengthen their national resilience to the impacts of climate change; (3) comprises an international group of founding partner institutions (e .g ., American Red Cross, Asian Development Bank, Esri, Google, Inter-American Development Bank, Skoll Global Threats Fund, and United Kingdom) to pool resources and leverage one another's efforts; and (4) works with Peace Corps to provide support for on-the-ground implementation of climate-resilience activities .	Public and private
U.S. Forest Service-International Union of Forest Research Organizations Partnership			
Africa, Asia, and Latin America	Adaptation and Sustainable Landscapes/ Forestry	This partnership (1) strengthens national forest research systems and enhances the development and implementation of sound forest management policies and practices through the generation and dissemination of quality-research results on forests and trees in Africa, Asia, and Latin America, particularly through capacity development, assistance to scientists, and institution building; (2) mobilizes and disseminates forest-related information; (3) implements capacity-building activities through the International Union of Forest Research Organizations' Special Program for Development of Capacities; and (4) assists forest research institutions to effectively contribute to shaping national and local forest policies and sustainable forest management systems .	Public
Global Forest Information Service			
Global	Adaptation and Sustainable Landscapes/ Forestry	This service (1) provides a framework and information services to scientists and policymakers to enable sharing of forest-related data and information through a single gateway; and (2) promotes the dissemination and sharing of forest information and knowledge by developing a common information platform, building capacity, and enhancing partnerships among forestry information providers and users .	Public

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Regional and Global Energy Activities

Clean Energy Solutions Center

CESC has provided technical support to strengthen more than 175 policies and programs in more than 80 countries that are enabling clean energy technology development and deployment, while also conducting clean energy webinars and other training activities with more than 10,000 participants from countries around the world . CESC is in the process of launching a new service to assist countries with designing clean energy finance measures that will help mobilize investment in priority technologies .

Scaling-Up Renewable Energy for Low Income Countries

This program focuses on deploying renewable energy to increase energy access in several developing countries, including LDC pilot countries Bangladesh, Benin, Cambodia, Haiti, Lesotho, Madagascar, Malawi, Mali, Nepal, Rwanda, Sierra Leone, the Solomon Islands, Tanzania, Uganda, Vanuatu, Yemen, and Zambia .[8]

South Asia Regional Initiative for Energy Integration

This USAID initiative focuses on creating an enabling environment to advance cross-border electricity trade (CBET) in South Asia through the advancement of interconnections among transmission systems, the development of the regional energy market through the three task forces with representation from different South Asian countries, and the harmonization of policy and legal and regulatory mechanisms among governments . The program facilitates exchanges among the South Asian countries to learn from the successful CBET in the region and provide a platform to discuss potential energy trade agreements . Exchanges explore the harmonization of economic and regulatory aspects for electricity at national and regional levels .[9]

National-Level Energy Activities

Burundi

The U .S . Trade Development Agency (USTDA) is supporting increased trade and investment with a $597,000 grant to a Burundian energy company to fund a feasibility study that will support the development of a 7 .5-MW solar photovoltaic power plant . Implementation of the project will increase Burundi's national power supply by 15 percent and help to power an estimated 60,000 households and businesses, thereby increasing access to energy and promoting an enabling environment to support growth of the country's private sector .

Haiti

USTDA supports activities to increase the reliability of electricity generation in Haiti . To increase the provision of electricity in Haitian towns where little or no grid electricity is supplied, USTDA is providing a grant of $484,999 toward a feasibility study to assess and rank the viability of pre-paid microgrid development in about 100 Haitian towns . The study is identifying the most promising towns for microgrid replication, covering aspects related to economic fundamentals, physical infrastructure, municipal government receptivity, and potential partners .

India

In 2009, President Obama and Indian Prime Minister Singh launched the U .S .-India Partnership to Advance Clean Energy (PACE) to accelerate inclusive, low-carbon growth by supporting research and deployment of clean energy technologies . In their September 2014

8 See http://www.climateinvestmentfunds.org/cif/node/67 .

9 See http://www.sari-energy.org .

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meeting, President Obama and Prime Minister Modi agreed to strengthen and expand the highly successful partnership through a series of priority initiatives . PACE is comprised of three action-oriented tracks:

- *Research (PACE-R)*: Under PACE-R's $125 million Joint Clean Energy Research and Development Center, three consortia are now in their second year of cutting-edge research on solar energy, building energy efficiency, and advanced biofuels . In 2015, the United States and India agreed to add a new track on smart grids and energy storage .
- *Deployment (PACE-D)*: Under PACE-D, seven U .S . government agencies (USAID, DOE, DOS, Department of Commerce, USTDA, EXIM, and OPIC) are working on a broad range of clean energy deployment activities . By September 2015, the PACE-D track had mobilized $254 billion in public and private clean energy finance to support India's clean energy goals, including support for 20 percent of India's first 1,000 MW of installed solar energy capacity .
- *Access (PEACE)*: In September 2013, the two countries added a new track to PACE—Promoting Energy Access through Clean Energy (PEACE)—which aims to harness commercial enterprise to bring clean energy access to unserved and underserved Indian villages . Notable PEACE activities include (1) a joint $7 .9 million "PACEsetter fund" to provide early-stage grants to innovative off-grid clean energy projects, (2) a public–private partnership that seeks to mobilize $41 million to scale up and sustain off-grid clean energy businesses, and (3) the Clean Energy Access Network, a nationwide alliance of off-grid entrepreneurs .

Adaptation and Sustainable Landscapes at the National, Regional, and Global Levels

This section outlines technology transfer and development activities that relate specifically to adaptation and sustainable landscapes at the national, regional and global levels . These examples are illustrative in nature . Several others are contained in Table 7 .

Regional- and Global-Level Adaptation and Sustainable Landscapes Activities

SERVIR

The United States continues to support the SERVIR program, which provides developing countries access to satellite information and geospatial technologies to help them manage risks associated with climate and land-use change . USAID and the National Aeronautics and Space Administration provide technology, data, capacity building, scientific models, and data analysis methods to leading regional organizations in 4 regions serving 37 countries . SERVIR helps meet the needs of local decision makers facing challenges related to food security, water resources, disasters, weather and climate, and land use . More than 2,000 people have been trained through the program to predict, monitor, and assess risks, and more than 322 institutions have been engaged in these activities . A few examples of results from this effort include:

- A flood early-warning system originally developed in Bangladesh was shared with the Government of Pakistan to help the country manage future floods .
- A team of international scientists developed a tool that integrated satellite rainfall data into a hydrologic model that could be used to predict floods in East Africa .
- Nine countries in sub-Saharan Africa have worked with SERVIR in eastern and southern Africa to develop 30-meter-resolution land cover maps for 2000 and 2010 to enable the regions to produce GHG inventories from land-use change .

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U.S. Water Partnership

The U .S . Water Partnership (USWP) has created momentum that helps ensure self-sustainability in water governance and management . USWP is a DOS-led initiative to mobilize U .S . expertise, knowledge, and resources to address global water security challenges, many of which are related to climate change . USWP's 107 members from the private sector, civil society, government, and academia provide benefits to developing world stakeholders through both long-term initiatives and shorter programs . For 2014 World Water Day, USWP held an event called "U .S . Tech H2 .0," which highlighted innovative water technologies . Further, the USWP's H2infO portal empowers those working on water in developing countries to access more than 4,000 resources, including connections with experts and stakeholders and guidance in thematic areas .[10] To date, H2infO has reached more than 4,800 users in 145 countries . USWP's Water Consultants cover the costs of bringing experts on a particular topic in a developing country to help locals solve problems .

Disaster Assistance Support Program (DASP)

USFS created DASP to provide technical support in disaster response management, planning, operations, preparedness, and prevention . USAID coordinates responses to dozens of foreign disasters each year along with the Bureau of Land Management, which has extensive emergency response capability and experience in wildland firefighting . These unique capabilities and resources are applicable in a multitude of disaster situations . Over the past two decades, the role of DASP has expanded to include emergency support functions, such as training, developing, and improving USAID's methodologies for disaster response, and coordinating USAID and foreign disaster preparedness . In addition, the program provides technical and training expertise to U .S . domestic and overseas partners in emergency preparedness, response, and disaster mitigation .

SilvaCarbon

SilvaCarbon is a technical cooperation program that draws on the strengths of various technical agencies in the U .S . government, nongovernmental organizations, academia, and industry . SilvaCarbon and its partners work with developing countries to build capacity for monitoring and managing forest and terrestrial carbon . SilvaCarbon helps to identify, test, and disseminate good practices and cost-effective, accurate technologies .

National-Level Adaptation and Sustainable Landscapes Activities

Jamaica

The United States has supported Jamaica in developing a drought forecast tool aimed at providing farmers with information to help inform agriculture and water resource planning . The tool was developed by the Jamaican Meteorological Service and the Rural and Agricultural Development Agency of Jamaica with support from the United States and technical support from Columbia University's International Research Institute for Climate and Society . The tool provided actionable information on the droughts of 2014 and 2015 .

10 See http: / / h2info .us .

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CAPACITY BUILDING

Since a long-term view of climate change and development is crucial to sustainability and results, the United States is approaching the issue of capacity building for climate change in an integrated manner . Linking capacity building directly to projects and programs helps ensure that capacity built is relevant, effective, and tied to results . Building local capacity through greater reliance on local cooperating agencies is an explicit goal of USAID . In 2014, USAID missions awarded 16 .9 percent of their funding, or $1 .4 billion, to local institutions .

Capacity-building needs are addressed throughout all U .S . support activities, not as separate line items or projects, and are provided as a means for taking action on a mutually shared goal . Table 8 highlights examples of U .S . capacity-building support . Please note that this table is purely illustrative and does not represent an exhaustive list of U .S . capacity-building activities .

Table 8 **Examples of U.S. Capacity-Building Activities Currently Being Implemented**

Recipient Country / Region	Targeted Area	Program / Project Description
Public–Private Partnership: Climate Services for Resilient Development		
Global	Adaptation	USAID launched this new public–private partnership to strengthen the resilience of countries contending with climate change . Working with partners that include the United Kingdom, the American Red Cross, and Google, USAID aims to increase the capacity of partner countries by making existing climate data, scientific information, tools, and services more accessible to decision makers and vulnerable individuals around the world .
High Mountain Adaptation Partnership		
Peru, the Himalaya Hindu-Kush region of South Asia, and the Pamir Mountain region of Central Asia	Adaptation	With support from USAID and DOS, this partnership facilitates South–South learning to understand and manage climate-related challenges in high-mountain communities . The program has pioneered rapid assessment techniques for studying the risks of glacier lakes and has supported community-led consultation and planning to address these risks in a timely and effective fashion .
SERVIR		
Africa, Himalaya, and Mekong regions	Adaptation	This joint venture between NASA, USAID, and leading regional technical institutes provides state-of-the-art, satellite-based Earth monitoring, imaging and mapping data, geospatial information, predictive models, and science applications to help improve capacity for environmental decision making among developing nations in eastern and southern Africa, the Hindu-Kush region of the Himalayas, and the lower Mekong River Basin in Southeast Asia .
GIZ Climate Finance Readiness		
Global	Adaptation	This comprehensive climate finance-readiness support program prioritizes the role of domestic budgets and private investment in climate financing and the facilitation of access to international funds, such as the Green Climate Fund . The goals of the USAID-GIZ partnership include (1) building the capacity of countries to develop ambitious and effective strategies for large-scale mitigation and adaptation linked to enhanced public- and private-sector financing, (2) removing barriers to increased private-sector involvement, (3) increasing the capacity of institutions to access and use climate finance, and (4) increasing the capacity of mission staff to understand and address climate finance issues .

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Table 8 **Examples of U.S. Capacity-Building Activities Currently Being Implemented,** *continued*

Recipient Country / Region	Targeted Area	Program / Project Description
Enhancing Capacity for Low Emission Development Strategies (EC-LEDS)		
Global	Mitigation	This program supports partner countries in developing and implementing low-emission development strategies and country-led national plans to promote sustainable development, while reducing GHG emissions . EC-LEDS provides countries with technical assistance to develop GHG inventories, conduct a range of economic analyses, leverage finance, and plan and implement LEDS across multiple economic sectors . Actions stemming from LEDS include putting policies, regulations, and infrastructure in place to dramatically increase clean energy use and energy efficiency and piloting payments for sustainable forest management, including REDD+ arrangements .
SilvaCarbon		
Global	Mitigation	SilvaCarbon enhances capacity worldwide for monitoring and managing forest and terrestrial carbon . The program draws on the expertise of the U .S . scientific and technical community, including experts from government, academia, nongovernmental organizations, and industry . Working in partnership with developing countries and others, SilvaCarbon enhances worldwide capacity by identifying, testing, and disseminating good practices and cost-effective, accurate technologies for monitoring and managing forest and terrestrial carbon .
Climate Economic Analysis for Development, Investment, and Resilience (CEADIR) Project		
Global	Adaptation / Mitigation	CEADIR aims to increase the capacity of governments, USAID missions, universities and research institutes, private companies, and civil society organizations to conduct and use economic analyses for global climate change mitigation and adaptation . The project also seeks to mobilize finance for climate-related investment . CEADIR provides clients access to global best practices and innovative tools for analysis of and investment in adaptation, clean energy, and sustainable landscapes, as well as supports low-emission development strategies .
Clean Energy Solutions Center		
Global	Mitigation	CESC helps governments design and adopt policies and programs that support the deployment of clean energy technologies . It offers no-cost expert policy assistance, webinars and training forums, clean energy policy reports, data, and tools provided in partnership with more than 35 leading international and regional clean energy organizations .

Notes:

- Capacity-building needs are addressed throughout all of U .S . support activities, not as separate line items or projects, and are provided as a means for taking action on a mutually shared goal .
- DOS = U .S . Department of State; GHG = greenhouse gas; GIZ = Deutsche Gesellschaft für Internationale Zusammenarbeit; NASA = National Aeronautics and Space Administration; REDD+ = reducing emissions from deforestation and forest degradation in developing countries; USAID = U .S . Agency for International Development .

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6 Conclusion

"Climate change is not a problem for another generation. Not anymore."—President Obama

Climate change is no longer a distant threat, but a global challenge that must be addressed today . The United States is firmly committed to taking action and working collaboratively with our global partners to minimize the risks posed by climate change . This report has detailed the comprehensive policies the United States is undertaking to drive emissions down, even as our economy is growing strongly . Those policies are keeping us on track to reach our 2020 emission reduction target and are preparing the foundation for realizing our ambitious, but achievable, 2025 emission reduction goal .

In partnership with states, local communities, and the private sector, the Obama Administration is taking major actions to address CO_2, HFC, CH_4, and N_2O emissions both within the federal government and across the transportation, power, energy end-use, industrial, agricultural, land-use and forestry, and waste sectors . Actions include implementing the *Clean Power Plan*, increasing renewable energy generation, cutting energy waste by extending appliance and equipment efficiency standards, strengthening vehicle fuel economy regulations, and improving the efficiency of residential and commercial buildings . Together, these policies are driving downward trends in U .S . GHG emissions and are creating cleaner, healthier air, while still allowing for economic growth and job creation .

Still, more work remains to be done . Climate change is not a challenge that the United States can conquer alone . While focusing domestically on managing and reducing GHG emissions nationwide, the United States is also dedicated to leading internationally and engaging with global partners to develop a robust international approach to climate change . We have worked with partners to build a shared vision for a successful global response to climate change, and we stand ready to continue and enhance partnerships to reduce emissions, improve resilience, drive improvements in technology, and improve air quality . Moving forward, the United States will continue to empower the global community through financial support, technology development and transfer, and capacity building .

Climate change is an urgent challenge that we all share . Understanding that an immediate response is essential, the United States is taking action today to deliver on our climate goals, to promote the health and safety of people around the globe, and to support our global partners .

Appendices

Appendix 1: Methodologies Used in the Reporting of Financial Information

In this 2016 Biennial Report, we outline how U .S . action on climate change puts our nation on a path to achieve its commitments in Copenhagen, Cancún, and Durban until 2020 . We have included additional reporting information, as specified in decisions 1/CP .16, 2/CP .17 (Annex I), and 19/CP .18 adopted by the Parties to the UNFCCC .

The UNFCCC reporting guidelines for biennial reports also specify that Parties are to provide the underlying methodology for all financial assistance provided (UNFCCC 2013a) . Specifically, the guidelines state: "Parties shall report in a rigorous, robust and transparent manner the underlying assumptions and methodologies used to produce information on finance ."

The United States conducted an interagency process to compile methodology documents for all figures for financial assistance, particularly those figures listed in supplemental tables 7, 7(a), and 7(b) .

Pursuant to paragraph 15 of the 2011 UNFCCC biennial reporting guidelines for developed country Parties, this appendix provides background information on the underlying assumptions and methodologies used to produce information on finance . Specifically, this appendix describes:

- The overall methodology used for producing information on finance,
- The methodology for determining which funds are "climate-specific,"
- The methodology used to specify funds as "committed,"
- The methodology used for reporting core/general contributions through multilateral channels, and
- Other methodological issues .

OVERALL METHODOLOGY FOR PRODUCING INFORMATION ON CLIMATE FINANCE

This report covers U .S . international climate finance for FY 2013 (October 1, 2012, through September 30, 2013) and FY 2014 (October 1, 2013, through September 30, 2014) . U .S . international climate finance is provided through the following channels:

- Congressionally appropriated finance, which is delivered through both bilateral and multilateral channels, and includes foreign assistance funding for international development through USAID, the Departments of State and Treasury, and MCC;

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- Development finance through OPIC; and
- Export credit finance through EXIM .

To ensure accurate and comprehensive reporting, interagency data requests were issued government-wide in 2013 and 2014 to request information on climate-related international programs or activities supported with FY 2013 and FY 2014 resources . In addition, DOS and USAID issued internal data calls in FY 2013 and FY 2014 for climate-related finance as part of their annual Operational Plan process .

METHODOLOGY FOR DETERMINING WHICH FUNDS ARE "CLIMATE-SPECIFIC"

Climate-specific funds are those assessed to support climate adaptation or mitigation . This includes activities that were conceived and funded specifically to achieve climate-related objectives, as well as activities that provide climate co-benefits . In cases where only a portion of a program's budget supports climate benefits, only that relevant fraction was counted—not the entire program budget .

U .S . international climate finance is categorized under the three thematic pillars of the President's Global Climate Change Initiative (EOP 2009): adaptation, clean energy, and sustainable landscapes .

Adaptation

Adaptation programming seeks to reduce the vulnerability of people, places, and livelihoods to negative impacts of climate change by integrating effective adaptive strategies into key development sectors, including agriculture and food security, infrastructure, health, water, disaster preparedness, and conflict prevention . Types of activities include, but are not limited to:

- Developing tools for information dissemination or building new capacity among hydrometeorological information providers to deliver climate information and services .
- Providing support for modeling, mapping, and research to better understand climate impacts in specific regions or sectors .
- Strengthening government and local community response and communications capacity for climate change-related disasters, such as floods .
- Building capacity among decision makers to use hydrometeorological data to inform climate-resilient planning .
- Increasing water storage and water use efficiency to deal with increased variability in water supply .
- Distributing drought-resistant seeds or promoting management practices that increase the ability of farmers to cope with reduced rainfall .
- Introducing and enforcing flood management plans and zoning and building codes, or coastal zone management activities, to reduce vulnerability to rising sea levels and storm surges .
- Reducing risk through such activities as implementing flood and famine early-warning systems, negotiating transboundary water issues, and meeting critical infrastructure needs .

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Clean Energy

Clean energy programming seeks to enable countries to accelerate their transition to climate resilience, lower GHG emissions, and sustainable economic development through assistance for clean, low-emission energy systems in the energy, industry, transportation, and buildings sectors . Types of activities include, but are not limited to:

- Promoting and deploying clean energy, including renewable energy technologies, energy-efficient end-use technologies, and carbon accounting .
- Supporting clean energy technologies, such as development of agricultural biodigesters, improved cookstoves, solar water heaters, and electricity generation from landfill methane .
- Strengthening GHG inventory and accounting systems .
- Supporting an improved enabling environment (law, regulations, policies) for integrating renewable energy into national grids, enhancing cost recovery in the energy sector, and improving the financial and regulatory capacities of energy utilities .
- Supporting efforts to reduce gas flaring through the creation of domestic markets and productive uses for the gas .
- Supporting the substitution of natural gas for gasoline and diesel fuels for vehicular transportation, or for efficient transportation or comprehensive transportation planning, analysis, and strategy .
- Promoting supply-side energy efficiency by retrofitting existing, high-GHG-emitting fossil fuel power plants with more efficient turbines or by installing more energy-efficient transformers in a power distribution grid with a large fossil generation component .
- Reducing technical losses in an energy distribution system or upgrading transmission and operating systems that carry clean energy, in whole or in part (if in part, only that share should be attributed) .

Sustainable Landscapes

Sustainable landscapes programming seeks to slow, halt, and reverse GHG emissions from land use. Types of activities include, but are not limited to:

- Programs that build a country's capacity to estimate, report, and monitor GHGs from forest and land use at the national or subnational level .
- Support for creating or strengthening national forest and forest carbon inventory and monitoring systems .
- Assistance with implementing land-use strategies that affect forests, for example, by addressing the most influential drivers of deforestation and forest degradation or by restoring degraded lands through enhanced tree cover .
- Forest conservation projects that lead to reduced-impact logging and reduced deforestation .
- Forest conservation projects that improve governance in indigenous reserves and protected areas that are under threat of deforestation .
- Programs that improve land tenure systems to create incentives for communities to manage and restore forested areas, and result in increased carbon sequestration in tree biomass .

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- Programs that improve land-use planning for agriculture, resulting in reducing the conversion of high-carbon natural habitats .
- Programs that develop economic incentives or alternative livelihoods to reduce the conversion of ecosystems in order to protect biodiversity, watersheds, or other ecosystem services that also will result in reduced GHG emissions .

METHODOLOGY USED TO SPECIFY FUNDS AS "COMMITTED"

The CTF for UNFCCC biennial reporting includes three options for the status of financial support: "provided," "committed," and "pledged ." All public financial support reported in this document is considered to be at least "committed ." Details regarding the meaning of "committed" across each of the channels of international climate finance follow:

- For congressionally appropriated finance, funds reported as committed are those that have been appropriated by Congress and allocated by the funding agency for a specific fund, country, project, or program .
- For development finance, funds reported as committed are those for which a commitment letter is signed and executed by all parties .
- For export credit, funds reported as committed are those authorized by EXIM for that particular purpose .

METHODOLOGY USED FOR REPORTING CORE / GENERAL CONTRIBUTIONS THROUGH MULTILATERAL CHANNELS

For core / general contributions through multilateral channels that do not include a climate-specific component, data reflect total U .S . contributions to covered institutions . While a portion of these funds is used by the recipient institutions to finance climate change activities in developing countries, the United States does not include these nonclimate-specific contributions .

OTHER METHODOLOGICAL ISSUES

Tables 7, 7(a), and 7(b) include four categories for "type of support": Mitigation, Adaptation, Cross-cutting, and Other . With the exception of some multilateral funds that are listed as Cross-cutting, U .S . data are presented as follows:

- All U .S . "clean energy" funds, projects, programs, and activities are listed as Mitigation .
- All U .S . "sustainable landscapes" funds, projects, programs, and activities are listed as Mitigation .
- All U .S . "adaptation" funds, projects, programs, and activities are listed as Adaptation .

Tables 7(a) and 7(b) also include several options for "sector": Energy, Transport, Industry, Agriculture, Forestry, Water and Sanitation, Cross-cutting, and Not Applicable . To ensure consistency across the data set, information on sectors is tied directly to the three thematic pillars noted earlier . Specifically, U .S . data are presented as follows:

- All U .S . "clean energy" funds are listed as Energy .
- All U .S . "sustainable landscapes" funds are listed as Forestry and Agriculture .
- All U .S . "adaptation" funds are listed as Cross-cutting .

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Appendix 2: Methodologies for *Current Measures* and *Additional Measures*

This report assesses the potential range of GHG reductions that are achievable in 2020 and 2025 based on estimates of the abatement potential from a range of possible additional measures .

The analysis conducted for this report sheds light on the potential scale of additional reductions through 2025 by assessing the broad categories of actions contained in *The President's Climate Action Plan* (EOP 2013) . Although many of the specific measures that scale up and expand existing efforts are already underway, several of the plan's actions will require U .S . government agencies to develop recommendations, propose new rules, augment existing activities, and undertake processes that entail significant stakeholder outreach and public comment before final rules and programs are in place .

Starting with projections of U .S . emissions based on policies as of 2015, estimates of the additional reductions achievable by 2025 are for three categories of actions depending on the affected pollutant: CO_2, HFCs, CH_4, or N_2O . All projected emissions and potential reductions are expressed using 100-year IPCC Fourth Assessment Report GWPs (IPCC 2007) . Detailed methodologies for each category follow .

ENERGY CARBON DIOXIDE

The 2016 *Current Measures* scenario was constructed using EPSA-NEMS,[11] an integrated energy system model . In addition, two policy scenarios were constructed using a combination of EPSA-NEMS and estimates of reductions in GHG emissions from policies and measures that cannot be modeled using EPSA-NEMS, to explore the potential energy-related CO_2 emission impacts of extending and expanding existing policies and programs . The *Current Measures* scenario input assumptions were based on the final release of the *2015 Annual Energy Outlook* (AEO2015) (DOE/EIA 2015a), which was updated to include the *Clean Power Plan* .

States will ultimately determine precisely how to comply with the rule, but the *Current Measures* scenario achieves the broad emission reductions required by the rule, consistent with EPA analysis . The modeled scenario assumes that states choose the mass-based state goal approach with new source complement,[12] and make early investments rewarded under the Clean Energy Incentive Program .[13] In all scenarios, projected CO_2 emissions were adjusted to match international inventory convention .[14]

The *Additional Measures* scenario includes a low and high policy implementation range, which we here describe as "Scenario 1" (lower abatement) and "Scenario 2" (higher abatement) . Scenario 1 includes the *Current Measures* assumptions, along with additional standards and regulations that are not included in AEO2015 but either are proposed or are likely to continue . Scenario 1 assumes that federal energy appliance and equipment efficiency standards and building codes are updated periodically, and that incentives for distributed solar and combined heat and power are extended . Scenario 1 also updates the Renewable Fuel Standard requirements to reflect the proposed fuel volumes as of August 2015, and assumes implementation of proposed medium- and heavy-duty engine and vehicle fuel economy standards .[15]

11 The version of the National Energy Modeling System (NEMS) used in this report has been run by OnLocation, Inc ., with input assumptions determined by DOE's Office of Energy Policy and Systems Analysis (EPSA) . Since this analysis was commissioned by EPSA and uses a version of NEMS that differs from the one used by the U .S . Energy Information Administration (EIA), the model is referred to throughout the document as EPSA-NEMS . The results described in this report do not necessarily represent the views of EIA .

12 The modeling includes the new source complement, a variation of the mass-based goal that provides mass-based CO_2 limits for all existing and new fossil generation units .

13 We assume 80 percent adoption of the Clean Energy Incentive Program . States can use this voluntary allowance or credit-"matching" program to incentivize early investment in eligible renewable energy, as well as demand-side energy efficiency projects that are implemented in low-income communities . Eligible projects can generate additional emission allowances or emission rate credits in 2020 and/or 2021 .

14 EPSA-NEMS estimates for CO_2 from fossil fuel combustion were adjusted for the purpose of these projections to remove emissions from bunker fuels and non-energy use of fossil fuels, and to add estimated CO_2 emissions in the U .S . territories consistent with international inventory convention .

15 We assumed implementation of Alternative 3 of the proposed rule in Scenario 1 and implementation of Alternative 4 in Scenario 2 .

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Scenario 2 (higher abatement in *Additional Measures*) includes the same assumptions as Scenario 1, plus assumptions of additional energy savings stemming from improvements in existing residential and commercial building shells, reductions in industrial energy demand in several subsectors, improved commercial aviation efficiency, a decrease in vehicle miles travelled, greater biofuel deployment, efficient tire and oil retrofits for vehicles, improvements in rail freight and shipping, impacts of federal target-setting under Executive Order 13693 (EOP 2015), impacts of green mortgages and similar authorities, and faster implementation of fuel economy standards for medium- and heavy-duty vehicles.[16] Scenario 2 also includes the impacts of state-level action in the electricity sector, which is consistent with existing state-level policy and may exceed federal requirements.

METHANE AND NITROUS OXIDE

The abatement potential for CH_4 was estimated by applying the CH_4 MAC curve from the EPA report, *Global Mitigation of Non-CO_2 Greenhouse Gases* (U.S. EPA 2014), to the baseline CH_4 emission projections in the *First U.S. Biennial Report* (U.S. DOS 2014a). The EPA report provides country-level MAC curves for all non-CO_2 GHGs by sector. MAC curves are constructed for each region and sector from estimated abatement potential and bottom-up average breakeven price calculations for each mitigation option. The mitigation options are ordered producing a stepwise curve, where each point reflects the average cost and reduction potential if a mitigation technology were applied across the sector within a given region. In conjunction with appropriate baseline and projected emissions for a given sector, the results are expressed in terms of absolute reductions of Mt CO_2e. This analysis makes no assumptions regarding specific policies that might encourage the implementation of mitigation options.

Based on the analysis running the MAC model against the 2016 *Current Measures* emissions and projections, in 2020, the range of CH_4 and N_2O abatement potential relative to baseline for the purposes of this report is 104–149 Mt CO_2e; in 2025, this range is 119–174 Mt CO_2e. This range reflects varying assumptions about the ability to achieve the full economic potential abatement represented in the MAC model due to non-price barriers and the effectiveness of voluntary measures. Additional opportunities in N_2O reductions from precision agriculture were also estimated.

HYDROFLUOROCARBONS

The U.S. government has collaborated with the governments of Mexico and Canada for the past five years to propose an amendment to the *Montreal Protocol on Substances that Deplete the Ozone Layer* that would phase down HFC production and consumption and control HFC byproduct emissions (U.S. EPA/OAP 2015). The amendment calls for progressive global reductions in the consumption and production of HFCs through 2046. The amendment proposes that national aggregate HFC production and consumption in CO_2e terms be reduced to 15 percent of a baseline by 2036 and 2046 for developed and developing countries, respectively, with milestones in intermediate years Also, emissions of HFC-23 during the production of other fluorocarbons must be reduced significantly to remain below prescribed levels. The analysis of HFC emission reductions from these actions, summarized below, is given in *EPA's Benefits of 2015 HFC Amendment*, to be posted on EPA's web site.[17]

16 We assumed implementation of Alternative 3 of the proposed rule in Scenario 1 and implementation of Alternative 4 in Scenario 2.

17 For more information, see http://www3.epa.gov/ozone/intpol/

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The reductions from the HFC phasedown are analyzed assuming the United States meets the required reductions while complying with all other *Montreal Protocol* obligations, including completing the phaseout of remaining ozone-depleting substances . The United States is already taking steps domestically as it moves toward an international agreement, including using EPA authority through the SNAP program and leveraging federal government purchasing power to promote cleaner alternatives . Emission reductions from these actions already underway are assumed in the 2016 *Current Measures* scenario . EPA's analysis assumes that several process and handling options and multiple alternative chemicals would be implemented to reduce or replace HFCs in the sectors where they are used today, reducing HFC consumption from the 2016 *Current Measures* projection to levels necessary to meet the proposed amendment . Estimates of the emission patterns from various types of HFC applications, as set forth in the *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013*, allow for the calculation of emission reductions .

The U .S . domestic estimate for HFC-23 emissions in 2020 and 2025 is based in part on the *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013* (U .S . EPA / OAP 2015), the *Global Mitigation of Non-CO_2 Greenhouse Gases: 2010–2030* (U .S . EPA 2014), estimated impacts of actions reducing hydrochlorofluorocarbon production, and recent corporate commitments . Reductions are then calculated, assuming these estimated emissions are reduced to comply with the 2016 proposal submitted by the United States, Canada, and Mexico to address HFCs under the *Montreal Protocol* (U .S . EPA / OAP 2015) .

HFC emission reductions through additional measures in the years 2020 and 2025 relative to the 2016 *Current Measures* scenario are estimated to be 63 and 113, Mt CO_2e, respectively .

LAND-USE SINK—SYNTHESIS PROJECTIONS AND UNCERTAINTY

As discussed in the projections section, the land-use sink estimates reflect input from models developed by USDA and EPA . We have made additional efforts to assess uncertainty in our projections; as such, each model produced a high and a low estimate, as well as a central estimate . A Synthesis projection estimate was produced as a mean of the two model projections . The combined LULUCF uncertainty range was generated as the sum of squares of the uncertainty estimates from the model and was applied to the Synthesis projection . This range is reflected in figures and other outputs in this report .

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Appendix 3: U.S. Policies and Measures

GHGs Affected	Objective and/or Activity Affected	Brief Description	Status of Implementation	Type of Instrument	Implementation Start Year	Implementing Entities	Estimate of Mitigation Impact (not cumulative) (kt CO_2e)	
							2013	2020
Transportation								
National Program for Light-Duty Vehicle GHG Emissions and CAFE Standards								
CO_2, N_2O, CH_4, HFCs	Reduce GHG emissions from vehicles.	Establishes corporate emissions fuel economy and GHG emission standards for new light-duty vehicles (LDVs) produced for sale in the U.S.	Implemented	Regulatory	2010	DOT/ EPA	35,000	236,000
Renewable Fuel Standard								
CO_2	Increase use of renewable fuels.	Increases the share of renewable fuels used in transportation via implementation of the Renewable Fuel Standard Program.	Implemented	Regulatory	2010	EPA	n/a	138,400
National Program for Heavy-Duty Vehicle GHG Emissions and Fuel Efficiency Standards								
CO_2, N_2O, CH_4, HFCs	Reduce GHG emissions from vehicles.	Establishes fuel efficiency and GHG emission standards for work trucks, buses, and other heavy-duty vehicles (HDVs).	Implemented	Regulatory	2011	DOT/ EPA	n/a	37,700
SmartWay Transport Partnership								
CO_2	Reduce GHG emissions from movement of goods.	Promotes collaboration with businesses and other stakeholders to decrease climate-related and other emissions from movement of goods.	Implemented	Voluntary	2004	EPA	33,000	43,000
Light-Duty Vehicle Fuel Economy and Environment Label								
CO_2	Provide information to vehicle buyers.	Provides comparable information on new LDVs' fuel economy, energy use, fuel costs, and environmental impacts.	Implemented	Regulatory, Information	2011	EPA/ DOT/ DOE	n/a	n/a
National Clean Diesel Campaign								
CO_2	Reduce diesel emissions.	Reduces diesel emissions through the implementation of proven emission control technologies and innovative strategies.	Implemented	Voluntary/ Negotiated Agreements	2008	EPA	n/a	n/a
Advanced Technology Vehicle Manufacturing Loan Program								
CO_2	Provide loans to advanced vehicle technology manufacturers.	Provides direct loans to qualifying U.S. advanced technology vehicles or component and engineering integration projects.	Implemented	Economic	2008	DOE	2,500	2,500
Next Generation Air Transportation Systems								
CO_2	Reduce GHG emissions from the aviation sector.	Achieves more efficient aircraft operations and reduced GHG emissions through airspace, operational, and infrastructure improvements. The Continuous Lower Energy, Emissions, and Noise Program is an element of NextGen.	Implemented	Economic, Research	2004	DOT	200	1,500
Other Aviation Low-Emission, Fuel Efficiency, and Renewable Fuels Measures								
CO_2	Reduce GHG emissions from the aviation sector.	Implements strategies that reduce GHG emissions from the aviation sector.	Implemented	Economic, Voluntary, Research	2004–2006	DOT	n/a	n/a
State and Alternative Fuel Provider Fleet Program								
CO_2	Require fleets to purchase alternative fuel vehicles (AFVs).	Requires covered fleets either to acquire AFVs as a percentage of their annual LDV acquisitions or to employ other petroleum-reduction methods.	Implemented	Regulatory	1992	DOE	n/a	n/a
Federal Transit, Highway, and Railway Programs								
All	Reduce GHG emissions from the transit and railway sectors.	Helps public transportation providers, railways, and other key stakeholders to implement strategies that reduce GHGs.	Implemented	Fiscal, Voluntary, Research	1991–2012	DOT	n/a	n/a

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GHGs Affected	Objective and/or Activity Affected	Brief Description	Status of Implementation	Type of Instrument	Implementation Start Year	Implementing Entities	Estimate of Mitigation Impact (not cumulative) (kt CO_2e)	
							2013	2020
On-road GHG Assessment Tools								
CO_2	Support state and local strategies to reduce GHG emissions from the transportation sector.	Supports and encourages state and local governments to estimate future GHG emissions from the on-road portion of the transportation sector and find strategies to mitigate these effects.	Implemented	Information	2011	DOT	n/a	n/a
Vehicle Technology Deployment (Clean Cities)								
CO_2, CH_4, N_2O	Support the use of alternative fuel vehicles and other petroleum-reducing vehicle technologies.	Provides technical assistance, consumer information, industry coordination, tools, knowledge sharing, and cost-shared funding for local and regional projects that mitigate GHG emissions and reduce reliance on petroleum in the transportation sector.	Implemented	Economic	1993	DOE	6,700	15,600
Commercial-Scale Integrated Biorefineries								
CO_2	Support the development of commercial-scale integrated biorefineries (IBRs).	Through industry partnerships, these deployment projects facilitate the development of integrated biorefineries at commercial scale. The six DOE-supported IBRs will have the capacity to produce approximately 160 million gallons of biofuel by 2020, including 60 million gallons of ethanol and 100 million gallons of hydrocarbon fuel.	Under development	Economic	2009	DOE	n/a	800
Energy								
Energy Efficiency and Conservation Loan Program								
CO_2	Fund energy efficiency.	Provides loans to finance energy efficiency and conservation projects for commercial, industrial, and residential consumers.	Implemented	Voluntary, Economic	2014	USDA	n/a	n/a
Energy: Supply								
Clean Energy Supply Programs								
CO_2	Reduce GHG emissions through green power purchases and combined heat and power (CHP).	The Green Power Partnership encourages U.S. organizations to voluntarily purchase green power, and the Combined Heat and Power Partnership reduces the environmental impact of power generation by encouraging the use of CHP.	Implemented	Voluntary/ Negotiated Agreements	2001	EPA	36,300	73,300
Hydroelectric Production Incentive Program								
CO_2	Support the expansion of hydropower energy development at existing dams through an incentive payment procedure.	Makes incentive payments to the owner or operator of a qualified hydroelectric facility based on the number of kilowatt-hours of hydroelectric energy generated by the facility during the incentive period. Only appropriated for one year with a limited budget. DOE only accepted applications for generation produced in calendar year 2013.	Implemented	Economic	2013	DOE	n/a	n/a
Onshore Renewable Energy Development Programs								
CO_2	Encourage renewable energy development.	Provides opportunities for and encourages use of federal public lands for the development of wind, solar, and geothermal energy.	Implemented	Economic, Voluntary	Around 1980	DOI/ BLM	8,200	41,500
Rural Energy for America Program								
CO_2, CH_4	Fund energy efficiency and renewable energy systems.	Provides grants and loan guarantees to various rural residents, agricultural producers, and rural businesses for energy efficiency and renewable energy systems.	Implemented	Voluntary, Economic	2008	USDA	1,136	17,500

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GHGs Affected	Objective and/or Activity Affected	Brief Description	Status of Implementation	Type of Instrument	Implementation Start Year	Implementing Entities	Estimate of Mitigation Impact (not cumulative) (kt CO_2e)	
							2013	2020
CCS Demonstration and Large-Scale Geologic Storage Cooperative Agreements								
CO_2	Demonstrate large-scale carbon capture and storage (CCS) .	The power plant, industrial, and geologic storage large-scale CCS demonstrations are cost-shared cooperative agreements between the government and industry to increase investment in CCS .	Implemented	Economic	2009	DOE	1,470	8,855
Rural Development Biofuels Programs								
CO_2	Fund expansion of biofuels .	Supports expansion of biofuels by providing payments to biorefineries and biofuel producers, and providing loan guarantees for biorefineries . Programs include the Bioenergy Program for Advanced Biofuels, Biorefinery Assistance Program, and Repowering Assistance Program .	Implemented	Voluntary, Economic	2008	USDA	12,319	17,250
Biofuel Regional Feedstock Partnerships								
CO_2	Support supply of biomass feedstocks .	Identifies and analyzes feedstock supply and regional logistics, and conducts crop field trials to address barriers to the development of a sustainable and predictable supply of biomass feedstocks .	Implemented	Economic	2002	DOE	n/a	n/a
Offshore Renewable Energy Program—Bureau of Ocean Energy Management								
CO_2	Encourage renewable energy development .	Advances a sustainable Outer Continental Shelf renewable energy future through site planning and environmentally responsible operations and energy generation .	Implemented	Regulatory	2009	DOI/ BOEM	n/a	n/a
Clean Power Plan								
CO_2	Reduce carbon pollution from new and existing power plants .	Sets GHG standards for existing and new fossil fuel-fired electric generating units (under section 111 of the Clean Air Act), and for existing plants also sets forth state-specific emission goals reflecting the emission standards, along with guidelines for the development, submittal, and implementation of state plans to achieve the CO_2 emission standards .	Finalized	Regulatory	2022	EPA, states, and tribal lands	n/a	n/a
Enhanced Geothermal Systems Demonstration Projects								
CO_2	Support the development and deployment of enhanced geothermal systems through demonstration project funding .	Shares implementation models among participants, including state and local governments, as a part of its broader efforts .	Implemented	Deployment	n/a	DOE	n/a	n/a
Offshore Wind Demonstration Projects								
CO_2	Support the development and deployment of offshore wind energy systems through demonstration project funding .	Designed to reduce the cost of offshore wind energy through the development and deployment of innovative technologies, in order to develop offshore wind systems ready for commercial operation in U .S . waters . The demonstrations will help address key challenges associated with installing full-scale offshore wind turbines, connecting offshore turbines to the power grid, and navigating new permitting and approval processes .	Implemented	Deployment	2012	DOE	n/a	n/a

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GHGs Affected	Objective and/or Activity Affected	Brief Description	Status of Implementation	Type of Instrument	Implementation Start Year	Implementing Entities	Estimate of Mitigation Impact (not cumulative) (kt CO_2e)	
							2013	2020
Regional Carbon Sequestration Partnerships (RCSPs)								
CO_2	Support large-scale field tests for validating basic science approaches to geologic carbon storage .	RCSPs are tasked to determine the best geologic storage approaches and apply technologies to safely and permanently store CO_2 for their specific regions . Geographical differences in fossil fuel use and storage opportunities across North America dictate regional approaches to storage of CO_2 and other GHGs . The RCSPs are focusing on the carbon capture and storage opportunities within their specific regions, while collectively building an effective and robust nationwide initiative .	Implemented	Economic	2008	DOE	2,000	n/a
Energy: Residential, Commercial, and Industrial End Use								
Appliance, Equipment, and Lighting Energy Efficiency Standards								
CO_2	Establish minimum energy conservation requirements .	Establishes minimum energy conservation standards for more than 60 categories of appliances and equipment .	Implemented	Regulatory	1987	DOE	173,000	216,000
ENERGY STAR Labeled Products								
CO_2	Reduce GHG emissions through energy-efficient products .	Labels distinguish energy-efficient products in the marketplace .	Implemented	Voluntary	1992	EPA / DOE	155,100	141,200
ENERGY STAR Commercial Buildings								
CO_2	Reduce GHG emissions through energy-efficient buildings .	Promotes improvement in energy performance in commercial buildings .	Implemented	Voluntary	1995	EPA	96,000	93,500
ENERGY STAR for Industry								
CO_2	Reduce GHG emissions through energy-efficient industrial plants .	Promotes improvement in energy performance across industry .	Implemented	Voluntary	1995	EPA	39,700	36,600
ENERGY STAR Certified New Homes								
CO_2	Reduce GHG emissions through energy-efficient new homes .	Promotes improvement in energy performance in residential buildings beyond the labeling of products .	Implemented	Voluntary	1995	EPA	3,100	3,800
Home Performance with ENERGY STAR								
CO_2	Encourage energy efficiency improvements in existing homes .	Provides homeowners with resources to identify trusted contractors for high-quality, comprehensive energy audits and residential retrofits .	Implemented	Economic	2002	DOE	600	2,800
Building Energy Codes								
CO_2	Support energy-efficient building codes .	Develops cost-effective building energy codes with adoption and compliance strategies .	Implemented	Regulatory	1992	DOE	29,700	56,100
Combined Heat & Power Technical Assistance Partnerships and Industrial Assessment Centers								
CO_2	Encourage energy efficiency in industrial plants .	Provides technical assistance, including energy audits, to increase energy efficiency and reduce costs for CHP plants and industrial processes .	Implemented	Economic	2007	DOE	n/a	n/a

GHGs Affected	Objective and/or Activity Affected	Brief Description	Status of Implementation	Type of Instrument	Implementation Start Year	Implementing Entities	Estimate of Mitigation Impact (not cumulative) (kt CO_2e)	
							2013	2020
National Energy Information Surveys and Analysis								
CO_2	Provide information and analysis critical to understanding energy .	The Energy Information Administration collects and publishes national energy data and analysis . For example, end-use consumption data are the basis for benchmarking and measuring energy efficiency, providing policymakers with the tools to develop mitigation policies .	Implemented	Information	1977	DOE-EIA	n/a	n/a
Green Retrofit Program								
CO_2	Support energy-efficient investments in federally assisted affordable housing .	Retrofitted 20,000 units of affordable housing with $250 million in ARRA funds, resulting in lower utility costs and green features .	Closed	Economic (Financing)	2010	HUD	n/a	n/a
Update Energy Efficient Building Codes and Standards								
CO_2	Support energy-efficient investments in federally assisted affordable housing .	Provides incentives for investing public- and private-sector funds in energy-efficient upgrades in 11 million housing units, and meets statutory requirements to update building codes and provide incentives for ENERGY STAR and other above-code green building standards in new federally assisted housing .	Implemented	Regulatory, Economic	2010	HUD/ USDA	n/a	n/a
Incentives for Energy Efficient Homeownership								
CO_2	Enable homeowners to improve the efficiency of single-family homes .	Implements a suite of energy-efficient mortgage or finance products to assist homeowners to invest in energy efficiency .	Implemented	Economic	1985	HUD	n/a	n/a
Renew300 Federal Renewable Energy Target								
CO_2	Triple the adoption of renewable energy in federally assisted housing .	Sets a target of 300 MW for solar and renewable energy in federally assisted housing .	Implemented	Voluntary, Economic, Information	2014	HUD	n/a	n/a
Better Buildings Challenge								
CO_2	Establish minimum energy conservation requirements and encourage adoption of sustainable and energy-efficient building practices and investments .	DOE is currently pursuing strategies within four interrelated key areas to catalyze change and investment in energy efficiency: developing innovative, replicable solutions with market leaders; making energy efficiency investment easier; developing a skilled clean energy workforce, including multifamily housing with HUD; and leading by example in the federal government .	Implemented	Voluntary, Economic, Information	2011	DOE/ HUD	n/a	n/a
Energy: Commercial and Industrial End Use								
Better Buildings/Better Plants								
CO_2	Support energy efficiency in buildings and industrial facilities .	Shares implementation models among participants, including state and local governments, as a part of its broader efforts .	Implemented	Economic	2011	DOE	n/a	n/a
Superior Energy Performance/ISO 50001								
CO_2	Support energy efficiency in the manufacturing sector by providing guidance, tools, and protocols .	Provides guidance, tools, and protocols to facilitate energy efficiency savings and improved energy performance .	Implemented	Economic	2007	DOE	n/a	n/a

GHGs Affected	Objective and/or Activity Affected	Brief Description	Status of Implementation	Type of Instrument	Implementation Start Year	Implementing Entities	Estimate of Mitigation Impact (not cumulative) (kt CO_2e)	
							2013	2020
H_2USA								
CO_2	Support the deployment of hydrogen-fueled fuel cell electric vehicles, and establish hydrogen-fueling infrastructure.	This public–private partnership promotes the commercial introduction and widespread adoption of hydrogen-fueled fuel cell electric vehicles across America. H_2USA's mission is to address hurdles to establishing hydrogen-fueling infrastructure, enabling the large-scale adoption of fuel cell electric vehicles.	Implemented	Economic	2013	DOE	n/a	n/a
Better Buildings Alliance								
CO_2	Support energy efficiency in buildings and facilities.	Shares implementation models among participants, including state and local governments, as a part of its broader efforts.	Implemented	Economic	2008	DOE	n/a	n/a
Better Building Accelerators								
CO_2	Replicate gains in energy efficiency across the broader marketplace. Convene leaders to rapidly address critical barriers in the market.	DOE convenes a set of seven Better Buildings Accelerators designed to demonstrate specific innovative policies and approaches, which upon successful demonstration will accelerate investment in energy efficiency.	Implemented	Economic	2013	DOE	n/a	n/a
Industrial Processes (Non-CO_2)								
Significant New Alternatives Policy Program								
HFCs, PFCs, SF_6	Transition away from ozone-depleting chemicals.	Facilitates smooth transition away from ozone-depleting chemicals in industrial and consumer sectors.	Implemented	Regulatory, Information	1990	EPA	217,949	316,868
Federal Air Standards for Oil and Natural Gas Sector								
CH_4	Reduce volatile organic compound emissions from oil and natural gas sectors.	The new source performance standards control volatile organic compound emissions from various sources, substantially reducing methane emissions as a co-benefit.	Adopted	Regulatory	2012	EPA	38,700	47,500
Natural Gas STAR Program								
CH_4	Reduce GHG emissions from oil and natural gas companies.	Works with oil and natural gas companies to promote proven, cost-effective technologies and practices that improve operational efficiency and reduce methane (i.e., natural gas) emissions.	Implemented	Voluntary, Information	1993	EPA	24,120	31,800
Coalbed Methane Outreach Program								
CH_4	Reduce GHG emissions from coal mining.	Voluntary program with the goal of reducing methane emissions from coal mining activities.	Implemented	Voluntary, Information	1994	EPA	9,620	10,530
SF_6 Emission Reduction Partnership for Electric Power Systems								
SF_6	Reduce GHG emissions from electric transmission and distribution.	Partners with electric power transmission and distribution companies to reduce emissions of SF_6, which is used as a gaseous dielectric in high-voltage circuit breakers and gas-insulated substations.	Implemented	Voluntary, Information	1999	EPA	5,500	4,990
GreenChill Advanced Refrigeration Partnership								
HFCs	Reduce ozone-depleting and GHG emissions from supermarkets.	Reduces ozone-depleting and GHG refrigerant emissions from supermarkets.	Implemented	Voluntary/ Negotiated Agreements, Information, Education	2007	EPA	4,369	15,274

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GHGs Affected	Objective and/or Activity Affected	Brief Description	Status of Implementation	Type of Instrument	Implementation Start Year	Implementing Entities	Estimate of Mitigation Impact (not cumulative) (kt CO_2e)	
							2013	2020
Responsible Appliance Disposal Program								
HFCs	Reduce emissions from end-of-life appliances .	Reduces emissions of refrigerant and foam-blowing agents from end-of-life appliances .	Implemented	Voluntary/ Negotiated Agreements	2006	EPA	207	774
Voluntary Aluminum Industry Partnership								
PFCs	Reduce GHG emissions from the aluminum industry .	Partners with industry to reduce PFCs, tetrafluoromethane, and hexafluoroethane where cost-effective technologies and operational practices are technically feasible .	Implemented	Voluntary, Information	1995	EPA	6,500	400
Voluntary Code of Practice for the Reduction of Emissions of HFC and PFC Fire Protection Agents								
HFCs, PFCs	Reduce GHG emissions from fire protection agents .	Minimizes nonfire emissions of HFCs and PFCs used as fire-suppression alternatives, and protects people and property from the threat of fire using proven, effective products and systems .	Implemented	Voluntary/ Negotiated Agreements	2002	EPA	n/a	n/a
Industrial Processes (CO_2)								
New Source Performance Standards for Petroleum Refineries								
CO_2	Reduce GHG emissions through flare gas recovery .	The new source performance standards require refiners to develop flare management practices to reduce the amount of waste gases flared .	Adopted	Regulatory	2012	EPA	n/a	2,262
Agriculture								
Conservation Reserve Program								
CO_2	Promote sustainable development .	Encourages farmers to convert highly erodible cropland or other environmentally sensitive acreage .	Implemented	Economic, Information	1985	USDA	43,900	39,800
Natural Resources Conservation Service								
CO_2, N_2O, CH_4	Promote sustainable development .	Helps landowners to implement practices or measures that address natural resource concerns .	Implemented	Voluntary, Economic, Information	1935– 2014	USDA	9,237	27,600
AgSTAR								
CH_4	Reduce GHG emissions using biogas recovery .	Encourages the use of methane recovery technologies at confined animal feeding operations that manage manure as liquids or slurries .	Implemented	Voluntary, Information	1994	EPA/ USDA	824	1,070
Forestry and Land Management								
Woody Biomass Utilization Grants Program								
CO_2	Promote sustainable development .	Creates markets for small-diameter woody material and low-valued trees removed from forest restoration activities .	Implemented	Voluntary, Economic, Information	2005	USDA	n/a	n/a
Forest Ecosystem Restoration and Hazardous Fuels Reduction Programs								
CO_2	Promote sustainable development .	Restores the health of the nation's forests, woodlands, and rangelands .	Implemented	Voluntary	2003	USDA/DOI	n/a	n/a
Biological Carbon Sequestration Assessment								
CO_2, CH_4, N_2O	Enhance land-sector carbon management .	Provides decision support and technical assistance to Department of the Interior land management agencies, for example, by developing estimates of the biological carbon sequestration potential of specific environmental restoration projects .	Implemented	Information	2015	DOI/ USGS	n/a	n/a
Retention of Private Forests								
CO_2	Promote sustainable development .	Maintains the extent and health of the nation's private forests and woodlands .	Implemented	Voluntary	1978–2008	USDA	n/a	n/a

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GHGs Affected	Objective and/or Activity Affected	Brief Description	Status of Implementation	Type of Instrument	Implementation Start Year	Implementing Entities	Estimate of Mitigation Impact (not cumulative) (kt CO_2e)	
							2013	2020
Waste Management/Waste								
Landfill Air Regulations								
CH_4	Reduce landfill gas emissions.	Limits GHG emissions by limiting landfill gas emissions from landfills that are at least 2.5 million megagrams in size. Landfill gas is approximately 50% methane.	Implemented (under 8-year review)	Regulatory	1996	EPA	251,762	261,885
Landfill Methane Outreach Program								
CH_4	Reduce GHG emissions at landfills.	Reduces GHG emissions at landfills by supporting the recovery and use of landfill gas for energy.	Implemented	Voluntary, Information	1994	EPA	31,280	18,690
Sustainable Materials Management								
CO_2	Encourage sustainable materials management.	Provides a systemic approach to reduce the use of materials and their associated environmental impacts over their entire life cycle.	Implemented	Voluntary/ Negotiated Agreements, Information, Education	2011	EPA	500	30
Wastewise								
CO_2	Encourage sustainable materials management.	Helps organizations and businesses apply sustainable material management practices to reduce municipal and select industrial wastes.	Implemented	Voluntary/ Negotiated Agreements, Information, Education	1994	EPA	n/a	n/a
Federal Government								
Federal Energy Management Program								
CO_2	Promote energy efficiency and renewable energy in federal facilities.	Promotes energy efficiency and renewable energy use in federal buildings, facilities, and operations.	Implemented	Regulatory	2008	DOE	8,800	14,400
National Park Service Programs								
CO_2	Promote climate mitigation and sustainable practices at national parks.	Supports efforts to mitigate the effects of climate change and integrate sustainable practices.	Implemented and ongoing	Economic, Voluntary, Educational	2003–2012	DOI/ NPS	38	200
Cross-Cutting								
State Energy Program								
CO_2	Fund energy efficiency and renewable energy state programs.	Provides funding to state energy offices to reduce market barriers to the cost-effective adoption of renewable energy and energy efficiency technologies.	Implemented	Economic	1977	DOE	14,000	16,200
Energy Efficiency and Conservation Block Grants								
CO_2	Fund energy efficiency and renewable energy local programs.	Assists eligible entities in implementing strategies that will improve energy efficiency in the transportation, building, and other sectors, and reduce fossil fuel emissions and total energy use.	Implemented	Economic	2009	DOE	4,400	4,400
Section 1703/1705 Loan Guarantee Program								
CO_2	Mitigate risks related to innovative advanced technology investments.	Mitigates the financing risks associated with innovative and, in the case of the Section 1705 Program, some commercial energy projects.	Implemented	Economic	2009	DOE	2,500	14,000
Weatherization Assistance Program								
CO_2, CH_4, N_2O	Fund weatherization services for low-income households.	Provides funding and technical support to states, U.S. territories, and tribes, which in turn work with a network of about 900 local agencies to provide trained crews to perform residential weatherization services for income-eligible households.	Implemented	Economic	1977	DOE	500	2,200

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GHGs Affected	Objective and/or Activity Affected	Brief Description	Status of Implementation	Type of Instrument	Implementation Start Year	Implementing Entities	Estimate of Mitigation Impact (not cumulative) (kt CO_2e)	
							2013	2020
Indian Energy Policy and Programs/Tribal Energy Program								
CO_2	Fund energy efficiency and renewable energy produced by tribes.	Provides financial and technical assistance that enables American Indian and Alaska Native tribes to deploy renewable energy resources, reduce their energy costs through efficiency and weatherization, and increase energy security for tribes and villages.	Implemented	Economic	2002	DOE	140	400
Climate Showcase Communities Program								
CH_4, CO_2	Support local and tribal GHG emission-reduction projects.	EPA helps local and tribal governments take steps to reduce GHG emissions by leveraging lessons learned and best practices from the $20 million grants awarded in 2009 and 2010.	Implemented	Information	2009	EPA	188	400
Community Renewable Energy Deployment Grants								
CO_2	Fund small renewable energy projects.	Creates up to a 50% matching grant for the construction of small renewable energy projects that will have commercial electrical generation capacity of less than 15 MW. Types of renewable energy sources include solar, wind, geothermal, ocean, biomass, and landfill gas.	Implemented	Economic	2009	DOE	n/a	n/a
Tax Provisions								
CO_2	Provide incentives for investments that may reduce GHG emissions.	Provides incentives for AFVs and renewable/alternative energy production. Encourages energy conservation, production of renewable energy and energy efficiency manufacturing projects, and carbon sequestration. These provisions include the Production Tax Credit and Investment Tax Credit, which provide support for deployment of renewable energy supply.	Adopted	Economic	1992	Treasury	n/a	n/a
Interagency Partnership for Sustainable Communities								
All	Support energy-efficient land use and sustainability through cross-agency coordination.	Helps communities create walkable, healthy, economically vibrant neighborhoods by aligning federal policies for housing, transportation, and the environment.	Implemented	Voluntary, Economic, Information	2009	EPA/DOT/HUD	n/a	n/a
Center for Corporate Climate Leadership								
All	Support organization-wide GHG measurement and management.	Serves as a resource center for organizations interested in GHG measurement and management.	Implemented	Information	2012	EPA	n/a	n/a
Mandatory Greenhouse Gas Reporting Program								
CO_2, CH_4, N_2O, HFCs, PFCs, SF_6, other fluorinated gases	Collect accurate and timely GHG emissions data at the facility level.	The GHG Reporting Rule requires reporting of GHG emissions from 41 U.S. industry groups that, in general, emit 25,000 metric tons or more of CO_2e per year. The reporting program covers 85–90% of total U.S. emissions from approximately 8,000 facilities.	Implemented	Regulatory/Information	2009	EPA	n/a	n/a

Note: AFV = alternative fuel vehicle; ARRA = American Recovery and Reinvestment Act of 2009; BLM = Bureau of Land Management; BOEM = Bureau of Ocean Energy Management; C_2F_6 = hexafluoroethane; CAFE = corporate average fuel economy; CCS = carbon capture and storage; CH_4 = methane; CHP = combined heat and power; CO_2 = carbon dioxide; CO_2e = carbon dioxide equivalent; DOE = U.S. Department of Energy; DOI = U.S. Department of the Interior; DOT = U.S. Department of Transportation; EIA = Energy Information Administration; EPA = U.S. Environmental Protection Agency; FAA = Federal Aviation Administration; GGE = gallons of gasoline equivalent; GHG = greenhouse gas; GWP = global warming potential; HDV = heavy-duty vehicle; HFC = hydrofluorocarbon; HUD = U.S. Department of Housing and Urban Development; kt = kiloton; LDV = light-duty vehicle; MW = megawatt; MY = model year; n/a = not applicable; N_2O = nitrous oxide; NPS = National Park Service; PFC = perfluorocarbon; SF_6 = sulfur hexafluoride; USDA = U.S. Department of Agriculture; USGS = U.S. Geological Survey.

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Subject: E&E News: Sources: Trump supports Pruitt's plan to question science, 12/11/17

E&E News

https://www.eenews.net/climatewire/stories/1060068567/search?keyword=EPA

Sources: Trump supports Pruitt's plan to question science

By Robin Bravender, 12/11/17

President Trump has privately said he supports a public debate to challenge mainstream climate science, according to administration officials. But there's infighting about how it should occur — if at all.

The president has told U.S. EPA Administrator Scott Pruitt during several conversations that he supports Pruitt's plan for a "red-team, blue-team" debate aimed at challenging the prevailing scientific consensus about humans' impact on climate change, a senior administration official told E&E News. Another administration official said that "there is support for the initiative at the highest levels."

Pruitt has been pushing the idea of a climate science critique for months, suggesting at one point that it could be a debate that's aired on television. Conservative groups and some Republicans have been eager for the EPA boss to get started; they see the exercise as an avenue to torpedo the so-called endangerment finding that underpins EPA's climate rules.

Pressed by a House Republican last week to offer a timeline for the red team, Pruitt said work on the initiative is "ongoing" but that details could be unveiled as early as next month. "We may be able to get there as early as January next year," he testified.

But the administration isn't unified behind the idea. "Pruitt has not been given authorization to go ahead with red team, blue team; there are still many issues to be ironed out," another administration official said.

It's the latest example of infighting within the Trump administration over high-profile energy and environmental policies. It follows internal clashing earlier this year over whether to exit the Paris climate accord. In that case, Pruitt's camp — the one pushing for withdrawal — came out on top, and Pruitt became the administration's spokesman for the Paris exit.

Trump's public statements — dismissing global warming as a "hoax" invented by the Chinese — indicate that he hasn't bought into the consensus views about climate science and suggest he may welcome such a debate.

A White House spokeswoman did not respond to requests for comment.

EPA spokeswoman Liz Bowman said, "We have nothing to share at this time, and we will share additional details if and when they're available."

Middle ground?

Conservative think tanks and influential Republican donors are anxious to get the process underway.

They contend that critics of mainstream climate science have been marginalized for years, and they see it as a way to undermine EPA's endangerment finding, which is a scientific determination that greenhouse gases threaten public health and welfare.

Some conservatives have been pressuring Pruitt to overturn that finding, but many acknowledge that he'll face a tough court battle if he takes on the finding directly (*Climatewire*, July 18). He's already been criticized by some who fear he won't challenge the endangerment finding. Leaving it intact would make it easier for the next administration to roll out new versions of the climate rules the Trump team is working hard to dismantle.

The red team forum may present Pruitt with a middle ground — a way to appease conservatives who want to discredit the endangerment finding while avoiding legal fights for now.

Bob Murray, the CEO of Murray Energy Corp. who's a key Trump ally on energy issues, said Pruitt told him recently that the red team debate is the first step toward a possible challenge to the endangerment finding.

"They're laying groundwork for it; they want to do this red, blue study, debate on science before we get there," Murray said of the endangerment finding. "I said, 'You need to get it done; if you don't get it repealed, you're going to have this climate agenda forever. It needs to be repealed'" (*Climatewire*, Dec. 1).

Myron Ebell, who led the EPA transition team for the Trump administration, sees the red team as a way to help unravel the endangerment finding.

"What we've been pushing is that the EPA should grant our petition to reopen the endangerment finding, and they should then put out an advance notice of proposed rulemaking," said Ebell, who's the director of the Center for Energy and Environment at the Competitive Enterprise Institute.

EPA should then begin its climate science critique as part of its plan to re-examine the finding, he added. "That would put the exercise in a legal framework that could then be used consequentially."

H. Sterling Burnett, a research fellow on environmental policy for the conservative Heartland Institute, said a red team will allow the administration to "make decisions based upon a fuller, more accurate understanding of the state of climate science."

Once that's done, he said, "there will be little justification for the endangerment finding, then they can safely withdraw it and defend it in court."

The Heartland Institute has been holding closed-door meetings for months to strategize how to push the administration to move ahead with the red team.

Heartland also sent lists of recommendations to EPA for potential members of the red team, according to documents obtained by the Climate Investigations Center and shared with E&E News (*Climatewire*, Oct. 26).

'Self-inflicted wound'

Despite the support from conservative circles, the exercise presents some political perils, and some say the administration and Pruitt would be wise to steer clear.

"I think that there are people in the White House who think we've got a lot of stuff we've got to do, and in the regulatory reform initiatives that we are advancing, we in the White House take incoming fire all the time," said an energy industry lawyer.

"In the case of red team, blue team, we'll be taking incoming fire all right, but it'll be completely voluntary. It'll be like a self-inflicted wound."

One line of attack the administration is already facing is that the operation aims to treat the two sides of the debate as equal. That would give the minority of researchers who question mainstream science a bigger platform.

There are also outstanding questions of who participates and how it would be run.

Pruitt was rumored to be considering Steven Koonin, a former Obama administration energy official, to lead the red team effort. Koonin said in an August interview that he'd consider it if certain conditions were met. His participation would allow Republicans to claim bipartisan

support.

Koonin said in August that he's driven by science, not politics.

"I've got no dog in the fight about whether [climate change] is the greatest catastrophe that's facing the planet or this is a nothing burger," he said. "This is something that is a national issue, and I feel the scientific community has an obligation to see that this is accurately portrayed" (*Climatewire*, Aug. 7).

Some critics of mainstream climate science have said they'll only participate if they see it as a serious effort with researchers they deem credible.

"The big question in my mind is to what extent the Heartland Institute has the ear of Scott Pruitt," said Judith Curry, a former professor at the School of Earth and Atmospheric Sciences at Georgia Tech whose name has been circulated as a possible red team member. She has said that having Heartland's name affiliated with the effort detracts from its credibility.

"I hope this is set up with sensible high-level people who are outside the everyday fray of the debate," she said.

There's also uncertainty about a possible "blue team" that would defend the mainstream science. Scientists may refuse to participate, arguing that it's an insincere effort or a waste of time. And the Trump administration may not want those optics.

The administration could also risk unflattering media coverage from the debate itself. Inflammatory assertions from either side of the debate would undoubtedly generate a flurry of news coverage, which could exacerbate criticisms that the administration isn't doing enough about climate change or generate intense scrutiny of the researchers picked for the red team.

Even some who welcome the debate say it comes with pitfalls.

"It's a very complicated thing, and it has to be gotten right or it won't have credibility and it won't produce a good product," said Ebell.

He doesn't think EPA is the correct agency to lead the charge, he said, suggesting instead that it be situated within the White House Office of Science and Technology Policy, where the president's top science adviser typically works.

But Trump hasn't nominated a leader for his science shop yet. Pruitt, meanwhile, appears eager to get started.

"It's something we hope to do," he told lawmakers last week. "That would be a process where we would focus on objective, transparent, real-time review of questions and answers around the issue of CO2."

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Washington Examiner

http://www.washingtonexaminer.com/world-bank-president-pushes-obama-climate-goals/article/2643022

World Bank president pushes Obama climate goals

By John Siciliano, 12/9/17

World Bank President Jim Yong Kim, picked by former President Barack Obama to lead the international lender, will mark the two-year anniversary of the Paris climate change agreement next week by pledging to help countries meet the pact's obligations by continuing the flow of climate-related financing.

Kim will co-host a major climate change meeting in Paris on Dec. 12, called the One Planet Summit, with French President Emmanuel Macron and United Nations Secretary General Antonio Guterres to "mark the two-year anniversary of the signing of the Paris Agreement," Kim told reporters on a conference call.

"We're coming together to not only reaffirm our commitment to the agreement and to showcase some of the great work taking place, but more importantly look at ways to mobilize the scale of financing needed to create a low-carbon, climate-resilient economies," he said.

Without mentioning President Trump's June 1 announcement that he would withdraw the U.S. from the global deal, Kim said there "is a lot of positive news" since the Paris deal was reached in December 2015.

"The Paris Agreement entered into force in record time, and 170 countries have ratified it," he said. In addition, the green bond market had continued "to boom, with the market expected to exceed $130 billion this year," he said.

The bank provides green bonds for projects that seek to help curb manmade carbon dioxide emissions that many scientists blame for causing global warming. The bonds mostly are used for clean energy and water projects in developing countries, although larger, more developed countries such as Russia also have been given bonds for projects.

The World Bank Group is one of the world's largest issuers of green bonds. "We've raised over $16 billion in over 200 green bonds since 2008 for climate- and environment-related investments," Kim said.

The World Bank Group will "continue to increase financing for climate action," he said. The World Bank Group is one of the largest multilateral providers of financing for renewable energy and energy efficiency projects in developing countries, he noted. "We increased climate lending to 22 percent [of the bank's total lending], up from 18 percent two years ago and getting us closer to our target of 28 percent by 2020," Kim added.

Increasing funding for countries will be a major topic at next week's meeting. He said climate financing is "not nearly enough to meet the Paris agreement commitments." Kim cited estimates by the International Energy Agency that show it will take an average of $3.5 trillion per year over the next three decades to contain the rise of global temperatures to a minimum of 2 degrees Celsius.

The world will require $90 trillion in new infrastructure in 15 years, which "needs to be climate smart," Kim said. "The problem is, we're only on pace to meet half of that."

To shore up the gap in financing, he said he will be urging governments to encourage lending the trillions of dollars, money he said that is on the sidelines earning low interest and could do better being put to work on projects that would earn higher returns.

His recommendations contradict the direction that Trump has taken on Paris. "We need to integrate climate into national policy and put in place incentives for change such as carbon pricing and eliminating fossil fuel subsidies," Kim said. "This is the time and opportunity to pull together — leveraging and combining all the knowledge and finance mechanisms at our disposal

— to help move forward on these important climate commitments."

Trump has not announced if he will send a delegation to the summit. Earlier reports said Macron had not invited Trump, but the French Embassy in Washington downplayed that by saying not all invitations had been sent out.

Myron Ebell, Trump's former Environmental Protection Agency transition chief, told the Washington Examiner that Kim's announcement is a prime example of how the Obama administration institutionalized climate change as a federal priority.

The World Bank president just started his second term in office and each term lasts five years, Ebell wrote in an email. "Thus, it looks like the Trump administration is going to be in disagreement with the World Bank on climate financing throughout the president's first term and well into his second."

"It's a lot of work to drain the swamp, and it's going to take some time," Ebell said.

Nevertheless, he wants Trump's Treasury Department to exert pressure on Kim to move away from funding renewable energy and push coal plants instead.

The U.S. "has the largest number of voting shares" at the World Bank, and the "Treasury should exert pressure to move away from funding renewable energy projects that poor countries can't afford and back to financing coal-fired power plants," Ebell said.

"They should argue that affordable energy is a key to alleviating poverty and that affordable electricity comes from coal," he said. "Foisting expensive and unreliable renewable energy on poor countries obviously conflicts with the World Bank's ambitious new (or fairly new) motto of 'Working to end world poverty' or something like that."

Ebell doesn't see much from the administration to counter the World Bank's agenda. He said the

bank's fall meeting came and went without any discussion on energy project financing.

The administration was trying to use the Paris deal's Green Climate Fund, meant to help poor countries cope with global warming, to funnel money toward coal projects, a plan that Ebell said "is a stretch."

The green fund aims to secure at least $120 billion in funds from industrialized nations by 2020. U.N. officials had said a priority has been to find funds to make up for Trump's withdrawal. The U.S. did transfer $1 billion to the fund under Obama. The Trump administration argued that it had a seat at the table in how those funds are used, "so it was worth a shot," Ebell said. But it is not clear if that will be possible.

"If they tried that with the Green Climate Fund, they should have made a much more serious effort with the World Bank," he said.

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Subject: E&E News: Pruitt on climate science: 'I have a whole plan', 12/4/17

E&E News

https://www.eenews.net/climatewire/stories/1060067961/search?keyword=EPA

Pruitt on climate science: 'I have a whole plan'

By Niina Heikkinen, 12/4/17

U.S. EPA's transition team had planned a much harder attack on the agency's ability to address climate change, according to a former member.

A draft of President Trump's "energy independence" executive order had initially directed EPA to reconsider the endangerment finding, said David Schnare, a transition and "beachhead" team member at EPA who helped draft the order.

In an interview with E&E News, Schnare recounted being disappointed as he reviewed the final order with EPA Administrator Scott Pruitt. References to the endangerment finding had been removed, and Schnare raised objections.

"And he said, 'Dave, I'm way ahead of you on that; I have a whole plan,'" Schnare said, quoting Pruitt. "Well, he didn't have a plan. He didn't know what he was going to do, and whatever he thought he was going to do he has had to change his mind on a couple of times now."

The endangerment finding provides the scientific basis for the agency's climate regulations, stating that greenhouse gas emissions are harmful to human health and welfare. If the Trump administration fails to undo it, conservatives fear that rules to reduce emissions could be resurrected under future presidents.

"The endangerment finding is a critical policy finding because it drives an enormous number of

mandates," said Schnare.

Trump signed the final version of the executive order at the end of March, leading to a wide-reaching regulatory review that sparked the reconsideration of the Clean Power Plan and the end of a federal methane-reduction target, among other actions.

Schnare, who worked at EPA for more than 30 years, gained notoriety for questioning mainstream climate science and for a series of lawsuits aimed at obtaining the emails of individual climate scientists. Schnare abruptly left the beachhead team at EPA, citing conflicts in leadership style with Pruitt.

More recently, Schnare has spoken at meetings organized by the Heartland Institute for potential participants in a "red team, blue team" debate on mainstream climate science.

While the endangerment finding didn't make it into the final executive order, discussions around it reached high into the White House. The transition team spoke with the staff of then-White House Chief of Staff Reince Priebus and "had the ear" of former chief strategist Stephen Bannon, Schnare said. The team did not discuss the issue directly with the president, his children or his son-in-law, Jared Kushner, according to Schnare. However, Kushner was briefed on the issue, Schnare added.

Schnare said he now agrees with the decision to omit the endangerment finding from the executive order. But he wasn't happy with the decision at first.

"At the time, I wasn't thinking clearly enough that you have to start with the science. I was just thinking we could just go back and look at the endangerment finding. Well, you can't. And so taking that out of there bothered me but probably wasn't a bad idea," he said.

Schnare said he considers the recently released Fourth National Climate Assessment a major, but not insurmountable, legal obstacle to reviewing the endangerment finding. The report says man-made climate change is an imminent threat. Schnare said that after he left the transition team, he urged the White House to delay releasing the assessment report, but the White House declined,

saying it would look like "political malingering."

"The only way, with this other report in place, for EPA could do it would be a point-by-point refutation of each of the points made [in the endangerment finding]. That's a lot of work; it could be done," he said.

Schnare said that the White House Office of Science and Technology Policy, rather than EPA, would be better-suited to reviewing climate science. The office is currently without a director. He noted the importance of filling that position in order to begin reviewing climate science.

Ultimately, discussion on the transition team shifted away from the endangerment finding to focus on exiting the Paris Agreement, the landmark international climate accord. This action was also poised to be included in the "energy independence" executive order but was split off into a separate order that both the Department of Energy and EPA transition teams worked on.

"It really came down to — nothing to do with environmental quality — it had to do with, is this or is this not a treaty and what does it commit us to, and that's how the decision got made," he said. "So this whole issue of endangerment finding is out there, people are concerned about it on both sides, but there is no obvious path at this point that anyone has sorted."

Myron Ebell, the former head of the transition team at EPA and director of global warming and international environmental policy at the Competitive Enterprise Institute, declined in an email to confirm discussions about the endangerment finding with the White House or EPA. However, he noted that the plan was written to implement "every promise" made by Trump during the campaign.

"Getting out of the Paris Climate Treaty was a top line promise that Mr. Trump made repeatedly. Re-opening the Endangerment Finding was a lower level campaign commitment that was to my knowledge only made once in a questionnaire that Mr. Trump submitted to the Institute for Energy Research," Ebell said. "So I would say that re-opening the Endangerment Finding was definitely a campaign promise, and therefore you can infer that it was contained in the transition plan."

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E&E News

https://www.eenews.net/climatewire/2017/12/01/stories/1060067811

Pruitt 'guaranteeing' debate on climate science soon

By: Scott Waldman, 12/1/17

The conservative Heritage Foundation might have just previewed the Trump administration's arguments against climate science.

U.S. EPA appears to be close to unveiling its program to question mainstream research on global warming, referred to as a "red team" exercise, and several candidates for that role cast doubt on the extent of climate change at the Heritage Foundation yesterday.

One theme they expressed is that carbon dioxide emissions from fossil fuels should no longer be considered a pollutant but instead an essential ingredient in maintaining a global population boom. They described potentially catastrophic impacts of human-caused warming as "alarmism."

EPA Administrator Scott Pruitt could announce the red team within weeks, according to Bob Murray, a key ally of the administration and the CEO of Murray Energy Corp. The coal boss said in an interview at yesterday's event that he has been personally pushing Pruitt to challenge the endangerment finding, the scientific underpinning for past and future regulations on greenhouse gas emissions.

Murray, who met with Pruitt last week, said the administrator told him the red-team debate is imminent. Pruitt also said the exercise is the first step toward a possible challenge to the endangerment finding, Murray told E&E News.

"They're laying groundwork for it, they want to do this red, blue study, debate on science before we get there," Murray said of the endangerment finding. "I said, 'You need to get it done; if you don't get it repealed, you're going to have this climate agenda forever. It needs to be repealed.'"

Murray added of Pruitt: "He's not guaranteeing me. He's guaranteeing to do the red-blue climate debate and then go from there."

The Trump administration has been aggressive in its efforts to rescind policies restricting greenhouse gases. It's working to reverse the Clean Power Plan, which sought to cut power-sector emissions 32 percent by 2030, and President Trump has announced a withdrawal from the global Paris climate accord.

But the administration has stopped short of promising to challenge the endangerment finding. That stands to be a major fight in the courts, and many administration officials anticipate defeat. Yet if President Trump skips that fight, he would anger staunch conservatives who see the endangerment finding as the cornerstone of future climate regulation.

"We're going to have a mess until that endangerment finding is overturned," Murray said.

The red-team, blue-team exercise is coming early next year, Pruitt said recently. It will pit a team of skeptical researchers against the findings of mainstream scientists. Critics have said the exercise could cherry-pick data in an effort to elevate doubt and give unequal weight to skeptics.

An EPA spokesman said there are "no updates" when asked about the timing of the exercise.

One panel at the Heritage Foundation event yesterday could offer a prelude to the scientific arguments that would be pursued by the red team. Several skeptical scientists picked apart the general consensus of their peers, who say humans are warming the Earth at an unprecedented pace. The panelists claimed that the attention given to rising global temperatures is overwrought. Craig Idso, who founded the Center for the Study of Carbon Dioxide and Global Change, said the world food supply will fall short of demand by 2050 unless more CO_2 is pumped into the atmosphere.

Roy Spencer, a climate scientist at the University of Alabama, Huntsville, said researchers who could be selected for the red team have met a few times in recent weeks in different cities. He said more government research needs to be conducted on the natural causes of climate change. That could be done if congressional budget appropriators divert a portion of the research funding for human-caused climate change toward research on natural causes.

"There are chaotic variations internal to the climate system, and that is something that has been totally swept under the rug," Spencer said. "The red team could look at all kinds of things, but if I'm part of the red team, that would probably be the top thing I would emphasize."

The researchers, all of whom are possible candidates for the red team, attacked the findings of mainstream science that humans are the primary cause of climate change. They criticized climate models, laughed at former Vice President Al Gore's advocacy and portrayed the vast majority of colleagues in their field who disagree with them as "alarmists."

The "smoking gun" that could undo the endangerment finding is to find flaws in the climate models, said Pat Michaels, director of the Center for the Study of Science at the Cato Institute. He said yesterday's panel is a prelude to the red team and an attack against the endangerment determination. He cautioned EPA against using researchers with extreme positions.

"The red team members are going to have to be very carefully selected," Michaels said. "My fear is that red team will have this tinge of 'Oh, there is no such thing as global warming; there is no such thing as carbon dioxide greenhouse gas effect.' If the red team goes there, it might as well be considered that they are working for the blue team."

Scientific consensuses are often wrong, said William Happer, an emeritus physics professor at Princeton University and a contender to become Trump's science adviser. He criticized the "preening virtue signaling" of environmental groups and compared the attitude of those who craft climate policy to lawmakers who were swept up in the temperance movement before Prohibition was enacted.

"Climate models don't work; they're predicting much more warming than has been observed," Happer said.

Richard Lindzen, a retired meteorology professor from the Massachusetts Institute of Technology, blamed "climate alarmism" on educated elites who don't want to admit their limited understanding of science. He said fossil fuels will benefit humans and that reduced Arctic sea ice will open the Northwest Passage.

After a lunch from Chick-fil-A, Murray shared the Heritage stage with Bud Brigham, who founded several successful hydraulic fracturing companies.

As Brigham sat silently, Murray largely blamed policies by the Obama administration for the decline of coal, rather than the natural gas boom associated with fracking. Murray said that despite the Trump administration's efforts, financing for coal projects is extremely hard to obtain. He said he abandoned a project last week because he failed to find funding. He blamed it on climate science, socialists and liberal policies.

"The global alarmists, the politics is still shutting us down in spite of the Trump administration's efforts. It is still getting worse; they are winning," Murray said.

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Bloomberg

https://www.bloomberg.com/news/articles/2017-12-28/trump-rolls-back-offshore-safety-rules-born-from-bp-oil-spill

Trump Rolls Back Offshore Safety Rules Born From BP Oil Spill

By Catherine Traywick, 12/28/17, 3:22 PM

The Trump administration is rolling back offshore drilling rules put in place after the 2010 Deepwater Horizon disaster killed 11 workers and spewed millions of barrels of oil into the Gulf of Mexico.

President Donald Trump in April ordered Interior Secretary Ryan Zinke to review a raft of Obama-era safety rules that sought to curb accidents and pollution by oil and gas drillers operating in U.S. waters. The agency on Thursday proposed several changes to those regulations, including scrapping a requirement that operators certify through a third party that their safety devices are functioning properly.

The changes will save companies at least $288 million over 10 years, according to the Bureau of Safety and Environmental Enforcement.

“By reducing the regulatory burden on industry, we are encouraging increased domestic oil and gas production while maintaining a high bar for safety and environmental sustainability,” agency Director Scott A. Angelle said in a statement.

President Obama put the safety rules in place late last year, after six years of analysis following the 2010 BP Plc oil spill, in which a well blew out in the Gulf of Mexico. The proposed changes include revisions to safety system design requirements and equipment failure reporting requirements.

Environmentalists blasted the move, saying it put oceans and wildlife at risk.

"By tossing aside the lessons from the Deepwater Horizon oil spill, Trump is putting our coasts and wildlife at risk of more deadly oil spills," Miyoko Sakashita, director of the oceans program at the Center for Biological Diversity, said in a statement. "Reversing offshore safety rules isn’t just deregulation, it’s willful ignorance.”

Bloomberg

https://www.bloomberg.com/news/articles/2017-12-29/trump-stretches-meaning-of-deregulation-in-touting-achievements

Trump Stretches Meaning of Deregulation in Touting Achievements

By Alan Levin & Ari Natter, 12/29/17, 4:00 AM

One is a federal rule, initiated by former President Barack Obama, that removed Yellowstone's grizzlies from the list of endangered species. Another repealed a grant program that hasn't been funded since 2011.

They are among the 67 so-called "deregulatory" actions President Donald Trump cited at a Dec. 14 event to tout "the most far-reaching regulatory reform in history" designed to unburden the U.S. economy from the shackles of government oversight. To illustrate the point, he cut a length of "red tape" attached to a mountain of paper.

While the president has succeeded in undoing some major environmental and financial industry rules, a Bloomberg News review of the administration's list found almost a third of them actually were begun under earlier presidents. Others strain the definition of lessening the burden of regulation or were relatively inconsequential, the kind of actions government implements routinely.

"They are really undercutting their own credibility by putting out numbers that are not, quite frankly, very believable," said Cary Coglianese, a University of Pennsylvania law professor who is also director of the Penn Program on Regulation. "If I were advising them, I would have said put out something that's credible."

An earlier Bloomberg review of Trump administration claims about regulatory actions found that it had taken credit for killing or delaying rules that were pending and hadn't gone into effect, including more than 100 that were already dead under Obama.

There have been victories for the administration's anti-regulatory push -- such as Congress's repeal of 15 regulations and the Federal Communications Commission's vote this month to curb open-internet rules -- but in most cases it has merely delayed implementing rules it opposes or begun the lengthy process of killing them. That means that, so far at least, many of the actions could easily be overturned by a successor.

In one of his first actions as president, Trump ordered that two regulations be revised or eliminated before any new federal rule could be adopted. In order to follow the order, the White House's Office of Information and Regulatory Affairs created a new label for rules or agency policy shifts it deemed were lowering burdens on society, calling them deregulatory.

In the Dec. 14 press conference, Trump said the government had taken 67 such deregulatory

actions through Sept. 30 -- with an annual savings to society of $570 million -- and had imposed just three new regulations. Instead of two for one, the ratio was 22 to one, he said.

"The never-ending growth of red tape in America has come to a sudden, screeching and beautiful halt," Trump said at the event.

The White House didn't respond to multiple emailed requests for comment on the administration's list of 67 deregulatory actions.

While it isn't nearly as sweeping as he would like, Clyde Wayne Crews, vice president for policy at the Competitive Enterprise Institute, which advocates for limiting the role of government, applauded Trump's effort. U.S. law requires many steps before a new rule can be imposed or an old one revised, making it difficult for a new administration to take aggressive action so soon, Crews said.

"In terms of what a president can do on his own, I think this is a good start," he said.

The administration is stepping up its efforts to undercut scores of rules that threaten the environment and public safety, says Amit Narang of the advocacy group Public Citizen, which supports regulatory protections.

However, the claim about taking 67 deregulatory actions doesn't always add up.

For one thing, it's difficult to assess the White House's assertion that the deregulatory actions taken through Sept. 30 have lowered the costs to society by a net $570 million a year, or $8.1 billion over time.

The Office of Management and Budget, the White House arm that oversees regulatory actions, didn't respond to questions from Bloomberg starting the day after the Dec. 14 announcement on how that figure was calculated. A review of the 67 regulations cited as helping drive down costs found many didn't include cost-benefit calculations.

"I'll give them the benefit of the doubt that $570 million is potentially the cost savings, but they're not being transparent on how much each action is saving and how it adds up to the $570 million," said Narang, a regulatory policy advocate at Public Citizen.

The administration's cost figures also ignore projected benefits for regulations it has blocked, distorting the actual impacts on society, said Denise Grab, a lawyer with the Institute for Policy Integrity at New York University's School of Law. The institute has sued the Trump administration to block some of its regulatory actions.

One action on the list of 67 -- it was actually counted twice because two agencies had to act separately -- was an immigration rule the administration enacted in July that left two experts scratching their heads over how it could be considered deregulatory.

The action, by the Department of Homeland Security and the Department of Labor, raised the

cap on immigrants entering the U.S. to work in seasonal, non-agricultural jobs by as many as 15,000. The original H-2B visa program had been capped at 66,000.

"It's a stretch to call this deregulatory in any way," said Jessica Vaughan, director of policy studies for the non-partisan Center for Immigration Studies in Washington.

Indeed, instead of lessening the regulatory burden, the regulation imposed additional requirements on businesses that wanted to participate in the expanded visa program, said Vaughan and Laura Reiff, a lawyer at Greenberg Traurig LLP and founder of the Essential Worker Immigration Coalition, which lobbies for immigration reform on behalf of businesses.

At least 22 of the 67 deregulatory actions -- from allowing imports of persimmons from Japan to the adoption of new electric vehicle safety rules -- were adapted from efforts begun under Obama, often with little or no change, according to records.

For example, the list included an Interior Department rule proposed by the Obama administration in June 2016 to allow Alaskan natives to use nonedible parts of migratory birds, like feathers, in handicrafts. It was completed this year, after a minor change.

Likewise, the rule changing the status of grizzly bears around Yellowstone National Park was also begun under Obama.

"They have no business taking credit for that," Chris Servheen, who helped craft the regulation before he retired as the Fish and Wildlife Service's grizzly bear recovery coordinator, said. "It was all started long before the election."

While the list of 67 actions runs up until Sept. 30, federal records show agencies have continued after that date to label actions as deregulatory even though they are just eliminating outdated or unnecessary proposals.

For example, the Food and Drug Administration on Oct. 18 killed a proposed rule that would have prohibited the use of cow byproducts in the manufacture of drugs, according to records. The rule, originally proposed in 2007, was designed to protect against the spread of mad-cow disease, but other actions since then have protected cattle from the disease. Eliminating the rule will have no effect on the cattle industry.

The proposed rule was dropped because it was "scientifically outdated and has been superseded by subsequent public policy," the FDA said in an emailed statement.

Under Trump and Administrator Scott Pruitt, the Environmental Protection Agency has taken a number of steps to rescind, delay or undermine environmental regulations issued under the previous administration. The agency put off the carbon-cutting Clean Power Plan and moved to repeal it. It delayed rules on methane leaks from oil and gas equipment, safety requirements on chemical plants and pollution in the water released by coal plants while it moved to rework and ease off on those Obama-era requirements.

But of the 16 deregulatory actions taken by EPA on the administration's list of 67, six were proposed under Obama and completed without major changes. It also included small actions that are typical under any administration and a few technical measures altering the paperwork that industry must complete to comply with EPA rules.

For example, the list includes an EPA delay of a rule requiring makers of nanoscale compounds, microscopic particles increasingly used in drugs and electronic components, to disclose the known health effects of their products. The delay was just for three months, however, from May 12 to Aug. 14. When the requirements went into effect in August, the environmental group Natural Resources Defense Council praised them as a rare example of "some good news" from the EPA.

In another case, Obama's EPA in 2015 agreed to reconsider monitoring measures for phosphoric acid and phosphate fertilizer that had been set as part of a broader rule in 2014. The EPA proposed the industry-related changes last December, and Pruitt's EPA ratified and finalized those standards in September.

One action on the administration's list scrapped a grant program providing federal funds to help pay for construction of public TV and radio stations. In 2010, the Obama administration ruled that money was available from other sources and ended the program. Congress followed suit and hasn't funded the program since.

"This is a nonsensical rule to include," the University of Pennsylvania's Coglianese said. "There's no benefit to business getting rid of this rule. This is meaningless to have on this list."

The Hill

http://thehill.com/opinion/energy-environment/366620-four-major-environmental-debates-of-2017

Four major environmental debates of 2017

By The Hill Staff, 12/27/17, 5:00 PM

President Trump made profound changes to U.S. environmental policy this year while reversing Obama-era mandates. The Trump administration's major policy shifts including withdrawing from the Paris climate agreement, shifting fossil fuel policy, refocusing the EPA and scaling back public lands.

These actions were coupled with historic weather events. Hurricanes and wildfires crippled parts of the country, shedding light on emergency services, disaster preparedness and energy resilience.

Here's a look at analysis and opinions on some of the year's biggest environmental issues.

1. **Leaving Paris climate agreement**

Trump announced the U.S. would withdraw from the Paris climate agreement aimed at curbing global greenhouse gas emissions. While the U.S. remains locked into the deal until 2020, the move sent a message about the president's "America first" environmental priorities.

Trump's former campaign manager Corey Lewandowski praised the move, noting "This agreement was a scam that ultimately hurt U.S. economy and worker productivity."

Rep. Sheila Jackson Lee

"Trump has often questioned the need for such an agreement, and yet he has no scientific basis to pull away from the consensus of thought of most Americans," she wrote.

Others argued the U.S. could make good on its part of the deal with or without Trump.

Ultimately, the White House move to leave the pact reignited a larger debate about climate science, the impact of humans on the environment and U.S. policy toward greenhouse gases.

2. **An evolving EPA**

Environmental Protection Agency Administrator Scott Pruitt reshaped the agency, scaling back regulatory oversight, repealing the Obama-era Clean Power Plan and instituting a "back-to-basics" agenda.

Emmett McGroarty and Erin Tuttle at American Principles Project praise Pruitt, noting he "drains the swamp like no one else in Washington." Former EPA Assistant Administrator Win Porter argues Pruitt is "returning Reagan-era principles" to the agency.

John O'Grady, president of the American Federation of Government Employees, says it's more like sabotaging the EPA, arguing "Pruitt has muzzled science and his dissenters" at the agency.

3. **Natural disasters**

A series of natural disasters hit the U.S. this year, including Hurricanes Harvey, Irma and Maria. These storms ravaged and flooded Texas, Florida and the U.S. Virgin Islands, while also leaving areas of Puerto Rico without power for months.

Ahead of the storm, former FEMA director Michael Brown cautioned a powerful storm during an August recess could be a recipe for disaster. Brown advised Trump, "don't let Hurricane Harvey be your Katrina."

Shaye Wolf, Center for Biological Diversity's Climate Law Institute climate science director, criticized the Trump administration for rolling back coastal flood protections just before Harvey hit.

"With hurricane season looming, Trump rescinded a life-saving Obama-era rule that required federally funded infrastructure like schools, housing, and highways to be better able to withstand flood damage," Wolf wrote.

Two months after Maria hit Puerto Rico, Inter American University of Puerto Rico law professor Andrés L. Córdova reminded those on the mainland much of the island was still without power. Tom Sanzillo, director of finance at the Institute for Energy Economics and Financial Analysis, laid much of the blame at the governor's feet, arguing Gov. Ricardo Rossello "betrayed Puerto Ricans, clenching to power over broken energy grid."

4. **Public lands**

The Trump administration has also reevaluated public lands by scaling back national monuments.

Environmental groups feared iconic American landscapes would lose federal protection. Lena Moffitt, senior director of the Sierra Club's Our Wild America campaign, argued "nobody looks back with regret on the decision to protect the Grand Canyon or to save the Giant Sequoias."

Ultimate, only two monuments were singled out. The Grand Staircase-Escalante National Monument will be reduced by about half and Bears Ears National Monument by about 85 percent.

The review overshadowed a proposed fee hike for some of the most popular national parks.

Audrey Peterman, a member of the Next 100 Coalition, argued the increase would create a "class system" among park goers. Others noted, "we're not paying our fair share" to fund national parks.

"If our parks, forests, and wilderness areas are truly national treasures, then outdoor recreationists should have no qualms paying to enjoy — and support — them," wrote Tate Watkins, a research fellow at the Property and Environment Research Center.

Congress also opened public lands in Alaska to oil drilling. Commissioner of the Alaska Department of Natural Resources Andy Mack notes Arctic drilling can be safe, based on previous successful drilling in Alaska's Prudhoe Bay. Former Sen. Joseph Lieberman (D-Conn.) warns it could cause the destruction of the Arctic National Wildlife Refuge.

"This is too important a national decision to make without offering an opportunity for a full examination of the consequences," Lieberman wrote.

The Hill

http://thehill.com/policy/energy-environment/366704-trump-to-repeal-obama-fracking-rule

Trump to repeal Obama fracking rule

By Timothy Cama, 12/28/17, 2:38 PM

The Trump administration will take its final step to repeal the Obama administration's 2015 rule setting standards for hydraulic fracturing on federal land.

A formal notice from the Interior Department's Bureau of Land Management (BLM) making the repeal final was posted publicly Thursday and is due to be published in the Federal Register Friday.

The repeal is part of a broad Trump administration effort to repeal environmental rules it finds unnecessary and to promote domestic production of fossil fuels and other energy sources.

"This final rule is needed to prevent the unnecessarily burdensome and unjustified administrative requirements and compliance costs of the 2015 rule from encumbering oil and gas development on federal and Indian lands," the BLM wrote in the notice.

The BLM's notice does not take a position on whether the agency ever had legal authority to enforce the law. Republicans and the oil industry say that it did not, as did a federal judge in Wyoming who overturned the rule, only to be later overruled on appeal.

The 2015 rule came after years of deliberations within the Obama administration over how to deal with fracking. The practice, in which fluids are forced underground at high pressure to recover oil and natural gas, has grown dramatically in recent years, leading to a massive domestic oil and gas boom.

Environmentalists argue that fracking can be dangerous for groundwater, soil and air. Federal research, including a major Environmental Protection Agency study, found that such contamination can happen, but is far from common.

The Obama rule focused mainly on three areas: mandating that companies disclose the chemicals they use to frack, requiring them to cover surface ponds that house fracking fluids and setting standards for the construction of the wells.

The regulation never took effect. Wyoming federal Judge Scott Skavdahl put it on hold in 2015, before overturning it in 2016.

The oil and gas industry applauded the repeal.

"The rescinding of this burdensome rule, which was never enacted due to IPAA and Western Energy Alliance's ongoing legal challenge, will save our member companies and those operating on federal lands hundreds of millions of dollars in compliance costs without any corresponding safety benefits," Barry Russell, president of the Independent Petroleum Association of America, said in a statement.

"It was clear from the start that the federal rule was redundant with state regulation and politically motivated, as the prior administration could not point to one incident or regulatory gap that justified the rule," said Kathleen Sgamma, president of the Western Energy Alliance.

Environmentalists said the repeal puts human and wildlife health at risk.

"The Trump administration is endangering public health and wildlife by allowing the fracking industry to run roughshod over public lands," Brett Hartl, government affairs director at the Center for Biological Diversity, said in a statement.

"Fracking is a toxic business, and that's why states and countries have banned it. Trump's reckless decision to repeal these common-sense protections will have serious consequences."

The rule's repeal will take effect immediately. Environmental groups and Democratic states may then sue the BLM to try to get it reinstated.

The Daily Caller

http://dailycaller.com/2017/12/29/coal-remains-critical-to-national-security-strategy/

OPINION: Coal Remains Critical To National Security Strategy

By Tom Harris, 12/29/17, 2:42 AM

It is very appropriate that President Donald Trump virtually ignored climate change in his National Security Strategy (NSS). Recent climate change has been unremarkable and clearly does not constitute a national security threat in comparison with concerns such as terrorism and inadequate border controls.

What does constitute a threat, however, is a lack of affordable, reliable energy to power the nation and export into world markets. So, as a citizen of Canada, a nation dependent on a prosperous U.S. for our defense and much of our economy, I am very pleased to see that Trump emphasized energy security and, indeed energy dominance, in the National Security Strategy.

To achieve these ends, and in particular to "Promote American prosperity" and "Advance American influence," two of the four vital national interests identified in the National Security

Strategy, the Trump administration asserts "Our Nation must take advantage of our wealth in domestic resources." And one of the most important of its domestic resources, one America is no longer taking full advantage of, are its vast coal reserves, the largest of any nation on Earth.

Testifying on Nov. 28 at the Environmental Protection Agency's (EPA) public hearing on the withdrawal of the Clean Power Plan in Charleston, West Virginia, Robert E. Murray, president and CEO of Murray Energy Corp., summarized the bleak state of affairs:

"Prior to the election of President Obama, 52 percent of America's electricity was generated from coal, and this rate was much higher in the Midwest. That percentage of coal generation declined under the Obama Administration to 30%. Under the Obama Administration, and its so-called Clean Power Plan, over 400 coal-fired generating plants totaling over 100,000 megawatts of capacity were closed with no proven environmental benefit whatsoever."

Former President Barack Obama's dedication to the climate scare contributed significantly to coal's decline. Besides the impact of the Clean Power Plan, a rule that will hopefully soon be withdrawn, coal has been hammered as a result of a 2015 EPA rule that limits carbon dioxide (CO2) emissions on new coal-fired power stations. The result is that the United States can no longer build modern, clean and efficient coal plants to replace older stations as is happening in Europe, China and India. Here's why:

The 2015 EPA rule, entitled "Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Generating Units," limits carbon dioxide emissions on new coal-fired stations to 1,400 pounds per megawatt-hour of electricity generated. When releasing the new standard, the EPA asserted that it "is the performance achievable by a [supercritical pulverized coal] unit capturing about 20 percent of its carbon pollution."

This is irrational. Carbon dioxide is no more pollution than is water vapor, the major greenhouse gas in the atmosphere. By calling the gas "carbon," the Obama EPA encouraged the public to think of it as something "dirty," like graphite or soot (which really are carbon). Calling carbon dioxide by its proper name, *carbon dioxide*, would have helped people remember that it is an invisible, odorless gas essential to plant photosynthesis, clearly not a perspective Obama encouraged.

Also, the technology of carbon dioxide capture on a full-scale power plant is still a technological fantasy. So, in reality, the EPA was actually banning even the most modern, very efficient, supercritical coal-fired stations because their carbon dioxide emissions are at least 20 percent above the EPA limit. Considering that the U.S. has 22.1 percent of the world's proven coal reserves, the greatest of any country and enough to last for 381 years at current consumption rates, it is a tragedy that America can no longer build new, clean, coal-fired power stations to replace its aging fleet of coal plants. Clearly, the Trump administration needs to cancel this damaging rule as soon as possible.

The climate scare has also impeded coal's development in the U.S. by restricting its exports. In particular, Asia would be a huge market for inexpensive American coal if sufficient U.S. export

facilities were available. But, again, thanks largely to the climate scare contributing to the blocking of construction of coal export terminals, the U.S. exports only about as much coal as does Poland.

To "restore America's advantages in the world and build upon our country's great strengths," to quote from the NSS fact sheets, the Trump administration must obviously continue to promote coal. The U.S. is, after all, the Saudi Arabia of coal. And to effectively boost coal, the climate alarm must be thoroughly debunked.

Tom Harris is executive director of the Ottawa, Canada-based International Climate Science Coalition.

The Washington Times

https://www.washingtontimes.com/news/2017/dec/28/congress-must-reform-renewable-fuel-standard/

OPINION: Ending the march of the biofuel swamp creatures: Why Congress must reform the Renewable Fuel Standard and bring stakeholders to the table

By Dan K. Eberhart, 12/28/17

The federal Renewable Fuel Standard (RFS), which mandates that ethanol and other biofuels are mixed into nearly every gallon of gasoline sold in the United States, is the perfect example of how a government program can attract the kind of swamp creatures President Trump vowed to eliminate.

Rather than reduce the number of special interest groups seeking preferential treatment, lobbyists for oil refiners and corn-ethanol producers have stepped up their attempts to influence Mr. Trump and officials at the Environmental Protection Agency (EPA) to protect those sections of the RFS that favor their industry.

The resulting uncertainty these various attempts have caused in the fuel markets has encouraged even more creatures to crawl out of the Capitol swamp to do battle with those standing ahead of them in the presidential greeting line. The end result has been chaos and uncertainty for investors and consumers.

In the past year alone we have seen the spectacle of Carl Icahn, the former regulatory czar for Mr. Trump and a major investor in the oil refiner CVR Energy, try to use his advisory position to move the point of obligation for complying with the RFS mandates down the rack from refiners

to retailers.

On the other side of the issue, Big Corn spent a great amount of political capital to pressure farm-state senators to hold up the president's nominees for the EPA until that agency agreed to protect the mandated volumes of corn-based ethanol for the coming year.

Most recently, Sen. Ted Cruz of Texas has blocked Mr. Trump's nominees in an effort to win changes to the RFS program.

All of these attempts have resulted in a high level of uncertainty for investors. The series of moves and counter-moves has left all sides of the debate on shakier ground with Congress, which has long looked askance at the RFS' mandates. The only way to truly protect the public interests is to stop protecting the special interests and allow the free market and consumers to determine the amount and type of biofuels should be blended into the nation's transportation supply.

The RFS was supposed to reduce America's dependence on foreign oil supplies and have less environmental impacts than petroleum. Unfortunately, those benefits have not proven to true. Ethanol has been shown to have a greater environmental impact over its life cycle and the rise of American energy dominance has come about thanks to innovations by domestic oil producers. Instead, a lucrative market has sprung up to trade RFS' compliance certificates or Renewable Identification Numbers (RIN) that has distorted the fuel market.

For all of these reasons, Congress should pass comprehensive RFS reform with a sunset date and allow the marketplace — not EPA officials — to determine biofuel blend volumes. This is the only sure way to save the renewable fuels market as the other alternative Congress has oft discussed is total repeal.

The constant threat of individual changes to the program and the market uncertainty created by the RFS post-2022 — when volume levels will be left up to the discretion of the EPA administrator — should be a catalyst to bring refiners and corn-ethanol producers together to find common ground. Consider the alternative: in 2022, without a congressionally-mandated sunset date, the EPA will have wide latitude to implement the RFS as it sees fit.

Corn ethanol will no longer be able to hide behind RFS mandates. In fact, the RFS could be used against corn interests to drive a de-facto California-style low-carbon fuel standard or even to create a new subsidy for electric vehicles to the detriment of both refiners and corn ethanol producers — as well as consumers who will have fewer fuel choices and will pay more at the pump as a result.

Left alone, the RFS will continue to attract more swamp creatures looking to promote their special interests without regard to consumer choice or market forces. You don't have to know all the details of the RFS to understand that the program becomes far more susceptible to bureaucratic changes after 2022.

Congress is best positioned to bring all stakeholders to the table and craft a transparent,

permanent solution designed to protect the best interests of consumers. Swamp creatures are a hearty bunch; they can fend for themselves.

A comprehensive solution should in the short term provide market certainty and maximize growth opportunities and, in the long term, alleviate regulatory barriers to level the playing field so that the federal mandates can be allowed to expire and the free market take over.

If the ethanol and refiner interests continue to fight, they will eventually discover that the RFS will be used against them. Both sides should work together now to protect the liquid transportation fuels market from the RFS turning into a subsidy program for electric vehicles.

Now that the EPA has released the 2018-2019 renewable fuel volume obligations, it should be clear to everyone involved that stand-alone solutions do not address the long-term problems with the program.

• *Dan K. Eberhart is the CEO of Canary LLC and a board member of the Los Angeles World Affairs Council.*

The Washington Times

https://www.washingtontimes.com/news/2017/dec/27/epa-ethanol-study-now-more-than-8-years-late/

EPA ethanol study now more than 8 years late

By Ben Wolfgang, 12/27/17

Five months into the Obama administration, the Environmental Protection Agency was supposed to complete a study looking at ethanol's effect on American air quality.

Nearly eight years later, the agency still hasn't completed its work, and both sides of the biofuels debate are now calling on the Trump administration to issue the report and are banking on the fact that the results will bolster their arguments.

The years-long delay came into the spotlight earlier this year when Sen. John Barrasso, Wyoming Republican and chairman of the Senate Environment and Public Works Committee, sent a letter to EPA Administrator Scott Pruitt urging him to comply with federal law and complete the report. His letter came just days after the EPA issued new requirements for the blending of ethanol with gasoline, largely siding with the biofuels industry and rebuffing critics — including Mr. Barrasso — who argued the ethanol mandate should be reduced dramatically.

"A growing body of independent academic research has also documented the RFS' impacts on

air, water and land quality, wildlife habitat, and other sensitive ecosystems," the senator wrote. "EPA cannot ignore the will of Congress and the requirements of the Clean Air Act" by not completing the report.

Mr. Barrasso asked that EPA complete the air quality study and another report on ethanol's "impacts to the environment and rescue conservation" by Sept. 18, 2018. The latter study is supposed to be completed every three years, but the EPA has issued it only once, in 2011.

The air quality study was due to be completed by May 19, 2009.

In a statement, an EPA spokesperson would not offer clarity as to why the agency is so far behind schedule, or whether the Trump administration will make the reports a priority. He only said the EPA would respond to Mr. Barrasso through the appropriate channels.

The two studies are just one part of a much broader fight that's now become an intra-party war between Republicans. President Trump has been an outspoken supporter of the Renewable Fuel Standard (RFS), the federal law that requires the blending of ethanol with gasoline supplies each year. He's joined by Sen. Chuck Grassley, Iowa Republican, and other members of the GOP from states that have benefited greatly from the domestic ethanol sector.

On the other side, Mr. Barraso, Texas Sen. Ted Cruz, and others have pressured the administration to slash the RFS, arguing, among other things, that it has an adverse impact on the oil and gas industry.

In his letter, Mr. Barrasso didn't explicitly cite air quality concerns as a potential reason why the RFS should be reduced. But it's clear any study showing biofuels have a negative impact on air would provide serious ammunition for his side of the debate.

The ethanol sector, however, believes the same thing. The industry's leading trade group, the Renewable Fuels Association, seized on Mr. Barrasso's letter and also called on the EPA to do its work.

"It may come as a surprise, but we agree with Sen. Barrasso that updated studies and analyses of ethanol's environmental impacts are needed," said RFA President Bob Dinneen. "We have absolutely nothing to hide, and nothing to be afraid of. We believe EPA should complete the agency's congressionally mandated studies on the environmental impacts of the RFS, and believe the results will confirm that biofuels like ethanol offer enormous environmental benefits."

There's been pressure on the EPA from all sides to finish the reports, and it's clear the blame falls on both the Obama and Trump administrations. In August 2016, the EPA inspector general released a report saying the national debate on ethanol policy is missing key information.

"The EPA does not have an assessment that meets the requirement to identify whether RFS creates any impacts on air quality and, thus, take required measures to mitigate impacts," the inspector general wrote. "This information is needed to fully inform the EPA, Congress and

other stakeholders of the environmental impacts of U.S. biofuel policy."

In the meantime, there seems to be conflicting data. In his letter, Mr. Barrasso cited EPA data that seem to show corn ethanol produced as a result of the RFS has "higher lifecycle greenhouse gas emissions than gasoline."

But an Agriculture Department report last January, just before the Obama administration left power, said that "GHG emissions associated with corn-based ethanol in the United States are about 43 percent lower than gasoline when measured on an energy equivalent basis."

"This report provides evidence that corn ethanol can be a GHG-friendly alternative to fossil fuels, while boosting farm economies," said then-Agriculture Secretary Tom Vilsack.× **Hard-Hitting News and Conservative Commentary**

Washington Post (via Chicago Tribune)

http://www.chicagotribune.com/news/nationworld/science/ct-top-environmental-stories-of-2017-20171227-story.html

Disasters, drilling and the Paris climate withdrawal: The top environmental stories of 2017

By Brady Dennis and Darryl Fears

President Donald Trump made his mark in the energy and environment world during his first year in Washington. Many of his actions aimed to undo work from the Obama era. Trump all but abandoned the nation's efforts to combat climate change, and he shrank national monuments that President Barack Obama had established or sought to preserve. Trump scaled back regulations on the fossil fuel industry and pushed for more drilling on land and at sea.

And in turn, much of the world pushed back. Protesters descended on Washington to oppose his policies and campaign against what they saw as an attack on science. Other nations denounced his decision to back out of an international climate agreement, leaving the United States at odds with the rest of the globe.

Meanwhile, extreme weather nationwide wrought devastation. Hurricanes leveled homes, triggered floods and upended lives from Puerto Rico to Texas. Wildfires ravaged California, burning entire neighborhoods to ashes. It was a tumultuous year. Here are some of the most consequential environmental stories we covered along the way.

1. Withdrawal from the Paris climate accord

"I was elected to represent the citizens of Pittsburgh, not Paris," Trump proclaimed from the Rose Garden in June. With those words, he declared his intention to withdraw the nation from a global effort to cut greenhouse gas emissions in an attempt to fend off the worst effects of

climate change. The Obama administration had led the charge for the landmark deal in late 2015, helping to persuade other world powers - and major polluters - such as China and India to pledge to reduce their emissions in coming years.

Trump reversed course, despite widespread criticism from world leaders, claiming that the Paris accord was a bad deal for the United States that would disadvantage American workers. The United States is now the only nation in the world to reject the deal. While the U.S. withdrawal from the Paris agreement cannot officially be finalized until late 2020, the action sent a clear message: Climate action has little place in the Trump administration.

2. A sea change at the Environmental Protection Agency.

"The future ain't what it used to be at the EPA," the agency's administrator, Scott Pruitt, is fond of saying. That's certainly true. In nominating Pruitt to head the agency that Trump once promised to reduce to "little tidbits," the president chose a man who had long been one of its most outspoken adversaries. As Oklahoma attorney general, Pruitt sued the EPA 14 times, challenging its authority to regulate toxic mercury pollution, smog, carbon emissions from power plants and the quality of wetlands and other waters.

Now, as EPA's leader, he has acted aggressively to reduce the agency's reach, pause or reverse numerous environmental rules, and shrink its workforce to Reagan-era levels. He has begun to dismantle Obama's environmental legacy, in part by rolling back the Clean Power Plan - a key attempt to combat climate change by regulating carbon emissions from the nation's power plants. Along the way, Pruitt has become one of Trump's most effective Cabinet members, as well as a lightning rod for criticism from public health and environmental groups.

3. The fight over national monuments.

Trump issued an executive order in April to review 27 land and marine monuments. But it was clear that two particular monuments were in his crosshairs: Bears Ears and Grand Staircase-Escalante. Utah's congressional delegation and its governor had lobbied Trump's inner circle to reverse the monument designations of these parks in their state even before he was elected.

Utah Republicans called the designations by Obama and President Bill Clinton overzealous land grabs, and shortly after he took office, Trump adopted some of the same language. He promised to end what he called presidential "abuses" and give control of the land "back to the people." In the end, Trump shrank both monuments by nearly 2 million acres last month, and Interior Secretary Ryan Zinke said the borders of other monuments in the Atlantic and Pacific oceans, as well as in the West, are being reviewed. Native American groups that had requested a Bears Ears designation are leading a wave of lawsuits against the Trump administration's decision.

4. Drill, baby, drill.

Drilling platforms already dot the Gulf of Mexico, where the fossil fuel industry has extracted oil and gas for decades. But the Trump administration wanted to make history. In early November, it did so by announcing the largest gulf lease offering for oil and gas exploration in U.S. history:

77 million acres.

The move was consistent with Trump's push for "energy dominance." He and Zinke are also opening more land to coal excavation in the West. One of Zinke's first acts as interior secretary was to remove a bright and colorful picture of a western landscape from the Bureau of Land Management's website and replace it with a black wall of coal. Oil prices are climbing after reaching record lows in recent years, but coal is struggling to make a comeback after the rise of natural gas. The Gulf of Mexico promises more oil, but it also might promise disaster. It's the scene of the nation's worst environmental disaster, the Deepwater Horizon oil spill, which fouled beaches and killed untold numbers of marine animals when oil spewed into the water for months.

Is drilling in the pristine Arctic National Wildlife Refuge next? The Republican-controlled Congress greenlighted leases for exploration in the recently passed tax bill completely along party lines. But let the buyer beware. Royal Dutch Shell drilled a $7 billion hole in the Chukchi Sea in 2014 and has nothing to show for it.

5. Action on the Dakota Access and Keystone XL pipelines.

As winter began to fade, it became clear that camps of protesters in Canon Ball, North Dakota, who for months had fought a pipeline that they argued could threaten the drinking water and cultural sites of the Standing Rock Sioux tribe, had lost this particular battle. Days after Trump took office, he signed executive orders to revive two controversial pipelines that the Obama administration had put on hold - the 1,172-mile Dakota Access and the 1,700-mile Keystone XL oil pipeline, which would extend from the Canadian tar sands region to refineries on the Texas Gulf Coast.

Oil is now flowing through the Dakota Access pipeline. And the company behind the Keystone XL this fall cleared a key regulatory hurdle in its quest to complete the northern half of the pipeline, running from Alberta to Steele City, Nebraska, when it received approval from the Nebraska Public Service Commission. Opponents of both projects have vowed to continue legal fights, as well as to protest any other pipelines they view as a threat to public health or the environment. But Trump shows few signs of backing down, calling his actions "part of a new era of American energy policy that will lower costs for American families - and very significantly - reduce our dependence on foreign oil, and create thousands of jobs right here in America."

6. Attacks on the Endangered Species Act.

It is arguably one of the most powerful environmental laws in the world, credited with saving at least a dozen animal and plant species from extinction. But who will save the Endangered Species Act, which is under attack by political conservatives inside and outside Washington? Led by Rep. Rob Bishop, R-Utah, chairman of the House Natural Resources Committee, who said he wants to "invalidate" the 44-year-old act, some Republicans say the law interferes with commercial development, private landowner rights and excavation of natural resources such as coal and natural gas.

Bishop's committee passed five bills that would weaken protections for wolves, force federal

workers who enforce the law to consider economic impact when deciding how to save animals and strip away a provision of the law that requires the federal government to reimburse conservation groups that prevail in court. The bills have set up a potentially titanic battle between wildlife advocates and lawmakers supporting farmers, housing developers and the oil and gas industry. It's not the first time that conservatives have attempted to weaken the act, but it is the first time a presidential administration and the department that oversees the act appear willing to go along.

7. Epic hurricanes and wildfires.

Last year around this time, a strange wildfire rushed through the Tennessee mountains, killing 14 people, destroying homes and apartment buildings, and threatening a major recreation area in Gatlinburg. The 2017 fire disasters, some of which are still burning, were much more monstrous than that Great Smoky Mountain inferno. Two California fires, the Sonoma fire that burned north of San Francisco and the Thomas fire that burned north of Los Angeles, driven by fierce Santa Ana winds, have combined to kill 45 people, burn more than a half-million acres, destroy nearly 2,000 structures and cost hundreds of millions of dollars to fight. The Thomas fire appears to be finally contained near Santa Barbara after burning the second-most acreage in state history.

But fire wasn't even the costliest disaster this year. Hurricane Harvey's death toll in and around Houston was nearly double the number who perished in the two fires and sent 30,000 people in search of shelter. Miami, Jacksonville and Naples, Florida, were devastated by Hurricane Irma, which immediately followed Harvey. They were followed by Hurricane Maria, which leveled much of Puerto Rico and left at least 50 people dead, but that is probably a drastic under count and the toll could be as high as 500.

8. Criminal charges mount in the Flint water crisis.

In June, Michigan Attorney General Bill Schuette charged the director of the state's health department and four other public officials with involuntary manslaughter for their roles in the Flint water crisis, which has stretched into its fourth year. In addition to ongoing worries that thousands of young children were exposed to dangerous levels of lead in the city's contaminated water supply, the crisis has been linked to an outbreak of Legionnaires' disease that contributed to at least a dozen deaths. The manslaughter charges were the latest reckoning.

According to Schuette's office, the investigation into the decisions that led to tainted water for a city of nearly 100,000 people has resulted in 51 criminal charges for 15 state and local officials. It remains unclear how many of the charges will stick. But the cases serve as a reminder of the human toll of the tragedy and how, even today, many residents in the largely low-income, majority-minority city trust neither the water from their taps nor the public officials charged with ensuring it is safe.

9. Climate march on Washington.

It didn't draw nearly the crowd that the Women's March did in January. And it didn't get as much national attention as the March for Science that came only a week earlier. Even so, on a

sweltering Saturday in April, tens of thousands of demonstrators descended on Washington to mark Trump's first 100 days in office. Their plea: Stop the rollback of environmental protections and take climate change seriously.

Building on a massive demonstration three years earlier in New York, the People's Climate March brought its message - and its many clever signs - to the White House. "Don't destroy the Earth. I buy my tacos here," one read. "Good planets are hard to find," another read. "Make Earth Great Again!" read another. Trump wasn't around that day to witness the protests on his doorstep, and the march's organizers didn't expect to change his mind. But they were gearing up for a long fight ahead. By the next morning, some participants met to discuss how to get more allies to run for public office. "It can't just be a march," one activist said. "It has to be a movement.

AP

https://apnews.com/8ae4315ac6b8429dba677c28d82d1cee/Indiana-criticized-for-air-permit-at-former-smelting-site

Indiana criticized for air permit at former smelting site

By AP, 12/28/17

HAMMOND, Ind. (AP) — A northwestern Indiana attorney is criticizing state regulators for approving an air permit for a lead reclamation business at the site of a former smelter where the U.S. Environmental Protection Agency is investigating off-site contamination.

The Indiana Department of Environmental Management on Dec. 22 renewed a 10-year permit for Whiting Metals, which reclaims and blends lead and solder from scrap. It operates on part of the former Federated Metals site in Whiting, where remediation efforts began in 1992.

Despite requests from the Hammond City Council and residents, IDEM never scheduled a public hearing or meeting on the permit for Whiting Metals, The (Northwest Indiana) Times reported .

IDEM has said it decided not to hold a meeting in part because there were “few changes contained in the renewal permit” and that “permit changes will decrease actual emissions.”

David Dabertin, an attorney and Hammond resident, had submitted public comments to IDEM questioning whether a prior permit was legally transferred to Whiting Metals. He had also urged the state agency to delay a decision on the air permit until after the full extent of off-site soil contamination had been determined.

Dabertin on Wednesday criticized IDEM’s approval of the permit and its decision not to hold a public hearing or meeting.

"I think the issuance of a lead permit in an area where lead may be an issue without obtaining the test results is foolish and bordering on the negligent," he told The Times.

The remediation efforts the EPA began in 1992 included capping a 10-acre landfill on the shore of Lake George in 2005 as part of a six-year, $3.35 million cleanup. The site also includes the 9-acre former smelter.

The EPA began sampling at properties in November 2016 near the former Federated Metals site to determine if heavy metals from the plant might have contaminated nearby residential areas. More sampling was conducted in March.

After the EPA sampled the landfill in May, an analysis showed a link between materials in the landfill and materials in soils to the north of the plant. The agency has designated another soil sampling site in the area.

Whiting Mayor Joseph Stahura said the contamination levels found so far have not been "really scary" or severely above EPA's threshold.

AP

https://apnews.com/6d3d3328f8c34bd3a491a6f1f5e69210/EPA-joins-state-in-old-tannery-waste-disposal-investigation

EPA joins state in old tannery waste disposal investigation

By AP, 12/28/17

ALGOMA TOWNSHIP, Mich. (AP) — The U.S. Environmental Protection Agency has joined the state in an investigation into old tannery waste disposal in some western Michigan communities.

Two teams of EPA scientists started testing wells Wednesday, WOOD-TV reported.

Scientists have said the toxins are perfluoroalkyl and polyfluoroalkyl substances, or PFAS. The U.S. Agency for Toxic Substances and Disease Registry says scientists are uncertain about how they affect human health at exposure levels typically found in food and water. But some studies suggest the chemicals might affect fetal development, disrupt hormonal functions, damage fertility and immune systems, and boost the risk of cancer.

One well that the EPA tested Wednesday in Algoma Township, which is northeast of Grand Rapids, had already been found to have five times the agency's advisory level for drinking water of 70 parts per trillion for PFAS, according to the television station.

Michigan's Department of Environmental Quality previously said it was investigating 75 sites

for toxic industrial chemicals that were used by Wolverine World Wide to waterproof shoes. Earlier this month, a group of Michigan lawmakers asked the EPA for help.

"We're just doing monitoring so we can compare numbers," Chicago-based EPA biologist Peg Donnelly said. "The Michigan DEQ is really in charge of all the Wolverine activities that are going on, but EPA wants some additional data."

Wolverine has tested more than 1,000 wells since the contamination plume was discovered earlier this year.

In Algoma Township, it's believed the contamination came from farm fields that used Wolverine sludge for fertilizer decades ago.

Donnelly said samples will be sent to an EPA lab in Chicago and another on the East Coast. Preliminary results could be ready in five days, but residents should expect final results in the mail within a month, she said.

"We're here in the middle of the holidays, a busy time of year, but people understand we're just trying to get some more information so we can figure what to do," Donnelly said.

Tricia Lynn

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To: AO OPA OMR CLIPS[AO_OPA_OMR_CLIPS@epa.gov]
From: Hassell, Emily
Sent: Tue 2/6/2018 8:09:42 PM
Subject: News Clips - 6 February 2018

(Full stories, highlights, and details are listed further down in the email, and can be jumped to by clicking on any of the links below.)

MyNews4 - EXCLUSIVE: Head of EPA Scott Pruitt to tour several northern Nevada mining sites

Elko Daily - EPA administrator visits Nevada silver-gold mine

Washington Examiner - Pruitt asks Cabinet to help him with 'war on lead' in drinking water

The Hill - EPA to jumpstart 'war on lead' with strategy meeting

E&E Climatewire - Pruitt visited Fla. nursery with links to cannabis industry

CNN - Scott Pruitt called Trump an 'empty vessel' on 'the Constitution and rule of law' in another 2016 interview

Washington Examiner - Scott Pruitt called Trump an 'empty vessel' on the Constitution in 2016 interview

E&E News PM - Trump 'empty vessel' on Constitution — Pruitt in 2016

The Hill - EPA chief once called Trump an 'empty vessel' in interview

E&E Energywire - The development deal that led to Pruitt adviser's banking ban

InsideEPA - New DOJ Bar On Guidance Enforcement Could Curb Swath Of EPA Actions

Politico - State AGs file first legal challenge to WOTUS delay

Politico - Let it rain (WOTUS cases)

E&E Greenwire - Sentencing case may set course for Clean Water Act battles

E&E Climatewire - Trump would back pro-business climate treaty — aide

E&E Greenwire - Trump campaign aide lands at Denver office

E&E Daily - Hartnett White exit spurs hope of easier approval of nominees

E&E Greenwire - Who's who on the Transformation Steering Committee

E&E Greenwire - Greens, refiner find common ground in RFS fight

Washington Examiner - Rex Tillerson in the crosshairs of green group's court threats

E&E News PM - D.C. Circuit sets arguments in fight over the scope of rulings

NewsTimes - Presentation on N.Y. power plant reveals concerns

Politico - Grassley releases analysis to argue biofuel credits not to blame for PES bankruptcy

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MyNews4 NBC

http://mynews4.com/news/local/exclusive-head-of-epa-scott-pruitt-sits-down-for-in-studio-interview

EXCLUSIVE: Head of EPA Scott Pruitt to tour several northern Nevada mining sites

By Kenzie Bales, 2/5/18

RENO, Nev. (News 4 & Fox 11) — Chief Administrator of the Environmental Protection Agency Scott Pruitt sat down with News 4's Bill Frankmore on Monday morning to discuss his plans for the Silver State.

Pruitt will join Governor Brian Sandoval at the Anaconda Mine in Lyon County to make an announcement regarding the future clean-up efforts at the mine. From there Pruitt will talk to miners at the Coeur Rochester Mine in Lovelock to discuss regulatory reforms to preserve jobs in the mining industry.

WATCH the interview to learn more.

**Embedded video clip.*

Elko Daily Free Press

http://elkodaily.com/mining/epa-administrator-visits-nevada-silver-gold-mine/article_ac470e58-6963-5ec6-8222-90d5bec0929f.html

EPA administrator visits Nevada silver-gold mine

By Suzanne Featherston, 2/5/18

LOVELOCK — An agency that encourages stewardship over prohibition is the Environmental Protection Agency that Administrator Scott Pruitt represented to the Nevada mining industry on Feb. 5.

The presidential cabinet member visited Coeur Mining Inc.'s Rochester mine near Lovelock to discuss the agency's December decision not to issue final regulations for financial responsibility requirements for certain hardrock mining operations.

"What is environmental stewardship? What is environmental protection?" Pruitt asked. "I think as we work together over the next several years, we need to get back to stewardship, not prohibition."

The EPA decided not to issue the final rules under the Comprehensive Environmental Response, Compensation and Liability Act — CERCLA or Superfund — "because the risks associated with

these facilities' operations are addressed by existing federal and state programs and industry practices," according to an EPA statement. The rules regarding mine reclamation would have affected 45 facilities across Nevada, he said, and many more across the country.

After a tour of the silver-and-gold open pit mine, Pruitt addressed some of Coeur Rochester's 300 employees in the truck shop. Also in attendance were Nevada officials, including Gov. Brian Sandoval, Nevada Mining Association President Dana Bennett, Bureau of Land Management's Nevada Director John Ruhs, and industry experts.

"The agency that I've been selected to lead, the last several years has been weaponized. It's been weaponized against certain sectors of our economy, and yours was one of them," Pruitt said. "Think about that for a second. An agency in Washington, D.C., weaponized against its own sectors of the economy across this country. That's not the way it should work."

Sandoval reminded listeners that Nevada already has policies in place to ensure good stewardship of the environment. He echoed the administrator's statement that additional regulations would have placed undue burden on the mining industry and economy of rural Nevada.

"Nevada's our house," Sandoval said. "We're proud of it, and we take good care of it."

During a seven-month EPA public comment period in 2017 before the decision, Sandoval joined governors from across the country in declaring additional financial assurances for mine reclamation redundant, a point he revisited during the event.

"In our state, there are requirements that have been in place since 1991," Sandoval said, explaining that Nevada requires $2.7 billion in bonding for 167,000 acres. "I'm really proud of our regulatory system. It serves as a national model."

Pruitt said he aims to help restore cooperative partnerships between the states and the federal government to be good stewards of the environment. What he described as a "commonsense" approach acknowledges that states have financial assurances already in place and that the

proposed policy was not cost-effective for taxpayers. He said the decision reflects the direction of President Donald Trump to "put America first."

"We recognized that you in Nevada recognize that you care about the air that you breath, the water you drink and how you take care of your land in the state," Pruitt said. "Having a rule that was punitive, weaponized against the mining sector, was not a reason to have the rule, so we stopped the rule."

The administrator and governor stressed that the result of not requiring additional financial assurances should stimulate the economy, as mining companies invest in jobs and expand operations.

"This truly is something we should all celebrate because it does reverberate to all of you, because we don't have to do this redundant bonding. That allows the mine to continue to invest in all of you," Sandoval said. "It allows you to go beyond and expand the mine to have that mine life so that all of you can have this continuous employment."

Pruitt also announced that EPA staff members are examining their processes for approving permits, which sometimes take 20 years to approve. He said they plan to streamline processes so that EPA-approved environmental permits can be decided in six months, starting in late 2018.

"The agency that I've been selected to lead the last several years has been weaponized. It's been weaponized against certain sectors of our economy, and yours was one of them." — EPA Administrator Scott Pruitt

While in Nevada, EPA Administrator Scott Pruitt also visited the Anaconda Copper Mine near Yerington for an announcement regarding site reclamation. Watch for the story in a future issue of the Elko Daily Free Press.

Washington Examiner

http://www.washingtonexaminer.com/pruitt-asks-cabinet-to-help-him-with-war-on-lead-in-drinking-water/article/2648158

Pruitt asks Cabinet to help him with 'war on lead' in drinking water

By Josh Siegel, 2/5/18, 4:45 PM

Environmental Protection Agency Administrator Scott Pruitt on Monday encouraged fellow Cabinet members to help him develop a federal strategy to reduce the exposure of children to lead in drinking water.

He invited Cabinet members to a Feb. 15 meeting to discuss a strategy to update the nation's water infrastructure.

The Cabinet officials belong to the President's Task Force on Environmental Health Risks and Safety Risks to Children, a coalition established in 1997 featuring the leaders of 17 agencies. The task force is headed by the EPA administrator and secretary of the Department of Health and Human Services.

"Lead poisoning is an insidious menace that robs our children of their intellect and their future," Pruitt said in the letter, addressed to Cabinet heads including HHS Secretary Alex Azar, Attorney General Jeff Sessions, Energy Secretary Rick Perry, Ben Carson, secretary of Housing and Urban Development, and others.

"For decades, efforts have been underway on many fronts to reduce and respond to lead exposure and contamination. Today, there are many separate efforts being undertaken by federal agencies. It is time to bring these efforts together and explore ways to increase our collaboration and partnerships with states, tribes and localities," he wrote.

Pruitt said he hopes they can work together to implement a strategy over the next one to three years to improve monitoring of children exposed to lead, improve the health outcomes of children who have already been harmed by lead, better communicate the dangers of lead, and advance research on the effects of lead.

Lead is a heavy metal that was used for decades in pipes and paint that is especially harmful to children, causing learning disabilities and slower growth.

Pruitt has said combating lead in drinking water is a top priority, declaring a “war on lead” more than three years after the crisis in Flint, Mich., started.

Pruitt is working with state and local officials to update the 1991 Lead and Copper Rule, a federal mandate that dictates how communities test for lead in drinking water. The rule, which has not been revised in more than a decade, governs how much lead is acceptable in drinking water and what utilities must do if their water tests above the threshold.

Replacing lead pipes is the best way to combat lead, according to a 2015 report by an external group of drinking water advisers organized by the EPA.

Pruitt, in his December testimony to Congress, expressed concern over the cost — up to $30 billion — of replacing the country's 7 million to 11 million lines.

The Hill

http://thehill.com/policy/energy-environment/372418-epa-jumpstarts-war-on-lead-with-executive-task-force

EPA to jumpstart 'war on lead' with strategy meeting

By Miranda Green, 2/5/18, 5:16 PM

Environmental Protection Agency (EPA) Administrator Scott Pruitt is jumpstarting his promised campaign against lead contamination with a meeting of staff at the White House next week.

Pruitt on Monday invited the leaders of the 17 agencies that make up President Trump's Task Force on Environmental Health Risks and Safety Risks to Children to discuss a draft plan to eliminate lead exposure to children in the U.S. and mitigate health risks, according to a statement released by EPA.

In the letter, Pruitt asked attendees to come prepared to consider any actions that the government could undertake in the next three years to reduce lead's health impacts on children.

Attendees included U.S. Attorney General Jeff Sessions, Housing and Urban Development Secretary Ben Carson and Education Secretary Betsy DeVos.

According to the letter, one of the plan's goals would be developing cross-federal research to better understand the effects and best control methods for lead contamination.

"Lead poisoning is an insidious menace that robs our children of their intellect and their future. For decades, efforts have been underway on many fronts to reduce and respond to lead exposure and contamination," Pruitt wrote.

Pruitt has previously highlighted his desire to focus on stopping lead contamination, calling his push a "war on lead."

"It's one of our greatest challenges in this country: lead in our drinking water ... that threatens the mental acuity of children," Pruitt told The Washington Post in November. "I'm likely going to go to Congress next year and will ask them to do some big things. ... We can do those things

together. Why do we have to continue this divisive type of approach to these very, very important issues to the country?"

However, at least one member of Congress has been critical of how much Pruitt's push would ultimately achieve.

At a Senate Environment and Public Works Committee hearing on Capitol Hill last Tuesday, Sen. Tammy Duckworth (D-Ill.) said of Pruitt's proclamation against lead, "your rhetoric does not match your actions."

E&E Climatewire

https://www.eenews.net/climatewire/stories/1060072963/search?keyword=EPA

Pruitt visited Fla. nursery with links to cannabis industry

By Niina Heikkinen, 2/6/18

Scott Pruitt, a sharp critic of loosening legal restrictions on marijuana, last week visited a Florida nursery with ties to the medicinal pot industry.

The U.S. EPA administrator visited May Nursery in Havana, Fla., on Friday as part of a discussion on "regulatory certainty" with the Florida Electric Cooperatives Association, Florida Chamber of Commerce, Florida Farm Bureau and Manufacturers Association of Florida. Among the topics discussed were the Clean Power Plan, the Clean Water Rule and streamlining EPA's permitting process, according to an agency press release.

The location of that discussion generated buzz on social media yesterday. Nick Surgey, director of the watchdog group Documented, suggested on Twitter that the nursery grew cannabis. An hour later, Pruitt deleted a photo on his official Twitter account with the May family.

EPA denied that the administrator had visited a nursery that grew marijuana. "May Nursery does not grow medicinal marijuana, nor did Administrator Pruitt visit a nursery site that grows medicinal marijuana," said agency spokesman Jahan Wilcox.

The nursery did not immediately respond to requests for comment about whether it grows cannabis, and the Florida Department of Health said in an email yesterday that May Nursery was not a medical marijuana licensee.

But news reports show that the May family and nursery have ties to the medical marijuana industry.

Richard May of May Nursery was the director and founder of Trulieve — a licensed medical marijuana business, according to an October 2017 article in the Cannabis Business Times. The article said May was part of a three-man "grow team" overseeing Trulieve's cultivation.

Trulieve CEO Kim Rivers told The Villages Daily Sun last July that May Nursery in Havana was one of the three nurseries that came together to form the medical marijuana dispensary. Trulieve posted a link to that article on its website.

The attention on the site's ties to the marijuana industry could be an embarrassment for Pruitt, who, as Oklahoma's attorney general, was a vocal critic of both recreational and medical marijuana use. Last year, the Washington Examiner reported that Pruitt had sued neighboring Colorado for legalizing marijuana, citing harm to neighboring states by "draining their treasuries, and placing stress on their criminal justice systems."

Pruitt sparked legal challenges after he rewrote the title of a ballot initiative to legalize medical marijuana in Oklahoma in September 2016. His critics said the changes were misleading to

voters. In March 2017, the Oklahoma Supreme Court overturned Pruitt's language changes to the initiative.

The visit comes as the Trump administration has signaled disapproval of the marijuana legalization movement in states. Attorney General Jeff Sessions has been a strong proponent of prosecuting marijuana-related drug offenses. Last month, Sessions announced federal prosecutors could pursue cannabis cases in states where it has been legalized. This was a reversal of course from the Obama administration.

Florida is among more than two dozen states across the country that have legalized marijuana for medical use. Floridians with certain qualifying medical conditions can buy low-THC cannabis from licensed dispensaries with a doctor's order. Trulieve is one of only 13 licensed medical marijuana treatment centers in the state, according to the state's Office of Medical Marijuana Use.

Despite a push by many states to ease marijuana restrictions, the federal government still classifies it as a Schedule 1 substance, meaning it has "no currently accepted medical use and a high potential for abuse." Other Schedule 1 substances include heroin and LSD.

CNN

http://www.cnn.com/2018/02/05/politics/kfile-scott-pruitt-trump-rule-of-law/index.html

Scott Pruitt called Trump an 'empty vessel' on 'the Constitution and rule of law' in another 2016 interview

By Andrew Kaczynski, 2/5/18, 1:27 PM

Environmental Protection Agency administrator Scott Pruitt called Donald Trump an "empty vessel" on the Constitution and rule of law in a February 2016 interview with a local Oklahoma

radio show.

The previously unreported remarks are the second known instance that Pruitt harshly criticized Trump during the 2016 presidential campaign.

"I think he's an empty vessel when it comes to things like the Constitution and rule of law," Pruitt said on the "Exploring Energy" radio show on February 11. "I'm very concerned that perhaps if he's in the White House, that there may be a very blunt instrument as the voice of the Constitution."

"This President, the one we have there now, has at least tried to nuance his unlawfulness," Pruitt continued, discussing then-President Barack Obama. "He at least sits back and says, 'How do we break the law and so where it's really tough to show that we have?' I'm not sure that Donald Trump would."

Earlier last week, Democratic Sen. Sheldon Whitehouse asked Pruitt about comments he made on a different local Oklahoma radio show on February 4, 2016, where he said then-candidate Trump would be more abusive to the Constitution than Obama. Pruitt said he didn't recall those remarks nor did they reflect his current views on the President.

Asked about the newly discovered comments, a spokesperson for the EPA referred CNN to a statement Pruitt issued earlier in the week.

"After meeting him, and now having the honor of working for him, it is abundantly clear that President Trump is the most consequential leader of our time," Pruitt said. "No one has done more to advance the rule of law than President Trump. The President has liberated our country from the political class and given America back to the people."

Earlier in the February 11, 2016, interview, Pruitt praised Trump as somebody who "has demonstrated and really responded to the frustration that people have" and for his willingness to take on China and other countries on international trade.

At the time of the interview, Pruitt was supporter former Florida Gov. Jeb Bush to be the Republican presidential nominee.

"We just need to make sure that we get somebody in there that respects the Constitution, respects the rule of law, that restores the proper balance between the states and federal government," Pruitt said. "I have great confidence Jeb Bush would do that. I have confidence that others would as well, but the time I spent with him, he's the most humble person I met and we need more humility in the White House and less hubris."

Washington Examiner

http://www.washingtonexaminer.com/scott-pruitt-called-trump-an-empty-vessel-on-the-constitution-in-2016-interview/article/2648157

Scott Pruitt called Trump an 'empty vessel' on the Constitution in 2016 interview

By Melissa Quinn, 2/5/18, 4:40 PM

Environmental Protection Agency Administrator Scott Pruitt told an Oklahoma radio show in 2016 he believed then-candidate Donald Trump was an “empty vessel” on the Constitution and the rule of law.

“I think he’s an empty vessel when it comes to things like the Constitution and rule of law,” Pruitt told the “Exploring Energy” radio show in February 2016, according to CNN. “I’m very concerned that perhaps if he’s in the White House, that there may be a very blunt instrument as the voice of the Constitution.”

“This president, the one we have there now, has at least tried to nuance his unlawfulness," he

said of President Barack Obama. "He at least sits back and says, 'How do we break the law and do so where it's really tough to show that we have?' I'm not sure that Donald Trump would."

Pruitt, who initially supported former Florida Gov. Jeb Bush during the 2016 president campaign, said since that he believes Trump "has demonstrated and really responded to the frustration that people have," and understands "we need action and authenticity in the process." He also said he believed Trump "would be more abusive to the Constitution than Barack Obama."

Pruitt's comments about Trump made during the 2016 campaign had been previously unreported.

Pruitt told Sen. Sheldon Whitehouse, D-R.I., during a Senate Environment and Public Works Committee hearing last week he didn't "echo that today at all."

In response to the unearthed video, the EPA released a prior statement that praised Trump and called him the "most consequential leader of our time."

"No one has done more to advance the rule of law than President Trump," he said. "The president has liberated our country from the political class and given America back to the people."

E&E News PM

https://www.eenews.net/eenewspm/stories/1060072929/search?keyword=EPA

Trump 'empty vessel' on Constitution — Pruitt in 2016

By Kevin Bogardus, 2/5/18

Another round of 2-year-old comments by U.S. EPA Administrator Scott Pruitt blasting then-presidential candidate Donald Trump gained wide notice today.

Pruitt, then Oklahoma attorney general, criticized Trump during a Feb. 11, 2016, interview with "Exploring Energy," a local Oklahoma radio talk show.

"I think he's an empty vessel when it comes to things like the Constitution and rule of law," Pruitt said about Trump. "I'm very concerned that perhaps if he's in the White House, that there may be a very blunt instrument as the voice of the Constitution."

Pruitt, who had endorsed former Florida Gov. Jeb Bush in the 2016 Republican presidential primary, also compared Trump to then-President Obama when it came to respect for the law.

"This president, the one we have there now, has at least tried to nuance his unlawfulness," Pruitt said of Obama. "He at least sits back and says, 'How do we break the law and do so where it's really kind of tough to show that we have?' I'm not sure that Donald Trump would."

CNN first reported today Pruitt's radio remarks.

An EPA spokesman referred E&E News to a statement issued by Pruitt last week. The EPA chief then had faced questioning at a congressional hearing over past remarks that he believed Trump "would be more abusive to the Constitution than Barack Obama" if Trump made it to the White House (Greenwire, Jan. 30).

"After meeting him, and now having the honor of working for him, it is abundantly clear that President Trump is the most consequential leader of our time," Pruitt said last week. "No one has done more to advance the rule of law than President Trump. The President has liberated our country from the political class and given America back to the people."

Pruitt and Trump may soon have a chance to discuss the EPA chief's past comments about the president. The pair are expected to meet this Friday, according to reports.

The Hill

http://thehill.com/policy/energy-environment/372371-epa-chief-once-called-trump-an-empty-vessel-in-interview

EPA chief once called Trump an 'empty vessel' in interview

By Miranda Green, 2/5/18, 2:05 PM

The head of the Environmental Protection Agency (EPA) once called President Trump an "empty vessel" when it comes to his knowledge of the Constitution, CNN reported on Monday.

Scott Pruitt criticized then-candidate Trump's ability to uphold the Constitution as president in an interview with an Oklahoma radio show in February 2016.

"I think he's an empty vessel when it comes to things like the Constitution and rule of law," Pruitt said on the "Exploring Energy" radio show. "I'm very concerned that perhaps if he's in the White House, that there may be a very blunt instrument as the voice of the Constitution."

Pruitt at the time of his comments was backing Jeb Bush's Republican presidential campaign.

Pruitt, who served as attorney general in his home state of Oklahoma, also compared Trump to

former President Barack Obama, saying in the interview that Obama at least had the wherewithal to know how to hide his "unlawfulness."

"This president, the one we have there now, has at least tried to nuance his unlawfulness," Pruitt said. "He at least sits back and says, 'How do we break the law and so where it's really tough to show that we have?' I'm not sure that Donald Trump would."

The newly unearthed interview is the second to come to light in the past week in which Pruitt criticizes Trump.

During a Senate Environment and Public Works Committee hearing on Capitol Hill last Tuesday, Pruitt was asked by Sen. Sheldon Whitehouse (D-R.I.) about comments he made at another local Oklahoma radio station in February 2016.

In that audio, Pruitt said Trump as president would be "more abusive to the Constitution than Barack Obama."

Pruitt responded to both audio releases with the same statement, saying, “After meeting him, and now having the honor of working for him, it is abundantly clear that President Trump is the most consequential leader of our time. No one has done more to advance the rule of law than President Trump. The President has liberated our country from the political class and given America back to the people."

E&E Energywire

https://www.eenews.net/energywire/stories/1060072949/search?keyword=EPA

The development deal that led to Pruitt adviser's banking ban

By Mike Soraghan, 2/6/18

City leaders in the Tulsa, Okla., bedroom community of Claremore were jubilant in 2008 about a development proposed for the south side of their city. Nestled between a Lowe's and a Walmart, "Oklahoma Plaza" was to feature shops, restaurants and an outdoor amphitheater. Developers predicted it would create 300 jobs.

Ten years later, much of the land is still empty. But the troubled project remains a weight around the neck of Albert "Kell" Kelly, president of the bank that financed it. Documents obtained by E&E News show it played a role in his being banned from banking.

Back then, Kelly was president and CEO of SpiritBank, a northeast Oklahoma institution his family has run since the Great Depression.

Today, Kelly is a top adviser at U.S. EPA, brought in by Administrator Scott Pruitt to bring some business sense to the agency's multibillion-dollar Superfund cleanup program.

But his business reputation has been under fire since August, when the Federal Deposit Insurance Corp. (FDIC) revealed it had banned Kelly from banking, the industry where he had spent his career. He'd signed the FDIC consent order in May 2017, about two weeks before Pruitt announced his Superfund role (Greenwire, Aug. 28, 2017).

FDIC hasn't been clear about what its investigators think Kelly did to deserve the lifetime ban, along with a $125,000 fine.

But the agencies did name the companies involved: U.S. Payments LLC and Claremore Construction and Development LLC.

The document states that once the order was issued, FDIC wouldn't initiate any new enforcement

actions regarding those two companies. The company names have not been reported previously.

The order only hints at the agency's allegations, saying the agency believes that Kelly "violated a law or regulation, by entering into an agreement pertaining to a loan by the bank without FDIC approval."

Claremore borrowed more than $10 million from SpiritBank. The company, sometimes referred to as CCD, was set up to handle the Claremore development after SpiritBank foreclosed on the original developer in 2010. A SpiritBank vice president was an executive of CCD.

Ken Wagner, another top lieutenant Pruitt brought with him from Oklahoma to EPA headquarters, was at times listed as one of the attorneys for SpiritBank on the development.

U.S. Payments is a payment processing company in which SpiritBank has had an ownership interest. It is headquartered at a SpiritBank location in Tulsa.

The FDIC consent order states that Kelly did not admit or deny the violation. Kelly's supporters have said the FDIC penalties were payback for his aggressive criticism of financial regulators when he was chairman of the American Bankers Association in 2011 and 2012. He once dubbed Congress' 2010 financial overhaul the "Main Street destruction bill."

But legal experts say the FDIC doesn't impose such bans lightly, and they usually indicate that a banker persisted in a violation after being warned by the agency.

One called the ban the "death sentence" of banking regulation and "the mark of Cain." Another said that, when it comes to banks, "he can't do much more than open a checking account."

Kelly's bank loaned money to a Pruitt partnership that bought a minor league baseball team in 2004. Later that year, SpiritBank loaned Pruitt money to buy a home. There is no indication in the FDIC documents that those particular loans had anything to do with the agency's

enforcement actions.

Kelly spent 34 years at the Tulsa bank, which started decades ago in his hometown of Bristow, Okla. He served as president and CEO from 1990 to 2014 and chairman from 2012 until last spring.

The FDIC's order stated Kelly's actions showed his "unfitness to serve as a director, officer, person participating in the conduct" of a bank. But EPA officials say Kelly has Pruitt's full support.

"I have personally known Kell for a number of years," Ryan Jackson, Pruitt's chief of staff, said in a statement forwarded yesterday by an EPA spokesman. "EPA is fortunate to have him as part of our team."

Jackson also said SpiritBank last year asked Kelly to remain on its board of directors, and said "Spirit would confirm" that Kelly did nothing to threaten the bank. SpiritBank did not return messages yesterday, and it is not clear how Kelly could have continued to serve on the board of directors after being banned from banking by the FDIC.

Kelly did not return a message left on his mobile phone, and EPA did not make him available for an interview. But the EPA spokesman forwarded another statement from Frank Keating, a former Oklahoma Republican governor and former CEO of the American Bankers Association.

"Kell Kelly is a man of high integrity," Keating stated. "During my time as CEO of the American Bankers Association, Mr. Kelly served as my chairman and helped lead the association through a difficult period following 2008 financial crisis, Administrator Pruitt is fortunate to have him."

Kelly traveled to contaminated sites around the country as head of a task force on "streamlining" Superfund. His panel's report recommended expanding Pruitt's role in the Superfund program, suggesting a "Top 10 Administrator's Emphasis List" of sites needing immediate attention (E&E News PM, Dec. 8, 2017). His travels included a listening session last year on a St. Louis-area landfill contaminated with World War II-era nuclear waste. Pruitt last week ordered the partial

excavation of the waste.

Kelly has contributed more than $200,000 over the years to federal and state campaigns, usually to Republicans. Among his contributions were at least $2,750 to Pruitt and $2,000 to Donald Trump's presidential campaign. But he had earlier contributed to the presidential campaign of former Republican Florida Gov. Jeb Bush.

'Idiosyncratic' structure for CCD

Claremore was established around the time SpiritBank was foreclosing on the original, Missouri-based developer of the Oklahoma Plaza.

In addition to restaurants, shops and the amphitheater, the "lifestyle center" was to have a multiplex movie theater, professional office space and housing.

SpiritBank loaned the Missouri developer at least $15 million in 2008. But the financial crisis hit and threw the entire country's economy into turmoil. SpiritBank foreclosed on the property in early 2010.

SpiritBank started over with a new developer, Jim Tapp, and his company, Tapp Development Co. Tapp was listed as the "manager" of the limited liability company. But a SpiritBank vice president named Becky Goumaz was also listed at times as manager. In a few instances, she signed documents for both SpiritBank and CCD.

Records show that SpiritBank had loaned CCD about $10 million. It also took an unusual role for a bank, serving as a partner in the development, not just the landowner. One banking law expert said the "idiosyncratic" structure of the company could have attracted the FDIC's interest.

The deal with Tapp Development did not work out. SpiritBank put the property up for sale again in 2015.

In a brief phone interview, Tapp said he didn't want to talk about the Claremore development. But he did acknowledge talking to FDIC officials about it. "Absolutely," he said.

Bank examinations in June and September 2011 may have been a turning point for the FDIC and SpiritBank. FDIC documents indicate the agency wanted the bank to change the way it handled bad loans after those examinations.

The Oklahoma Plaza land in Claremore is still formally in the hands of CCD, and city officials say that when they have questions or concerns, SpiritBank is still their point of contact.

In a 2012 FDIC consent order, SpiritBank agreed to "charge off" at least $3.9 million in poorly performing loans, meaning it would acknowledge in its books that it did not expect to be repaid.

The order also required that loans to executives and other insiders at the bank be "thoroughly reviewed," committed the bank to establish a loan review committee, and ordered extra reviews of expenses for "customer entertainment and business development."

It also limited the bank's ratio of loans to deposits and prohibited the bank from entering any "new line of business."

Relationship questions

U.S. Payments, founded in 2004, operates a network of "Paysite" payment kiosks where people can pay bills with cash.

The relationship between SpiritBank and U.S. Payments is unclear. Some employees describe U.S. Payments as an affiliate of the bank.

U.S. Payments borrowed money from SpiritBank, pledging "all business assets" in 2006.

SpiritBank also owned stock in the company. In 2010, SpiritBank pledged 1,250 shares of U.S. Payments stock it owned as collateral for a loan from a Kansas bank.

Also, an executive of SpiritBank's holding company served for a time as a director of U.S. Payments.

FDIC brought an enforcement action against SpiritBank in 2014 in connection with an "affiliated third-party payment processor."

That consent order committed the bank to taking steps to comply with anti-money-laundering regulations, including a policy on how to handle "suspicious activity reports."

Kelly stepped down as president of the bank about five months before the FDIC order on payment processors was issued. He stayed on as chairman of the board until he took the EPA job last spring.

Democratic lawmakers have been trying with little success to find out more about Kelly's case since his banking ban was made public in August. Reps. Elijah Cummings (D-Md.) and Frank Pallone (D-N.J.) asked FDIC and Pruitt for more information in September 2017 (Greenwire, Sept. 22, 2017).

"Billions of dollars move through these accounts. These funds should not be entrusted to someone who has been barred from working for every financial institution from credit unions to Wall Street banks," Pallone said.

Last week, Sens. Elizabeth Warren (D-Mass.) and Cory Booker (D-N.J.) sent a letter to Pruitt, saying Kelly's banking career was "marked by mismanagement and fraud."

According to The Intercept, Warren had previous sent Kelly a letter pressing him on the bank's handling of money from the Troubled Asset Relief Program (TARP), often referred to as the

bank bailout.

SpiritBank's holding company got $30 million from TARP's Capital Purchase Plan in 2009, which it put into mortgage lending.

The stock was auctioned off in 2013 after the bank missed $3.7 million in dividend payments. The bank had paid more than $2 million in dividends, but stopped after agreeing with the Federal Reserve to cease paying dividends.

The federal government got only about $10 million for the stock, resulting in a loss to taxpayers of about $18 million. By then, the other four Oklahoma banks that had received money in the program had repaid the Treasury.

Lawmakers had been hoping to question Kelly at a January hearing on Superfund, but he backed out shortly before the hearing, citing unspecified scheduling conflicts.

InsideEPA

https://insideepa.com/daily-news/new-doj-bar-guidance-enforcement-could-curb-swath-epa-actions

New DOJ Bar On Guidance Enforcement Could Curb Swath Of EPA Actions

By Rcbccca Raincy, 2/5/18

The Department of Justice (DOJ) is prohibiting its attorneys from using EPA and other agencies' guidance documents as the sole basis for its civil enforcement actions, potentially undercutting a wide range of EPA's regulatory and Superfund enforcement efforts while bolstering potential

industry defenses in enforcement matters.

“This development changes the playing field for regulated parties, giving them greater opportunity to push back against enforcement theories that largely rely on a 'clear' guidance document regarding an underlying ambiguous or silent regulation or statute,” Ronald Tenpas, the top DOJ environment official in the Bush administration, and Greg Etzel, both attorneys at Morgan Lewis, wrote in a Jan. 26 note to clients.

Industry attorneys say the reach of the policy at EPA could be extensive. For example, enforcement of Superfund settlements and unilateral administrative orders -- much of which relies on guidance documents -- could be hampered.

They note that EPA's model consent decree for remedial design/remedial action, as well as its model Statement of Work, include detailed cleanup and other requirements based on guidance documents.

Similarly, regulatory enforcement could be undercut as many programs, such as the mobile source and new source review permit programs, rely on long-standing guidance. For example, EPA's prohibition on tampering with mobile sources' emissions controls is established in a 1972 “interim” guidance referred to as Memo 1A, according to a Jan. 31 update written by lawyers in the Sidley environmental practice.

“If DOJ will not rely on the guidance in litigation, EPA enforcement will have to assess whether it can rely on the guidance when issuing notices of violation, in settlement discussions or in administrative enforcement proceedings,” they write.

The new policy, spelled out in a Jan. 25 memo from Associate Attorney General Rachel Brand, expands on a memo Attorney General Jeff Sessions issued earlier this year that bars DOJ from issuing “binding” mandates by guidance.

“Guidance documents cannot create binding requirements that do not already exist by statute or regulation Accordingly, effective immediately for [affirmative civil enforcement (ACE)] cases,

the Department may not use its authority to effectively convert agency guidance documents into binding rules," the memo says.

"Likewise, Department litigators may not use noncompliance with guidance documents as a basis for proving violations of applicable law in ACE cases," the memo adds.

The memo does not impose a total prohibition on the use of guidance documents in enforcement matters. For example, in cases where guidance documents "explain or paraphrase" legal mandates, the Department "may evidence that a party read such a guidance document to help prove that the party had the requisite knowledge of the mandate," the memo says.

"However, the Department should not treat a party's noncompliance with an agency guidance document as presumptively or conclusively establishing that the party violated the applicable statute or regulation," the memo says.

"That a party fails to comply with an agency guidance expanding upon statutory or regulatory requirements does not mean that the party violated those underlying legal requirements; agency guidance documents cannot create any additional legal obligations," it adds.

Range Of EPA Actions

Free-market groups have welcomed the administration's focus on guidance, saying it marks a new deregulatory focus on sub-regulatory matters, especially given the high bar created by the Administrative Procedure Act when officials seek to roll back formal rules.

But they, and some lawmakers, are pushing the administration to go further, either by issuing an executive order limiting the use of guidance or by agreeing to legislation to make it more difficult for agencies to issue guidance and giving Congress oversight.

"In the same manner that he has been out front on rolling back ordinary red tape, [he] should in

2018 issue an executive order implementing specific reforms on 'regulatory dark matter' that nowadays fall through the oversight and disclosure cracks," Wayne Crews, vice president for policy at the Competitive Enterprise Institute (CEI), wrote in a Jan. 29 blog post.

Nevertheless, industry attorneys say the Brand memo could target a wide range of EPA actions. For example, lawyers in the Sidley environmental practice says it will hamper Clean Air Act and other regulatory enforcement. "The practical impact of the new DOJ policy is to make it more difficult for line attorneys to obtain approval for Clean Air Act complaints, as merely citing to a guidance will not be, in and of itself, sufficient to establish a violation," they wrote.

"Indeed, if DOJ will not rely on the guidance in litigation, EPA enforcement will have to assess whether it can rely on the guidance when issuing notices of violation, in settlement discussions or in administrative enforcement proceedings."

Superfund cleanups, a priority for EPA Administrator Scott Pruitt, could also be hard hit as much of the program is based on long-standing guidance documents.

The Sidley attorneys say the effect of the Brand memo could make it difficult to enforce Superfund settlements and other binding documents that rely on guidance, while raising doubts about whether the government can now enter into such settlements.

It is not clear whether the new policy "even applies to a consensual settlement document, in which a private party signing the consent decree agrees to be bound by EPA guidance rather than being directed to follow that guidance. However, to lodge a CERCLA consent decree, DOJ simultaneously files a civil complaint with the court. Read broadly, that could cross the line drawn by the policy, which states that DOJ 'may not use its enforcement authority to effectively convert agency guidance documents into binding rules'," they write.

"At the least, private parties negotiating consent decrees with DOJ and EPA should explore whether the current policy of demanding compliance with guidance documents as an element of settlement should stand in light of the new DOJ policy," they write.

The Sidley attorneys also say that while the memo only applies prospectively, they say "it's reasonable to expect that DOJ's litigation strategy for filed matters will now undergo scrutiny to ensure that it's limited to enforcement of the four corners of a regulation."

For example, DOJ briefs will likely contain far less citation to EPA guidance to establish the agency's position on legal issues.

And they encourage private parties facing Superfund enforcement actions to "explore whether the current policy of demanding compliance with guidance documents as an element of settlement should stand in light of the new DOJ policy," they write.

Even as industry attorneys say the Brand memo will generally curtail enforcement, they say the memo may not prohibit industry from citing guidance documents in their defenses.

"The memorandum does not on its face prohibit a regulated entity from relying on guidance documents that may be favorable to the regulated entity and on which it has relied to shape its actions. Thus, regulated entities may be able to continue using guidance documents for legal defense, even where DOJ cannot use the documents offensively to establish a legal violation," Tenpas and Etzel write.

Politico

https://www.politicopro.com/agriculture/whiteboard/2018/02/state-ags-file-first-legal-challenge-to-wotus-delay-555139

State AGs file first legal challenge to WOTUS delay

By Annie Snider, 2/6/18, 1:35 PM

Attorneys general from 11 states, led by New York AG Eric Schneiderman, filed a legal challenge today to the Trump administration's delay of the Waters of the U.S. rule.

The lawsuit, filed in U.S. District Court for the Southern District of New York, is the first challenge to EPA's move to stop the Obama WOTUS rule from taking effect. It argues that EPA and the Army violated the Administrative Procedures Act by delaying the rule's effective date, limiting public comment on the delay and not taking into account the goals of the Clean Water Act in promulgating the rule.

In the suit, the states dispute EPA's contention that water regulations are best left to the states, arguing that many states are downstream from pollution sources and are harmed by upstream actions that they cannot control.

"The States rely on the [Clean Water] Act and its uniform nationwide floor of pollution controls as the primary mechanisms for protecting them from the effects of out-of-state pollution. The Suspension Rule injures the States' waters by replacing the Clean Water Rule, which protected them from pollution occurring in upstream states, with the inadequate and ambiguous 1980s regulations," the suit argues.

Joining Schneiderman in the suit are the attorneys general of California, Connecticut, Maryland, Massachusetts, New Jersey, Oregon, Rhode Island, Vermont, Washington, and the District of Columbia.

WHAT'S NEXT: Additional challenges to the Trump administration's delay are expected from environmentalists and other supporters of the Obama-era rule.

Politico

https://www.politico.com/newsletters/morning-energy/2018/02/06/let-it-rain-wotus-cases-094019

Let it rain (WOTUS cases)

By Kelsey Tamborrino, 2/6/18, 10:00 AM

LET IT RAIN (WOTUS CASES): The Trump administration's rule delaying implementation of the Obama administration's contentious Waters of the U.S. rule runs in the Federal Register today, which will effectively open the floodgates for lawsuits challenging it. Here's what to watch as the cases start rolling in:

Who challenges the delay? Green groups and Democratic attorneys general have already announced plans to sue over the new EPA delay of the 2015 rule that redefined which streams and wetlands are protected under the Clean Water Act; do any opponents of the Obama rule file their own, "friendly" lawsuits? And keep an eye on environmental groups like the Waterkeeper Alliance that opposed the Obama-era regulation as too lax, but are apt to dislike EPA Administrator Scott Pruitt's version of the rule even more.

Where are the suits filed? The Supreme Court's ruling that challenges to the Obama administration rule needed to start in district court also applies to challenges to the Trump administration's efforts to delay it. That means challengers can pick friendly courts like the left-leaning D.C. and Northern District of California. Any challenges brought by Pruitt allies could be aimed at getting more conservative courts in the mix.

Injunction junction? The Trump administration forewent the normal 30-day waiting period between when a final rule is published in the Federal Register and when it goes into effect, instead making the delay effective today. But it won't have any practical consequence until the U.S. Court of Appeals for the 6th Circuit lifts its nationwide stay of the Obama rule — which could happen as soon as Feb. 16. And if a judge agrees with the lawsuits expected to challenge the new EPA delay , EPA and the Army Corps could end up in the exact situation they've been trying to avoid for two-and-a-half years — with a patchwork of regulations where the Obama rule is in effect in some states and not in others.

E&E Greenwire

https://www.eenews.net/greenwire/stories/1060073013/search?keyword=EPA

Sentencing case may set course for Clean Water Act battles

By Amanda Reilly, 2/6/18

The next big Supreme Court decision affecting the scope of the Clean Water Act may come from an unlikely source: a plaintiff's fight to reduce a prison sentence for drug and weapons possession charges.

On its face, the case currently pending at the Supreme Court asks justices to resolve whether criminal plaintiffs can request lighter prison sentences in response to changes in federal sentencing guidelines.

But Hughes v. United States also centers on how lower courts interpret fractured Supreme Court decisions in which five of the court's nine justices fail to come to an agreement.

Some experts think the court's answer could provide some clarity on an issue that has muddied water law and policy for more than a decade: How should lower courts and the federal government interpret Rapanos v. United States, an infamously murky 2006 decision on Clean Water Act jurisdiction?

"What the Supreme Court does in Hughes is going to potentially go a long way toward answering the question," said Stephen Samuels, a former Justice Department attorney.

Parties involved in high-profile Clean Water Act legal battles are paying attention.

Last month, 10 trade associations involved in the massive litigation over the Obama administration's Clean Water Rule, which aimed to provide clarity on which wetlands and streams receive automatic protection under the law, filed an amicus brief in Hughes.

Mike and Chantell Sackett and Duarte Nursery filed their own joint brief in the criminal case with the backing of the conservative Pacific Legal Foundation.

The Sacketts won a major 2012 Supreme Court case that gave landowners facing potential enforcement actions under the Clean Water Act the ability to seek judicial review before being forced to comply. California farmer John Duarte has been fighting an enforcement action for plowing and recently settled his case with the government.

"The people who have filed amicus briefs as well as the United States have been litigating that issue ever since Rapanos," Samuels said.

In that 2006 case, Michigan landowner John Rapanos sought to develop property that was designated a wetland. Because he hadn't applied for a permit, U.S. EPA tried to bring civil and criminal enforcement actions.

The Supreme Court vacated lower court decisions that the federal government had jurisdiction over the wetlands at issue. But justices differed in their reasoning.

Joined by the court's conservative wing, the late Justice Antonin Scalia issued a plurality opinion — meaning it did not receive five votes — arguing that the Clean Water Act only applied to "navigable waters" connected by a surface flow at least part of the year.

Justice Anthony Kennedy, on the other hand, issued a concurring opinion stating that waters must have a "significant nexus" to navigable rivers and seas, including through biological or

chemical connections.

Following the 4-1-4 split decision, the George W. Bush and Obama administrations relied on the Kennedy interpretation in guidances and enforcement actions. Most recently, the Obama administration based the joint EPA-Army Corps of Engineers Clean Water Rule — which is also known as Waters of the U.S., or WOTUS — on Kennedy's significant nexus test.

Now all sides await the Supreme Court's next move.

Hughes v. United States

The criminal sentencing case pending at the Supreme Court also involves a 4-1-4 decision.

In 2013, the United States charged Erik Hughes, whom court documents describe as a "father whose drug 'addiction has controlled him for a large part of his adult life,'" with federal drug and firearm offenses. He entered a plea agreement admitting to conspiracy to possess with intent to distribute at least 500 grams of a mixture containing methamphetamine and to being a felon in possession of a firearm.

The plea agreement imposed a prison sentence of 180 months. But after a judge accepted the agreement, the U.S. Sentencing Commission shortened the recommended sentence for Hughes' charged crimes. He then asked for a sentence reduction.

To determine whether to grant the reduced sentence, a district court judge turned to the fractured 2011 Supreme Court opinion Freeman v. United States. In that case, the high court held that a defendant might be eligible for retroactive sentencing relief.

But, as with Rapanos, justices differed on the reason why.

This time, it was Kennedy who issued the plurality opinion. Joined by the court's liberal wing,

Kennedy stated that a plea agreement is subject to relief if the judge's decision to accept the agreement was based on federal sentencing guidelines.

Justice Sonia Sotomayor issued a concurring opinion in which she wrote that retroactive relief depends on the plea agreement itself, not what the judge thought or said at the time.

Both the district court and the 11th U.S. Circuit Court of Appeals determined that Sotomayor's concurring opinion controlled their actions. They concluded that her test hadn't been satisfied and refused to reduce Hughes' sentence.

Hughes appealed to the Supreme Court, and justices agreed in December to hear his case.

The high court will revisit the underlying issues with sentencing that were at stake in Freeman, as well as examine whether lower courts need clearer guidelines for interpreting fractured Supreme Court decisions.

The topic has heightened importance because the chances have grown that the Supreme Court will issue a plurality decision on a divisive subject.

Between 1801 and 1955, the court issued only 45 plurality decisions. But between 1953 and 2006, when Rapanos was decided, the court issued 195 fractured rulings, according to David Stras, who was just confirmed to the 8th U.S. Circuit Court of Appeals, and James Spriggs, a professor at Washington University in St. Louis.

"Many of the Supreme Court's most important decisions, such as those involving executive power and the constitutionality of abortion regulations, are decided by plurality decision," the duo wrote in a 2010 paper published by the University of Minnesota Law School.

When faced with a plurality opinion, lower courts generally turn to the 1977 Supreme Court case Marks v. United States, in which justices considered how to interpret a 1966 split decision over

whether obscenity deserves First Amendment protection.

In Marks, justices directed lower courts to follow whichever opinion represents the "narrowest grounds." They also ruled that, for an opinion to constitute the narrowest grounds, it must be a "logical subset" of the other opinions.

Those terms have been the subject of intense debate in the lower courts.

"What you get is continually propagated confusion over a case that the court, by taking it in the first place, determined to be important enough to have national authority on," said Tony Francois, an attorney with the Pacific Legal Foundation.

'Missed the mark'

Farm and industry groups say the confusion about handling fractured opinions is evident in lower courts' struggles to define the reach of federal regulators over wetlands and streams after Rapanos.

Marks "has proved a murky standard for applying Rapanos and similarly divided decisions," the coalition of 10 farm and industry challengers to the Obama administration's Clean Water Rule said in their amicus brief last month. Rapanos, they added, "has — it is no exaggeration to say — wreaked havoc in courts and agencies and among regulated communities."

The circuit courts have been divided about how to apply the decision.

The 11th Circuit has held that only Kennedy's opinion applies, while the 7th and 9th Circuits have ruled that Kennedy's standard is controlling but have left open whether Scalia's opinion could also be applicable. Other circuits, meanwhile, have held that the federal government can establish jurisdiction over wetlands under either Kennedy's or Scalia's views. No circuit courts have ruled that the government can rely on Scalia's opinion alone.

Patrick Parenteau, an environmental law professor at Vermont Law School, said the lower courts have generally read "narrowest grounds" in the Clean Water Act context to mean "least restrictive of federal jurisdiction."

"Rapanos reveals that the Marks test doesn't work because it doesn't answer the question, 'What does narrowest ground mean?'" he said.

The Pacific Legal Foundation put it this way in its brief on behalf of the Sacketts and Duarte: "The circuit courts have missed the mark with Marks."

"As simple as that rule sounds," the group said, "history has shown it to be difficult to apply, resulting in numerous splits of authority among the lower courts when interpreting fragmented decisions."

In the Clean Water Act context, PLF added, having a ruling that allows agencies and courts to follow two different legal tests "creates uncertainty among the regulated public and legal practitioners. It allows the government to play legal games with alleged violators of the [Clean Water Act]."

Hughes similarly argues that the fractured 4-1-4 decision in Freeman doesn't fit into the "narrowest grounds" framework. His attorneys said: "This court has never explained what to do when the opinions are not narrower or broader, but just different."

Some experts think the narrowest grounds test should be abandoned in favor of a simple majority rule. But others have pushed back, saying abandoning it would create guidance problems for lower courts and undermine the motivation for justices to reach majority opinions.

If justices do want to use the case to say something broader on interpreting split decisions, the Clean Water Act litigants want to make sure Rapanos is front and center on their minds.

In their brief, the farm and industry groups — which includes the American Farm Bureau Federation, American Petroleum Institute and National Association of Manufacturers — offered a wish list on how the high court should approach clarifying split decisions. Their suggestions would potentially cast doubt that the Kennedy significant nexus test is controlling.

They want the court to stipulate, for example, that a concurring opinion is controlling only if it offers a rationale that a majority of the court would accept, which, as they say, "was decidedly not the case in Rapanos."

The Pacific Legal Foundation likewise noted in its amicus brief that lower courts should be "particularly cautious" in finding that a single justice's opinion is the holding of the Supreme Court. And it wants the court to be clear that "narrowest" doesn't mean the interpretation that favors more government intervention.

"What we want to make sure is that, in looking at how to apply the 4-1 decision in Freeman in the Hughes case, the court is also thinking about how that would work with some of their other high-profile split decisions," Francois of PLF said. "So we used the Rapanos case as another example of how widely the lower courts have struggled to interpret lower court decisions and apply them."

'Most important issue'

Water law experts are also keeping an eye on whether the Supreme Court says anything in Hughes about the treatment of dissents.

"The most important issue before the Supreme Court is what is the role of dissenting opinions, especially when lower courts are trying to interpret fractured decisions," said Samuels, the former DOJ attorney.

Joined by the court's liberal wing, former Justice John Paul Stevens wrote in a dissent in Rapanos that the federal government would have jurisdiction over any waters if either the Kennedy or the Scalia test were satisfied.

A number of the lower courts have considered the Stevens dissent in their efforts to wade through what the Supreme Court meant in Rapanos.

If the high court were to rule that dissents shouldn't be taken into account, that would make it more difficult to argue that Kennedy's opinion is controlling, because it would become "more difficult to use the dissenting opinion to say that five justices would find jurisdiction when there's a significant nexus," Samuels said.

Both amicus briefs filed last week by Clean Water Act litigants urged the Supreme Court to clearly state that lower courts shouldn't consider dissents.

"The use of a dissent by a lower court to determine what the law is — that goes against just the very principle that the rulings of the Supreme Court are the ones that the majority of the court endorses," Francois said.

Implications for Trump, other cases

Along with wanting to clear up the long-standing legal question, the Clean Water Act litigants would also like to see the high court rule in a manner that would ease the way for the Trump administration to issue a replacement for the Obama administration's waters rule.

The Trump administration has said it would base a new rule on Scalia's views in Rapanos. Such a rule would likely cover fewer bodies of water than the Obama administration rule based on the Kennedy significant nexus test.

Hughes could help provide legal cover for that approach.

"If in Hughes the Supreme Court says it's the plurality opinion ... then that really gives EPA the ability to adopt the Scalia test in the replacement rule," Samuels said. "If the court says, 'No, you have to basically apply the plurality and the concurring opinion and maybe take into account

dissenting opinions,' and EPA comes out with a rule that's just Scalia — does it really limit their ability to take a narrow view of the Clean Water Act?"

The United States has yet to submit its merits brief in Hughes, but Justice Department attorneys did not previously mention the water case in responding to the petition.

"What EPA, I assume, wants out of Hughes is a decision that wants them to apply Scalia by itself," Samuels said. But, he added, "the United States has always opposed, and no court has adopted, a view that Scalia is the only surviving test in Rapanos."

In future litigation over the Trump administration's Clean Water Act rule, he predicted: "There will be a lot of briefing in cases challenging the replacement rule as to what Rapanos means, and then what Hughes means."

Along with weighing heavily in potential litigation over the Clean Water Rule's replacement, the sentencing case could also affect other pending water cases in the lower courts.

A panel of judges in the 9th Circuit recently endorsed Kennedy's views in a ruling upholding a criminal conviction for a Montana man for digging ponds and diverting a creek on his land and in the neighboring Beaverhead-Deerlodge National Forest. But the court said it would wait to issue the mandate cementing the decision until the Supreme Court rules on Hughes.

Despite the attention on Hughes in water law circles, it's also possible that the Supreme Court may not say anything that applies to the Clean Water Act, leaving litigants to continue to wade through the post-Rapanos morass.

Parenteau noted that the courts treat criminal cases differently. Courts follow a "rule of lenity" in which they interpret statutory ambiguities in favor of the criminal defendant.

"Whatever they do in a criminal conviction context does not carry over automatically,"

Parenteau said.

"My gut tells me it's not going to change anything," he added.

E&E Climatewire

https://www.eenews.net/climatewire/stories/1060072933/search?keyword=EPA

Trump would back pro-business climate treaty — aide

By Jean Chemnick, 2/6/18

President Trump will support an international climate deal to limit heat-trapping refrigerants and coolants if he thinks it's good for U.S. business, according to a White House energy aide.

"The president is not ideological on these issues," White House energy adviser George David Banks said yesterday at the Hudson Institute, a conservative think tank in Washington. Banks spoke at a forum about the fate of the climate agreement — known as the Kigali Amendment — that was finalized in 2016 with the support of the Obama administration.

If Trump ultimately decides to ask the Senate to allow the United States to join the 2016 amendment, he said, "it will be largely because he wants to protect and create U.S. jobs and advance U.S. commercial interests."

Banks' comments come after Trump last year declared he would pull the United States out of the Paris climate agreement, leaning heavily on arguments that it didn't make economic sense. He has suggested the United States might re-enter that treaty if a "better deal" were reached, but the White House hasn't spelled out what such a deal would entail.

The Kigali Amendment was added to the Montreal Protocol, a 1987 ozone treaty Banks called a "remarkable success story of international cooperation." But the protocol led to the rise of hydrofluorocarbons, or HFCs, a powerful class of climate-forcing chemicals, to replace ozone depleters. The Kigali Amendment is expected to help avoid at least half a degree Celsius of warming by the end of the century.

All previous Montreal Protocol amendments were ratified by the Senate rather than joined as executive agreements, as the Obama administration did with the Paris Agreement. Ratification requires a two-thirds vote. Banks said the Trump administration would ask the Senate for its advice and consent on the HFC amendment as well if it chose to join.

"This administration is not going to circumvent the Congress," he said.

Banks gave no timeline for a decision but enlisted representatives from business and other sectors attending the Hudson meeting to help furnish economic data on why Kigali is a boon to domestic businesses.

U.S. industry supports the amendment, and U.S. companies developed many of the non-HFC alternative chemicals. But the U.S. Court of Appeals for the District of Columbia Circuit complicated domestic compliance with the agreement last year when it vacated a U.S. EPA rule that mandated a phase-down of HFC use in line with Kigali. The rule was developed under President Obama, then defended by the Trump administration's Justice Department (Greenwire, Aug. 8, 2017).

That ruling created questions about how the United States would comply with Kigali if it joined. But Jeff Holmstead, who ran the EPA air office under George W. Bush, said Article 6 of the Clean Air Act allows the agency to promulgate regulations to comply with a treaty if the president has submitted it and the Senate has ratified it.

And while Holmstead acknowledged that Kigali is not top of mind for most members of the Senate now, he predicted that if Trump blessed it and submitted it for the Senate's consent, it

would pass easily.

E&E Greenwire

https://www.eenews.net/greenwire/stories/1060072989/search?keyword=EPA

Trump campaign aide lands at Denver office

By Kevin Bogardus, 2/6/18

Patrick Davis, a longtime Republican political consultant who was Colorado state director for President Trump's presidential campaign, is now a top official in U.S. EPA's Denver office.

He has been serving as a senior adviser to the Region 8 administrator for public engagement since October 2017, according to his LinkedIn profile.

Davis was one of the first Trump appointees to come to EPA. He was a member of the president's "beachhead" team at the agency.

Davis would later take on a top political job at EPA's Washington headquarters as deputy assistant administrator for the Office of Land and Emergency Management.

But it always remained a possibility Davis would return West.

Prominent GOP lawmakers had recommended Davis for the top job in Region 8, which later went to Doug Benevento, a former Xcel Energy Inc. executive.

In separate letters obtained by E&E News under the Freedom of Information Act, both House Natural Resources Chairman Rob Bishop (R-Utah) and Rep. Mike Coffman (R-Colo.) said Davis would be a great choice to lead the Denver office (Greenwire, Aug. 23, 2017).

Davis' prior professional home is also in Colorado. His political consulting firm — Patrick Davis Consulting LLC — is based in Colorado Springs.

His move out West has left an empty spot in Washington, D.C. Davis told E&E News in an email that his prior position at EPA headquarters as the waste office's political deputy remains vacant.

E&E Daily

https://www.eenews.net/eedaily/stories/1060072945/search?keyword=EPA

Hartnett White exit spurs hope of easier approval of nominees

By Nick Sobczyk, 2/6/18

Republicans are hoping the Environment and Public Works Committee will have an easier time moving U.S. EPA nominees now that a controversial pick has withdrawn her nomination.

Kathleen Hartnett White over the weekend withdrew from consideration to lead the White House Council on Environmental Quality after months of controversy over her stance on climate change (Greenwire, Feb. 3).

EPW Committee ranking member Tom Carper (D-Del.) had said last week that it would be difficult to move EPA nominees — including Andrew Wheeler, President Trump's pick for deputy EPA administrator — as long as Hartnett White's nomination was still on the table.

But Republicans yesterday were optimistic that her withdrawal would grease the wheels on the committee.

"There's a lot of resistance to her, and there are some on our side too," said Sen. Jim Inhofe (R-Okla.). "And I think anyone who watched the hearing where we had Andrew Wheeler and her, unfortunately for her that contrast wasn't very good."

Carper yesterday called Hartnett White's withdrawal a "positive development" but cautioned that Democrats are hoping for further dialogue with EPA leadership before committing to moving any nominees through the full Senate.

Either way, the EPW Committee looks poised to pass Wheeler's nomination when it meets for a markup tomorrow (E&E Daily, Feb. 5). Wheeler passed the committee in November, but Trump had to renominate him last month after the full Senate failed to take up his nomination.

"He was unanimously supported by the Republicans last time, and I expect that's going happen again this time," EPW Chairman John Barrasso (R-Wyo.) said yesterday.

But, "the question is how quickly does that nomination move through the Senate," Carper said, adding, "there are some other issues we need to resolve."

Barrasso, meanwhile, said yesterday that he still has a hold on the nomination of Anne White, Trump's pick to lead the Department of Energy's legacy nuclear waste cleanup. Barrasso is concerned about DOE's releases of excess uranium, saying the practice has driven down uranium prices and led to slower production in his home state and elsewhere.

Barrasso said he has talked to Energy Secretary Rick Perry about his concerns but that he isn't yet ready to move forward on the DOE nominee.

E&E Greenwire

https://www.eenews.net/greenwire/stories/1060073019/search?keyword=EPA

Who's who on the Transformation Steering Committee

By Kevin Bogardus, 2/6/18

The committee tasked with transforming U.S. EPA consists of a mix of career officials and some of President Trump's political appointees at the agency.

Assistant Deputy EPA Administrator Henry Darwin said in an internal email obtained by E&E News that he has asked the Transformation Steering Committee, a group of 14 employees across the agency brought together for their differing views, to come up with a new vision for EPA.

"Our transformation depends on each EPA employee believing in the future we are creating together. To that end, I have asked the Transformation Steering Committee — 14 leaders from across the agency chosen to provide a diversity of perspectives on leading change at EPA — to draft a vision for the agency," Darwin told EPA employees in the email yesterday.

Included on the panel are Mike Flynn, the acting deputy administrator, and Kevin Minoli, principal deputy general counsel, according to an EPA intranet page. In addition, political aides like Daisy Letendre — a senior policy and strategic communications adviser in the policy office — and Region 5 Administrator Cathy Stepp are members.

Last week in Washington, D.C., EPA's career and political leaders met to discuss how to change the agency and how its "Lean" management system "is helping us transform into a better, faster and more engaged place to work," Darwin said (E&E News PM, Jan. 22). The EPA operations chief was brought on by Administrator Scott Pruitt last year from Arizona state government to help better streamline the agency under the Lean system.

"We kicked off this exercise at the [leadership conference] by engaging all attendees in developing word clouds on questions such as, 'In five years, what will we have accomplished at EPA?' and 'In five years, what will it be like for the people who work at EPA?'" Darwin said.

"Throughout this process, we will strive to provide opportunities for all employees to participate in the development of a vision that defines where we want to be as an organization, guides our actions and decisions, and inspires us to move forward."

Darwin said he will provide employees with frequent updates on how the agency is moving forward on implementing the Lean system.

The members of the Steering Committee tasked with "guiding and leading transformational change" at EPA are:

•□□□□□□□□ David Bloom, deputy chief financial officer, Office of the Chief Financial Officer.

•□□□□□□□□ Marty Chintala, first-line supervisors advisory group liaison.

•□□□□□□□□ Mike Flynn, acting deputy administrator.

•□□□□□□□□ Nancy Grantham, principal deputy administrator, Office of Public Affairs.

•□□□□□□□□ Peter Grevatt, director, Office of Ground Water and Drinking Water, Office of Water.

•□□□□□□□□ David Hindin, director, Office of Compliance, Office of Enforcement and Compliance Assurance.

•□□□□□□□□ Daisy Letendre, senior adviser for policy and strategic communications, Office of

Policy.

•□□□□□□□□ Kevin Minoli, principal deputy general counsel, Office of General Counsel.

•□□□□□□□□ Ken Moraff, director, Office of Ecosystem Protection, Region 1.

•□□□□□□□□ Chris Robbins, acting assistant administrator for management, Office of Research and Development.

•□□□□□□□□ Betsy Shaw, career deputy assistant administrator, Office of Air and Radiation.

•□□□□□□□□ Nigel Simon, director, Office of Program Management, Office of Land and Emergency Management.

•□□□□□□□□ Cathy Stepp, administrator, Region 5.

•□□□□□□□□ Donna Vizian, principal deputy assistant administrator, Office of Administration and Resources Management.

E&E Greenwire

https://www.eenews.net/greenwire/stories/1060073031/search?keyword=EPA

Greens, refiner find common ground in RFS fight

By Marc Heller, 2/6/18

At first glance, the Philadelphia Energy Solutions refinery might look like a target for environmental groups. It's been hit with $2.1 million in penalties from U.S. EPA for Clean Air Act violations in a five-year period, and regulators have blamed the refinery for most of the toxic air releases in the city.

But as the refinery seeks bankruptcy protection, it's got an unlikely ally: Mighty Earth, the environmental group headed by retired Rep. Henry Waxman (D-Calif.), who helped write the air

pollution law that Philadelphia Energy Solutions has been accused of violating.

The odd alliance is tied to the federal renewable fuel standard (RFS), which requires the blending of ethanol into gasoline. Each party dislikes the biofuel mandate for different reasons, but they have "legitimate common ground," said Rose Garr, Mighty Earth's policy director.

In an emailed news release titled "Enviro 'sympathy' for PES bankruptcy," Mighty Earth cited an "interesting alignment" between the Philadelphia refiner and environmentalists on the RFS.

"Normally, we wouldn't be shedding tears about the financial woes of a fossil energy giant. But the Renewable Fuels Standard, the biofuels law that is crippling PES, is also a disaster for the environment," Garr said in the news release.

Mighty Earth's willingness to appear arm-in-arm with the refinery shows just how much the discussion over biofuels has changed since the RFS was updated in 2007.

Environmentalists who once embraced the alternative fuel mandate for encouraging cleaner fuel have done an about-face, saying it's driving deforestation, contributing to climate change and increasing agriculture-related pollution in the Gulf of Mexico and Midwestern water supplies. The problem, they say, is that the RFS still depends on corn, rather than other feedstocks that don't compete with food or require so many farm chemicals.

Those complaints have given congressional critics of ethanol, especially in oil states like Oklahoma and Texas, a talking point as they push legislation to scale back the RFS.

Garr told E&E News it's understandable other environmental groups might be skeptical of Mighty Earth casting Philadelphia Energy Solutions as a victim of environmental policy gone awry. In reality, she said, her organization has limited sympathy for PES and recognizes that the company's woes may go beyond the high cost of renewable fuel credits.

"There's been a turnabout in the environmental community," Garr said, as most environmental groups have turned against ethanol mandates. "We're working together."

That contrasts with December 2007, when Earthjustice praised the RFS as "vital for protecting public health" by reducing reliance on petroleum. Even then, though, Waxman — co-author of the 1990 update to the Clean Air Act — had reservations that an ethanol mandate might press sensitive lands into biofuel production if a variety of feedstocks didn't materialize, Garr said.

In Philadelphia, an environmental group called the Clean Air Council sees economics — not renewable fuel policy — as the cause of the refinery's difficulties. The company's bankruptcy announcement last month was no surprise, said Joseph Minott, the Clean Air Council's executive director and chief counsel.

"It's simply a plant that has outlived its natural lifetime," Minott said. "Now they're complaining about the ethanol rule. In a year, it could be the cost of oil."

Minott said he doesn't doubt that the RFS has environmental downsides, "but it's not relevant to PES."

Company cites compliance efforts

Minott said the Clean Air Council is more concerned with the direct impacts of the plant, the oldest and biggest refinery on the East Coast, which continues to operate while the company reorganizes its finances.

EES has been assessed penalties of $668,187 for Clean Air Act violations and $150,000 for Clean Water Act violations in a five-year period, EPA said in a report on enforcement and compliance history.

A spokeswoman for Philadelphia Energy Solutions didn't return a message seeking comment, but the company said on its website that it's making emissions-related improvements and continues to monitor emissions through a consent decree with EPA.

"We understand that we must protect the environment, from air pollution to the waterways that surround our complex," the company said. "We are currently investing heavily in updating various aspects of the Philadelphia Refining Complex to exceed federal environmental standards and will continue to ensure our complex is having a positive impact on the environment."

In its bankruptcy filing with the U.S. Bankruptcy Court for the District of Delaware, PES said it has made more than $870 million in capital improvements since 2012, and it credited them for environmental improvements.

"These investments, together with a culture of continuous improvement have led to improved performance in personal and process safety, environmental compliance, operational availability, operating costs and a number of other important metrics, including overall profitability," the company said.

On the other hand, the company said, the renewable fuel standard is its biggest financial threat. Buying renewable fuel credits has cost PES $832 million since September 2012. Annually, the credits — called Renewable Identification Numbers — cost the company twice as much as payroll and 1 ½ times as much as capital expenses, PES said.

The company doesn't have a choice, it has said, because it doesn't have the facilities to blend ethanol into fuel and has to buy RINs to show compliance with the renewable fuel mandate.

To ethanol advocates, the environmental debate is a distraction.

The Renewable Fuels Association pointed to a series of blog posts by an author at the Kleinman Center for Energy Policy at the University of Pennsylvania, suggesting PES has had greater financial woes, and that refiners recover compliance costs through the retail price of refined fuel. In one post, policy director Christina Simeone said factors such as the cost of oil and ill-timed investments in rail capacity may be more to blame.

At Mighty Earth, Garr said she hopes a longer-term debate over renewable fuels takes hold, offering second-generation biofuels a chance over the next 15 or 20 years. That could begin as the RFS nears expiration in 2022, leaving renewable fuel levels up to EPA unless Congress updates the law, she said.

"It's seen as oil versus corn, but there's a real opportunity to move forward on the environment," Garr said.

With just four years left on the law, she said, advanced biofuel companies are looking for signs they should expand. "They're looking for investment," she said.

Washington Examiner

http://www.washingtonexaminer.com/rex-tillerson-in-the-crosshairs-of-green-groups-court-threats/article/2648134

Rex Tillerson in the crosshairs of green group's court threats

By John Siciliano, 2/5/18, 2:09 PM

Secretary of State Rex Tillerson on Monday became the latest target of an environmental group that has been filing an average of three lawsuits per month against the Trump administration.

The Center for Biological Diversity told Tillerson that he risks going to court if he continues to delay the submission of a climate study to the United Nations.

The group said not delivering the report, which the administration is obligated to do under the

U.N. climate framework, would be "unprecedented" and would further erode the Trump's administration's standing on climate change.

"The U.S. is the chief culprit in the climate crisis, so its refusal to meet even bare minimum reporting requirements is morally reprehensible," said Jean Su, the group's associate conservation director. "In light of all the American lives and homes lost to superstorms and wildfires last year, the Trump administration's inaction is especially disturbing."

Other nations, including Russia, have submitted their reports while the U.S. has not, the group pointed out. The group reminded Tillerson that Trump's goal of leaving the Paris accord does not mean the U.S. is no longer legally bound by the broader U.N. climate framework to submit reports on its greenhouse gas emissions.

Although President Trump announced last year he is withdrawing from the Paris climate change agreement, the nation is still a member of the U.N. Framework Convention on Climate Change, which supports the goal of stabilizing greenhouse gas levels in the atmosphere to prevent "the most dangerous effects of climate change," according to the group.

Parties in the treaty must submit reports periodically on greenhouse gas emissions inventories and action plans "consistent with this objective," the group said.

But the State Department, which is charged with meeting the reporting requirements, has not submitted a plan to the Federal Register on when to expect the report.

The group said the U.S. typically spells out when to expect the report up to eight months before submitting it to the U.N. "If Tillerson continues to blow off this bedrock commitment to transparency, we will take him to court," according to Su.

"Trump's reckless decision to pull out of the Paris accord already made the U.S. a climate pariah," he added. "Further eroding the world's trust could shatter the global, unified front the climate emergency demands."

The Environmental Protection Agency told the Washington Examiner last month that it was still on track to issue its annual greenhouse gas report on major emitters.

The EPA finalized rules in 2009 that require the mandatory reporting of greenhouse gases from power plants, refineries, and other sources that emit 25,000 metric tons or more of carbon dioxide per year in the U.S.

However, it has not been clear if the pressure would be on this year to keep the data coming, especially when the administration has been seeking to repeal climate regulations, and presidential and Republican budgets have been targeting the program for cuts.

Nevertheless, an EPA official confirmed the agency's plans to begin collecting the data beginning near the end of February, with a hard deadline for all data to be submitted by March 31.

E&E News PM

https://www.eenews.net/eenewspm/stories/1060072927/search?keyword=EPA

D.C. Circuit sets arguments in fight over the scope of rulings

By Sean Reilly, 2/5/18

A federal appellate court has scheduled oral arguments for April 2 in a legal clash over U.S. EPA's most recent attempt to limit the geographic reach of rulings on certain air quality standards.

In its order setting the date, the U.S. Court of Appeals for the District of Columbia Circuit last week said the makeup of the judicial panel hearing the arguments would be announced later.

The hearing will come 18 months after the initial lawsuit challenging EPA's revised "regional consistency" regulations was brought by the National Environmental Development Association's Clean Air Project, a manufacturing coalition that includes Koch Industries Inc., Boeing Co. and Phillips 66 Co.

The revisions, published in 2016, allow EPA officials to carve out exemptions to "adverse" appellate court rulings in cases involving "locally or regionally applicable actions" that don't apply nationwide, according to the final rule.

That doctrine, known in legalese as "intercircuit nonacquiescence," aims to address a 2014 decision by the D.C. Circuit that junked an EPA memorandum in which the agency said it would not follow a separate ruling on a Michigan permitting challenge beyond the boundaries of the four-state jurisdiction of the 6th U.S. Circuit Court of Appeals.

The D.C. Circuit's 2014 decision was in response to an earlier lawsuit brought by the development association. In filings in its current suit, the group has urged the appeals court to vacate the revised agency standard on the grounds that it would lead to a patchwork of regulatory interpretations.

Under the regulation, "a plant in one state can face a fundamentally different regulatory scheme under the same statutory and regulatory language as identical plants in other states and regions," attorneys for the development association and other plaintiffs said in a December brief. "This is not what Congress intended."

EPA, which has continued to defend the rule under the Trump administration, describes that reading as overblown. Intercircuit nonacquiescence "is a longstanding common law doctrine" that preserves "EPA headquarters' ability to alter national policy or direct a region to take other appropriate action in light of any given court decision," agency lawyers wrote in their final brief, also submitted late last year.

The plaintiffs' "attempt to portray the challenged amendments as wreaking sweeping and uncontrollable change at the agency is simply unsupported," they said.

Also suing are the Air Permitting Forum, another business coalition, and the American Petroleum Institute, the oil and gas industry's top trade group.

Until November, one of the attorneys representing API had been Bill Wehrum, who now heads EPA's air office. Wehrum bowed out of the case a day after assuming his new responsibilities; he had previously pledged to recuse himself from specific matters involving former clients for a year after last providing a service.

NewsTimes

http://www.newstimes.com/opinion/article/Presentation-on-N-Y-power-plant-reveals-concerns-12553263.php

Presentation on N.Y. power plant reveals concerns

2/6/18, 12:00 AM

An overview of the future impact on local residents from air pollution emitted by The Cricket Valley Energy Center Center in Dover, New York, was presented at the Sherman Board of Selectmen meeting Jan. 25.

The presentation provided an opportunity for the packed house to learn more about this 1,100-megawatt power plant next door to Sherman.

Environmental advocates from New York came from an hour away, and together with a Sherman resident, they tried to help us understand the negative impact that Cricket Valley Power Plant will have on us if this huge facility comes to fruition in 2020.

The New York speakers noted that Gov. Cuomo is suing the Environmental Protection Agency for poisoning New York's air, but is allowing pollution from New York's Cricket Valley Power Plant to pollute Connecticut air.

They explained how the EPA's standards for protecting clean air are inadequate to protect our health.

They also offered reasons why the power generated from CVEC was not needed to support New York's power grid. In conclusion, they cited several reasons why it was important to stop CVEC.

A Sherman resident explained that his research of pollution from other power plants indicates higher mortality rates are downwind from power plants. Data is online.

Politico

https://www.politicopro.com/energy/article/2018/02/grassley-releases-analysis-to-argue-biofuel-credits-not-to-blame-for-pes-bankruptcy-552584

Grassley releases analysis to argue biofuel credits not to blame for PES bankruptcy

By Helena Bottemiller Evich and Eric Wolff, 2/6/18, 12:05 PM

Sen. Chuck Grassley says he has found no evidence that the Renewable Fuel Standard

contributed to the recent bankruptcy of Philadelphia Energy Solutions, the largest oil refinery on the East Coast.

The Iowa Republican on Tuesday released his staff's own analysis, finding that the company's bankruptcy filing cannot be blamed on the RFS. On a call with reporters, Grassley said the company had a long history of financial troubles. He cited Philadelphia Energy's poor management decisions and a lack of investment in blending infrastructure, among other factors.

RFS sets annual requirements for how much ethanol and other biofuels must be blended into the nation's fuel supply. Refiners must acquire biofuel credits, called Renewable Identification Numbers, or RINs, and submit them to the EPA to prove compliance.

These credits can be sold on the open market, and their prices can vary significantly. Some refiners own the infrastructure to blend their own fuel, and thus acquire credits directly, but others, like Valero and PES, must purchase credits to prove compliance. These companies say the cost of RINs is hurting their bottom lines, while EPA and analysts say they make it up when they sell their refined product.

Grassley said he asked his staff to look into what role the RFS may have played in the bankruptcy because he was concerned about job losses. The internal staff memo found that the RFS and the cost of RINs "have very little to do with the success of refineries and were not a significant factor in the PES bankruptcy," he said.

"The RFS cynics are at it again, but their arguments are once again coming up empty," Grassley added.

PES CEO Greg Gatta has said that without the program, the company would be "competitive with anyone in the world."

A small group of independent refiners led by Valero have found a sympathetic voice in EPA Administrator Scott Pruitt, who last week said the PES bankruptcy was a signal that the program's compliance system of biofuel credits should be reviewed. Pruitt has also butted heads

with farm-state senators over how much renewable fuel should be required.

Pruitt offered several proposals last year that would have cut RIN prices, but he was rebuffed by the White House and pushed into reversing himself by corn-state senators.

To: AO OPA OMR CLIPS[AO_OPA_OMR_CLIPS@epa.gov]
From: Hassell, Emily
Sent: Mon 1/29/2018 8:29:52 PM
Subject: News Clips - 29 January 2018

(Full stories, highlights, and details are listed further down in the email, and can be jumped to by clicking on any of the links below.)

Pebble Mine

Politico - Pruitt airs environmental concerns about proposed Alaska mine

Washington Examiner - EPA's Scott Pruitt reverses his prior decision, halts approval process for Alaskan gold mine

The Hill - Trump EPA revives Obama proposal to block controversial Alaska mine

Reuters - Shares in Alaska mine developer slide 26 percent on EPA reversal

Wall Street Journal - EPA Chief Reverses Course On Pebble Mine in Alaska

Reuters - In reversal, U.S. EPA maintains restriction on Alaska mine project

AP - EPA halts plans to lift proposed mine restrictions in Alaska

NPR - In Reversal, EPA Suspends Alaska Mining Proposal To Preserve Watershed Protections

E&E Greenwire - EPA about-faces on Pebble, may restrict development

Washington Post - In reversal, EPA deals setback to controversial gold mining proposal in Alaska

General

E&E Greenwire - Pruitt played role in climate webpages' disappearance

The Hill - Records show EPA chief's role in removing climate web pages

E&E Daily - Pruitt back on the Hill this week

The Hill - Week ahead: EPA chief to face grilling on reg rollback

The Hill - The Freedom of Information Act and Mr. Trump's EPA

E&E Greenwire - Trump admin moves to finalize WOTUS delay

Washington Post - White House plan would reduce environmental requirements for infrastructure projects

Daily Caller - Trump's EPA Targets Academics For Hiding Data Used To Ban Popular Pesticide

Politico - Georgia asks for swift action on WOTUS injunction request

Washington Post - German carmakers backed studies exposing people and monkeys to toxic car exhaust

Daily Caller - This University Is Under Fire For Something Obama's EPA Did Years Ago

Washington Examiner - Big green readies dozens of lawsuits as only 'antidote' for Trump EPA

The Hill - Top environmental group preparing to sue Trump's EPA

The Hill - First EPA chief: GOP climate change denial 'a threat to the country'

E&E News PM - Waste storage rule changes to result in $32M compliance savings

Washington Examiner - Pressure mounts on EPA to backtrack on ethanol pledge

E&E Climatewire - Lawmakers to announce 'cap-and-dividend' bill today

Politico - EPA watchdog pressed White House for more money

AP - EPA reaches agreement over cleanup of Butte Hill Superfund

Washington Examiner - EPA, California must compromise in their fight over weakened fuel-efficiency standards, experts say

The Hill - California aims to get 5 million zero-emission cars on the road

Washington Examiner - EPA frees Arkansas from Obama-era coal restrictions

AP - EPA surveys Oklahoma residents near polluted site

Politico - Court rejects rehearing in HFC case

AP - Settlement reached in East Chicago pollution lawsuit

AP - Public meeting scheduled on protecting Lake Superior reef

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Politico

https://www.politicopro.com/energy/whiteboard/2018/01/pruitt-airs-environmental-concerns-about-proposed-alaska-mine-488990

Pruitt airs environmental concerns about proposed Alaska mine

By Alex Guillen, 1/26/18, 7:34 PM

EPA Administrator Scott Pruitt today announced he has serious concerns about any potential mining project in Alaska's Bristol Bay region, creating doubt that the controversial Pebble Mine proposal may ultimately be approved.

EPA said in a release today that it will suspend its proposed withdrawal of Obama-era restrictions after hearing from Alaskan residents and other interested parties. The proposed mine has long drawn opposition from some in the state, including independent Gov. Bill Walker, as well as environmentalists, over worries that it could harm Bristol Bay's critical salmon fisheries.

"It is my judgment at this time that any mining projects in the region likely pose a risk to the abundant natural resources that exist there," Pruitt said in a statement. "Until we know the full extent of that risk, those natural resources and world-class fisheries deserve the utmost protection."

The permitting process, which is handled at this stage by the Army Corps of Engineers, can continue, EPA said. But the agency warned that the developers will have to clear a "high bar." The agency added in a release that not revealing Pruitt's doubts at this stage would be "disingenuous." EPA has veto power over such Army Corps permits.

Pebble Limited Partnership CEO Tom Collier said in a statement that the company "can demonstrate that we can responsibly construct and operate a mine at the Pebble Deposit that meets Alaska's high environmental standards."

Washington Examiner

http://www.washingtonexaminer.com/epas-scott-pruitt-reverses-his-prior-decision-halts-approval-process-for-alaskan-gold-mine/article/2647275

EPA's Scott Pruitt reverses his prior decision, halts approval process for Alaskan gold mine

By Josh Siegel, 1/26/18, 9:33 PM

The EPA on Friday night reversed a prior decision it made and halted the approval process of a gold mine in Alaska's Bristol Bay.

EPA Administrator Scott Pruitt said the Pebble Mine project would harm the area's natural resources.

"It is my judgment at this time that any mining projects in the region likely pose a risk to the abundant natural resources that exist there," Pruitt said.

The decision does not cancel the mine outright, but leaves in place the Obama administration's block of the project until the EPA solicits further comments.

Pruitt said he made the decision after consulting with various stakeholders, including Alaska natives and tribal governments.

"We have restored process, reviewed comments, and heard from a variety of stakeholders on whether to withdraw the proposed restrictions in the Bristol Bay watershed," Pruitt said. "Until we know the full extent of that risk, those natural resources and world-class fisheries deserve the utmost protection."

The Obama administration had denied the mine a permit for years because of the potential impact it would have on water quality and the number of salmon that indigenous populations rely upon.

That decision led to a lawsuit in 2014 brought by the Canadian company developing the mine.

Last year, Pruitt began the process of withdrawing the Obama administration's move to block the mine, allowing the company to apply for a Clean Water Act permit from the U.S. Army Corps of Engineers.

At the time, Pruitt said his decision did not "guarantee or prejudge a particular outcome," but provided the Pebble Mine developers "a fair process for their permit application and help steer EPA away from costly and time-consuming litigation."

The developers of the proposed mine are a collective known as the the Pebble Limited Partnership, comprised of Canadian miners Northern Dynasty Minerals and First Quantum Minerals.

Northern Dynasty on Friday vowed to continue with the permit process, despite Pruitt's latest action.

"The settlement agreement that the Pebble Partnership entered into with the EPA last year provides Pebble an unfettered opportunity to proceed through normal course permitting under the Clean Water Act and National Environmental Policy Act," said Northern Dynasty president and CEO Ron Thiessen. "We have every confidence that Pebble's ultimate project design will meet the rigorous environmental standards enforced in Alaska and the US."

Pruitt on Friday said the mine still could ultimately be approved and the EPA will soon open a formal public comment process to get input on the agency's next steps.

"This decision neither deters nor derails the application process of Pebble Limited Partnership's proposed project," he said. "The project proponents continue to enjoy the protection of due process and the right to proceed. However, their permit application must clear a high bar,

because EPA believes the risk to Bristol Bay may be unacceptable."

The Hill

http://thehill.com/policy/energy-environment/371001-trump-epa-revives-obama-proposal-to-block-alaska-mine

Trump EPA revives Obama proposal to block controversial Alaska mine

By Timothy Cama, 1/26/18, 6:55 PM

The Trump administration is reviving a controversial Obama administration proposal to block a massive gold mine proposed in Alaska after previously saying it would revive the proposal.

Environmental Protection Agency (EPA) chief Scott Pruitt announced the surprise reversal late Friday, saying that the EPA now believes that the Pebble Mine project would be unacceptably harmful to Bristol Bay and its tributaries.

Pruitt said he made the call after speaking with various stakeholders involved in the decision, citing serious concerns over the impact from mining and mining waste on the bay.

"We have restored process, reviewed comments, and heard from a variety of stakeholders on whether to withdraw the proposed restrictions in the Bristol Bay watershed," Pruitt said in a statement.

"Based on that review, it is my judgment at this time that any mining projects in the region likely pose a risk to the abundant natural resources that exist there. Until we know the full extent of that risk, those natural resources and world-class fisheries deserve the utmost protection."

Pruitt said he would soon open a formal public comment process to get input on the agency's next steps on Pebble Mine.

The decision in May to withdraw the Obama administration's proposal to block Pebble Mine was one of a series of related rollbacks by Trump's EPA.

The Obama EPA in 2014 proposed to block the southwest Alaska project under the Clean Water Act, despite Pebble not having submitted a plan or an application.

Republicans and the project's backers slammed that move as a pre-emptive veto and said it was illegal, and the EPA never finalized it because of a federal court's hold on the process.

In May, Pruitt said he would start the process of undoing the proposed veto, a move widely criticized by environmentalists and Alaska Native tribes in the area.

"We are committed to due process and the rule of law, and regulations that are 'regular,' " Pruitt said at the time.

But the EPA specified at the time that its move did not allow the mine to start operation, since the agency would still review Pebble's application if it were filed. Pebble formally applied for its permits last month.

Pebble is controversial in Alaska and among its leaders. Gov. Bill Walker (I) opposes it. Rep. Don Young (R) and Sens. Lisa Murkowski (R) and Dan Sullivan (R) want to allow Pebble to apply for a permit, but do not want the mine to hurt the Bristol Bay ecosystem, especially the salmon there.

Reuters

https://www.reuters.com/article/us-northern-dynasty-epa-stock/shares-in-alaska-mine-developer-slide-26-percent-on-epa-reversal-idUSKBN1FI1ZX

Shares in Alaska mine developer slide 26 percent on EPA reversal

By Nicole Mordant, 1/29/18, 10:51 AM

VANCOUVER (Reuters) - Shares in mine developer Northern Dynasty Minerals Ltd fell as much as 26 percent on Monday after a U.S. regulator reversed himself and maintained restrictions on the company's big copper and gold mine project in Alaska.

Administrator Scott Pruitt said on Friday the move would not derail the Pebble mine's permit application process. But it was the first sign the project's path may not be as smooth under the mining-friendly Trump administration as some analysts and the company had predicted.

Pebble, located in Alaska's Bristol Bay region, holds one of the world's largest undeveloped copper and gold deposits. Its development, near one of the biggest sockeye salmon fisheries on earth, is fiercely opposed by environmentalists, native groups and fisherman.

"The news was a surprise," said Chris Mancini, research analyst at Gabelli Funds, which owns Northern Dynasty shares.

Its U.S.-listed shares were down nearly 25 percent at $1.15. In Toronto, the stock fell 24.5 percent to C$1.42 after dropping as low as C$1.39.

The Obama-era EPA in July 2014 unveiled proposals to limit large-scale mining in the Bristol

Bay area, even before Northern Dynasty had started the permitting process, citing environmental concerns.

Last July, Pruitt began a process to withdraw the restrictions.

In a statement on Friday, Pruitt said he was suspending that process. "It is my judgment at this time that any mining projects in the region likely pose a risk to the abundant natural resources that exist there."

Environmental groups applauded the move. "The Pebble Partnership has been touting that they had smooth sailing at the state and federal level for the past year... and with this news, they clearly don't," Nelli Williams, Alaska director for conservation group Trout Unlimited, said in an email.

Northern Dynasty shares quadrupled after Donald Trump won the 2016 U.S. presidential election on expectations the long-stalled project would face an easier road under an administration keen to reduce environmental regulations to benefit business.

The view was reinforced by a settlement between Northern Dynasty and Trump's EPA in May 2017. Under it, the mine permitting process could be carried out through the U.S. Army Corp of Engineers.

That agreement "drives everything," Northern Dynasty Chief Executive Officer Ron Thiessen said in an interview late on Saturday, downplaying Pruitt's about-face.

"From my perspective this has done nothing to us... This in no way impairs or jeopardizes the (permit) process," he said.

The 2017 settlement paved the way for the miner to lure a deep-pocketed partner, First Quantum Minerals Ltd, to help fund development.

First Quantum did not respond to a request for comment.

Northern Dynasty last month started the permitting process for Pebble and is studying a smaller mine design than before.

"We're hopeful that the PLP (Pebble Limited Partnership) will be able to prove to the Army Corps that the mine can be built in such a way that the fishery will not be negatively impacted," Gabelli's Mancini said.

Wall Street Journal

https://www.wsj.com/articles/epa-chief-reverses-course-on-pebble-mine-in-alaska-1517019786?mod=searchresults&page=1&pos=4

EPA Chief Reverses Course On Pebble Mine in Alaska

By Timothy Puko, 1/26/18, 9:23 PM

The U.S. Environmental Protection Agency is maintaining restrictions on the Pebble Mine in southwest Alaska, an unexpected reversal of what had been strong Trump administration support for one of the world's biggest mining projects.

The administration had taken steps last summer to withdraw restrictions —advanced by Mr. Trump's Democratic predecessor—on development of the site. Friday's decision suspends that withdrawal, putting in limbo a permitting process that developers had been hoping would get fast-tracked under a GOP administration that has emphasized the need to help mining, drilling and manufacturing operations.

The EPA has decided, for now, to agree with a decision by former President Barack Obama's administration that a major wild salmon spawning area—and the Native Alaskan communities that depend on them—merit special protection from the development.

"Any mining projects in the region likely pose a risk to the abundant natural resources that exist there," EPA Administrator Scott Pruitt said in a statement. "Until we know the full extent of that risk, those natural resources and world-class fisheries deserve the utmost protection."

The announcement is the latest blow to Vancouver-based Northern Dynasty Minerals Ltd. and its project in the Bristol Bay area, which was previously estimated at about $5 billion. Northern Dynasty has previously estimated the copper and gold deposits could ultimately be worth $300 billion to $500 billion, but a downturn in commodity prices and intense opposition from both environmentalists and Native Alaskan communities have kept the project shelved for years.

Mr. Trump's administration had been trying to help reverse the project's fortunes amid a broader effort to roll back environmental regulations to benefit businesses. It is withdrawing or rewriting rules designed to fight climate change, restrict coastal drilling and reduce hazardous air pollution to lower costs for businesses including power plants, oil companies and steel mills.

In the first seven months of Mr. Trump's administration, the EPA reached a court settlement with Pebble Limited so it could start a permitting process that had been blocked and then it started a process to remove restrictions that could have barred large-scale mining at the site. Officials at the Pebble Limited Partnership, Northern Dynasty's wholly owned subsidiary, said it can and will still proceed through that permitting process.

"The news does not change our approach," said Tom Collier, the company's chief executive in a statement. "We believe we can demonstrate that we can responsibly construct and operate a mine at the Pebble Deposit that meets Alaska's high environmental standards."

A final decision is pending. EPA intends to collect further public comment and the project "must clear a high bar," it said in the announcement.

Opponents—including some high-ranking Alaskan elected officials—cheered the decision. Some urged the EPA to make the protections permanent. Alaska Gov. Bill Walker said the region's longstanding fishing economy should be prioritized.

A 2014 EPA report said the Pebble mine could have significant adverse effects on the region's fisheries and the Native Alaskan communities that depend on them. Bristol Bay has the largest sockeye salmon fishery on globe, producing about half of the world's wild supply in 2014.

"The threat of large-scale mining in the watershed has caused far too much stress for far too long in the region," said Democrat Bryce Edgmon, speaker of Alaska's state House, in a statement. "This is a landmark decision for Bristol Bay that heartens our resolve to bring this fight to a close and ensure Bristol Bay is protected for generations to come."

Reuters

https://www.reuters.com/article/us-usa-alaska-pebblemine/in-reversal-u-s-epa-maintains-restriction-on-alaska-mine-project-idUSKBN1FF2ZO

In reversal, U.S. EPA maintains restriction on Alaska mine project

1/26/18, 7:07 PM

(This version of the Jan. 26 story corrects headline, first, third and fifth paragraphs to show the EPA has maintained restrictions and not halted project approval process.)

WASHINGTON (Reuters) - In a surprise move, the U.S. Environmental Protection Agency reversed itself on Friday and maintained restrictions on the proposed Pebble Mine copper and

gold mine project in southwest Alaska's Bristol Bay region.

"It is my judgment at this time that any mining projects in the region likely pose a risk to the abundant natural resources that exist there," EPA Administrator Scott Pruitt said in a statement.

President Donald Trump has championed increased domestic mining and the EPA's decision to maintain restrictions on the Pebble Mine's approval process comes as a surprise.

"Until we know the full extent of that risk, those natural resources and world-class fisheries deserve the utmost protection," Pruitt said.

The Obama administration blocked the proposed mine in 2014 over environmental concerns. Last year, Pruitt started a process to reverse that decision. The Canadian company behind the mine project then applied for a permit from the U.S. Army Corps of Engineers.

The Pebble Limited Partnership, comprising Canadian miners Northern Dynasty Minerals Ltd and First Quantum Minerals Ltd, is planning to mine 1.2 billion tons of material, including 287 million pounds of copper.

Northern Dynasty Minerals said in a statement the permitting process for the mine being overseen by the U.S. Army Corps of Engineers would continue.

"We expect the permitting process for Pebble to advance expeditiously over the next few years, and that a draft and final (Environmental Impact Statement) will be completed upon which final permitting decisions for the Pebble Project will be made," Northern Dynasty Chief Executive Officer Ron Thiessen said.

Environmentalists, commercial and sport fishermen, many Alaska Native tribal organizations and even some Republican politicians have all criticized the project, which would be built on land near Lake Clark National Park.

Alaska Governor Bill Walker, an independent, applauded the decision and thanked Pruitt "for listening to my input and that of thousands of Alaskans" who oppose the mine.

Pruitt indicated the mine could ultimately be approved.

"This decision neither deters nor derails the application process of Pebble Limited Partnership's proposed project," he said.

"The project proponents continue to enjoy the protection of due process and the right to proceed. However, their permit application must clear a high bar, because EPA believes the risk to Bristol Bay may be unacceptable," he said.

AP

https://apnews.com/c5237f87f3174ff895dbe151356c2fea/EPA-halts-plans-to-lift-proposed-mine-restrictions-in-Alaska

EPA halts plans to lift proposed mine restrictions in Alaska

By Becky Bohrer, 1/27/18

JUNEAU, Alaska (AP) — The U.S. Environmental Protection Agency on Friday halted plans to withdraw proposed restrictions on mining activity near a major Alaska salmon fishery, drawing praise from opponents of the Pebble Mine project.

Last year, in settling a legal dispute with the Pebble Limited Partnership, which wants to build a copper and gold mine in Alaska's Bristol Bay region, the EPA agreed to initiate a process to withdraw restrictions proposed during the Obama administration.

But in a release Friday, EPA Administrator Scott Pruitt said based on comments the agency has received, "it is my judgment at this time that any mining projects in the region likely pose a risk to the abundant natural resources that exist there."

"Until we know the full extent of that risk, those natural resources and world-class fisheries deserve the utmost protection," he said.

About half of the world's sockeye salmon is produced by Bristol Bay, the EPA has said.

Tom Collier, CEO of the Pebble partnership, said the EPA's announcement does not deter the project. Pebble recently filed a permit application with the U.S. Army Corps of Engineers, which will trigger an environmental review of the project.

"We believe we can demonstrate that we can responsibly construct and operate a mine at the Pebble deposit that meets Alaska's high environmental standards," he said in a release. "We will also demonstrate that we can successfully operate a mine without compromising the fish and water resources around the project."

The restrictions on development proposed under President Barack Obama were never finalized; a judge had ordered the agency to stop work related to that process while the litigation between Pebble and the EPA played out.

The EPA said Friday's announcement doesn't derail the permit application process but said the application "must clear a high bar, because EPA believes the risk to Bristol Bay may be unacceptable."

The agency said it plans to solicit additional public comment.

U.S. Sen. Lisa Murkowski, a Republican, said Pruitt is taking a balanced approach that lets Pebble enter the permitting process but also acknowledges EPA's duty to protect the region's fisheries.

"With the company now having filed its application, I expect that a fair, rigorous and transparent process will soon begin so that Alaskans can understand the impacts and risks, as well as the potential benefits associated with this project," she said.

Alaska state House Speaker Bryce Edgmon called Friday's announcement "a landmark decision for Bristol Bay that heartens our resolve to bring this fight to a close and ensure Bristol Bay is protected for generations to come."

Robert Heyano, president of United Tribes of Bristol Bay, said his group's fight against Pebble is far from finished.

"But today's decision, and all those who worked so tirelessly to get us here, will be celebrated," he said in a statement.

NPR

https://www.npr.org/2018/01/28/581403241/in-reversal-epa-suspends-alaska-mining-project-to-preserve-watershed-protections

In Reversal, EPA Suspends Alaska Mining Proposal To Preserve Watershed Protections

By Daysha Eaton, 1/28/18, 7:23 PM

The Environmental Protection Agency said in a surprise announcement Friday that it was suspending its effort to withdraw proposed protections for a southwest Alaska watershed to make room for a new mine.

The proposed Pebble Mine is located about 200 miles southwest of Anchorage and roughly 100 miles upstream from the Bristol Bay watershed, one of the world's most important sockeye salmon fisheries.

EPA Administrator Scott Pruitt said in a statement that Bristol Bay fisheries deserve protection and that the proposed Pebble Mine may pose an "unacceptable" risk. In the announcement, Pruitt said, "any mining projects in the region likely pose a risk to the abundant natural resources that exist there."

Pruitt said the agency would gather more information on the project's impact on fish and natural resources. "Until we know the full extent of that risk, those natural resources and world-class fisheries deserve the utmost protection," he added.

Last year, the EPA began reconsidering restrictions that were first proposed in 2014, based on its Bristol Bay watershed assessment. The report determined that mining on the scale of the proposed Pebble Mine would have "unacceptable adverse effects" on the watershed.

In May, Pruitt settled a lawsuit brought by mine backers against the EPA. Then the agency started the process to reverse the Obama-era EPA proposal that a large mine like Pebble was too risky to go forward in the region.

Pebble Limited Partnership, a subsidiary of the Canadian mining company Northern Dynasty Minerals, announced a new investor and submitted its first permit application to build the mine last month. The EPA says it received more than 1 million comments from stakeholders — more than the number of people who live in Alaska — the majority of which were against withdrawing the earlier proposed protections.

Alannah Hurley with United Tribes of Bristol Bay, a group opposing the mine, has said members of the tribes she represents are willing to lie down in front of bulldozers to protect the waters. She called the EPA's move huge. "These proposed protections, the fact that the Trump administration is choosing to keep them on the shelf, is a recognition ... that the Pebble Mine is too toxic, even for the Trump administration," she said.

Hurley spoke by phone from the commercial fishing hub of Dillingham, the seat of resistance to Pebble Mine, where she said activists were jubilant about the EPA's announcement. "The people of Bristol Bay are really celebrating the fact that the protections that we have fought so long and hard for are not being withdrawn by the EPA and instead could potentially later be finalized," Hurley said.

Bristol Bay's fishery is the source of almost half of the world's wild sockeye salmon, according to the EPA. In addition, the region's indigenous communities rely on salmon for sustenance. Commercial fishing provided more than 14,000 full-time and part-time jobs in the region in 2009, the agency says. The Bristol Bay Regional Seafood Development Association, which opposes the mine, says the fishery produces $1.5 billion in economic activity each year.

PLP CEO Tom Collier said in a statement that the EPA's announcement "does not change our approach," and said he believes Pebble "can responsibly construct and operate a mine ... that meets Alaska's high environmental standards." According to the EPA, its announcement "neither deters nor derails the application process of Pebble Limited Partnership's proposed project."

Alaska Gov. Bill Walker thanked the EPA and said in a statement that he had talked with Pruitt and "shared with him my belief that in the Bristol Bay region we should prioritize the resource that has sustained generations and must continue to do so in perpetuity."

Alannah Hurley of UTBB said the suspension casts a cloud of uncertainty on the permitting process for the mine. "Ideally we would like these [protections] finalized, and the battle to protect Bristol Bay from the Pebble Mine and mines like Pebble is far from over," she said. "But the fact that these protections remain in place and can be used within the process is a very positive step in the effort to protect the Bristol Bay watershed for generations to come."

A spokesperson for Pebble Limited Partnership declined to comment before deadline.

E&E Greenwire

https://www.eenews.net/greenwire/stories/1060072149/search?keyword=EPA

EPA about-faces on Pebble, may restrict development

By Manuel Quinones and Dyland Brown, 1/26/18, 7:38 PM

In a reversal, U.S. EPA will proceed with proposed restrictions on the Pebble gold and copper mine project in the Bristol Bay area of southwestern Alaska, the agency said today.

Last May, EPA entered into a legal settlement with Pebble developers to allow them to begin the Clean Water Act permitting process. The agency soon after moved to consider undoing Obama-era proposed development limits.

"Based on that review, it is my judgment at this time that any mining projects in the region likely pose a risk to the abundant natural resources that exist there," Administrator Scott Pruitt said in a statement today.

"Until we know the full extent of that risk, those natural resources and world-class fisheries deserve the utmost protection," he said. "Today's action allows EPA to get the information needed to determine what specific impacts the proposed mining project will have on those critical resources."

Obama administration critics, including Pruitt, have said EPA should not have acted against

Pebble prior to the project entering permitting.

EPA today said Pruitt was "following through on his promise to restore the rule of law" and noted the Army Corps of Engineers is already reviewing the Pebble project.

"This decision neither deters nor derails the application process of Pebble Limited Partnership's proposed project. The project proponents continue to enjoy the protection of due process and the right to proceed," said EPA's release. "However, their permit application must clear a high bar, because EPA believes the risk to Bristol Bay may be unacceptable."

Mine opponents welcomed the move but remain skeptical of EPA under Pruitt.

"Today's announcement from EPA is a small step back from their support for the Pebble Mine project. It is clear that Administrator Pruitt is learning what Alaskans already know — the Pebble Limited Partnership should not be trusted," said Tim Bristol, executive director of the group Salmon State.

"However," he added, "this EPA has a long way to go in fixing the situation; that fact is they settled the lawsuit with Pebble, and they set aside seven years of scientific inquiry and analysis in order to pave the way for permitting."

Pebble said in a statement: "We believe we can demonstrate that we can responsibly construct and operate a mine at the Pebble Deposit that meets Alaska's high environmental standards. We will also demonstrate that we can successfully operate a mine without compromising the fish and water resources around the project."

Washington Post

https://www.washingtonpost.com/national/health-science/in-reversal-epa-deals-setback-to-controversial-gold-mining-proposal-in-alaska/2018/01/26/75d73aae-0206-11e8-bb03-722769454f82_story.html?utm_term=.72e1ad008948

In reversal, EPA deals setback to controversial gold mining proposal in Alaska

By Juliet Eilperin and Brady Dennis, 1/26/18

Environmental Protection Agency Administrator Scott Pruitt announced late Friday that he will not scrap the agency's 2014 determination that a large-scale mining operation could irreparably harm Alaska's Bristol Bay water-shed.

His decision, which falls short of blocking a proposed gold and copper mine in the region outright, represents a surprising twist in a years-long battle that has pitted a Canadian-owned mining company against commercial fishing operators, native Alaskans and conservationists determined to protect the world's largest sockeye salmon fishery.

Last spring, shortly after meeting with the top executive from the project's main backer, Northern Dynasty Minerals, Pruitt directed EPA staff to revisit the Obama-era decision to short-circuit the project using a provision of the Clean Water Act. The 2014 decision came after several years of scientific study during which the EPA determined that the mining operation could cause "significant and irreversible harm" to the area's fish habitat.

On Friday, after receiving more than a million public comments and consulting with tribal governments and others, the EPA said it will leave the previous administration's determination in place while it takes additional comments. The announcement said the decision "neither deters nor derails the application process" for the mine.

"It is my judgment at this time that any mining projects in the region likely pose a risk to the abundant natural resources that exist there," Pruitt said. "Until we know the full extent of that risk, those natural resources and world-class fisheries deserve the utmost protection."

An entity known as Pebble Limited Partnership has eyed the spot in southwestern Alaska, where the headwaters of several rivers converge, as a possible mine site for more than 15 years. But Northern Dynasty Minerals didn't file its first formal application for a federal permit until December.

The EPA's announcement Friday noted that it "stands ready" to work with the mining company and the Army Corps of Engineers in reviewing the permitting application for the project.

Pebble Limited Partnership and its supporters, including Alaskan politicians such as Sen. Lisa Murkowski (R), had criticized the Obama administration for issuing what amounted to a preemptive veto of the project. They argued that tapping the mineral reserves buried underneath the tundra will generate well-paying jobs for local residents and additional revenue for the state and federal government.

But opponents of the mine countered that any spill could imperil one of the world's great fisheries, which accounts for roughly a fourth of the global supply of sockeye salmon.

In a statement released by the EPA, Gov. Bill Walker (I) thanked the agency "for listening to my input, as well as the input of thousands of Alaskans who oppose rescinding" the Obama-era assessment. Walker said he had discussed the mine repeatedly with Pruitt, "and I have shared with him my belief that in the Bristol Bay region we should prioritize the resource that has sustained generations and must continue to do so in perpetuity."

Southwestern Alaska contains a reservoir of gold worth an estimated $120 billion. The lakes and tributaries in the region feed into Bristol Bay and a fishery that generates $500 million a year.

In a statement Friday evening, Northern Dynasty Minerals appeared undeterred by the EPA's shift. It noted that a settlement agreement with the agency last year provided "an unfettered opportunity" to proceed through the permitting process for the Pebble Mine project.

"We have every confidence that Pebble's ultimate project design will meet the rigorous environmental standards enforced in Alaska and the U.S.," chief executive Ron Thiessen said.

"We expect the permitting process for Pebble to advance expeditiously over the next few years."

Bob Irvin, president of the advocacy group American Rivers, said the EPA's decision likely was prompted by the legal challenges the agency would have faced if Pruitt failed to go through the same lengthy administrative process that the Obama administration undertook when it ruled against Pebble Mine.

"What they figured out is that you can't just immediately reverse actions that were taken by the previous administration if those actions" were done legally, he said. "You actually have to be able to justify your decision. . . . They are learning they can't just run roughshod over the legal requirements."

The Obama administration conducted a three-year review before deciding that, as Irvin put it, "this was basically the worst place in the world to locate a mine," given its proximity to Bristol Bay's stock of sockeye salmon.

Irvin said he suspects Pruitt's move is part of a larger effort to "green" his image politically. The EPA chief recently met with Moms Clean Air Force, a group formed to combat air pollution. And he has made a high-profile push to ramp up cleanups at a handful of Superfund sites around the country.

"But when you look at the actions he's continuing to pursue, it's clear his position hasn't changed," Irvin said. "Actions speak louder than words."

E&E Greenwire

https://www.eenews.net/greenwire/stories/1060072257/search?keyword=EPA

Pruitt played role in climate webpages' disappearance

By Arianna Skibell, 1/29/18

A slew of emails obtained by the Environmental Defense Fund outline U.S. EPA Administrator Scott Pruitt's hand in removing climate information from the agency's website.

The files, obtained through a Freedom of Information Act request, list webpages related to climate change that EPA removed or modified last April. EDF found that more than 700 webpages and 1,2000 files, such as PDFs, were removed.

The email exchanges between Pruitt's staff also indicate that he had specific requests for webpages concerning the Clean Power Plan.

In an April 4 email exchange, J.P. Freire, then serving as Pruitt's associate administrator for public affairs, noted that any webpage referencing the Clean Power Plan, former President Obama's signature climate regulation, should redirect to a page outlining President Trump's "energy independence" executive order, which initiated the climate rule's repeal.

"This looks great, and should be on the page for the Clean Power Plan. Any reference to the Clean Power Plan, any link to it, should redirect here," he wrote. "We'll need to have the blogpost that we drafted ready to go along with this to make sure we're owning the narrative of the changes."

On April 5, Lincoln Ferguson, a senior adviser to Pruitt, wrote: "How close are we to launching this on the website? The Administrator would like it to go up ASAP. He also has several other changes that need to take place."

Freire responded that the page was mocked up and "should happen this week." Ferguson then wrote that he was just asking because Pruitt was asking.

The email exchanges also indicate that EPA staff attempted to archive the Obama-era webpages with much technical difficulty, while also preventing those pages from showing up in future search results.

A May 9 email from Michael Hessling, a member of EPA's web design team, featured the subject line: "Danny said you can archive Clean Power Plan. How do we keep it from getting into our own search results?"

Hessling wrote that the bulk archive was not working 100 percent, and so he resorted to archiving webpages one by one.

"It's not too slow once you get a rhythm (gonna get you), but tedious since I waited until the page was definitely archived before hitting the next," he wrote.

"The bulk archive missed four files, highlighted in yellow in the attached spreadsheet. I found three of them stuck in the queue for archiving state (so at least that fails gracefully)."

EDF has initiated an extensive review of the documents. In an initial analysis, EDF found that many webpage URLs pertaining to climate change now lead to pages stating, "This page is being updated" or "Page not found."

Some of the URLs now redirect to new webpages promoting Pruitt's agenda, while others remain active but are not accessible through any EPA portal. A number of removed items can also be viewed through EPA's archived pages.

"Many of these now-removed and -modified web pages were created to help American communities understand the science of climate change and protect themselves from its harmful impacts," Ben Levitan, an attorney at EDF, said in a statement.

"EPA is legally obligated to address climate change, which is an urgent threat to our public health and environment. The newly-released documents are yet another troubling sign of Administrator Pruitt's disregard for science and public transparency, and a reminder that we must be vigilant in holding him accountable."

EDF found that, among others, the following webpages were removed: "Causes of Climate Change," "Learn About Carbon Pollution From Power Plants," "What EPA Is Doing about Climate Change," "State Climate Action Framework" and "Communicating Vulnerabilities to Climate Change: Pregnant Women."

The Hill

http://thehill.com/policy/energy-environment/371190-records-show-epa-chiefs-role-in-removing-climate-web-pages

Records show EPA chief's role in removing climate web pages

By Timothy Cama, 1/29/18, 10:44 AM

Environmental Protection Agency (EPA) Administrator Scott Pruitt was personally involved in the process to remove sections on climate change from the agency's website, records obtained by a green group show.

The Environmental Defense Fund (EDF) said the records it obtained via the Freedom of Information Act show a high degree of involvement by Pruitt in the April process of removing climate sections and replacing several of them with a section on President Trump's executive order to roll back the Clean Power Plan.

Environmentalists have been highly critical of the EPA's decision to remove the pages, some of which still haven't been replaced and instead forward to a page about the removal process.

In one April email to colleagues in the EPA's communications office, Lincoln Ferguson, an adviser to Pruitt, asks how close they are to removing and replacing the Clean Power Plan section.

"The Administrator would like it to go up ASAP. He also has several other changes that need to take place," Ferguson wrote.

J.P. Freire, then the head of communications, responded, "You can tell him we ... are just finishing up."

Ferguson then asked if the change could happen that day: "Just asking because he is asking."

In another email change, Susan Fagan in the EPA's Office of Environmental Information asks another staffer if people searching for the Clean Power Plan can be directed to the section on Trump's climate executive order, which the staffer obliged.

The EDF said the records further prove the danger in hiding the climate information from the public.

"Obscuring information thwarts meaningful public participation in EPA's work to protect Americans' health and safety," Ben Levitan, an EDF attorney, said in a statement. "It reinforces serious concerns that Pruitt has predetermined that he will repeal the Clean Power Plan, and that the current rulemaking process is a sham."

EPA spokesman Jahan Wilcox defended the changes and said that the old information is still available to the public.

"We are constantly updating our website to reflect new initiatives and projects of the agency," he said. "Of course the site will be reflective of the current administration's priorities — with that said, all the content from the previous administration is still easily accessible and publicly available-through the banner across the top of our website: www.epa.gov."

E&E Daily

https://www.eenews.net/eedaily/stories/1060072171/search?keyword=EPA

Pruitt back on the Hill this week

By Kevin Bogardus, 1/29/18

U.S. EPA Administrator Scott Pruitt will be back on Capitol Hill this week.

The EPA chief will testify in front of the Senate Environment and Public Works Committee tomorrow for what will be his first appearance before the panel since his confirmation hearing last January.

Democrats have long pushed for the oversight hearing, and it follows Pruitt's testimony last month before the House Energy and Commerce Subcommittee on Environment.

Pruitt has keep his distance from Congress; this week's appearance will be only his fourth hearing since his confirmation. That includes appearances before House and Senate appropriations subcommittees this past June.

The administrator can expect to face a hostile reception, at least from EPW Democrats. In preparation for the hearing, Sen. Ed Markey (D-Mass.) sent Pruitt a nine-page letter with

questions.

"Despite your role as the head of an agency with a mission to 'protect human health and the environment' and to ensure that 'national efforts to reduce environmental risk are based on the best available scientific information,' many of your actions appear to directly contradict this mission and these longstanding goals," Markey wrote.

Markey asked Pruitt about how he has dealt with several issues at EPA, including climate change and fuel efficiency standards, as well as the agency's budget.

Also, Markey led a discussion last week where Democratic senators questioned former EPA employees about how the agency is faring under President Trump.

"They are systematically undermining generations of support for environmental enforcement, and that's what we're trying to do here, heading into next week's big hearing where Scott Pruitt will be testifying," Markey said after the meeting (E&E Daily, Jan. 24).

Pruitt can expect a warmer welcome from Republican senators. GOP lawmakers have cheered his moves at EPA to roll back regulations.

Just last week, Pruitt pulled back on the Clinton-era "once in, always in" clean air policy to limit industrial pollution, which came a little more than two weeks after a request to withdraw the standards by EPW Chairman John Barrasso (R-Wyo.) and committee member Shelley Moore Capito (R-W.Va.) (Greenwire, Jan. 26).

"The EPA's decision today is consistent with President Trump's agenda to keep America's air clean and our economy growing," Barrasso said in a statement.

Still, Pruitt has had to deal with frustration from Republicans. This fall, EPA indicated it was planning to lower requirements for biofuel levels.

That sparked a backlash from farm state senators, who held up the nomination of Bill Wehrum to be the agency's air chief. Wehrum has since been confirmed after Pruitt promised and followed through on keeping renewable fuel standards steady (Greenwire, Nov. 30, 2017).

Schedule: The hearing is Tuesday, Jan. 30, at 10 a.m. in 406 Dirksen.

Witness: EPA Administrator Scott Pruitt.

The Hill

http://thehill.com/policy/energy-environment/370970-week-ahead-epa-chief-to-face-grilling-on-reg-rollback

Week ahead: EPA chief to face grilling on reg rollback

By Timothy Cama, 1/29/18, 6:00 AM

Environmental Protection Agency (EPA) head Scott Pruitt will head to a Senate committee this week for his first oversight hearing in that chamber since taking the job.

Pruitt is due to testify Tuesday morning as the sole witness at an Environment and Public Works Committee hearing.

The event is likely to highlight Democratic senators strong objections and Republicans' warm support for Pruitt's aggressive deregulatory agenda in his nearly one year in office.

Pruitt has started to roll back nearly all of the major elements of the Obama administration's EPA agenda, like the Clean Power Plan and the Clean Water Rule.

He has even started to dig farther back than Obama, with a regulatory change this week that lets some major polluting facilities be subject to less stringent air emissions standards.

Democrats on the Environment Committee, led by Sen. Tom Carper (D-Del.) have been vocal about their objections. They see Pruitt as one of the most dangerous administrators in the agency's history, and they are likely to be aggressive in their questioning.

The Republicans, led by Chairman John Barrasso (R-Wyo.), have also been vocal about Pruitt, often praising his environmental rollbacks. They are likely to push back hard against Democratic criticisms.

Both the House and Senate will be in session in the coming week. All eyes will also be on President Trump when he delivers his first State of the Union address Tuesday.

Expect Trump to tout his energy agenda.

Trump has highlighted his decision to open the Arctic National Wildlife Refuge to oil and natural gas drilling and pledge to pull out of the Paris climate change agreement as two of his key energy and environmental accomplishments. He's also boasted about his aggressive deregulatory agenda across the government, which he is likely to spotlight as well.

Elsewhere in the Senate, the Energy and Natural Resources Committee will vote Tuesday on four Trump administration nominees: Melissa Burnison for the Department of Energy's assistant secretary for congressional and intergovernmental affairs, Susan Combs for the Interior Department's assistant secretary for policy, management and budget, Ryan Nelson for Interior's solicitor and Anne White for the Department of Energy's assistant secretary for environmental

management.

Combs and Nelson were both nominated and had committee votes last year. But the Senate had to send them back to the White House at the end of the year because it could not get unanimous consent to hold them over to 2018.

Combs and Nelson are subject to a hold by Sen. Bill Nelson (D-Fla.). Nelson wants assurances from Interior Secretary Ryan Zinke that Florida's waters are removed from the Trump administration's upcoming offshore drilling plan.

The hold means that if Senate Majority Leader Mitch McConnell (R-Ky.) wanted to schedule votes for Combs and Nelson in the full Senate, he would need to schedule 30 hours of debate for each one.

After that Energy Committee vote, the panel will hold a hearing on natural hazards, featuring officials from the U.S. Geological Survey, the Forest Service and other stakeholders.

On the House side, the Science Committee will hold a hearing on the Energy Department's management and priorities. Lawmakers will hear from undersecretary for science Paul Dabbar and undersecretary for energy Mark Menezes.

The Hill

http://thehill.com/blogs/congress-blog/energy-environment/371161-the-freedom-of-information-act-and-mr-trumps-epa

The Freedom of Information Act and Mr. Trump's EPA

By Michael R. Lemov, 1/29/18, 10:15 AM

When the Freedom of Information Act was passed five decades ago, Congress did not see it as an environmental protection law. But the present frenzy of the Trump administration's efforts to slash federal regulations, primarily those designed to protect the air we breathe and the water we drink and to eliminate the toxic chemicals that can kill us, may well open a new chapter for the 51 year old FOIA. It may, in fact, have already become a crucial environmental protection weapon.

Under direct orders from the president, shadowy task forces have been established by the Office of Management and Budget to formulate plans to halt or undo actions by most federal agencies.

A leading target is the Environmental Protection Agency. Under President Obama, the EPA issued key rules, such as the Clean Power rule and the Waters of the United States rule, designed to reduce major human health threats from the environment: primarily excess carbon dioxide in the air and impure run off of toxic chemicals into rivers and streams. These two rules have been under intense attack by the regulated industries, such as coal, oil and real estate development, which would like less government oversight of their operations. The Trump administration would like to assist them through elimination or reduction of these and other rules.

Based on documents obtained under the Freedom of Information Act the EPA/OMB deregulation task force, whose membership remains secret, is probably made up primarily of representatives of the fossil fuel and energy industries and of land developers that have in the past, expressed forceful opposition to the air and waters rules. It remains unknown whether any public representatives or independent experts are included in the membership. This is despite continuing efforts by environmental and citizen organizations as well as some states, both before the agency and in the courts, to obtain disclosure of the members.

The prime weapon of the press and public groups is the fifty-one year old Freedom of Information Act. It was passed by a legislative coalition of Democrats and Republicans over the fierce opposition of four presidents, of both political parties. Those chief executives argued that an opening up government records would invade the powers of the president, impair the operation of the executive branch and, surprisingly, aid the Russians (then known as the "Communist Threat").

FOIA arose out of the "McCarthy era" and the Cold War, a time filled with fear of Russia and Communism and marked by government abuses and mandated secrecy.

It took 12 years of intense struggle to enact the open government law. The fight was led by a young California congressman named John E. Moss, who had been tarred as a "red" himself as a as a candidate for Congress.

FOIA was one of the first laws worldwide to attempt to force transparency on reluctant chief executives. Today that includes the secretive President Trump and his EPA Administrator Scott Pruitt.

"Sunlight is the best disinfectant" the great American jurist and Supreme Court Justice Lewis Brandeis once said. Moss spent much of his congressional career and fought presidents of his own party, to prove that was right. Lyndon Johnson reluctantly signed "the f…ing thing" into law on July 4 1966.

Many nations have followed the U.S. lead. FOIA has been a means of building democracy (including in former communist bloc countries), limiting corruption and giving power to ordinary citizens. As of today 110 nations around the world have adopted laws based on FOIA, as have most American states. Only Sweden and Finland preceded the U.S. in passing such a law.

The key to FOIA's appeal is that it provides that "any person" may upon a simple written request (subject to some exceptions) ask for "any agency record", be it a task force memorandum or White House guest list. The courts can order production of the documents. There are severe penalties for agencies refusing to produce them.

FOIA was a reaction to excessive government secrecy in another time. But history does tend to repeat itself. Can FOIA be used to block a reckless anti-regulatory administration and support the gains already made in environmental protection? There are many efforts under way as well as some notable successes that suggest it can.

In August of this year, the Attorney General of California, Xavier Beccerra, sued the EPA under FOIA for failing to provide agency records. California argued that the EPA records would establish that Scott Pruitt, the administrator who had previously sued EPA repeatedly as a state official, has existing conflicts of interest which would prejudice his objectivity and participation in the administrative processes in cases like the attempted Trump clean air rule repeal and the proposed clean waters revision. Such conflicts could affect Pruitt's ability to render a fair decision on repeal or revision of the Clean Power, Clean Waters and similar deregulation rules.

Simultaneously, a public interest group called Democracy Forward, filed suit under FOIA over the secrecy of the administration's appointees to all its so called regulatory reform task force panels. The case is still pending in federal court.

Another citizens group sued using FOIA to obtain information on EPA's encrypted monitoring of its employee's mail. The contractor has now withdrawn after a lawsuit by the consumer group, Public Citizen, charging the contract was placed with a political ally of the Trump administration and was not awarded by required competitive bidding.

Reporters have used FOIA to uncover a long relationship between Scott Pruitt and Devon Energy Company which wrote letters to the agency which Pruitt dutifully signed. FOIA was also used to uncover Pruitt's meetings with the Oklahoma Independent Petroleum Association industry, just prior to the issuance of a proposed rule limiting the clean air rule.

Will these efforts using the Freedom of Information Act slow or reverse the Trump administration's push to undo environmental protections laboriously erected over past decades?

The challenges are not yet fully decided. FOIA is probably only part of the answer. But FOIA leads ultimately to more information to the public; to the sunlight of democracy. The public will at minimum learn more about the close economic ties of the regulated industries and the Trump administration.

And there is a reckoning coming… as early as November 2018.

E&E Greenwire

https://www.eenews.net/greenwire/stories/1060072243/search?keyword=EPA

Trump admin moves to finalize WOTUS delay

By Ariel Wittenberg and Amanda Reilly, 1/29/18

The Trump administration has moved to finalize a delay of the Clean Water Rule before an appeals court can withdraw its stay of the 2015 regulation.

U.S. EPA and the Army Corps of Engineers sent a final rule late last week to the White House Office of Information and Regulatory Affairs for review. It would add an "applicability date" to the rule, also known as the Waters of the U.S. rule, or WOTUS.

The Trump administration wants to finalize the delay before the 6th U.S. Circuit Court of Appeals withdraws its stay.

The Supreme Court ruled unanimously last week in National Association of Manufacturers v. Department of Defense et al. that lawsuits against WOTUS, which defines which wetlands and small waterways are protected by the Clean Water Act, must be decided by district courts (Greenwire, Jan. 22).

The high court ruling means the nationwide stay issued by the 6th Circuit must be withdrawn imminently.

When the court acts, the Obama-era WOTUS will go into effect in 37 states, putting the administration in the awkward position of enforcing the rule in some states while simultaneously working to replace it nationwide.

After the Supreme Court ruled last Monday, the Justice Department notified the 6th Circuit of the decision. But federal attorneys also asked the court to hold the case in abeyance until the Supreme Court issues its final judgment, after a 25-day period for parties to file petitions for rehearing. The 6th Circuit hasn't yet issued a response.

A 25-day delay could give EPA and the Army Corps enough time to issue a final regulation. Most final regulations cannot take effect until 30 days after they are published in the Federal Register, though agencies can attempt to expedite that period if they cite "good cause" for why it is in the public interest for a regulation to take effect sooner.

EPA did not immediately respond to requests for comment on whether the agency will be seeking that option.

EPA and the Army Corps had initially been working to repeal WOTUS. Their strategy changed in November after oral arguments in the Supreme Court when the administration became increasingly worried that the high court would rule in favor of industry and send the lawsuit to the district courts.

The proposed addition of an applicability date would mean WOTUS could not be enforced until 2020, giving the Trump administration time to write a replacement regulation.

Environmental groups are almost certain to challenge the legality of a WOTUS delay.

Earlier drafts of the regulation would have changed the "effective date" of WOTUS, and courts have ruled that the effective date of a rule cannot be changed after it takes effect. In its latest

proposal, the administration changed that wording, saying it wants to add an "applicability date" to WOTUS. Legal experts say federal judges might not see a difference (Greenwire, Dec. 14, 2017).

While all eyes are on the 6th Circuit, the fallout from the Supreme Court's decision continues to spread in the lower courts.

The 10th U.S. Circuit Court of Appeals this morning sent litigation over WOTUS, including a suit that was filed by EPA Administrator Scott Pruitt when he was attorney general of Oklahoma, back to district court.

Citing the Supreme Court decision, the 10th Circuit issued an order finding that it does not have jurisdiction to consider challenges to the rule. The court reversed decisions by the U.S. District Court for the Northern District of Oklahoma to dismiss the two WOTUS challenges and remanded the litigation back to the district court.

The 11th U.S. Circuit Court of Appeals issued a similar decision last week (E&E News PM, Jan. 24).

Challengers to the rule are hoping to swiftly obtain an injunction from a district court should the 6th Circuit stay expire before the rule changing the applicability date of WOTUS goes into effect (E&E News PM, Jan. 26).

Washington Post

https://www.washingtonpost.com/politics/white-house-plan-would-reduce-environmental-requirements-for-infrastructure-projects/2018/01/26/b15bd66a-0248-11e8-8acf-ad2991367d9d_story.html?utm_term=.6322aa8a3456

White House plan would reduce environmental requirements for infrastructure projects

By Juliet Eilperin and Michael Laris, 1/26/18

The White House has drafted a proposal to scale back environmental requirements in an effort to make it easier to construct roads, bridges and pipelines across the country as part of an infrastructure plan that President Trump could release as soon as next week, according to a document obtained by The Washington Post.

The plan would change things such as how officials decide a pipeline route, how a proposed border wall with Mexico would be built and whether the National Park Service could object to a development that would impair tourists' views from scenic parks such as the Grand Canyon.

Administration officials — who have briefed GOP lawmakers, trade associations and other groups about their plans — have emphasized they are willing to alter elements of the legislative package to win enough votes to pass it in the Senate. But they have made it clear they are seeking the most sweeping changes in decades to how the federal government approves and oversees infrastructure projects.

"We have no intention of eroding environmental protections," Alex Herrgott, associate director of infrastructure at the White House Council on Environmental Quality, said when he addressed the Transportation Research Board's annual conference this month. "However, there is no denying that there is duplication and redundancy in the process that is worth taking a hard look at."

A White House official on Friday described the document as an earlier "discussion draft." But individuals familiar with the plan said many of the proposals are still the basis for negotiations with lawmakers.

"Smarter regulation doesn't mean that we are abandoning our responsibility to the environment," said the official, who spoke on the condition of anonymity to discuss ongoing internal deliberations.

Trump identified an infrastructure bill as a top priority for his first 100 days in office, but it was delayed while he focused on bruising legislative battles over health care and tax cuts. Aides say the president will pitch his plan during next week's State of the Union address and flesh out the details shortly afterward.

Critics of the administration said the proposal outlined in the document would gut key environmental protections in laws dating to the 1970s, such as the National Environmental Policy Act, the Clean Air Act and the Clean Water Act.

"The administration's legislative outline for infrastructure sacrifices clean air, water, the expertise of career agency staff and bedrock environmental laws," Theresa Pierno, president and CEO of the nonprofit National Parks Conservation Association, said in an email. "In short, the proposal reveals that this administration is not serious about restoring America's infrastructure."

Trump has argued that voluminous environmental studies should be pared down to "a few simple pages," and he has made broad declarations about how easy and productive the world would be without complex regulations.

Now, his allies said, the administration is crafting proposals that will convert the president's words into actions.

"Clearly they are trying to get these things built more quickly. That can be done while maintaining the necessary environmental protections because a lot of what holds this up is needless, duplicative review," said Nick Goldstein, vice president of regulatory and legal issues at the American Road & Transportation Builders Association. "From now until at least 2020, there's going to be somebody there considering regulatory reform."

The White House plan identifies many aspects of the current permitting process that lead to delays, including the fact that multiple agencies often weigh in on the same permit and that the federal government lacks resources to assess projects in a timely manner. To address this, it would make major changes in the arcane procedures that lie at the heart of federal oversight.

New limits and deadlines would be imposed on federal agencies reviewing projects, and in some cases, agencies — especially the Environmental Protection Agency — could be limited in their ability to weigh in on the permitting process.

The dozens of proposals, many esoteric, are meant to amplify one another so they pack a bigger cumulative punch. One, for instance, would make it much easier for federal agencies to declare that certain projects have no significant impact on the environment and don't require further study. Such declarations — known as "categorical exclusions" — are already widely used, easing the approval of many highway projects and others.

The Trump proposal would allow federal agencies to piggyback on other agencies' decisions about the kinds of projects that should be exempt from deeper environmental study to "reduce duplication and unnecessary environmental analysis." The proposal would exempt any of these rulings from judicial review under the Administrative Procedure Act, a law outside groups often use to challenge regulatory rollbacks.

The plan would also expand the government's ability to have private firms pay for the federal environmental reviews of their own projects. Any such change would "include appropriate controls for potential conflicts-of-

interest."

Keith Benes, an environmental consultant who played a key role in overseeing TransCanada's permit application for the Keystone XL pipeline as a State Department attorney and adviser, said in an interview that the document highlights some significant problems in the current system. But in almost every instance, he noted, it simply eliminates a legal requirement that delays federal approval for projects.

"It's not, 'Let's streamline it or make it more effective," Benes said. "It's just, 'Let's get rid of that.' "

In several instances, the plan limits the extent to which the EPA can weigh in or block a project

from going forward. In doing so, it could allow one particularly aggressive, pro-development corner of the federal bureaucracy to set a standard for the government as a whole.

The proposal would eliminate the EPA's ability to evaluate another agency's Environmental Impact Statement, a power that it invoked during the Obama administration's first term to stall approval of the Keystone XL pipeline. It also aims to "eliminate duplicative oversight" by abolishing the EPA's authority to "veto" a project on the grounds that it poses too grave a risk under the Clean Water Act.

The EPA used this authority in 2014 to block construction of a massive gold and copper mine near Alaska's Bristol Bay. Under Trump, the EPA reached a settlement with the mine's sponsor, Pebble Limited Partnership, and is now allowing the firm to apply for federal permits.

"What happened at Pebble, in terms of the preemptive veto approach that EPA used, sent a chill down throughout the mining community and investors," Hal Quinn, president and CEO of the National Mining Association, said in a recent interview.

The plan would also give the interior secretary the authority to approve rights of way for natural gas pipelines to cross national park lands, a move that currently requires congressional authorization. Another policy, if enacted, would have blocked the environmental review that held up construction of a drinking-water pipeline through the Mojave Desert under President Barack Obama.

The administration has already made at least one major change in its plan to address objections raised by conservationists. The draft obtained by The Post includes several provisions that would substantially change Endangered Species Act requirements, such as "providing more flexibility" on meeting legal deadlines for listing imperiled species and delegating the responsibility for crafting a habitat-conservation plan to the states.

Those changes are no longer in the White House plan, according to an individual who spoke on the condition of anonymity to discuss private deliberations.

A White House official said the draft was from "a much earlier stage in the policymaking process than where we are at right now and should not at all be considered as administration policy."

Besides streamlining permitting, the administration hopes to spur additional investment by state and local governments and the private sector in a broad array of infrastructure projects, including roads, bridges, rail lines, airports, waterways and broadband.

Administration officials have said publicly for months that they think $200 billion in federal money over the next decade could spur at least $800 billion more in spending by local governments and the private sector. More recently, Trump has offered a higher number, saying he believes the total new spending could exceed $1.7 trillion dollars in the coming decade.

Part of the federal funding would be used to reward states and localities that raise taxes or other revenue to fund infrastructure in their jurisdictions. The White House also is looking at grants for new projects in rural areas and money for "transformational" work such as plans to build tunnels for high-speed trains.

In its last budget proposal, the White House said the government's $200 billion share could be partly funded by cutting programs elsewhere. The U.S. Chamber of Commerce has urged the White House to consider an increase of 25 cents per gallon in the federal gas tax to help pay for the commitment.

Daily Caller

http://dailycaller.com/2018/01/26/epa-chlorypyrifos-pesticide-environmental-health/

Trump's EPA Targets Academics For Hiding Data Used To Ban Popular Pesticide

By Chris White, 1/26/18, 4:32 PM

The Environmental Protection Agency called out academics for using hidden data to pressure the agency into banning a widely used pesticide.

The EPA has sought data sets from a study Columbia Center for Children's Environmental Health (CCCEH) conducted that the former President Barack Obama-era agency used to justify a proposed rule in November 2015 to revoke the tolerances for chlorpyrifos, essentially banning the pesticide from use.

"Despite multiple requests, an EPA visit to Columbia, and a public commitment to 'share all data gathered,' CCCEH has not provided EPA with the data used," the agency wrote on a webpage connected to its website, which includes a list of the times the EPA has requested the data set.

The agency's Scientific Advisory Panel criticized the environmental health center's handing of the matter as well. "Some Panel members thought the quality of the CCCEH data is hard to assess when raw analytical data have not been made available, and the study has not been reproduced," the panel noted in 2016.

A panel of Ninth Circuit Court of Appeals judges ruled EPA had complied with a previous judicial order to respond to a petition filed by the Natural Resources Defense Council (NRDC) and the Pesticide Action Network North America in 2007.

The ruling was a major blow to environmentalists who have been trying for years to ban the pesticide chlorpyrifos, that farms across the country widely use to keep bugs from ruining food.

EPA denied the environmentalist petition in March to "revoke all food tolerances and cancel all registration" for chlorpyrifos. Dow Chemical, which manufacturers the chemical, applauded EPA's ruling, as did the Department of Agriculture. EPA already restricts products containing chlorpyrifos for home and agricultural use.

U.S. farms use about 6 million pounds of chlorpyrifos each year. If nothing had changed legally, the EPA would no longer have allowed trace amounts of chlorpyrifos in food, effectively banning the pesticide in the country.

Chlorpyrifos is not the only chemical to come under scrutiny recently.

Republican Reps. Lamar Smith of Texas and Andy Biggs of Arizona sent letters to the International Agency for Research on Cancer in 2017 asking the U.N.-affiliated agency to answer questions about reports they edited data showing glyphosate causes health risks.

Separate letters to the agency's Director Chris Wild from both congressmen said they are "concerned about the scientific integrity" of cancer research agency's "monograph" program that assesses whether various substances can cause cancer.

The agency's 2015 study contains crucial edits made to bolster evidence that glyphosate could cause cancer in humans, reports show.

Smith and Biggs also express concerns that research methods are not transparent. They argued in a second letter that the agency's assessment meetings, deliberations and drafts are not made public.

Politico

https://www.politicopro.com/energy/whiteboard/2018/01/georgia-asks-for-swift-action-on-wotus-

injunction-request-486960

Georgia asks for swift action on WOTUS injunction request

By Annie Snider, 1/26/18, 4:24 PM

The state of Georgia is asking the 11th Circuit Court of Appeals to act swiftly in sending its lawsuit against the Obama administration's Waters of the U.S. rule back to district court in a bid to keep the 2015 rule from going into effect.

In a brief filed with the 11th Circuit today, Georgia and nine allied states asked judges to forego the normal waiting period during which the government can appeal the circuit court's decision to send the case back to the lower court so their request for a hold of the Obama-era rule can be heard before a nationwide stay is lifted.

While EPA is hoping to finalize a delay of the water rule soon, a stay by the Georgia court could act as a hedge.

In 2015, Georgia and nine other states petitioned the U.S. District Court for the Southern District of Georgia for a preliminary injunction blocking the controversial water rule, but the court denied it, concluding that the issue belonged in circuit court. The states appealed the decision to the 11th Circuit, which put the case on hold until Wednesday, when, after the Supreme Court's ruling that district courts do, in fact, have original jurisdiction over the issue, it sent the case back to district court.

But the case wouldn't actually be sent to the lower court until March 19, thanks to the waiting period. That means the nationwide stay of the rule, which was issued by the 6th Circuit Court of Appeals and will now be invalid thanks to the Supreme Court ruling, could lift before Georgia and its allies have a chance to have their injunction request heard.

WHAT'S NEXT: The Department of Justice has not said whether it will oppose Georgia's request to accelerate the return of the case to U.S. District Court for the Southern District of Georgia.

Washington Post

https://www.washingtonpost.com/news/worldviews/wp/2018/01/29/german-car-makers-backed-studies-exposing-people-and-monkeys-to-toxic-car-exhaust/?utm_term=.47bc95067b0a

German carmakers backed studies exposing people and monkeys to toxic car exhaust

By Rick Noack, 1/29/18, 9:54 AM

BERLIN — When German carmaker Volkswagen acknowledged last year that it was guilty of cheating on diesel emissions tests, the fallout cost the company $25 billion. But the full extent of the company's willingness to sideline ethics concerns to increase profits is still emerging. Three German carmakers appear to have commissioned or supported a study in 2014 which exposed monkeys and humans to exhaust fumes and nitrogen dioxide, according to German media reports on Monday.

The study by the European Research Group on Environment and Health in the Transport Sector (EUGT) was never published, and the research institute overseeing it has since been dissolved. All three carmakers involved in the study — Daimler, BMW and Volkswagen — distanced themselves from the research over the weekend.

"We are shocked by the extent and application of the studies ... We condemn the experiments in the strongest terms," carmaker Daimler wrote. The statement, released at a time when only experiments with monkeys but not humans were publicly known, accused the researchers of having violated ethics rules and company values, even though an ethics commission had approved the study. Daimler and BMW said they had no knowledge of the Volkswagen-led study.

Meanwhile, Volkswagen blamed the "mistakes and misjudgments of individuals."

The German government condemned the tests on Monday, even as questions were raised whether officials may have been aware of them for some time already. “Those tests ... are in no way ethically justifiable and they raise serious questions for those who backed them,” said a spokesman for German Chancellor Angela Merkel. The environmental minister similarly condemned the tests as “repugnant.”

In one of the experiments, monkeys were forced to inhale exhaust fumes from a Volkswagen Beetle car and an older pickup truck for several hours in an attempt to prove the Beetle’s clean emission standards. The monkey experiments were first reported by the New York Times last week and are shown in a reenactment in the new Netflix series “Dirty Money.”

Plans to also carry out the exhaust fumes experiments with humans were initially scrapped.

Human test subjects were still involved in a separate emissions study which also appears to have been encouraged by the three German carmakers, however. Germany’s Süddeutsche Zeitung and Stuttgarter Zeitung newspapers reported Monday that healthy test subjects were asked to inhale nitrogen dioxide (NO2), a gas that is primarily emitted through traffic. Even short-term inhaling of the gas can have serious health repercussions, according to the Environmental Protection Agency.

“Breathing air with a high concentration of NO2 can irritate airways in the human respiratory system. Such exposures over short periods can aggravate respiratory diseases, particularly asthma, leading to respiratory symptoms (such as coughing, wheezing or difficulty breathing), hospital admissions and visits to emergency rooms,” the EPA writes on its website.

The human experiments appear to have been conducted between 2012 and 2015, and there were no reports of subsequent injuries related to them. A researcher involved in the study acknowledged the experiments’ existence on Monday, but cautioned that the deployed nitrogen dioxide levels resembled those found in normal work spaces. He added that the three carmakers were aware of the human experiments but had no say over them. They appear to have been disconnected from emissions tests.

But the research institute behind the controversial tests was founded by Daimler, BMW, Volkswagen and automotive components supplier Bosch, which has raised questions over the extent to which the experiment with humans was backed by the three major carmakers, too.

Nitrogen dioxide was the gas at the center of Volkwagen's emissions cheating scandal, which led to the U.S. Department of Justice charging the company with conspiring to defraud the government and violate environmental regulations last year. According to the DOJ, Volkswagen installed devices in its diesel engine vehicles that obscured the amount of emitted nitrogen dioxide.

The devices and software that accompanied it allowed the German carmaker to evade U.S. regulators for years. Overall, the evasion efforts affected 11 million vehicles across the globe and over 500,000 in the United States.

Last year, federal U.S. prosecutors indicted six Volkswagen executives in connection with the emissions scandal. Only one executive ended up being charged in the United States; the others escaped arrest. The pursuit of the six top people at the time was nevertheless a rare occurrence among big companies, whose executives hardly ever face time in jail.

Daily Caller

http://dailycaller.com/2018/01/29/german-institute-test-air-pollutants-humans/

This University Is Under Fire For Something Obama's EPA Did Years Ago

By Michacl Bastasch, 1/29/18, 11:09 AM

An auto industry-funded German research institute is in hot water for exposing about 25 young people to air pollution as part of a study into the effects of diesel exhaust on humans.

The German newspaper Stuttgarter Zeitung reported "around 25 healthy young people inhaled nitrogen dioxide in varying doses over a period of hours at an institute belonging to Aachen University in Germany," according to Reuters.

Those experiments were conducted by the European Research Group on Environment and Health in the Transport Sector, which was funded by automakers Volkswagen, Daimler and BMW. The research group was dissolved last year.

Automakers came out to condemn the research, which exposed about two dozen individuals to a component of diesel exhaust the World Health Organization says is carcinogenic. The European Research Group also came under fire for exposing monkeys to nitrogen dioxide, The New York Times reported. The news comes after Volkswagen got caught installing software into diesel cars to fool government emissions testing equipment.

The group's human testing mirrors past studies conducted by the Environmental Protection Agency involving human subjects.

In 2014, the EPA Office of Inspector General released a report on five agency experiments conducted in 2010 and 2011 that exposed people, including those with asthma and heart problems, to fine particulate matter, diesel fumes and ozone at levels far above what officials considered safe.

A government watchdog group also found EPA funded studies that exposed children to diesel exhaust between 2003 and 2010, conducted at the University of Southern California and the University of California, Los Angeles.

EPA says all three of those pollutants are hazardous to human health, including premature death. Despite this, the agency "exposure risks were not always consistently represented," the inspector general found in 2014.

"Further, the EPA did not include information on long-term cancer risks in its diesel exhaust studies' consent forms," the report noted. "An EPA manager considered these long-term risks minimal for short-term study exposures" but "human subjects were not informed of this risk in the consent form."

"[O]nly one of five studies' consent forms provided the subject with information on the upper range of the pollutant" they would be exposed to, and only "two of five alerted study subjects to the risk of death for older individuals with cardiovascular disease."

EPA funded the experiments to support their regulatory agenda to clamp down on certain types of air pollutants, especially particulates and ozone. While no permanent or long-term damages were reported in the studies examined by the inspector general's office, some study human test subjects did experience some health problems.

No one died in the studies, but one test subject — a 58-year-old obese woman with medical problems and a family history of heart disease — was ordered to go to the hospital after being exposed to "ambient air pollution particles" in October 2010.

Another subject developed a persistent cough after being exposed to ozone for 15 minutes in April 2011, and two other subjects suffered from "cardiac arrhythmias" during testing in 2010 after being exposed to "clean air."

EPA defended its human experiments, and three years later a National Academies of Science panel found that "EPA's procedures are consistent with and indicative of ethical approaches to human-subjects research."

Likewise, European researchers found nitrogen dioxide emissions had no effect on about two dozen young, healthy test subjects. University of Aachen defended the studies, saying they were approved by independent ethics boards.

However, European politicians were quick to condemn the research into humans.

"The words 'absurd and abhorrent' of course apply more than ever if the same is applied to humans," said Lower Saxony's Prime Minister Stephan Weil. "It must now be established whether that is the case, under whose orders and when."

Washington Examiner

http://www.washingtonexaminer.com/big-green-readies-dozens-of-lawsuits-as-only-antidote-for-trump-epa/article/2647304

Big green readies dozens of lawsuits as only 'antidote' for Trump EPA

By John Siciliano, 1/27/18, 2:44 PM

The president of a major environmental group says there is only one "antidote" for President Trump's Environmental Protection Agency, which is the federal court system and an endless stream of lawsuits.

"It's a new year, but EPA Administrator Scott Pruitt wants to roll back the clock on environmental protections and drag us back decades," said Natural Resources Defense Council president Rhea Suh in a note to supporters Saturday.

"The best antidote to Pruitt's illegal attacks on our environment? Federal court," she said.

The group is preparing to file a number of lawsuits against Trump's EPA, and is asking supporters to increase their financial contributions to support the coming court effort.

She claims that the group has already "scored" legal victories over the Trump administration, "and we're gearing up to file suits on dozens of fronts in the year ahead," Suh said.

Suh mentions a few priorities in continuing to challenge Pruitt's chemical and pesticide approval agenda, which includes compelling Pruitt to move forward with the agency's planned ban on chlorpyrifos. The chemical is described as "a nerve gas pesticide" shown to cause developmental damage in children, including lower IQs and serious neurological damage, said Suh.

She also wants to stop Pruitt from "greenlighting" neonicotinoid pesticides that have been linked to the deaths of pollinating insects like bees and butterflies.

Suh was a little behind on another priority she listed in Saturday's note, citing Pebble Mine in Alaska, which she wants to see never opened. Pruitt actually reversed his decision to open the gold mine Friday night. So, the group got its wish early.

"My judgment at this time is that any mining projects in the region likely pose a risk to the abundant natural resources that exist there," Pruitt tweeted Friday night.

The Hill

http://thehill.com/policy/energy-environment/371056-top-environmental-group-preparing-to-sue-trumps-epa

Top environmental group preparing to sue Trump's EPA

By John Bowden, 1/27/18, 3:43 PM

A top environmental advocacy group is preparing a lawsuit against the Environmental Protection

Agency (EPA), helmed by Scott Pruitt, for the agency's rollback of environmental protections under the Trump administration.

Natural Resources Defense Council (NRDC) President Rhea Suh told supporters in a note obtained by the Washington Examiner on Saturday that the federal court system is the best "antidote" to Pruitt's policies.

"It's a new year, but EPA Administrator Scott Pruitt wants to roll back the clock on environmental protections and drag us back decades," Suh wrote in the letter to supporters.

"The best antidote to Pruitt's illegal attacks on our environment? Federal court," she adds. "We're gearing up to file suits on dozens of fronts in the year ahead."

In a tweet Saturday, the group also quoted former EPA chief Carol Browner, who attacked Pruitt's leadership of the agency.

"Under Pruitt, what [the EPA is] doing is conscientiously tearing the place down," Browner said.

"Under Pruitt, what [the EPA is] doing is conscientiously tearing the place down." - Carol Browner, former EPA administrator

Act Now: https://t.co/iaYC6IfX1R https://t.co/Ih9gUWATLb

— NRDC (@NRDC) January 27, 2018

In the note, Suh notes a number of priorities for the NRDC in the year ahead, including preventing Pruitt from "greenlighting" neonicotinoid pesticides, which some scientists say pose a risk to pollinating insects such as bees.

The NRDC joined a number of groups last year in an unsuccessful push against President Trump's "one in, two out" executive order, which directs federal agencies to repeal two regulations for each new one they issue.

"President Trump's order would deny Americans the basic protections they rightly expect," Suh said in a statement last year. "New efforts to stop pollution don't automatically make old ones unnecessary."

"When you make policy by tweet, it yields irrational rules," she added. "This order imposes a false choice between clean air, clean water, safe food and other environmental safeguards."

The Hill

http://thehill.com/policy/energy-environment/371053-first-epa-chief-gop-climate-change-denial-a-threat-to-the-country

First EPA chief: GOP climate change denial 'a threat to the country'

By Brandon Carter, 1/27/18, 2:16 PM

The first head of the Environmental Protection Agency (EPA) slammed President Trump and Republicans in a new interview, saying their environmental policies and denials of the threat posed by climate change are dangerous for the U.S.

"It's a threat to the country," William Ruckelshaus, the first head of the EPA who was appointed

under former President Nixon, told HuffPost. “If you don’t step up and take care of real problems, and don’t do anything about it, lives will be sacrificed.”

“They certainly are killing everything,” he continued.

Ruckelshaus compared Trump’s EPA chief, Scott Pruitt, to Anne Gorsuch, a former EPA administrator under President Reagan who was held in contempt of Congress after refusing to turn over records related to the mishandling of toxic waste.

“They don’t believe in the mission of the agency,” Ruckelshaus told HuffPost. “Neither one of them did. Anne Gorsuch did not, and I don’t think Pruitt does either. They think we’re over-regulating.”

The former EPA head ripped Pruitt, saying he has an “ideological approach” to running the EPA, one “that affects the large contributors in his party in Oklahoma.” He also slammed Pruitt’s attitude toward climate change research.

“If your position is, ‘I don’t believe the science, therefore I’m going to get rid of all the scientists studying this, and let’s not mention it in any public announcement,’ that’s just crazy,” Ruckelshaus said. “What you want to do is more science.”

In October, Pruitt formally proposed repealing former President Obama’s landmark climate change rule for power plants.

Trump in June also said he would withdraw the United States from the Paris climate agreement, pulling back another part of Obama's climate work.

The Clean Power Plan was the centerpiece of America's commitment to the Paris deal.

Pruitt has also planned to hold a public debate to challenge consensus on climate change science, but that plan was put on hold last month.

E&E News PM

https://www.eenews.net/eenewspm/stories/1060072141/search?keyword=EPA

Waste storage rule changes to result in $32M compliance savings

By Sean Reilly, 1/26/18

U.S. EPA has finished work on changes to 2015 hazardous pollutant regulations that the agency says will afford about the same degree of environmental protection while saving one niche of the waste industry tens of millions of dollars.

The changes, set for publication in Monday's Federal Register as a final rule, pertain to businesses that store and treat used oil, used solvents and other wastes. The rule would drop an earlier requirement that those companies monitor the pressure relief devices used to prevent potentially perilous vapor buildups in storage containers.

That shift doesn't substantially change the level of protection furnished by the original 2015 standards but "reduces burden to this industry" by $28 million in capital costs on top of another $4.2 million in the yearly price tag for compliance, according to the rule.

EPA had published the 2015 regulations for what are technically known as "off-site waste and recovery operations" following a legally required review to decide whether an update to the previous standards was needed in light of improved technology and increased knowledge about pollutants' health effects.

The American Chemistry Council then sued, alleging that the new regulations effectively created a zero-emissions limit, contrary to a Clean Air Act requirement that EPA base standards on the best-performing sources. Under a 2016 settlement, agency officials agreed to reconsider the pressure relief device monitoring provisions. Completion of the final rule follows a timetable laid out in that agreement (Greenwire, Dec. 16, 2016).

Opposing the change was the Sierra Club, which argued that monitoring was essential to ensuring compliance.

While EPA had concluded that dropping the requirement posed only a "low" potential for hazardous pollutant releases, the agency knows that such releases had occurred in the past "and thus are likely to occur in the future," an attorney for the environmental group wrote in comments on the draft rule last September.

In pursuing the initial 2015 regulations, EPA had counted about 50 "major source" operations that would be affected, with the new standards cutting emissions of methanol, toluene and other pollutants about 200 tons per year.

Washington Examiner

http://www.washingtonexaminer.com/pressure-mounts-on-epa-to-backtrack-on-ethanol-pledge/article/2647224

Pressure mounts on EPA to backtrack on ethanol pledge

By John Siciliano, 1/26/18, 2:37 PM

EPA Administrator Scott Pruitt may have to backtrack on promises he made to Midwest ethanol

supporters if the administration wants to save refinery jobs on the East Coast.

Dozens of petitions from small refiners are landing in Pruitt's inbox asking him to waive the renewable fuel mandate in the wake of the bankruptcy filing by the Philadelphia Energy Resources refinery.

Industry sources say the petitions will force Pruitt to decide whether to take action against the Renewable Fuel Standard in the short term. The only other option is to wait for the concerns to be hashed out in major reform legislation being crafted by Senate Majority Whip John Cornyn, R-Texas, who wants a measure to resolve all outstanding issues with the ethanol mandate.

Pruitt is legally obligated to rule on the dozens of formal Clean Air Act waiver petitions he is receiving. The mandate allows waivers for small refineries that can demonstrate that the annual requirements for blending renewable fuel and ethanol "would cause the refinery to suffer disproportionate economic hardship," according to EPA.

The refiners argue that the mandate forces them to buy expensive renewable identification number credits, or RINs, which led to the Philadelphia refinery filing for bankruptcy and hundreds of workers losing their jobs.

He also could look at relaxing enforcement. But that is sure to result in massive political blowback in Congress and in the courts, sources close to the issue say.

The ethanol industry began pushing back against the petitions Friday, sending a letter to Pruitt saying he is constrained by law on the number of petitions he can grant and to which refiners.

Renewable Fuels Association President Bob Dinneen fears Pruitt could expand the small refiner exemption to include a host of companies that don't fit under the criteria for the exemption. He said in the letter that any "ill-conceived and unauthorized expansion" of the exemption for small refiners "could destabilize the market for renewable fuels and undermine Congress's goals for the RFS program."

Dinneen, who is one the ethanol industry's top lobbyists, wants assurances from Pruitt that he won't carry out a policy of widespread exemptions on the dozens of petitions being filed.

"The net effect of the agency's position, if numerous exemptions are granted, would be to reduce the volumetric RFS mandates outside of the public rulemaking process for establishing renewable volume obligations," Dinneen wrote. That means the exemptions would cut the blending requirements that refiners have to meet by using the petitions as a back-channel way of doing so.

In many ways, Pruitt's hands are tied. He cannot go back on a deal he secured last year with the Iowa ethanol delegation in Congress to reject fundamental changes to the ethanol program and allow refiners off the hook on meeting the RFS annual blending requirements.

The feud over the fate of the standard has risen to the level of the White House, with Sen. Ted Cruz, R-Texas, trying to force a meeting of the minds with Sen. Chuck Grassley, R-Iowa, an ardent ethanol supporter, to find a solution that supports both the refiners and renewable fuels industry. But that process was unsuccessful, with Grassley's office saying the "next step is for Sen. Cruz to circulate specific proposals for consideration" where the "integrity" of the RFS is maintained. The Cornyn draft is that next step, say aides and industry sources.

Meanwhile, union groups have been upping the pressure on Pruitt in a letter campaign that continued Friday.

The latest in the growing number of groups calling on him to take action came from the pipefitters union Thursday after the steelmakers called on Pruitt to roll back the mandate.

The costly RIN credits are the primary way for small independent refiners to meet the RFS requirements, said pipefitters union boss Mark McManus. The refiners don't have a way to blend ethanol into gasoline as do Exxon and Shell, which own both refining and retail blending infrastructure.

McManus said Philadelphia Energy's Chapter 11 bankruptcy filing is proof of the harmful effects of the RFS on the smaller classes of refiners and the need for Pruitt to address the concern soon.

"This process forces refineries to spend hundreds of millions of dollars each year to comply with the regulations," he wrote to Pruitt. "In fact, [Philadelphia Energy Solutions] has spent over $800 million since 2012 alone. These expenditures neither benefit the environment nor economy and would have been better utilized for capital investment, maintenance and modernization of facilities — all which would have put our members to work."

His comments followed a statement by the United Steelworkers union scolding Pruitt and the Trump administration for their "indifference" on the issue, calling the RFS a key contributor to the bankruptcy.

“Continued indifference by the administration and EPA will only drive more East Coast refineries into bankruptcy while thousands of good jobs that allow highly skilled workers to support their families and sustain their communities are at stake," said Kim Nibarger, the union’s National Oil Bargaining chairwoman.

Nibarger wants Pruitt to resurrect a plan put forth by former Trump adviser Carl Icahn to change the mandate’s point of obligation, which would remove the burden of meeting the ethanol standard from the refiners and place it on fuel retailers further down market.

Industry sources say resurrecting the Icahn plan is a nonstarter, especially given that federal prosecutors are looking at Icahn over conflicts of interest in peddling the RFS plan that would help refining companies he has a stake in.

E&E Climatewire

https://www.eenews.net/climatewire/stories/1060072161/search?keyword=EPA

Lawmakers to announce 'cap-and-dividend' bill today

By Josh Kurtz, 1/29/18

Democrats in the Senate and House plan to introduce "cap-and-dividend" legislation this week, a new entry into the limited debate on Capitol Hill about how to combat climate change.

The "Healthy Climate and Family Security Act," sponsored by Sen. Chris Van Hollen (D-Md.) and Rep. Don Beyer (D-Va.), would set CO2 emissions caps and auction carbon credits to the first sellers of coal, oil and natural gas into the U.S. market. The dividends would be returned to American taxpayers quarterly.

"The Healthy Climate and Family Security Act is a simple, effective, and transparent way to combat climate change while supporting economic growth and a thriving middle class," a summary sheet on the pending legislation argues. "The solution is market based, pro-growth, and is built to last."

Van Hollen and Beyer are scheduled to explain their bill in a press call this afternoon. They will be joined on the teleconference by the Rev. Lennox Yearwood, president and CEO of the Hip Hop Caucus, and Mike Tidwell, director of the Chesapeake Climate Action Network. The Sierra Club and Environmental Defense Fund are also supporting the legislation, the lawmakers said.

According to the summary provided to E&E News yesterday, the bill would:

- Use a declining cap to reduce CO2 emissions to 80 percent below 2005 levels by 2050.
- Auction carbon permits to the first sellers of oil, coal and natural gas into the U.S. market.
- Return 100 percent of auction proceeds to every American with a valid Social Security number in the form of a "Healthy Climate Dividend."

- Include border adjustment protections to ensure U.S. companies are not disadvantaged when competing against foreign competitors at home or abroad.

- Achieve additional greenhouse gas emissions reductions through the Clean Air Act and other relevant authorities.

- The Treasury Department would conduct the emissions auctions and distribute the proceeds to taxpayers.

Beginning in 2019, crude oil refineries, petroleum importers, coal mines, coal importers and natural gas suppliers or processors would be required to purchase carbon permits equivalent to the amount of CO2 emitted by covered fuels. Treasury would auction these permits to those entities.

The bill would provide for the trading or sale of permits between entities and allow banking of permits for future years.

"The approach taken by this legislation will enable the United States to achieve scientifically driven reductions in greenhouse gas emissions while supporting vibrant economic growth and actually increasing incomes for an estimated 80 percent of American households," according to a release announcing today's news conference.

The measure would also require U.S. EPA to regulate within 10 years all sources of greenhouse gases that are anthropogenically emitted. Gases attributable to the production of animals for food would be exempted.

The legislation isn't likely to get much traction in the current Congress, which is overseen by Republican leaders who are largely skeptical of climate science and who have worked to scale back environmental regulations rather than embrace new ones. But it could serve to help frame the climate debate in the upcoming midterm election and would likely be more viable if Democrats were to gain control of one or both chambers in the next Congress. Even then, it would almost certainly be opposed by the Trump administration.

Van Hollen is chairman of the Democratic Senatorial Campaign Committee, and is poised to

play an elevated role in climate and environmental policy now that he has joined the Environment and Public Works Committee. Beyer, a member of the House Natural Resources and Science, Space and Technology committees, has been a climate hawk since entering Congress in 2015.

The lawmakers are expected to argue that their bill would benefit both the environment and the economy.

"On an economy-wide level, the price signal placed on carbon pollution will accelerate innovation and incentivize both greater energy efficiency as well as greater use of lower-carbon energy alternatives," the bill summary says.

Democrats in both chambers have introduced carbon tax legislation, the "American Opportunity Carbon Fee Act." The lead sponsors are Sens. Sheldon Whitehouse of Rhode Island and Brian Schatz of Hawaii and Reps. David Cicilline of Rhode Island and Earl Blumenauer of Oregon.

The bipartisan Climate Solutions Caucus may also submit carbon tax legislation or other measures to address climate change before the end of this Congress. The caucus grew to 68 members last week with the addition of veteran Reps. Fred Upton (R-Mich.) and Jan Schakowsky (D-Ill.) (Greenwire, Jan. 26).

Politico

https://www.politicopro.com/energy/whiteboard/2018/01/epa-watchdog-pressed-white-house-for-more-money-493249

EPA watchdog pressed White House for more money

By Alex Guillen, 1/29/18, 12:35 PM

EPA's inspector general warned the White House last fall that its upcoming budget request for fiscal year 2019 would create a "significant challenge" for the watchdog.

The Sep. 7 memo from EPA IG Arthur Elkins, Jr., to OMB Director Mick Mulvaney indicates that OMB planned to ask for less than $41.4 million, the current budget for the OIG, which is funded separately from the broader EPA. The memo was released by EPA under the Freedom of Information Act.

"A budget of $41 million will virtually eliminate the OIG's ability to perform discretionary audits and program evaluations," Elkins wrote. Elkins instead asked OMB to request $62 million for his office, and noted that if Mulvaney would not fulfill that request, the Inspector General Act requires that he transmit Elkins' message directly to the president.

The OIG got $41.4 million in fiscal 2017, and is on track to maintain that level for 2018 due to the series of continuing resolutions funding the government. President Donald Trump's proposed budget last year would have seen the OIG's budget shaved to $37.4 million. House and Senate appropriations bills for fiscal 2018 both proposed a slight cut of $40 million for the OIG. The Obama administration's 2017 budget request sought $51.5 million for the OIG.

The IG has launched several inquiries related to Administrator Scott Pruitt, including into his domestic and foreign travel and his $25,000 secure phone booth.

WHAT'S NEXT: The White House is expected to release the 2019 budget request on Feb. 12.

AP

https://apnews.com/f22afa06311f4366821aaa59223d5f34/EPA-reaches-agreement-over-cleanup-of-Butte-Hill-Superfund

EPA reaches agreement over cleanup of Butte Hill Superfund

1/26/18

BUTTE, Mont. (AP) — The Environmental Protection Agency on Friday said it has reached an agreement that could conclude the cleanup of mining waste in Butte and remove the area from the Superfund list.

The agreement was negotiated in secret over the past dozen years, the details have not been released and it has not been signed, the Montana Standard reported .

EPA Regional Administrator Doug Benevento called the agreement "a long-awaited milestone that will bring the Butte community closer to a post-Superfund future."

Butte-Silver Bow Chief Executive Dave Palmer said city and county officials fought for comprehensive cleanup of tailings and other mine waste.

The area was declared a Superfund site in 1983. A considerable amount of cleanup work has been done over the last 35 years, but residents have argued that tailings and waste buried behind the Butte Civic Center should be cleaned up.

"Our goal was to get a good cleanup, protect our taxpayers, and realize a good reuse of a cleaned up corridor. I believe we have achieved that goal," Palmer said. "There is still a lot of hard work to be done but we are headed in the right direction."

A court's confidentiality order covered the talks, making it unclear when the EPA can release the terms of the agreement it reached with the Atlantic Richfield Co., the county, railroads and state

agencies. Residents will have an opportunity to comment on the plan before it is made permanent.

"Cleaning up America's most contaminated sites has been a priority since the get-go of this administration and the Silver Bow Creek Butte Area is no exception," EPA Administrator Scott Pruitt said Friday. "Today, EPA is taking the necessary steps to ensure a full, protective cleanup for these Montana communities to achieve better environmental and health outcomes."

Pruitt put both Butte and a separate Superfund site in Anaconda on his "emphasis list" last month, meaning both sites are being fast-tracked for completion.

"Butte has deserved certainty and action for decades and I could not be more pleased that today, together with the EPA, we are delivering on both," said Montana Gov. Steve Bullock. "The citizens and community of Butte can finally rest assured we are on a path to get the job done once and for all."

Washington Examiner

http://www.washingtonexaminer.com/epa-california-must-compromise-in-their-fight-over-weakened-fuel-efficiency-standards-experts-say/article/2647290

EPA, California must compromise in their fight over weakened fuel-efficiency standards, experts say

By Josh Siegel, 1/29/18, 12:01 AM

The Trump administration will have to compromise if it's serious about maintaining "one national program" for vehicle emissions rules and wants to avoid a legal battle with California,

experts say.

California state leaders have defied the Trump administration on issues including climate change, immigration, and taxes – and environmental regulations on cars and trucks is no exception.

California, which can set its own fuel efficiency standards, has fought the Environmental Protection Agency over the proposed weakening of rules set by the Obama administration that would require automakers to nearly double the average fuel economy of new cars and trucks to 54.5 miles per gallon by 2025.

A top EPA official said Thursday at the Washington Auto Show, which opens for the general public this week, that the agency wants to make nice with California.

"This obviously is a very important issue, and I have no interest whatsoever in withdrawing California's ability to regulate," said EPA Assistant Administrator Bill Wehrum, who leads the agency's Office of Air and Radiation. "From a good solid public policy standpoint, the very best outcome for all of us to achieve is one national program."

Wehrum added the EPA has had "productive conversations" with the California Air Resources Board, and said the agency intends to meet the April 1 deadline for setting vehicle emissions standards for 2022-2025 model years.

A spokesman for the California Air Resources Board told the Washington Examiner it plans to "stay at the table" in negotiations with the EPA.

But the California Air Resources Board has previously warned the state could withdraw from the nationwide vehicle emissions program if the EPA limits the Obama regulations.

Experts who favor one nationwide program instead of a "patchwork" of unaligned rules say the

Trump administration will have to compromise if it wants to keep California in line.

"California and the federal government need to get together to solve this problem," said Robbie Diamond, president and CEO of Securing America's Future Energy, a nonprofit that seeks to reduce the U.S.' demand for oil through improved vehicle efficiency. "Car companies are at pivotal moment with all this new technology coming at them at a fast speed. To get a solution, we think there has to be a clear signal from the federal government that they are willing to provide a lower number for fuel efficiency in the short-term to get the largest number in the long-term."

Diamond says the EPA should propose tougher rules for 2026-2030, when he says carmakers would be better equipped to adapt to technological changes, in exchange for weakening the standards for the 2022-2025 vehicles.

Dave Cooke, a senior vehicle analyst at the Union of Concerned Scientists, doubts the Trump administration would consider proposing rules for years after 2025. That's because the National Highway Traffic Safety Administration, which administers the fuel efficiency standards program, can only finalize rules every five years.

"I don't anticipate EPA making 2030 standards under the current administration," Cooke said.

Automakers have pressed for relief from the rules the Obama administration set for 2022-2025, arguing low gasoline prices have weakened consumer demand for hybrid-electric cars and smaller, fuel-efficient models.

Less fuel-efficient SUVs and light trucks have become more popular in recent years, meaning manufacturers are having difficulty hitting the fuel-efficiency targets, automakers say.

A recent EPA report determined the auto industry missed its emissions target for the first time in 2016, a finding that automakers have used as evidence the standards are too stringent.

The Association of Global Automakers, the main trade group representing manufacturers of automobiles and light duty trucks, would not comment.

California, however, has long fought to go its own way.

Federal law since 1967 has allowed California, because of severe air pollution problems caused by smog, to obtain a waiver allowing it to set its own fuel efficiency regulations that are tougher than the national standards.

Other states can follow those instead. Collectively, states representing roughly 40 percent of the U.S. car market abide by California's rules.

California Gov. Jerry Brown called the Trump administration's decision to review the standards a "gift to polluters" in a letter last year to EPA Administrator Scott Pruitt.

The state is the nation's largest market for zero-emission, electric vehicles. There were 25,000 electric vehicles on California's roads in 2012, compared to more than 350,000 today.

Brown, a Democrat, issued an executive order Friday to put at least 5 million electric cars on California roads by 2030.

Moody's recently predicted that electric vehicles, which are now less than 1 percent of global car sales, will grow to 17 to 19 percent of the market by 2030.

Cooke says the U.S. has benefited from California's leadership in cleaning up the auto industry, and the Trump administration should strive to keep up with the state's standards.

"As a country, we have benefited pretty strongly from California's historical leadership in the automotive sector," Cooke said. "They led the way on tailpipe emissions standards in the 1990s and 2000s, and they have led the way on greenhouse gas emissions. They have catalyzed leadership for the U.S., and that's one of the major questions facing the Trump administration. Is the U.S. willing to cede that leadership to China or Europe? California has looked at the data and said, why would we give up these targets that are achievable and provide tremendous benefits to the state."

Diamond says he prefers California and the Trump administration compromise on new national standards to provide more certainty in the marketplace and eliminate the prospect of a legal battle.

He insists there is a deal to be had.

"There has been this sense the auto industry is trying to gut this thing, but that is not the case at all," Diamond said. "The point of the review is not to throw out the baby with the bathwater. Going to court and creating uncertainty at a time of incredible change to the industry because of technology is the worst thing that can happen."

The Hill

http://thehill.com/policy/energy-environment/370971-california-governor-announces-multibillion-dollar-investment-to

California aims to get 5 million zero-emission cars on the road

By Miranda Green, 1/26/18, 5:04 PM

California Gov. Jerry Brown (D) signed a statewide executive order Friday aimed at dramatically increasing the number of zero-emission vehicles on the state's roads and reducing carbon pollution over the next 12 years.

The state will work to get 5 million zero-emission vehicles on California roads by 2030, a goal Brown announced at his State of the State speech Thursday night. The executive order also details investing $1.25 billion in cap-and-trade auction proceeds and another $2.5 billion investment over eight years to bring a quarter million vehicle-charging stations to the state by 2025.

"This executive order aims to curb carbon pollution from cars and trucks and boost the number of zero-emission vehicles driven in California," said Brown in a statement Friday. "In addition, the cap-and-trade investments will, in varying degrees, reduce California's carbon footprint and improve the quality of life for all."

California has taken big steps to reduce carbon emissions from transportation in the state. The sector accounts for 50 percent of greenhouse gases in California and 80 percent of the pollutants that cause smog, according to Brown's statement.

The state may also soon be facing a fight with the Trump administration over vehicle fuel standards. California under the Obama administration used a waiver to implement more stringent state emissions standards than mandated under federal law.

President Trump has promised to roll back regulations and the Environmental Protection Agency (EPA) is currently considering revising the federal vehicle emissions standard.

EPA air and radiation head Bill Wehrum announced at an event Thursday that the administration is favoring a unified national fuel emissions standard for automobiles, which could challenge California's stricter standard.

Washington Examiner

http://www.washingtonexaminer.com/epa-frees-arkansas-from-obama-era-coal-restrictions/article/2647378

EPA frees Arkansas from Obama-era coal restrictions

By John Siciliano, 1/29/18, 11:55 AM

The Environmental Protection Agency announced Monday that it has scrapped limits on coal burning that the Obama administration imposed on Arkansas, which were expected to force power plants in that state to invest in costly upgrades or shut down, and instead said Arkansas was free to pursue its own plan to cut back pollution.

EPA chief Scott Pruitt said his agency was freeing Arkansas from limits that the Obama administration tried to impose on the state when it rejected Arkansas' plan. The Obama-era plan was aimed at reducing nitrogen dioxide under the EPA's regional haze rule, which coal-fired power plants saw as a threat.

Arkansas' primary fuel source for electricity production is coal, although it is moving toward using more natural gas. Pruitt said Monday's actions were aimed at assisting the state's power plants.

The EPA said the action is the first step toward replacing the "embattled and one-size-fits-all" Federal Implementation Plan that dates back to 2012. EPA has the authority to impose federal plans on states if they are unable to meet pollution standards through their own programs. Most states seek to avoid being "FIPed," as the process is often referred to by state regulators.

"Arkansas' revised plan is yet another excellent example of the positive environmental outcomes we are achieving across the country from a cooperative federalism approach," Pruitt said. "After working closely with Arkansas, this action returns power back to the rightful hands of the state and gives them the necessary flexibility to improve air quality."

More than 50 federal plans were imposed under the Obama administration's EPA. Twenty of the FIPs were under the Regional Haze program, according to EPA.

Under the Trump administration, Pruitt's EPA "has turned at least one FIP" back into a state-implemented plan every month, according to the agency.

EPA said it has approved more than 200 state implementation plans since March 1, 2017.

"States are best suited to run their clean-air programs and EPA will continue to work with our state partners to make sure Clean Air Act standards are met in Arkansas and across the country," EPA said on Monday.

AP

https://apnews.com/5fe5ae4b392e4fda977a7c0c5d6b192e/EPA-surveys-Oklahoma-residents-near-polluted-site

EPA surveys Oklahoma residents near polluted site

1/29/18

PICHER, Okla. (AP) — The U.S. Environmental Protection Agency is asking residents near a polluted site in northeast Oklahoma how much fish they eat and how often they wade in the local waters.

The Tulsa World reports that two surveys were administered by the EPA's Technical Assistance for Communities to residents of areas near the Tar Creek Superfund site. It asks residents to gauge the accuracy of certain statements and offer comments for improvements.

The 40-square-mile (64-kilometer) site encompasses a portion of the Tar Creek, Elk Creek, Spring River, Neosho River and Grand Lake watersheds.

The EPA is still in the planning phase to deal with sediment concentrations and possible cleanup methods for the site.

An EPA spokesman says the public comments will help the agency develop clean-up goals for the site.

Politico

https://www.politicopro.com/energy/whiteboard/2018/01/court-rejects-rehearing-in-hfc-case-488238

Court rejects rehearing in HFC case

By Eric Wolff, 1/26/18, 5:22 PM

The D.C. Circuit today said it would not rehear a case overturning EPA's regulation to limit use of hydrofluorocarbons.

The court rejected a request by EPA and manufacturers to revisit its August rejection of EPA's rule phasing down use of the global-warming inducing coolant. Industry groups and the Natural Resources Defense Council had hoped to get a more favorable rule from the full circuit, which

has a majority of Democratic appointees. But the court couldn't find enough votes for the rehearing.

The EPA rule was designed to implement new provisions of the Montreal Protocol, which phase down use of the HFCs globally in favor of modern coolants largely made by U.S. companies. Unless industry and EPA can get the Supreme Court to overturn the lower court, the agency will likely turn to the Toxic Substances Control Act to provide rulemaking authority or ask Congress to pass a new law to implement the treaty.

The U.S. has yet to ratify its participation in the amendment to the Montreal Protocol limiting HFCs, but the Trump administration announced it would support the treaty in a Thanksgiving Day announcement by State Department officials.

AP

https://apnews.com/7548beef90f041d4acdc70a94538cd53/Settlement-reached-in-East-Chicago-pollution-lawsuit

Settlement reached in East Chicago pollution lawsuit

1/26/18

EAST CHICAGO, Ind. (AP) — An Indiana energy company has reached a court settlement with the state and federal governments to clean up operations, resolving a case that involved hundreds of violations of federal pollution standards.

Cokenergy, Sun Coke Energy and its subsidiary, Indiana Harbor Coke Co., supply coke for the blast furnaces at the ArcelorMittal Indiana Harbor steel mill in East Chicago. The city struggles with high rates of asthma, cancer and infant mortality due to harmful air pollution.

Under the agreement with the U.S. Environmental Protection Agency, the company will overhaul the facility on the southwest shore of Lake Michigan to curb emissions of brain-damaging lead and lung-damaging soot, sulfur dioxide and volatile chemicals.

"Today's settlement is one example of how EPA is committed to reducing exposure to lead and other contaminants in communities across the country," EPA Administrator Scott Pruitt said in a news release Thursday. "Lead exposure is a serious problem and reducing it is a priority for EPA."

The company's pollution violations involved toxic gases, metals and other pollution leaking from coke oven doors or released directly into the air rather than being channeled through pollution-control equipment. It had been on the EPA's watchlist of offenders for years.

The company has agreed to pay a $5 million fine and will spend $250,000 to clean up lead contamination in East Chicago.

The settlement is subject to a 30-day public comment period before the federal court can approve it.

AP

https://apnews.com/4d11dc37a05047c0843524218ed6624b/Public-meeting-scheduled-on-protecting-Lake-Superior-reef

Public meeting scheduled on protecting Lake Superior reef

1/29/18

LAKE LINDEN, Mich. (AP) — A campaign to protect a crucial Lake Superior fish spawning area gets underway this week.

A public meeting on Buffalo Reef is scheduled for 6 p.m. Tuesday at Lake Linden-Hubbell High School in Houghton County.

Waste material known as “stamp sands” were dumped into the lake during the copper mining boom of the early 1900s.

The coarse, black sands have drifted toward the reef and threaten to smother it.

Nearly one-quarter of the annual lake trout yield from Lake Superior’s Michigan waters comes from within 50 miles of Buffalo Reef.

Dredging planned for May would remove more than 200,000 cubic yards of sands from the lake. That would protect the reef for about seven years.

The U.S. Environmental Protection Agency established a task force to seek a long-term solution.

To: AO OPA OMR CLIPS[AO_OPA_OMR_CLIPS@epa.gov]
From: Hassell, Emily
Sent: Thur 1/18/2018 8:01:44 PM
Subject: News Clips - 18 January 2018

(Full stories, highlights, and details are listed further down in the email, and can be jumped to by clicking on any of the links below.)

Superfund-Related

TribLive - EPA names three Pennsylvania Superfund sites as promising for redevelopment

Denver Post - Superfund site near Vail lands on EPA's list of cleanup areas with big redevelopment and commercial potential

The Post and Courier - Charleston's Koppers Superfund site has high redevelopment potential, EPA says

High Country News - Want to revitalize a depressed economy? The EPA can help.

BNA - EPA Pushing Superfund Sites Toward Redevelopment

General Headlines

The Hill - Don't shortchange the EPA — businesses and communities depend on the agency

CBS News - EPA chief Scott Pruitt: Industry is necessary partner

Wall Street Journal - Scott Pruitt Aims to Accelerate His Efforts to Remake the EPA

E&E Greenwire - 'Our focus here should be on stewardship' — Pruitt

Politico - Source: Pruitt to visit Japan next week

The Hill - Toyota says it won't partner with EPA despite Pruitt claim

E&E Greenwire - FOIA lawsuits jump — report

E&E Greenwire - Agency dodged water safety program reports since 2006 — IG

The Hill - EPA official declines to testify at Superfund hearing

BNA - Citizens Petitions, Lawsuits on Chemical Rules Likely to Grow

E&E Greenwire - GAO to review Pruitt's phone booth

E&E Greenwire - Arguments in 'exceptional' events suit set for March 22

The Hill - Study: White House abandoning science advice at unprecedented levels

E&E Energywire - State auditor wants to release investigation Pruitt kept secret

E&E Daily - Dems bash Pruitt over cleanup rules

Wall Street Journal - NY, Connecticut file lawsuit seeking US action on smog

Cleveland.com - EPA overturns approval of Ohio's decision to omit its Lake Erie from 'impaired' waters list

The Chicago Tribune - Lawsuit accuses U.S. Steel of polluting Lake Michigan with toxic chromium

E&E Greenwire - Smelly wrecked boats await disposal after Irma

The News-Review - Myrtle Creek assures residents that its drinking water is safe

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TribLive

http://triblive.com/local/regional/13193194-74/epa-names-beaver-county-superfund-site-as-promising-for-redevelopment

EPA names three Pennsylvania Superfund sites as promising for redevelopment

By Mary Ann Thomas, 1/17/18, 9:51 PM

The federal Environmental Protection Agency named three Pennsylvania sites among 30 on the Superfund National Priorities List(NPL) with the greatest redevelopment and commercial potential.

The three Pennsylvania sites are: The BoRit Asbestos Superfund site in Ambler, Montgomery County; the Metal Bank Superfund site in northeast Philadelphia, and the Crater Resources Inc./Keystone Coke Co./Alan Wood Steel Co. Superfund site (aka Crater Resources) in Upper Merion Township, Montgomery County.

From the early 1900s to the late 1960s, the BoRit Asbestos Superfund site was the repository of discarded asbestos-containing material from a nearby asbestos products manufacturing plant. The site has an asbestos waste pile, a reservoir, and a closed park.

The Site was added to the NPL in 2009 for cleanup because nearby resdients could potentially be exposed to airborne asbestos and to asbestos contamination in and along Tannery Run, Rose Valley Creek, and the Wissahickon Creek.

As a Superfund site, BoRit has been eligible for a cleanup using federal Superfund program funding. EPA retains the right to pursue responsible parties for reimbursement of funds at all Superfund sites.

So far, the 32-acre site has had stream bank stabilization, installation of a soil cover across many areas of the site, and reservoir draining, re-grading, capping and refilling.

EPA selected the final cleanup plan for the site in 2017, which incorporates the previous cleanup with post-construction sampling, routine inspections, long-term operation and maintenance activities, and controls regarding approval of future use activities.

"EPA is more than a collaborative partner to remediate the nation's most contaminated sites, we're also working to successfully integrate Superfund sites back into communities across the country," said EPA Administrator Scott Pruitt in a press release issued Wednesday by the Pennsylvania Department of Environmental Protection.

"Today's redevelopment list incorporates Superfund sites ready to become catalysts for economic growth and revitalization," he said.

Superfund sites on the list have significant redevelopment potential based on previous outside interest, access to transportation corridors, land values, and other critical development drivers, according to the DEP.

Denver Post

https://www.denverpost.com/2018/01/17/eagle-mine-development-epa-list/

Superfund site near Vail lands on EPA's list of cleanup areas with big redevelopment and commercial potential

By Jesse Paul, 1/17/18, 9:22 AM

A federal environmental cleanup site near Vail has landed on the Environmental Protection Agency's national list of contaminated areas with the greatest expected redevelopment and commercial potential.

The Eagle Mine Superfund site just outside of Minturn is among nearly two dozen federal cleanups across the U.S. that were on the list released Wednesday.

"EPA is more than a collaborative partner to remediate the nation's most contaminated sites, we're also working to successfully integrate Superfund sites back into communities across the country," EPA Administrator Scott Pruitt said in a written statement. "Today's redevelopment list incorporates Superfund sites ready to become catalysts for economic growth and revitalization."

The Trump administration says the redevelopment list is meant to direct interested developers and potential owners to Superfund sites that could be transformed into something of great value.

The list comes as Pruitt has been working to overhaul and streamline the EPA's Superfund program. That process has included identifying the Gold King Mine near Silverton and surrounding mining sites as priorities for federal cleanup.

The Eagle Mine site, which sits on about 250 acres south of Minturn in Eagle County, has been on the EPA's National Priorities List (also known as Superfund) since 1986 because of heavy metals draining into the Eagle River and uncontrolled waste piles.

Since 2001, the site — which includes a water treatment plant — has been in a post-remedy operation and maintenance phase of cleanup, according to the EPA.

The mine closed in 1984 after roughly a century of pulling gold, silver, copper and zinc out of the ground, leaving behind elevated levels of arsenic, cadmium, copper, lead and zinc in soil, surface water and groundwater, the EPA says.

Because of the site's proximity to Vail and Beaver Creek, the area has for years been eyed for development — albeit not without some controversy from local residents concerned with the prospect of too much growth.

The EPA says it has been working with state health officials and development company Battle North, LLC, to complete cleanup at the Eagle Mine to allow for homes to be built there in the future.

"Over the past decades, cleanup actions taken at the Eagle Mine site have addressed soil, groundwater, and mine waste contamination and significantly improved water quality in the Eagle River," EPA Regional Administrator Doug Benevento said in a written statement. "Our recent efforts with the Colorado Department of Public Health and Environment and Battle North build upon that progress with new remedies for soil contamination that will make portions of the Eagle Mine site ready for residential use."

The full list of Superfund sites with redevelopment potential can be viewed here.

The Post and Courier

https://www.postandcourier.com/business/charleston-s-koppers-superfund-site-has-high-redevelopment-potential-epa/article_80ed66c4-fbc2-11e7-a0a4-13b04a72a545.html

Charleston's Koppers Superfund site has high redevelopment potential, EPA says

By John McDermott, 1/18/18

The Koppers tract in the Charleston Neck area is among 31 polluted U.S. properties with the highest potential for commercial reuse, according to the agency that has overseen the cleanup of the federal Superfund site since the mid-1990s.

The Environmental Protection Agency announced the designation Wednesday. It was part of an effort to "integrate Superfund sites back into communities across the country," administrator Scott Pruitt said.

"Today's redevelopment list incorporates Superfund sites ready to become catalysts for

economic growth and revitalization," he said in statement.

Koppers Co. Inc., later known as Beazer East Inc., operated a lumber treatment business on the Milford Street property from 1940 to 1978. The EPA placed the land on its National Priorities List in 1994, citing the contaminants the company left behind near the banks of the Ashley River.

The lengthy cleanup included digging up and disposing of polluted dirt, and placing a cap over portions of the 102-acre property. Most of the remediation was completed in 2003, according to the EPA.

The tract is now set to come under new ownership as part of a 182-acre real estate deal that includes neighboring parcels of land. Once marketed under the name "Magnolia," the infill project across from the Wagener Terrace neighborhood is expected to include a mix of multifamily residences, commercial space and parks.

Also, the developer, an affiliate of Texas-based Highland Resources Inc., has said it will invest up to $30 million in additional environmental improvements to the Superfund site before starting construction.

The Houston firm topped other bidders with an $8.6 million offer to buy part of the Magnolia footprint at a U.S. Bankruptcy Court sale last year. The company also has said it was negotiating to purchase the neighboring Koppers property from a private investment group.

Highland Resources CEO Charles Wolcott said he could not provide an update on the purchases until after his firm's board of directors meets Thursday.

High Country News

http://www.hcn.org/articles/the-montana-gap-want-to-revitalize-a-depressed-economy-epa-can-help

Want to revitalize a depressed economy? The EPA can help.

By James S. Rosien, 1/18/18

Anaconda has been part of the largest Superfund site in the United States since 1983, when the Environmental Protection Agency began working to clean up 300 square miles of heavy-metal contaminated soil left by more than a century of copper smelting. So far that effort has meant cleaning up over 350 contaminated yards in town and the surrounding area and transforming 250 acres of an old smelter site into a world-class golf course.

Superfund, however, cannot fix everything — in particular for downtown commercial properties, which are essential for economic development and revitalization of rural Montana towns like Anaconda but have been blighted by real or perceived contamination that was unrelated to the smelter.

In an effort to find other means to combat blight and reinvigorate the downtown business district, Anaconda, Butte and the Southwest Montana region are looking at another EPA program that until recently had been unavailable to Superfund sites, one that has seen hundreds of properties identified and cleaned up throughout the state: Brownfields.

In urban planning parlance, a "brownfield" is simply a property where either the presence or perceived presence of contamination by pollutants or hazardous substances prevents entrepreneurs from redeveloping or reusing it for industrial or commercial purposes. In 1993, the EPA established the Brownfields Program to provide funding for environmental assessments and cleanup of eligible properties to remove what would otherwise be an obstacle to their returning to productive use.

Since 2003, approximately $10 million in Brownfields assessment grants and revolving loan funds has been disbursed to eight economic development agencies, local governments and coalitions in Montana through the Department of Environmental Quality (DEQ), covering 41 of

the state's 56 counties. The seven counties making up Southwest Montana – Anaconda-Deer Lodge, Beaverhead, Butte-Silver Bow, Granite, Jefferson, Madison and Powell – are not among them due to the fact that until recently the EPA was prohibited by law from disbursing Brownfields funds to communities that already receive Superfund support.

This legal barrier was put in place to prevent property owners from "double-dipping" into federal funding, said Brandon Kingsbury, DEQ's Brownfields coordinator for petroleum cleanup. It wasn't until August of 2016 that the EPA relented, lifted the barrier and began approving Brownfields assessment grants to individual property owners and developers within Superfund sites, Kingsbury said. "That was the green light," he said. "We're excited to do more."

In the hope of acquiring a larger pot of funding for their communities, Anaconda Local Development Corporation, Butte-Silver Bow Local Development Corporation and Headwaters RC&D, which serves the seven aforementioned Southwest Montana counties, applied jointly for Brownfields funding that same year.

The program is a merit-based national grant competition, however, and their application did not score high enough to receive it. Only two were awarded in the entire state that year: Bear Paw Development Corporation, located in Havre covering five counties on Montana's Highline, and the City of Kalispell, both receiving $400,000 to conduct assessments.

Undeterred, they applied again and are awaiting word on whether they've been approved or not. Jim Davison, executive director of the Anaconda Local Development Corporation who has been "literally fighting for 20 years" to bring Brownfields to Anaconda, said the program would address problems that Superfund cannot. "Not all cleanup is Superfund cleanup," Davison said. "There are lots of areas in any community where there are waste and other issues that need cleaning up to reuse the properties. There may be hazardous materials, or the perception of hazardous materials such as fuel or asbestos, chemical spills or solvents, and that makes it difficult to reuse these properties. So how do we go build on a dirty piece of property? Or do we build on a new property, and what's the cost of that?"

Having to pay upwards of $20,000 to conduct one environmental assessment just to see if a property actually is contaminated – let alone pay potentially hundreds of thousands of dollars more for cleanup – can kill a project before it begins, Davison said.

That's why local development agencies in Montana are so keen on the Brownfields Program, because it allows commercially viable properties to come back into use rather than waste away.

One city that has benefited from the program is Havre. Paul Tuss, Bear Paw Development Corporation executive director, said there is "no better economic development tool in our toolbox" than Brownfields.

Tuss gave the example of the Short Stop, a former gas station and convenience store, where subsequent to its closure it was discovered there was a "very significant" petroleum leak coming from underground.

"It's a prime location, a great property," Tuss said. "We used the funds to mitigate and eradicate the contamination, we took the soil that had been contaminated with petroleum and replaced it with clean soil. The reality is that is a property that would have remained unusable because no one could receive financing on it if the contamination wasn't cleaned up. We went to work to clean it up, and it has transitioned into Havre's newest real estate office. We've transitioned a convenience store into a very nice, modern real estate office."

Another example Tuss gave was of an old corner gas station across the street from his office that is now becoming a brewery. "It's a real 1930s Art Deco kind of gas station," Tuss said. "The contamination was discovered and has been cleaned up, and we have an entrepreneur who is transitioning it into a microbrewery... We're turning a property that is almost worse than worthless and making it part of the vibrancy of downtown Havre."

"That's the whole purpose of Brownfields. It's an economic development tool that communities can use to not have to build something new but take something that's already there, cleaning it up and reusing it in a productive way."

BNA

http://esweb.bna.com/eslw/display/no_alpha.adp?mode=si&frag_id=127112205&item=408&prod=deln&cat=A

EPA Pushing Superfund Sites Toward Redevelopment

By Sylvia Carignan, 1/18/18

The EPA is pushing more than 30 contaminated sites into the spotlight to draw in potential land investors and developers, but some of those involved with the sites say they wish the agency would do more to make them financially attractive.

The Environmental Protection Agency's newest list of contaminated sites, released Jan. 17, promotes properties with the potential for redevelopment. But city officials and land use attorneys are looking for more specific action and incentives from the federal agency than the agency's promise to put redevelopment training, tools and resources toward the sites.

The EPA will have to do more to entice investors, Linda R. Shaw, partner at Knauf Shaw LLP in Rochester, N.Y., told Bloomberg Environment.

“The remedy ends up being interim,” she said. “It doesn't make the site typically clean enough to make somebody feel comfortable buying it.”

Sites Spread Across Country

The sites include the U.S. Smelter and Lead Refinery Superfund site in East Chicago, Ind., Quendall Terminal in Washington state, and contaminated groundwater sites in Libby, Mont. The sites are spread out across the country and EPA's 10 regional offices.

Many of the sites are still on the National Priorities List. Some are portions of a Superfund site that is still undergoing remediation.

Potential investors are especially wary of putting money into Superfund sites. “Banks still don't feel comfortable when the S-word is part of a site,” Shaw said.

A spokesperson for the agency didn't immediately respond to questions from Bloomberg Environment. The agency wants to “successfully integrate Superfund sites back into communities across the country,” EPA Administrator Scott Pruitt said in a news release.

Congress has taken an interest in Pruitt's plans to modernize Superfund. A House and Energy Commerce subcommittee on environment is holding a hearing Jan. 18 on the issue.

State Model?

The benefits of New York's Voluntary Cleanup Program, originally built to draw developers to contaminated brownfields, recently opened up to state Superfund sites. Shaw said the program could be a model for EPA to follow.

The program provides incentives to interested parties if the party agrees to pay for cleanup. The incentives are tax credits, liability release, a guarantee that the interested party won't have to remediate contamination off their property, and clear state cleanup standards.

Similar cleanup standards don't exist at the federal level, and interested parties who take on Superfund sites are likely to find more contamination than they anticipated.

“The problem is how do you quantify the [financial] risk, and that's what investors are interested in,” Shaw said. “You don't know what it's going to cost until you start digging.”

But, Shaw said, contaminated sites would benefit from having a redevelopment or reuse plan.

"Whatever state the Superfund site is in, there should be some kind of collaboration with that state agency [and] the EPA to actually come up with a project on that site," she said. By incorporating cleanup with reuse, "the project can actually help make the remediation less expensive."

Quendall Terminal

The Quendall Terminal Superfund site in Renton, Wash., is part of Pruitt's Jan. 17 list. The site was a creosote manufacturing facility where coal tar and creosote have been released into soil, water, and sediment, according to the EPA.

The city of Renton is waiting for the EPA to make a decision about the site's final remedy, said Vanessa Dolbee, planning manager for the city.

"We've done pretty much everything we can do to get the site positioned for redevelopment, in terms of all the land use entitlements," Dolbee told Bloomberg Environment in December.

The city council has approved the construction of mixed-use development, including 40,000 square feet for commercial use and almost 700 residential units. The developer needs building permits, but the project is on hold until the EPA acts.

"It's completely out of our hands because it's at the federal level," she said.

The site is also on Pruitt's Dec. 8 list of contaminated sites that need "immediate, intense action," which acknowledges the EPA's need to quickly determine the best remedy for the site.

Making Progress

The list originates from EPA Administrator Scott Pruitt's Superfund task force, which released recommendations to alter the program last year.

One of the main goals of those recommendations was to get contaminated sites back into use by getting potentially responsible parties or third parties to invest in redevelopment.

The EPA's Superfund Redevelopment Initiative assesses the benefits of Superfund site reuse—including job creation and increases in property values—by site, by region, and nationally.

The initiative is tracking nearly 500 Superfund sites in reuse, which house over 6,600 businesses, according to the agency.

The Hill

http://thehill.com/blogs/congress-blog/energy-environment/369441-dont-shortchange-the-epa-businesses-and-communities

Don't shortchange the EPA — businesses and communities depend on the agency

By Dean Burke, 1/17/18, 6:10 PM

The city of Tacoma, Wash., is the home to one of the first ever EPA-designated Superfund sites in the United States. Here in our community, we have seen firsthand how funding and support from the Environmental Protection Agency can transform an American city for the better.

Members of Congress now have less than a week to create a budget for FY2018. For many

agencies, large gaps exist between the various funding levels proposed by the White House, House of Representatives, and the Senate, but the EPA is particularly vulnerable.

For more than 100 years, our city shoreline was seen as a means to an end—valued primarily as a site for industry and an engine for growth, but with a harmful downside. Smelters and chemical plants provided jobs and supported a growing city, but, over time, they introduced extreme levels of pollution into our neighborhoods and waterways.

Tacoma is located about 30 miles south of Seattle, on the picturesque eastern shore of Puget Sound. From many parts of our shoreline, there are stunning views of Mount Rainier. However, for decades, Tacoma residents have been conditioned to stay away from the waterfront. The shoreline was seen as a dirty, dangerous and industrialized place.

Over the past decade, Tacoma residents' relationship with the waterfront has changed dramatically. What once seemed an uninviting industrial zone is now a welcoming venue for outdoor recreation and social interaction. As the director of the South Sound Sports Commission, I have witnessed a profound change in how the residents of my city think about our shoreline, which has had a broader impact on how they imagine our city's identity.

I often drive along the waterfront. A few years ago, it was surprising to see one or two people paddling on Puget Sound, even on one of our warmer summer nights. Today, the Tacoma shoreline and the Thea Foss Waterway, which is a Superfund-designated waterway, supports five separate businesses renting kayaks and paddleboards to recreational boaters. This is evidence of the literal and figurative sea change that the city has experienced over the past decade.

Further down the shoreline at the Asarco Smelter Site, one of the nation's first Superfund sites, a $28 million cleanup facilitated by the EPA boosted residential property values in the immediate area by $52 million over the course of twenty years. The cleanup also made possible the construction of a billion dollar, mixed-use development project called Point Ruston. That's right—there's now a luxury resort, with restaurants, stores and a mile-long walking path, on a Superfund site.

It's been heartening to see my city embrace the newly restored beauty of the Puget Sound and recognize that the shoreline now offers new sorts of economic opportunities.

While we have seen tremendous progress, there is still a lot to do to restore Tacoma's waterfront and keep our water and air safe. As members of Congress negotiate over federal funding and revenue, they need to know that their constituents – whether they live in healthy neighborhoods, or polluted ones, or those that were once polluted and are now healthy – are paying attention.

Members of Congress: The EPA has catalyzed incredible transformations in Tacoma, but this work isn't finished—here and in other communities across the United States. Please maintain healthy funding levels for the EPA, and watch business and communities flourish as a result.

CBS News

https://www.cbsnews.com/news/scott-pruitt-says-industry-is-necessary-partner-for-environmental-protection/

EPA chief Scott Pruitt: Industry is necessary partner

By Jacqueline Alemany, 1/17/18, 5:18 PM

Environmental Protection Agency Administrator Scott Pruitt told CBS News that a partnership with "industry" is necessary in order for the agency to protect the environment.

"This paradigm that says we have to choose industry over the environment or the environment over industry is the old way of thinking," Pruitt told CBS News' chief White House correspondent Major Garrett in an interview Wednesday.

"Now that serves political ends but it doesn't serve the environment because I will tell you this: to achieve what we want to achieve in environmental protection, environmental stewardship, we need the partnership of industry," he added.

Pruitt, who has been accused by critics of being too cozy with special interest groups and executives and advocates of the fossil fuel industry, defended these relationships as necessary for environmental stewardship. The former Oklahoma Attorney General, cited his experience as a prosecutor, and called it "wrong-headed" to assume that all industries are bad actors.

"We should be about stewardship and we should be about partnership," Pruitt said. "Now, I will tell you as a former attorney general, I've led a grand jury. I've prosecuted bad actors. And I will tell you, if we have companies, industries, citizens who violate the law, we are going to prosecute them and we are going to hold them accountable. But we should not start from the premise that all people are that way or that all industries are that way. That is just simply wrong-headed. And it doesn't achieve good outcomes."

Pruitt has also come under fire for appointing executives from the coal, gas and chemical industries to senior staff positions at the EPA. He has swiftly sought to reverse, delay and block more regulations than any other administrator in the history of the agency, including the Obama-era Clean Power Plan and Clean Water Rule.

"We had many regulations that this agency had adopted historical that had created confusion, and did not serve advancing protection of the environment," Pruitt argued.

Pruitt confirmed reports that he has eased the EPA's safety review process for assessing the risk of new chemicals being produced by manufacturers to the environmental and humans under the Toxic Substances Control Act. He told CBS News that the agency will no longer require manufacturers to sign consent orders that restrict the use of potentially hazardous chemicals in the future. Pruitt claimed that the EPA's new approach is "absolutely" safer than the old approach.

"What I've said about consent orders and consent decrees is that we shouldn't regulate through litigation," Pruitt argued. "If there are industries or companies out there that don't do what the law requires, we're going to issue consent orders and enforcement actions against them, and already have, to hold them accountable."

"From our perspective, when I speak to clarity in regulations, I believe most companies, most states, most citizens want to comply with the law," Pruitt added.

In December, a federal appeals court ordered the EPA to revise the antiquated lead paint hazard standards after the Trump administration had requested a six year delay to review the rule. Pruitt would not say whether or not the EPA planned to appeal the ruling or take it to the Supreme Court, and deferred the decision to the Justice Department. The rule has not been updated in nearly 17 years.

"The legal process is something that Justice will be the decider upon the procedural approach to that," Pruitt said. "But I can tell you this: it's important for this agency to get that rule and get it done."

"Indeed the EPA itself has acknowledge that 'lead poisoning is the number one environmental health threat to children ages 6 and younger, and that the current standards are insufficient," the ruling by the U.S. Court of Appeals for the Ninth Circuit reads.

Pruitt added that he wanted to "declare a war on lead" and also eradicate lead from drinking water within 10 years, primarily through an infrastructure package.

Addressing some controversial staff appointments that have presented a conflict of interest, like Nancy Beck -- a former senior director in the American Chemistry Council who is now deputy assistant administrator in the office of Chemical Safety and Pollution Protection at the EPA -- Pruitt said he rejected the premise that "we can't be both about stewardship and also economic development and growth."

Pruitt has also appointed other staffers who have publicly questioned sound scientific data, like Michael Honeycutt, chairman of the EPA's Science Advisory Board who once said in an interview that lowering the ozone "might have a negative health benefit." Pruitt dismissed his comments.

"Ozone is something that we most definitely have to regulate," he said. "It's a very important

thing to regulate."

Wall Street Journal

https://www.wsj.com/articles/scott-pruitt-aims-to-accelerate-his-efforts-to-remake-the-epa-1516220866?mod=searchresults&page=1&pos=1

Scott Pruitt Aims to Accelerate His Efforts to Remake the EPA

By Eli Stokols and Timothy Puko, 1/17/18, 3:43 PM

WASHINGTON—Environmental Protection Agency chief Scott Pruitt plans to use his second year on the job to accelerate efforts to remake the agency, saying he wants to speed its permitting processes and transform a culture he says is bureaucratic.

In an interview with The Wall Street Journal, Mr. Pruitt outlined the changes he is looking to make in year two: repealing and rewriting Obama-era rules for power plant emissions, speeding up the EPA's permit review process, implementing weekly performance assessments across the agency and fostering a public debate about climate change.

Mr. Pruitt has long questioned the scientific consensus that human activities are a significant factor in rising global temperatures and severe weather, and pose a potential existential threat to life on Earth in decades to come.

Discussing his plans for the year, Mr. Pruitt emphasized the importance of moving quickly. "There's tremendous opportunity to show really significant results to the American people in a really short time frame," Mr. Pruitt said.

In his first year on the job, the former Oklahoma attorney general swiftly repealed several of former President Barack Obama's signature policies and encouraged President Donald Trump to pursue a withdrawal from the Paris climate agreement. Mr. Trump announced his intention to exit from the agreement in June.

Mr. Pruitt has memorialized the moment in his office with a framed photo of the two of them in the Rose Garden and the president's autograph on Mr. Pruitt's prepared remarks, "Scott—Great Job!"

Going forward, Mr. Pruitt wants to use metrics to measure the weekly performance of every EPA office and wants final permit decisions completed within six months. He already has a multicolored pyramid diagram outlining his plan to streamline the agency's bureaucracy and organizational workflow.

"That's the thing that's been so striking to me as I've come into this position…is just the lack of focus and lack of energy and lack of commitment to actually get results," said Mr. Pruitt, speaking during a 30-minute interview in his wood-paneled office this week. "We have permits that literally are sitting on a shelf, and just sitting there because there's just no attention, no leadership, no direction. It's that simple."

Some of Mr. Pruitt's policies, and his criticism of the agency as bureaucratic and hidebound, have turned off some career employees, including many scientists at the EPA. The agency saw 700 staffers depart last year.

The agency's work force is about 4.1% smaller than at the end of 2016, putting it among executive departments and agencies with the biggest declines, according to data from the Office of Personnel Management.

"At the same time [Mr. Pruitt] is making these comments, he's basically doing everything he can to gut the agency of quality personnel," said John O'Grady, president of the American Federation of Government Employees Council 238, which represents EPA workers. "They are basically going to break government and then somehow declare victory."

Mr. O'Grady pointed to Mr. Pruitt's sometimes antagonistic position towards agency scientists, saying it would be difficult for the agency to finish research, write policies and grant permits more quickly if the staff and resources keep shrinking. The Trump administration has threatened budget cuts, and departures have brought staff to about 14,000 workers, their lowest point in more than 30 years and down 9% from 2015.

Mr. Pruitt said he inherited an agency that employs hundreds of scientists and nevertheless contracts out some of its research.

The EPA chief also said he believes the agency exceeded its legal mandate under President Barack Obama in creating new rules for power plants in the name of slowing the pace of climate change. "This agency for years has speculated about harm that may be happening 100 years from now as opposed to what's right in their own backyard," said Mr. Pruitt.

In 2018, he said he plans to focus on cleaning up toxic sites in the Superfund program and with what he calls "the war on lead."

"I really believe that we can eradicate lead from our drinking supply within a decade. We just have to get serious about it," Mr. Pruitt said. "We haven't been focused and urgent about the things that matter and can impact people's health today, and we need to do that."

"Everything the agency does is to protect public health and the public from future risks," said Gina McCarthy, a former EPA administrator during the Obama administration. "You don't stop smoking because it kills you when you smoke the cigarette; it's because it kills you later. It's the same argument with climate change. You take action today to protect health today and in the future."

Ms. McCarthy, who now teaches at the Harvard School of Public Health, said Mr. Pruitt's statement that the effects of climate change won't be felt for decades "rings extremely hollow" after a year in which the federal government spent $306 billion responding to extreme weather events. "Anyone suggesting that climate change isn't happening or damaging us today is not

keeping their eyes open," she said.

Asked if his urgency has anything to do with future plans to leave, Mr. Pruitt played down a recent report by Politico suggesting he is angling to succeed Attorney General Jeff Sessions, but he didn't fully rule anything out. "I thoroughly, thoroughly enjoy what I'm doing," he said. "What does it say in scripture? 'Whatever your hand finds to do, do it with all your might.' And that's what I'm doing."

E&E Greenwire

https://www.eenews.net/greenwire/2018/01/18/stories/1060071327

'Our focus here should be on stewardship' — Pruitt

By Kevin Bogardus, 1/18/18

U.S. EPA Administrator Scott Pruitt is touting his work already done at the agency and his plans for EPA over the coming years.

In an interview with CBS News, Pruitt said EPA has sought to provide "regulatory certainty" over the past year as the agency has proposed to roll back several Obama-era regulations like the Clean Power Plan, which was designed to curb power plants' carbon dioxide emissions. Asked whether the philosophy behind his actions was meant to protect the environment or business, the EPA chief said it was neither.

"Well, it's neither. I mean, our focus here should be on stewardship," Pruitt said.

Regarding the Clean Power Plan, Pruitt disapproved of the rule, saying it was an example of

EPA "picking winners and losers in the development of electricity" by favoring renewable energy over the use of natural resources like coal and natural gas.

Pruitt also set a goal for EPA of eradicating lead from drinking water within 10 years. "It can be done," he said.

In addition, the administrator was asked about his top aides coming to EPA from industry and whether the American public should be comfortable with that transition. Pruitt said he doesn't buy into that "paradigm."

"This paradigm that says we have to choose industry over, you know, the environment, or the environment over industry is the old way of thinking," Pruitt said.

"And I will tell you if we have companies, industries, citizens who violate the law, we're gonna prosecute them. But we should not start on the premise that all people are that way or all industries are that way."

Pruitt also was asked about remarks by one of his newest science advisers — Michael Honeycutt, chairman of EPA's Science Advisory Board — that discounted the health benefits of reducing ozone pollution.

"Ozone is something that we — we most definitely have to regulate. It's a very important thing that we regulate," Pruitt said, disagreeing with those comments.

In fact, Pruitt has no choice in the matter because the Clean Air Act requires EPA to regulate ground-level ozone, a lung irritant that is the main ingredient in smog.

In the last decade, however, repeated battles have erupted over how strict the agency's ozone standard should be to adequately protect public health. Honeycutt, the toxicology director for the Texas Commission on Environmental Quality, was a prominent foe of EPA's 2015 decision to

tighten the threshold to 70 parts per billion, even helping to arrange a workshop to make the case for leaving the standard at its previous 75-ppb level (Greenwire, April 14, 2015).

Pruitt named him last fall to chair the Science Advisory Board, which has no direct role in setting air quality standards but furnishes outside expertise to the agency on an array of topics.

Pruitt gave a separate interview to The Wall Street Journal discussing his plans at EPA, which was published yesterday. The administrator didn't deny outright reports that he is interested in succeeding Jeff Sessions as attorney general in President Trump's Cabinet (E&E News PM, Jan. 5).

"I thoroughly, thoroughly enjoy what I'm doing," Pruitt said. "What does it say in Scripture? 'Whatever your hand finds to do, do it with all your might.' And that's what I'm doing."

Politico

https://www.politicopro.com/energy/whiteboard/2018/01/source-pruitt-to-visit-japan-next-week-413219

Source: Pruitt to visit Japan next week

By Emily Holden, 1/17/18, 6:50 PM

EPA Administrator Scott Pruitt will go to Japan next week to discuss "general environment cooperation," an administration official told POLITICO today.

Details of who Pruitt will meet with or what he plans to discuss were not immediately available. EPA officials refused to confirm the trip ahead of time, as they have in the past.

EPA's inspector general is already investigating Pruitt's travel and recently expanded its probe at the request of a Democratic lawmaker to include a December trip to Morocco, where Pruitt discussed natural gas imports, in addition to other environmental issues.

Pruitt also reportedly plans to visit Israel from Jan. 26-28, officials there have said. It's unclear if the trips could be combined.

Japan is the leading importer of liquefied natural gas and has also increasingly relied on coal-fired power following the Fukushima nuclear disaster in 2011. One of the biggest American coal companies has a deal to send a quarter of its exports to Japan, the Wall Street Journal reported yesterday.

EPA spokesman Jahan Wilcox in an email today said "every meeting that Administrator Pruitt attends is posted on https://www.epa.gov." That website is updated after the fact and does not include the full details of Pruitt's schedule. The agency has previously cited security concerns in refusing to share details of Pruitt's activities ahead of time.

The Hill

http://thehill.com/policy/energy-environment/369394-toyota-says-it-wont-partner-with-epa-despite-pruitt-claim

Toyota says it won't partner with EPA despite Pruitt claim

By Miranda Green, 1/17/18, 3:01 PM

Global automaker Toyota is not partnering with the Environmental Protection Agency (EPA),

despite December comments from EPA Administrator Scott Pruitt that the two would be working together on a review of the agency's management practices.

Christopher Reynolds, Executive Vice President of Corporate Resources at Toyota, wrote in a Jan. 9 letter to the Environmental Working Group that "at this point there are no definitive plans to move forward with a project" with the EPA.

Reynolds went on to call the discussions Toyota was having with EPA "preliminary."

Reynolds was responding to a letter the Environmental Working Group sent him in December questioning Toyota's decision to work with EPA under their Toyota Production System Support program.

News of the potential partnership came to light while Pruitt was testifying at a hearing on Capitol Hill on Dec. 8.

Speaking to the House Energy and Commerce Subcommittee on the Environment, Pruitt said, "We are actually partnering with Toyota to begin a lean process at the agency to evaluate management practices."

Pruitt made the comment in response to Rep. John Shimkus (R-Ill.), who asked him about the agency's workload practices.

“We continue to have collaborations with Toyota to better improve agency outcomes," an EPA spokesperson told The Hill.

At the time Toyota acknowledged to HuffPost that it was speaking with the EPA about how it could help them incorporate their style of operations efficiency.

However, Karen Nielsen, a Toyota spokeswoman, downplayed the extent to which discussions between the company and the EPA had taken place, telling HuffPost Wednesday, "We were always just in talks anyway, so it was not a done deal. We were just looking into working with them, but that was never a promised thing."

EPA officials and environmentalists had called the potential partnership a conflict of interest, as the EPA oversees regulation of companies including Toyota.

Updated at 4:13 p.m.

E&E Greenwire

https://www.eenews.net/greenwire/stories/1060071203/search?keyword=EPA

FOIA lawsuits jump — report

By Kevin Bogardus, 1/17/18

U.S. EPA has seen a surge of Freedom of Information Act lawsuits under the Trump administration.

Legal complaints filed under the public records law against the environmental agency went up from 10 such suits in fiscal 2016 to 35 in fiscal 2017, an increase of 250 percent.

EPA is not the only federal agency that saw its FOIA lawsuits substantially increase over the past year. As detailed in a report released yesterday by the Transactional Records Access Clearinghouse's FOIA Project, there were 651 FOIA lawsuits across the government in fiscal

2017, a rise of 26 percent over the prior year.

"The agencies experiencing significantly more FOIA lawsuits often were government offices in charge of areas where there was heightened public concern," said the report by the Syracuse University research center, making note of EPA.

The Department of the Interior also saw a spike in its FOIA lawsuits, from 42 in fiscal 2016 to 68 to fiscal 2017.

The Justice Department registered the most FOIA lawsuits at 197 in fiscal 2017, an increase of 20 percent from the prior year. Next came the Department of Homeland Security, with 98 such suits filed in fiscal 2017, a 46 percent spike. Interior was ranked third behind those two departments, according to the report.

Not every agency saw an increase in FOIA lawsuits. The Energy Department saw such complaints drop from 10 in fiscal 2016 to nine in fiscal 2017.

The growing number of FOIA lawsuits is increasing the backlog at the courts, leading to slower resolution of the cases.

"Court backlogs of pending FOIA litigation have climbed even faster, with hundreds of cases waiting resolution. Indeed, the backlog is already approaching 900 cases and unless steps are taken may top a thousand in the near future," said the report.

EPA has been sued under FOIA for several records dealing with Administrator Scott Pruitt and his aides at the agency, including his private calendar. Last year, American Oversight, a liberal-leaning watchdog group, sued under FOIA and won the release of a copy of the EPA chief's schedule.

E&E Greenwire

https://www.eenews.net/greenwire/stories/1060071307/search?keyword=EPA

Agency dodged water safety program reports since 2006 — IG

By Cecelia Smith-Schoenwalder, 1/18/18

U.S. EPA failed for 12 years to turn over documents to Congress regarding its grants under a program to monitor coastal water safety, the agency's inspector general has found.

Under the Beaches Environmental Assessment and Coastal Health (BEACH) Act, EPA provides grants to help states monitor coastal water quality and notifies the public of contamination problems.

The missing reports would "inform Congress and the public about efforts to implement the act, the need for additional water quality indicators, and the need for improved monitoring methodologies," according to the IG.

Issues with reporting date back to the George W. Bush administration and continue into the present, the IG found. EPA last submitted its required quadrennial report about the BEACH Act to Congress in 2006. Later, in fiscal 2013, the Obama administration did not request further funding for the program's grants, saying the program was "mature."

In September 2017, EPA said in its budget submission to the Office of Management and Budget for fiscal 2019 that reports related to this program should not be necessary, according to the IG's report.

Because Congress still funds the program, the IG said the reporting requirement remains.

EPA's Office of Water told the IG it plans to "await the White House's response to that request before initiating another report."

The Hill

http://thehill.com/policy/energy-environment/369418-epa-official-declines-to-testify-at-superfund-hearing

EPA official declines to testify at Superfund hearing

By Miranda Green, 1/17/18, 4:29 PM

Environmental Protection Agency (EPA) Administrator Scott Pruitt's point man for Superfund efforts has declined to testify at a House Energy and Commerce Committee hearing on the sites' cleanup efforts scheduled for Thursday.

After previously promising to speak at the hearing, Albert Kelly withdrew his name from the witness list last week, citing "an unavoidable scheduling conflict," according to a Democratic spokesperson for the committee.

Kelly, a former chairman of Oklahoma-based SpiritBank, made headlines recently following news that he had been banned from working in the banking industry. The Intercept also reported that the Federal Deposit Insurance Corporation (FDIC) had fined Kelly $125,000 in May 2017 for violating the law.

According to a consent order obtained by the The Intercept through a Freedom of Information Act request, the FDIC believed it had reason to think Kelly "violated a law or regulation, by

entering into an agreement pertaining to a loan by the Bank without FDIC approval."

Two weeks later, Pruitt appointed Kelly his senior adviser and head of the Superfund Task Force.

An EPA spokesperson said that an Office of Land and Emergency Management official will now testify at Thursday's committee hearing. The spokesperson added that Kelly was never formally invited to testify through a letter by the committee and only Principal Deputy Assistant Administrator Barry Breen received a letter.

"The House Committee on Energy and Commerce requested a witness for this hearing and EPA offered Principal Deputy Assistant Administrator Barry Breen from the office of Land and Emergency Management, which oversees the [Superfund] program," the EPA spokesperson told The Hill.

However, the Democratic spokesperson for the committee said EPA's distinction was splitting hairs.

"[The EPA is] falling back on a technicality as an excuse for Mr. Kelly's unacceptable absence. E&C Democrats were advised by the Majority in December that Mr. Kelly would attend the Superfund hearing," said the spokesperson. "The Majority didn't send the formal invitations until last week, but Mr. Kelly was scheduled to appear before the formal invites ever went out."

Pruitt's decision to pick Kelly for the position was met with some criticism due to Kelly's lack of a scientific background. Despite his long tenure in finance, Kelly has no prior experience in environmental policy or with Superfund, one of the EPA's more complicated programs.

BNA

http://esweb.bna.com/eslw/display/no_alpha.adp?mode=si&frag_id=127112202&item=408&prod=deln&cat=A

Citizens Petitions, Lawsuits on Chemical Rules Likely to Grow

By Pat Rizzuto, 1/18/18

Chemical manufacturers should expect to see more petitions from citizen groups asking the EPA to regulate substances now that the nation's primary chemicals law has been amended, attorneys tell Bloomberg Environment.

Environmental, animal welfare, and other organizations will likely use every provision allowed under the amended Toxic Substances Control Act to compel stricter Environmental Protection Agency regulation of chemicals, said Lynn Bergeson, managing partner with Bergeson & Campbell P.C.

Those TSCA amendments required the EPA for the first time to review the risks of chemicals in commerce and made it easier for the agency to obtain the information it needs to evaluate health and environmental concerns.

The provisions increase the likelihood that citizens groups will push the EPA to take various actions, such as collecting information companies have about their chemicals, Herbert Estreicher, a partner with Keller and Heckman LLP, told Bloomberg Environment.

During a recent webinar hosted by that law firm, Estreicher urged chemical manufacturers and their trade associations to track such petitions and “think hard about engaging,” for example, by providing the EPA information relevant to whatever decision the petition seeks.

Karyn Schmidt, an attorney with the American Chemistry Council, told Bloomberg Environment it's too soon to know whether citizens’ petitions will increase due to the amended TSCA, but paying attention to them “is sound legal advice.”

New Avenues

Court decisions on citizens' rulemaking petitions are among the many types of litigation likely to increase as the EPA issues rules and other decisions to carry out its interpretations of TSCA.

"Like it or not, the courts will be playing a central role in deciding how the EPA implements the new TSCA," Estreicher said during the webinar.

Environmental organizations are showing an "unprecedented" interest in TSCA and therefore more likely to bring lawsuits, he said.

Court rulings in these cases and others cannot be rolled back easily by the executive branch, said Eric Gotting, also a partner at Keller and Heckman, referring to the regulatory rollbacks that occur when a new administration takes office.

No Deference Required

If the EPA denies a petition, the groups can challenge that decision in court. Such lawsuits could be particularly interesting because of the role of deference, Gotting told Bloomberg Environment.

Courts are not required to give the agency's decision any deference in these types of cases, he said. Section 21, the provision of TSCA that authorizes citizens petitions states that the court should give a lawsuit challenging the EPA's denial a new, or "de novo," hearing.

That means the petitioner gets a chance to demonstrate to the court that a chemical may present an unreasonable risk to health or the environment or meets other TSCA criteria warranting stricter regulation, he said.

Typically, courts review challenges to agencies' rules under the arbitrary and capricious standard, which means they often affirm agency decisions unless they find them totally irrational, Gotting said.

Under the TSCA standard for citizens' petitions, however, "you have a judge not asking if EPA's decision was rational, but making its own decision on very complex scientific issues," Gotting said. That increases the uncertainty for the EPA and plaintiffs regarding how the court will rule, he added.

Fluoride Petition

Bergeson, Estreicher, and Gotting all cited a lawsuit that attracted attention this year after a federal district court ruled late December that the EPA erred in its interpretation of amended TSCA's requirements for citizens' petitions.

The case, Food & Water Watch v. EPA, involves a coalition of health advocates that petitioned the agency soon after TSCA was amended seeking a ban on fluoride in drinking water. The groups argued drinking the chemical does not prevent tooth decay, but can be neurotoxic, especially to children's developing brains.

The EPA denied the petition saying the agency's interpretation of the amended TSCA as requiring citizens petitions "to address the full set of conditions of use for a chemical substance."

Not true, ruled the U.S. District Court for the Northern District of California in San Francisco. "A citizen petition need not evaluate all conditions of use," the court said, allowing the case to proceed.

Before the court takes up the merits of the citizens' petition, it must rule on the scope of the information it will consider, but this initial decision allowing the case to proceed is important,

Gotting said.

It means petitioners do not have to address every use of a chemical when they ask the EPA to regulate a substance, and that makes it harder for the EPA to easily dismiss such petitions, he said.

Those factors increase the likelihood that the agency's rejections of citizens rulemaking petitions may get a full hearing in court, Gotting said.

The Food & Water Watch case attracted friend-of-the-court briefs supporting citizen suits from the Natural Resources Defense Council and Safer Chemicals Healthy Families.

A Food & Water Watch attorney says they have no immediate plans to file further citizen suits. However, if the court rules favorably and broadens the scope of information that it can consider as it reviews the fluoride petition, that "will certainly make Section 21 petitions a more promising avenue for future legal actions by environmental health organizations such as ours," according to the attorney, Michael Connett.

Other Citizens' Suits

Bergeson added that "even before the dust-up occasioned by Food & Water Watch, stakeholders were widely expected to avail themselves of every tool under TSCA, including Section 21 citizens' petitions and Section 20 civil actions, to influence the interpretation of new TSCA."

Section 21 allows citizens to petition the EPA to initiate a rule. Section 21 authorizes citizens to file lawsuits against any person or agency alleged to be violating:

• the statute,

• rules promulgated under multiple sections of the law, or

• orders, for example those the EPA can issue requiring manufacturers of new chemicals to not release the chemical to water.

"Companies and other regulated entities would be well advised to step up their monitoring efforts to ensure Section 21 citizen petitions and other forms of citizen advocacy (Section 20 litigation) are promptly identified, considered, and addressed," Bergeson said by email.

E&E Greenwire

https://www.eenews.net/greenwire/stories/1060071199/search?keyword=EPA

GAO to review Pruitt's phone booth

By Kevin Bogardus, 1/17/18

The Government Accountability Office will scrutinize U.S. EPA Administrator Scott Pruitt's secure phone booth.

EPA Inspector General Arthur Elkins said in a letter to Rep. Pete DeFazio (D-Ore.) that his office had learned that GAO had "accepted a congressional request to review appropriation law questions regarding the installation of the security booth."

"The GAO will be reviewing virtually the same scope of issues that we planned to examine," Elkins said in the Jan. 10 letter, which was shared on social media last week by Democrats on the House Transportation and Infrastructure Committee, where DeFazio is ranking member.

Chuck Young, a GAO spokesman, confirmed to E&E News that the congressional watchdog

office is reviewing the matter.

"We have been asked for an appropriations law legal opinion on this, and we are doing the work, as mentioned in the letter," Young said.

At a congressional hearing last month, Pruitt called the facility "a secure phone line" used for sensitive communications, including talks with the White House (E&E News PM, Dec. 7, 2017).

The EPA inspector general also planned to examine Pruitt's secure communications facility but now will no longer conduct that review.

EPA's internal watchdog told Rep. Frank Pallone (D-N.J.), ranking member on the House Energy and Commerce Committee, in a Dec. 8 letter that it planned to review the facility but has since learned about GAO's coming probe (Greenwire, Dec. 12, 2017). The EPA IG has decided to not review the privacy booth in order to not duplicate efforts with GAO, according to EPA IG spokeswoman Tia Elbaum.

"We are no longer going to review the privacy booth since the GAO has initiated their own engagement," Elbaum told E&E News.

Nevertheless, the EPA watchdog does plan to review spending on Pruitt's personal security detail, which has been boosted to an around-the-clock presence, unlike for past administrators. In the same letter to DeFazio, the IG said the lawmaker had raised "issues about whether appropriated funds are available for the expenditures you question, and whether the EPA complied with applicable oversight controls in deciding to make the expenditures."

"These latter issues are within the authority of the IG to review, and we will do so," Elkins said.

Elbaum confirmed that the IG will review the security detail spending, saying, "We are only going to review Administrator Pruitt's security detail appropriations."

In his letter to DeFazio, Elkins offered caveats to the review of Pruitt's security detail. His office had not found information "indicating any criminal violations." In addition, the IG "will not second-guess decisions" within the agency's discretion, including whether Pruitt was justified to transfer EPA staff from enforcement duties to his security detail.

DeFazio as well as Rep. Grace Napolitano (D-Calif.) had requested the review of the security detail spending in an Oct. 4 letter to the IG. The lawmakers cited reporting by E&E News that found that EPA had spent nearly twice as much on Pruitt's security detail during his first months on the job compared with his predecessors (E&E Daily, Oct. 5, 2017).

An EPA spokesman declined to comment when asked by E&E News about the reviews by GAO and the EPA IG related to spending on Pruitt's privacy booth and security detail, respectively.

E&E Greenwire

https://www.eenews.net/greenwire/stories/1060071193/search?keyword=EPA

Arguments in 'exceptional' events suit set for March 22

By Sean Reilly, 1/17/18

A federal appellate court will hold oral arguments March 22 on a legal challenge brought by environmental groups to U.S. EPA's latest guidance for handling "exceptional" air pollution events.

The U.S. Court of Appeals for the District of Columbia Circuit set the date in an order yesterday; the makeup of the three-judge panel hearing the arguments will be announced later, according to

the order.

The guidance, issued under the Obama administration in September 2016, is geared to making it easier for states to get a pass on "exceedances" of air quality standards for ground-level ozone, particulate matter and other common pollutants because of wildfires and other forces outside regulators' direct control.

The agency acted in response to recurring complaints from state regulators that the previous system for proving an exceptional event was costly and time-consuming.

Under President Trump, EPA recently signaled that still more changes are in the works "to allow for greater state flexibility in flagging and excluding" pollution stemming from exceptional events from the data used to determine compliance with federal standards, according to a rundown of regulatory priorities released last month.

But the Natural Resources Defense Council and the Sierra Club, which challenged the Obama-era guidance with the lawsuit filed in late 2016, argue that EPA has already overstepped. While exceptional events are supposed to be the result of natural forces, they said in a brief last spring, the guidance allows "regular industrial pollution in vast amounts" to qualify and thus "violate Clean Air Act health standards" (Greenwire, May 22, 2017).

The two environmental groups have it wrong, EPA attorneys said in their August 2017 response brief. Under the agency's definition, the term "natural event ... covers only a small set of phenomena, namely acts of nature and their resulting emissions." The agency also claimed that the court should accept its reading under the Chevron doctrine. Under that doctrine, named for a 1984 Supreme Court case, courts defer to federal agencies when Congress hasn't explicitly addressed an issue.

As part of a 2005 law, lawmakers ordered EPA to account for exceptional events but have never defined "natural event," the brief said. The agency's interpretation "reasonably fills in the gap" and "limits natural events to those events with predominantly natural causes, while recognizing the reality that few acts of nature are truly free from human influences," according to the brief.

In an acknowledgement of the real-world stakes, both the American Petroleum Institute and a coalition of farm groups that includes the Kansas Livestock Association and National Cattlemen's Beef Association, have submitted friend-of-court briefs siding with EPA.

"EPA has provided a thorough and convincing explanation for its natural event definition," API said in its brief, arguing that the lawsuit should be "dismissed or denied."

The Hill

http://thehill.com/policy/energy-environment/369520-study-white-house-abandoning-science-advice-at-unprecedented-levels

Study: White House abandoning science advice at unprecedented levels

By Miranda Green, 1/18/18, 10:27 AM

A report released by the Union of Concerned Scientists (UCS) on Thursday provides a stark portrayal of how the federal government's relationship with scientists has deteriorated since President Donald Trump took office.

According to the report by UCS, a non-profit group of independent scientists, the administration's skeptical views on science advisers is represented by diminished staffing at the White House and across various government agencies.

President Trump is the first president in four decades to not appoint a presidential science adviser, the report said. Less than a third of the White House Office of Science and Technology Policy (OSTP) is full, with only 38 of 130 total positions filled.

In terms of government posts at the National Academies of Science that are designated as "scientists appointees," Trump has only filled 20 out of 77 positions. Comparatively, at the same point in their respective administrations, President Obama had 62 roles filled and President George W. Bush had filled 51.

Looking at science advisory boards and committees across the various government agencies, the UCS study also found that membership dropped 14 percent due to factors such as freezing of membership and disbanding of committees altogether. Examples include the Food and Drug Administration's (FDA) disbanded Food Advisory Committee and the Interior Department's (DOI) disbanded climate science advisory committee.

The total number of science advisory committee meetings in 2017 also decreased 20 percent from 2016, the study found.

The drop in the frequency of meetings of science advisory boards was most notable at key federal science agencies: the Department of Energy (DOE), the Environmental Protection Agency (EPA) and DOI. All three met less often in 2017 than at any time since 1997.

The findings confirmed promises made by various leaders within the Trump administration to increase the voices of the fossil fuel industry in advisory boards.

For example, Environmental Protection Agency (EPA) Administrator Scott Pruitt has noted a desire to include more industry voices as a way to level the playing field. Earlier this year he also banned all experts who receive grants from the EPA from serving as advisors on any committee.

Looking at the EPA specifically, the study found that looking forward to 2018, 23 percent of those sitting on the agency's Science Advisory Board will be industry representatives, compared to only 6 percent in 2017. Also, 50 percent of individuals on the board will be from academia, compared to 79 percent in 2017.

E&E Energywire

https://www.eenews.net/energywire/stories/1060071263/search?keyword=EPA

State auditor wants to release investigation Pruitt kept secret

By Mike Soraghan, 1/18/18

Oklahoma's state auditor wants a court order allowing him to release an investigative audit of Superfund spending suppressed by U.S. EPA Administrator Scott Pruitt when he was Oklahoma attorney general.

In a legal filing yesterday, State Auditor Gary Jones said Pruitt had already released the audit years ago, without authorization, to the organization Jones had been investigating.

The filing was Jones' response to a lawsuit filed last year by a Washington watchdog group seeking release of the audit, done in response to allegations of corruption at the Tar Creek Superfund site near Miami, Okla. (Greenwire, Nov. 27, 2017). As EPA administrator, Pruitt is now in charge of Superfund.

"The auditor's response completely vindicates our position and demonstrates why this audit should be released to the public immediately," said Daniel Stevens, the executive director of the group, called Campaign for Accountability.

Also notable in Jones' filing yesterday is that he has hired his own attorney, Mickey Dodson of Oklahoma City. Jones, who is now seeking the Republican nomination to run for governor, had previously relied on the legal advice of the state attorney general's office in saying he was not allowed to release the audit.

E&E News has also requested the Tar Creek audit but is not involved in the lawsuit.

Tar Creek is a 40-square-mile site in the far northeastern corner of Oklahoma where land and water were contaminated by decades of lead and zinc mining that ended in the 1950s. In the early 1980s, EPA deemed it the most contaminated site in the country.

As part of the cleanup, the federal government provided money in 2009 to buy out homeowners and demolish the homes. The work was overseen by a board of area residents called the Lead-Impacted Communities Relocation Assistance Trust, or LICRAT. But companies that sought demolition work complained that contracts were being unfairly steered to companies favored by board members.

Pruitt requested the audit from Jones' office in April 2011 after the staff of then-Sen. Tom Coburn (R-Okla.) forwarded the corruption allegations.

After Jones' staff completed the audit and sent it to the attorney general's office, Pruitt decided against prosecution. Jones then asked Pruitt to release the audit publicly, but Pruitt said no.

At the time, Pruitt said he was concerned the audit contained "unsubstantiated criminal accusations" against "private citizens." Jones called that reasoning "baffling," saying the claims were substantiated and involved public officials.

The attorney general's office, now headed by Mike Hunter, reviewed Jones' request again this summer after E&E News and another media outlet asked for the audit documents. Hunter's office also said no, but the reason changed. This time, the response was that any report of a criminal investigation remains confidential.

But Jones' response yesterday included a new wrinkle. He said Pruitt had released the document to the attorney for LICRAT. Jones' filing cited a 2014 memo from the attorney apparently responding to the report.

In his response, Jones asked that a judge issue a writ of mandamus ordering him to release the audit report and supporting records.

The Campaign for Accountability has also filed an ethics complaint against Interior Secretary Ryan Zinke in recent months.

A spokeswoman for the Oklahoma Attorney General's Office declined to comment on the filing, saying a copy wasn't yet available. EPA press officials did not respond to requests for comment.

E&E Daily

https://www.eenews.net/eedaily/stories/1060071255/search?keyword=EPA

Dems bash Pruitt over cleanup rules

By Dylan Brown, 1/18/18

Eight Senate Democrats yesterday rebuked U.S. EPA's recent decision not to issue new regulations governing the Superfund insurance companies must have to conduct hardrock mining.

In a letter, the senators accused Administrator Scott Pruitt of failing to protect taxpayers from the environmental risks of non-coal mining, a top source of pollution with an estimated 500,000 abandoned mines nationwide.

In December, Pruitt signed a final rule updating Section 108(b) of the Superfund law, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

(Greenwire, Dec. 4, 2017).

Two years before, a federal court had ordered EPA to draft new hardrock financial assurance standards more than three decades after the agency was supposed to have set them.

But, Pruitt rejected the Obama administration's proposed additional bonding requirements. Citing concerns among regulators and the regulated community, the final rule imposed no new assurance requirements because of existing federal and state programs created since CERCLA's passage.

The Democrats disagreed, arguing EPA inaction helped create $50 billion in cleanup costs at hardrock Superfund sites.

"By conjuring up the baseless determination that there is no risk of taxpayer funded cleanups from hard rock mining and therefore not requiring assurances, you are assuring that we will continue to create high-cost environmental disasters," the senators wrote.

Sen. Tom Udall (D-N.M.), a longtime champion of mining reform, signed the letter with Sens. Dick Durbin (D-Ill.), Ron Wyden (D-Ore.), Michael Bennet (D-Colo.), Sheldon Whitehouse (D-R.I.), Dianne Feinstein (D-Calif.), Bernie Sanders (I-Vt.) and Tammy Baldwin (D-Wis.).

Wall Street Journal

https://www.wsj.com/articles/APdc4d4bab6e354fab80aa387805de8c81?mod=searchresults&page=1&pos=2

NY, Connecticut file lawsuit seeking US action on smog

1/17/18, 2:45 PM

ALBANY, N.Y. — The attorneys general for New York and Connecticut have filed a lawsuit against the Trump administration in the latest multi-state effort to compel federal regulators to reduce smog blowing in from upwind states.

Eric Schneiderman of New York and George Jepsen of Connecticut filed the lawsuit Wednesday in federal court in Manhattan. The suit says the Environmental Protection Agency is violating the federal Clean Air Act by failing to curb air pollution that blows east into New York from upwind states such as Illinois and Michigan.

The legal action is at least the fourth in the past year involving mostly East Coast states seeking to have the EPA regulate out-of-state pollutants. Last month, New York and seven other states filed a lawsuit in a federal appeals court on the same issue.

Cleveland.com

http://www.cleveland.com/court-justice/index.ssf/2018/01/epa_overturns_approval_of_ohio_1.html

EPA overturns approval of Ohio's decision to omit its Lake Erie from 'impaired' waters list

By Eric Heisig, 1/17/18, 6:14 PM

CLEVELAND, Ohio -- The U.S. Environmental Protection Agency withdrew its approval of Ohio's decision to keep Lake Erie off a list of impaired bodies of water, which rankled environmentalists who pointed to harmful algal blooms contained within the lake.

The U.S. EPA's reversal of its May decision was memorialized in a letter sent Friday to Ohio EPA Director Craig Butler and filed in federal court by the Environmental Law & Policy Center. The organization is suing the U.S. EPA over its initial approval Ohio's biennial impaired waters list.

The letter, written by Assistant Administrator David Ross, says the U.S. EPA re-evaluated the Lake Erie designation "and determined that the submission is incomplete and thus not fully consistent with the requirements of ... the Clean Water Act and EPA's regulations." It says Ohio did not show that it compiled all the necessary data to say its portion of the lake was not impaired.

The letter asks the Ohio EPA to perform a new evaluation of the state's portion of Lake Erie and send it by April 9.

(You can read the letter here or at the bottom of the story.)

Lake Erie's most significant pollutants come from fertilizers running off into the lake, primarily by way of the Maumee River in Toledo.

That pollution tainted the area's supply of drinking water in the past. In 2014, 400,000 Toledo area residents were temporarily without drinking water after harmful toxins from algal blooms fouled the water supply.

Butler has said the impaired waters designation is "immaterial" and that Ohio, Michigan and Ontario have an agreement to reduce harmful nutrient runoff into the lake by 40 percent by 2025. The Environmental Law & Policy Center argues that the impaired waters designation is an important step in addressing pollution in the lake.

Organization Executive Director Howard Learner treated the letter as a victory, as the center had sued the U.S. EPA's to challenge its previous decision.

"The letter confirms that we're right on the legal and factual arguments we made in the federal district court," Learner said, adding that the U.S. EPA has effectively "confessed error."

Butler on Wednesday described the lawsuit as an "academic legal question" at this point, since the state is set to soon conduct an evaluation for its 2018 list.

"For the ELPC to jump up and down and declare victory is a little overblown to me," Butler said.

He said the state did not include Lake Erie on its 2016 list because it did not have a good way to measure conditions caused by algae and whether problems have improved or worsened.

When the Ohio EPA asked the federal government for a way to measure, the U.S. EPA said it did not have one, Butler said.

Butler said researchers at Ohio State and Bowling Green State universities are developing a tool to measure whether Ohio's portion of the lake is impaired. The plan is to use that scale for the next evaluation, he said.

Learner said his organization is still asking a federal judge to rule that the U.S. EPA violated the Clean Water Act through its initial approval of Ohio's list. The organization is also asking the judge to order the U.S. EPA to conduct its own evaluation, as federal rules mandate that it conduct one instead of asking a state to do so.

"It is worth noting that the next biennial iteration of Ohio's ... list is already due on April 1, 2018, ... meaning that U.S. EPA is essentially giving Ohio EPA a 'free pass' on its deficient 2016 listing," the organization wrote in a court filing Tuesday.

Spokeswoman Tricia Lynn said the federal EPA does not comment on pending litigation.

Chicago Tribune

http://www.chicagotribune.com/news/local/breaking/ct-met-us-steel-chromium-lawsuit-20180117-story.html

Lawsuit accuses U.S. Steel of polluting Lake Michigan with toxic chromium

By Michael Hawthorne, 1/18/18, 7:00 AM

As a group of Lake Michigan surfers filed a lawsuit Wednesday accusing U.S. Steel of repeatedly violating the federal Clean Water Act, it appears their earlier threat of legal action is having the intended effect.

Hours after the Surfrider Foundation filed its lawsuit in U.S. District Court in Hammond, U.S. Steel announced it is close to reaching a settlement with federal and state officials regarding spills of toxic chromium from its Midwest Plant, part of a complex of steel mills that divides the Indiana Dunes National Lakeshore in Portage.

U.S. Steel, the U.S. Environmental Protection Agency and the Indiana Department of Environmental Management declined to provide details.

The two government agencies began negotiating privately with the steelmaker after the surfing group enlisted the Abrams Environmental Law Clinic at the University of Chicago to research pollution violations at U.S. Steel and other factories on the southwest shore of Lake Michigan.

Citing information law students gleaned from public records, the clinic filed notice in November

that it planned to sue for improvements on behalf of the Chicago chapter of Surfrider, a nonprofit group that represents an active band of Great Lakes surfers.

Federal law allows citizens to challenge companies on their own about water pollution violations but requires a warning 60 days before filing suit.

"When a corporation discharges massive amounts of water pollution into public areas that are popular spots for families and recreation on an ongoing basis, they need to be held accountable for it," said Mitch McNeil, chairman of Surfrider's Chicago chapter.

Beaches near the Midwest Plant offer some of the best waves on Lake Michigan, McNeil said. But many surfers opt to stay away after swimming through what he described as dark-brown water that smells alternately like metal, sewage, petroleum or a used ashtray.

State records show the Midwest Plant has violated chromium limits in its water pollution permit at least four times since 2013. An April spill included 298 pounds of hexavalent chromium, a highly toxic version of the metal made infamous by the movie "Erin Brockovich."

Operators of the water supply for the nearby town of Ogden Dunes responded by temporarily shutting off its Lake Michigan intake, Chicago conducted emergency testing of its own water supply and the National Park Service closed four beaches as a precaution.

After another spill in late October, neither the company nor Indiana regulators informed the public. A notice U.S. Steel sent to the state agency requested "confidential treatment" of the incident. The U.S. EPA learned about it from a Tribune reporter.

A state inspector later determined that U.S. Steel had failed to test for hexavalent chromium in a ditch that empties into Lake Michigan, even after a worker spotted blue liquid "with visible solids" pouring from one of the plant's sewer pipes.

In December, Chicago Mayor Rahm Emanuel said the city was planning to file its own lawsuit, citing the steel mill's close proximity to a Lake Michigan drinking water intake off 68th Street.

Cathy Stepp, the Trump administration's new regional EPA administrator, last week rejected Emanuel's request for city lawyers to be involved in the negotiations with U.S. Steel.

"We believe that the compliance measures … will go far in protecting Burns Harbor and Lake Michigan from unlawful discharges and spills," Stepp wrote in a Jan. 11 letter to Edward Siskel, the city's corporation counsel.

U.S. Steel and the Indiana agency issued similar statements Wednesday.

"We acknowledge and regret the incidents and have consistently worked to identify, report, investigate, and correct each issue," U.S. Steel said in a statement. "We are driven by our core value of environmental stewardship, which establishes our firm commitment to compliance with environmental rules and regulations."

Mark Templeton, director of the U. of C. law clinic, remained skeptical.

"Once again, the U.S. EPA and IDEM are asking citizens to trust them about this issue," Templeton said. "All we see is a lot of talk and no action."

E&E Greenwire

https://www.eenews.net/greenwire/stories/1060071175/search?keyword=EPA

Smelly wrecked boats await disposal after Irma

1/17/18

Seminole Boat Ramp in Miami is home to a yacht graveyard, where unclaimed boats wrecked by Hurricane Irma lie on their sides waiting to be claimed or demolished.

The storm left the boats in odd places throughout the city — even on a high school football field. But now they've all been deposited together at a marina that stinks of sewage, gasoline and rotting wood.

Florida does not require boat insurance, meaning owners who cannot afford to remove or repair them have simply abandoned their vessels.

That has left the cleanup to a coalition of state and federal agencies called the Emergency Support Functions, which includes Florida Fish and Wildlife Conservation Commission (FWC), the Coast Guard and U.S. EPA.

Over 2,000 boats have been removed so far, and if they aren't claimed, they will be crushed and put into a landfill by the Emergency Support Functions.

"A firm timetable is unavailable," said Rob Klepper, spokesman for the FWC's law enforcement division. "The FWC has to reach out to all those boat owners and see if they will take care of their boat or relinquish their rights and have it destroyed. It can be fairly difficult to contact owners depending on how and if the title has been transferred" (Linda Robertson, Miami Herald, Jan. 16). — NS

The News-Review

https://www.nrtoday.com/news/environment/myrtle-creek-assures-residents-that-its-drinking-water-is-safe/article_a03efa30-fef1-5519-a399-795ba5b3b454.html

Myrtle Creek assures residents that its drinking water is safe

By Emily Hoard, 1/17/18

Rest easy, residents of Myrtle Creek. According to health standards established by the Environmental Protection Agency, trace amounts of radium in drinking water are perfectly safe.

The response comes after a story published Saturday that more than half of Americans could be drinking water with traces of radium, according to an environmental advocacy group.

In 2011, Environmental Working Group listed Myrtle Creek's water with an average radium level of 0.6 picoCuries per liter, well below the federal Environmental Protection Agency's established maximum contaminant level of 5 pC/L.

Myrtle Creek City Administrator Sean Negherbon said the city's drinking water continues to more than meet guidelines from the Safe Drinking Water Act.

"Our goal at the city of Myrtle Creek is to provide you with a safe and dependable supply of drinking water," Negherbon wrote in a statement. He said the city strives to improve its water treatment process and protect its water resources in accordance with the Safe Drinking Water Act, which allows the EPA to set federal standards for drinking water.

Negherbon said drinking water, including bottled water, is expected to contain at least small amounts of contaminants, the presence of which do not necessarily pose a health risk.

"As water travels over the surface of the land or through the ground, it dissolves naturally occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity," he wrote.

The city of Myrtle Creek treats water from Springbrook Springs and the South Umpqua River, and water from both sources showed small amounts of radium — the average result of 0.6 picoCuries per liter — detected in three of six samples during the city's most recent testing in 2011. No radium was detected in the other three samples.

"Detecting a contaminant at any level does not always mean there is a risk to public health," Negherbon said.

The Safe Drinking Water Act established a scientific process to evaluate potential health risks of contaminants and analyze the costs and benefits of potential regulations, he said. The act requires water systems to test for radium every nine years.

Negherbon said the city of Myrtle Creek's Consumer Confidence Report is available online at cityofmyrtlecreek.com and at City Hall.

To: Baptist, Erik[Baptist.Erik@epa.gov]
From: EPA Press Office
Sent: Wed 1/17/2018 9:53:13 PM
Subject: Pruitt Aims to Accelerate His Efforts to Remake the EPA

No Images? Click here

THE WALL STREET JOURNAL

Scott Pruitt Aims to Accelerate His Efforts to Remake the EPA

Eli Stokols and Timothy Puko
January 17, 2018
https://www.wsj.com/articles/scott-pruitt-aims-to-accelerate-his-efforts-to-remake-the-epa-1516220866?mg=prod/accounts-wsj

Environmental Protection Agency chief Scott Pruitt plans to use his second year on the job to accelerate efforts to remake the agency, saying he wants to speed its permitting processes and transform a culture he says is bureaucratic.

In an interview with The Wall Street Journal, Mr. Pruitt outlined the changes he is looking to make in year two: repealing and rewriting Obama-era rules for power plant emissions, speeding up the EPA's permit review process, implementing weekly performance assessments across the agency and fostering a public debate about climate change.

Mr. Pruitt has long questioned the scientific consensus that human activities are a significant factor in rising global temperatures and severe weather, and pose a potential existential threat to life on Earth in decades to come.

Discussing his plans for the year, Mr. Pruitt emphasized the importance of moving quickly. "There's tremendous opportunity to show really significant results to the American people in a really short time frame," Mr. Pruitt said.

In his first year on the job, the former Oklahoma attorney general swiftly repealed several of former President Barack Obama's signature policies and encouraged President Donald Trump to pursue a withdrawal from the Paris climate agreement. Mr. Trump announced his intention to exit from the agreement in June.

Mr. Pruitt has memorialized the moment in his office with a framed photo of the two of them in the Rose Garden and the president's autograph on Mr. Pruitt's prepared remarks, "Scott—Great Job!"

Going forward, Mr. Pruitt wants to use metrics to measure the weekly performance of every EPA office and wants final permit decisions completed within six months. He already has a multicolored pyramid diagram outlining his plan to streamline the agency's bureaucracy and organizational workflow.

"That's the thing that's been so striking to me as I've come into this position…is just the lack of focus and lack of energy and lack of commitment to actually get results," said Mr. Pruitt, speaking during a 30-minute interview in his wood-paneled office this week. "We have permits that literally are sitting on a shelf, and just sitting there because there's just no attention, no leadership, no direction. It's that simple." …

The EPA chief also said he believes the agency exceeded its legal mandate under President Barack Obama in creating new rules for power plants in the name of slowing the pace of climate change. "This agency for years has speculated about harm that may be happening 100 years from now as opposed to what's right in their own backyard," said Mr. Pruitt.

In 2018, he said he plans to spend 2018 focusing on cleaning up toxic sites in the Superfund program and with what he calls "the war on lead."

"I really believe that we can eradicate lead from our drinking supply within a decade. We just have to get serious about it," Mr. Pruitt said. "We haven't been focused and urgent about the things that matter and can impact people's health today, and we need to do that."

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Tribune-Review (via AP)

http://triblive.com/business/headlines/13135752-74/starkist-epa-reach-new-agreement-on-american-samoa-plant

StarKist, EPA reach new agreement on American Samoa plant,

By The Tribune-review, 12/2, Updated 8:30 PM

The Environmental Protection Agency and Pittsburgh-based StarKist Co. have reached a new agreement in the government's environmental enforcement action over the company's American Samoa plant.

The Justice Department announced the new agreement in Tuesday's Federal Register.

The original agreement included $6.3 million in fines and the company's agreement to upgrade pollution controls at the plant. The new agreement adds another $200,000 in fines and a commitment by StarKist to improve its stormwater collection system.

The problems with the stormwater system were discovered after the company and the government made the original agreement, StarKist said in an email statement Tuesday.

The new agreement also adds the Territory of American Samoa to the lawsuit and allows it to receive $2.6 million of the $6.5 million in fines. The rest of the fines go to the federal government.

AP

https://apnews.com/732780b2e5a7446cba18d9561525b039/EPA-tells-GE-it's-too-early-to-say-Hudson-cleanup-done

EPA tells GD it's too early to say Hudson cleanup done

By AP, 1/2

ALBANY, N.Y. (AP) — The U.S. Environmental Protection Agency says it needs to finish a review of a $1.7 billion Superfund cleanup of the Hudson River before declaring whether the job was completed properly.

The EPA told General Electric Co. in a letter Tuesday it expects to finalize its review early this year.

Boston-based GE asked for a "certificate of completion" a year ago and the agency was obliged to respond by Wednesday.

GE completed removal of 2.75 million cubic yards (2.1 million cubic meters) of polychlorinated biphenyl-contaminated sediment from the river in 2015.

The EPA has said that, based on existing data, it does not appear as though more dredging is needed.

New York state officials and other critics pushing for a broader cleanup say too much PCB-contaminated sediment remains in the river.

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For Chemical Safety Board, Advice to Federal Agencies Piles Up

By Sam Pearson, 01/03/18

Launched two decades ago as a free agent with the power to call out scofflaw businesses and any lax federal regulations enabling them, the U.S. Chemical Safety Board is still waiting for systemic changes only willing federal partners can secure.

Though the CSB lacks its own regulatory authority, it can urge federal agency changes with implications for oil and chemical companies as well as labor unions and workers because their facilities are subject to these regulations.

But a large majority of the independent agency's recommendations to federal counterparts have languished without action, records show.

Federal agencies failed to respond to CSB recommendations 31 percent of the time. And just 37 percent of the CSB's recommendations to federal authorities have been adopted since the agency opened in 1998, according to a Bloomberg Environment analysis of CSB data.

By comparison, trade organizations have implemented 73 percent of recommendations, while facility owners and operators adopted 77 percent. Manufacturers of equipment, vendors, contractors, and suppliers of facilities where a chemical incident has occurred have met 89 percent of recommendations.

Mixed Results

The CSB “frankly, has somewhat of a mixed history in relating to other federal agencies,” board

member Rick Engler said at a public meeting in October. "Maybe that's a nice way of putting it."

The discrepancy reflects the difficulty of the tasks the CSB assigns to federal agencies, Michael Wright, health and safety director at the United Steelworkers Union, which represents workers at some industrial facilities that have been investigated by CSB, told Bloomberg Environment.

A trade organization "can just assemble a group and get to work on a new consensus standard," if that is what CSB asks for, Wright said. "It's infinitely easier to do that than it is for OSHA [the Occupational Safety and Health Administration] to go through a whole rulemaking."

A CSB spokeswoman didn't respond to a request for comment.

Off the Hook

Recent questions about the feasibility of the CSB's recommendations to federal agencies has led to some second guessing.

In one instance following debate during a public meeting in November, the board voted 3-1 to abandon a recommendation to the Bureau of Safety and Environmental Enforcement that suggested the Interior Department agency set up a system of labor management safety councils for offshore oil facilities in the Gulf of Mexico.

The board had identified insufficient worker participation in safety roles at offshore oil platforms as a problem in its Deepwater Horizon explosion investigation in 2010. But earlier this year, BSEE told the CSB it lacked the legal authority to set up the program.

In a March 22 letter to CSB Director of Investigations Charles Barbee, Douglas Morris—BSEE's chief of its office of offshore regulatory programs—did not specify why the agency lacked authority. The letter said BSEE thought the CSB's safety objectives have been addressed by "recent BSEE reforms."

The move prompted claims from some labor advocates and former Obama administration officials that the CSB was failing to stand up for strong safety standards. The board said it wanted the changes but was convinced by BSEE's legal analysis.

The action means that CSB will no longer list BSEE as noncompliant with the regulation. The board's next move is unclear, but the CSB has "an obligation to fix that problem and to get [the recommendation] addressed to the right people and push to see it adopted," the United Steelworkers' Wright said.

Some Successes

After an explosion at a Delaware oil refinery killed one worker and injured eight in 2001, the CSB issued eight recommendations to industry trade associations—the American Petroleum Institute, National Association of Corrosion Engineers, and National Petrochemical and Refiners Association—five of which have been adopted and completed.

But a request that OSHA cover certain atmospheric storage tanks like the one that exploded at the refinery under its process safety management standard remains incomplete. The board designated it as open with an unacceptable response in 2013, more than 10 years after issuing the request. The board said it had "inquired about the progress of this revision on multiple occasions, without receiving a clear answer."

BSEE is not the only agency with outstanding recommendations from the CSB. Records show the board has 31 other open recommendations to federal agencies for which it has not received a response, though there's no indication of broader pushback to the CSB standards.

Sometimes agencies, such as the Occupational Safety and Health Administration, found it more practical to wait to incorporate CSB suggestions en masse in a future rulemaking, rather than address the recommendations individually as they arrived, Jordan Barab, former OSHA deputy director from 2009 to 2017, told Bloomberg Environment.

"A lot of the agencies they are going to are EPA and OSHA, which have severe cases of regulatory constipation," Jeff Ruch, executive director of Public Employees for Environmental Responsibility, which advocates for government employees, told Bloomberg Environment.

For example, federal programs that protect workers and the public from unplanned chemical releases haven't seen rewrites in decades. OSHA has not updated its process safety management standard since 1992, and the EPA has not rewritten its facility risk management program regulation since it was published in 1996.

How Recommendations Work

Recommendations are developed by career staff, but Senate-confirmed board members must vote to approve them or modify their status later.

The agency rarely reconsiders recommendations to federal agencies, as it did for BSEE. It has done so only five other times since its founding. Halted proposals to these entities include:

• On Feb. 1, 2017, it abandoned a request that the EPA play a role in a process safety culture survey oversight committee at Andeavor Corp.'s Tesoro, Wash., refinery, a recommendation first issued in 2014. CSB said it "reconsidered the appropriateness" for a federal agency to participate in a company-specific program.

• On July 5, 2017, it scrapped a call that OSHA amend its permit-required confined spaces rule for general industry to reduce the limit below the level at which a flammable chemical could ignite, a recommendation issued in 2010. OSHA told the CSB that the standard already prohibited such conduct and enforced it against the company, Xcel Energy, that the CSB had investigated.

CSB Outcomes Reviewed

CSB staff audited some recommendations in 2015, releasing a report finding that recipients who did not complete the suggestions understood what was expected of them, and that recipients whose recommendations were already marked as closed had not backtracked on their progress.

At the same time, the report said it was hard to know whether chemical incidents had declined as a result of specific safety recommendations because the CSB lacks more reliable data on how often they occur.

The board has since been sued by advocacy groups that wanted a court to order it to issue a chemical reporting regulation, as called for in the Clean Air Act Amendments of 1990.

Barab said the CSB might be able to achieve better outcomes by working collaboratively with federal agencies in advance of issuing a safety recommendation.

It's important to "make sure you have a thorough discussion with the targets of the recommendation to make sure that what you're doing is possible legally for the agency to do, and where it's the most effective way to get where you want to go," Barab said.

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ARCO's Appeal Over Montana Smelter Suit Turned Aside

By Steven M. Sellers, 01/03/18

State tort claims against Atlantic Richfield Co. over a Montana smelter may proceed because they don't conflict with EPA's ongoing cleanup of the Superfund site, the Montana Supreme

Court ruled Dec. 29.

Ninety-eight owners of private land within the Superfund site can seek compensation to restore their properties beyond remedies approved by the EPA for the Superfund site as a whole, the court said in a split decision.

The 6-1 ruling came in litigation over the former Anaconda Copper Mining Co. smelter, and continues the trend of state and federal courts holding that Superfund enforcement actions don't extinguish parallel state-law actions over damage on private property.

Although the EPA has sole authority to supervise and approve remediation measures at Superfund sites, the state high court declined to overturn a lower court decision denying ARCO summary judgment.

The Comprehensive Environmental Response, Compensation, and Liability Act expressly preserves state-law environmental tort claims that complement the federal law, the court said.

ARCO's argument that Montana's courts were deprived of jurisdiction by CERCLA's provisions limiting “challenges” to EPA remedial actions was also rejected.

Such challenges require proof of interference with EPA enforcement, not just the prospect of a company having to pay additional damages, the court said.

Here, the homeowners’ remedies won't interfere with EPA's overall remediation plan, the court said.

The U.S. Department of Justice also acknowledged in a friend-of-the-court brief filed that at least some aspects of the plaintiffs’ cleanup plan wouldn't constitute a challenge barred by Superfund, Justice Beth Barker said in a concurring opinion.

Justice Laurie McKinnon dissented. In her view, Superfund bars the cleanup sought in the homeowners' suit—which calls for an 8,000-foot trench and removal of 650,000 tons of soil.

Justice James Jeremiah Shea wrote the court's opinion, joined by Justices Michael E. Wheat, Dirk M. Sandefur, and Baker. Judges James Manley and John Kutzman, sitting by designation, also concurred.

Davis Graham & Stubbs, as well as Poore, Roth & Robinson represented ARCO.

Beck, Amsden & Stalpes, and well as Kovacich Snipes represented the plaintiffs.

The case is *Atl. Richfield Co. v. Mont. Second Judicial Dist. Court*, 2017 BL 465890, Mont., No. OP 16-0555, 12/29/17.

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The New TSCA: Balanced Compromise or Business as Usual?

By Rena Steinzor, 01/02/18

Lobbied with great energy by the chemical industry and a prominent national environmental group, Congress managed to pass a bipartisan reauthorization of the Toxic Substances Control

Act ("new TSCA") on June 22, 2016, even as the presidential election reached new heights of vituperative energy.

Most of the politicians involved in the deal-making felt entitled to a victory lap, including President Barack Obama. "For the first time in 20 years, we're updating a national environmental statute. For the first time in our history, we'll actually be able to regulate chemicals effectively," the president enthused at the signing ceremony.

This sunny display of consensus dissipated quickly, as expected by any veteran of the decision-making that translates congressional will on environmental issues into action.

Interest groups retreated behind their own lines, assuming that Hillary Clinton, a candidate susceptible to environmentalist pressure but also open to industry concerns, would be the next president of the U.S. With the stunning election victory of President Donald Trump, this premise was turned on its head, as deregulators climbed into the driver's seat of the executive branch, the House, the Senate, and, soon, the courts.

The unusual alignment left the chemical industry with little incentive to honor the delicate balance of trade-offs that propelled the legislation across the finish line. Now, with compromise a distant memory, the new law teeters on the brink of failure, sabotaged by polarized disputes over the language of the new statute, heavily skewed decision-making, funding gaps, and a brain drain at the EPA. It will be implemented in some fashion, but the effective control of toxic chemicals seems elusive.

Typical Process?

Some insist that what is happening now is no more and no less than the typical scenario that occurs whenever Congress passes legislation and the executive branch undertakes the arduous, increasingly fraught process of implementation. When I appeared on a recent American Bar Association panel with Michael Walls, a vice president with the American Chemistry Council, he told me just that in response to my gloomy prediction that a hijack of the compromise was in process. But, as is true in so many other arenas, the Trump administration's hostile takeover of the executive branch means anything but business as usual.

What are the implications of failure for public health? In 2009, the EPA's efforts to assess and control hazardous chemicals was placed on the Government Accountability Office's (GAO) "High-Risk List" of government programs that are sufficiently dysfunctional and important to require top-level intervention. The list is quite selective, composed of just 34 entries in 2017. The GAO explained that the "EPA had not developed sufficient chemical assessment information under these programs to limit exposure to many chemicals that may pose substantial health risks."

The vast majority of Americans have no idea that the GAO keeps such a list, and their acute disillusionment with government arises from other priorities. Yet anxiety over toxic exposures erupts periodically with great force, as illustrated by the reaction of activists to emerging science about bisphenol-A (BPA). Its presence in baby bottles and the news that it might be an endocrine disrupter provoked a rapid and successful episode of "regulation by internet," a phenomenon that chemical manufacturers ignore at their peril.

The bottom line of such incidents is that the popular perception that the EPA is captured by the chemical industry is not good. When government seems inept, and some science indicates a chemical is poisoning people, social media makes boycotts possible, without regard to the elaborate scientific arguments manufacturers make to convince government decision-makers that the public's reactions are hysterical. Should the EPA's implementation of the new TSCA be discredited by the appearance of industry capture, its origin as a compromise will be forgotten.

Four aspects of the new law's implementation bear watching.

Parsing Language

One of the biggest victories scored by the Environmental Defense Fund (EDF) in its negotiations with chemical industry leaders was a provision that prohibits the consideration of costs during risk assessments of existing chemicals. Of course, industry got plenty in return, from the continuation of the cost-preoccupied "unreasonable risk" standard for rule-writing to preemption of more aggressive state regulation of substances that the EPA is evaluating.

But insulating scientific evaluation of exposure hazards from mandatory cost-benefit analysis is a big deal, especially because TSCA assessments will become the gold standard for gauging the

threat posed by toxics in all the agency's other programs, from hazardous waste disposal to air pollution. Or, in other words, the implications of TSCA risk assessments extend far beyond the new law's task of allowing specific chemicals to be made and sold for uses in commerce.

The portent of negative risk assessment findings looms large for industry insiders despite the extraordinarily slow pace at which the agency is supposed to complete evaluations of existing chemicals. (It has begun with just 10 chemicals out of a universe of thousands, with those assessments due in June 2019, and it is only required to address 20 assessments annually in the out-years.) In a recent column, Charles Franklin, a lawyer at Akin Gump, warned against "the potentially catastrophic consequences for the marketability of a chemical product and the reputation of the manufacturer from an unexpected adverse risk determination." No surprise, then, that circumscribing the scope of such assessments became the first battleground, fought first within the agency and now in court.

The chemical industry and its allies inside and outside government were nimble enough to win the naming game regarding the issue when they fought to exclude what they described as "legacy uses" from assessments. This clever nom de guerre leaves the impression that assessments have been saved from wasteful tours of ancient historical uses akin to a 24/7 version of the Antiques Roadshow. If a use occurred in the past, goes this argument, how could it possibly have much significance for the future exposure of people who breathe, wash, eat, or work with existing chemicals for which the agency has approved a future use?

One answer is that many chemicals are persistent inside the body and in the environment. Because they hang around, continuing exposure is a matter of course. A second, related one is that ongoing exposure over a period of several years may have started the process of becoming sick and future exposure will therefore harm a person already made vulnerable by uses the EPA is determined to ignore. In other words, so-called legacy uses have the capacity to make people sick and destroy ecology, no matter when the chemicals were sold and used. Conversely, once an existing chemical clears the hurdle of risk assessment and regulation, the EPA has little control over where and how products are used, whether people already exposed to the chemical might risk further exposure, or how much harm cumulative exposures may do.

Or, to turn the name game around, the new law requires the agency to take members of "susceptible" populations (infants, children, pregnant women, workers, or the elderly) as they find them. Past exposures that increase their risk of harm to future emissions must be taken into account.

Needless to say, the two sides have parsed the statutory language in diametrically opposed ways. The new law authorizes the EPA to define and evaluate "conditions of use" under which "a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of." Industry reads the "to be" phrase to mean only future exposure, while environmentalists argue that "known" use means past use and the ongoing exposure caused by such deposits of the chemical into the environment.

The Obama EPA opted for the broader view but the Trump EPA has narrowed its inquiry to nonlegacy uses, defined as the level of production that is occurring today and will occur in the near future. A coalition of environmental groups has challenged the Trump administration's definition in court where it will face the traditional government defense that the statutory language is unclear and judges should therefore defer to agency discretion under *Chevron U.S.A. v. Natural Resources Defense Council, Inc.*, a case roundly condemned by conservatives like Justice Neil Gorsuch.

Skewed Decision-Making

Nancy Beck, the EPA employee supervising the implementation of the new law, has a high profile among those steeped in the mind-numbing details of toxic chemicals policy making over the last couple of decades. When she was a freshly minted Ph.D., Beck went to work for John Graham, the conservative public policy analyst who served as the regulatory czar under President George W. Bush.

Graham had far-reaching ambitions for the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA), including the insertion of its small staff into issues of regulatory science, most particularly the conduct of risk assessment. He assigned Beck to sit down and draft governmentwide standards for risk assessments that, among other things, conflated the distinct activities of assessment and management. The result was that risk was judged through the myopic lens of what management method was affordable. Or, in other words, the government would calculate the levels of exposure to toxic chemicals that regulatory intervention could achieve affordably, but would not address the harmful exposure that remained following such intervention. The guidance was considerably fussier than this core principle, which on its own was a big gift to affected industries, and it was ultimately derailed by objections from within the executive branch and prestigious institutions like the National Academies of Science.

Beck resumed her patrol of day-to-day decision-making at the EPA, compelling career staff to negotiate with her regarding the initiatives, large and small, that were submitted to the OIRA for approval. Eventually, she departed for a job with the American Chemistry Council where she was at the forefront of negotiating the new TSCA. Beck then returned to government service as part of the Trump administration's small cadre of new employees sent to establish a beachhead at the EPA.

Beck was hired in an "administratively determined" position, an unusual category that means she is neither a political appointee nor a competitively hired civil servant. The overriding benefit of this unusual designation is that it exempts such positions from ethical rules that impose a two-year moratorium on political appointees regarding any involvement in matters they had worked on before joining the government. According to Eric Lipton, an investigative reporter for *The New York Times*, no more than a dozen employees are in such positions among the agency's 15,800 employees because the category is usually reserved for especially qualified experts. In a memo justifying Beck's employment obtained by Lipton through an open records request, Kevin Minoli, the agency's acting general counsel, wrote that Beck's extensive background regarding the preferences of the chemical industry in implementing the new law gave her a distinct advantage.

As a practical matter, narrowing conditions of use to overlap exactly with the current and future production of suspect chemicals can have the same result as the conflation of assessment and management during the risk assessment process. Think of all the ongoing risks that are discarded from consideration by such a process.

Has a chemical leached into groundwater used to irrigate crops and are people ingesting it through food? So long as the current and future production of the chemical does not involve intentional deposition in groundwater, those risks may be ignored, even if the same susceptible people are exposed through the chemical's inclusion in household products or air emissions from nearby factories. Suppose the members of a susceptible population are workers on the line in a factory where the chemical under evaluation is made. If they also live in an airshed where the same chemical once was used in manufacturing processes now discontinued, those same individuals have endured many years of similar exposure. Future exposure resulting from use of a product counts, but exposure resulting from previous use might as well never have happened.

Were she to respond to these concerns, Beck might well say that grave unfairness would result from forcing companies to cease making or using a chemical simply because other companies made or used it in the past. But this kind of balancing is appropriate, if at all, in the risk

management phase when the EPA weighs the costs and benefits of potential controls. Under the new law, risk assessments must consider the full range of exposures lest they result in a whitewash of such hazards.

Budget Gaps

The EPA's preparation of assessments of individual chemicals has proceeded at a snail's pace, whether in the context of the old TSCA, toxicological profiles under the Integrated Risk Information System (IRIS), or pesticide licensing. The stakes for chemical manufacturers in each of these decisions are typically quite high, and most have not stinted on the resources devoted to such battles. An inordinately complex and ossified process is the inevitable result because the EPA does not have the resources to keep up with industry's many objections. The recent history of IRIS is instructive for two, closely related, reasons.

First, formulating a toxicological profile under IRIS does not involve original research, but rather takes the form of a meta-analysis of existing studies. The controversy that has hobbled this apparently straightforward mandate to the point that it has eked out only a small handful of profiles over the last decade is quite likely to pale in comparison to the disputes that will accompany risk assessments under the new TSCA. Indeed, Beck and others argue that severely narrowing the scope of such risk assessments is the only way to move them along in a timely manner, as required by deadlines in the new law.

Some public interest advocates have ignored this concern, urging the agency to either undertake elaborate investigations of whether existing laws are working in the field or to assume that they are not working, expanding the scope of cognizable exposures to an unworkable extent. Even a less hostile administration might have difficulty with such recommendations. To implement the new TSCA effectively, a middle ground must be found. What Beck has decreed so far, though, leans so far right as to lack credibility.

Second, rather than try to fix IRIS by shielding it from delay tactics, Senate appropriators have endorsed killing the program as part of a broader effort to cut the EPA budget. In its initial and preposterous budget, the Trump administration demanded a reduction of 31 percent, which was estimated to eliminate 4,000 out of 18,500 employees. No one expects such radical reductions to emerge from Congress. But the passage of a tax bill that will reduce available revenues has redoubled the pressure to keep squeezing the discretionary portion of the federal budget.

Stories about the effect of such deep budget cuts often mention the new TSCA as an exception, in part because industry fees could contribute up to $25 million annually to the program. The industry fees surely will help and it's a shame they are not higher, not least because the EPA also shoulders the daunting responsibility of reviewing applications to approve hundreds of "new" chemicals within tight deadlines. But the conceit that new TSCA implementation will remain immune from chaos in other chemicals programs is wishful thinking, not reality. Already, rumors are circulating that EPA's political leadership plans a reorganization of such programs. The public administration literature warns that this kind of overhaul can set back the productivity of an agency for years.

Brain Drain

Last but not least is the acute problem of the brain drain that increasingly afflicts the EPA. As it has done throughout the government, the Trump administration has offered buyouts to senior civil servants while moving very slowly to nominate people to fill top political positions. Even when it has forwarded names, the administration's insistence on ideological purity has complicated the confirmation process. Its nominee to oversee chemicals programs, Michael Dourson, was controversial because of criticism about his work with industry, and ultimately withdrew from consideration. This illustrates why the administration was reluctant to subject Beck to Senate scrutiny. Meanwhile, hundreds of senior and mid-level managers have taken the buyouts offered by the administration and left the agency, including Wendy Cleland-Hamnett, the lead EPA negotiator on the new TSCA.

Administrator Scott Pruitt appears unconcerned about such departures. If his goal is to stop the agency from continuing to produce affirmative proposals, and instead to focus on the repeal or revision of Obama-era rules, pushing career staff out the door makes some kind of twisted sense, no matter how harmful it is to the agency as an institution. Satisfying chemical industry demands that favorite aspects of the new TSCA be implemented in a timely manner is a very different challenge. If Beck is left with a cadre of young risk assessors to do work that would have been very challenging for a well-staffed unit including experts at all levels of seniority, the new TSCA is unlikely to be the exception its most fervent supporters demand that it be.

A Law for the 21st Century

The full name of the new TSCA is the "Frank R. Lautenberg Chemical Safety for the 21st Century Act." Sen. Lautenberg lived his long career as a progressive on chemicals policy. He came from New Jersey, after all, a small state with an outsized legacy of petrochemical production and Superfund sites where being branded anti-environmental was the true kiss of the pig. The question therefore is not whether Sen. Lautenberg deserved the honor of having a statute carry his name, but rather whether this particular statute will in fact do him honor.

As the first major overhaul of a 20th century law in the 21st century, the new TSCA's fate is quite important. The law was written as a compromise. But its destiny will be determined by politicians who simply do not believe that more environmental protection is necessary and that far less is quite desirable. Because these issues have historically been second tier politically, their popularity with healthy margins of the voting public does not appear powerful enough to determine either who is president or who controls the House and Senate. Yet five decades of history suggest the pendulum on environmental policy swings both back and forth. Those who discount the possibility that today's extremism will be offset by a wider correction in the opposite direction may have more at risk than they realize.

Rena Steinzor is the Edward M. Robertson professor, University of Maryland Carey Law School, and member scholar and founder of the Center for Progressive Reform. *She appreciates the advice of Matt Shudtz and Katie Tracy although any errors are hers alone.*

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New York City Drinking Water to Remain Unfiltered

By John Herzfeld, 01/02/18

New York City will continue to rely on watershed protection, rather than filtration, to ensure the quality of the bulk of its drinking water supply, the state Health Department and the city Department of Environmental Protection said.

The Dec. 28 announcement of a 10-year extension of the city's filtration-avoidance determination for its Catskill-Delaware system means that the largest U.S. municipal drinking water supply—which serves 9.5 million people—will maintain and enhance its current pollution-prevention approach to water quality.

New York is one of only five large U.S. cities with a surface water system that doesn't require filtration.

The watershed protection program for the Catskill-Delaware system, which provides more than 90 percent of the city's drinking water, was shaped by a landmark 1997 agreement reached by the U.S. Environmental Protection Agency, New York state, New York City, and a coalition of towns and villages in the upstate watershed. The agreement addressed longstanding tensions between the city's need to keep pollution out of the water supply and the economic development interests of the upstate communities.

The state took over primary enforcement authority from the U.S. EPA in 2007 as part of an earlier 10-year extension of the filtration waiver, which the federal agency first granted in 1993 under the Safe Drinking Water Act on the condition that watershed protection requirements would be met. The law requires filtration of surface water systems, but that requirement can be conditionally waived.

State Health Commissioner Howard Zucker, in a statement, said that protecting drinking water is a priority of Gov. Andrew M. Cuomo (D) and that the new waiver "endeavors to safeguard public health and provide access to safe drinking water for the residents of New York City and other upstate communities reliant upon this water, while promoting good watershed stewardship practices through comprehensive, locally-implemented programs."

The New York City drinking water supply contains a network of 19 reservoirs, tunnels, and pipes within a 2,000-square-mile watershed that extends 125 miles north and west of the city.

The Catskill-Delaware system provides drinking water to 8.5 million people in the city and

another 1 million in four suburban or mixed suburban-rural counties north of the city. U.S. EPA-ordered filtration of the older Croton system, which provides 9 percent of the city supply, began in 2015.

EPA Cites Upstate Concerns

EPA Region 2 Administrator Pete Lopez, in a statement, emphasized the needs of upstate watershed communities.

The waiver "makes great strides toward improving the balance" between public health and watershed community interests, Lopez said.

"We support continued collaboration as an active, engaged partner to respond to the important concerns of those living and working within our watershed communities as we maintain New York City's high quality drinking water."

The city will commit an estimated $1 billion over the next decade to meet the terms of the waiver, on top of $2.7 billion it has spent since the first waiver was granted, said Mayor Bill de Blasio (D).

"This confirms what every New Yorker knows: we have some of the cleanest and best tap water in the world," de Blasio said in a statement. City Health Commissioner Mary T. Bassett called it "the champagne of tap water."

$10 Billion Filtration Plant?

The city has relied on land acquisition, wastewater treatment upgrades, agricultural programs with farmers, partnerships with upstate communities, and attention to forests, streams, and wetlands to avoid building a $10 billion filtration plant that would also cost $100 million a year to run.

The city's watershed program has become a national and international model for protecting water at its source, the DEP said.

In the last year alone, the department said, water utility managers and public health professionals from Australia, Chile, China, Colombia, India, Singapore, the U.K., and elsewhere have visited to study the program.

The latest waiver "is another step down the long road to protecting the nation's largest unfiltered municipal drinking water supply for the 21st century," Eric Goldstein, an attorney for Natural Resources Defense Council who has worked on city drinking water issues for more than 25 years, said Dec. 29.

"The plan has many positive elements, but it's not self-executing," he told Bloomberg Environment. "The key challenge is to continue to devote the resources and staff needed to ensure its successful implementation."

Climate Change Impact

The increasing frequency and intensity of heavy rainstorms accompanying climate change, Goldstein said, have put a premium on stream management and land acquisition efforts to increase buffer zones around water courses. These zones counter stream-bed scouring and soil runoff that threatens to push water turbidity, or muddiness, beyond required limits.

The new plan envisions more voluntary buyouts of property owners in watershed floodplains, to protect people from flooding and protect the water supply from hazardous debris, Goldstein said. That feature is part of a flood hazard mitigation program begun after massive flooding from hurricanes and storms in recent years.

"One of the key challenges of the next five years is to ensure that the floodplain land acquisition

and flood hazard mitigation programs get off the ground and are implemented aggressively," Goldstein said.

The turbidity or muddy-water problems, which have drawn past warnings from the U.S. EPA, are among the key questions slated to be addressed by the National Academy of Sciences in 2021 under one of the waiver's terms, Goldstein noted.

Five-Year Review

Environmental groups also are pleased that the new plan calls for a mid-course review at the five-year point of the waiver, which wasn't included in the plan's draft version, Goldstein said.

Other features of the new plan include additional programs for septic system rehabilitation and replacement, sewer system extensions, stormwater containment, and agricultural best practices at farms within the watershed.

"These programs reflect a broad consensus among stakeholders that preventing pollution from entering the water supply in the first place is the environmentally superior and economically sensible approach," Goldstein said.

The other four U.S. cities with filtration waivers are San Francisco, Seattle, Portland, Ore., and Boston.

Politico

https://www.politico.com/newsletters/morning-energy/2018/01/03/what-to-expect-in-agency-action-in-2018-062946

From MORNING ENERGY: What to expect in agency action in 2018

By Anthony Adragna, 01/03/18, 10:00 AM

DIDN'T AGENCY THAT COMING: President Donald Trump's deregulatory agenda is expected to shift into high gear in 2018. Expect to see more moves to open more land to fossil fuel exploration, aggressive pushes to rewrite (or ax altogether) Obama-era rules and major legal battles take shape in the courts. With that in mind, here's what ME will be on the lookout for across a host of agencies this year:

—**What'll happen on Clean Power Plan?** EPA officials are hoping to finalize a narrow replacement to the Clean Power Plan quickly enough to ensure that the Trump administration gets to defend it as the regulation winds its way through the courts. Promised additional opportunities for public comment on the regulation's withdrawal in San Francisco; Gillette, Wyo.; and Kansas City, Mo. are not yet on the calendar even as the Jan. 16 comment deadline approaches. But Democrats are trying to use climate change and the environment as a wedge against the Trump administration, as attorneys general in New York, Delaware and Maryland hold their own hearings next week.

—**See you in court (a bunch):** Litigation will start really moving for various delays and withdrawals of

rules that EPA Administrator Scott Pruitt did last year — a product of courts usually taking their time on these matters. His agency is going to have to fight off lawsuits over its ozone implementation, as well as litigation over its decision not to require financial assurance for hardrock miners. So many other rules are in hiatus this year that future litigation or regulatory rollbacks are difficult to predict. Meanwhile, Pruitt likely will dig in on revamping the National Ambient Air Quality Standards and New Source Review air quality programs, although those are likely to be fairly private processes.

—**How corny will EPA be?** The agency spent last year courting controversy over the Renewable Fuel Standard, but it eventually yielded to the influence of corn-state senators and took the path of least resistance. The RFS is an annual exercise, so EPA will get another run at setting blending requirements this year. What Pruitt will do remains to be seen, including whether he would take the dramatic step of offering small oil refiners a blanket waiver from the program. Taking all of these small plants out of the program would cut credit prices, no doubt

once again inflaming Gang Grain.

—**Can the WOTUS knot be detangled?** Trump's promise to repeal and replace the Obama administration's controversial water rule may sound simple, but it's proven to be anything but. EPA's schedule for the undertaking keeps slipping, with the latest plan being to finalize the repeal in April and propose a new rule defining a narrower scope for the Clean Water Act in May. Not only are those moves apt to provoke lawsuits from environmental groups and blue states, but that slower timeline means the Obama-era rule could actually take effect for a time, if the Supreme Court rules that challenges should have first gone through district court and an appellate court stay dissolves before EPA can finalize a stop-gap rule to delay its effect.

—**Rebuilding our water infrastructure:** EPA is due to propose changes to the rule governing lead levels in drinking water this year, albeit seven months later than previously planned. The agency will next week collect input from state, local and stakeholder groups ahead of its August deadline for proposing a new rule. Pruitt has promised a "war on lead," and public health advocates say that would mean full removal of all lead water lines – a pricey proposition that raises questions about who would pay: homeowners or utilities. Keep an eye out for this issue, too, as talk of an infrastructure package on Capitol Hill continues.

WELCOME TO WEDNESDAY! I'm your host Anthony Adragna, and Clean Energy Business Network's Andy Barnes was first to identify the Gettysburg Address and President Abraham Lincoln's Second Inaugural address as the two speeches etched on the Lincoln Memorial. For today: Which president's initials at birth were H.U.G.? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter @AnthonyAdragna, @Morning_Energy and @POLITICOPro.

O EPA OFFICIALS, WHERE ARE THOU? Two uncontroversial EPA nominees who were confirmed by a voice vote on Dec. 14 apparently have not yet arrived at the agency. EPA's website does not list Matthew Leopold as general counsel or David Ross as head of the water office. Both positions are key to the Trump administration's environmental agenda, with EPA reworking the Waters of the U.S. and Clean Power Plan regulations. It's not clear why they haven't been sworn in yet, but there are several possible reasons for a delay, including Senate paperwork issues, the holidays and personal requirements as both men relocate to Washington. EPA did not explain the delay or say when Leopold or Ross will arrive at the agency.

— It's not clear who is running the water office for the moment. Mike Shapiro, the career deputy who served as the acting assistant administrator for 2017, was slated to retire on Dec. 31. The office's site still lists Shapiro as the acting AA.

VOTE OF CONFIDENCE: Sam Coleman, the retiring acting administrator for EPA Region 6, is confident the agency will make it through the Trump administration with its mission intact, he told the Tulsa World. "It's running the way it always has," he said. "The thing about government that I will say is our democracy always has its problems until you compare it to anything else — and then it looks pretty dag-gum good." Coleman supervised the agency's response to Hurricane Katrina back in 2005.

Politico

https://www.politicopro.com/newsletters/afternoon-energy/2018/01/keeping-up-with-congress-062613

From AFTERNOON ENERGY: Keeping up with Congress

By Kelsey Tamborrino, 01/02/18

EPA CUTS SEVEN SUPERFUND SITES: EPA has deleted "all or parts" of seven Superfund sites from the National Priorities List, the agency said today. EPA boasted that the number is "more than triple the number of sites removed from the list in 2016," which was two. "We have made it a priority to get these sites cleaned up faster and in the right way," EPA Administrator Scott Pruitt said in a statement. "By creating a streamlined task force and making major remedy decisions that hold potentially responsible parties accountable for clean up, the Superfund program is carrying out the Agency's mission of protecting human health and the environment more every day." The agency says Pruitt has a list of 21 sites that have been targeted for "immediate and intense attention," in response to task force recommendations from this summer. See the names of the three entire deleted sites and the portions of four others here.

STATES HOLD OWN CPP HEARINGS: If EPA won't hold additional public hearings on the Clean Power Plan, states, apparently, will do it for the agency. Delaware, Maryland and New York will hold "people's hearings" in the coming weeks on the proposed repeal of the rule, according to the State Energy & Environmental Impact Center at NYU Law. "These hearings

will provide a much-needed forum for more voices to show how implementing the Clean Power Plan will turbocharge a clean energy economy that brings investment, jobs and energy security," David Hayes, executive director of the center and former Interior deputy secretary, said in a release. "State attorneys general are doing everything in their power to defend the landmark Clean Power Plan and stand ready to sue if and when repeal is finalized." The first such event will occur in Delaware on Jan. 8.

E&E News

https://www.eenews.net/climatewire/stories/1060069945/search?keyword=EPA

Trump admin misses deadline for emissions report

By Jean Chemnick, 01/03/18

The Trump administration has missed a New Year's Day deadline to report U.S. progress on curbing greenhouse gas emissions.

The State Department was due to join other countries in submitting a biennial report to the United Nations detailing its progress on meeting emissions reduction targets for 2020, but the Jan. 1 deadline has lapsed. The State Department did not respond to inquiries on when or if it would meet the obligation.

President Trump last year announced plans to exit the Paris climate treaty in 2020, but the United States will remain a member of the U.N. Framework Convention on Climate Change. The reporting requirement falls under the UNFCCC, so the United States would be obligated to report on its emissions every second year even after it is no longer a party to the Paris accord.

Since 2010, the UNFCCC has collected these biennial reports from countries on their progress toward 2020 emissions reduction targets that helped pave the way for agreement in Paris in 2015. The United States offered a 2010 commitment to cut emissions by 17 percent below 2005 levels by 2020. The Obama administration later built upon that near-term target when it issued

its Paris commitment to cut emissions between 26 and 28 percent by 2025.

The biennial report that President Obama's State Department issued on Jan. 1, 2016, provided an inventory of emissions sources, an overview of federal and subnational regulations and actions aimed at ratcheting down greenhouse gas output, and a restatement of its commitment to provide $3 billion to the U.N. Green Climate Fund.

"The United States is firmly committed to taking action and working collaboratively with our global partners to minimize the risks posed by climate change," the 2016 report stated. "Those policies are keeping us on track to reach our 2020 emission reduction target and are preparing the foundation for realizing our ambitious, but achievable, 2025 emission reduction goal."

But Trump walked away from the Paris emissions commitment last June and said $2 billion in Green Climate Fund commitments will not be delivered. Furthermore, some reports show the United States may fall short of even the 17 percent commitment despite substantial reductions linked to cheaper and more plentiful natural gas.

Paul Bodnar of the Rocky Mountain Institute, a senior White House adviser under Obama, said the Trump administration's failure to submit its reports on time undermines U.S. advocacy for greater transparency from other countries when it comes to climate action.

"The cardinal importance of transparency in the system ends up boiling down to just a few requirements," he said. "It's hard to harangue China about the lack of transparency of its emissions policies when you haven't filed your one report you're supposed to do every two years on time."

While Trump officials rarely mention climate change, some within the White House and State Department have held out the deployment of lower-carbon fossil fuels as one way to bring down emissions. U.S. EPA Administrator Scott Pruitt said in October that the U.S. natural gas boom had made the country the world's leader "with respect to our CO2 footprint in reductions."

The administration could have highlighted those alleged improvements in a communiqué to the

United Nations, said Jake Schmidt, international climate change director for the Natural Resources Defense Council.

"If you were cutting emissions faster than any other country in the world, wouldn't you want to share an analysis that shows that?" he said.

There are no formal repercussions for missing the deadline.

The Washington Post

https://www.washingtonpost.com/outlook/as-an-epa-intern-i-was-barred-rom-mentioning-climate-change/2018/01/02/acd991d2-ecb7-11e7-b698-91d4e35920a3_story.html?utm_term=.17f13bfb99c6

PERSPECTIVE: As an EPA intern, I was barred from mentioning climate change

By Katie Miller, 01/03/18,

In many ways, the Environmental Protection Agency was exactly what I expected when I arrived as a summer intern in June: cubicles decorated with pictures of polar bears, employees who made actual small talk about the environment, acronyms for everything. But there were clues that this was an agency under siege in the Trump administration, and before my time there had ended, I saw them firsthand.

Just under the surface, fear and loathing had taken hold. My colleagues lowered their voices to discuss political matters, but they talked openly about "before" and "after," referring to the inauguration. Some seemed to put on a mask at work, clenching their teeth and smiling every time the new administration came up in conversation. One man told me he'd worked at the EPA during many administrations and had never felt so discouraged. No wonder more than 700 people, including more than 200 scientists, have left since President Trump took office.

After an orientation with the other summer interns, I focused on my work on the communications

team for the Office of Resource Conservation and Recovery, part of the Office of Land and Emergency Management. My first job was to update the titles and summaries of Federal Register notices using plain language and an active voice. I spent time entering numbers into an Excel spreadsheet. I responded to citizen inquiries, edited documents, made calls, attended meetings. Intern stuff.

One day, a co-worker asked me to draft tweets that the EPA could post on holidays, ranging from Valentine's Day to Halloween; I was to look at old tweets for ideas and new social media posts for guidance. The idea behind these tweets is to remind people that an environmentally friendly lifestyle is easy to adopt and can be practiced year-round, not just on Earth Day. But my co-worker also transmitted this instruction: Don't mention climate change or going "green," but instead write about "conserving energy" or "saving money." It wasn't clear whether this instruction had come from above or whether my group merely anticipated opposition to those concepts.

Combing through the old tweets, I noticed that some had links to the EPA's information on climate change, but the links were now dead. I had to leave the links out of my draft tweets, erasing paths that citizens had once been able to follow to learn about the science. I understood that policies change from administration to administration, but could science, based on years of research, really become outdated, too?

I was also asked to look at the EPA's Instagram account to get a sense of what the agency wanted to focus on in its social media. Under the Obama administration, many images on the account featured EPA employees from across the country, as well as Superfund sites turned into parks — and even scientist Bill Nye . Under the new administration, EPA chief Scott Pruitt appeared in every picture or video through the first months — often with one of his quotes, such as "We as a nation can be both pro energy and jobs and pro environment. . . . We don't have to choose between the two." (Since then, the images have been more varied, though many still show Pruitt.)

I assumed that many of my peers were like me — college students in search of career-enhancing internships who didn't vote for Trump and oppose many of his policies, but applied to agencies we hoped might one day offer meaningful careers. I wondered if others were feeling the same sense of disorientation. When I asked, I found that many were doing routine tasks: compiling and analyzing data about recycling, gathering information about Superfund sites, helping to edit a document about waste management trends in America. These interns told me that the policy shifts under Trump weren't particularly noticeable in their positions. That wasn't true for me — in my work, the impact was impossible to miss. I was helping to communicate the EPA's goals to the public. And those goals were no longer about putting the environment first, especially if doing so would affect American industries.

For many of my fellow interns, the summer was a brief, endurable excursion into the Trump administration. They may not have agreed with the policies they were helping at the margins to implement, but they didn't challenge them overtly. I didn't think that would work for me.

One day, I received an email addressed to all interns announcing that Pruitt would be meeting

with us. When I told career employees I worked with about the meeting, they were supportive, though several noted that he didn't seem interested in meeting with them. The big day arrived, and a follow intern and I took a bus from our Arlington, Va., office to the main building downtown. We were escorted to the sixth floor, where Pruitt works most of the time. The curtains were drawn, and on a table off to one side, ice cream sat collecting condensation. While we waited, more than 50 other interns filled the room. Our uncertain whispers grew into a dull roar.

My colleague tapped me on the shoulder. "There he is," she said. I held my breath and spun around. Pruitt came through the doorway, and a crowd of interns flocked around him. I stood back, building up the courage to speak to him. "Nice to meet you, I'm Scott," he said when I approached. He asked what branch I was working for. "Oh, so you're with Barry Breen at OLEM. Are you working on the Superfund project?" Pruitt planned on cutting a ton of funding for that project.

"No," I said. "I'm working on social media. And I actually have a question for you." He smiled, and the interns surrounding us leaned in. "So, part of my job as an intern has been to remove any mention of climate change from social media accounts. What is the reasoning behind taking information away from the public, instead of allowing them to see it and come to their own conclusions?"

He paused for a brief second. "No, I think that actually we're trying to start a discussion about it." I rephrased my question, and he gave me an equally dissatisfying answer, referring me to his assistant. (Two interns who were there with me confirmed my recollection.) But I was still glad I asked. At an event where Pruitt appeared to expect polite encounters from awed interns, I caught him off guard.

After he left, the interns gathered for a question-and-answer session with career employees. They each gave short speeches thanking us for our work, asking us to come back one day and telling us about how some of them found jobs at the EPA out of college. Then an intern posed a tough question: How could the EPA assure us that we might even have a chance to return someday as full-time employees, considering the looming budget cuts and ongoing hiring freeze? They told us that, at least for the next few years, our support and interest alone would be very important to the agency, but they couldn't make any promises.

Katie Miller is a public policy student at the University of Maryland.

Daily Caller

http://dailycaller.com/2018/01/02/trumps-epa-has-cleaned-up-seven-of-the-most-toxic-sites-in-

the-us/

Trump's EPA Has Cleaned Up Seven Of The Most Toxic Sites In The US

By Tim Pearce, 01/02/18, 5:48 PM

The Environmental Protection Agency (EPA) partly or completely cleaned seven of the most toxic land sites, called Superfund sites, in the U.S. in 2017, according to the EPA.

Of the seven sites designated for cleanup, three were completely cleansed, while four others still require some work. The cleanup effort is a significant improvement over the year prior when the EPA completely cleaned one Superfund site and parts of another.

"We have made it a priority to get these sites cleaned up faster and in the right way," EPA Administrator Scott Pruitt said in a statement. "By creating a streamlined task force and making major remedy decisions that hold potentially responsible parties accountable for cleanup, the Superfund program is carrying out the agency's mission of protecting human health and the environment more every day."

The gains Pruitt's EPA made are part of a list of 21 contaminated sites that need "immediate and intense attention" out of more than 1,300 Superfund sites nationwide.

Pruitt has been criticized recently for rolling back environmental regulations and reducing his agency's scope and reach. Undoing rules put in place by the Obama administration, Pruitt has reduced regulatory burdens on industries and put the environment and public health at risk, The Washington Post reports.

Pruitt says he is allowing more of a local voice when it comes to development and taking a stewardship-focused, rather than preventative, view of the relationship between the environment and industry.

"The last administration talked about putting up fences. [They said,] 'Let's not develop, we're

not going to use the natural resources to feed the world and power the world.' I think that's wrong," Pruitt told WaPo. "I think our focus should be on using our natural resources — with environmental stewardship in mind. … We can be about jobs and growth and be good stewards of our environment. The last several years we've been told we can't do both."

Tricia Lynn

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To: AO OPA OMR CLIPS[AO_OPA_OMR_CLIPS@epa.gov]
From: Daguillard, Robert
Sent: Tue 1/2/2018 8:46:01 PM
Subject: HQ and Regional Comms: News Clips, 2 January 2018

Associated Press – Delaware says it will sue EPA over upwind air pollution

The Hill - EPA removes 7 cleaned-up sites from Superfund list

Washington Examiner - EPA touts progress on cleanup of seven hazardous Superfund sites

The Guardian - Vehicles are now America's biggest CO2 source but EPA is tearing up regulations

Axios – Eight Energy and Climate Issues to Watch in 2018

Colorlines - The New Normal: Petty Actions Accelerate Climate Change, Reshape the Earth

Washington Post - The Energy 202: Trump took a long break this December. His environmental deputies did not.

WCAI - Christine Todd Whitman Sees Danger in New EPA Approach

The Hill - Expect EPA chief Scott Pruitt's reckless spending to continue in 2018

Toledo Blade - A shameful delay on lead standards

Tulsa World - Retiring EPA official over Oklahoma says agency survives ebb and flow of politics

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Associated Press - Delaware says it will sue EPA over upwind air pollution
https://www.washingtonpost.com/national/delaware-says-it-will-sue-epa-over-upwind-air-pollution/2018/01/02/d8244408-efdd-11e7-95e3-eff284e71c8d_story.html?utm_term=.e92c91d25b81
By AP Staff, 1/2/2018

DOVER, Del. — Delaware officials say they intend to sue the Environmental Protection Agency over its failure to rein in power plant emissions from other states that are blamed for air pollution

in Delaware.

Officials said Monday that they intend to sue the EPA for not requiring power plants in Pennsylvania and West Virginia to reduce air pollution.

The litigation involves four petitions filed in 2016 by the Delaware Department of Natural Resources and Environmental Control. The petitions sought to have EPA require certain power-plant units in upwind states to use air pollution controls to reduce emissions.

State officials contend that ground-level ozone, or smog, has been one of Delaware's most challenging air pollution problems, and that more than 90 percent of the ozone in Delaware originates from emissions in upwind states.

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The Hill - EPA removes 7 cleaned-up sites from Superfund list

http://thehill.com/policy/energy-environment/367078-epa-removes-7-cleaned-up-sites-from-superfund-list

By Timothy Cama, 1/2/2018

The Environmental Protection Agency (EPA) partially or completely removed seven sites from its Superfund list last year.

The Superfund is part of a federal program which helps to clean up land that has been polluted with hazardous waste. The deletions of sites in 2017— four partial and three complete — mean that the EPA judged those sites as sufficiently cleaned up from past pollution.

EPA head Scott Pruitt is touting the deletions as a victory in his mission to chip away at the 1,300 or so sites for which the agency is overseeing cleanups.

"We have made it a priority to get these sites cleaned up faster and in the right way," Pruitt said in a Tuesday statement announcing the deletions.

"By creating a streamlined task force and making major remedy decisions that hold potentially responsible parties accountable for cleanup, the Superfund program is carrying out the Agency's mission of protecting human health and the environment more every day."

Pruitt wants Superfund to be a top priority in his time at the EPA, while he's working to roll back regulations across numerous areas in the agency's purview, like climate change, air pollution and water pollution.

In 2016, the EPA only deleted two Superfund sites, one complete and one partial.

But previous years showed similar or higher deletion records. The EPA removed seven sites in 2015, 15 sites in 2014 and 12 sites in 2013.

The sites that were completely removed from the Superfund list in 2017 were Nutting Truck & Caster Co. in Minnesota, Shpack Landfill in Massachusetts and the Perdido groundwater contamination site in Alabama.

All of those sites were first put on the Superfund list in the early 1980s and were only ready for removal last year.

The partially removed sites are Mystery Bridge Rd/U.S. Highway 20 in Wyoming, the Ellisville site in Missouri, Omaha Lead in Nebraska and the North Penn - Area 6 in Pennsylvania.

Deletion from the Superfund list requires agreement both by the EPA and the state that a cleanup is complete, a public comment period before deletion and approval from EPA headquarters in Washington.

Some former Superfund sites can be reused for new development, which is a goal of the program and an emphasis of Pruitt's efforts to boost the program.

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Washington Examiner - EPA touts progress on cleanup of seven hazardous Superfund sites

http://www.washingtonexaminer.com/epa-touts-progress-on-cleanup-of-seven-hazardous-superfund-sites/article/2644728

By Josh Siegel

The Environmental Protection Agency is starting off the new year claiming progress on cleaning up the nation's most contaminated toxic land areas, known as Superfund sites.

EPA Administrator Scott Pruitt announced Tuesday that the agency has removed all or parts of seven Superfund sites from the National Priorities List, which includes locations that most urgently need cleanup of toxic chemicals.

"We have made it a priority to get these sites cleaned up faster and in the right way," Pruitt said Tuesday. "By creating a streamlined task force and making major remedy decisions that hold potentially responsible parties accountable for clean up, the Superfund program is carrying out the agency's mission of protecting human health and the environment more every day."

The EPA says three sites have been completely removed from the priority list, meaning the agency says no further cleanup is needed at them.

The sites are:

• Nutting Truck & Caster Co. in Minnesota, contaminated with trichloroethylene in groundwater.

• Shpack Landfill in Massachusetts, which had contaminated soil, sediment and groundwater.

• Perdido Ground Water Contamination in Alabama, which was contaminated with benzene.

EPA also designated four sites as "partially completed," where progress has been made, but cleanup efforts are continuing.

The sites are:

• Mystery Bridge Rd/U.S. Highway 20 in Wyoming, which had a groundwater plume and soil that contained benzene, toluene, ethylbenzene and total xylenes.

• Ellisville Site in Missouri, which contained drums full of hazardous materials.

• Omaha Lead in Nebraska, where surface soil was contaminated by deposition of air emissions from historic lead smelting and refining operations.

• The North Penn-Area 6 in Pennsylvania, where soil and groundwater were contaminated with volatile organic compounds.

Pruitt said he has made more progress on cleanups than predecessor Gina McCarthy did last year. The EPA says the agency removed one full site from the priority list in 2016 and portions of another.

But the EPA in previous years achieved similar or higher cleanup records. The EPA removed seven sites from the priority list in 2015, 15 sites in 2014 and 12 sites in 2013.

Speeding up cleanup of Superfund sites has been one of Pruitt's main goals.

Early in his EPA tenure, Pruitt appointed a task force to study the Superfund program, adopting 42 recommendations and saying he wanted to create a list of the most dangerous sites.

Last month, the EPA released a list of 21 Superfund sites that it said the agency will target "for immediate and intense attention."

Critics note that President Trump's proposed EPA budget for 2018 would cut funding for the Superfund program by about 25 percent and 31 percent of EPA funding overall. Critics also worry that focusing on speeding up the cleanup process at particular high-priority sites could result in inadequate cleanups at other sites.

More than 1,300 Superfund sites exist nationwide.

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Reuters - Delaware to sue EPA over upwind air pollution

https://www.reuters.com/article/us-usa-epa-smog/delaware-to-sue-epa-over-upwind-air-pollution-idUSKBN1ER1IN
By Valerie Volcovici

WASHINGTON (Reuters) - The state of Delaware on Tuesday said it would sue the U.S. Environmental Protection Agency for failing to ensure that nearby Pennsylvania and West Virginia curbed upwind air pollution from their power plants.

"The Clean Air Act entitles Delaware to relief from upwind pollution and the remedy we are seeking is reasonable and within EPA's authority and responsibility to grant," said Delaware Governor John Carney.

Delaware says more than 90 percent of ground-level ozone, or smog, in Delaware originates

from emissions in upwind states. Despite previously petitioning the EPA four times in 2016 to crack down on the upwind pollution, the governor said the state has not gotten relief.

”We are simply asking that the EPA require these power plants that pollute Delaware’s air to run their existing pollution control equipment when the plants are in operation,” the governor said.

Delaware’s Department of Natural Resources and Environmental Control said that although the state has made strides in improving its air quality, out-of-state emissions keep it from meeting federal air quality standards.

“It is now time for EPA to hold upwind sources accountable for ozone emissions that are impacting downwind states,” the department’s secretary, Shawn Garvin, said.

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The Guardian - Vehicles are now America's biggest CO2 source but EPA is tearing up regulations
Transport overtook power generation for climate-warming emissions in 2017 but the Trump administration is reversing curbs on auto industry pollution

https://www.theguardian.com/environment/2018/jan/01/vehicles-climate-change-emissions-trump-administration
By Oliver Milman, 1/1/2018

Some of the most common avatars of climate change – hulking power stations and billowing smokestacks – may need a slight update. For the first time in more than 40 years, the largest source of greenhouse gas pollution in the US isn’t electricity production but transport – cars, trucks, planes, trains and shipping.

Emissions data has placed transport as the new king of climate-warming pollution at a time when the Trump administration is reviewing or tearing up regulations that would set tougher emissions standards for car and truck companies. Republicans in Congress are also pushing new fuel economy rules they say will lower costs for American drivers but could also weaken emissions standards.

Opponents of the administration fret this agenda will imperil public health and hinder the effort to address climate change.

"This Environmental Protection Agency doesn't seem to have met an air regulation that it likes," said Mary Nichols, chair of the California Air Resources Board and a former EPA assistant administrator. "I've not seen any evidence that this administration knows anything about the auto industry, they just seem to be against anything the Obama administration did.

"Vehicle emissions are going up, so clearly not enough is being done on that front. The Trump administration is halting further progress at a critical point when we really need to get a grip on this problem."

The 1970 Clean Air Act, signed by Richard Nixon, set standards for a cocktail of different pollutants emitted from new vehicles. New cars and trucks, which account for more than 80% of transport emissions, now have to meet fuel efficiency standards and display this information to consumers. This approach has helped cleanse previously smog-laden American cities and tamp down greenhouse gas emissions.

But in 2016, about 1.9bn tons of carbon dioxide emissions were emitted from transportation, up nearly 2% on the previous year, according to the Energy Information Administration. This increase means that transport has overtaken power generation as the most polluting sector in the country, and it's likely to stay that way.

Cheap gasoline prices have led to a recent uptick in vehicle emissions, despite the fuel standards, at the same time that coal is being rapidly displaced by an abundance of cheap natural gas and the steady rise of renewable energy, driving a sharp decline in CO2 emissions from the power grid.

While coalminers have lost their jobs to technological advancement and environmental protesters have thrown their bodies in the path of oil pipelines, there has been far less to disrupt the basic emissions-emitting models of cars, trucks and planes.

Americans are buying larger cars and taking more flights – domestic aviation emissions grew 10% between 2012 and 2016 – and face little opposition in doing so.

"The change in power generation has been very impressive over the past 10 to 15 years," said Brett Smith, assistant director of the Center for Automotive Research.

"In the automotive sector, there isn't the same push. There are certainly Americans concerned about global warming but people are driving bigger and bigger vehicles each year. It's not a priority for them. The cost of fuel is pretty cheap and at the moment there isn't a better option out there than the internal combustion engine."

Transport accounts for about a quarter of all US planet-warming emissions but also poses a direct health threat to about 45 million Americans who live, work or attend school within 300ft of roads that are shrouded in high air pollution levels.

This pollution can stunt lung growth, trigger asthma attacks, exacerbate heart disease and cause developmental problems. The EPA estimates 17,000 schools across the US are located next to roads with heavy traffic, with children from low-income and minority groups disproportionately put at risk. California is the only state in the US to ban the construction of a school on the cheap land found beside major highways.

US cities haven't emulated the likes of London and Stockholm by charging drivers a congestion fee to coax them on to public transport, cycling or walking; nor does the US feature the comparatively high rates of fuel tax seen in Europe. France's move to ban sales of petrol and diesel cars by 2040 would be politically unthinkable in the States.

But the air is much cleaner in American cities than it was in the 1970s, and a world away from the fug that now envelops Beijing and Delhi, in part due to vehicle emissions standards that have progressively been ratcheted up by the EPA.

That trajectory has been cast in doubt by the Trump presidency. In March, the EPA scrapped a deal struck between Barack Obama's administration and automakers that would require new cars to run 54.4 miles per gallon of fuel, up from 27.5 miles per gallon, by 2025.

The White House said the new rules had been "shoved down the throats" of car makers, with the main industry lobby group pointing out that consumers overwhelmingly prioritize safety, driving performance and value for money over fuel efficiency. There are more than 70 car models on sale that achieve 40 miles per gallon and they account for just 1% of total new vehicle sales.

Then, last month, the EPA cited "regulatory overreach" by the previous administration for its decision to waive clean truck standards that would have phased out "glider" vehicles that produce 55 times more diesel soot than new trucks. Scott Pruitt, administrator of the EPA, said his predecessors had "attempted to bend the rule of law and expand the reach of the federal government in a way that threatened to put an entire industry of specialized truck manufacturers out of business".

These rollbacks from the executive branch have dovetailed with an effort by Republicans in the Senate and the House to revamp fuel efficiency rules by replacing state and federal requirements with a single standard. Environmental groups and previous administration officials fear this will lead to a further weakening of emissions standards.

"America's clean car standards have dramatically improved the fuel efficiency of vehicles, saving consumers billions of dollars and cutting pollution in the process," said Carol Browner, a former administrator of the EPA.

"Instead of rolling back commonsense, successful and popular clean cars standards, we should focus on innovation and technology that will continue the auto industry's growth and the pollution reductions we've achieved since these standards were first established."

In the short term, this new approach risks a flashpoint between the federal government and California, which has a long-held waiver to enact vehicle pollution standards in excess of the national requirements. Twelve other states, including New York and Pennsylvania, follow California's standards, an alliance that covers more than 130 million residents and about a third of the US vehicle market.

Nichols said she had been disturbed by signals coming from Pruitt and other EPA officials that she said show the federal government is looking to end California's waiver.

"We are very concerned because these standards are the bedrock of our whole climate change platform," she said. "Scott Pruitt has made threatening noises about the Californian waiver, saying that we are trying to run the country. It feels like this is going to be the next shoe to drop. If it does, we will litigate and fight for our rights in the political arena with other states and consumer advocates."

With federal regulation set to be pared back, technological advances in electric and gas-powered cars, as well as consumer preferences, are likely to play an increasingly important role in whether vehicle emissions are forced back down.

A flurry of recent optimistic studies have forecast that, by 2040, as much as 90% of all cars in the US will be electric. But the current conundrum is that petroleum-fueled vehicles are cheaper and seen as more reliable than their electric counterparts by most new buyers. Affordable gasoline is competing with electric recharging stations that are considered too sparse by many drivers to risk running out of puff, no matter the benefit to the environment.

"It's a challenging position for automotive companies because they are touting electric vehicles but ultimately they have to sell more cars," said Smith. "Consumers in the US aren't pushing for electric vehicles to the extent they are in Europe and unless we take a very different approach as a country, that doesn't look like it will change soon.

"You will need to see a major change in battery technology to make it viable. People are becoming more aware and concerned about global warming, but we aren't there yet. And when you look at the vehicles being put out by the major car companies, you could argue it's not an issue for them, either."

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Axios – Eight Energy and Climate Issues to Watch in 2018
https://www.axios.com/eight-energy-and-climate-issues-to-watch-in-2018-2519370363.html
By Amy Harder, 1/2/2018

Washington isn't even close to a coherent strategy on energy and climate change, and that puts these issues all over the map, literally. Here's what I'm watching this year and why.

1. Gritty details of Trump's deregulatory efforts

If 2017 was mostly talk, then 2018 is necessarily going to be mostly action. This is a common theme on a host of issues in Washington, but none is more pronounced than in the deregulatory slog President Trump has promised.

At the top of this long list are the Environmental Protection Agency's plans to eventually replace former President Obama's power-plant carbon regulations, as well as one setting standards for emissions of methane, another greenhouse gas, from new oil and gas wells. The Interior Department is also working to replace Obama's offshore drilling leases with more sweeping plans, including just-allowed leasing in the Arctic National Wildlife Refuge.

2. Rubber meets the road on trade battles

Whether you install solar power or move oil around, you're probably nervous about Trump's trade agenda. 2017 was the year of articulating promises — or threats — and this year will be the first chance to put those to the test.

The White House faces a Jan. 26 deadline to decide whether to issue tariffs or another remedy against cheap solar imports, coming mostly from China or Chinese-owned companies. Other trade cases, such as ones involving imported steel used in pipelines and other infrastructure, are pending too.

Energy companies are also watching to see to what extent the administration looks to revise — or withdraw from — the North American Free Trade Agreement, whose negotiations have dragged into at least the first quarter of this year.

3. Electricity market mayhem gets real

The Federal Energy Regulatory Commission faces a Jan. 10 deadline to respond to the Energy Department's request to propose a rule that would compensate nuclear and coal plants for their ability to store electricity fuel on site for 90 days. (Most other electricity sources can't do that). It's wonky as all get-out, but the fight over America's stagnant electricity market is a fight that affects almost all parts of the energy sector.

On top of this unfolding debate, expect to see more companies announce shutdowns of coal and nuclear power plants, due to increasingly tough competition from cheap natural gas and renewables.

4. The roads from Paris and Kigali

The Paris climate deal and Kigali amendment to the Montreal Protocol, both Obama-era climate policies, represent two widely different Trump administration approaches to global climate negotiations. Trump has vowed to withdraw from the Paris accord unless he can get a better deal, while his administration has signaled tacit support for the Kigali amendment. This year will likely move from words to action.

Negotiators will meet in December in Poland for a key annual meeting laying the groundwork for the next stage of the Paris climate deal. This will offer the most concrete chance for the Trump administration to show whether it genuinely wants a better deal to stay in the Paris accord. So far the evidence is that it actually does not.

The Kigali amendment was signed in October 2016 in Kigali, Rwanda, as part of the Montreal Protocol, a treaty protecting the Earth's ozone layer. It's about reducing hydrofluorocarbons (HFCs), which are potent greenhouse gases used in appliances like air conditioners and fridges. The administration needs to send the amendment to the Senate for a ratification vote within this next year to ensure timely U.S. participation in the policy.

5. Carbon tax battles heat up

It is a perennial favorite issue of academics and economists to tout despite almost zero publicly stated interest in Congress or the White House. But this year might actually see some tectonic plates shift around a carbon tax. As I wrote in December, experts for and against a carbon tax — and those that are agnostic about it — are going to be ramping up their work on this front.

6. Hunger Games of transportation

In October, I wrote about the Hunger Games of electricity: different fuels battling it out for a piece of the finite electricity market. I'm starting to see on the horizon a similar battle brewing in the transportation mix.

Demand for transportation fuel isn't growing much in the U.S., yet choices are increasing. Electric cars get a lot of hype. This year will help show to what degree this hype — pronouncements made by China and car companies for example — are more than just rhetoric.

The Trump administration also seems serious about urging Congress to overhaul the federal ethanol mandate, which requires refineries to blend increasing amounts of biofuels (mostly from corn) into the nation's gasoline supply.

7. Oil prices hovering upward

This is a bit of a catch-all for the myriad of issues stemming from oil prices' every move. Oil prices are projected to be hovering higher this year than in previous years. One big question is whether oil companies will boost their investments and ward off a supply crunch — and subsequently much higher prices — in a few years, as the International Energy Agency has been warning for at least a year.

2018 could also see pivotal changes in, or dissolution of, the relationship between OPEC and other oil-producing countries, notably Russia. The relationship was established to address the global oil glut that began a few years ago and appears to be dissolving.

8. Saudi Aramco IPO

It would be the world's biggest initial public offering ever. It's probably already the most-talked about, even if it never happens. Saudi Aramco, the state-owned oil giant in Saudi Arabia that is the biggest oil-producing company in the world, has said it's sticking with its plans to sell up to 5% of its shares this year.

What exchange it'll list the shares on — New York, London or elsewhere — remains a mystery. Let's also not forget that the whole purpose of the IPO is to diversify Saudi Arabia's oil-dependent economy away from being too dependent upon oil. That's emblematic of a larger trend among the world's biggest oil companies that I also expect will accelerate in 2018.

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Colorlines - The New Normal: Petty Actions Accelerate Climate Change, Reshape the Earth

Global warming does not care who wins the midterm elections.
https://www.colorlines.com/articles/new-normal-petty-actions-accelerate-climate-change-reshape-earth

By Ayana Bird, 1/2/2018

We made it through 2017! But sometimes, it looked like we wouldn't survive a year that seemed intent on shaking up the status quo. President Donald Trump wasted no time dismantling the evironmental justice gains of the Obama administration. In this installment of The New Normal, Colorlines contributing editor Ayana Byrd explores how petty, short-term thinking can permanently impact the planet.

A sobering fact: Global warming does not care who wins the midterm elections in 2018. Ice caps won't stop melting, hurricanes will continue to devastate coastal regions because of a rise in water temperatures and wildfires will continue to burn if the Congressional majority shifts from Republican to Democrat. That is because the wheels have already been set in motion to ensure the planet no longer keeps us safe—and they have accelerated in the months since President Donald Trump moved into the White House.

Post-inauguration, it has been harder to learn particulars about global warming since the Environmental Protection Agency (EPA) removed the climate change page from its website on the orders of the newly sworn in Trump. "If the website goes dark, years of work we have done on climate change will disappear," an EPA staffer told Reuters at the time, as various employees of the agency leaked copied data to ProPublica.

Deleting website copy about one of the greatest threats to humankind didn't feel like politics to many—it felt petty. Also petty: reducing the size of Bears Ears monument by approximately 85 percent to allow for commercial activity to take place on ground that is considered sacred by various Indigenous tribes. Or Trump waiting a total of four days after taking office to sign an executive order allowing the Keystone XL and Dakota Access pipelines to be built, in a reversal of decisions made by former President Barack Obama. And in a global screw you, the president withdrew the United States from the Paris Agreement, an international plan to combat the threat of climate change that took 21 years to negotiate and now has the support of every other country in the world.

The biggest danger that can come from these moves and how they accelerate climate change is that any environmental new normal—like rising seawaters that erode coastlines and destroy communities where people of color often live—can become the forever reality. And that is why environmentalists, and even mayors and governors, are pushing for another new normal, one in which we permanently change the way we live and do business so that the planet can survive.

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Washington Post - The Energy 202: Trump took a long break this December. His environmental deputies did not.
https://www.washingtonpost.com/news/powerpost/paloma/the-energy-202/2018/01/02/the-energy-202-trump-took-a-long-break-this-december-his-environmental-deputies-did-not/5a4ac00e30fb0469e883fe4f/?utm_term=.3dd006587784
By Dino Grandoni, 1/2/2018

While a cold snap gripped much of the United States at year's end, President Trump mocked the majority of Americans who think man-made climate change is real.

Pointing to the thermometer in his adoptive home of Washington and elsewhere along the East Coast while vacationing in Florida, Trump suggested that what the country might need is a bit of warming:

Donald J. Trump

✔@realDonaldTrump

In the East, it could be the COLDEST New Year's Eve on record. Perhaps we could use a little bit of that good old Global Warming that our Country, but not other countries, was going to pay TRILLIONS OF DOLLARS to protect against. Bundle up!

7:01 PM - Dec 28, 2017

Twitter Ads info and privacy

Predictably, Democrats and activists who bemoaned Trump's ignorance of climate science since he began running for president howled in indignation.

But less conspicuously but more consequently, the gears within the administration, which have spent much of 2017 unwinding former President Barack Obama's energy and environmental policies, were also humming away over the holidays.

Trump officials within the Interior Department were particularly busy over the break.

- On Dec. 29, the last business day of 2017, Interior rescinded a 2015 Obama administration

rule that would have tightened standards for well construction and wastewater management for hydraulic fracturing and required the disclosure of the chemicals contained in fracking fluids. The agency rescinded the rule it said would save "up to $9,690 per well or approximately $14 million to $34 million per year" in industry compliance costs.

- Also that day, another office within Interior, the Bureau of Safety and Environmental Enforcement, published new regulations rewriting rules regarding devices used during offshore oil production that were put in place after the 2010 Deepwater Horizon disaster. Among the rules tossed is one requiring that safety and pollution prevention equipment be inspected by independent auditors — an idea born out of the bipartisan presidential commission that investigated the oil spill.
- Shortly before Christmas, Interior moved to renew leases for copper and nickel mines that are on the border of Minnesota's Boundary Waters Canoe Area Wilderness and that are owned by a billionaire who rents a home to Ivanka Trump and Jared Kushner in Washington. Unber Obama, U.S. Forest Service had decided not to renew the leases while federal officials launched a formal review of the operation's environmental impact.
- Finally, there was one legal decision that, for wildlife activists, was for the birds: Interior's principal deputy solicitor wrote to other department employees that the Trump administration would no longer prosecute oil and gas, wind, and solar operators for accidentally killing birds under the 1918 Migratory Bird Treaty Act. Over the years, the federal government has used the law to impose large fines after environmental disasters — including, again, the BP oil spill.

The takeaway: the Trump administration isn't done with its wholesale rolling back of environmental and energy policy as we head into the administration's second year.

-- The Mooch's climate scooch: Despite a long history of calling climate change science names a family-friendly newspaper cannot repeat verbatim, former White House communications director Anthony Scaramucci defended the president's recent "good old Global Warming" tweet on CNN's "State of the Union" on Sunday. Scaramucci claimed Trump is actually not a denier of climate change, just an opponent of the Paris climate accord. "I think you guys should ask him directly if he's a climate change denier or not," he said. "I think you will find you will be surprised by that answer."

That sentiment is belied by two facts. One, Scaramucci, who called climate change denial "disheartening" on Twitter, faced criticism he had become adenier shortly after being put on the presidential transition, saying on CNN "I honestly don't know" whether humans are affecting the climate.

Two, the reason reporters may not have asked Trump directly about his views on climate change is there might not have had much opportunity. The president held only one solo official press conference in 2017.

-- But there's probably a simpler explanation for why Trump sent the tweet: "It's a joke the audience has heard before," writes The Post's Phillip Bump. "Which is largely the point. President Trump uses climate change here precisely because he knows the reaction he'll get: Cheers from his base and hand-wringing from others, including scientists." Acceptance of climate change has emerged as one of the most polarizing issues in politics, with a 2017 Pew survey finding a 47-point gap between Republicans and Democrats on the need to address climate change, one that's wider than on immigration or race relations.

-- A year-end look at Scott Pruitt's EPA: Given the pace at which the Environmental Protection Agency chief has rolled back his predecessors' work (or at least attempted to), Scott Pruitt secured his place as a one of the most consequential Cabinet-level officials within the Trump administration with an aggressive first year at the helm.

The Post's Brady Dennis and Juliet Eilperin take stock of Pruitt's achievements at the end of 2017, which include moving assertively to shrink the agency through buyouts and, in his words, "revitalizing" it by focusing on areas such as the Superfund cleanup program

Despite environmental advocates vowing to battle him at every turn, Pruitt seems confident that his vision of limited government will take hold even after he leaves office. "I'm pretty sanguine about our ability to defend our actions here at the agency, so long as we do things timely and within the text of the statute," he said in an interview. "The problem the agency had historically is when [officials] have not done things in the time frame they were supposed to do something. That's invited lawsuits that then allow others to set the priorities."

-- U.S. oil production booms as new year begins: As Trump begins his second calendar year in office, U.S. crude oil production is flirting with record highs, reports The Post's Thomas Heath. In 2017, domestic oil production averaged around 9.6 million barrels per day. The highest U.S. production based on monthly government data is above 10 million barrels per day, which dates back to 1970.

The oil-friendly administration is doing everything it can to continue to build on those levels, loosening offshore oil drilling regulations and opening up the Arctic National Wildlife Refuge in Alaska to drilling. But those efforts may not pan out if the price of oil dips below the sweet spot for shale oil profit in the neighborhood of $55 to $60 per barrel.

-- Tax consequences cometh: BP will take a one-time $1.5 billion charge in its 2017 fourth quarter earnings due to the recent passage of the GOP tax plan, according to Reuters. Last week, Shell announced a similar one-time charge that could total the company $2.5 billion.

While the oil firms' short-term profits will be dented by the tax overhaul as they overpay in taxes in advance for the quarter, the companies can expect to get some of that money back in tax relief. And of course, oil companies, like other corporations, will enjoy the long-term benefit of a lowering of the corporate tax rate from 35 percent to 21 percent. “The ultimate impact of the change in the U.S. corporate income tax rate is subject to a number of complex provisions in the legislation which BP is reviewing,” BP said in a statement.

-- With cold gripping the eastern United States, here comes coal: As the East iced over with sub-freezing temperatures shortly before New Year's Day weekend, coal outpaced natural gas and nuclear power in electricity generation in the market operated by PJM Interconnection, which serves much of the East Coast. "Coal provided nearly 20,000 megawatts more electricity throughout the day Friday than its primary rival natural gas and over 10,000 megawatts more than nuclear power plants," The Washington Examiner's John Siciliano reported.

-- Silicon Valley's one sunny spot: Marred by allegations of facilitating the dissemination of fake news and pervasive sexism, Silicon Valley has recently lost a bit of its gleam. But there's at least one reason for that world-changing optimism that once consumed startup engineers, according to technology writer Clive Thompson: Clean energy. "Tech may have served up Nazis in social media streams, but, hey, it’s also creating microgrids," Thompson writes in Wired. "The point is, clean energy has a utopian spirit that reminds me of the early days of personal computers."

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WCAI - Christine Todd Whitman Sees Danger in New EPA Approach
http://capeandislands.org/post/christine-todd-whitman-sees-danger-new-epa-approach#stream/0
By Heather Goldston and Elsa Partan

Nowhere is the gap between climate science and federal climate policy more obvious than at the Environmental Protection Agency. Administrator Scott Pruitt denies the link between carbon dioxide and climate change, and has called for military-style Red-team-Blue-team debates of climate science.

The agency has restricted scientists’ ability to speak about climate change and filled science advisory boards with industry advocates. Christine Todd Whitman, EPA administrator under President George W. Bush, says it’s easy to dislike regulations, but argues the current administration’s disregard for science is dangerous.

Listen to the audio file: http://capeandislands.org/post/christine-todd-whitman-sees-danger-new-epa-approach#stream/0

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The Hill - Expect EPA chief Scott Pruitt's reckless spending to continue in 2018
http://thehill.com/opinion/energy-environment/366887-expect-epa-chief-scott-pruitts-reckless-spending-to-continue-in
By John O'Grady, Opinion Contributor, 12/31/17

In 2017, the Trump administration established dangerous new norms in environmental policy. For the coming year, it's become obvious what's "in" and what's "out."

Regarding EPA, and according to this White House, fossil fuel energy lobbyists are in, and federal scientists and engineers are out.

Permits for offshore oil and gas drilling and mineral extraction at our national monuments are in, and air pollution regulations and water contamination protocols are out. Scott Pruitt's climate denial and his refusal to release documents supporting his claims are in, while the federal "endangerment finding" that enabled President Obama's climate actions including the Paris Agreement is out.

In just 10 months, Environmental Protection Agency Administrator Scott Pruitt has devastated EPA by dismantling its science directives to protect public health and the environment. What will result from backing industry interests over defending public health for 300 million Americans? Only time will tell. Here is an inventory of the major investigations of Donald Trump's EPA expected to come to fruition in 2018.

Administrator Scott Pruitt is one of several Trump cabinet members (including Interior Secretary Ryan Zinke, Energy Secretary Rick Perry and former Health and Human Services Secretary Tom Price), who were caught taking expensive private planes for government business on the public's dime.

EPA's Inspector General Arthur Elkins, Jr. is now investigating Pruitt's travel through Sept. 30, 2017, considering the "frequency, cost, and extent" and whether travel policies were followed to prevent waste, fraud and abuse. Pruitt used private and military jet travel instead of commercial airlines for EPA work on four occasions at a cost of nearly $60,000. He traveled 48 of his first 92 days as administrator — 43 of those days included stops in his home state of Oklahoma.

The second investigation questions Pruitt advocating lobbying. At a meeting with the National Mining Association in April, he exhorted mining association members to tell Trump to withdraw from the Paris climate deal.

Pruitt's staff also pressed lawmakers and conservative groups to publicly criticize the climate agreement, increasing public pressure on the resident. Afterward, mining association executives voted to support the U.S. withdrawal.

These actions exemplify a potentially larger pattern of illegal activities by Pruitt and EPA staff as these directives from a cabinet member may violate anti-lobbying laws for government officials.

The Government Accountability Office (GAO) provides legal opinions on anti-lobbying questions. But first, the EPA's inspector general must "develop a comprehensive factual record" for conducting the analysis. He has not forwarded its investigation's findings to the GAO. Once it does, the GAO will complete its inquiry.

The GAO will also investigate an appearance of impropriety by Pruitt in a video sanctioned by the National Cattlemen's Beef Association to promote weakening EPA's Waters of the U.S. (WOTUS) rule.

In this review to rescind or revise the Clean Water Rule, Pruitt essentially urged the public to comment in favor of repealing the rule. The video advises viewers "tell EPA to kill WOTUS."

The GAO investigation will examine if Pruitt violated laws on the use of appropriated funds for lobbying, publicity and propaganda purposes and for violations of the Anti-Deficiency Act. Obviously, calling on the public to support a rule's withdrawal does not appear fair, impartial or open-minded, and undermines the idea that public participation matters.

Yet another investigation will consider possible ethical violations from Pruitt's insistence that he did not use a personal email address for official EPA business and for speeches he gave to

conservative organizations about environmental policy while he was Oklahoma attorney general.

He also ran afoul of professional responsibility in rules for Oklahoma Bar Association lawyers for possibly lying under oath and violation of ethical rules associated with the practice of law. Once the investigation is complete, the bar association's Professional Responsibility Commission may take disciplinary action against him.

The complaint asserts that Pruitt violated Oklahoma's rules of professional conduct for attorneys when he testified during his confirmation hearing for EPA administrator that he did not use a personal "me.com" email address for official state business. Oklahoma public-records revealed that he received at least one email message at his "me.com" email address.

The GAO opened one more inquiry into whether EPA circumvented the Trump administration's own ethics rules when hiring certain agency employees.

To fulfill his promise to "drain the swamp" in Washington, Trump issued an executive order last January prohibiting executive branch employees from participating "in any particular matter" on which they had lobbied in the two years before their appointment.

In August, Tom Carper (D-Del.) and Sheldon Whitehouse (D-R.I.), asked GAO to investigate a violation of Trump's lobbying rules. The senators alleged that EPA bypassed that order by hiring certain political appointees under a provision of the Safe Drinking Water Act that authorizes the EPA to hire up to 30 people "without regard to civil service laws."

The senators' joint statement said, "The whole point of ethics laws is to give the American people confidence that the work of their government is being conducted fairly, honestly, and free from special interest sway. But when an agency can just ignore those rules — and congressional oversight — the result often leads to corruption and scandal."

EPA's inspector general has agreed to review whether Pruitt misused appropriated funds when he spent $25,000 installing a secure, soundproof communications booth in his office. According to a government contracting database, Pruitt also paid $7,978 more to remove closed-circuit

television equipment to accommodate the booth in an area off his third-floor office. Pruitt has come under fire for building the booth when a Sensitive Compartmented Information Facility that guards against electronic surveillance and suppresses data leakage of sensitive information is already available to him at EPA headquarters.

On Dec 18, Sen. Carper sent a letter to EPA's inspector general asking to expand his current audit of Pruitt's travel a third time to include the administrator's recent four-day junket to Morocco to increase exports of U.S. liquefied natural gas. It's suspicious since natural gas exports do not fall within the EPA's mission. Flying first class, the trip cost taxpayers $40,000.

Given the scope and seriousness of the allegations, we think the inspector general will likely grant this request. Carper added, "I presume Mr. Pruitt is aware his agency's inspector general is conducting an investigation into his questionable travel, which makes his decision to take this trip an odd choice at best."

So, inspector general investigations are in, while Pruitt has been at EPA's helm for only 10 months. And, they are expected to provide lots of drama in 2018.

John O'Grady is President of the American Federation of Government Employees (AFGE) National Council of EPA Locals #238 representing over 8,000 bargaining unit employees at the U.S. EPA nationwide.

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Toledo Blade - A shameful delay on lead standards
https://www.toledoblade.com/Editorials/2018/01/01/A-shameful-delay-on-lead-standards.html
Editorial – 1/1/2018

The U.S. Environmental Protection Agency has known for years that federal standards for lead exposure in children were outdated. And yet the agency has done nothing for 17 years to study and revise its guidelines for what levels of lead are acceptable in children.

This week a federal appeals court rejected the administration's request and ordered the agency to

form new rules within 90 days. The Trump Administration had asked for a six-year delay for the updated standards after the Obama administration delayed them for six years previously.

The 9th Circuit Court of Appeals in San Francisco issued a blistering rebuke of the EPA's foot dragging. The EPA has acknowledged that lead poisoning is the top environmental health threat for children younger than 6 in the United States, judges said.

The court went on to mention that untold numbers of children were likely exposed to lead poisoning while the EPA delayed this important work.

Lead exposure can cause damage to a child's brain and nervous system, slow growth and development, create learning and behavior problems, and hearing and speech problems. Its effects can be irreversible.

Almost 40 years after the federal government outlawed lead paint, an unknown number of children are still in jeopardy. This is partly because cities such as Toledo continue to live with a legacy of older housing stock still coated with lead paint that falls away in chips and dust form. In other areas lead finds its way into children's blood streams via outdated lead water pipes.

The appeals court noted that new research on the hazards of lead paint suggested federal authorities review standards. And yet the federal EPA — to which state and local authorities ought to be able to turn for guidance on policy and safe exposure levels — still wanted six years to consider its ruling on best practices.

EPA officials have said they will review the ruling before deciding whether to appeal. They should not waste their time. Instead, the agency should get to work reviewing the latest science and offering revised standards that will help protect America's children.

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Tulsa World - Retiring EPA official over Oklahoma says agency survives ebb and flow of politics
http://www.tulsaworld.com/news/government/retiring-epa-official-over-oklahoma-says-

agency-survives-ebb-and/article_7eb8b4a5-fce9-534e-aee6-2fb958760a21.html
By Kelly Bostian, 1/2/2018

After 40 years in government service, under seven presidents, the Environmental Protection Agency's acting administrator of Dallas-based Region 6 takes his leave confident his agency's charge to protect human health and the environment is intact.

Sam Coleman is turning his cowboy boots toward the setting sun by choice, by the way. That needs to be made clear because headlines lately are rife with news of cuts to agency staff, regulations rollbacks, worries the "core mission" has changed and indications that President Donald Trump's campaign comment about the EPA to "get rid of it in almost every form" may be coming to fruition.

Coleman expressed no such feelings of worry but described an agency that, like most government agencies, ebbs and flows according to the politics of the day and who is in charge.

"It's running the way it always has," he said. "The thing about government that I will say is our democracy always has its problems until you compare it to anything else — and then it looks pretty dag-gum good."

A general assumption that Republican administrations cut environmental agencies and Democrats build them up is not true, he said. President Bill Clinton appointed a commission to examine the agency and cut expenses, Coleman said.

"We've seen reductions in staff through various administrations and seen increases through others," he said. "The Democrats and Republicans are a completely mixed bag."

One of the more difficult transitions in presidential administrations was from Jimmy Carter to Ronald Reagan, he said. Carter issued a number of executive orders late in his term, and Reagan reversed most of them.

Read Carter's memoirs and you may be surprised just how little communication there was between him and Reagan. "There was a lot of animosity that occurred," Coleman said.

"I was lower in the ranks, but I did experience some of that. But you have to understand at that time there was no 24-hour news cycle, no internet; it didn't exist, so you had to find the Washington Post or the New York Times or another major newspaper and drill down into the political section to read a story to find out what was going on."

Now Twitter and 24-hour news create stories out of any little thing that occurs, he said.

"For a lot of that, you kind of roll your eyes a little bit and say, 'It's the same old thing,' " Coleman said.

What makes the difference for the agency is communication with the employees, he said.

"Carter to Reagan to (George H.W.) Bush, Clinton to (George W.) Bush, (Barack) Obama to Trump, the career employees can always tell a difference, and in a lot of ways that are not totally obvious," Coleman said. "I will say, without getting too specific, some administrations clearly communicate the message — their goals and agenda — better than others."

Coleman said he intended to retire last year, after his wife, Esther, retired (also from the EPA) in 2014. Coleman chuckled. "No, no, I was never her boss," he said.

The departing Obama administration issued a plea to senior staff to stay through the transition to the next administration, he said.

"I agreed to that before the election," Coleman said. "It's just a handshake thing, but you keep your word. I also wanted to make sure the region was under strong new leadership before I left."

Anne Idsal, former general counsel to the Texas Commission on Environmental Quality, took the reigns of the South Central Region — which includes Oklahoma, Texas, New Mexico, Arkansas, Louisiana and 66 tribal nations — in December.

Coleman said the former attorney "will be a great administrator and excellent for the region."

In his time with the U.S. Army Corps of Engineers and just under 29 years with the EPA, Coleman said he is blessed to have worked in an area "where you actually could make a difference and see improvements in people's lives."

Coleman guided EPA's response to Hurricane Katrina as the agency's senior federal official for New Orleans.

When he was director of the Superfund Division, he saw the turnaround at Tar Creek, with credit to efforts from Sen. Jim Inhofe and Gov. Brad Henry and tribal leaders to shake loose political and bureaucratic divisions that had the project at a near standstill.

"We were able to turn that around 14, 15 years ago, to create a much better partnership where we could get the work started and actually address the safety of the residents," Coleman said.

He also pointed to the Brownfields Program, which provides grants and technical assistance to communities, states and tribes to clean up and use contaminated properties. The program he calls a game-changer played a part in the development of The Brickyards area of Oklahoma City and the building of ONEOK Field in downtown Tulsa.

"What has grown out of it has been millions in development," he said. "It creates jobs, brings people back to work and re-uses a lot of property that would have otherwise sat idle."

Not all is rosy at the EPA, but Coleman would say that challenges and errors are the stuff of life from which we learn and grow.

"As a career employee, what you have to avoid is passing judgment on a policy," he said. "The people vote, and the president is the president, and he appoints people to establish the policy. I don't have an opinion about one policy versus another; they just are what they are."

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CLEAN AIR COUNCIL,

S.B., through his Guardian
Danecia Berrian, and

B.B., through his Guardians
Diane and Thomas Berman,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

DONALD TRUMP, in his official capacity as President of the United States,
1600 Pennsylvania Avenue NW
Washington, DC 20500,

UNITED STATES DEPARTMENT OF ENERGY,
1000 Independence Avenue SW
Washington, DC 20500,

RICK PERRY, in his official capacity as Secretary of Energy,
1000 Independence Avenue SW
Washington, DC 20500,

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
1200 Pennsylvania Avenue NW
Washington, DC 20004, and

SCOTT PRUITT, in his official capacity as Administrator of the Environmental Protection Agency,
1200 Pennsylvania Avenue NW
Washington, DC 20004,

Defendants.

Case No.

COMPLAINT FOR DECLARATORY RELIEF

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COMPLAINT

1. In recent years, the United States has experienced a steady increase in extreme weather events that have destroyed American homes and businesses, displaced millions of United States citizens, and caused the tragic loss of lives. The United States Government's current acts to roll back regulations and practices previously directed at addressing and minimizing the United States contribution to climate change will increase the frequency and severity of these extreme weather events and the dangers to Plaintiffs' lives and a life-sustaining environment.

2. Through these acts, the Government is relying on junk science to wage a war on facts, data, and reliable principles and methods arising out of scientific, technical, and specialized knowledge. In doing so, Defendants have acted with reckless and deliberate indifference to the established clear and present dangers of climate change, knowingly increasing its resulting damages, death, and destruction.

3. Plaintiffs bring this action pursuant to the United States Constitution seeking a declaration that the current United States Government's rollback program affirmatively increases the United States contribution to climate change and intensifies its effects, thereby endangering the lives and welfare of United States citizens in violation of the Due Process Clause of the Constitution.

I. JURISDICTION AND VENUE

4. This action is authorized by Article III, Section 2 of the United States Constitution, which extends the federal judicial power to all cases arising in equity under the Constitution. An actual controversy has arisen and exists between Plaintiffs and Defendants, because Defendants have exposed Plaintiffs to dangerous, life-threatening situations, infringing

upon Plaintiffs' constitutional and international rights. Plaintiffs have no adequate remedy at law to redress the harms identified herein, which are of a continuing nature, and if left unresolved, will be irreversible.

5. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 2201, and 28 U.S.C. § 2202, as this action arises under the laws of the United States.

6. Venue lies in this judicial district by virtue of 28 U.S.C. § 1391(e). Plaintiff Clean Air Council is headquartered in this judicial district, and Plaintiffs S.B. and B.B. reside in this judicial district. Some Defendants have offices in this judicial district, and the events, omissions, and harms that are the basis of Plaintiffs' claims arise in substantial part in this judicial district.

II. PLAINTIFFS

7. Plaintiff Clean Air Council is a member-supported environmental organization headquartered in Philadelphia, Pennsylvania. The Council is dedicated to protecting and defending everyone's right to breathe clean air. The Council works through a broad array of related sustainability and public health initiatives, using public education, community action, government oversight, and enforcement of environmental laws. The Council is currently fighting for strong regulations of carbon dioxide ("CO_2") and methane at both the state and national level. These pollutants make up over 90% of America's greenhouse gas emissions. Due to its emissions of CO_2 and methane, Pennsylvania alone is responsible for a full 1% of the world's greenhouse gasses.

8. Plaintiff S.B., by and through his mother and guardian Danecia Berrian, is a seven-year-old citizen of the United States who resides in Philadelphia, Pennsylvania. S.B. is experiencing harm as a result of Defendants' affirmative acts in causing increased climate change. He suffers from severe seasonal allergies, which cause recurrent nosebleeds and

vomiting. S.B.'s medical issues are directly impacted by the climate. He loves to play sports, and increasing temperatures and extreme weather events caused by Defendants' actions affect his athletic performance and ability to enjoy outdoor activities safely. As a result of the United States Government's actions, S.B.'s allergy symptoms have been exacerbated and will continue to worsen as climate change becomes more severe. For example, S.B. needed to be hospitalized during Hurricane Irene in 2011, and his mother experiences anxiety during extreme weather events, fearing that he may need to be hospitalized again in the future.

9. Plaintiff B.B., by and through his parents and guardians, Thomas and Diane Berman, is an eleven-year-old citizen of the United States who resides in Chester County, Pennsylvania. B.B. is experiencing harm as a result of Defendants' affirmative acts in causing increased climate change. B.B. is passionate about protecting the environment, and experiences anxiety about the potentially irreversible impact of climate change on the planet and future generations, including his own children and grandchildren. Before moving to the greater Philadelphia area, B.B. resided in New York, and experienced the frightening impact of Super Storm Sandy and Hurricane Irene. B.B. regularly takes notice of news events documenting the consequences of climate change, particularly those he has seen firsthand. For example, he recently was upset to learn that many people in Staten Island, New York are still struggling to rebuild their homes in the wake of Super Storm Sandy. In addition, B.B. suffers from asthma, which is exacerbated by climate change.

III. DEFENDANTS

A. United States of America

10. Defendant the United States of America ("United States") is the sovereign trustee of national natural resources, including air, water, sea, and wildlife. In its sovereign capacity, the United States controls our nation's air space and atmosphere; federal public lands, waters, and other natural resources, including fossil fuel reserves; and articles of interstate and international commerce, including extraction, development, and conditions for the utilization of fossil fuels. In its sovereign capacity, the United States is responsible for limiting CO_2 emissions from major sources. In reckless disregard for its duty to protect its citizens from the known clear and present dangers of climate change, the United States is allowing dangerous levels of CO_2 to build up in the atmosphere. That build-up impairs essential national public trust resources required by Plaintiffs and future generations, and infringes on their constitutional rights to a life-sustaining climate system.

B. President Donald Trump

11. Defendant Donald Trump, the President of the United States, in his official capacity, is vested with the executive power of the United States and must faithfully execute the office and preserve, protect, and defend the Constitution. Defendant Trump has waged a war on science and encouraged fossil fuel exploitation, utilization, and exports—activities that generate additional CO_2 emissions and, in light of the present baseline of atmospheric concentrations, dangerously interfere with the climate system in violation of Plaintiffs' constitutional rights.

C. Department of Energy

12. Defendant the United States Department of Energy ("DOE") is a federal agency whose mission is to achieve "effective management of energy functions of the Federal

Government, including consultation with the heads of other Federal departments and agencies in order to encourage them to establish and observe policies consistent with a coordinated energy policy, and to promote maximum possible energy conservation measures in connection with the activities within their respective jurisdictions."[1] Congress intended for DOE to "assure incorporation of national environmental protection goals in the formulation and implementation of energy programs, and to advance the goals of restoring, protecting, and enhancing environmental quality, and assuring public health and safety."[2]

13. Defendant Rick Perry is the current Secretary of Energy and, in his official capacity, is responsible for all DOE action and inaction.

D. Environmental Protection Agency

14. Defendant the United States Environmental Protection Agency ("EPA") permits and regulates the activities, industries, and sources of carbon pollution in the United States under the Clean Air Act; the Clean Water Act; the Comprehensive Environmental Response, Compensation, and Liability Act; the Safe Drinking Water Act; and the Resource Conservation and Recovery Act. Before EPA was established, our government was "not structured to make a coordinated attack on the pollutants which debase the air we breathe, the water we drink, and the land that grows our food."[3] However, over time, it became "increasingly clear that we need[ed] to know more about the total environment—land, water, and air," and these issues would be most

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[1] Department of Energy Organization Act, 42 U.S.C. § 7112(2).
[2] *Id.* at § 7112(13).
[3] *See* The White House, Special Message from the President to the Congress About Reorganization Plans to Establish the Environmental Protection Agency and the National Oceanic and Atmospheric Administration (July 9, 1970), Reorganization Act No. 3 of 1970, *available at* https://www.gpo.gov/fdsys/pkg/USCODE-2010-title5/pdf/USCODE-2010-title5-app-reorganiz-other-dup92.pdf.

effectively addressed by one federal agency dedicated to developing specialized knowledge to "ensure the protection, development and enhancement of the total environment itself."[4] Thus, EPA was created to establish and enforce environmental protection standards; conduct "research on the adverse effects of pollution" and pollution control methods; recommend policy changes that strengthen environmental protection programs; and develop and recommend new policies to the President "for the protection of the environment."[5] Today, EPA sets CO_2 standards for power plants, which account for our nation's largest source of CO_2 emissions with 35% of United States annual emissions.[6]

15. Defendant Scott Pruitt is the current Administrator of EPA and, in his official capacity, is responsible for all EPA action and inaction.

IV. BACKGROUND AND DEFINITIONS

16. As discussed herein, climate change is "a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods."[7]

17. Climate change "represents an urgent and potentially irreversible threat to human societies and the planet."[8] It "impacts, directly and indirectly, an array of internationally guaranteed human rights," including by causing loss of life and life-sustaining resources.[9]

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[4] *Id.*
[5] *Id.*
[6] U.S. Energy Information Admin., *How much of U.S. carbon dioxide emissions are associated with electricity generation?*, https://www.eia.gov/tools/faqs/faq.php?id=77&t=11 (last updated May 10, 2017).
[7] U.N. Framework Convention on Climate Change, art. 1 (1992), *available at* https://unfccc.int/resource/docs/convkp/conveng.pdf.
[8] United Nations Conference of the Parties, Nov. 30–Dec. 13, 2015, *Adoption of the Paris Agreement*, Decision 1/CP.21 (Jan. 29, 2016), *available at* https://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf.
[9] U.N. Office of the High Commissioner, *Understanding Human Rights and Climate Change* 2 (Nov. 27,

18. Carbon emissions cause climate change. Recent scientific studies find that our country is now in a period of "carbon overshoot," threatening the planet's capacity to maintain a life-sustaining environment.[10]

19. There is international scientific consensus that the consequences of climate change are imminent, widespread, and severe, including the loss of life and life-sustaining resources, and that there is an extremely limited amount of time to preserve a habitable climate system for our country.

20. The United States Government has known for decades that climate change presents a clear and present danger to the American people. If the human contribution to climate change is not appropriately addressed, the warming of our nation will become increasingly severe and locked-in.

21. As a result of climate change, in recent years, the United States has experienced record droughts, heat waves, floods, and superstorms responsible for the loss of life as well as economic destruction. For example, recent catastrophic weather events, including the California wildfires and Hurricanes Harvey, Irma, and Maria, have caused at least 230 deaths and hundreds of billions of dollars in property damage in the United States and its Territories alone.[11] The frequency and intensity of these types of extreme weather events are exacerbated by climate

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2015), *available at* http://www.ohchr.org/Documents/Issues/ClimateChange/COP21.pdf.

[10] U.S. EPA, *Causes of Climate Change*, https://19january2017snapshot.epa.gov/climate-change-science/causes-climate-change_.html (last updated Jan. 19, 2017); Matthew L. Wald, *For Carbon Emissions, A Goal of Less than Zero*, N.Y. Times, Mar. 26, 2008, http://www.nytimes.com/2008/03/26/business/businessspecial2/26negative.html.

[11] *See* AJ. Willingham, *A look at four storms from one brutal hurricane season*, CNN, Oct. 11, 2017, http://www.cnn.com/2017/10/10/weather/hurricane-nate-maria-irma-harvey-impact-look-back-trnd/index.html; Jeff Daniels, *Death toll in California wildfires grows to 42, PG&E sued by couple who lost home*, CNBC, Oct. 18, 2017, https://www.cnbc.com/2017/10/18/death-toll-in-california-wildfires-grows-to-42-pge-hit-with-lawsuit.html.

change, and the impacts will only worsen if the human contribution to planetary warming continues.

22. For over fifty years, the United States[12] has known that CO_2 pollution contributed to global warming and dangerous climate change, and that the burning of fossil fuels destabilizes the climate system on which present and future generations of our nation depend for their wellbeing and survival.

23. In a 1965 White House Report titled "Restoring the Quality of Our Environment," for example, the President's Science Advisory Committee confirmed that "[p]ollutants have altered on a global scale the carbon dioxide content of the air" through "the burning of coal, oil and natural gas," and "will modify the heat balance of the atmosphere to such an extent that marked changes in climate, not controllable th[r]ough local or even national efforts, could occur."[13] The Report further stated: "The land, water, air and living things of the United States are a heritage of the whole nation. They need to be protected for the benefit of all Americans, both now and in the future. The continued strength and welfare of our nation depend on the quantity and quality of our resources and on the quality of the environment in which our people live."[14]

24. In 2007, the Supreme Court held in *Massachusetts v. EPA* that greenhouse gases, including CO_2, are pollutants, and therefore must be regulated by EPA if found to endanger

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[12] Throughout this Complaint, the terms "United States" or "Federal Government" refer to the executive branch and executive agencies that are involved in the regulation and prevention of climate change.
[13] The White House, *Restoring the Quality of Our Environment*, Report of the Environmental Pollution Panel, President's Science Advisory Committee, Nov. 1965, at 1, 9, *available at* https://babel.hathitrust.org/cgi/pt?id=uc1.b4315678;view=1up;seq=1.
[14] *Id.* at 2.

public health or welfare under the Clean Air Act.[15] Following this landmark ruling, in 2009, EPA issued its "Endangerment Finding," in which it determined that greenhouse gas emissions endanger the public health and welfare of current and future generations.[16] The Endangerment Finding was upheld in *Coalition for Responsible Regulation v. EPA*.[17] In light of the Endangerment Finding, when EPA determines that emissions from a category of mobile sources (e.g., cars, trucks, airplanes) "cause or contribute" to elevated atmospheric greenhouse gas levels, EPA has a mandatory obligation to promulgate a limiting regulation.[18] As a result, EPA issued the so-called "Tailpipe Rule" to limit greenhouse gas emissions from motor vehicles.[19] Additionally, EPA has required stationary sources otherwise subject to EPA's permitting authority to demonstrate they are using the best available current technology for limiting greenhouse gas emissions.[20]

25. Recognizing the imminent dangers presented by climate change, the Federal Government undertook steps in the last decade to reduce the threats and protect United States citizens and the planet.

26. But beginning in January 2017, the United States Government embarked on a program of reversing, unravelling, dismantling, and eliminating regulations, practices, and research previously committed to addressing, understanding, and minimizing the United States

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[15] 549 U.S. 497 (2007).
[16] Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 74 Fed. Reg. 66, 496 (Dec. 15, 2009).
[17] 684 F.3d 102 (D.C. Cir. 2012), *cert. denied*, 134 S. Ct. 468 (2013).
[18] *See* 42 U.S.C. § 7521(a)(1); 42 U.S.C. § 7471(a)(2)(A).
[19] Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule, 75 Fed. Reg. 25,324 (May 7, 2010).
[20] *See* 42 U.S.C. § 7475(a)(4) (application to greenhouse gases upheld by *Util. Air Regulatory Grp. v. E.P.A.*, 134 S. Ct. 2427, 2448–49 (2014)).

contribution to climate change ("the Federal Government Rollbacks" or "the Rollbacks") and its life-endangering effects.

27. The Rollbacks have been motivated by and built on "junk science."

28. As used herein, "junk science" refers to "faulty scientific information or research, especially when used to advance special interests."[21] In the judicial system, "junk science" refers to "[e]vidence which is not consonant with generally accepted medical or scientific views and which lacks other indicia of reliability."[22]

29. Through the Rollbacks, the Government has in effect waged a war on facts, data, and reliable principles and methods arising out of scientific, technical, and specialized knowledge.

30. The Rollbacks increase the United States contribution to climate change and intensify the frequency and severity of its effects, including, among others, death, shortening of life expectancy, property damage, degradation of food sources, and alteration of ecosystems.

31. Through the Rollbacks, the Government is knowingly and recklessly placing the

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[21] *See* Random House Webster's Dictionary; *see also Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 592–94 (1993) (holding that, when "[f]aced with a proffer of expert scientific testimony," "the trial judge must determine at the outset, . . . whether the reasoning or methodology underlying the testimony is scientifically valid and of whether that reasoning or methodology properly can be applied to the facts in issue" by considering (1) "whether it can be (and has been) tested," (2) whether the theory or technique has been subjected to peer review and publication, and (3) whether the theory has "[w]idespread acceptance" in the "relevant scientific community").

[22] Joseph M. Price & Gretchen Gates Kelly, *Junk Science in the Courtroom: Causes, Effects and Controls*, 19 Hamline L. Rev. 395 (1996); *see also Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 982 (9th Cir. 2011) ("Under *Daubert*, the trial court must act as a 'gatekeeper' to exclude junk science that does not meet Federal Rule of Evidence 702's reliability standards by making a preliminary determination that the expert's testimony is reliable.") (citing *Kumho Tire Co. v. Carmichael,* 526 U.S. 137, 145, 147–49, (1999)); *Pullins v. Stihl Inc.*, No. CIV.A. 03-5343, 2006 WL 1390586, at *3 (E.D. Pa. May 19, 2006) (excluding expert testimony because "[t]he method [the expert] employed to arrive at his conclusions can only be described as exactly the kind of 'junk science' that *Daubert* sought to purge from the federal courts").

nation's population in harm's way.

32. Defendants have acted with reckless and deliberate indifference to the established clear and present dangers of climate change, thereby increasing its resulting damages, death, and destruction.

V. STATEMENT OF FACTS

A. What is Climate Change?

33. Climate change "refers to changes in the totality of attributes that define climate. In addition to changes in air temperature, climate change involves changes to precipitation patterns, winds, ocean currents, and other measures of Earth's climate."[23]

34. Global warming refers to "the phenomenon of increasing average air temperatures near the surface of Earth over the past one to two centuries."[24]

35. "Warming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, and sea level has risen."[25]

36. In 1988, the Intergovernmental Panel on Climate Change ("IPCC") was formed by the World Meteorological Organization and the United Nations Environment Program.[26] In 2013, the IPCC reported that the period between 1880 and 2012 saw an increase in global average surface temperature of approximately 0.9 °C (1.5 °F) and stated that most of the

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[23] Henrik Selin & Michael E. Mann, *Global warming*, Britannica Online Encyclopedia, https://www.britannica.com/science/global-warming.
[24] *Id.*
[25] IPCC, *Climate Change 2014, Synthesis Report, Summary for Policymakers*, at 2 (2014), *available at* http://www.ipcc.ch/pdf/assessment-report/ar5/syr/AR5_SYR_FINAL_SPM.pdf.
[26] IPCC, *History*, http://ipcc.ch/organization/organization_history.shtml (last visited Nov. 3, 2017); IPCC, *Organization*, http://ipcc.ch/organization/organization.shtml (last visited Nov. 3, 2017).

warming observed over the second half of the 20th century could be attributed to human activities.[27]

37. "Modern global warming is the result of an increase in magnitude of the so-called greenhouse effect, a warming of Earth's surface and lower atmosphere caused by the presence of water vapour, carbon dioxide, methane, nitrous oxides, and other greenhouse gases."[28]

38. The IPCC reported in 2014 that concentrations of carbon dioxide, methane, and nitrous oxides in the atmosphere surpassed concentrations found in ice cores dating back 800,000 years. Carbon dioxide is the most important of these gases, both for its roles in the greenhouse effect and in the human economy.[29] If fossil fuels continue to be burned at current rates, they are projected to reach 560 ppm by the mid-21st century, effectively doubling carbon dioxide concentrations in 300 years.[30]

39. The current energy imbalance—that is, the difference between the amount of solar energy absorbed by Earth and the amount of energy released into space as heat—is approximately 0.6 Watts/m^2 averaged over the entire planet, equivalent to exploding more than 400,000 Hiroshima atomic bombs per day, 365 days per year, throughout our planet.[31]

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[27] Selin & Mann, *supra* note 23.
[28] *Id.*
[29] *Id.*
[30] Pushker A. Kharecha & James E. Hansen, *Implications of "peak oil" for atmospheric CO_2 & climate*, NASA Goddard Institute for Space Studies & Columbia Univ. Earth Institute, May 2007, *available at* https://arxiv.org/ftp/arxiv/papers/0704/0704.2782.pdf.
[30] *See* Michael E. Mann, *Earth Will Cross the Climate Danger Threshold by 2036*, Scientific American, Apr. 1, 2014, https://www.scientificamerican.com/article/earth-will-cross-the-climate-danger-threshold-by-2036/; William T. Sommers et al., *Synthesis of Knowledge: Fire History and Climate Change*, U.S. Joint Fire Science Program 2.6–2.8 (2011), *available at* https://www.firescience.gov/projects/09-2-01-9/project/09-2-01-9_09_2_01_9_Deliverable_01.pdf.
[31] James Hansen et al., *Earth's Energy Imbalance and Implications*, NASA Goddard Institute for Space Studies, Jan. 2012, https://www.giss.nasa.gov/research/briefs/hansen_16/; Joe Romm, *Earth's Rate of Global Warming is 400,000 Hiroshima Bombs a Day*, Think Progress, Dec. 22, 2013,

40. Greenhouse gases in the atmosphere act like a blanket over the Earth, trapping energy received from the sun. More greenhouse gas emissions in the atmosphere means that more energy is retained on Earth, with less being radiated back into space.[32]

41. "Basic principles of physics and chemistry dictate that Earth will warm as concentrations of greenhouse gas increase. Though various natural factors can influence Earth's climate, only the increase in greenhouse gas concentrations linked to human activity, principally the burning of fossil fuels, can explain recent patterns of global warming."[33]

42. Continued emission of greenhouse gases will cause further warming and long-lasting changes in all components of the climate system, increasing the likelihood of severe, pervasive, and irreversible impacts for humans and the planet. Limiting climate change requires substantial and sustained reductions in greenhouse gas emissions.[34]

43. The current level of atmospheric CO_2 concentration caused by human-made climate change has placed our country in the danger zone. As acknowledged by the United States, "global atmospheric concentrations of CO_2, methane, and nitrous oxide are at unprecedentedly high levels compared to the past 800,000 years of historical data and pose risks to human health and welfare."[35]

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https://thinkprogress.org/earths-rate-of-global-warming-is-400-000-hiroshima-bombs-a-day-44689384fef9/.

[32] U.S. Global Change Research Program, *Global Climate Change Impacts in the United States: A State of Knowledge Report* 13–14 (2009), *available at* http://www.iooc.us/wp-content/uploads/2010/09/Global-Climate-Change-Impacts-in-the-United-States.pdf.

[33] Michael E. Mann & Lee R. Kump, *Dire Predictions: Understanding Climate Change: The Visual Guide to the Findings of the IPCC* (2016).

[34] IPCC Synthesis Report, *supra* note 25, at 8.

[35] *See* Federal Defendants' Answer to First Amended Complaint for Declaratory and Injunctive Relief, *Juliana v. United States*, No. 6:15-cv-01517-TC (D. Or. Jan., 13, 2017), ECF No. 98, ¶ 5 ("*Juliana* Answer").

44. In 2013, the atmospheric CO_2 concentration exceeded 400 ppm—the highest levels in the past three to five million years.[36] The pre-industrial concentration was 280 ppm.[37] CO_2 concentrations have thus risen more than 120 ppm since pre-industrial times, with half of that rise occurring since 1980.[38] March 2015 was the first month that the monthly global average concentration of CO_2 was 400 ppm for an entire month.[39] Emissions must be rapidly and systematically reduced to well below the natural rate of draw-down into Earth's forests, soils, and crust in order to restore energy balance and avoid crossing tipping points that set in motion disastrous impacts to human civilization and nature.

45. One key observable change is the rapid increase in recorded surface temperatures. As a result of increased atmospheric CO_2 from human activities, our nation has been warming as scientists predicted as early as 1965. In the last thirty years, Earth has been warming at a rate three times faster than the rate at which it was warming over the previous one hundred years. As admitted by the United States,[40] Earth has now warmed at least 1° C above pre-industrial temperatures. That temperature is equivalent to the maximum temperatures of the Holocene era, the period of climate stability over the last 10,000 years that enabled human civilization to develop. Warming hit 1° C in late 2015, and has continued to increase beyond that point.[41]

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[36] Nicola Jones, *Breaking Records: How the World Passed a Carbon Threshold & Why it Matters*, Yale Environment 360, Jan. 26, 2017, https://e360.yale.edu/features/how-the-world-passed-a-carbon-threshold-400ppm-and-why-it-matters; NOAA, Earth System Research Laboratory, Global Monitoring System, *Trends in Atmospheric Carbon Dioxide*, ftp://aftp.cmdl.noaa.gov/products/trends/co2/co2_mm_mlo.txt; Andrew Freedman, *The Last Time CO2 Was This High, Humans Didn't Exist*, Climate Central, May 3, 2013, http://www.climatecentral.org/news/the-last-time-co2-was-this-high-humans-didnt-exist-15938.
[37] Jones, *supra* note 36.
[38] *See* NOAA, *Trends in Atmospheric Carbon Dioxide*, *supra* note 36.
[39] Brian Kahn, *A Global Milestone: CO2 Passes 400 PPM*, Climate Central, May 6, 2015, http://www.climatecentral.org/news/co2-400-ppm-global-record-18965.
[40] *Juliana* Answer ¶ 210.
[41] Andrew Gilson, *Climate & the rise and fall of civilizations; a lesson from the past*, The Conversation,

According to the National Aeronautics and Space Administration ("NASA"), the past three years have set three consecutive temperature records, with 2016 being the hottest year on record. In fact, sixteen of the last seventeen years are the warmest years on record for the globe.[42]

46. Well-documented and observable impacts from the changes in Earth's climate system highlight that the current level of atmospheric CO_2 concentration has already taken our nation into a danger zone. Increased CO_2 emissions are already resulting not only in the warming of land surfaces, but also in the warming of oceans, increasing atmospheric moisture levels, raising global sea levels, and changing rainfall and atmospheric air circulation patterns that affect water and heat distribution.[43]

47. Arctic sea ice is declining precipitously and is expected to disappear completely in the coming decades as the Earth continues to get hotter. With less sea ice, less solar radiation is reflected back to space, resulting in a positive feedback loop that amplifies regional and global warming.[44]

48. Similarly, there has been an increase in permafrost temperatures and melting in Alaska.[45] Substantial methane releases from thawing permafrost have already been observed in

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Dec. 10, 2015, https://theconversation.com/climate-and-the-rise-and-fall-of-civilizations-a-lesson-from-the-past-51907; *see also* Sommers, *supra* note 30, at 2.8.

[42] NASA, *2016 Climate Trends Continue to Break Records*, July 19, 2016, https://www.nasa.gov/feature/goddard/2016/climate-trends-continue-to-break-records; *see also* NASA Global Climate Change, *Climate change: How do we know?*, https://climate.nasa.gov/evidence/ (last visited Nov. 2017); NASA Global Climate Change, *Global Temperature*, https://climate.nasa.gov/vital-signs/global-temperature/ (last visited Nov. 3, 2017).

[43] *State of the Knowledge Report*, *supra* note 32, at 12–52.

[44] U.S. EPA, *Climate Change Indicators: Artic Sea Ice*, https://www.epa.gov/climate-indicators/climate-change-indicators-arctic-sea-ice (updated Nov. 2016); Andrea Thompson, *Arctic Sea Ice Sets Record-Low Peak for Third Year*, Climate Central, Mar. 23, 2017, https://www.scientificamerican.com/article/arctic-sea-ice-sets-record-low-peak-for-third-year/.

[45] IPCC Synthesis Report, *supra* note 25, at 4; Press Release, National Snow & Ice Data Center, *Arctic Sea Ice Reaches Minimum Extent for 2014*, Sept. 22, 2014,

Alaska. Because much of the Alaskan permafrost overlays old peat bogs that sequester methane, permafrost melting will release methane that will further increase global warming to even more dangerous levels. CO_2 and methane released from thawing permafrost could contribute as much as 0.4°F to 0.6°F of warming by 2100.[46]

49. A global scientific consensus has formed around the conclusion that there is no plausible alternative explanation for global warming other than human influence.[47]

50. That consensus includes scientists across the United States Government. A recent Climate Science Special Report, drafted as part of the fourth National Climate Assessment by scientists from a range of government agencies, including the National Oceanic and Atmospheric Administration, NASA, and Defendant DOE, working in conjunction with academic scientists, concluded that "it is extremely likely that human activities, especially emissions of greenhouse gases, are the dominant cause of the observed warming since the mid-20th century. For the warming over the last century, there is no convincing alternative explanation supported by the extent of the observational evidence."[48]

51. A substantial portion of every ton of CO_2 emitted by humans persists in the atmosphere for as long as a millennium or more. Therefore, the impacts associated with past and current CO_2 emissions will be borne by our children and future generations. Our nation will

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http://nsidc.org/arcticseaicenews/2014/09/arctic-minimum-reached.

[46] Ellen Gray, *Alaska Tundra Source of Early-Winter Carbon Emissions*, NASA, May 8, 2017, https://www.nasa.gov/feature/jpl/alaska-tundra-source-of-early-winter-carbon-emissions; Gary Braasch & Bill McKibben, *Earth Under Fire: How Global Warming is Changing the World* 18–20 (2009); *see also* J.E. Box et al., *Greenland, in Arctic Report Card: Update for 2010* 55 (Oct. 19, 2010).

[47] NASA Global Climate Change, *Scientific consensus: Earth's climate is warming*, https://climate.nasa.gov/scientific-consensus/ (last visited Nov. 3, 2017).

[48] U.S. Global Change Research Program, *Climate Science Special Report* 10 (2017), *available at* https://science2017.globalchange.gov/downloads/CSSR2017_FullReport.pdf.

continue to warm in response to concentrations of CO_2 from past emissions, as well as future emissions. As the United States has acknowledged, "CO_2 emissions are currently altering the atmosphere's composition and will continue to alter Earth's climate for thousands of years."[49]

B. Climate Change Presents a Clear and Present Danger to Life and Life-Sustaining Resources

52. Climate change not only threatens life, but the most basic life-sustaining necessities as well, including clean air, pure water, sufficient food, and adequate shelter.

53. Fossil fuel extraction and combustion, and the resulting climate change, is already contributing to an increase in allergies, asthma, cancer, cardiovascular disease, stroke, heat-related morbidity and mortality,[50] food-borne diseases, toxic exposures, mental health and stress disorders, neurological diseases and disorders, and the occurrence of infectious diseases.

54. Our nation has experienced significant impacts from the relatively modest degree of warming that has occurred to date. These impacts constitute harbingers of far more dangerous changes to come. If unabated, continued greenhouse gas emissions, especially CO_2, will initiate dynamic climate change, presenting a clear and present danger to Plaintiffs and future generations. As the planet's energy imbalance triggers amplifying feedbacks and the climate system and biological system pass critical tipping points, such changes would be irreversible on any time scale relevant to Plaintiffs and would threaten human survival.

55. By 2050, climate change is expected to add thousands of additional premature

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[49] *Juliana* Answer ¶ 206. The United States also admits that "current and projected concentrations of six well-mixed greenhouse gases, which include CO_2, constitute a threat to public health and welfare." *Id.* ¶ 8.

[50] In the United States alone, more than 9,000 people have died from heat-related illnesses over the last four decades. U.S. EPA, *Climate Change Indicators: Heat-Related Deaths*, https://www.epa.gov/climate-indicators/climate-change-indicators-heat-related-deaths (last visited Nov. 3, 2017).

deaths per year nationally from combined ozone and particle health effects.[51] Higher surface temperatures, especially in urban areas, promote the formation of ground-level ozone, which has adverse impacts on human health by irritating the respiratory system, reducing lung function, aggravating asthma, and inflaming and damaging cells that line the airways.[52]

56. "Children are disproportionately impacted by climate change due to their unique metabolism, physiology and developmental needs. The negative impacts of climate change, including the increasing frequency and intensity of natural disasters, changing precipitation patterns, food and water shortages, and the increased transmission of communicable diseases, threaten the enjoyment by children of their rights to health, life, food, water and sanitation, education, housing, culture, and development, among others."[53]

57. Irrefutable scientific evidence establishes that the consequences of climate change on a macro level are imminent, devastating, and potentially irreversible.

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[51] George Luber et al., *Climate Change Impacts in the United States: The Third National Climate Assessment* 222 (2014), *available at* https://data.globalchange.gov/file/e9d7596e-6619-4b5b-8863-ce90d1101e42; Efthimios Tagaris et al., *Potential Impact of Climate Change on Air Pollution-Related Human Health Effects*, 43 Envt'l Sci. & Tech. 4979 (May 18, 2009); Kuo-Jen Liao et al., *Quantification of the impact of climate uncertainty on regional air quality*, 9 Atmospheric Chemistry and Physics 865 (Feb. 3, 2009).

[52] For example, there are now twice as many Lyme disease cases than were reported in 1991; in the past three decades, the percentage of Americans with asthma has more than doubled, and climate change is putting those Americans at greater risk of requiring hospitalization; and longer growing seasons allow for ragweed to produce pollen for a longer period, resulting in aggravated and prolonged allergies for millions of Americans. *See* National Ambient Air Quality Standards for Ozone, 80 Fed. Reg. 65,292 (Oct. 26, 2015); *see also* EPA, *Climate Change Indicators in the U.S.* 10, 67–70 (2016), *available at* https//www.epa.gov/sites/production/files/2016-08/documents/climate_indicators_2016.pdf; American Geophysical Union, *Climate change could increase ER visits for allergy-related asthma*, Science Daily, May 10, 2017, https://www.sciencedaily.com/releases/2017/05/170510115232.htm.

[53] U.N. Office of the High Commissioner, *Climate Change and the Full and Effective Enjoyment of the Rights of the Child*, U.N. Doc. A/HRC/35/13 (Feb. 27, 2017), *available at* http://www.ohchr.org/Documents/Issues/ClimateChange/RightsChild/ChilrenOnePager.pdf.

1. Extreme Weather Events, Droughts, and Flooding

58. Climate change is already causing, and will continue to result in, more frequent, extreme, and costly weather events, such as floods, hurricanes, and tornadoes. Each one degree Fahrenheit of warming of the ocean surface leads to a roughly 4% increase in the amount of moisture (and, therefore, a roughly 4% increase in storm-related rainfall amounts).[54]

59. Devastating hurricanes of historic proportions are becoming commonplace. Recent tragic examples include the record-breaking Hurricanes Harvey, Irma, Jose, and Maria—the result of increasingly warm water temperatures in the Gulf of Mexico and the Atlantic Ocean. Hundreds of thousands of homes flooded and tens of thousands of people have been displaced. Most tragically, the death toll in the United States and its Territories is nearing 200.[55] Experts further predict that the recent hurricanes could be among the costliest natural disasters in American history, with damages in the hundreds of billions of dollars.[56]

60. In Pennsylvania, where Plaintiff Clean Air Council is headquartered, and Plaintiffs S.B. and B.B. reside, climate change has and will result in "extreme precipitation," increasing the risk of "flooding and storm surging."[57]

61. Outside of the United States, recent hurricanes have been similarly devastating, with entire islands flooded, homes and hospitals destroyed, millions of people evacuated or

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[54] Kevin E. Trenberth, *Changes in precipitation with climate change*, 47 Climate Research 123 (Mar. 31, 2011), *available at* http://www.int-res.com/articles/cr_oa/c047p123.pdf.
[55] Willingham, *supra* note 11.
[56] Doyle Rice, *Harvey to be costliest natural disaster in U.S. history, estimated cost of $190 billion*, USA Today, Aug. 31, 2017, https://www.usatoday.com/story/weather/2017/08/30/harvey-costliest-natural-disaster-u-s-history-estimated-cost-160-billion/615708001/.
[57] James Shortle et al., *Pennsylvania Climate Impacts Assessment Update* 168 (May 2015), *available at* http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-108470/2700-BK-DEP4494.pdf.

stranded without electricity or running water, and an ever-rising death toll.[58]

62. Changes in our country's water cycle as a result of climate change also increase the potential for, and severity of, droughts. Even in arid regions, increased precipitation is likely to cause flash flooding followed by drought.

63. Other countries around the world are experiencing similar increases in drought and related wildfires and flash flooding. In developing countries, droughts have only exacerbated challenges in accessing clean water and sustaining agricultural resources.[59] For example, in India, changing weather patterns have resulted in massive flooding, displacing millions, with the death toll surpassing 100.[60]

64. Increased wildfires, shifting precipitation patterns, higher temperatures, and drought conditions also threaten forest industries and private property. In the United States, 72,000 wildfires have been recorded, on average, each year since 1983.[61] Nine of the ten years with the largest acreage burned have occurred in the fourteen years since 2000.[62] In October

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[58] *See, e.g.*, *Death toll grows on islands devastated by Hurricane Irma*, CBS News, Sept. 11, 2017, https://www.cbsnews.com/news/hurricane-irma-death-toll-grows-islands-devastated-cuba-st-martin/; Michael Holmes & Dominique van Heerden, *Dominica knocked to its knees by Hurricane Maria's might*, CNN, Sept. 21, 2017, http://www.cnn.com/2017/09/20/world/hurricane-maria-dominica/index.html; Tesalon Felicien, *Hurricane Irma aftermath: Destruction, recovery in St. Maarten*, USA Today, Sept. 15, 2017, https://www.usatoday.com/story/news/nation-now/2017/09/15/hurricane-irma-st-maarten-destruction/670035001/.

[59] *See, e.g.*, Derek Van Dam, *Cape Town contends with worst drought in over a century,* CNN, June 1, 2017, http://www.cnn.com/2017/05/31/africa/cape-town-drought/index.html; Soutik Biswas, *Is India facing its worst-ever water crisis?*, BBC News, Mar. 27, 2016, http://www.bbc.com/news/world-asia-india-35888535.

[60] *See* Nita Bhalla, *Indian PM Modi says flood-hit people getting aid, blames climate change*, Reuters, July 31, 2017, https://www.reuters.com/article/us-india-floods-climatechange/indian-pm-modi-says-flood-hit-people-getting-aid-blames-climate-change-idUSKBN1AG1PB.

[61] EPA, *Climate Change Indicators: Wildfires* 2 (Aug. 2016), *available at* https://www.epa.gov/sites/production/files/2016-08/documents/print_wildfires-2016.pdf.

[62] *Id.*

2017, more than a dozen wildfires in Northern California forced at least 20,000 people to evacuate after the Governor declared a state of emergency, destroyed at least 2,000 homes, and caused the deaths of at least 15 people.[63]

65. In higher altitude and latitude regions, including in mountainous areas, more precipitation is falling as rain rather than snow.[64] With early snow melt occurring because of climate change, the reduction in snowpack can aggravate water supply problems.

66. The melting of mountain glaciers is particularly serious in areas that rely on snow melt for irrigation and drinking water supply. In effect, a large snow pack or glacier acts as a supplemental reservoir or water tower, holding a great deal of water in the form of ice and snow through the winter and spring and releasing it in the summer when rainfall is lower or absent. The water systems of the United States rely heavily on this natural water storage.[65] Yet as temperatures warm, not only will these areas lose this supplemental form of water storage, but severe flooding is also likely to increase as rainfall accelerates the melting of glaciers and snow packs.

67. Climate change projections estimate an increase in monetary damages associated with inland flooding across most of the contiguous United States. Approximately 190,000 of our nation's bridges are vulnerable to increased inland flooding caused by climate change, with

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[63] Doug Criss & Judson Jones, *The California wildfires, by the staggering numbers*, CNN, Oct. 11, 2017, http://www.cnn.com/2017/10/10/us/california-wildfire-by-the-numbers/index.html.
[64] *See, e.g.*, Sarah Kapnick & Andrew Hall, *Causes of Recent Changes in Western North American Snowpack*, 38 Climate Dynamics 1885 (May 2012).
[65] *See* Richard A. Lovett, *Melting Glaciers Mean Double Trouble for Water Supplies*, Nat'l Geographic News, Dec. 21, 2011, https://news.nationalgeographic.com/news/2011/12/1112-melting-glaciers-mean-double-trouble-for-water-supplies/.

adaptation costs estimated at $170 billion for the period from 2010 to 2050.[66] In an area of the Northwest that includes Washington and parts of Oregon and Idaho, 56% of inland bridges are identified as vulnerable in the second half of the 21st Century.[67]

68. By 2100, adaptation costs associated with large storms in 50 United States cities are estimated by EPA to range from $1.1 to $12 billion.[68] Further, climate change is projected to result in $5 trillion in damage to coastal properties in the contiguous United States through 2100.[69]

2. Sea-Level Rise

69. Recent scientific reports warn of the disintegration of both the West Antarctic Ice Sheet and the East Antarctic Ice Sheet, causing multi-meter sea-level rise that will devastate coastal regions, including much of the Eastern Seaboard.[70] Millions of Americans will be affected and trillions of dollars in property damage will result. The risk of this devastation approaches certainty, unless fossil fuel emissions are rapidly phased out.[71] These recent studies account for the potential for non-linear ice sheet melting more fully than prior studies, which could raise the sea level by ten feet (or more) by mid-century.[72]

70. If carbon pollution is not quickly abated, there is a near scientific certainty that

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[66] U.S. EPA, *Climate Change in the U.S., Benefits of Global Action* 34–35 (2015), *available at* https://www.epa.gov/sites/production/files/2015-06/documents/cirareport.pdf.
[67] *Id.* at 35
[68] *Id.* at 40–41.
[69] *Id.*
[70] Robert M. DeConto & David Pollard, *Contribution of Antarctica to past and future sea-level rise*, Nature 531, 591–597 (Apr. 5, 2016).
[71] *Id.*
[72] Andra J. Garner et al., *Impact of climate change on New York City's coastal flood hazard: Increasing flood heights from the preindustrial to 2300 CE*, Proc. Nat'l Acad. of Sci. USA (Sept. 1, 2017), *available at* http://www.pnas.org/content/early/2017/10/03/1703568114.full.pdf.

humanity will suffer sea-level rise of several meters, submerging much of the near coastal and low-lying regions of the eastern seaboard of the United States, including large parts of New York City and Florida, as well as low-lying areas of Europe, the Far-East, and the Indian sub-continent.

71. Rising sea levels are already submerging low-lying lands, eroding beaches, and converting wetlands to open water, exacerbating coastal flooding, and increasing the salinity of estuaries and freshwater aquifers. Between 1996 and 2011, twenty square miles of land were inundated by rising sea levels along the Atlantic coast.[73] Coastal states are experiencing wetland loss due to rising sea levels.[74] Scientists have predicted that wetlands in the mid-Atlantic region of the United States, including Pennsylvania, cannot survive acceleration in sea-level rise by seven millimeters per year.[75]

72. As expected, our country's sea levels have also risen from glacial and ice cap melting, as well as from the thermal expansion of the ocean itself. Based on measurements taken from 1993 to 2010, sea levels have been rising at an average rate of 3.2 millimeters per year. Though sea levels rose about 170.18 millimeters (0.17 meters) over the last century, within the last decade, the rate of sea-level rise has nearly doubled.[76] As admitted by the United States, the rising seas have caused and will continue to cause flooding in coastal and low-lying areas.[77] The

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[73] U.S. EPA, *Climate Change Indicators: A Closer Look: Land Loss Along the Atlantic Coast*, https://www.epa.gov/climate-indicators/atlantic-coast (last visited Nov. 5, 2017).
[74] *Id.*
[75] James G. Titus et al., *Coastal Sensitivity to Sea-Level rise: A Focus on the Mid-Atlantic Region*, U.S. Climate Change Science Program, at 4 (Jan. 2009), *available at* https://downloads.globalchange.gov/sap/sap4-1/sap4-1-final-report-all.pdf.
[76] Garner, *supra* note 72.
[77] *Juliana* Answer ¶ 214.

combination of rising sea levels and more severe storms creates conditions conducive to severe storm surges during high tides. In coastal communities this can overwhelm levees and sea walls, as witnessed during Hurricane Katrina, Hurricane Sandy, and most recently, Hurricanes Harvey and Irma.

3. Agriculture and Ocean Life

73. Agriculture is extremely susceptible to climate change, threatening food security. Higher temperatures generally reduce yields of desirable crops while promoting pest and weed proliferation. Climate change is predicted to decrease crop yields, increase crop prices, decrease nationwide calorie availability, and increase malnutrition.[78]

74. Because of extreme temperature increases and unsuitable working conditions, in 2100, a projected 1.8 billion labor hours and $170 billion in wages will be lost.[79]

75. Increased CO_2 emissions are having a severe negative impact on the health of our oceans. The oceans absorb approximately 25-30% of global CO_2 emissions, resulting in a 30% increase in surface ocean acidity.[80]

76. By 2100, the surface waters of the ocean could be nearly 150% more acidic, resulting in a pH that the oceans have not experienced for more than 20 million years.[81] The rise

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[78] Matthew W. Bloom et al., *Castel Gandolfo Workshop: An Introduction to the Impact of Climate Change, the Economic Crisis, and the Increases in Food on Malnutrition*, 140 J. Nutrition 1325 (Jan. 2010), *available at* http://jn.nutrition.org/content/140/1/132S.long; UNICEF, *Global Nutrition Report: From Promise to Impact, Ending Malnutrition by 2030* 61, 70–71 (2016), *available at* https://data.unicef.org/wp-content/uploads/2016/06/130565-1.pdf.
[79] *Benefits of Global Action*, *supra* note 66 at 28–29.
[80] S. Khatiwala, F. Primeau & T. Hall, *Reconstruction of the history of anthropogenic CO2 concentrations in the ocean*, 462 Nature 346 (Nov. 19, 2009), *available at* https://courses.seas.harvard.edu/climate/seminars/pdfs/khatiwala.primeau.hall.nature.2009.pdf.
[81] NOAA, PMEL Carbon Program, *What is Ocean Acidification?*, https://www.pmel.noaa.gov/co2/story/What+is+Ocean+Acidification%3F (last visited Nov. 1, 2017); *see also id.*, *Ocean Acidification: The Other Carbon Dioxide Problem*,

in ocean acidity places coral reefs at considerable risk. Given that coral reefs are among the most biologically diverse and economically important ecosystems, the impact of their loss cannot be overstated. Coral reefs provide shelter to a quarter of all marine species.[82]

77. Climate change and ocean acidification are threatening the survival and wellbeing of plants, fish, wildlife, and biodiversity. As many as one in six species are threatened with extinction due to climate change.[83] Many more species that do not face extinction will face changes in abundance, distributions, and species interactions that cause adverse impacts for ecosystems and humans.

C. United States Knowledge of Climate Change

78. The United States Government has known for decades that climate change presents a clear and present danger to the health and welfare of its citizens and an immediate threat to the planet.[84]

79. Specifically, the United States Government has been and is aware of the severe consequences of climate change identified herein, and admitted the existence of most of them in *Juliana v. United States*, including the inundation of low-lying lands and beaches, loss of wetlands, increased flooding, increased salinity of near-coastal estuaries and aquifers, increased hurricane intensity, increased frequency of intense storms and heavy precipitation, increased droughts, prolonged heat events, decreased snow cover and snow cover season, reduced

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https://www.pmel.noaa.gov/co2/story/Ocean+Acidification (last visited Nov. 1, 2017).

[82] Smithsonian Ocean Portal, *Corals and Coral Reefs*, http://ocean.si.edu/corals-and-coral-reefs (last visited Nov. 5, 2017).

[83] Carl Zimmer, *Study Finds Climate Change as Threat to 1 in 6 Species*, N.Y. Times, Apr. 30, 2015, https://www.nytimes.com/2015/05/05/science/new-estimates-for-extinctions-global-warming-could-cause.html.

[84] *See* The White House, *Restoring the Quality of Our Environment*, *supra* note 13, at 1; *Juliana* Answer ¶ 1 (admitting knowledge "for over fifty years").

agricultural productivity, decreased crop yield, increased wildfires, ocean acidification, harmful algae blooms, threatened coral reefs, decreased biodiversity, increased prevalence of certain diseases, and endangered human health.[85]

80. As early as 1965, the Executive Branch reported that anthropogenic pollutants, including CO_2, impair our nation's economy and its quality of life. In the 1965 Report of President Lyndon Johnson's Scientific Advisors, "Restoring the Quality of Our Environment," the White House confirmed that anthropogenic pollutants, including CO_2, threaten "the health, longevity, livelihood, recreation, cleanliness and happiness of citizens who have no direct stake in their production, but cannot escape their influence."[86]

81. For fifty years, the United States Government has known that "pollutants have altered on a global scale the CO_2 content of the air" through "the burning of coal, oil and natural gas."[87] Indeed, the United States admitted in *Juliana* that officials and persons in the Federal Government have been aware of the evidence of climate change, its causes, and its consequences for over fifty years.[88] Fifty years ago, the Executive Branch predicted that CO_2 "will modify the heat balance of the atmosphere to such an extent that marked changes in climate, not controllable th[r]ough local or even national efforts, could occur."[89] The Executive Branch warned that "carbon dioxide [gases] are accumulating in such large quantities that they may eventually produce marked climatic change."[90] At that time, the Federal Government recommended

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[85] *Juliana* Answer ¶¶ 218–222, 227–229, 233, 235, 237.
[86] The White House, *Restoring the Quality of Our Environment*, *supra* note 13, at 1.
[87] *Id.* at 1, 9; *see also id.* at 119, 124.
[88] *Juliana* Answer ¶ 1.
[89] The White House, *Restoring the Quality of Our Environment, supra* note 13, at 9.
[90] *Id.* at 12.

reducing the heating of the Earth because of the extraordinary economic and human importance of our climate system, and the White House recommended that a tax system be implemented to tax polluters, including emitters of air pollution, "in proportion to their contribution to pollution," to incentivize pollution reduction.[91]

82. In 1969, Patrick Moynihan, then-Adviser to President Nixon, wrote a letter to White House Counsel John Ehrlichman stating that CO_2 pollution resulting from burning fossil fuels was a problem perhaps on the scale of "apocalyptic change," threatening the loss of cities like New York and Washington, D.C. from sea-level rise. The 1969 Moynihan Letter urged the Federal Government to immediately address this threat.[92]

83. In 1978, Congress passed the National Climate Program Act "to establish a national climate program that will assist the Nation and the world to understand and respond to natural and man-induced climate processes and their implications."[93]

84. On June 23, 1988, Dr. James Hansen, then-Director of NASA's Institute for Space Studies and a leading climate scientist in the Federal Government, testified before Congress that carbon pollution in the atmosphere was causing global warming and that impacts were already being observed.[94] Around the time of Dr. Hansen's testimony, Congress directed its own offices and EPA to separately prepare reports on how to stabilize the global climate system and transition our country away from the use of fossil fuels.[95]

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[91] *Id.* at 17–18.
[92] Memorandum from Daniel Patrick Moynihan to John Ehrlichman (Sept. 17, 1969), *available at* https://www.nixonlibrary.gov/virtuallibrary/releases/jul10/56.pdf.
[93] 15 U.S.C. § 2902.
[94] *Greenhouse Effect and Global Climate Change: Hearing Before the S. Comm. on Energy & Nat. Res.*, 100th Cong. 51–83 (1987).
[95] Global Climate Protection Act of 1987, 15 U.S.C. § 2901, Pub. L. No. 100-204, §§ 1101, 1104, 101

85. In response, in December 1990, EPA submitted a report to Congress on "Policy Options for Stabilizing Global Climate."[96] EPA's 1990 Report concluded: "responses to the greenhouse problem that are undertaken now will be felt for decades in the future, and lack of action now will similarly bequeath climate change to future generations."[97]

86. EPA's 1990 Report called for a 50% reduction in total United States CO_2 emissions below 1990 levels by 2025. EPA explained that such reductions were the only pathway to achieve Congress's goal of stopping global warming and stabilizing the climate system.[98] EPA's 1990 Report also called for stabilizing atmospheric CO_2 concentrations at 350 ppm, the current level at that time.[99] In its 1990 Report, EPA confirmed the Executive Branch's findings from 1965 that CO_2 was a "dangerous" pollutant.[100]

87. In 1991, promptly following EPA's 1990 Report, the Congressional Office of Technology Assessment ("OTA") delivered to Congress its own report, "Changing By Degrees: Steps to Reduce Greenhouse Gases."[101] Finding that the United States was the single largest contributor to carbon pollution, OTA's 1991 Report developed "an energy conservation, energy-supply, and forest-management package that can achieve a 20- to 35-percent emissions reduction" through a mix of regulatory and market-based federal policies, in order to prevent global warming and climate change.[102] OTA reported that if its recommended measures were

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Stat. 1408, 1409.
[96] U.S. EPA, *Policy Options for Stabilizing Global Climate: Report to Congress, Main Report* (1990).
[97] *Id.* at III-15.
[98] *Id.* at 28, I-5.
[99] *Id.* at 8, I-5.
[100] *Id.* at I-13.
[101] U.S. Office of Technology Assessment, *Changing By Degrees: Steps to Reduce Greenhouse Gases*, OTA-O-482 (Feb. 1991), *available at* https://repository.library.georgetown.edu/bitstream/handle/10822/708292/9111.PDF?sequence=1.
[102] *Id.* at 5.

implemented, the Federal Government could lower CO_2 emissions 35% from 1987 levels by 2015 and possibly save the Federal Government $20 billion per year.[103] OTA determined that the 35% necessary reduction in CO_2 emissions was only the beginning, and further efforts in the 21st century would be required to stabilize our nation's climate system. OTA's 1991 Report stated that major reductions of CO_2 would require significant new initiatives by the Federal Government and must be sustained over decades, even before all possible scientific certainties are resolved: "[I]t is clear that the decision to limit emissions cannot await the time when the full impacts are evident. The lag time between emission of the gases and their full impact is on the order of decades to centuries; so too is the time needed to reverse any effects."[104]

88. OTA's 1991 Report informed Congress that the level of emission reductions needed would require the country to wean itself from fossil fuels. OTA also urged that, while global warming was a problem on a global scale, United States leadership was critical to solving the problem and would seriously impact what happened around the globe.

89. In determining that actions would be required across the Federal Government, both EPA's 1990 Report and OTA's 1991 Report concluded that an essential component of reducing CO_2 emissions was implementing a rising carbon tax.

90. On October 15, 1992, following receipt of the EPA and OTA Reports, the Senate ratified the United Nations Framework Convention on Climate Change ("UNFCCC"), which was executed to "protect the climate system for the benefit of present and future generations of humankind."[105] The UNFCCC evidences an "overwhelming weight" of support for protection of

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[103] *Id.* at 10.
[104] *Id.* at 3.
[105] UNFCCC, *supra* note 7, at art. 3.

the atmosphere under the norms and principles of intergenerational equity. The minimal objective of the UNFCCC is the "stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system."[106]

91. The recommendations in EPA's 1990 Report and OTA's 1991 Report were never implemented. United States fossil fuel production, consumption, and combustion all continued to accelerate at dangerous speeds for decades.

92. This finally began to change in more recent years. On December 7, 2009, nearly 17 years after the United States ratified the UNFCCC, the then-Administrator of EPA, Lisa Jackson, issued EPA's formal Endangerment Finding under the Clean Air Act.[107] The finding stated that current and projected atmospheric concentrations of greenhouse gases, including, in particular, CO_2, threatened the public health and welfare of current and future generations.

93. On January 2, 2011, EPA commenced partial regulation of greenhouse gases under the Clean Air Act from mobile and stationary sources of air pollution.[108] Also in 2011, Defendant DOE admitted that "our responsibility to future generations is to eliminate most of our carbon emissions and transition to a sustainable energy future."[109]

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[106] *Id.* at art. 2.
[107] U.S. EPA, *Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Section 202(a) of the Clean Air Act*, Dec. 7, 2009, https://www.epa.gov/ghgemissions/endangerment-and-cause-or-contribute-findings-greenhouse-gases-under-section-202a-clean; Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 74 Fed. Reg. 66,496 (Dec. 15, 2009).
[108] Reconsideration of Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs, 75 Fed. Reg. 17,004 (Apr. 2, 2010); Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, 75 Fed. Reg. 31,514 (June 3, 2010); Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule, 75 Fed. Reg. 25,324 (May 7, 2010).
[109] US Dep't of Energy, *Strategic Plan* (May 2011), *available at*

94. The third National Climate Assessment in 2014 acknowledged that "[t]he cumulative weight of the scientific evidence . . . confirms that climate change is affecting the American people now, and that choices we make will affect our future and that of future generations."[110]

95. The conclusions in the 2017 Climate Science Special Report for the fourth National Climate Assessment went further, finding it "extremely likely" that anthropogenic forces are the primary cause of climate change.[111]

96. Recognizing the imminent threat presented by climate change, the United States Government had—until the Rollback programs—taken affirmative steps to reduce the United States' anthropogenic contribution to climate change. These steps included the Climate Action Plan, which established new rules to reduce carbon emissions and introduced initiatives to make the United States a global leader in addressing climate change; the Clean Power Plan, which imposed limits on emissions from fossil fuel-burning power plants; and a moratorium on the federal coal leasing program, which significantly limited the United States' harmful emissions from coal-fired power.

97. By acting to prevent the devastating and life-endangering consequences of climate change, the United States Government has acknowledged its obligation as the trustee of our country's natural resources not to take affirmative acts to enhance, increase, or intensify those dangers.

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https://energy.gov/sites/prod/files/2011_DOE_Strategic_Plan_.pdf.

[110] National Climate Assessment, *Climate Change Impacts in the United States* (2014), http://nca2014.globalchange.gov/highlights/overview/overview.

[111] U.S. Global Change Research Program, *Climate Science Special Report* 10 (2017), *available at* https://science2017.globalchange.gov/downloads/CSSR2017_FullReport.pdf.

98. Having admitted its knowledge of climate change and taken affirmative acts to protect the American people and the planet, the Federal Government has a continuing responsibility not to knowingly place the United States population precisely in the forefront of increased dangers.

D. International Consensus on Climate Change

99. Like the United States, countries around the world have reached the same conclusion that a sovereign nation has the responsibility not to place its citizens in known clear and present dangers of climate change.

100. As early as 1899, scientists understood that CO_2 concentrations in the atmosphere cause heat retention on Earth and that a doubling or tripling of the CO_2 content in 1899 would significantly elevate Earth's surface temperature.[112] Scientists also understood that CO_2 was the determinative factor for global heating. By the turn of the 20th century, it was widely accepted in the scientific community that increasing the atmospheric concentration of CO_2 could cause global climate change. There is now near global consensus that climate change endangers humanity and nature.

101. The recognition of the essential nature of a life-sustaining environment has its roots in millennia of laws and traditions from around the world. Today, it has been embodied in international treaties and the domestic laws of a majority of the world's nations. Internationally, there have been more than 400 multilateral agreements aimed at protecting the environment.[113]

102. Most countries now recognize the right to healthy environment through their

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[112] T. C. Chamberlin, *An Attempt to Frame a Working Hypothesis of the Cause of Glacial Periods on an Atmospheric Basis*, J. Geology 7, 575 (1899).
[113] Kate O'Neill, *The Environment and International Relations* 7 (2d ed. 2017).

domestic laws. As of 2012, 92 countries afforded their citizens the constitutional right to a clean or healthy environment, and 177 nations recognized the right to a healthy environment through their constitution, environmental legislation, court decisions, or ratification of an international agreement.[114]

103. Many indigenous peoples (those groups possessing historical ties to certain areas, later affected by colonization) have long believed in the need to protect the environment. These beliefs are embodied in the Indigenous Peoples' Earth Charter, which was drafted in 1992 by a gathering of indigenous peoples from around the world: "We maintain our inalienable rights to our lands and territories, to all our resources—above and below—and to our waters. We assert our ongoing responsibility to pass these onto the future generations."[115]

104. Similarly, the right to air and water has been recognized since the days of the Byzantine emperor, Justinian. The Institutes of Justinian declared "the following things are by natural law common to all—the air, running water, the sea, and consequently the sea shore."[116]

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[114] *See* David R. Boyd, *The Constitutional Right to a Healthy Environment*, Environment Magazine, July-Aug. 2012, http://www.environmentmagazine.org/Archives/Back%20Issues/2012/July-August%202012/constitutional-rights-full.html; James R. May & Erin Daly, *Global Environmental Constitutionalism* (2015); James R. May & Erin Daly, *Environmental Constitutionalism: A Research Compendium* (2016).

[115] Kari-Oca Declaration And Indigenous Peoples' Earth Charter, May 1992, *available at* www.lacult.unesco.org/lacult_en/docc/Kari-Oca_1992.doc. The 1992 Rio Indigenous People's charter (Kari-Oca Declaration) was replaced by the Kari-Oca II Declaration during the 2012 conference. The Kari-Oca II similarly states:

> We reject the false promises of sustainable development and solutions to climate change that only serve the dominant economic order. We reject REDD, REDD+ and other market-based solutions that focus on our forests, to continue the violation of our inherent rights to self determination and right to our lands, territories, waters, and natural resources, and the Earth's right to create and susta in life. There is no such thing as "sustainable mining." There is no such thing as "ethical oil."

Kari-Oca II Declaration, Indigenous Peoples Global Conference on Rio +20 and Mother Earth, Indigenous Environmental Network, June 17, 2012, http://www.ienearth.org/kari-oca-2-declaration/.

[116] Justinian, *The Different Kinds of Things*, Humanistic Texts (2000), *available at*

This canon of Roman civil law forms the basis for the public trust doctrine, which designates sovereign governments as trustees of the natural resources that government holds in a "public trust" for the benefit of its citizens.

105. The Stockholm Declaration on the Human Environment was the first major international recognition of a healthy environment. It emerged from a United Nations Conference on the Human Environment in 1972. In the Stockholm Declaration, 114 nations recognized that: "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and bears a solemn responsibility to protect and improve the environment for present and future generations."[117] The Declaration further recognized that: "The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate."[118]

106. In the time since the Stockholm Declaration was issued, the need to protect the environment has been recognized in hundreds of international treaties and agreements.

107. In 1992, in the Report of the United Nations Conference on Environment and Development (also known as the Rio Declaration on Environment and Development), 178 nations declared that human beings "are entitled to a healthy and productive life in harmony with nature."[119]

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http://www.humanistictexts.org/justinian.htm.

[117] Report of the U.N. Conference on the Human Environment, June 5–16, 1972, U.N. Doc. A/Conf.48/14/Rev.1, § II Principle 1, *available at* http://www.un-documents.net/aconf48-14r1.pdf.

[118] *Id.* at § II Principle 2.

[119] Report of the U.N. Conference on Environment and Development, *Rio Declaration on Environment &*

108. Furthermore, the United Nations General Assembly has recognized "that all individuals are entitled to live in an environment adequate for their health and well-being."[120]

109. Within widely adopted multilateral treaties, there has been a particular focus on climate change. Countries have entered into numerous treaties to slow or reverse the negative effects of climate change, including the Vienna Convention for the Protection of the Ozone Layer in 1985[121]—the first Convention of any kind to achieve universal ratification—and the follow-up Montreal Protocol on Substances that Deplete the Ozone Layer in 1987, which banned ozone-depleting chlorofluorocarbons.[122]

110. The African Charter on Human and Peoples' Rights recognizes that "[a]ll peoples shall have the right to a general satisfactory environment favorable to their development."[123] Similarly, the American Convention on Human Rights (which the United States did not sign) states that "[e]veryone shall have the right to live in a healthy environment."[124] In Europe, the Hague Declaration on the Environment recognizes "the right to live in dignity in a viable global environment."[125]

Development, June 3–14, 1992, U.N. Doc. A/CONF.151/26 (Vol. 1), Annex 1, Principle 1 at 1 (Aug. 12, 1992), *available at* http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm.

[120] U.N. General Assembly, *Need to ensure a healthy environment for the well-being of individuals*, U.N. Doc. A/Res/45/94, at 2 (Dec. 14, 1990), *available at* http://www.un.org/documents/ga/res/45/a45r094.htm.

[121] Vienna Convention for the Protection of the Ozone Layer, Mar. 22, 1985, *available at* http://ozone.unep.org/en/handbook-vienna-convention-protection-ozone-layer/2205.

[122] Montreal Protocol on Substances that Deplete the Ozone Layer, Sept. 16, 1987, *available at* http://ozone.unep.org/en/handbook-montreal-protocol-substances-deplete-ozone-layer/5.

[123] African (Banjul) Charter on Human and Peoples' Rights, OAU Doc. CAB/LEG/67/3, *adopted* June 27, 1981, *rev.* 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986, art. 24, *available at* http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf.

[124] American Convention on Human Rights, *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights*, art. 11 (Nov. 17, 1988), *available at* http://www.oas.org/juridico/english/treaties/a-52.html.

[125] *Hague Declaration on the Environment*, 28 Int'l Legal Materials 1308, 1309 (Sept. 1989), *available at*

111. In 1992, the United Nations Framework Convention on Climate Change (UNFCCC) was negotiated to "stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system."[126] It was entered into force in 1994. As of 2015, 197 countries are parties to UNFCCC, including the United States.

112. The Kyoto Protocol implemented UNFCCC's goal of stabilizing greenhouse gas concentrations by imposing limits on emissions of greenhouse gases. The Kyoto Protocol was adopted in 1997 and entered into force in 2005. As of 2015, there are 192 parties to the Kyoto Protocol. The Protocol was implemented to address mankind's impact on climate change by controlling countries' emissions of greenhouse gases.

113. Most recently, the Paris Agreement extended the UNFCCC to address greenhouse gas emissions from 2020 onward. It was agreed in December 2015 and went into effect in November 2016. As of March 2017, 194 UNFCCC members have signed the Paris Agreement, including the United States, and 141 members (but not the United States) have ratified it. Defendant Trump has announced his intention to withdraw the United States from the Paris Agreement, making the United States one of only two nations, along with Syria, not to participate in the agreement.

114. The Paris Agreement sets certain emissions measures for countries to meet to reduce the effects of climate change. It sets the goal of "[h]olding the increase in the global average temperature to well below 2° C above pre-industrial levels and pursuing efforts to limit

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http://www.jstor.org/stable/20693363.

[126] UNFCCC, *supra* note 7.

the temperature increase to 1.5° C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change."[127]

115. Since 2008, the member nations of the United Nations Human Rights Council have repeatedly recognized that a stable climate system is necessary for the realization of human rights.[128]

116. The responsibility that governments have for protecting the environment have also been recognized through international court decisions. For example, the International Criminal Court has announced that it will now prosecute crimes linked to environmental destruction.[129] Human rights courts have similarly held that States must not only prevent harm, but must take affirmative steps to protect and preserve the right to a life-sustaining climate system.

117. For example, the Hague District Court in the Netherlands recently adjudicated a complaint by 900 Dutch citizens after the government decided to retreat from its international commitments to address climate change. The court held that "[d]ue to the severity of the consequences of climate change . . . the State has a duty of care to take mitigation measures," and concluded that the impacts of the Government's retreat from climate action would fall disproportionately on youth and future generations.[130] The court ultimately declared that the

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[127] U.N., *Paris Agreement*, art. 2(1)(a) (2015), *available at* http://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf.
[128] *See* U.N. General Assembly, Human Rights Council Res. 32/33, U.N. Doc. A/HRC/RES/32/33 (July 18, 2016), *available at* https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/157/72/PDF/G1615772.pdf?OpenElement.
[129] Office of the Prosecutor, *Policy Paper on Case Selection and Prioritisation* 13–14, Int'l Criminal Court, Sept. 15, 2016, *available at* https://www.icc-cpi.int/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf.
[130] *Urgenda Found. v. The State of the Netherlands*, C/09/456689/HA ZA 13-1396 (June 24, 2015), ¶¶ 4.63–4.83, *available at* https://elaw.org/system/files/urgenda_0.pdf.

Netherlands government must further reduce greenhouse gas emissions to meet its obligations to its citizens.[131]

118. Through these actions, a consensus of nations has recognized a governmental responsibility not to endanger life, including the fundamental right to a life-sustaining climate system. Rolling back environmental protections is contrary to this consensus, as it recklessly exposes Plaintiffs to the harms caused by manmade contributions to climate change based on junk science.

E. The War on Science

119. Since January 2017, the Federal Government has engaged in a war on science by censoring scientific inquiry, attacking internationally accepted facts and data, slashing the budget for programs intended to protect the environment, and appointing climate change deniers to key positions.

120. As a private citizen, candidate, and President, Defendant Trump has repeatedly denied the existence of climate change and referred to global warming as an "expensive hoax," in contravention of globally accepted scientific conclusions.[132]

121. Defendant Trump's public denial of climate change dates back to February 2010, when he reportedly stated, "With the coldest winter ever recorded, with snow setting record levels up and down the coast, . . . Gore wants us to clean up our factories and plants in order to protect us from global warming, when China and other countries couldn't care less. It would

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[131] *Id.* at ¶ 5.1.
[132] Donald J. Trump (@realDonaldTrump), Twitter (Dec. 6, 2013, 10:38 AM), https://twitter.com/realdonaldtrump/status/408983789830815744?lang=en; Peter Baker, *Does Trump Still Think Climate Change is a Hoax? No One Can Say*, N.Y. Times, June 2, 2017, https://nyti.ms/2rAPzsh.

make us totally noncompetitive in the manufacturing world, and China, Japan and India are laughing at America's stupidity."[133]

122. In fact, between November 1, 2011, and June 1, 2017, Defendant Trump has tweeted about his unfounded beliefs as a climate change denier and conspiracy theorist at least 115 times.[134]

123. For example, in 2012, Defendant Trump sent out a series of tweets rejecting mainstream climate science,[135] culminating in a November 6, 2012 tweet stating that the concept of climate change was created by the Chinese in order to gain a manufacturing advantage over the United States.

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[133] *Trump Cool to Global Warming*, Page Six, Feb. 14, 2010, http://pagesix.com/2010/02/14/trump-cool-to-global-warning/. While the United States Government has abandoned its responsibility to reduce climate change, China and India have halted construction of coal-fired power plants and increased development of renewable energy. As a result, both countries are on pace to surpass their obligations under the Paris Agreement. *See* Niklas Hohne et al., *Action by China and India slows emissions growth, President Trump's policies likely to cause US emissions to flatten*, May 15, 2017, http://climateactiontracker.org/assets/publications/briefing_papers/CAT_2017-05-15_Briefing_India-China-USA.pdf.

[134] Dylan Matthews, *Donald Trump has tweeted climate change skepticism 115 times. Here's all of it.*, Vox, June 1, 2017, https://www.vox.com/policy-and-politics/2017/6/1/15726472/trump-tweets-global-warming-paris-climate-agreement.

[135] *See*, *e.g.*, Donald J. Trump (@realDonaldTrump), Twitter (Mar. 28, 2012 11:43 AM), https://twitter.com/realdonaldtrump/status/185074709111644160 ("Global warming has been proven to be a canard repeatedly over and over again. The left needs a dose of reality") (linking to article titled, "Global Warming Models Are Wrong Again"); Donald J. Trump (@realDonaldTrump), Twitter (May 4, 2012 1:13 PM), https://twitter.com/realdonaldtrump/status/198505724689649664 ("In the 1920's people were worried about global cooling—it never happened. Now it's global warming. Give me a break!"); Donald J. Trump (@realDonaldTrump), Twitter (Nov. 1, 2012 7:23 AM), https://twitter.com/realdonaldtrump/status/264009741234221058?lang=en ("Let's continue to destroy the competitiveness of our factories & manufacturing so we can fight mythical global warming. China is so happy!"); Donald J. Trump (@realDonaldTrump), Twitter (Nov. 2, 2012 11:59 AM), https://twitter.com/realdonaldtrump/status/264441602636906496?lang=en ("Global warming is based on faulty science and manipulated data which is proven by the emails that were leaked"); Donald J. Trump (@realDonaldTrump), Twitter (Nov. 5, 2012 8:50 AM), https://twitter.com/realdonaldtrump/status/265496271794630656 ("We can't destroy the competitiveness of our factories in order to prepare for nonexistent global warming. China is thrilled with us!").

124. On January 6, 2014, Defendant Trump appeared by phone as a guest on Fox News' Fox & Friends. When asked about his use of the term "hoax" in the context of climate change, Defendant Trump responded, "Well it's a hoax. I think the scientists are having a lot of fun. . . . The problem we are doing is we are making our manufacturing, our factories and other things, we are making them non-competitive to other countries. And if you look at what's going on in China, if you look at what's going on in India, they are not spending 10 cents in their factories, and then we're supposed to compete. And you can't compete when you can't use fuel."[136]

125. On June 17, 2015, the day after announcing his candidacy for the Republican presidential nomination, Defendant Trump appeared on Sean Hannity's Fox News show, *Hannity*. Defendant Trump and Hannity engaged in the following exchange regarding climate change science:

> HANNITY: Do you believe climate change is a science you can --
>
> TRUMP: I'm not a believer in manmade -- look, this planet is so massive. And when I hear Obama saying that climate change is the number one problem it is

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[136] Fox News, *Fox & Friends* (originally aired Jan. 6, 2014), video available at: https://mediamatters.org/video/2014/01/06/fox-regular-donald-trump-decries-climate-change/197432.

just madness. And by the way it started this global cooling, I mean we went through global warming --

HANNITY: Ice age.

TRUMP: -- global cooling --

HANNITY: Now it's just climate change.

TRUMP: They don't even know. Now they just call it -- no, they call it extreme weather.

HANNITY: Yes.

TRUMP: You know, they've now reduced it to extreme weather so.[137]

126. On September 21, 2015, during an appearance on Hugh Hewitt's radio show, Trump admitted he did not believe the global scientific consensus on climate change, conceding, "I'm not a believer in man-made global warming. . . . I believe there's weather, I believe there's change, and I believe it goes up and it goes down and it goes up again, and it changes depending on years and centuries, but I am not a believer. And we have much bigger problems.[138]

127. On May 5, 2016, Defendant Trump announced his "100-day action plan." Pursuant to his "America First Energy Plan," Trump committed to rescind "all the job-destroying Obama executive actions including the Climate Action Plan and the Waters of the U.S. rule," save "the coal industry and other industries threatened by Hillary Clinton's extremist agenda," and "cancel the Paris Climate Agreement and stop all payments of U.S. tax dollars to U.N. global warming programs."[139]

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[137] Fox News, *Hannity* (originally aired June 17, 2015), *Exclusive: Donald Trump on What Made Him Run for President on 'Hannity,'* transcript available at http://www.foxnews.com/transcript/2015/06/18/exclusive-donald-trump-on-what-made-him-run-for-president-on-hannity.html.
[138] *Hugh Hewitt Show* (Sept. 21, 2015), https://www.youtube.com/watch?v=rfrpSzEPx7I.
[139] Donald J. Trump for President, *An America First Energy Plan*, May 26, 2016,

128. After the general election, on November 27, 2016, incoming White House Chief of Staff Reince Priebus spoke on behalf of Defendant Trump, explaining, "as far as this issue on climate change . . . he has his default position, which most of it is a bunch of bunk, but he'll have an open mind and listen to people."[140]

129. Defendant Trump appointed Defendant Scott Pruitt, another outspoken climate change denier, to lead EPA. Pruitt has solicited advice from climate change contrarian organization the Heartland Institute and has made little effort to meet with environmental groups since his appointment, focusing instead on appeasing the leaders of industries EPA was created to regulate.[141]

130. When Defendant Trump addressed Congress in early 2017, he stated, "We have undertaken a historic effort to massively reduce job-crushing regulations, creating a deregulation task force inside of every government agency. . . . We're going to stop the regulations that threaten the future and livelihood of our great coal miners."[142]

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https://www.donaldjtrump.com/press-releases/an-america-first-energy-plan.

[140] Fox News Sunday, *Reince Priebus on Trump's Stance on Cuba, Cabinet Picks; Rep. Tim Ryan on Why He's Challenging Nancy Pelosi*, Nov. 27, 2016, transcript available at http://www.foxnews.com/transcript/2016/11/27/reince-priebus-on-trump-stance-on-cuba-cabinet-picks-rep-tim-ryan-on-why.html.

[141] *See* Zack Colman, *CLEAN POWER PLAN: Pruitt is poised to kill the climate rule. What's next?*, E&E News, Oct. 4, 2017, https://www.eenews.net/climatewire/stories/1060062491/feed (noting "the numerous meetings Pruitt has had with industry officials he regulates compared with almost no environmental groups" and "his questioning of whether humans and carbon dioxide are major contributors to climate change"); Eric Lipton, *EPA Chief's Calendar: A Stream of Industry Meetings and Trips Home*, N.Y. Times, Oct. 3, 2017, https://www.nytimes.com/2017/10/03/us/politics/epa-scott-pruitt-calendar-industries-coal-oil-environmentalists.html.

[142] The White House, *Remarks by President Trump in Joint Address to Congress*, Feb. 28, 2017, https://www.whitehouse.gov/the-press-office/2017/02/28/remarks-president-trump-joint-address-congress.

F. The Rollbacks

131. Despite the overwhelming scientific evidence that climate change presents imminent dangers to life, the Federal Government has recently embarked on a sweeping war on science with potentially devastating and irreversible effects.[143]

132. The federal rules and regulations that existed as of January 1, 2017, represented a necessary minimum effort by the Government to address, understand, and respond to United States contribution to climate change. Rolling back, weakening, revoking, or rescinding those regulations and laws increases the clear and present dangers of climate change and its life-endangering effects.

133. Since January 2017, the Federal Government has sought to reverse the following environmental rules, policies, and regulations previously promulgated to protect United States citizens and the planet from the imminent consequences of climate change[144]:

a. Participation in the Paris Climate Agreement, under which the United States had pledged to cut emissions by 26% to 28% below 2005 levels by 2025[145];

b. The requirement that oil and gas companies report methane gas emissions (revoked by Defendant Pruitt in March 2017)[146];

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[143] *See generally* Editorial Board, *President Trump's War on Science*, N.Y. Times, Sept. 9, 2017, https://www.nytimes.com/2017/09/09/opinion/sunday/trump-epa-pruitt-science.html. As merely one example, John Konkus of EPA is tasked with attempting "to eliminate the 'double C-word,' meaning 'climate change' from the agency's research grant solicitations." *Id.*

[144] *See* Nadja Popovich & Livia Albeck-Ripka, *52 Environmental Rules on the Way Out Under Trump*, N.Y. Times, Oct. 6, 2017, https://www.nytimes.com/interactive/2017/10/05/climate/trump-environment-rules-reversed.html.

[145] Brad Plumer, *Q. & A.: The Paris Climate Accord*, N.Y. Times, May 31, 2017, https://www.nytimes.com/2017/05/31/climate/qa-the-paris-climate-accord.html (The Federal Government has formally notified the United Nations of its intent to withdraw, but it cannot complete the process until late 2020).

[146] Press Release, U.S. EPA, *EPA Withdraws Information Request for the Oil and Gas Industry*, Mar. 2,

c. The rule that prevented coal companies from dumping mining debris into local streams (Congress passed a bill revoking the rule in February, which Defendant Trump signed into law)[147];

d. The decision on Keystone XL pipeline, reversing course and approving the pipeline company's permit in March 2017[148];

e. The Outer Continental Shelf Lands Act which banned offshore drilling along parts of the Atlantic coast and much of the ocean around Alaska (offshore drilling ban reversed via an April Executive Order)[149];

f. Guidance for federal agencies to include greenhouse gas emissions in environmental reviews and to account for possible climate effects in environmental impact reviews[150];

g. Participation in the Green Climate Fund, a United Nations program that helps developing countries reduce emissions and adapt to climate change, despite the Federal Government's remaining $2 billion pledge[151];

2017, https://www.epa.gov/newsreleases/epa-withdraws-information-request-oil-and-gas-industry.

[147] Devin Henry, *Trump signs bill undoing Obama coal mining rule*, The Hill, Feb. 16, 2017, http://thehill.com/policy/energy-environment/319938-trump-signs-bill-undoing-obama-coal-mining-rule.

[148] Jason Slotkin, *U.S. State Department Issues Permit for Keystone XL Pipeline*, NPR, Mar. 23, 2017, http://www.npr.org/sections/thetwo-way/2017/03/23/521305788/state-department-set-to-certify-keystone-xl-pipeline-is-in-national-interest.

[149] Nathan Rott, *Trump Signs Executive Order On Offshore Drilling And Marine Sanctuaries*, NPR, Apr. 27, 2017, http://www.npr.org/sections/thetwo-way/2017/04/27/525959808/trump-to-sign-executive-order-on-offshore-drilling-and-marine-sanctuaries.

[150] Withdrawal of Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews, 82 Fed. Reg. 16,576 (Apr. 5, 2017).

[151] Nurith Aizenman, *A Little-Known Climate Fund is Suddenly in the Spotlight*, NPR, June 9, 2017, http://www.npr.org/sections/goatsandsoda/2017/06/09/532106567/a-little-known-climate-fund-is-suddenly-in-the-spotlight.

h. The 2016 order to consider climate change in managing natural resources in national parks (rescinded in August 2017 by the National Park Service in order to eliminate confusion among the public and National Parks Service employees regarding the Bureau of Land Management's "new vision" for America's parks)[152];

i. A fuel-efficiency standards review for car and truck model years 2021 through 2025 (EPA and the Department of Transportation have reopened the review and are also considering easing penalties on automakers who do not comply with the federal standards)[153];

j. A rule on toxic discharge from power plants into public waterways, which limited the amount of toxic metals—arsenic, lead and mercury, among others—power plants could release into public waterways (postponed in September 2017 by Defendant Pruitt until 2020)[154]; and

k. The Bureau of Land Management's public land use updated planning rule for public lands (revoked by Congress and signed into law by Defendant Trump).[155]

134. On March 16, 2017, Defendant Trump introduced "America First – A Budget Blueprint to Make America Great Again," which proposed major funding cuts to every agency

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[152] *See* Popovich & Albeck-Ripka, *supra* note 144.
[153] Rob Hotakainen, *NPS chief scraps climate-focused order*, E&E News, Aug. 31, 2017, https://www.eenews.net/stories/1060059511.
[154] Timothy Cama, *EPA delays toxic waste rules for power plants*, The Hill, Sept. 13, 2017, http://thehill.com/policy/energy-environment/350531-epa-delays-toxic-waste-rule-for-power-plants.
[155] U.S. Senate Committee on Energy & Natural Resources, *President Trump Signs Measure Repealing BLM Planning 2.0 Rule*, Mar. 27, 2017, https://www.energy.senate.gov/public/index.cfm/republican-news?ID=BA487B45-1865-4C0A-B1E0-AD55E4FC9977.

involved in combatting climate change, such as EPA, NASA, and NOAA. For example, EPA faces a 31% budget cut, the highest proposed budget cut of any federal agency.[156] The proposed federal budget "[d]iscontinues funding for the Clean Power Plan, international climate change programs, climate change research and partnership programs, and related efforts," which would reduce critical funding in these areas by more than $100 million.[157]

135. On March 28, 2017, Defendant Trump issued the "Presidential Executive Order on Promoting Energy Independence and Economic Growth" (the "Executive Order").[158] To date, the following consequences of the Executive Order have already taken effect:

a. The Executive Order directed EPA to immediately review the Clean Power Plan, which established strict carbon emission limits for existing fossil fuel-fired power plants. The Order instructs EPA to initiate new notice-and-comment rulemaking "as appropriate" to suspend, revise, or rescind the Clean Power Plan. It also directs the Attorney General to request a stay "or otherwise delay further litigation" relating to the Clean Power Plan pending the implementation of the Executive Order.[159] In October 2017, EPA proposed repealing the Plan, and the proposal is currently open to public comments.

b. The Executive Order revoked a Federal Government memorandum that instructed

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[156] Office of Management and Budget, *America First: A Budget Blueprint to Make America Great Again* 41, May 2017, *available at* https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/2018_blueprint.pdf, .
[157] *Id.*
[158] The White House, Office of the Press Secretary, *Presidential Executive Order on Promoting Energy and Independence and Growth*, Mar. 28, 2017, https://www.whitehouse.gov/the-press-office/2017/03/28/presidential-executive-order-promoting-energy-independence-and-economi-1.
[159] *Id.* § 4(d).

five federal agencies to avoid and then minimize the impacts of development on water, wildlife, land, and other natural resources.[160]

c. The Executive Order directed agencies to stop using the "social cost of carbon" calculation that helped rulemakers monetize the costs of carbon emissions and instructed them to instead base their estimates on a 2003 cost-benefit analysis. The Order also disbanded the working group that created estimates for the social cost of carbon and directed the Attorney General to request a stay litigation involving these standards pending the Order's implementation.[161]

d. The Executive Order directed DOI to amend or withdraw Secretarial Order 3338 (dated January 15, 2016), which called for a programmatic environmental review and modernization of the federal coal leasing program, and to lift the moratorium on federal coal leasing.[162]

136. According to Trump Administration officials, the primary purpose of the Executive Order was to "curb the federal government's enforcement of climate regulations by putting American jobs above addressing climate change."[163] During the ceremonial signing at EPA, Defendant Trump referenced his campaign promises, emphasizing that the Executive Order will follow through on his promises to "eliminate federal overreach," "start a new era of

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[160] *Id.* § 3(a)(iii); *see also* The White House, Office of the Press Secretary, *Presidential Memorandum: Mitigating Impacts on Natural Resources from Development & Encouraging Related Private Investment* § 1, Nov. 3, 2015, https://obamawhitehouse.archives.gov/the-press-office/2015/11/03/mitigating-impacts-natural-resources-development-and-encouraging-related.
[161] March 28, 2017 Executive Order, *supra* note 158 § 5.
[162] *Id.* § 6.
[163] Dan Merica, *Trump Dramatically Changes US Approach to Climate Change*, CNN, Mar. 29, 2017, http://www.cnn.com/2017/03/27/politics/trump-climate-change-executive-order/.

production," "grow American jobs," and "[end] the theft of prosperity."[164]

137. When asked about the environmental impact of the Executive Order, a White House official commented, "the President has been very clear that he is not going to pursue climate change policies that put the US economy at risk. It is very simple."[165] In addition, the official was reluctant to say whether all Trump Administration officials believe that anthropogenic sources cause climate change.[166]

138. Before the signing of the Executive Order, during a joint Press Briefing with then-Press Secretary Sean Spicer and White House Budget Director Mick Mulvaney, a member of the press asked Mulvaney to "explain a little bit more about what message the President is trying to send by eliminating a lot of funding for science and climate change research." Mulvaney responded, "Regarding the question as to climate change, I think the President was fairly straightforward – we're not spending money on that anymore; we consider that to be a waste of your money to go out and do that. So that is a specific tie to his campaign."[167]

139. In conjunction with releasing the Executive Order, the White House issued a Press Release purporting to explain the contents of the Executive Order.[168] The Press Release contained a number of allegations that environmental experts immediately identified as false and misleading, concluding "that the Trump administration rejects sound climate science and

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[164] *Id.*
[165] *Id.*
[166] *Id.*
[167] The White House, *Press Briefing by Press Secretary Sean Spicer, #25*, Mar. 16, 2017, https://www.whitehouse.gov/the-press-office/2017/03/16/press-briefing-press-secretary-sean-spicer-3162017-25.
[168] The White House, Office of the Press Secretary, *President Trump's Energy Independence Policy*, March 28, 2017, https://www.whitehouse.gov/the-press-office/2017/03/28/president-trumps-energy-independence-policy.

economics."[169] These misrepresentations included the misleading claim that the government's actions would contribute to "energy independence," even though reliance on energy imports is already at some of the lowest levels in the last 40 years, and a reliance on a faulty report from NERA Economic Consulting, paid for by the coal industry, that incorrectly overestimated the cost of the Clean Power Plan.[170]

140. In May 2017, Defendant Pruitt fired half of the scientists from EPA's Board of Scientific Counselors, to be replaced with advisers "who understand the impact of regulations on the regulated community."[171] Even more scientists were removed from the board in June.[172] These actions undermine the agency's ability to pursue necessary scientific inquiry and demonstrate its intention to act contrary to the scientific consensus on climate change.

141. In addition, EPA has removed its climate science website—previously an important source of scientifically vetted information regarding the causes and effects of climate change—from public view.[173]

142. The Department of Energy has similarly eliminated the words "clean energy" and

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[169] David Doniger, *Decoding President Trump's Climate Destruction Plan*, Natural Resources Defense Council, Mar. 31, 2017, https://www.nrdc.org/experts/david-doniger/decoding-president-trumps-climate-destruction-plan.
[170] *Id.*
[171] Coral Davenport, *E.P.A. Dismisses Members of Major Scientific Review Board*, N.Y. Times, May 7, 2017, https://www.nytimes.com/2017/05/07/us/politics/epa-dismisses-members-of-major-scientific-review-board.html?_r=0; Aria Bendix, *EPA Says Goodbye to Half Its Scientific Board*, The Atlantic, May 9, 2017, https://www.theatlantic.com/news/archive/2017/05/epa-dismisses-half-the-scientists-on-its-review-board/525909/.
[172] Chris Mooney & Juliet Eilperin, *EPA just gave notice to dozens of scientific advisory board members that their time is up*, Wash. Post, June 20, 2017, https://www.washingtonpost.com/news/energy-environment/wp/2017/06/20/trump-administration-to-decline-to-renew-dozens-of-scientists-for-key-epa-advisory-board/?utm_term=.a08402025a18.
[173] Lisa Friedman, *E.P.A. Scrubs a Climate Website of "Climate Change,"* N.Y. Times, Oct. 20, 2017, https://www.nytimes.com/2017/10/20/climate/epa-climate-change.html.

"new energy" from its websites and has cut links to clean or renewable energy initiatives and programs.[174]

143. In June 2017, Pruitt called for a "Red Team/Blue Team" exercise to conduct an "at-length evaluation of U.S. climate science," to give the 3% of climate scientists who do not support the consensus that human activities contribute significantly to climate change, equal weight to the 97% of scientists who do support the consensus view.[175] Commentators have remarked, "When Pruitt says he wants to 'red team and blue team' the climate science, that's a great example of trying to shift the understanding of the science . . . . That's very hard to come back from."[176]

144. In August 2017, the National Oceanic and Atmospheric Administration (NOAA) dissolved its climate science advisory committee.[177]

145. EPA also ended the Climate Leadership Program, which had awarded corporations for taking actions to reduce their greenhouse gas emissions.[178]

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[174] Christa Marshall, *Agency axes 'clean energy' from tech websites*, E&E News, May 30, 2017, https://www.eenews.net/stories/1060055293.
[175] *See* Clark Mindock, *EPA launches new unit to 'critique' climate science*, Independent, June 30, 2017, http://www.independent.co.uk/news/world-0/us-politics/epa-climate-change-critique-initiative-scott-pruitt-a7817836.html; NASA Global Climate Change, *Scientific consensus: Earth's climate is warming*, https://climate.nasa.gov/scientific-consensus/.
[176] Colman, *supra* note 141 (quoting Jody Freeman, a White House official under President Obama who now teaches at Harvard Law School).
[177] Rene Marsh, *Trump administration dismisses climate change advisory panel,* CNN, Aug. 21, 2017, http://www.cnn.com/2017/08/21/politics/white-house-climate-change-committee-dismantled/index.html; Juliet Eilperin, *The Trump administration just disbanded a federal advisory committee on climate change,* Wash. Post, Aug. 20, 2017, https://www.washingtonpost.com/news/energy-environment/wp/2017/08/20/the-trump-administration-just-disbanded-a-federal-advisory-committee-on-climate-change/?utm_term=.37990230f670.
[178] Valerie Volcovici, *EPA ends sponsorship of climate leadership program*, Reuters, Aug. 25, 2017, https://www.reuters.com/article/us-usa-climatechange-epa/epa-ends-sponsorship-of-climate-leadership-program-idUSKCN1B52PK.

146. In September 2017, EPA reduced its staff by nearly 400 workers, largely through buyouts.[179] The number of EPA staff could soon fall to its lowest level in almost 30 years.[180]

147. Most recently, Defendant Pruitt issued a rule that prohibits EPA from allowing climate scientists to serve on the Science Advisory Board if they have ever received a grant from EPA, effectively barring many academic researchers from serving on the board, because EPA is a major source of funding for environmental research.[181] Defendant Pruitt has replaced these researchers with appointees with ties to the industries that EPA is responsible for regulating, including current and former executives of gas companies and chemical manufacturers, and he has given no indication that he will impose rules to address that conflict of interest.[182]

148. As reflected in White House Budget Director Mulvaney's comments, the Federal Government seeks to terminate all federal efforts and funding related to: (a) studying climate change science; (b) limiting the effects of climate change; (c) and supporting communities faced with the consequences of climate change.[183]

G. The Rollbacks Increase the Clear and Present Dangers of Climate Change

149. The Rollbacks exacerbate climate change and its effects, exposing the population to present and future threats to life and life-sustaining resources based on junk science.

150. The Federal Government's attempt to dismantle key federal efforts to address

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[179] Timothy Puko, *Hundreds of EPA Workers Leave in Recent Days*, Wall St. J., Sept. 5, 2017, https://www.wsj.com/articles/hundreds-of-epa-workers-leave-in-recent-days-1504660207.
[180] *Id.*
[181] Lisa Friedman, *Pruitt Bars Some Scientists From Advising E.P.A.*, N.Y. Times, Oct. 31, 2017, https://www.nytimes.com/2017/10/31/climate/pruitt-epa-science-advisory-boards.html.
[182] *Id.*; Suzy Khimm & Andrew Rafferty, *Pruitt Makes EPA Science Board More Industry Friendly*, NBC News, Nov. 3, 2017, https://www.nbcnews.com/politics/white-house/pruitt-makes-epa-science-board-more-industry-friendly-n817276.
[183] *See Press Briefing by Press Secretary Sean Spicer, #25*, *supra* note 167.

climate change are knowingly and recklessly indifferent to the risk of increasing the clear and present danger of climate change to United States citizens.

151. Climate change has already damaged human and natural systems, causing loss of life and pressing species to extinction. Informed by international scientific consensus, all current environmental regulations seek to prevent increasingly severe impacts on our nation and others as a result of climate change. The Federal Government "aver[red] that the consequences of climate change are already occurring and, in general, those consequences will become more severe with more fossil fuel emissions."[184]

152. During the last decade, the Federal Government has repeatedly stated that allowing "business as usual" CO_2 emissions will imperil future generations with dangerous and unacceptable economic, social, and environmental risks. As detailed herein, and as Defendants have acknowledged,[185] the use of fossil fuels is a major source of CO_2 emissions, placing our nation on an increasingly costly, insecure, and environmentally dangerous path.

153. The Federal Government is now attempting to dismantle key rules and regulations that currently promote clean and safe development of energy sources.

154. According to an analysis conducted by climate analysts, the combined effect of the Rollbacks will result in a 3.4% rise in greenhouse gas emissions.[186]

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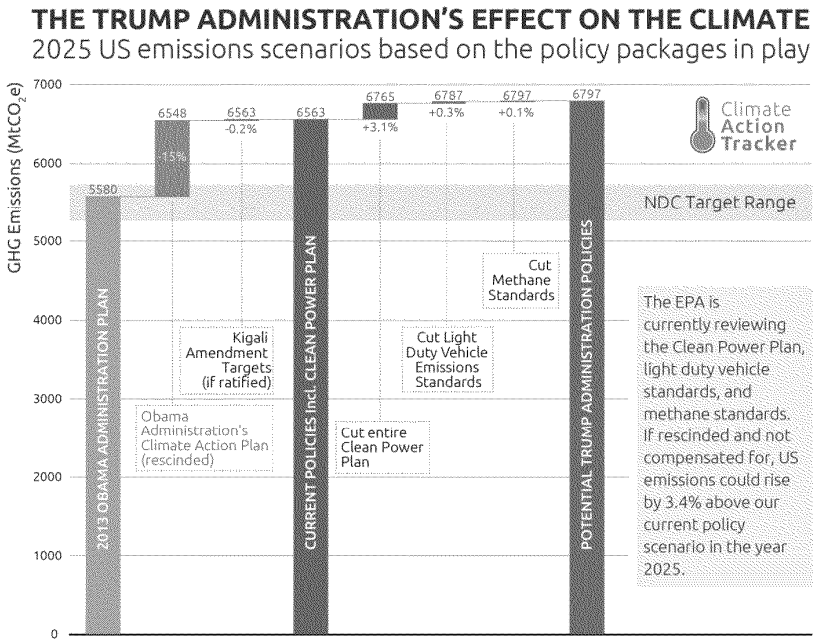
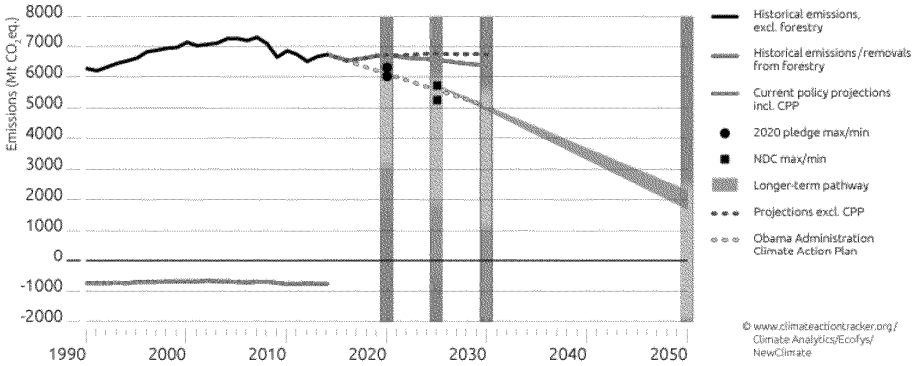
[184] *Juliana* Answer ¶ 10.
[185] *Id.* ¶ 7.
[186] Hohne et al., *supra* note 133.



155. This will cause United States emissions, which had been projected to decline under prior environmental standards, to instead steadily increase. [187]



156. The Federal Government now encourages the use of fossil fuels as the primary energy source in the United States. Fossil fuels are the main contributor to harmful CO_2

[187] *Id.*

emissions,[188] and they are no longer the most affordable source of energy.[189]

157. Civilization and the water sources, crops, foods, wildlife, marine life, and coastlines on which people depend have developed within a very narrow set of climatic conditions. Prior to January 2017, it would have been difficult for the Federal Government to adapt to all of the current climate change impacts in the quick time-frame in which they will occur. As a result of the Rollbacks, that is now impossible.

VI. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

(Violation of the Due Process Clause of the Fifth Amendment)

158. Plaintiffs hereby re-allege and incorporate by reference each of the allegations set forth above.

159. The Constitution recognizes and preserves the fundamental right of citizens to be

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[188] For example, the coal moratorium helped limit the United States' contribution to climate change by keeping carbon-emitting fossil fuels in the ground. Approximately 40% of all coal produced in the United States is mined on federal land. Christina Nunez, *Why Does So Much U.S. Coal Come from Federal Land?*, Nat'l Geographic, Jan. 15, 2016, http://news.nationalgeographic.com/energy/2016/01/150115-coal-lease-pause-federal-land-interior/. Burning coal for power is one of the largest single contributors of greenhouse gases. According to a Programmatic Environmental Impact Statement conducted by the United States government in January 2017, coal production and combustion accounted for approximately 25% of the United States' greenhouse gas emissions. *See* U.S. DOI, *Federal Coal Program: Programmatic Environmental Impact Statement,* Jan. 2017, *available at* https://www.eenews.net/assets/2017/01/11/document_gw_02.pdf. A recent study by the Center for American Progress and the Wilderness Society found that coal harvested in the Powder River basin, the country's largest coal-producing region, accounts for 13% of all United States greenhouse gas emissions. Nidhi Thakar & Michael Madowitz, *Federal Coal Leasing in the Powder River Basin*, Center for American Progress, Jul. 29, 2014, https://www.americanprogress.org/issues/green/reports/2014/07/29/94204/federal-coal-leasing-in-the-powder-river-basin/. Greenpeace further found that federal coal leases resulted in the production of 2.2 billion tons of coal, accounting for 3.9 billion metric tons of carbon pollution—more than the emissions from the entire European Union in 2012. *See Leasing Coal, Fueling Climate Change*, Greenpeace, Jul. 23, 2014, http://www.greenpeace.org/usa/research/leasing-coal-fueling-climate-change/.

[189] *See, e.g.*, Michael J. Coren, *2016 was the year solar panels finally became cheaper than fossil fuels. Just wait for 2017*, Quartz, Dec. 26, 2016, https://qz.com/871907/2016-was-the-year-solar-panels-finally-became-cheaper-than-fossil-fuels-just-wait-for-2017/.

free from government actions that harm life, liberty, and property. The rights to life, liberty, and property have evolved and continue to evolve as technological advances pose new threats to these fundamental rights and as new insights reveal discord between the Constitution's central protections and the conduct of government. As set forth in the Preamble of the Constitution, these rights belong to present generations as well to our "Posterity" (or future generations).

160. "The identification and protection of fundamental rights is an enduring part of the judicial duty to interpret the Constitution."[190]

161. Courts should be guided by customary international law and international human rights law when determining fundamental rights. A consensus of nations has recognized a governmental responsibility not to endanger life, including the fundamental right to a life-sustaining climate system.

162. In addition, nearly half of all United States State Constitutions now include environmental provisions, with at least sixteen recognizing substantive constitutional rights to a healthy, stable, or quality environment.[191]

163. The affirmative aggregate acts of Defendants in promulgating the Rollbacks infringe on Plaintiffs' right to a life-sustaining climate system by increasing dangerous CO_2 concentrations in our nation's atmosphere.

164. The Rollbacks will cause irreversible and catastrophic harm to the natural systems critical to Plaintiffs' rights to life, liberty, and property.

165. The Rollbacks will cause human deaths, shorten human lifespans, result in

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[190] *Obergefell v. Hodges*, 576 U.S. ___, 135 S. Ct. 2584, 2598 (2015).
[191] James R. May & William Romanowicz, *Environmental Rights in State Constitutions,* Principles of Constitutional Environmental Law 305, 306 (Sept. 23, 2011).

widespread damage to property, threaten human food sources, and dramatically alter the planet's ecosystem, thereby violating Plaintiffs' fundamental right to a life-sustaining climate system.

166. In light of the Government's longstanding knowledge of climate change, Defendants have an obligation not to endanger Plaintiffs' fundamental right to a life-sustaining climate system.

167. Increased CO_2 concentrations in the atmosphere jeopardize Plaintiffs' welfare by diminishing their capacity to provide for their basic human needs, safely raise families, practice their religious and spiritual beliefs, maintain their bodily integrity, and lead lives with access to clean air, water, shelter, and food.

168. The conduct, if not fundamentally altered, will have even worse consequences for future generations.

169. Acting with full appreciation of the consequences of their acts, Defendants have knowingly increased the dangerous interference with our atmosphere and climate system.

170. Defendants have acted with knowing and deliberate indifference to the clear and present and potentially irreversible dangers of the Rollbacks. As described at length herein, these risks are so substantial as to shock the conscience. In spite of their longstanding, actual knowledge of the serious risks of harm, Defendants have engaged in actions that they know will increase the risks to Plaintiffs.

171. By exercising sovereignty over the air space and the federal public domain, by assuming authority and regulatory responsibility over fossil fuels, and by allowing and permitting fossil fuel production, consumption, and its associated CO_2 pollution, Defendants have also assumed custodial responsibilities over the climate system within its jurisdiction and influence.

172. In assuming control of our nation's atmosphere, air space, the federal domain, fossil fuels, and climate system, Defendants have imposed severe limitations on Plaintiffs' freedom to act on their own behalf to secure a life-sustaining climate system and, therefore, have a special relationship with Plaintiffs, and a concomitant duty of care to ensure their reasonable safety.

173. By Defendants' affirmative acts resulting in dangerous interference with a stable climate system, they have abrogated their duty of care to protect, and infringed on, Plaintiffs' fundamental rights to life, liberty, and property. In their custodial role, Defendants have, without due process, endangered Plaintiffs' lives in violation of the Fifth Amendment.

174. Protecting the life-sustaining climate systems of our nation for present and future generations is fundamental to our scheme of ordered liberty. Without a life-sustaining climate system, both liberty and justice are in peril. Among the implicit liberties protected from government intrusion by the Ninth Amendment is the right to be sustained by our country's vital natural systems, including our climate system.

175. Fundamental to our scheme of ordered liberty, therefore, is the implied governmental obligation not to endanger life, including the right to a life-sustaining climate system and an atmosphere and oceans that are free from dangerous levels of anthropogenic CO_2. Plaintiffs hold these inherent, inalienable, natural, and fundamental rights pursuant to the Ninth Amendment.

176. The Rollbacks have unconstitutionally caused, and materially contributed to, dangerous levels of atmospheric and oceanic CO_2 and a destabilized climate system, thereby violating Plaintiffs' unenumerated constitutional rights secured by the Ninth Amendment.

SECOND CAUSE OF ACTION

(Violation of the Public Trust Doctrine)

177. Plaintiffs hereby re-allege and incorporate by reference each of the allegations set forth above.

178. The public trust doctrine, which is rooted in English common law that can be traced back to Roman civil law and has been part of United States common law since the country was founded, exists to prevent sovereign governments from alienating natural resources that the government holds in a "public trust" for the "common benefit" of all citizens.[192]

179. The United States has taken the position before federal courts that, under the public trust doctrine, the Government holds in trust the "public domain," which includes "public lands and natural resources on them,"[193] and has "the right and the duty to protect and preserve"[194] those resources.

180. As sovereign trustees, Defendants have a duty to refrain from "substantial impairment" of the public trust, including our country's life-sustaining climate system.[195]

181. Defendants have implemented Rollbacks that largely eliminate the protections intended to combat the devastating effects of climate change. In doing so, Defendants have engaged in affirmative acts in contravention of their duty of care as trustees to manage the life-sustaining resources of the public trust in the best interests of the present and future beneficiaries of the public trust, including Plaintiffs.

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[192] *Martin v. Waddell's Lessee*, 41 U.S. 367, 411 (1842).
[193] *See, e.g.*, *United States v. Burlington N. R. Co.*, 710 F. Supp. 1286, 1287 (D. Neb. 1989) (quoting *United States v. Beebe*, 127 U.S. 338, 342 (1888)).
[194] *In re Complaint of Steuart Transportation Company*, 495 F. Supp. 38, 40 (E.D. Va. 1980).
[195] *Illinois Central Railroad Co. v. Illinois*, 146 U.S. 387, 435 (1892).

182. Additionally, as beneficiaries of the public trust, Plaintiffs have a fundamental right to substantive due process protection of the public trust under the Fifth and Ninth Amendments. By promulgating the Rollbacks, Defendants have infringed on Plaintiffs' fundamental rights as beneficiaries of the public trust, including our country's life-sustaining climate system.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court, with all due and deliberate speed:

a. Declare that Defendants cannot effectuate or promulgate any rollbacks that increase the frequency and/or intensity of the life-threatening effects of climate change based on junk science in violation of Plaintiffs' constitutional rights to a life-sustaining climate system and the public trust doctrine; and

b. Grant such other and further relief as the Court deems just and proper.

Dated: November 6, 2017

Respectfully submitted,

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Counsel for Plaintiffs

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Sent: Wed 10/25/2017 6:00:19 PM
Subject: example
Paris agreement bad deal facts_FINAL 2.docx

Mandy M. Gunasekara

Senior Policy Advisor for Office of Air and Radiation

Office of the Administrator

US Environmental Protection Agency

To: Grantham, Nancy[Grantham.Nancy@epa.gov]
Cc: Schwab, Justin[schwab.justin@epa.gov]; Albores, Richard[Albores.Richard@epa.gov]
From: Baptist, Erik
Sent: Tue 12/19/2017 3:19:20 AM
Subject: FW: ACTION: Administration Actions Jan 2017 - Dec 2017 w/ desk statements
HQ announcement summary (004).docx

Nancy,

Attached please find OGC's suggested edits to remove certain items. We are happy to discuss the reasoning, if you have any questions.

Thanks,

Erik Baptist

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

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To: Baptist, Erik <baptist.erik@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Burke, Marcella <burke.marcella@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Fonseca, Silvina <Fonseca.Silvina@epa.gov>; Treimel, Ellen <Treimel.Ellen@epa.gov>
Subject: ACTION: Administration Actions Jan 2017 - Dec 2017 w/ desk statements

Erik:

Please review and let OPA (Nancy Grantham) know by next Tuesday whether there are any actions missing from the attached list. My quick perusal indicates that the list is quite thorough. I will be in VT next week with limited access to phone/internet.

Thanks,

R

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RICHARD L. ALBORES
Associate Deputy General Counsel * Office of General Counsel * U.S. EPA * 1200 Pennsylvania Avenue, NW * MC2310A * Washington, DC 20460 * email: albores.richard@epa.gov * phone: 202.564.7102 * mobile: 202.809.8029

From: Grantham, Nancy
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Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: FW: Administration Actions Jan 2017 - Dec 2017 w/ desk statements

Hi HQ Comms Directors,

Attached please find a list of EPA Administration actions since January 2017. This was put together by David Gray and his team in Region 6 and we are very grateful for this effort.
~~~~~

We are asking that you take a quick look to make sure we are not missing any key actions from your program areas that have occurred over the past year.

Please do not spend a lot of time on this – we are sure once you review, anything missing will jump out at you.

Please send any additions by Tuesday, December 19th.

Thanks ng

Nancy Grantham

Office of Public Affairs

US Environmental Protection Agency

202-564-6879 (desk)

202-253-7056 (mobile)

EPA Headquarters Policy Announcements since January 2017

EPA Withdraws Information Request for the Oil and Gas Industry

Release Date: 03/02/2017

EPA is withdrawing its request that owners and operators in the oil and natural gas industry provide information on equipment and emissions at existing oil and gas operations.

Statement

This Administration's action will reduce burdens on businesses while we take a closer look at the need for additional information from this industry. Under the previous administration, EPA sent letters to more than 15,000 owners and operators in the oil and gas industry, requiring them to provide information on greenhouse gases.

EPA to Reexamine Emission Standards for Cars & Light Duty Trucks, Model Years 2022-2025

Release Date: 03/15/2017

DOT Secretary Elaine Chao and Administrator Scott Pruitt will revisit the previous administration's rule that finalized standards to increase fuel economy to the equivalent of 54.5 mpg for cars and light-duty trucks by Model Year 2025.

Statement

These standards are costly for automakers and the American people. The Department of Transportation announced that it would re-open the Mid-Term evaluation process and work with the EPA to complete the review in a transparent, data-driven manner. This thorough review will help ensure that this national program is good for consumers and good for the environment.

EPA Administrator Pruitt Previews President's Executive Order on Energy Independence

Release Date: 03/26/2017

Administrator Scott Pruitt previewed the upcoming executive order on the American Energy Independence. He laid out the core message of the pending action, saying job growth and a healthy environment aren't at odds.

Statement

The President's Energy Independence Executive Order supports the need for pro-growth, pro-environment approach to our nation's environmental regulations. The Executive Order will address the past administration's effort to kill jobs throughout the country through the Clean Power Plan.

EPA Administrator Pruitt Denies Petition to Ban Widely Used Pesticide

Release Date: 03/29/2017

Administrator Scott Pruitt signed an order denying a petition that sought to ban chlorpyrifos, a pesticide crucial to U.S. agriculture.

Statement

EPA is providing regulatory certainty to the thousands of American farms that rely on chlorpyrifos while still protecting human health and the environment. By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making.

EPA Administrator Sends Clean Power Plan Guidance Letter to Governors

Release Date: 03/30/2017

Administrator Scott Pruitt sent letters to state governors advising them that they are under no obligation to adhere to the Clean Power Plan (CPP) rule.

Statement

This administration has fulfilled its promise of cooperative federalism and acted on the President's Energy Indepence Executive order by advising state governors that they are under no obligation to adhere to the Clean Power Plan rule. EPA looks forward to working with states and local communities to develop a path forward to improve our environment and bolster the economy in a manner that is respectful of and consistent with the rule of law.

Regulatory Reform Underway at EPA

Release Date: 04/11/2017

EPA's Regulatory Reform Task Force, led by the Office of Policy, submitted a Federal Register notice today to solicit public comments on EPA regulations.

Statement

In a vital step toward implementing the President's Executive Order, "Enforcing the Regulatory Reform Agenda," EPA's Regulatory Reform Task Force solicited public comments on EPA regulations. The administration is committed to working with the public and EPA program offices to gather their recommendations for specific rules that should be considered for repeal, replacement or modification.

EPA Administrator Pruitt Statement on OMB Guidance on Reorganizing the Government

Release Date: 04/13/2017

Administrator Scott Pruitt supports the Office of Management and Budget's guidance on implementing President Trump's plans for reorganizing the federal government and reducing the government workforce.

Statement

In support of President Trump's plans for reorganizing the federal government and reducing the government workforce, the administration will work with EPA staff to effectively use every taxpayer dollar entrusted to the agency. EPA will return to its core statutory mission, and focusing on greater value and results, and partner with states and tribes to ensure a thoughtful approach is used to maximize resources to protect our air, land, and water.

EPA to Reconsider Oil and Gas Rule

Release Date: 04/19/2017

EPA announced the agency's intent to grant a reconsideration of the Oil and Gas New Source Performance Standards for New, Reconstructed, and Modified Sources Rule (NSPS Rule/Methane NSPS/Oil and Gas Rule/0000a).

Statement

In continued support of the President's Energy Independence Executive Order, EPA reconsidered the Oil and Gas New Source Performance Standards for New, Reconstructed, and Modified Sources Final Rule. EPA believes American businesses should have the opportunity to review new requirements, assess economic impacts and report back, before those new requirements are finalized.

EPA Kicks Off Website Updates

Release Date: 04/28/2017

EPA.gov, the website for the United States Environmental Protection Agency, is undergoing changes that reflect the agency's new direction under President Donald Trump and Administrator Scott Pruitt.

Statement

Updating and improving EPA's website reflects the agency's new direction under the leadership of President Donald Trump and Administrator Scott Pruitt. With a commitment to transparency, the changes ensure the website's usefulness to the public in understanding the agency's work while complying with agency ethics and legal guidance, including the use of proper archiving procedures.

Bill Signed by President Trump Gives EPA's WIFIA Program Additional Help to Meet

Communities' Water Infrastructure Needs

Release Date: 05/17/2017

EPA's Water Infrastructure Finance and Innovation Act (WIFIA) program received an additional $8 million for credit subsidy in the Consolidated Appropriations Act of 2017, signed into law by President Donald Trump on May 5, 2017.

Statement

EPA received 43 letters of interest for WIFIA loans from public and private entities with a collective request of $6 billion, demonstrating the high need to invest in water infrastructure improvements in communities across the nation and the value that WIFIA financing can offer. Thanks to President Trump and Congress, this additional funding will accelerate the construction of projects to meet communities' water infrastructure needs.

EPA Budget Returns Focus to Core Statutory Mission

Release Date: 05/23/2017

The proposed Fiscal Year 2018 budget for the U.S. Environmental Protection Agency, announced today, provides $5.655 billion to help the agency protect human health and the environment.

Statement

This budget supports EPA's highest priorities with federal funding for priority work in infrastructure, air and water quality, and ensuring the safety of chemicals in the marketplace. It respects the American taxpayer by aiming to reduce redundancies and inefficiencies and prioritize EPA's core statutory mission of providing Americans with clean air, land, and water.

EPA Stays Landfill Methane Rules

Release Date: 05/23/2017

EPA announced a 90-day administrative stay for the August 2016 New Source Performance Standards and Emissions guidelines for municipal solid waste landfills.

Statement

The administration estimates that implementing these rules would cost businesses more than $100 million per year to install and operate gas collection and control systems. Reconsidering portions of the landfill rules will give stakeholders the opportunity to review these requirements, assess economic impacts and provide feedback to the agency through the reconsideration process.

EPA Extends RMP Effective Date to 2019

Release Date: 06/12/2017

Administrator Scott Pruitt signed a final rule to further delay the effective date of EPA's Risk Management Program (RMP) Amendments an additional 20 months to allow the agency to conduct a reconsideration proceeding and to consider other issues that may benefit from additional comment.

Statement

This action allows EPA time to evaluate the RMP amendments and to thoughtfully consider questions and concerns submitted through multiple petitions and other comments received during the public comment period and public hearing.

United States Resets Climate Change Discussion At G7

Release Date: 06/12/2017

Administrator Scott Pruitt announced that the United States stands firm on its decision to withdraw from the Paris Agreement and has reset the conversation about climate change reflective of the new priorities of the Trump Administration and the expectations of the American people.

Statement

This action of reaching consensus on important environmental issues makes clear that the Paris Agreement is not the only mechanism by which environmental stewardship can be demonstrated. It also demonstrates EPA's commitment to honest conversations, which are the cornerstone of constructive international dialogue

EPA Marks Chemical Safety Milestone on 1st Anniversary of Lautenberg Chemical Safety Act

Release Date: 06/22/2017

Today, on the one-year anniversary of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, Administrator Scott Pruitt announced that EPA has met its first-year statutory responsibilities under the law.

Statement

This administration is committed to providing regulatory certainty to American businesses, while protecting human health and the environment. The new process for evaluating existing chemicals outlined in these rules will increase public confidence in chemical safety without stifling innovation.

EPA, U.S. Army Move to Rescind 2015 "Waters of the U.S."

Release Date: 06/27/2017

The Environmental Protection Agency, Department of Army, and Army Corps of Engineers (the agencies) are proposing a rule to rescind the Clean Water Rule and re-codify the regulatory text that existed prior to 2015 defining "waters of the United States" or WOTUS.

Statement

The administration is taking significant action to return power to the states and provide regulatory certainty to our nation's farmers and businesses. EPA is committed to moving through this re-evaluation to quickly provide regulatory certainty in a way that is thoughtful, transparent and collaborative with other agencies and the public

EPA Proposes RFS Volumes Reflective of Market Realities for 2018

Release Date: 07/05/2017

EPA signed a proposed rule setting the minimum amount of renewable fuels that must be supplied to the market in calendar year 2018 under the Renewable Fuel Standards (RFS) program.

Statement

EPA is committed to successfully administering the RFS consistent with the direction entrusted to the Agency by Congress. The proposed new volumes are consistent with market realities focused on actual production and consumer demand while acknowledging challenges in bringing advanced biofuels into the marketplace. Timely implementation will provide certainty to American refiners, the agriculture community and broader fuels industry.

EPA Announces Superfund Task Force Recommendations

Release Date: 07/25/2017

EPA's Superfund Task Force released their report to EPA Administrator Scott Pruitt, providing 42 specific and detailed recommendations to streamline and improve the Superfund program.

Statement

This task force is a team effort between career and political EPA staff, working together to develop recommendations that are detailed, but also workable. This process ensures we can expedite the protection of human health and the environment around these properties and accelerate reuse while carrying out one of the agency's core missions.

New Tool Helps Communities Access $10 Billion in Water Infrastructure Financing

Release Date: 07/26/2017

EPA is launching the Water Finance Clearinghouse, a web - based portal to help communities make informed financing decisions for their drinking water, wastewater, and stormwater infrastructure needs.

Statement

Investing in water infrastructure sustains local economies by creating jobs, protecting public health, and increasing quality of life. EPA's Clearinghouse serves as a vital portal that helps connect the many communities struggling with aging or inadequate water infrastructure with the information and tools they need to finance much-needed improvement projects.

Federal Partnership Launches Water Quality Challenge Piloting Low-Cost Nutrient Sensors for Local Decision-Making

Release Date: 07/26/2017

Today, a federal partnership launched a technology-accelerating water quality challenge to demonstrate how nutrient sensors can be used by states and local communities to help manage nutrient pollution.

Statement

This partnership demonstrates the power of innovation in developing affordable, high-performing solutions to one of the nation's most extensive water quality issues. By finding ways to address algal blooms, EPA can help industries, sectors and communities that depend on clean water while saving federal, state, and local governments billions of dollars every year in combating nutrient pollution.

EPA Adds Superfund Sites to National Priorities List to Clean Up Contamination

Release Date: 07/31/2017

EPA is adding seven and proposing to add four hazardous waste sites to the Superfund program's National Priorities List (NPL).

Statement

This administration aims to restore the Superfund program to its rightful place at the center of the agency's core mission. By adding sites to the Superfund National Priorities List we ensure they are cleaned up to make these communities healthier places to live, and clear the way for development and increased economic activity.

Air Quality Continues to Improve, While U.S. Economy Continues to Grow

Release Date: 08/02/2017

EPA released its annual report on air quality, showing the significant progress the United States has made to improve air quality across the country.

Statement

EPA is proud to highlight nearly 75 percent reduction in six key pollutants since 1970, during a period in which the U.S. economy grew more than three times. EPA remains committed to working with states, tribes, and local air agencies to help more areas of the country come into compliance so all Americans receive the benefits of clean air.

EPA Eliminates New-Chemical Backlog, Announces Improvements to New Chemical Safety Reviews

Release Date: 08/07/2017

Following through with Administrator Pruitt's commitment to eliminating the backlog of new chemical cases that were stuck in EPA's review processes upon his confirmation, he is reporting that the backlog is eliminated.

Statement

When Administrator Pruitt was confirmed, over 600 new chemicals were 'stuck' in the EPA review process. The current caseload is back at the baseline and now in line with the typical active workload. With the ongoing commitment of the staff working on TSCA reviews, and input from stakeholders, EPA will ensure a new chemicals program that is both protective of human health and the environment, while also being supportive of bringing new chemicals to market.

EPA Issues Guidance on State Coal Ash Management Permit Programs

Release Date: 08/10/2017

EPA released an interim final guidance to help states develop and submit permit programs for the safe management of coal combustion residuals (CCR), commonly known as coal ash, to EPA for review and approval.

Statement

As part of EPA's ongoing commitment to cooperative federalism, the agency encourages States to consult this interim final guidance as they develop and submit programs to EPA for review and approval. EPA will continue to consult with our state partners to find the best management strategy for the safe disposal of coal ash in each of their states.

Updates to EPA's EJSCREEN Provide Access to Important New Data

Release Date: 08/16/2017

EPA today launched its annual update of EJSCREEN, the Agency's nationally acclaimed environmental justice screening and mapping tool.

Statement

EJSCREEN is one of the agency's most popular tools, regularly used by other federal, Tribal, state and local government partners as well as by nonprofit and community groups, business and industry, and academia. It increases the agency's transparency about how we consider environmental justice, to assist our partners and stakeholders in making informed decisions, and to create a common starting point between EPA and others when looking at issues related to environmental justice.

EPA and the Army Seek Input in the Review of the Waters of the U.S. Rule

Release Date: 08/25/2017

EPA and U.S. Department of the Army (the agencies) will hold 11 sessions to give stakeholders an opportunity to provide recommendations on a revised definition of "waters of the United States."

Statement

EPA is committed to an open and transparent process for reviewing the definition of 'waters of the United States.' Receiving input from across the country will help us make informed decisions as we move through our two-step process that will return power to the states and to provide regulatory certainty to our nation's farmers and businesses

EPA Approves Emergency Fuel Waivers for 38 States and Washington, D.C.

Release Date: 09/07/2017

As a result of the continuing impacts on Gulf Coast-area refineries and disruption to the fuel distribution system caused by Hurricane Harvey and the effects of large-scale evacuations in response to Hurricane Irma, Administrator Scott Pruitt today exercised EPA's emergency fuel waiver authority to help ensure an adequate supply of fuel.

Statement

Helping ensure an adequate supply of fuel throughout the country is vital to maintaining our nation's economy and services during emergency events. EPA, in coordination with the Department of Energy, will continue to offer this relief as appropriate.

EPA Finalizes Rule to Postpone Steam Electric Power Plant Effluent Guidelines Rule

Release Date: 09/13/2017

EPA has finalized a rule postponing certain compliance dates by two years for the effluent limitations guidelines and standards for steam electric power plants (ELG Rule) that were issued in November 2015.

Statement

This action provides relief for power plants from regulatory deadlines while the agency reconsiders existing effluent guidelines. Giving facilities time to comply benefits industry and our economy.

EPA to Reconsider Certain Coal Ash Rule Provisions

Release Date: 09/14/2017

EPA has granted two petitions to reconsider substantive provisions of the final rule regulating coal combustion residuals (CCR) as nonhazardous waste under subtitle D of the Resource Conservation and Recovery Act (RCRA).

Statement

EPA granted these petitions to consider improvements that may help states tailor their permit programs to their needs in a way that provides greater regulatory certainty, while also ensuring that human health and the environment remain protected. It was appropriate and in the public's interest to reconsider specific provisions of the final CCR rule based in part on the authority provided through the Water Infrastructure for Improvements to the Nation (WIIN) Act.

EPA Launches Smart Sectors Program

Release Date: 10/03/2017

Administrator Scott Pruitt announced the launch of Smart Sectors, a partnership program between the Agency and regulated sectors focused on achieving better environmental outcomes.

Statement

The Smart Sectors program is designed to effectively engage business partners throughout the regulatory process. When industries and regulators better understand each other, the economy, public, and the environment all benefit.

EPA Takes Another Step To Advance President's America First Strategy, Proposes Repeal Of "Clean Power Plan"

Release Date: 10/10/2017

Administrator Scott Pruitt issued a Notice of Proposed Rulemaking (NPRM), proposing to repeal the so-called "Clean Power Plan (CPP)."

Statement

The Supreme Court issued a historic, unprecedented stay of the Clean Power Plan, prompted by the overreach of the previous administration. EPA is committed to clearing the regulatory slate. Any replacement rule will be done carefully, properly, and with humility, by listening to all those affected by the rule.

Administrator Pruitt Addresses National Tribal Operations Committee

Release Date: 10/11/2017

Administrator Scott Pruitt addressed the National Tribal Operations Committee (NTOC) where he spoke on pressing issues facing environmental leaders in Indian country and how best to collaborate on shared goals and challenges.

Statement

EPA is committed to working and partnering with tribal governments to address our shared environmental concerns and challenges. Tribal government play an important role in environmental management, and through the unique government-to-government relationship that tribes have with the federal government, we engage in the process as co-regulators.

EPA and States' Collective Efforts Lead to Regulatory Action on Dicamba

Release Date: 10/13/2017

EPA has reached an agreement with Monsanto, BASF and DuPont on measures to further minimize the potential for drift to damage neighboring crops from the use of dicamba formulations used to control weeds in genetically modified cotton and soybeans.

Statement

EPA has worked intensely and collaboratively with the states and university scientists from across the nation who have first-hand knowledge of the problem and workable solutions to develop this action. Through this example of cooperative federalism, the new requirements for the use of dicamba will allow farmers to make informed choices for seed purchases for the 2018 growing season.

Administrator Pruitt Issues Directive to End EPA "Sue & Settle"

Release Date: 10/16/2017

In fulfilling his promise to end the practice of regulation through litigation that has harmed the American public, EPA Administrator Scott Pruitt issued a directive today designed to end "sue and settle" practices within the Agency.

Statement

The days of regulation through litigation are over. This decision provides an unprecedented level of public participation and transparency in EPA consent decrees and settlement agreements. Special-interest groups will no longer be able to use lawsuits that seek to force EPA issue regulations that advance their interests and priorities, on their specified timeframe.

EPA Helps Communities Grow Local Food Economy, Spur Revitalization

Release Date: 10/19/2017

Today, the U.S. Environmental Protection Agency released a new toolkit to help communities interested in using local foods to support downtown and neighborhood revitalization.

Statement

By investing in local foods, communities can preserve farmlands and protect the environment while bringing new jobs and business opportunities to main street. This program allows local officials, community groups, businesses and citizens to explore the benefits of using farmers markets, community kitchens and other food-related enterprises to revitalize communities and develop action plans for pursuing those goals.

Administrator Pruitt Meets with Superfund Stakeholders in Texas

Release Date: 10/20/2017

Administrator Scott Pruitt met with stakeholders at the Harris County Office who are monitoring cleanup efforts at the San Jacinto Superfund site that is contaminated with highly toxic dioxin.

Statement

EPA is committed to helping dispose of these toxic materials in a cost-effective and efficient way to better ensure a healthy and safe environment for nearby residents. This decision will provide overall certainty by permanently addressing the contamination risks instead of capping the site.

EPA Releases Energy Independence Report

Release Date: 10/25/2017

Today, EPA released its final report on implementing President Trump's executive order to curb regulatory burdens in order to promote energy production and economic growth while protecting human health and the environment.

Statement

At EPA, being both pro-jobs and pro-environment means we are working to curb unnecessary and duplicative regulatory burdens that do not serve the American people while continuing to partner with states, tribes and stakeholders to protect our air, land, and water.

EPA Releases Guidance on Reporting Air Emissions of Hazardous Substances from Animal Waste at Farms

Release Date: 10/26/2017

Today, EPA is releasing guidance to assist farmers in reporting air releases of hazardous substances from animal waste at farms.

Statement

Farmers are some of the most important contributors to our nation's economy, and EPA is working diligently to address undue regulatory burden on this vital sector. EPA's guidance is designed to help farmers comply with the current requirements while we continue to examine our options for reporting requirements for emissions from animal waste.

EPA Enforcement Actions Help Protect Vulnerable Communities Across the Country from Lead-Based Paint Health Hazards

Release Date: 10/27/2017

As part of Lead Poisoning Prevention Week, EPA today announced 127 federal enforcement actions completed over the last year to ensure entities like renovation contractors, landlords and property managers are in compliance with

regulations that require them to protect communities and the public from exposures to lead.

Statement

EPA's work to enforce federal lead paint laws helps protect communities across the country and ensures those who break the law are held accountable for their illegal actions. These cases also help maintain a level playing field for companies that follow the rules and comply with the law.

Administrator Pruitt Issues Directive to Ensure Independence, Geographic Diversity & Integrity in EPA Science Committees

Release Date: 10/31/2017

Administrator Scott Pruitt issued a new directive today to ensure that any advisors serving on an EPA Federal Advisory Committee (FAC) are independent and free from any real, apparent, or potential interference with their ability to objectively serve as a committee member.

Statement

This action ensures EPA advisory committee members will be financially independent from the Agency. It also will significantly increase geographic diversity and state, tribal, and local government participation on the committees and ensure whatever science comes out of EPA will not be political science.

EPA Announces Public Hearing on Proposed Repeal of Clean Power Plan

Release Date: 11/02/2017

EPA will hold a public hearing on the proposed repeal of the Clean Power Plan in Charleston, WV on November 28-29, 2017.

Statement

EPA is committed to hearing from those most impacted by the Clean Power Plan and getting their comments on the proposed repeal. We look forward to hearing from all interested stakeholders.

EPA Announces Intention To Nominate Members To Three Important Federal Advisory Committees

Release Date: 11/03/2017

Administrator Scott Pruitt announced his intention to appoint members who will serve on the Board of Scientific Counselors (BOSC), the Clean Air Science Advisory Committee (CASAC) and the Science Advisory Board (SAB).

Statement

EPA is ensuring the best independent scientific advice is given by appointing highly-qualified experts and scientists to these important committees. In a fair, open, and transparent fashion, EPA reviewed hundreds of qualified applicants nominated for these committees. Members who will be appointed include experts throughout the environmental stakeholder community, including from NGOs, academia, industry, and state, tribal and local officials.

EPA, Working with States and Tribes, Makes Final Attainment Designations for 2015 Ozone NAAQS

Release Date: 11/06/2017

Consistent with the states' and tribes' recommendations, the U.S. Environmental Protection Agency (EPA) is moving forward with designations for close to 90 percent of the country.

Statement

This action shows our commitment to working with our state and tribal partners on one of the most important areas of EPA's work – ensuring that more Americans are living and working in areas that meet national air quality standards. After EPA establishes or revises an air quality standard, the Agency will follow a process, dictated by the Clean Air Act, by which states recommend area designations to EPA. The Agency then evaluates their recommendations prior to making its final designations.

Administrator Pruitt Advances Effort to Keep EPA within Regulatory Lane with Proposed Repeal of Glider Provisions from Heavy-Duty Truck Rule

Release Date: 11/09/2017

EPA proposes to undo the regulatory overreach of the prior administration by repealing application of the Medium- and Heavy-Duty Truck Phase II Greenhouse Gas Emission and Fuel Efficiency Standards for the glider industry.

Statement

EPA is taking comment on an interpretation of the Clean Air Act that recognizes the unique nature of a vehicle made up of both new and used component parts. The Agency is proposing that gliders should not be regulated as "new motor vehicles" or "new motor vehicle engines" under section 202(a)(1) of the Clean Air Act. This action does not affect nor propose to affect EPA's authority to address heavy-duty engine rebuilding practices under Clean Air Act section 202(a)(3)(D).

EPA Celebrates Recycling Progress, Economic Contribution on 20th America Recycles Day

Release Date: 11/15/2017

Today, on the 20th America Recycles Day, the U.S. Environmental Protection Agency (EPA) celebrates the importance of recycling to our nation's economy.

Statement

We are encouraging all Americans to recycle more today, and every day. With a greater focus on recycling, the U.S. recycling rate has more than tripled over the last 30 years to the current rate of 34 percent. According to our most recent data from 2007, recycling and reuse activities created 757,000 jobs, produced $36.6 billion in wages and $6.7 billion in tax revenues in the United States in that year.

EPA Announces Availability of $1.2 Million in Environmental Justice Collaborative Problem-Solving Cooperative Agreements

Release Date: 11/16/2017

EPA announced today the availability of $1.2 million for Environmental Justice Collaborative Problem-Solving (CPS) Cooperative Agreements.

Statement

EPA's Environmental Justice Collaborative Problem-Solving Cooperative Agreements help non-profit and tribal organizations to partner with stakeholders from across industry, government, and academia to develop and implement solutions that significantly address environmental and/or public health issues in America's low income and minority communities. By focusing this year's grant on rural areas, EPA can increase outreach to underserved communities.

EPA and the Army Propose to Amend the Effective Date of the 2015 Rule Defining "Waters of the United States"

Release Date: 11/16/2017

EPA and U.S. Department of the Army (the agencies) are proposing to amend the effective date of the 2015 rule defining "waters of the United States."

Statement

This proposal shows our commitment to our state and tribal partners and to providing regulatory certainty to our nation's farmers, ranchers and businesses allowing us to minimize confusion as we continue to receive input from across the country on how we should revise the definition of the 'waters of the United States.' EPA and the Army are taking this action to provide certainty and consistency to the regulated community.

EPA Assesses Sunken, Leaking Marine Vessels

Release Date: 11/20/2017

EPA is supporting Puerto Rico, the U.S. Virgin Islands and the U.S. Coast Guard in marine vessel recovery work. Teams

continue to locate, assess and retrieve sunken, damaged and derelict vessels around Puerto Rico and the USVI.

Statement

Hurricane response is one of the agency's most important missions. EPA remains focused on environmental impacts and potential threats to the health and safety of those in the affected areas from spills and hazardous substances that might be onboard the vessels.

EPA is Clearing Out the Agency's FOIA Backlog

Release Date: 11/21/2017

EPA announced that the Agency is on track to significantly reduce the backlog of Freedom of Information Act (FOIA) requests received prior to 2017.

Statement

EPA is committed to transparency and we are quickly responding to the challenge to clear the backlog of FOIAs. EPA's National FOIA Office and offices across the agency have been working hard to clear the backlog of FOIA requests that existed at the start of 2017.

DC Circuit Court Grants Trump EPA Request to Extend Deadline for Farmers to Report Emissions from Livestock Operations

Release Date: 11/28/2017

On November 22, 2017, in response to a request from the Trump administration EPA, the DC Circuit Court of Appeals effectively extended the deadline for farmers to report air releases of hazardous substances from animal waste at livestock operations until January 22, 2018.

Statement

EPA is giving farmers and ranchers additional time in order to provide compliance assistance to farmers, update its guidance, and develop a more-streamlined reporting form. With the Court's decision, farmers are not required to report emissions from animal waste at these facilities until after the Court issues its mandate, expected no sooner than January 22, 2018.

EPA Finalizes RFS Volumes for 2018 and Biomass Based Diesel Volumes for 2019

Release Date: 11/30/2017

EPA finalized a rule that establishes the required renewable fuel volumes under the Renewable Fuels Standard (RFS) program for 2018, and biomass-based diesel for 2019.

Statement

Maintaining the renewable fuel standard at current levels ensures stability in the marketplace and follows through with EPA's commitment to meet the statutory deadlines and upholding the rule of law. The Clean Air Act requires EPA to set the RFS volume requirements annually and to finalize the standards by November 30th for the following year. The final standards for 2018, and for biomass-based diesel for 2019, are only slightly changed from the proposed standards that EPA issued earlier this year.

EPA to Co-host National Brownfields Training Conference in Pittsburgh

Release Date: 12/01/2017

EPA and the International City/County Management Association (ICMA) are co-sponsoring the National Brownfields Training Conference in Pittsburgh Dec. 4-7 at the David L. Lawrence Convention Center.

Statement

Cleaning up Brownfields sites and returning them to reuse is a priority of this Administration. We are providing an opportunity to support private and public investment in economic revitalization to help improve environmental outcomes across the country. Addressing the nation's brownfields - abandoned or underutilized properties stigmatized by past commercial or industrial uses - is an ongoing challenge for communities of every size.

EPA Determines Risks from Hardrock Mining Industry Minimal and No Need for Additional Federal Requirements

Release Date: 12/01/2017

EPA announced that the Agency will not issue final regulations for financial responsibility requirements for certain hardrock mining facilities.

Statement

After careful analysis of public comments, the statutory authority, and the record for this rulemaking, we are confident that modern industry practices, along with existing state and federal requirements address risks from operating hardrock mining facilities. EPA published proposed regulations under section 108(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, or Superfund) on January 11, 2017, and the public comment period closed on July 11, 2017.

EPA Launches Cross-Agency Effort to Address PFAS

Release Date: 12/04/2017

EPA is announcing a cross-agency effort to address per and polyfluoroalkyl Substances (PFAS). PFAS, which includes PFOA, PFOS and GenX, are a diverse group of compounds resistant to heat, water, and oil that are persistent in the environment and resist degradation.

Statement

EPA's efforts build on the work that the Agency has done to establish non-regulatory drinking water health advisories for PFOA and PFOS. The Agency's water and research offices will lead these efforts and they will bring together expertise from across the Agency including top scientists from EPA's air, chemicals, land, research, and water offices.

EPA Announces More Public Listening Sessions on Proposed Repeal of Clean Power Plan

Release Date: 12/06/2017

EPA will hold three additional public listening sessions on the proposed repeal of the Clean Power Plan in San Francisco, Calif., Gillette, Wyo. and Kansas City, Mo.

Statement

Due to the overwhelming response to our West Virginia hearing, we are announcing additional opportunities for the public to voice their views to the Agency. Public listening sessions will be on EPA's proposed repeal of the Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (commonly known as the Clean Power Plan).

President Trump Appoints EPA Administrator Scott Pruitt as Chair of the Gulf Coast Ecosystem Restoration Council

Release Date: 12/06/2017

Today, President Donald Trump appointed U.S. Environmental Protection Agency Administrator Scott Pruitt as the new chairperson of the Gulf Coast Ecosystem Restoration Council (Council).

Statement

With Administrator Pruitt as chair, the council is poised to build on our foundation of collaboration among members over the past five years. Along with our restoration partners, the council is ready to advance our efforts to restore the Gulf ecosystem and economy from the worst environmental disaster in the nation's history.

Administrator Pruitt Meets with National Environmental Justice Advisory Council

Release Date: 12/07/2017

EPA Administrator Scott Pruitt met with members of the National Environmental Justice Advisory Council (NEJAC) to discuss Fiscal Year 2018 priorities including guidelines for meaningful public participation and EPA's Superfund Task Force recommendations.

Statement

Environmental justice dialogues are critical to improving environmental and public health outcomes. Established in 1993, NEJAC provides advice and recommendations about broad, cross-cutting issues related to environmental justice to the EPA Administrator.

Congress of the United States
Washington, DC 20515

June 5, 2017

Administrator Scott Pruitt
Environmental Protection Agency (EPA)
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Pruitt:

As Ranking Members of the Oversight subcommittee of the House Science, Space, and Technology committee and the Energy and Mineral Resources subcommittee of the House Natural Resources committee, and also as co-chairs of the House of Representatives Safe Climate Caucus, we have been closely monitoring the Administration's actions with regard to the Paris Agreement on climate change, signed by 197 parties and ratified by the United States and 146 other countries under the United Nations Framework Convention on Climate Change (UNFCCC).

The Trump administration decided to withdraw from the agreement. It is our understanding that you and other employees of the Environmental Protection Agency prepared official records, authored documents, and contributed comments and advice related to this decision. The public is very concerned about what led to this decision and the basis for this action. We share those concerns.

Therefore, we are writing to request that you provide us with copies of all records and communications from you and any other EPA staff, contractors, and members of the EPA transition team from January 20, 2017 to the present, referring or relating to the Paris climate agreement, or the broader UNFCCC. This records search should include internal EPA communications, EPA communications with other Executive Branch agencies, and EPA communications with any outside, non-public entity. In particular, we request any information received or disseminated by your office that touches on either the economic or environmental impacts of the Paris Climate Agreement.

Please provide the requested documents and information in electronic format by June 15, 2017.

If you have any questions about this request, please contact Kate Schisler in the Office of Congressman Don Beyer at 202-225-4376 or Rachel Gentile in the Office of Congressman Alan Lowenthal at 202-225-7924.

Sincerely,

Donald S. Beyer Jr.

DONALD S. BEYER JR.
Member of Congress

Alan Lowenthal

ALAN LOWENTHAL
Member of Congress

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From: Fawcett, Allen
Location: Dial in: 202-395-6392; Code: 3239959
Importance: Normal
Subject: MCS Electricity Roundtable
Start Date/Time: Thur 8/25/2016 7:30:00 PM
End Date/Time: Thur 8/25/2016 9:00:00 PM

I forgot to copy y'all insiders on the invite below earlier. Join if you can. I'll probably add a call-in last minute.
Noah

-----Original Message-----
From: Kaufman, Noah EOP/CEQ
Sent: Thursday, August 18, 2016 1:52 PM
To: Kaufman, Noah
Cc: Duke, Rick D. E
Subject: White House Roundtable Discussion

Ex. 6 - Personal Privacy

Dear colleagues,

You are invited to participate in a White House Roundtable Discussion on the decarbonization of the U.S. electricity sector by mid-century, taking place on August 25, 2016, at 722 Jackson Place.

Earlier this year, President Obama announced the intention to release a mid-century, long-term low greenhouse gas emission strategy pursuant to the 2015 Paris Agreement. Part of the Administration's work to develop the mid-century strategy includes discussions of key topics with the foremost experts in the field. This roundtable will be focused on the opportunities and challenges associated with the decarbonization of the electricity sector by 2050.

Event Details:

What: Roundtable Discussion on the Decarbonization of the U.S. Electricity Sector by 2050
When: 3:30 - 5:00pm (ET), Thursday, August 25, 2016
Where: 722 Jackson Place. NW - 1st Floor Conference Room - Washington D.C.
Note: This event is "off-the-record" and not for press purposes. We will not be seeking consensus advice or recommendations from the group.

Please reply to this email to RSVP by 12:00pm (ET), August 22. If you have questions, please contact Noah Kaufman at

Ex. 6 - Personal Privacy

We hope you will be able to join us.

Best,
Noah

Noah Kaufman, Ph.D.
Deputy Associate Director for Energy & Climate Change
White House Council on Environmental Quality
Office: (202) 456-1475
Cell: (914) 450-8654

From: Fawcett, Allen
Location: 722 Jackson Pl
Importance: Normal
Subject: White House Roundtable Discussion on Decarbonization of the U.S. Industrial Sector
Start Date/Time: Wed 8/10/2016 7:30:00 PM
End Date/Time: Wed 8/10/2016 9:00:00 PM

Friends,
You are invited to participate in a White House Roundtable Discussion on Decarbonization of the U.S. Industrial Sector taking place on August 10, 2016, in 722 Jackson Place.

Earlier this year, President Obama announced the intention to release a mid-century, long-term low greenhouse gas emission strategy pursuant to the 2015 Paris Agreement. Part of the Administration's work to develop the mid-century strategy includes discussions of key topics with the foremost experts in the field. This roundtable will be focused on the opportunities and challenges associated with deep decarbonization of the industrial sector.

Event Details:

What: Roundtable Discussion on Decarbonization of the U.S. Industrial Sector
When: 3:30 - 5:00 (ET), Wednesday, August 10, 2016
Where: 722 Jackson Place. NW - 1st Floor Conference Room - Washington D.C.
Note: This event is "off-the-record" and not for press purposes. We will not be seeking consensus advice or recommendations from the group.

Please reply to this email to RSVP by 12:00pm (ET), Tuesday, July 31. For those who are unable to attend in person, we will provide a call in number. If you have questions, please contact Tory Hoffmeister at Ex. 6 - Personal Privacy

We hope you will be able to join us for this event.

Thank you,
Emily

Emily F. McGlynn
Deputy Associate Director for Energy and Climate Change
Council on Environmental Quality
Executive Office of the President
Phone: Ex. 6 - Personal Privacy
Mobile: Ex. 6 - Personal Privacy gov

From: Fawcett, Allen
Importance: Normal
Subject: Hold for Post-Paris Workshop
Start Date/Time: Tue 5/3/2016 4:00:00 AM
End Date/Time: Thur 5/5/2016 4:00:00 AM
Draft Agenda - Meeting 1 20151012_V3.pptx
AGENDA-SteeringGroup_V2.pdf
IOP Workshop participants draft 11April v2.1.pdf

Day 1: May 3, 2016

8:00 AM **Breakfast**

8:30 AM

9:30 AM

Ex. 5 - Deliberative Process

11:30 AM

Ex. 5 - Deliberative Process

2:00 PM

Ex. 5 - Deliberative Process

4:00 PM

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

5:30 PM **Adjourn**

Day 2: May 4, 2016

9:00 AM

Ex. 5 - Deliberative Process

11:00 AM

Ex. 5 - Deliberative Process

12:30 PM **Lunch**

1:30 PM	**Adjourn**
1:30-4:30 PM	Ex. 5 - Deliberative Process
6-8 PM	**Climate Action 2016 Reception** **Phillips Collection** **Washington DC**

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Implications of Paris Research and Workshop Series

Workshop 1
May 3-4, 2016
College Park, Maryland

List of Confirmed Attendees (May 10, 2016)

Amal-Lee	Amin	Chief, Climate Change and Sustainability Division, Inter-American Development Bank
Ghassem	Asrar	Director, Joint Global Change Research Institute, Pacific Northwest National Laboratory
Claus	Astrup	Global Environment Facility
Rosina	Bierbaum	Professor University of Michigan and Research Professor, University of Maryland
Jean-Yvees	Caneill	Head of Climate Policy, Électricité de France, France
Reid	Capalino	Senior Energy Analyst, Carbon Tracker, USA
Leon	Clarke	Senior Scientist, Joint Global Change Research Institute, PNNL
Armond	Cohen	Executive Director, Carbon Action Task Force, USA
Jae	Edmonds	Chief Scientist, Joint Global Change Research Institute, PNNL, USA
Allen	Fawcett	Chief, Climate Economics Branch, U.S. Environmental Protection Agency, USA
Dirk	Forrister	President and CEO, International Emissions Trading Association, UK
Julio	Friedmann	Lawrence Livermore National Laboratory, USA Former Principal Deputy Assistant Secretary Office of Fossil Energy, U.S. Dept of Energy
Sha	Fu	National Ctr for Climate Change Strategy and International Cooperation, NDRC, China
Markus	Hagemann	NewClimate Institute, Germany
Steven	Hammer	Manager, Climate Policy, World Bank
Nathan	Hultman	Director, Center for Global Sustainability & Associate Professor, University of Maryland
Abyd	Karmali	Managing Director, Climate Finance, Bank of America Merrill Lynch
Nathaniel	Keohane	Vice President, Global Climate, Environmental Defense Fund
Haroon	Kheshgi	Global Climate Change Program Leader, Corporate Strategic Research, ExxonMobil
Volker	Krey	Deputy Program Director, Energy Research, International Institute for Applied Systems Analysis
Atsushi	Kurosawa	Director, Global Environment Programs
Snorre	Kverndokk	Senior Research Fellow/Centre Director Oslo Centre for Research on Environmentally friendly Energy, University of Oslo
Arthur	Lee	Chevron
Hoesung	Lee	Chair, IPCC; and Professor, Korea University, Korea
Toshihiko	Masui	Research Director, Asia Integrated Model, National Institute for Environmental Studies, Japan

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Confirmed Attendees
Implications of Paris
Workshop 1

UNIVERSITY OF MARYLAND

Fernando	Miralles-Wilhelm	Professor and Acting Director, Earth System Science Interdisciplinary Center, University of Maryland
Bob	Orr	Dean, School of Public Policy, University of Maryland
Lindene	Patton	Independent Consultant, Technology & Risk Management
Jonathan	Pershing	Special Envoy for Climate Change, US Department of State
Rich	Rosenzweig	Former COO Natsource, and Former COS, U.S. Department of Energy, USA
Roberto	Schaeffer	Professor of Energy Economics in the Energy Planning Program, Federal University of Rio de Janeiro, Brazil
Reed	Schuler	U.S. Department of State
PR	Shukla	Co-Chair, IPCC, Working Group III; Professor, Indian Institute of Management
Jim	Skea	Co-Chair, IPCC, Working Group III; Professor, Imperial College, United Kingdom
Suphachol	Suphachalasai	Environmental Economist, Partnership for Market Readiness (PMR) Secretariat, Climate and Carbon Finance, World Bank
Trigg	Talley	Deputy Special Envoy for Climate Change, U.S. Department of State, USA
Jorgen	Thomsen	Director of Conservation and Sustainable Development, MacArthur Foundation, USA
Asgeir	Tomasgard	Professor in Managerial Economics, and Centre director in Centre for Sustainable Energy Studies, Trondheim University, Norway
Tom	van Ierland	DG Climate Action, European Commission, Belgium
David	Waskow	Director, International Climate Initiative, World Resources Institute, USA
Jim	Williams	Director, Deep Decarbonization Pathways Project
Tom	Wilson	Senior Program Manager for Global Climate Change, Electric Power Research Institute
Xiliang	Zhang	Professor and Executive Director of the Institute of Energy, Environment and Economy, Tsinghua University

To: Fawcett, Allen[Fawcett.Allen@epa.gov]
From: Stavins, Robert
Sent: Sat 4/22/2017 5:52:46 PM
Subject: New Post at An Economic View of the Environment: Why the U.S. Should Remain in the Paris Climate Agreement

Dear Friends/Colleagues:

I hope you may find of interest my most recent blog post, Why the U.S. Should Remain in the Paris Climate Agreement (also pasted below).

This is a critical moment. The Trump administration is apparently in the process of trying to decide whether to remain in the Paris Climate Agreement. In this essay, Ban Ki-moon, the former Secretary-General of the United Nations, and I explain why it is imperative that the U.S. remain part of the process.

At the web site of the blog (http://www.robertstavinsblog.org/), you can **sign up to be notified** when new postings appear (scroll down the right-hand side of the of the web site screen to "Email Updates"). If you've already signed up, please let me know, and I'll **remove** you from this list.

If you have any comments on any postings, please feel free to post them at the web site. And if you have any general comments about ways in which the blog could be improved to make it more useful, please let me know.

I apologize if this is an unwanted e-mail. If you would like me to remove your name from this list for future notifications, please respond to this email with the word, **"REMOVE"** in the subject line, and your name will be removed automatically.

As I send you this new blog essay, I want to note that you can follow me on Twitter at @RobertStavins.

Thanks,

Rob Stavins

Robert N. Stavins, Albert Pratt Professor of Business & Government, John F. Kennedy School of Government, Harvard University
Director, Harvard Environmental Economics Program
Director of Graduate Studies, Ph.D. Programs in Public Policy and Political Economy & Government
Co-Chair, Harvard Business School-Kennedy School Joint Degree Programs
Director, Harvard Project on Climate Agreements
Blog: An Economic View of the Environment SSRN Paper Downloads
Mail: John F. Kennedy School of Government, Harvard University, 79 JFK St., Room L-306, Box 11, Cambridge, MA 02138

Phone: 617-495-1820 E-Mail: robert_stavins@harvard.edu **Follow me on Twitter**: @RobertStavins
University Fellow, Resources for the Future Research Associate, National Bureau of Economic Research

Executive Assistant: Jason Chapman, Program Manager, Harvard Environmental Economics Program

Room L-307B Phone: 617-496-8054
E-Mail: jason_chapman@harvard.edu

NEW Harvard Executive Education Course: Climate Change and Energy: Policy Making for the Long Term (October 15-20, 2017)

New Posts from Robert Stavins' An Economic View of the Environment

---

Why the U.S. Should Remain in the Paris Climate Agreement

Posted on April 22, 2017, by Robert Stavins

SHARE

It was widely reported last week that a White House meeting scheduled for Tuesday, April 18th, was to consider whether the United States should remain a party to the Paris Climate Agreement. At the last second, that meeting was postponed. As of today, there is no public information about when it may occur. All that is known is that the Trump Administration had indicated previously that it will make known its position on the Paris Agreement before the G7 Summit, which takes place in Italy in late May.

With that in mind – and with Earth Day being celebrated on April 22nd – I was pleased to co-

author with Ban Ki-moon an op-ed which just appeared in *The Boston Globe*, "Why the US Should Stay in the Paris Climate Agreement" (April 21, 2017). As you no doubt know, Ban Ki-moon was Secretary-General of the United Nations (2007-2016), but what you may not know is that he is currently my colleague at the Harvard Kennedy School, where he is the Angelopoulos Global Public Leaders Fellow.

Before the Secretary-General Emeritus and I produced the final version of our *Boston Globe* op-ed, we had written a considerably longer, more detailed essay on the same topic, and so in today's blog essay, I'm pleased to provide below an expanded version of that longer essay, with hyperlinks added. I hope you find this of interest.

++

Why the U.S. Should Remain in the Paris Climate Agreement: An Earth Day Message for President Trump

by Ban Ki-moon and Robert N. Stavins

In the five decades since the first Earth Day was celebrated in 1970, remarkable economic growth around the world has inevitably been accompanied by significant environmental challenges. While tremendous progress has been made to address concerns about air and water quality, hazardous waste, species extinction, and maintenance of stratospheric ozone, leaders around the world continue to struggle to address the threat of global climate change in the face of the steady accumulation of greenhouse gases in the atmosphere.

The Necessity of International Cooperation

There is broad scientific consensus that human-based emissions of greenhouse gases – including carbon dioxide (CO_2) from fossil-fuel combustion and land-use changes – will change the earth's climate in ways that will have serious environmental, economic, and social consequences. Sixteen of the warmest years on record have occurred since 2000, including 2016 as the warmest of all. At the same time, winter arctic sea ice is at its lowest extent in recorded history.

Increased temperatures – which might be welcome in some places – are only part of the story. More important are changes in precipitation, decreased snowpack, glacier melting, droughts in mid to low latitudes, decreased cereal crop productivity at lower latitudes, increased sea level, loss of islands and coastal wetlands, increased flooding, greater storm intensity, species loss, and spread of infectious disease.

These biophysical impacts will have significant economic, social, and political consequences. Estimates of economic damages of unrestrained climate change vary, with most falling in the range of 1 to 3% of world GDP per year by the middle of the current century.

In order to have a 50-50 chance of keeping temperature increases below 2° C (a long-term goal acknowledged by most national governments), it would be necessary to stabilize atmospheric concentrations at 450 parts per million, which in principle could be achieved by cutting global

emissions by 60 to 80% below 2005 levels by 2050.

Reducing emissions will not be cheap or easy, but the greatest obstacles are political. The severe political challenges are due to the fact that greenhouse gases mix in the atmosphere, and so the location of damages is independent of the location of emissions. Any political jurisdiction that takes action incurs the direct costs of that action, but the climate benefits are spread globally. Hence, for any country, the direct climate benefits of taking action will likely be much less than the costs, despite the fact that the global benefits may exceed, possibly greatly, the costs. Therefore, due to the global commons nature of the problem, meaningful international cooperation is necessary.

The Paris Climate Agreement: A Breakthrough After 20 Years

The countries of the world have been struggling to come up with a solution since they agreed in 1992 to establish the United Nations Framework Convention on Climate Change (UNFCCC). After more than 20 years of negotiations, an important, historic breakthrough came with the signing of the Paris Climate Agreement in 2015, a path-breaking approach that increased the scope of participation from countries accounting for just 14% of global emissions (in the current, second commitment period of the Kyoto Protocol) to countries accounting for 97% under the Paris Agreement!

Contrary to some claims, China, India, Brazil, Korea, South Africa, Mexico, and the other large emerging economies do have obligations under this new approach. Far from being a "bad deal" for the United States, as EPA Administrator Scott Pruitt has asserted, the Paris Agreement is actually the answer to U.S. prayers going back to the U.S. Senate's bipartisan (95-0) Byrd-Hagel Resolution in 1997, which rejected the Kyoto approach and called for an agreement that would include not only industrialized countries, but the large emerging economies as well. That is precisely what the Paris Agreement has finally delivered!

Will the U.S. Remain Part of the Process?

This is a pivotal moment. President Trump's recent executive order in which he laid out his plans to roll back much of the Obama administration's climate policy, was silent on the Paris Agreement, reportedly reflecting disagreements among the President's closest advisers.

During the campaign last year, the President said he would "cancel" the Paris Agreement. But because it has already come into force, under its rules, any party must wait three years before requesting to withdraw, followed by a one-year notice period. The United States is part of the agreement for the next four years. Any White House announcement of pulling out of the pact will have no direct effects for this Presidential term.

In theory, the President could try to bypass that four-year delay by taking the one-year route of dropping out of the overall UNFCCC — signed by President George H.W. Bush and ratified by the Senate in 1992. But that could require another two-thirds vote of the Senate, would be challenged in the courts, and would be unwise in the extreme, given that the U.S. would then be the only one among 197 countries in the world not to be a party to the Climate Convention. At a

time when the United States wants cooperation from a diverse set of countries around the world on matters of national security, trade, and a host of other issues, it would be counter-productive in the extreme to willingly become an international pariah on global climate change.

Key Support Inside and Outside the Administration

Fortunately, key voices in the Administration have argued for remaining in the Paris Agreement. Secretary of State Rex Tillerson has stated that it is better for the U.S. to be at this table of ongoing negotiations. More broadly, Secretary of Defense James Mattis said in Congressional testimony that he views climate change as a national security threat.

Remarkably, support for the Paris Agreement is broad-based within U.S. private industry – from electricity generators such as PG&E and National Grid, to oil companies such as BP, Chevron, ConocoPhillips, Exxon-Mobil, and Shell, mining companies such as Rio Tinto, and a very long list of manufacturers, including giant firms such as General Motors. Even some of the largest coal producers, such as Arch Coal, Cloud Peak Energy, and Peabody Energy, have told the President about their support for the U.S. remaining in the Agreement. This broad support is due to a simple reality – leaders of successful businesses make decisions not on the basis of ideology, but based on available evidence.

True enough, there is also opposition from some especially vocal coal industry executives, and the President seems to have shaped his domestic climate policies around their interests, with his repeated pledge to "bring back coal." But the job losses in coal mining over the past decades have been due to technological change (increased productivity) in the coal sector, and more recently by low natural gas prices, not by environmental regulations (particularly not by regulations – such as the Clean Power Plan – that have not even been implemented).

The Paris Agreement Provides Flexibility

The U.S. could stay in the Paris Agreement, and seek to revise the Obama-era numerical target of a 26% reduction in emissions below 2005 levels by 2025, an approach recommended by North Dakota Republican Representative Kevin Cramer. However, by 2016, energy-related emissions were already down by 14% below 2005, so it is not clear that the existing pledge even needs to be re-assessed. Also, state climate policies in California, Oregon, Washington, and the Northeast will remain in place, and likely be strengthened. And more than half of all states have renewable energy policies; just since election day, the Republican governors of Illinois and Michigan have signed legislation aimed at increasing solar and wind generation. At the Federal level, the important tax credits for wind and solar power continue to receive bi-partisan support in the Congress.

Putting it All Together

In summary, climate change is a serious threat, which requires international cooperation because of its global commons nature. After twenty years of negotiations, the path-breaking Paris Climate Agreement, with its exceptionally broad participation, is the answer to long-standing, bipartisan appeals, and provides an excellent foundation for progress.

The President cannot "cancel" the Agreement, and it would take four years for the U.S. to withdraw. Pulling out of the foundational United Nations Framework Convention on Climate Change might be quicker, but would be unwise in the extreme, jeopardizing U.S. relationships with countries around the world on a host of pressing issues, ranging from national security to international trade.

Fortunately, key voices in the Administration have argued for keeping the U.S. in the Paris Agreement, and support from the business community is exceptionally broad and deep. If necessary, the U.S. can seek to revise the specific U.S. pledge under Paris made by the Obama administration, while remaining a party to the Agreement. But given the pace of emissions reductions already achieved, combined with ongoing state and Federal climate policies, it is not clear that those targets need to be changed.

Having considered this diverse set of considerations that should bear upon this U.S. decision, we find the arguments for the country remaining in the Paris Climate Agreement to be compelling. The truth is that in the 47 years since the first Earth Day, much has been accomplished. But much of that remarkable progress could be undone in the short span of 4 years or less. We are confident – or at least hopeful – that this will not happen.

– –

Ban Ki-moon was Secretary-General of the United Nations (2007-2016), and is the Angelopoulos Global Public Leaders Fellow at the Harvard Kennedy School. Robert Stavins is the Albert Pratt Professor of Business and Government at the Harvard Kennedy School, and was Coordinating Lead Author of the Intergovernmental Panel on Climate Change.

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Robert N. Stavins is the Albert Pratt Professor of Business and Government, John F. Kennedy School of Government, Harvard University, Director of the Harvard Environmental Economics Program, Director of Graduate Studies for the Doctoral Program in Public Policy and the Doctoral Program in Political Economy and Government, Co-Chair of the Harvard Business School-Kennedy School Joint Degree Programs, and Director of the Harvard Project on Climate Agreements. View all posts by Robert Stavins

Posted on April 22, 2017Categories Climate Change Policy, Economic Policy, Energy Economics, Energy Policy, Environmental Economics, Environmental Policy, Natural Resource Economics, Natural Resource Policy, Politics, Positive Political Economy, Trade PolicyTags AB 32, Brazil, California, China, common property resources, environmental politics, European Union, global climate policy, India, Korea, Kyoto Protocol, Obama Administration, Paris Climate Agreement, Rex Tillerson, South Africa, Trump Administration, U.S. House of Representatives, U.S. Senate, UNFCCC

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or send a blank email to leave-117845-
131003.c6781ecb593244496f2cd538ebfcf35b@lists.hks.harvard.edu

To: Fawcett, Allen[Fawcett.Allen@epa.gov]; Alsalam, Jameel[Alsalam.Jameel@epa.gov]
Cc: Desai, Mausami[Desai.Mausami@epa.gov]
From: Irving, Bill
Sent: Tue 2/21/2017 6:48:57 PM
Subject: FW: CCXG Draft Discussion document (Send out 1) - Global Forum on Environment 14-15 March 2017
removed.txt
Information needed for the clarity, transparency and understanding of mitigation contributions.pdf

FYI

From: Nassera.BELKHITER@oecd.org [mailto:Nassera.BELKHITER@oecd.org]
Sent: Tuesday, February 21, 2017 12:53 PM
To: Nassera.BELKHITER@oecd.org
Cc: laura.allison@dfat.gov.au; eangeles@sre.gob.mx; dieter.beisteiner@bmeia.gv.at; carla.boonstra@minbuza.nl; minerpar@magic.fr; ginny.chapman@mfat.govt.nz; Guillaume.Colin@mae.etat.lu; ycubukcu@mfa.gov.tr; elisabeth.dacruz@mne.pt; carla.dipaola@esteri.it; christine.dierick@diplobel.fed.be; nathalie.durand@mae.etat.lu; annabelle.dussart-riant@eda.admin.ch; claekm@um.dk; adv1.oecd@paris.mfa.gov.il; diana.forte@esteri.it; sfrailea@magrama.es; paris@magrama.es; jgarciam@minrel.gob.cl; louisa.hall@fco.gov.uk; pbm@mfa.is; Havard.Hegna@mfa.no; josefine.holmquist@gov.se; katarina.isaksson@gov.se; wi-6-oecd@pari.auswaertiges-amt.de; Elena.KAMILAROVA@eeas.europa.eu; jorgen.karlsson@gov.se; milosz.karpinski@msz.gov.pl; tim.kesseler@mae.etat.lu; kerli.kiili@envir.ee; timoth@korea.kr; KottoVH@state.gov; denis.langlois@international.gc.ca; patrick.lemenes@diplomatie.gouv.fr; pedro.liberato@sg.mamb.gov.pt; roomana.mahmud@fco.gov.uk; helen.mccarthy@ec.europa.eu; manolo.medina@semarnat.gob.mx; isabelle.meert@diplobel.fed.be; Leslie.O'Donoghue@dfat.gov.au; manuela.fernandes@mne.pt; GPalos@mfa.gov.hu; tony.paso@formin.fi; mariana.pazinkova@mzv.sk; sona.perglerova@mzp.cz; siobhan.pielow@mfat.govt.nz; philip-xenophon.pierros@eeas.europa.eu; ravazzi.aldo@minambiente.it; juerg.fred.schneider@eda.admin.ch; etuncer@mfa.gov.tr; jana.urh-lesjak@gov.si; misionocde@amb-chili.fr; ilse-van.ruler@minbuza.nl; VaughnSH@state.gov; tina.vodnik@gov.si; d.xynou@greece-oecd.org; yuji.yamaguchi@mofa.go.jp
Subject: CCXG Draft Discussion document (Send out 1) - Global Forum on Environment 14-15 March 2017

Dear Delegates,

Please find attached the first of three draft discussion documents at the Global Forum on Environment and Climate Change to be held at the OECD on March 14-15:

•□□□□□□□□ *Information needed for the clarity, transparency and understanding of mitigation contributions* by Sara Moarif (IEA)

The second and third discussion documents will be sent to you in the next few days. An annotated agenda as well as discussion questions will be sent subsequently.

If you have not yet registered for the Global Forum, please do so before the end of February. For delegates from OECD countries, we kindly ask you to register via your national permanent delegates, copied. For other delegates, please let me know and I will register you.

We look forward to seeing you in Paris.

Kind regards,

Nassera

Nassera Belkhiter

Climate Change Expert Group (CCXG) Secretariat
Climate, Biodiversity and Water Division
Environment Directorate

2, rue André Pascal - 75775 Paris Cedex 16
Tel: +33 1 85 55 45 82 - Fax: +33 1 44 30 61 84

nassera.belkhiter@oecd.org || www.oecd.org

DRAFT DISCUSSION DOCUMENT

14-15 March 2017

Information needed to facilitate the clarity, transparency and understanding of mitigation contributions

Sara Moarif (IEA) [1]

Prepared for the
Climate Change Expert Group[2]

The ideas expressed in this draft document are those of the authors and do not necessarily represent views of the OECD, the IEA, or their member countries, or the endorsement of any approach described herein.

Please seek the permission of the authors before citing this draft document

[1] The author would like to thank the following colleagues for their helpful comments on this draft document: Jane Ellis, Manasvini Vaidyula and Lola Vallejo (OECD); Christina Hood, Peter Janoska and Caroline Lee (IEA); Kelly Levin and David Rich (WRI). Please send any comments to Sara Moarif (sara.moarif@iea.org).

[2] The Secretariat would like to thank Australia (Department of Foreign Affairs and Trade), Belgium (Federal Public Service Health, Food Chain Safety and Environment), Canada (Environment Canada), the European Commission, Finland (Ministry of the Environment), Germany (Ministry for Environment, Nature, Conservation, Building and Nuclear Safety), Japan (Ministry of the Environment), Netherlands (Ministry of Infrastructure and Environment), New Zealand (Ministry for the Environment), Norway (Ministry of Climate and Environment), Republic of Korea (Korea Energy Economics Institute), Sweden (Swedish Energy Agency and Swedish Environmental Protection Agency), Switzerland (Federal Office for the Environment) and the United States (Department of State), for their direct funding of the CCXG in 2016/17, and the OECD and IEA for their in-kind support.

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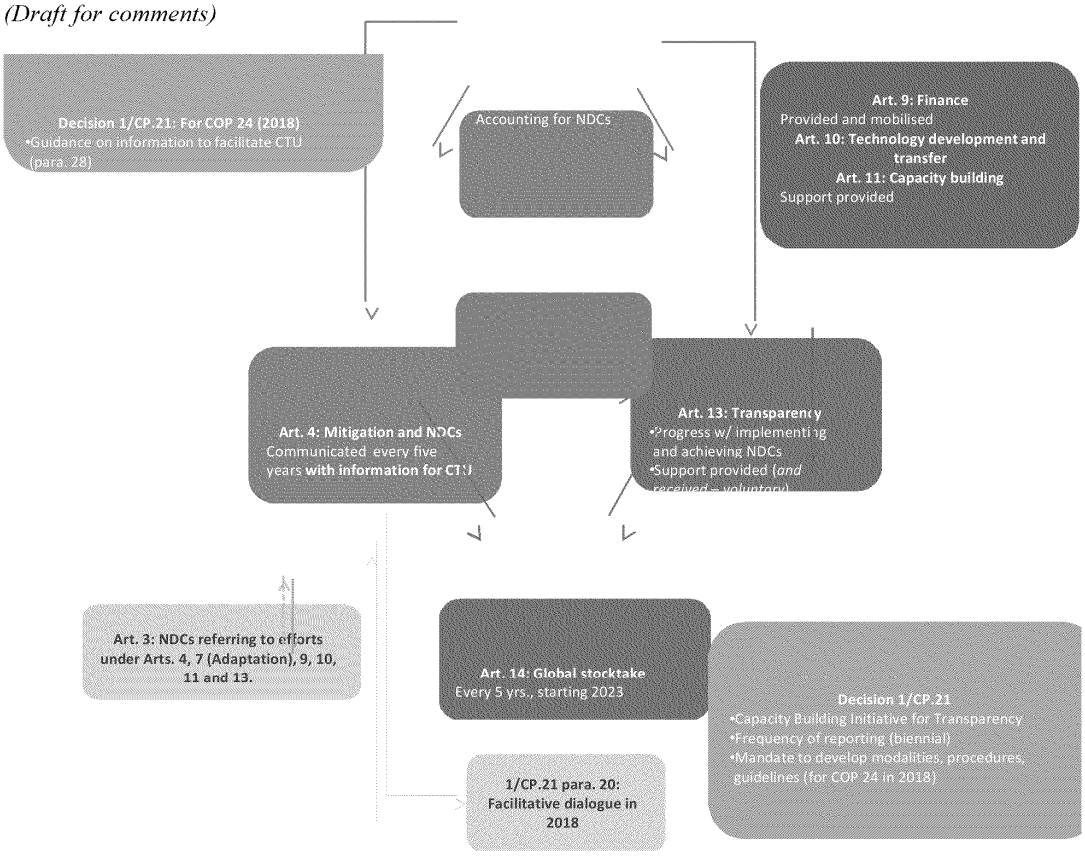
1. No table of figures entries found.Introduction

1. Parties to the United Nations Framework Convention on Climate Change (UNFCCC) are currently developing the operational elements of the Paris Agreement, adopted in December 2015. One of these elements is guidance for information to be provided by Parties communicating their nationally determined contributions (NDCs), in order to facilitate clarity, transparency and understanding (CTU). As described in Article 4 of the Paris Agreement, NDCs shall be communicated every five years, and each successive NDC will represent a progression beyond the current contribution and reflect highest possible ambition. Parties also report on progress with implementing and achieving their NDCs through an enhanced transparency framework established in Article 13 of the Paris Agreement; the accompanying decision text specifies this reporting will occur every two years, with flexibility for least developed countries (LDCs) and small island developing states (SIDS). The information to facilitate the CTU of NDCs falls under the remit of Article 4, and takes place at the time the NDC is communicated. The links between parts of the Paris Agreement architecture relevant to mitigation contributions are presented in Figure 1 below.

Figure 1: NDCs and information for CTU: Links with other areas of Paris Agreement

Information needed to facilitate the clarity, transparency and understanding of mitigation contributions (Draft for comments)



Source: Adapted from Briner and Moarif (2016a) in light of Party submissions on information to facilitate CTU. Notes: Dashed arrows show links suggested in certain Party submissions, not explicitly within the Paris Agreement provisions. The Capacity-Building Initiative for Transparency aims to strengthen national institutions and provide tools, training and assistance for developing country Parties to meet the provisions of Article 13.

2. This document first provides background and context for the concept of providing "clarity, transparency and understanding" in relation to Parties' mitigation commitments within their intended nationally determined contributions (INDCs). It then gives an overview of recent negotiations on this topic in the context of the Ad hoc Working Group on the Paris Agreement (APA). The document then presents information contained in Party submissions on the topic from September and October 2016, organised around four main themes.

2. Background and context

3. Within the United Nations Framework Convention on Climate Change (UNFCCC), the term "clarity, transparency and understanding" (CTU) originates in the years preceding adoption of the Paris Agreement at the 21st Conference of the Parties (COP 21) in 2015. The term was used in relation to Parties' intended nationally determined contributions (INDCs), the commitments they intended to make under the new international agreement being negotiated. At COP 19 in 2013, Parties were asked to communicate INDCs "in a manner that facilitates the clarity, transparency and understanding of the intended contributions" (Decision 1/CP.19, paragraph 2b). The COP also tasked the Ad-hoc working group on the Durban Platform (ADP) to identify "the information that Parties will provide when putting forward their contributions" by COP 20 in 2014.

4. This request for "clarity, transparency and understanding" may have originated with Parties' previous experience with communicating intended mitigation actions in 2010, under the "Cancun Agreements". Parties' mitigation pledges were communicated in ways that it made it difficult to understand them, leading to further efforts to clarify the pledges through submission of additional information and in-session workshops. Some of the specific information elements on which Parties sought clarification were pertinent for ADP work to identify information accompanying Parties' INDCs.[3] Different outside analyses also looked at the type of information that would allow for a better understanding of mitigation contributions.[4]

5. Following the decision taken at COP 19, the issue was discussed throughout 2014. The agreement at COP 20 was a paragraph in the Lima Call for Climate Action (Decision 1/CP.20, paragraph 14), listing mitigation-relevant categories of information that Parties could provide voluntarily when communicating INDCs, to facilitate clarity, transparency and understanding. This information "may include, as appropriate, inter alia":

- Quantifiable information on the reference point (including, as appropriate, a base year);
- Time frames and/or periods for implementation;
- Scope and coverage;
- Planning processes;
- Assumptions and methodological approaches including those for estimating and accounting for anthropogenic greenhouse gas emissions and, as appropriate, removals;
- How the Party considers that its NDC is fair and ambitious, in the light of its national circumstances, and how it contributes towards achieving the objective of the Convention as set out in its Article 2.[5]

6. Ahead of the agreement at COP 20, various information or contextual elements had been proposed by Parties in draft ADP texts during 2014; the following proposals are among those that were not included in the final Lima (or Paris) decision text:[6]

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[3] The process for clarifying developed country Parties' quantified economy-wide emission reduction targets had the objective of "understanding assumptions and conditions related to individual targets, in particular in relation to the base year, global warming potential values, coverage of gases, coverage of sectors, expected emission reductions, and the role of land use, land-use change and forestry, and carbon credits from market-based mechanisms, and associated assumptions and conditions related to the ambition of the pledges". Developing country Parties were invited to submit more information on their nationally appropriate mitigation actions, "including underlying assumptions and methodologies, sectors and gases covered, global warming potential values used, support needs for the implementation of nationally appropriate mitigation actions and estimated mitigation outcomes" (Decision 2/CP.17, para. 5, 34, FCCC/CP/2011/9/Add.1)

[4] For example: Levin and Finnegan, 2011; Morgan et al., 2013; Briner and Prag, 2013.

[5] Article 2 of the UNFCCC states: The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.

[6] UNFCCC, 2014a-c.

- Having two separate lists for "Developed country Parties and other Parties included in Annex I to the Convention" and "Parties not included in Annex I to the Convention (developing country Parties)"; in the end, a single listing was produced.
- Listing specific pieces of information, such as "a quantification of expected emission reductions, including, as applicable, estimates with and without land use, land-use change and forestry", in an annex to the decision.
- Information on support and adaptation; this was specifically included in other Articles of the Paris Agreement (9,7,13) and related paragraphs of the decision text, rather than in the sections of the Agreement and decision texts related to mitigation and NDCs.
- A paragraph noting that the information communicated by Parties on their INDCs should enhance the understanding of whether the aggregate effect of Parties' efforts is in line with goals to limit global temperature increase.

7. A link between information for CTU and the transparency framework was made in the ADP co-chair's informal reflections in April 2014 (UNFCCC, 2014a), but was not explicit during subsequent negotiations. During 2015, information for CTU fell under negotiations on Parties' contributions, in particular the timeframes for their communication, implementation and, briefly, their ex ante review. The topic of communicating contributions eventually became part of negotiations related to mitigation, while transparency had throughout 2015 been dealt with in a separate section of the negotiation text, covering not only mitigation but also the provision of financial, technology and capacity building support[7]

8. At COP 21 in Paris, the notion that NDCs would be communicated along with "information necessary for clarity, transparency and understanding" was established in Article 4.8,[8] and the Paris Agreement decision text (1/CP.21) reproduced the list of information from Lima in its paragraph 27 (UNFCCC, 2015a). It also mandated the newly-formed Ad-hoc Working Group on the Paris Agreement (APA) to develop "further guidance" for the information to be provided in order to facilitate clarity transparency and understanding (paragraph 28). This assessment – that further guidance was needed – had also been reflected in analytical work since 2014, providing a technical basis for and insights into informational elements that provide CTU.[9]

9. An important factor in the need expressed for further guidance could be the experience with developing and submitting INDCs, 119 of which had been communicated by 1 October 2015 (covering 147 Parties). Ahead of the Lima decision, delegates had asked for guidance on information to be put forward when communicating INDCs, as lack of clarity was hindering their domestic preparation (UNFCCC, 2014d). The information elements from Lima arguably did lead to greater clarity and consistency in information on mitigation contributions, as compared with the communication of mitigation pledges and actions under Cancun Agreement.[10]

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[7] IISD, 2015a-d.

[8] "In communicating their nationally determined contributions, all Parties shall provide the information necessary for clarity, transparency and understanding in accordance with decision 1/CP.21 and any relevant decisions of the Conference of the Parties serving as the meeting of the Parties to this Agreement."

[9] For example work from the Open Book initiative (Levin et al., 2014; WRI, 2015; Levin et al., 2015), Herold et al. (2014), Holdaway et al. (2015), and Hood, Briner and Rocha (2014).

[10] As acknowledged in UNFCCC, 2015b (paras. 9, 12-32, 79); see also Hood, Adkins and Levina (2015), and the CAIT Paris Contributions map http://cait.wri.org/indc/.

10. However, INDCs remained unclear and difficult to understand in several areas related to mitigation objectives and actions, including: assumptions and methods applied to land-use and forestry emissions; global warming potential (GWP) values used; assumptions and methodological approaches used for estimating and accounting emissions and removals; business as usual scenarios, including expected future values for GDP or population; and use of international market-based mechanisms (UNFCCC, 2015b).

11. One reason for a continued lack of clarity was that INDCs, by their nature, contained mitigation targets that varied in scope and form; this applies to current NDCs as well.[11] In addition, the Lima and Paris decision elements are not always specific enough to usefully indicate what kind of information would help a given Party's particular contribution be clearer and more understandable to other Parties and stakeholders. For countries developing their INDCs, the list of elements from Lima was not sufficient guidance for how to structure their INDC document or present information (Dodwell et al., 2015). Providing information could also be challenging due to the difficulties of developing the INDCs themselves. Many countries found it difficult to determine the scope and type of the mitigation objective in their INDC, and access to high quality data and analysis was also a challenge for many countries (IPMM, 2015). However, in some cases information was not communicated even where this should have been an essential part of developing the INDC's mitigation objective domestically. For example, the sectors covered by a given mitigation target were unclear in several INDC submissions. In addition, several Parties with emission reduction objectives set against a projected business-as-usual (BAU) level did not provide information on the actual level of emissions in the BAU projection, making it difficult to understand what level of emissions reduction or limitation the INDC was aiming to achieve (Briner and Moarif, 2016a).

3. Current status of negotiations

12. Work to develop further guidance on information to be provided to facilitate CTU is discussed under agenda item 3(b) of the APA, "Further guidance in relation to the mitigation section of decision 1/CP.21", which also covers developing further guidance on the "features" of NDCs (Item 3a, mandated in paragraph 26)[12] and accounting for NDCs (Item 3c, mandated in paragraph 31). During the APA sessions in May and November 2016, some issues raised by Parties included:[13]

- Caution from several countries about the guidance being prescriptive
- Distinction between general guidance covering information common to all NDCs, and specific guidance for different NDC types
- The necessity of communicating quantitative information, particularly for certain types of mitigation objectives
- Need for flexibility for qualitative NDCs
- More detailed information from developed countries, as compared with developing countries; some called for guidance to be differentiated between developing and developed countries

[11] See Briner and Moarif (2016b) for an example of a simple typology of mitigation objectives in NDCs.

[12] "Features" refer to the characteristics of NDCs. Currently, several "features" are specified within the Agreement, including that NDCs are nationally determined, represent a progression and reflect highest possible ambition, and are communicated every five years. Parties are also to consider common timeframes for NDCs, as per Article 4.10.

[13] IISD, 2016a and 2016b. A key issue raised was the scope of NDCs themselves, and the resulting impact on any guidance related to NDCs. However, this is not drawn out in this document, which follows the title of the APA agenda item and focuses on mitigation elements.

- Need for more information and clarity on the land sector, use of markets, baselines and projections
- Consideration of how to aggregate the collective impact of NDCs, including identifying information needed for this
- Questions on whether guidance on information for clarity and features of NDCs should be considered together

13. The co-facilitators' informal note from COP 22 (UNFCCC, 2016) mentions that some Parties felt common information elements would be contrary to the "discretionary, optional and voluntary" nature of NDCs. Some Parties also stressed the difference between information for CTU, and information relevant to the transparency framework. The APA co-chairs summarised the state of current discussions on the subject in their "Reflections note" (UNFCCC, 2017):

> "…there is a general agreement that paragraph 27 of decision 1/CP.21 specifies the information to facilitate the clarity, transparency and understanding of NDCs and, therefore, should be a starting point to developing further guidance. Several Parties stated that guidance should be aimed at helping countries with operationalizing this paragraph, bearing in mind the diversity of NDCs and the need for flexibility. Suggestions included, on the one hand, identification of common information elements and, on the other hand, differentiated elements, as they relate to different aspects and types of NDCs."

14. More specific views were laid out by Parties in written submissions made in September and October 2016, and Parties are once again invited to submit their views by 1 April 2017. The co-facilitators' informal note also provided a set of five questions for Parties to consider, which may guide submissions. The following section examines the 2016 submissions in more detail, drawing out some of the information they contain in relation to particular topics.

4. Information to facilitate CTU: views expressed in the submissions

15. In September and October 2016, 22 Parties and groups of Parties made submissions on "further guidance in relation to the mitigation section of decision 1/CP.21". The submissions of 13 Parties and 8 groups of Parties made some mention of information for CTU.[14] This section presents views expressed in these 21 submissions as they relate to four areas. The first three areas relate to the guidance on CTU itself, and any early indications on the shape it may take:

- First, views on the *purpose(s)* of further guidance to facilitate CTU. The information Parties view as facilitating CTU of mitigation contributions will likely depend on what they feel the information should be used for. Any views expressed on the purpose of the information for CTU, and the guidance for this information in particular, could therefore provide useful clues as to the possible content of the guidance.
- Second, views on *specific areas* where further guidance is needed on information to facilitate CTU. As indicated in the APA co-chairs' note, several submissions suggest an "operationalisation" of paragraph 27 of decision 1/CP.21, providing more detail to the existing information categories, including as they relate to the diversity of NDCs. Many submissions also suggested other areas where guidance might be needed or useful.

[14] In alphabetical order, the Parties were: Australia, Brazil, Canada, China, India, Indonesia, Japan, Norway, New Zealand, Papua New Guinea, Russia, South Africa and USA. The groups were: AILAC, AOSIS, African Group, Caricom, Comifac, EIG, EU and LMDC (see list of acronyms for explanation).

- Third, views that indicate what the actual *elements* of the guidance could be, namely what features it should have, and what it could contain.

16. The fourth area is the link between information on CTU and other topics related to NDCs. In their forthcoming submissions, the co-facilitators suggest that Parties consider the relation, if any, between the various sub-items in the APA agenda item 3, which also includes the features of NDCs and accounting for NDCs.

17. Information in the following sub-sections is presented according to the four areas of interest described above, and guided by the repetition of views as contained in the submissions (when expressed by more than one Party or group). As Parties' submissions were not prepared to cover the four areas of interest, there are important caveats to the way information is presented below. The submissions were very different in their level of detail and the topics they chose to focus on, so information related to the four areas above was inconsistent and incomplete. If an information category was not mentioned explicitly, this does not necessarily mean that the Party or group has no view on the topic. In addition, not all important views expressed in the submissions have been presented, as many were not directly relevant to the four topics outlined above. This presentation below should therefore be taken as a summary of information contained in the submissions, when viewed through a particular lens. While arguably narrow, three of the four areas of interest follow the questions raised by the co-facilitators in their informal note:[15] links between the information on CTU and other topics; the purpose of the guidance; and the more general question of "what is the understanding of information to facilitate CTU of NDCs under this agenda item", which could cover suggestions related to areas where guidance is needed and what the elements of this guidance could be.

4.1 The purpose of further guidance on information to facilitate CTU

18. Parties may be interested in different types of information, based on what they view as the primary purpose of the guidance and the information. On this topic, eight Parties and five groups of Parties expressed some view on the purpose of guidance on information for CTU, of which the following three were the most common:

19. **Understanding the NDC**: This was expressed as understanding the nature, content and parameters of a Party's NDC or mitigation efforts[16]. As such, the information elements listed in Paragraph 27 of 1/CP.21 were seen as a useful starting point or basis. There were different views on what understanding a NDC would entail in terms of information needed, based on different views on the scope of a NDC; three submissions referred explicitly to mitigation, adaptation and means of implementation (India, China, LMDC), and the information needed for CTU in those submissions covered mitigation as well as support needs for mitigation and adaptation. Two submissions referred explicitly to NDCs being mitigation specific (Papua New Guinea, USA), while the rest did not directly mention the scope of NDCs.

20. **Aggregating effects of NDCs / Assessing global progress**: Parties and groups that mentioned these purposes commonly referred to the Secretariat synthesis report on the overall effect of NDCs, pointing to

[15] (1) What is the understanding of information to facilitate the clarity transparency and understanding of NDCs under this agenda item? (2) What should be the purpose of further guidance on information to facilitate the clarity transparency and understanding of NDCs under this agenda item? (3) What is the relationship, if any, between further guidance on information to facilitate the clarity, transparency and understanding of NDCs under this sub-item, and further guidance on sub-items 3(a) and 3(b)? (4) How could this work be usefully structured and progressed? (5) What issues should be discussed and resolved under this sub-item?

[16] Noting that in the submissions the word "efforts" was used in the general sense of actions taken by Parties.

the challenges faced during that exercise. Two groups of Parties stressed the importance of aggregation (AOSIS, Caricom), and correspondingly stressed quantification of mitigation objectives in tonnes of CO_2 when proposing information elements necessary for CTU. In other cases, clarity on individual NDCs was viewed as important to enable an assessment of global progress and ambition, including as an input to the global stocktake (Australia, Brazil, Canada, Japan, Russia, EIG, EU).

21. While some submissions mentioned the global stocktake explicitly, only one mentioned the "facilitative dialogue", a process outlined in paragraph 20 of decision 1/CP.21 to stake stock of collective efforts in relation to the long-term goal of Article 4.1. Taking place in 2018, the facilitative dialogue is also meant to inform the preparation of NDCs, pursuant to Article 4.8.[17] Caricom's submission calls for Parties to "augment" information provided for CTU as soon as possible to inform the facilitative dialogue in 2018. Overall, it is unclear how discussions on information for CTU and those on establishing the facilitative dialogue will influence each other, particularlysince they will occur in parallel.[18]

22. **Tracking progress with NDC**: Information provided for CTU was viewed as important for understanding what a Party aimed to achieve in its NDC, and therefore for understanding progress made toward achieving its NDC. In the submissions, information for CTU was seen as enabling or facilitating the tracking of progress with NDCs, or as contributing to or promoting information on progress with NDCs (Brazil, Canada, Japan, New Zealand, USA, EU, EIG), which in turn was a useful input for assessing collective progress (Australia).

23. Some other explicit purposes of the information for CTU mentioned in submissions included: improving comparability (Australia, South Africa); building trust (Australia, EIG); and informing domestic processes, whether for preparation (Brazil) or implementation (EIG) of the NDC.

4.2 Where further guidance is needed

24. Twelve Parties and six groups of Parties mentioned types of information that would facilitate the CTU of NDCs, and on which further guidance might be needed. All submissions referred to the information elements listed in paragraph 27 of Decision 1/CP.21 (listed in Section 2) as a basis or starting point for the guidance. Various submissions suggested further guidance could cover information elements that broadly fell under the categories of paragraph 27, but were more specific; these are summarised in Table 1.

Table 1: Further areas for guidance related to paragraph 27 information elements

Paragraph 27 info. category	Element listed in more than one submissions	Examples of additional, specific information elements
Quantifiable information on reference point[a]	• Base year or base period, reference year or reference period, target year • Emissions in base year/period, reference year/ period • Projected emissions in target year • Projected baseline / business-as-usual	• Japan: estimated emission reduction from policies and measures • EIG: whether internationally transferred mitigation outcomes (ITMOs) will be used • Norway: whether business-as-usual scenarios are fixed or will be revised; whether base

[17] Paragraph 20 of 1/CP.21: "Decides to convene a facilitative dialogue among Parties in 2018 to take stock of the collective efforts of Parties in relation to progress towards the long-term goal referred to in Article 4, paragraph 1, of the Agreement and to inform the preparation of nationally determined contributions pursuant to Article 4, paragraph 8, of the Agreement".

[18] An accompanying draft discussion document prepared for the CCXG Global Forum addresses the issue of information needs for the 2018 facilitative dialogue (Ellis and Vaidyula, 2017, draft).

Paragraph 27 info. category	Element listed in more than one submissions	Examples of additional, specific information elements
	emissions • Reduction target and level • Information to quantify contributions in tonnes of emissions; translating relative targets in absolute terms; providing GDP or population projections (as relevant); multiyear emissions budgets, if possible • As required, for different NDC types	year emissions locked or not
Scope and coverage	• Gases and sectors included • Explanation of excluded gases and sectors • Land sector: whether included, scope and coverage of efforts, accounting approach	• EIG: percentage of national inventory covered • Indonesia: percentage of emission reduction in key sectors • Japan: clear scope of non-GHG targets
Planning processes	• Domestic laws, policies, plans and processes relevant to or with the aim of implementing and achieving the NDC (existing and planned)	• Japan: for policies and measures, explanation of targets and indicators for progress
Assumptions and methodological approaches[b]	• Accounting approach for land-use and forestry sectors • Global Warming Potential (GWP) values used • Use of cooperative approaches / internationally transferred mitigation outcomes (ITMOs) under Article 6, and how these will be accounted for • IPCC[e] methodologies and metrics used • Assumptions, parameters and methodologies related to determining baselines, projections and reference points (e.g. drivers, GDP, population) • Accounting approaches and methods used for the NDC • Data and information sources	Business-as-usual targets • Canada, Australia, Indonesia: inclusion of policies and measures in baselines and scenarios • AILAC: uncertainty range resulting from sensitivity analysis • Norway: approach to recalculate emission projections, if available

Table 1 (cont.): Further areas for guidance related to paragraph 27 information elements

Paragraph 27 info. category	Element listed in more than one submissions	Examples of additional, specific information elements
How the Party considers that its NDC is fair and ambitious[c]	• How the current NDC is a progression from the previous NDC / current efforts • How the Party considers that its NDC reflects highest possible ambition	• African Group: assumptions and methodologies related to progression, ambition and support needs • Caricom: past trends, emission projections, national circumstances, mitigation costs, assumptions on mitigation potentials. • EIG: approaches and concepts to operationalise equity and fairness
Contribution to objective of the Convention[d]	• How the NDC has been informed by the global stocktake • How the NDC relates to the Party's long-term low-GHG emission development strategy	None provided

Notes: [a] including, as appropriate, a base year; [b] including those for estimating and accounting for anthropogenic greenhouse gas emissions and, as appropriate, removals; [c] in the light of its national circumstances; [d] as set out in its Article 2; [e] Intergovernmental Panel on Climate Change. This table draws on submissions from Australia, Brazil, Canada, Indonesia, Japan, Norway, New Zealand, Russia, South Africa, USA, African Group, AILAC, Caricom, Comifac, EIG, EU.

Information needed to facilitate the clarity, transparency and understanding of mitigation contributions (Draft for comments)

25. Beyond the existing guidance in paragraph 27, submissions mentioned other information that would facilitate CTU of NDCs. This included information that would facilitate the CTU of specific types of NDC, such as absolute emission reduction or limitation targets, business-as-usual targets, or emissions-intensity targets (Australia, Canada, Japan, New Zealand, USA, EU); some submissions provided lists of information that would be relevant for specific NDC mitigation targets (AILAC, Caricom, Brazil). A few submissions also mentioned information needed to track progress with the NDC as an additional element of guidance for CTU (Australia, Indonesia, Caricom).

26. Some submissions mentioned information elements drawn from Article 4 of the Paris Agreement; as will be seen in Section 4.4, for some Parties the information to facilitate CTU should bring clarity to the features of NDCs, several of which are laid out in Article 4. Commonly mentioned elements included:

- Information on how the global stocktake has informed or been considered in the NDC preparation, referring to Article 4.9 (Brazil, African Group, Caricom, EIG).
- Information explaining how the NDC represents a progression beyond a Party's current NDC, referring to Article 4.3 (Australia, Brazil, African Group, EIG, EU). This also relates to the information category in paragraph 27, referring to how the Party considers that its NDC is fair and ambitious.
- Information on the Party's long-term low-GHG emission development / mitigation strategy, referring to Article 4.19 (Indonesia, African Group, AILAC, EU). The difference with the two Article 4 elements above is that the language in Article 4.19 is not mandatory ("Parties should strive to formulate" such strategies). This also relates to the information requested in paragraph 27 on how the Party's NDC contributes to the objective of the Convention.

A few submissions contained additional proposals for information to facilitate CTU that were not repeated or reflected in any other submissions. Proposals that were presented in the submission of only one Party or group of Parties are included in Table 2.

27. The topic of financial, technology and capacity building support for developing countries was also mentioned in several submissions. In some submissions, this was related to the view that NDCs of developed country Parties should include the provision of support, and therefore should be included in the information to facilitate CTU (China, India, LMDC). Brazil's submission suggested developing country Parties provide information to clarify the relationship between support needs and the ambition of NDCs, while AILAC more broadly suggested Parties clarify the unilateral and conditional components of their NDCs. Several submissions suggested that guidance on CTU include information on the support needed by developing countries to implement their NDCs (China, India, Indonesia, South Africa, African Group, Caricom, LMDC).

Table 2: Where further guidance is needed: proposals included in single Party or group submission

Additional information drawn from Article 4	• Developed country: how mitigation target reflects taking the lead • Developing country: how Party envisions moving towards economy-wide target(s) • Contribution to mitigation outcomes of adaptation and/or economic diversification actions

Other elements	• Consistent terminology, definitions and methods, based on UNFCCC and IPCC • Emissions data for each GHG (gas by gas) • If possible, projections for each year • Expected future values of main drivers of national emissions • Developed countries: explanation of anything omitted or excluded from NDCs • Developing countries: cost of mitigation and adaptation; barriers to implementing NDCs. • Long-term adaptation strategy • Least Developed Countries (LDCs) and Small Island Development States (SIDS): how special circumstances reflected in NDC • How NDCs relate to national development strategies and pursuit of Sustainable Development Goals

Note: This table draws on submissions from Brazil, Canada, AILAC, African Group, EU, LMDC.

4.3 The elements of guidance on information for CTU

28. Very few submissions provided specific indications of what the guidance on information for CTU should look like. Six Parties and four groups of Parties provided some reference to elements, features or principles of the guidance. A few indicated the guidance should refer to a single set of information, applicable to all Parties (Norway, Russia), with some specifying this single set should work for all NDC types (Australia, EIG). Besides a single set of common guidance, three submissions also proposed additional guidance specific to different NDCs (Brazil, Caricom, EU). Three submissions proposed that the guidance should be different for developed and developing countries (China, India, LMDC). In addition, submissions also referred to certain principles; those mentioned in more than one submission include:

- No common format
- No common requirement for all Parties
- Minimum level/similar set of information for all Parties
- Should respect/not interfere with the nationally determined nature of contributions
- Special consideration of LDCs and SIDS
- Should not be an unreasonable burden
- Should be consistent with the scope of NDCs

29. It is understandable that most submissions did not express views on the actual content, structure and elements of the guidance, given their timing and the uncertainties surrounding the link between different agenda items. Following discussions during the APA in November 2016, Parties will hopefully be in a position to articulate initial views in their next submissions.

4.4 The relationship between the guidance for CTU and other agenda items

30. Within the Paris Agreement decision text (1/CP.21), the topic of further guidance on features of NDCs, further guidance on information to facilitate the CTU of NDCs, and guidance on accounting for NDCs are all contained with the "mitigation" section, and thus form a single agenda item under the APA (as mentioned, 3a, 3b and 3c respectively). The co-facilitators, in their informal note from November 2016, suggest that Parties consider the relationship, if any, between the three items. In their submissions on information for CTU, nine Parties and three groups of Parties referred to the other two agenda items above, as well as other parts of the Paris Agreement and decision 1/CP.21.

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31. Three Parties and one group of Parties viewed the guidance on features of NDCs and the guidance on information for CTU as linked. Brazil and New Zealand view guidance on features fundamentally as guidance on communicating and explaining NDCs, and therefore closely linked to information to facilitate CTU. South Africa and the African Group state the agenda items are linked, as features are the characteristics of NDCs, which are then communicated through provision of information (though South Africa also calls for common timeframes to be a feature of NDCs). The African Group submission provides similar lists for features of NDCs and the information to be provided about these features.

32. The two other main connections Parties referred to were accounting for NDCs, as well as the transparency framework. Specific parts of decision 1/CP.21 provide a basis for these links:

- Paragraph 31 on guidance for accounting for NDCs: requests the APA to develop guidance which ensures that, among other things, Parties ensure methodological consistency, including on baselines, between the communication and implementation of NDCs.
- Paragraph 94 on modalities, procedures and guidelines for the transparency framework outlined in Article 13: requests the APA to consider the consistency between the methodology communicated in the NDC and the methodology for reporting on progress made towards achieving individual Parties' respective NDCs.

33. On accounting, a few submissions underlined the link made in paragraph 31, on methodological consistency (Canada, Japan), while the EU's submission called for elaborating what "communication" and "implementation" mean, and agreeing on what methodologies should be consistent. Australia's submission outlined a clear conceptual link as part of their view of accounting as having three stages, the first of which is quantifying contributions in the context of preparing NDCs. AILAC's submission highlighted that accounting would be facilitated where NDC objectives were clear and explicit, and clearly defining unilateral and conditional aspects of NDCs would help avoid double counting. In its submission, Brazil viewed information on assumptions and methodological approaches as covered by the guidance on accounting for NDCs, rather than the guidance on information to facilitate CTU of NDCs.

34. As seen in section 4.1, several submissions described the guidance on information for CTU as important for enabling and facilitating the reporting of progress, and a few Parties drew this link out more explicitly, including New Zealand. Australia's submission called for the guidance on information for CTU to be consistent with and informed by the transparency framework as well as the accounting guidance, and AILAC linked information for CTU with enhanced capacity to review progress with NDC implementation. India's submission also mentioned "ex post review", specifying that information for CTU should not be used for this purpose. Norway's submission echoed the language of paragraph 94, calling for consistency in the methodology communicated in the NDC and under the transparency framework. Papua New Guinea's submission described the transparency framework, illustrating how this would provide information that would enable the CTU of NDCs. AOSIS made the link to transparency in a different way, calling for rapid operationalisation of the Capacity Building Initiative for Transparency, as improving Parties' capacity to gather data, monitor progress, improve the accuracy of projections and submit information on time would also improve the quality of NDC communications over time.

35. The submissions hint at a temporal aspect to the communication of information on NDCs. There is, first, information communicated with the NDC itself, covered in the guidance on information for CTU. This takes place ex ante, or before the NDC implementation period. For some Parties, the guidance on features of NDCs would also have a similar role, to better communicate and clarify the NDC (Brazil, New Zealand, African Group). For Australia, the first phase of accounting for NDCs would also take place during communication (quantifying contributions). Information on progress with implementing and achieving the NDC would be communicated regularly via the transparency framework, alongside accounting which would similarly take place during implementation and following completion of NDCs

(ex post). The substantive information communicated at each stage could contain elements that are the same; the Paris decision text requests consistency over time, from initial communication to completion, in the mitigation objectives a Party aims to achieve in its NDC.

5. Concluding remarks

36. The 21 submissions on the topic of guidance for the information to facilitate the clarity, transparency and understanding of NDCs, in addition to discussions held during the APA session in November 2016, provide a useful basis for future dialogue on the topic. Taken together, the views expressed can be drawn and built upon as Parties prepare their next set of submissions. Three main insights relate to: the purposes of information for CTU, and associated guidance for this information; the position of this information within the "NDC cycle"; and challenges relating to the scope of NDCs.

37. First, Parties were able to articulate the purposes of the guidance on information for CTU, as well as identify particular categories and types of information that would benefit from such guidance. The connection between these two areas is useful to consider going forward: will the information elements Parties think would facilitate CTU, and would benefit from further guidance, enable the guidance to fulfil the purpose they envisage? In addition, closer readings of the type of information Parties consider important also provide clues as to their views on the purpose of guidance. While nearly all submissions cited understanding the NDC as a main reason for the guidance, there were distinctions and specificities in what Parties wanted to understand. For example, many submissions focused solely on mitigation contributions (in line with the remit of the agenda item), but within that space elements such as costs of and support needs for mitigation action were highlighted. In some submissions, comparability was also a purpose of the information, while others suggested that understanding the level of effort, ambition, and progression was as important as understanding emissions levels.

38. Parties' views on the purpose of guidance also suggested that information for CTU would facilitate assessing progress both with individual NDCs and collectively. The link between the role the guidance has in facilitating the tracking of progress, and its role in also facilitating collective assessments of progress, was made in some cases by explicitly referencing the global stocktake. The first collective assessment of progress under the Paris Agreement is scheduled to take place earlier than the first stocktake in 2023, during the 2018 facilitative dialogue. The link to the facilitative dialogue was only made in one submission, and it appears unlikely that the two topics will influence each other, given the timing and status of discussions.

39. Second, there is much variation between Parties regarding how information relevant to NDCs gets communicated during the "NDC cycle" of communication, implementation (and associated reporting and review), and completion/revision (with submission of new or updated NDC). Information for CTU is sequentially positioned at the time of communication, as per Article 4.8, with some submissions linking information for CTU with information communicated under the transparency framework and under accounting provisions (e.g. Australia). A clear theme in all submissions is the primacy of the nationally determined nature of contributions, and the need to ensure this is not constrained. The form of the guidance and how countries use it will therefore be relevant. That the current guidance contained in paragraph 27 is voluntary was underscored in one submission, which also explicitly referred to developing voluntary further guidance (India); another submission called on Parties to recognise the guidance in paragraph 27 as being "mandatory 'necessary' information" (Caricom). A third submission suggested some distinction between information elements that could be encouraged and/or optional, those that could be common, and those critical for understanding certain types of NDCs (EU). Parties did not provide very clear views on the more technical issue of the structure and content of the actual guidance, which could be useful to develop in subsequent submissions.

40. Third, there is the more political issue of the scope of NDCs, a challenge given Parties' differing views. Development of the guidance falls under an agenda item dealing with mitigation; if Parties feel other areas currently communicated in NDCs, such as adaptation actions and support needs, require greater clarity, transparency and understanding at the time of the NDC communication, this issue of scope might need to be addressed separately.[19] As previous analysis has shown, the adaptation components of NDCs do indeed lack clarity (Kato and Ellis, 2016). Bearing in mind the need to avoid providing information in a burdensome way, Parties may also consider what elements or constituents of a Party's NDC would most benefit from guidance to facilitate their clarity, transparency and understanding.

41. Looking forward to the next set of submissions, Parties could usefully elaborate on the following questions suggested by the co-facilitators:

- Understanding of information to facilitate CTU: Parties could be more explicit regarding where guidance is needed, what type of information could be contained within it, and provide clear views on the structure and content of the guidance document itself.
- The purpose of further guidance on information to facilitate CTU: Parties could further develop the information contained within the guidance in light of the purpose they would like it fulfil.
- The link between this guidance and guidance on the features of NDCs and accounting for NDCs: Parties could elaborate on links to the mitigation discussions and transparency framework. More specifically:
    - It might be useful to think through the substantive sets of information that would "accompany" a NDC from the time it is communicated to the time it is superseded by a subsequent NDC, such as the emissions level a Party is aiming to reach in its NDC target year, and what sectors and gases are encompassed.
    - Parties could also consider how to use the different sets of guidance stemming from the Paris Agreement and decision in the most efficient way. These links might also be important as Parties think about how to structure and progress the development of guidance.
- What issues should be discussed and resolved under this agenda sub-item: in exploring links between the guidance on information for CTU and other sets of guidance, Parties could consider how to delimit what issues are discussed and resolved under this topic, as opposed to in other work streams that operationalise the Paris Agreement. Parties could clarify the issue of NDC scope, and whether and how this can best be addressed so as to allow technical work on developing the guidance to move forward.

[19] No submitted NDC includes the anticipated or indicative provision of support; it therefore seems challenging for guidance on information for CTU to directly address this obligation for developed country Parties, which falls under Article 9.5 of the Paris Agreement.

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List of Acronyms

AILAC	Independent Association of Latin America and the Caribbean (Asociacion Independiente de Latinoamerica y el Caribe)
AOSIS	Alliance of Small Island States
BAU	Business as usual
Caricom	Caribbean Community
CBDR & RC	Common but differentiated responsibilities and respective capabilities
CCXG	Climate Change Expert Group
Comifac	Central African Forests Commission (Commission des Forêts d'Afrique Centrale)
COP	Conference of the Parties to the UNFCCC
EIG	Environmental Integrity Group
EU	European Union
GDP	Gross Domestic Product
GHG	Greenhouse Gas
GWP	Global Warming Potential
IEA	International Energy Agency
IPCC	Intergovernmental Panel on Climate Change
ITMO	Internationally transferred mitigation outcome
LDC	Least Developed Country
LMDC	Like-minded Developing Countries
LULUCF	Land-use, Land-use Change and Forestry
OECD	Organisation for Economic Co-operation and Development
PaMs	Policies and Measures
SIDS	Small Island Development State
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change

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JOINT GLOBAL CHANGE RESEARCH INSTITUTE

UNIVERSITY OF MARYLAND

Draft: 2 February 2017

Agenda for outreach workshop: Implication of Paris

University of Oslo, Domus Media, Room: Kjerka

Karl Johans gate 47, Oslo (Central building, university square)

8 March 2016

The purpose of this workshop is to discuss the implications of the Paris Agreement for the Norwegian research agenda in light of preceding discussions and work conducted under the international Implications of Paris project, in which the Frisch Centre and Norwegian University of Science and Technology (NTNU) participate. The Implications of Paris Project (IoPP) aims to identify the most important research questions raised by the Paris Agreement of 2015 and to undertake research to help address those questions, enabling effective implementation of the Agreement by the participating nations. The IoPP is an international project engaging international partners to address what is inherently a global research enterprise with profound societal benefits worldwide (see http://www.globalchange.umd.edu/implications-of-paris-project/).

This workshop will build upon the results of the first IoPP workshop, held in May 2016 at the University of Maryland, and the second workshop, to be held at the Norwegian University of Science and Technology in Trondheim 5-6 March, 2017. The focus on the second workshop and this outreach workshop is to discuss implications for important sectors both internationally and for Norway.

The meeting employs a modified Chatham House Rule. Participants are free to use information received during the meeting, but specific positions taken by individuals should not be attributed without expressed permission. However, formal presentations, the meeting agenda, and the meeting participation list will become part of the public meeting record unless participants request anonymity.

This outreach workshop is mainly intended to foster a dialogue among Norwegian policy makers, research funding agencies/organizations, private sector entities, NGOs, and researchers (both national and international) towards their contributions to Norway's national commitment to the implementation of the Paris Agreement. Hopefully the discussion can

CenSES Centre for Sustainable Energy Studies

NTNU

CREE Oslo Centre for Research on Environmentally friendly Energy

UiO : Energy University of Oslo

provide input to a research agenda to support the implementation of the Paris Agreement.

11:00 - 11:30: **Lunch**

11:30 – 12:05: **Welcome**

Local organizer: 5 minutes each

Snorre Kverndokk, Frisch Centre and CREE

Asgeir Tomasgard, NTNU and CenSES

Presentation of the aim of this workshop

Chair: *Snorre Kverndokk, Frisch Centre and CREE*

Address from Norwegian policy makers: 15 minutes

Address from a representative of the Norwegian Ministry of Climate and Environment

This address will present the big picture and give an overview of the research needs of Norwegian policy makers to meet the targets set by the Paris agreement. What are the long term goals, and what are the roles of the sectors in achieving the goals set for 2030 and 2050?

Address from the Norwegian Research Council: 10 minutes

Fridjof Unander, The Research Council of Norway

This address will give an overview of the research priorities in light of the Paris agreement from the view of the main funder of Norwegian research.

General discussion: 5 minutes

12:05 – 12:30: **Summary of Implication of Paris workshop in Trondheim**

Chair: *Asgeir Tomasgard, NTNU and CenSES*

Presentation: 15 minutes

Jae Edmonds, Joint Global Change Research Institute

This presentation will summarize the main conclusions from the first and second Implication of Paris workshop held in College Park, Maryland in May 2016 and Trondheim, Norway on March 5-6, 2017. The Trondheim workshop had a sectorial focus, and special attention was given to electric power production, transport and green competitiveness, including negative emissions, finance, and investment opportunities. This presentation will highlight major challenges and opportunities for the role of research in these sectors.

General discussion: 10 minutes

12:30 – 13:45: **How can the transport sector help reach the climate goals?**

Chair: *TBA*

Norway plans to cooperate with the EU to reach its Nationally Determined Contribution (NDC) to the Paris Agreement. The EU already has the European Emissions Trading System (ETS), covering emissions from industry, and Norway is an ETS participant. An important challenge is therefore to focus on emissions from non-ETS sectors, which cover about half of the emissions in the EU and Norway. One of these sectors is the transport sector. In Norway, the emissions from road traffic amounted to 19% of the climate emissions in 2014. These emissions grew by 31% since 1990, while total Norwegian emissions only grew by 2.5%. Thus, reducing emissions from transport is essential in reaching the Norway's NDC. How can emissions from transport be reduced? What could the options be for heavy transport, airplanes and sea transport? What will be the role of electric vehicles, hydrogen and biofuels? Should Norway rely on possible future flexible mechanisms in non-ETS or should Norway invest in a fast transition to a non-fossil transport sector?

Presentation: 15 minutes

Stef Proost, KU Leuven

Comments: 5 minutes each

Lasse Fridstrøm, Institute of Transport Economics, Norway

The role of electric vehicles in achieving the long term climate targets

Arnhild Wartiainen, Norwegian Ministry of Transport and Communications

An overview of the Norwegian policy towards low emissions transport

TBA

Comment from the private sector.

General discussion: 45 minutes

13:45 – 14:00: **Coffee**

14:00 – 15:15: **The European power market under the Paris agreement**

Chair: *Rolf Golombek, Frisch Centre and CREE*

While Norwegian electricity production is based on renewable energy (mainly hydro power), Norway is connected to other European countries through transmission lines for electricity. Thus, a transition of the European power sector from fossil fuels based to renewable energy also has implications for Norwegian power producers, as well as transmission companies. What are the prospects for the European power market towards 2030? Should Norway increase its production of renewable energy? What implications can this have for transmission between Norway and other European countries? Can Norwegian power production act as a reserve capacity for intermittent energy sources in Europe?

Presentation: 15 minutes

Christian von Hirschhausen, TU Berlin

Comments: 5 minutes each

Carolyn Fischer, Resources For the Future

The role of electricity in meeting the Paris targets

Kjetil Lund, Statkraft

The implications for Norwegian electricity producers of the Paris Agreement

Bente Hagem, Statnett

The implications for transmission of electricity of the Paris Agreement

General discussion: 45 minutes

15:15 – 16:30: **The future of oil and gas under the Paris agreement**

Chair: *Meredydd Evans, Joint Global Change Research Institute*

Norway has been a large producer of oil and gas for several decades, and the oil and gas sector is still very important for the Norwegian economy. More than half of the oil produced globally is used in the transport sector, and a transition to fossil-free transport may therefore have large impacts on oil consumption. The future may seem brighter for gas production as gas can replace coal in power production and reduce carbon emissions, at least for the near future. What will be the implications of the Paris Agreement for oil and gas production internationally and for Norway, and what will the implications be if we aim for the 1.5 °C target compared to the 2 °C target? Will the large reduction in oil and gas demand be realized by 2030, or will it take longer until mid-century (2050)? What are the implications of these on exploration of new oil and gas fields, for instance in the Norwegian Sea? Are investments in oil and gas companies still attractive for the financial sector? Can carbon capture and storage (CCS) make oil and gas viable and competitive in foreseeable future?

Presentation: 15 minutes

Francis O'Sullivan, MIT Energy Initiative

Comments: 5 minutes each

Knut Einar Rosendahl, Norwegian University of Life Sciences

The role of natural gas in meeting the Paris targets

Ottar Skagen, Statoil

What will the Paris Agreement mean for the oil and gas industry?

Ståle Aakenes, Gassnova

The role of CCS and the opportunities for the oil and gas industry

General discussion: 45 minutes

16:30 – 16:50: **Summing up the conference**

Chair: *Brita Slettemark, The Research Council of Norway*

Per Sandberg, Statoil

Audun Rossland, Norwegian Environment Agency

Taran Fæhn, Statistics Norway

What are the important challenges and research questions that came out of this discussion? (5 minutes each)

Anders Elverhøi, University of Oslo

Final remarks (5 minutes)

17:30: **Dinner for the steering committee**

To: Gunning, Paul[Gunning.Paul@epa.gov]; Fawcett, Allen[Fawcett.Allen@epa.gov]; Kocchi, Suzanne[Kocchi.Suzanne@epa.gov]; Birnbaum, Rona[Birnbaum.Rona@epa.gov]; Franklin, Pamela[Franklin.Pamela@epa.gov]
From: Irving, Bill
Sent: Tue 1/17/2017 7:23:40 PM
Subject: FW: G-7 Task: Input for Transition Briefings Draft for Review
Italy G-7 Energy and Climate Issue Note Analysis (2).docx
G7 Italy 2017_Issue Note_Climate and Energy.pdf

All – this is just FYI for now, but I did want to flag that Italy is proposing a number of goals for their G7 presidency, including some that intersect with our work, e.g.

•□□□□□□□□ Present/review mid-century strategies and review NDCs in light of them

•□□□□□□□□ Present a "clean air for all" roadmap with specific targets and policies for transportation, construction and electricity,

•□□□□□□□□ Carry out national climate risk assessments of the resilience of national infrastructure

•□□□□□□□□ Consider carbon pricing mechanisms

DOE has written a background paper (the Word file), which is very general and looks ok.

It's at the proposal stage, so there is still a lot of uncertainty about what the G7 actually agrees to do.

From: Besch, Brianna
Sent: Tuesday, January 17, 2017 1:38 PM
To: Ferland, Henry <Ferland.Henry@epa.gov>; Evarts, Dale <Evarts.Dale@epa.gov>; Shoaff, John <Shoaff.John@epa.gov>; Almodovar, Paul <Almodovar.Paul@epa.gov>; Irving, Bill <Irving.Bill@epa.gov>; Krieger, Jackie <Krieger.Jackie@epa.gov>; Gunning, Paul <Gunning.Paul@epa.gov>; VonDemHagen, Rebecca <VonDemHagen.Rebecca@epa.gov>
Cc: Finman, Hodayah <Finman.Hodayah@epa.gov>; Phillips, Anna <Phillips.Anna@epa.gov>; MacDonald, Ted <MacDonald.Ted@epa.gov>
Subject: FW: G-7 Task: Input for Transition Briefings Draft for Review

Hi Henry,

We've been quite in touch today! We now have the draft paper for review by COB today, let me know if you have anything you would like me to pass on.

Brianna Besch

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From: Sherman, Nicholas [mailto:Nicholas.Sherman@hq.doe.gov]
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To: Ex. 6 - Personal Privacy WagnerDV2@state.gov; SanchezLK@state.gov; ClarkeKM@state.gov; Jessica.Isaacs@treasury.gov; Finman, Hodayah <Finman.Hodayah@epa.gov>; NerurkarNL@state.gov; Besch, Brianna <besch.brianna@epa.gov>; david.gottfried@treasury.gov; Jessica.Isaacs@treasury.gov; WatsonML@state.gov; Ex. 6 - Personal Privacy; Pasalic, Blair <Blair.Pasalic@hq.doe.gov>; Doherty, Julie <Julie.Doherty@Hq.Doe.Gov>; Clapper, Maureen <MAUREEN.CLAPPER@hq.doe.gov>; Ulman, Christie <Christie.Ulman@hq.doe.gov>; Parker, Lindsay <Lindsay.Parker@EE.Doe.Gov>
Cc: Lyon, Jennifer <Jennifer.Lyon@Hq.Doe.Gov>; Tumminia, Paul <Paul.Tumminia@Hq.Doe.Gov>
Subject: RE: G-7 Task Due 1/18, Noon: Input for Transition Briefings on G-7 Sherpa Meeting #1

Hi all:

Here's a quick-turnaround draft for the two-pager requested below. Please send

input/edits/comments by COB today (Due to NSC by tomorrow noon).

Elan/Mark, we'll defer to you on whom to send on in OSTP.

Best wishes,

Nick

(202) 586-3903

From: Yon, Hugo Y. EOP/NSC [Ex. 6 - Personal Privacy]
Sent: Friday, January 13, 2017 9:17:35 PM
To: Patricia.Pollard@treasury.gov; Megan.Leary@treasury.gov; John.Weeks@treasury.gov; Alexia.Latortue@treasury.gov; Malachy.Nugent@treasury.gov; John.Hurley@treasury.gov; Susan.Baker@treasury.gov; Robert.Stack@treasury.gov; Peter.Wisner@treasury.gov; Jessica.Isaacs@treasury.gov; Michael.Hertzberg@treasury.gov; Sarah.Runge@treasury.gov; ryan.brewster@fas.usda.gov; Sharynne.Nenon@fas.usda.gov; Catherine.Fulton@fas.usda.gov; Amy.Freitas@fas.usda.gov; Benjamin.Bocian@fas.usda.gov; Wendell.Dennis@fas.usda.gov; Jaime.Adams@osec.usda.gov; egolan@oce.usda.gov; toussaintms@state.gov; McClureK1@state.gov; Thomas.Iverson@treasury.gov; sfine@usaid.gov; bhendrie@usaid.gov; jszuchman@usaid.gov; kborghese@usaid.gov; dhegwood@usaid.gov; Casey Dunning; Shepard.Robert@dol.gov; Calderon.Claudia.V@dol.gov; Urbanas, Elizabeth; Deters, Thomas; Lyon, Jennifer; Walters, Timothy; WagnerDV2@state.gov; Gant, Paula; Elkind, Jonathan; Morrow, Cara M. EOP/USTR; Yerxa, Gavin M. EOP/USTR; JWeiss@doc.gov; Shira.Perlmutter@USPTO.GOV; Molly.Stech@USPTO.GOV; Allen, Susan (Billheimer); Diehl, Mike EOP/USTR; duPont, Sam W. EOP/USTR; HosinskiE@state.gov; SchnotalaEJ@state.gov; Ellis, Christopher C; Welsh, Caitlin E; peter.schmeissner@hhs.gov; Larry.Kerr@hhs.gov;

Jimmy.Kolker@hhs.gov; Etzkorn, Ed V. EOP/OMB; Schwartz, Nancy E. EOP/OMB; Mesfin, Mahlet N. EOP/OSTP; Correa, Dan K. EOP/OSTP; Levi, Michael A. EOP/WHO; Gretchen.Biery@treasury.gov; Prescott, Jennifer Y. EOP/USTR; Vahlsing, Candace M. EOP/WHO; Greenstein, Alex D. EOP/WHO; OatesDM@state.gov; Cline, Matthew; Urbanas, Elizabeth; Lockwood, Andrea; Maureen.McLaughlin@ed.gov; JoAnne.Livingston@ed.gov; Finman.Hodayah@epa.gov; Nishida.Jane@epa.gov; Mesfin, Mahlet N. EOP/OSTP; Gage, Kate B. EOP/OSTP; Andy.Baukol@treasury.gov; Patricia.Pollard@treasury.gov; Katherine.Allen3@treasury.gov; Peter.Schmeissner@hhs.gov; brandon.belford@dot.gov; Biel.Eric.R@dol.gov; Mittelhauser.Mark@dol.gov; Shepard.Robert@dol.gov; Sparding.Kristin.L@dol.gov; kborghese@usaid.gov; skleinberg@usaid.gov; bsmith@usaid.gov; HorwitzMP@state.gov; WelshCE@state.gov; Peter.Schmeissner@hhs.gov; Metcalf.Alexander@epa.gov; HowardPM2@state.gov; FosterS2@state.gov; Alexia.Latortue@treasury.gov; Malachy.Nugent@treasury.gov; John.Hurley@treasury.gov; Susan.Baker@treasury.gov; Robert.Stack@treasury.gov; Michael.Hertzberg@treasury.gov; Sarah.Runge@treasury.gov; LeventhalR@state.gov; toussaintms@state.gov; McClureK1@state.gov; Thomas.Iverson@treasury.gov; Elkind, Jonathan; Shackleford, Dawn M. EOP/USTR; Morrow, Cara M. EOP/USTR; Stradtman, Jennifer A. EOP/USTR; HosinskiE@state.gov; FosterJA2@state.gov; forsbergap@state.gov; RochmanDA@state.gov; Larry.Kerr@hhs.gov; Jimmy.Kolker@hhs.gov; BiniazSN@state.gov; Diehl, Mike EOP/USTR; Prescott, Jennifer Y. EOP/USTR; Savage, Timothy L; Netos, Eleftherios E (Terry); Ritchie, Susan M; Feuer, Stacy (SFEUER@ftc.gov); Derentz, Landon; Yon, Hugo Y; Price, Woodward C; Koepcke, Robert T; Pike, Craig T; Hix, Heather G; Bybee, Allison S; Sanchez, Lauren K; Besch, Brianna; berkul@usaid.gov; cavallogm@state.gov; susan.driano@treasury.gov; emchc@state.gov; erthumk@state.gov; finman.hodayah@epa.gov; francis.mary@dol.gov; emerson.french@fas.usda.gov; gazisac@state.gov; maloneycr@mcc.gov; rosierkj@state.gov; scottrk@state.gov; simalc@state.gov; patrick.stuart@treasury.gov; upchurchcm@state.gov; greensteinad@state.gov; David M. Zimov Ph. D. (zimovdm@state.gov); 'Tsai, Pei J'; Schnotala, Erik J; 'Rebholz, T Katharine'; 'Michael J Dodman (DodmanMJ@state.gov)'
Cc: Dove, Amy N. EOP/NSC; Johnson, Brian C. EOP/NSC; Grant, Rachel R. EOP/NSC; Strait, Elan P. EOP/NSC; Eshbaugh, Mark J. EOP/NSC; Sellitto, Michael P. EOP/NSC; Korde, Sonali S. EOP/NSC; Flacks, Marti A. EOP/NSC; Arnold, Jessica N. EOP/NSC; Levine, Benjamin M. EOP/NSC; Cameron, Beth E. EOP/NSC; Carter, Hillary H. EOP/NSC; Hamburg, Cambria G. EOP/NSC; Gage, Kate B. EOP/OSTP; Mesfin, Mahlet N. EOP/OSTP; #DEVDEM; #AFRICA
Subject: G-7 Task Due 1/18, Noon: Input for Transition Briefings on G-7 Sherpa Meeting #1

Dear G-7 Interagency Colleagues,

The Italian Sherpa just circulated the agenda and issue notes for the first G-7 Sherpa meeting in Rome on January 26-27. **By Noon on Wednesday, 1/18**, please provide inputs in the form of interagency coordinated **papers of no more than 2 pages in length** to aid our NSC staff briefing for the incoming officials post Jan. 20. What will be most useful is cogent analyses of the Italian proposals that: 1) identify items your agencies agree and how they advance U.S. interests; 2)

items to watch out for with explanation on why they go against U.S. interests; 3) any other issues you would flag for the incoming NSC team. If your agency and participating interagency partners wish to recommend forward talking points, please provide those at the end of each paper. Papers for the agenda items for which the Italians did not provide issue papers should be about one page that outlines your best estimate of the issues likely to come up in the G-7.

Agenda Items for which we are requesting USG briefing papers:

- Global Economy & Trade (Treasury, USTR, Commerce, State) [*no Italian issue paper provided*]
- Climate and Energy (State, DOE, EPA, AID, OSTP)
- Innovation Skills and Labor (DOL, Commerce, State, Treasury, USTR, AID)
- Human Mobility (State, AID)
- Closing the Gender Gap (Treasury, AID, State)
- Foreign Policy & Security Issues (State) [*no Italian issue paper provided*]
- Culture Ministerial (State) [*no Italian issue paper provided*]

Additionally, for your reference I have provided the latest G-7 and G-20 calendars from the Italians and Germans, respectively.

Thanks also to the FASS Team for coordinating positions last week for the FASS meetings earlier this week. Thanks in advance to the Political Directors Team for the prep on the upcoming PD meetings at the end of the month. I am reaching out separately to agencies with plans to travel in January for G-20 or G-7 meetings regarding guidance (or lack thereof at this time) on authorization to travel and positions to take in those meetings post Jan. 20.

As always, do not hesitate to reach out to me with any questions or concerns, especially in this transition period.

Hugo

Hugo Yon

Director for Global Economic Engagement

National Security Council| The White House

Ex. 6 - Personal Privacy

To: Sherry, Christopher[Sherry.Chris@epa.gov]; Hight, Cate[Hight.Cate@epa.gov]; Creason, Jared[Creason.Jared@epa.gov]; Cole, Jefferson[Cole.Jefferson@epa.gov]; Ohrel, Sara[Ohrel.Sara@epa.gov]; McFarland, James[McFarland.James@epa.gov]
Cc: Fawcett, Allen[Fawcett.Allen@epa.gov]; Irving, Bill[Irving.Bill@epa.gov]
From: Alsalam, Jameel
Sent: Tue 12/6/2016 9:25:44 PM
Subject: FW: Review Request - QER 1.2
Chapter 1_QER 1.2_Context clean for IA review.docx
Chapter 2_QER 1.2_Consumer clean for IA review.docx
Chapter 2a_QER 1.2_Workforce clean for IA review.docx
Chapter 3_QER 1.2_Clean clean for IA review.docx
Chapter 4_QER 1.2_Resilience Security Reliability clean for IA review.docx
Chapter 5_QER 1.2_21st Century clean for IA review.docx
Chapter 6_QER 1.2_North America clean for IA review.docx
Chapter 7_QER 1.2_Analytical Process & Stakeholder Engagement clean for ....docx
CRM Form_QER 1.2 Recs 2016 1202.xlsx
Z Appendix_QER 1.2_History and System Overview clean for IA review.docx
2016 1123 DRAFT QER Recommendation Summaries.docx
Administrative Actions and Plans 2016 1114.docx

Hello all,

We have received a draft of the QER. We have been asked to get comments back to Ellen Kurlansky by Friday or noon Monday to be sent back to DOE. More info in the thread below.

I am sending these to you because at one point you expressed interest in the QER. There is a lot here, so it probably isn't possible or desirable to read and comment on much of it by this deadline. Based on the summaries of the recommendations and the administrative actions (also attached here at the end, these are separate from the QER itself) there didn't seem to be much concerning, but I haven't yet looked at the document itself. When I have time to take a look, I will try to look for potential chapters/sections of interest, but thought I would get these to you as quickly as possible in case you do want to provide comments.

Best,
Jameel

From: Kurlansky, Ellen
Sent: Tuesday, December 06, 2016 4:11 PM
To: Adamantiades, Mikhail <Adamantiades.Mikhail@epa.gov>; Bryson, Joe <Bryson.Joe@epa.gov>; Krieger, Jackie <Krieger.Jackie@epa.gov>; South, Peter

<South.Peter@epa.gov>; Alsalam, Jameel <Alsalam.Jameel@epa.gov>; Edwards, Jonathan <Edwards.Jonathan@epa.gov>; Schultheisz, Daniel <Schultheisz.Daniel@epa.gov>; Irving, Bill <Irving.Bill@epa.gov>
Subject: FW: Review Request - QER 1.2
Importance: High

Hi All, We just got the draft QER for review. DOE has asked for our comments by COB Monday Dec. 12. Barry, in his email below has made some suggestions about sections that we might want to focus on. There is, for example, an environmental chapter. If you could get me comments by COB on Friday that would be great but if not please get me any comments you have by noon on Monday. There might be comments that need to be vetted or shared with others that make this deadline impossible. If that is the case, please get me what you can for transmittal on Monday and identify the section(s) on which you will need more time. OP will ask for more time, but it would be helpful to get some or most comments to DOE by the deadline.

And the hated "comment matrix" is included. Ellen

Ellen Kurlansky

Office of Air and Radiation

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue NW

Washington, DC 20460

202-564-1669

From: Elman, Barry
Sent: Tuesday, December 06, 2016 3:45 PM
To: Kurlansky, Ellen <Kurlansky.Ellen@epa.gov>; Rose, Bob <Rose.Bob@epa.gov>; Klinger, Adam <Klinger.Adam@epa.gov>
Cc: Rennert, Kevin <Rennert.Kevin@epa.gov>; Mroz, Jessica <mroz.jessica@epa.gov>
Subject: FW: Review Request - QER 1.2
Importance: High

Ellen, Bob and Adam,

Attached please find the QER 1.2 draft final report which we received for interagency review. The draft report consists of 9 chapters and an appendix, totaling 390 pages. We are being asked to provide a single set of agency comments in the spreadsheet provided by COB next Monday, December 12. As this is a very short turnaround exercise, and as we have been asked not to submit detailed comments, I suggest we focus primarily on high level substantive issues, except where significant wording, tone or framing issues are of special concern to us. As you will see on the attached spreadsheet, we are also being asked to rank the importance of each comment according to the following scale: critical, major or substantive. I will get back to you shortly on the process for designating comments as critical.

The primary chapter in the report addressing environmental issues is Chapter 3 ("Building a Clean Electricity Future"), which includes in-depth sections on CO2 emissions and conventional environmental impacts related to air, water and land use. Other chapters, however, may also address issues that are of interest to your offices. To assist you in reviewing the rest of the document (or farming out sections to other reviewers), I've conducted a quick scan of the report and listed, below, other sections that may be of special interest to your offices:

- Chapter 1 ("Transforming the Nation's Electricity Sector"), especially
  - Section 1.3, dealing with the changing generation profile, new technologies, aging infrastructure and retirements
  - Section 1.4, dealing with decarbonization of the electric grid
  - Section 1.6, dealing with the federal role in modernizing and transforming the grid
  - Section 1.7, dealing with cross-cutting issues (including "promote environmental responsibility")

- Chapter 2 ("Maximizing Economic Value and Consumer Equity"), especially
  - Section 2.2, dealing with energy efficiency
  - Section 2.3, dealing with distributed energy

- Chapter 2a ("Workforce Chapter"), especially
  - Section 2.4, dealing with sector and regional dislocations
  - Section 2.5, dealing with government responses to workforce dislocations

- Chapter 3 ("Building a Clean Electricity Future"), including
  - Section 3.1, dealing with key challenges and enablers for a cleaner, modernized grid
  - Section 3.2, dealing with CO2 emissions
  - Section 3.3, dealing with pathways for CO2 reductions
  - Section 3.4, dealing with environmental impacts on air, water, land use and local communities

- Chapter 5 ("Realizing a 21st Century Electric Power System"), including
  - Section 5.2, Enabling a Clean Electricity Future

- Chapter 6 ("Enhancing Electricity Integration in North America"), including
  - Section 6.3, dealing with the benefits and barriers to increased cross-border electricity trade, including siting and permitting issues, and the environmental impacts of increased levels of hydroelectric imports
  - Section 6.5, dealing with carbon trading and pricing to address emissions in Mexico and Canada

- Chapter 7 ("Analytical and Stakeholder Process"), including
  - Section 7.2.2, which provides a *partial* listing of "key reports and studies," including a number of entries under the category of "Clean Electricity Future"

- Appendix 1 ("Electricity System Overview"), which includes discussion of environmental laws and regulations

Please send me your offices' comments on the draft report, using the attached spreadsheet, by 3:00 pm on Monday, December 12. I will compile the agency's comments and forward them to EOP and DOE by the end of the day. I will look for sections of the report where other offices should be brought in to review process (e.g., OITA for the chapter on North American integration). Please also keep your eyes open for sections that should be flagged for another office's review. And let me know if you have any questions.

Thanks,

Barry

-----Original Message-----

Colleagues,

Please find attached the draft materials for the second installment of the Quadrennial Energy Review. Thank you for your patience and your extremely valuable input so far. With apologies for the short time frame, we are requesting comments by COB Monday, December 12. Receiving feedback by this date will be essential for the QER team to incorporate suggestions. Please submit all comments in the attached spreadsheet template rather than redline, which will make it possible for us to track them all. Please submit one completed comment spreadsheet per agency to John Richards, Laura Vendetta, Candace, and me (everyone on the cc line).

You will notice in chapter 5 that there are a handful of recommendations that are not yet draft final. Specifically:

1. There are four new recommendations that we are considering including, they are marked NEW RECOMMENDATION TBD.

2. Text on the recommendations in brackets is still being negotiated.

The QER team will work with agencies on these in parallel.

We deeply appreciate your contributions to this important document.

Best,

Candace and Austin

Austin L Brown, Ph.D.

Assistant Director for Clean Energy and Transportation Executive Office of the President Office of Science and Technology Policy

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Analysis of G-7 Presidency Issue Note on Energy and Climate

Overview

The Italian G-7 Presidency is positioning climate action as its top priority for G-7 work on energy and climate in 2017, including a reaffirmation of the Paris Climate Accord. Italy's G-7 issue note on "Delivering a Prosperous and Secure World in a Changing Climate" reflects this agenda with a prioritized list of work areas focused on promoting low-carbon economic growth and greenhouse gas (GHG) emissions reduction. The issue note lists five Presidency priorities for energy and climate:

Reaffirming the Paris Agreement and moving towards a swift implementation in order to deliver long-term security, sustainable growth and sustainable development.

Italy's issue note places a G-7 Leaders reaffirmation of the Paris Climate Accord at the top of its priority list. Europe's policy commitment to climate action and increasing the share of renewable energy in the power generation mix, increasing energy efficiency and reducing GHG emissions is driven not only by climate concerns but Europe's position as the world's largest energy importer. The EU, as well as the United States, are positioned not only to gain competitively as a function of a reduction in import dependency and capital outlays but as an exporter of low-carbon energy systems to the rest of the world. The EU and its Member States are now looking to the United States to see whether the new Administration will roll-back the U.S. commitment to the Paris Climate Accord. The issue paper includes proposals to introduce a discussion on the possibility of carbon pricing mechanisms, as well as a common definition and phase out date for fossil fuel subsidies.

Supporting the transition to a low carbon economy with a view to unlocking investment in new markets, innovation, clean technologies and sustainable infrastructure, creating new jobs, and protecting the health of citizens.

Italy's focus on unlocking investment in new markets, innovation, clean technologies and sustainable infrastructure and creating new jobs is likely to meet broad support from G-7 partners and aligns with U.S. interests. Shared challenges among G-7 partners include data deficiencies and outmoded methodological assumptions on job creation. Aligning G-7 best practices for energy market data collection and analysis could help G-7 countries and others assess the economic impact of domestic energy projects. Current G-7 work includes a commitment to "engage in a discussion of issues relating to employment" reached at the 2016 Energy Ministers Ministerial in Kitakyushu, Japan.

Aligning bilateral and multilateral investment strategies with the objectives of the Paris Agreement and the UN Agenda 2030 for Sustainable Development as a fundamental condition for global stability and sustainable development.

The scope and ambition of issue note's prioritization of "aligning bilateral and multilateral investment strategies with the objectives of the Paris Agreement and the UN Agenda" is unclear. Additional information is required to determine the Italian Presidency's goals in this area.

Enhancing cooperation in energy technology innovation, research, development, and deployment, also through initiatives such as Mission Innovation, in order to provide affordable and reliable energy, which is also critical for energy security.

A focus on innovation aligns well with the U.S. approach to drive down technology costs through innovation and open new markets. The United States played a key role in designing the Mission Innovation initiative joined by 19 other countries with a pledge to double government investment in clean energy research and development (R&D) over the next five years and linking the outcomes to investors. The G-7 Energy Ministerial has emphasized the importance of collaboration on energy research and innovation, though it has struggled to define new, concrete mechanisms to achieve this goal.

Promoting energy access, sustainable infrastructure and innovation in Africa.

U.S. programs such as Power Africa are supportive of expanding energy access in Africa, including strategic partnerships with African governments, the World Bank and the African Development Bank. Italy is likely to promote greater engagement of the business sector as a way to encourage investment. This priority aligns generally well with U.S. goals.

Little Mention of Energy Security

Italy's issue paper makes only a brief reference to the topic of energy security as a matter of strategic context. In June 2014, G-7 leaders endorsed a set of seven energy security principles focused on transparent energy markets, diverse energy fuels, sources and routes, reducing greenhouse gas emissions, enhancing efficiency, promoting deployment of clean energy as well as R&D, and improving energy system resilience and emergency response systems.

A commitment to energy security through diversification carries economic benefits. The first large-scale liquefied natural gas (LNG) exports from the contiguous United States began in February 2016. As of September of this year, U.S. LNG producers had exported over 100 billion cubic feet of LNG to 13 countries, providing countries with a new LNG source based on free trade principles as opposed to state-run decisions. Following U.S. Department of Energy license approvals, one large-scale LNG export terminal is now operating and four more are under construction.

As the U.S. develops into the third largest LNG exporter by the end of the decade, a more liquid global natural gas market is forming, supporting the G7/EU energy security principles. G-7 priorities for energy and climate would benefit from a larger focus on the need to establish a new collective energy security framework with G-7 partners and the EU, including work to shape an emerging global natural gas market.

To: Fotouhi, David[Fotouhi.David@epa.gov]
From: EPA Press Office
Sent: Wed 1/17/2018 9:53:13 PM
Subject: Pruitt Aims to Accelerate His Efforts to Remake the EPA

No Images? Click here

THE WALL STREET JOURNAL

Scott Pruitt Aims to Accelerate His Efforts to Remake the EPA

Eli Stokols and Timothy Puko
January 17, 2018
https://www.wsj.com/articles/scott-pruitt-aims-to-accelerate-his-efforts-to-remake-the-epa-1516220866?mg=prod/accounts-wsj

Environmental Protection Agency chief Scott Pruitt plans to use his second year on the job to accelerate efforts to remake the agency, saying he wants to speed its permitting processes and transform a culture he says is bureaucratic.

In an interview with The Wall Street Journal, Mr. Pruitt outlined the changes he is looking to make in year two: repealing and rewriting Obama-era rules for power plant emissions, speeding up the EPA's permit review process, implementing weekly performance assessments across the agency and fostering a public debate about climate change.

Mr. Pruitt has long questioned the scientific consensus that human activities are a significant factor in rising global temperatures and severe weather, and pose a potential existential threat to life on Earth in decades to come.

Discussing his plans for the year, Mr. Pruitt emphasized the importance of moving quickly. "There's tremendous opportunity to show really significant results to the American people in a really short time frame," Mr. Pruitt said.

In his first year on the job, the former Oklahoma attorney general swiftly repealed several of former President Barack Obama's signature policies and encouraged President Donald Trump to pursue a withdrawal from the Paris climate agreement. Mr. Trump announced his intention to exit from the agreement in June.

Mr. Pruitt has memorialized the moment in his office with a framed photo of the two of them in the Rose Garden and the president's autograph on Mr. Pruitt's prepared remarks, "Scott—Great Job!"

Going forward, Mr. Pruitt wants to use metrics to measure the weekly performance of every EPA office and wants final permit decisions completed within six months. He already has a multicolored pyramid diagram outlining his plan to streamline the agency's bureaucracy and organizational workflow.

"That's the thing that's been so striking to me as I've come into this position…is just the lack of focus and lack of energy and lack of commitment to actually get results," said Mr. Pruitt, speaking during a 30-minute interview in his wood-paneled office this week. "We have permits that literally are sitting on a shelf, and just sitting there because there's just no attention, no leadership, no direction. It's that simple." …

The EPA chief also said he believes the agency exceeded its legal mandate under President Barack Obama in creating new rules for power plants in the name of slowing the pace of climate change. "This agency for years has speculated about harm that may be happening 100 years from now as opposed to what's right in their own backyard," said Mr. Pruitt.

In 2018, he said he plans to spend 2018 focusing on cleaning up toxic sites in the Superfund program and with what he calls "the war on lead."

"I really believe that we can eradicate lead from our drinking supply within a decade. We just have to get serious about it," Mr. Pruitt said. "We haven't been focused and urgent about the things that matter and can impact people's health today, and we need to do that."

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To: Fotouhi, David[fotouhi.david@epa.gov]
From: EPA Press Office
Sent: Fri 6/16/2017 7:43:19 PM
Subject: EPA's Weekly Round-Up For 06/16/17

The EPA's Weekly Round-Up ...

Between G-7 meetings in Italy, testifying before Congress about President Trump's budget that protects the environment, putting the brakes on Obama's methane rule, responding to 386 of the 416 letters from Congress and cleaning-up brownfield sites across the country, it was a results-driven week at the U.S. Environmental Protection Agency.

NATIONAL NEWS …

Administrator Pruitt was in Italy at the G-7 where he talked about the new priorities of the Trump Administration. "Respective of the importance to engage with longstanding allies and key international partners, we approached the climate discussions head on from a position of strength and clarity. We are resetting the dialogue to say Paris is not the only way forward to making progress. Today's action of reaching consensus makes clear that the Paris Agreement is not the only mechanism by which environmental stewardship can be demonstrated. It also demonstrates our commitment to honest conversations, which are the cornerstone of constructive international dialogue, " said Administrator Scott Pruitt.

Need to Know News **reports that Scott Pruitt testified before the House of Representatives and said that the EPA is focused on the rule of law and cooperative federalism.** "EPA Administrator Scott Pruitt laid out his vision for his agency at a House Appropriations subcommittee hearing on Thursday, saying the EPA will focus on the rule of law and cooperative federalism. He expressed confidence that the EPA can accomplish these goals on a 'trimmed budget.' 'We're reversing an attitude and approach that one can simply reimagine authority under statutes passed by this body,' Pruitt said."

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The editorial board at the Wall Street Journal reports that unlike the Obama Administration, EPA Administrator Scott Pruitt is committed to cleaning up Superfunds sites. "One cost of making climate change a religion is that more immediate environmental problems have been ignored—not least by the Environmental Protection Agency. New EPA Administrator Scott Pruitt plans to address that in an underreported effort to clean up toxic waste sites under the so-called Superfund program. In a memo to EPA staff last month, Mr. Pruitt announced a plan to reform the Superfund program created in 1980 and to accelerate the clean up of hazardous waste sites such as old industrial properties or landfills. The effort is long overdue. Superfund has too often become a sinecure for the bureaucracy and a cash cow for lawyers. EPA staff offices can wait years or decades to assess a Superfund site, figure out who's liable for what, consult with the community, decide on a remedy and assign the actual work."

The Hill **reports that the EPA has put the brakes on the Obama Administration's methane rule.** "The Environmental Protection Agency (EPA) has proposed pausing an Obama administration oil

and gas pollution rule for two years while it reconsiders the regulation."

The Washington Free Beacon reports that the EPA has been incredibly responsive to requests from the Senate EPW Committee. "The Environmental Protection Agency has responded to half of a Senate oversight committee's information requests, undermining a top Democrat's claim that he is blocking nominees because the agency has not answered his letters."

The Washington Examiner reports that the EPA has been incredibly responsive to Congress and responded to 386 out of 416 letters sent to the agency. "The Environmental Protection Agency doesn't think the numbers add up on the complaints raised by Democratic Sen. Tom Carper of Delaware over unanswered letters. 'We've responded to 386 of the 416 letters received from Congress, including 11 of the 20 letters received from' Carper, the top Democrat on the Senate Environment and Public Works Committee, said EPA spokesman Jahan Wilcox, citing EPA's latest tally conducted Tuesday."

The EPA released a new web video highlighting that our farmers are true environmentalists. ""Farmers are the true environmentalists…the stewards of the land' – Kim, on an American Agri-Women visit to EPA."

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TO THE STATES …

In Michigan, the Detroit News reports that Pruitt said that the closing of regional EPA offices is pure legend. "The administrator of the U.S. Environmental Protection Agency said Thursday that reports that its Great Lakes regional office in Chicago would permanently close are 'pure legend.' 'There is no consideration presently with respect to any regional offices about moving them to one location or another. I'm not sure where that came from,' Administrator Scott Pruitt told a House Appropriations subcommittee."

In Ohio, the Cleveland Plain Dealer reports that Pruitt wants to clean-up the Great Lakes. *"Pruitt told Joyce the EPA will acknowledge priorities that Congress had outlined in past legislation, and will work 'as partners and stakeholders' with states on environmental concerns. 'We recognize the importance of the Great Lakes,' said Pruitt. 'We will work with Congress to ensure that those objectives are attained.'"*

Additionally, the Plain Dealer reports that Pruitt reaffirmed the EPA's commitment to cleaning up the Black River in Lorain. "[Pruitt] assured [Rep. Kaptur] that budget cuts the agency requested would not affect existing contracts for cleanup along the Black River in Lorain."

In New York, the Buffalo News reports that Pruitt and the EPA are making progress at cleaning-up chemicals that are stockpiled at Tonawanda warehouse. "Seven months ago, state and federal authorities seized control of a Town of Tonawanda chemical supplier allegedly stockpiling thousands of tons of chemicals. Tuesday, the scene was safe enough for the U.S. Environmental Protection Agency to offer reporters a safety-vest and hard-hat behind-the-scenes peek of the cleanup."

In Kansas, the High Plains Journal reports that the National Cattlemen's Beef Association and Public Lands Council supports the nomination of Susan Bodine. "The National Cattlemen's Beef Association and the Public Lands Council recently sent a letter to U.S. Sens. John Barrasso (R-WY) and Thomas Carper (D-DE) urging them to support the nomination of Susan Bodine to be the

Environmental Protection Agency's assistant administrator for the Office of Enforcement and Compliance Assurance. … 'Bodine has impeccable credentials with 29 years of environmental law and policy experience garnered from leadership positions in the federal government and private sector,' said NCBA President Craig Uden and PLC President David Eliason in the joint letter."

In Wisconsin, WBAY-TV reports that Pruitt and the EPA are cleaning-up Green Bay. "Green Bay's redevelopment efforts are getting a big boost with a grant from the Environmental Protection Agency."

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Subject: United States Resets Climate Change Discussion At G7

United States Resets Climate Change Discussion At G7

U.S. Formally Joins Communiqué, Reaching Consensus On Important Environmental Issues

June 12, 2017

Bologna, Italy – Today, U.S. Environmental Protection Agency Administrator Scott Pruitt announced that the United States stands firm on its decision to withdraw from the Paris Agreement and has reset the conversation about climate change reflective of the new priorities of the Trump Administration and the expectations of the American people.

"Respective of the importance to engage with longstanding allies and key international partners, we approached the climate discussions head on from a position of strength and clarity. We are resetting the dialogue to say Paris is not the only way forward to making progress. Today's action of reaching consensus makes clear that the Paris Agreement is not the only mechanism by which environmental stewardship can be demonstrated. It also demonstrates our commitment to honest conversations, which are the cornerstone of constructive international dialogue, " said Administrator Scott Pruitt.

While a party to the communiqué, the United States did not join the climate change sections, explicitly stating:

We the United States of America continue to demonstrate through action, having reduced our CO_2 footprint as demonstrated by achieving pre-1994 CO_2 levels domestically. The United States will continue to engage with key international partners in a manner that is consistent with our domestic priorities, preserving both a strong economy and a healthy environment. Accordingly, we the United States do not join those sections of the communiqué on climate and MDBs, reflecting our recent announcement to withdraw and immediately cease implementation of the Paris Agreement and associated financial commitment.

The United States and its G7 counterparts found common ground engaging in robust and constructive dialogue regarding other, equally important environmental issues. The United States joined consensus throughout the communiqué including the sections discussing resource efficiency, marine litter, and environmental policies and jobs.

"The United States will continue to show leadership by offering action-oriented solutions to the world's environmental challenges. We have indicated a willingness to engage on an international stage that stands to greatly benefit from American ingenuity, innovation, and advanced technologies. We have already demonstrated significant progress towards mitigating environmental problems and we will continue to develop these for the benefit of all

nations," Administrator Pruitt said.

BACKGROUND ...

G7 Bologna Environment Ministers' Meeting: Communiqué

"We, the G7 Environment Ministers and high representatives, and European Commissioners responsible for environment and climate, met in Bologna on 11-12 June 2017. We were joined by heads and senior officials of International Organizations and by representatives of universities and firms." (G7 Bologna Environment Ministers' Meeting, 06/12/17)

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To: Fotouhi, David[fotouhi.david@epa.gov]
From: U.S. EPA Media Relations
Sent: Sun 6/11/2017 3:40:39 PM
Subject: Administrator Pruitt Promotes Importance of International Engagement at First G7 Meeting

CONTACT:
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FOR IMMEDIATE RELEASE
June 11, 2017

Administrator Pruitt Promotes Importance of International Engagement at First G7 Meeting

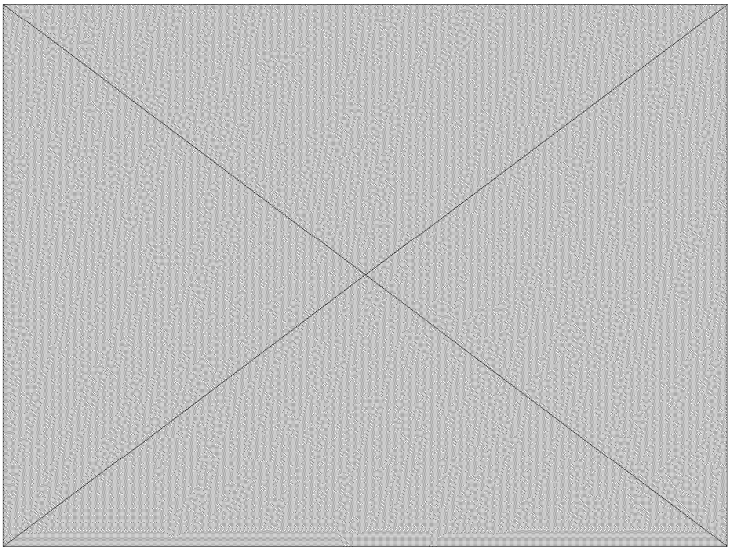
Bologna, Italy – U.S. EPA Administrator Scott Pruitt attended his first G7 Environmental Ministerial Meeting, taking part in thoughtful bilateral discussions with his G7 counterparts.

Less than two weeks after President Trump announced the United States' withdrawal from the Paris Accord, Administrator Pruitt emphasized now is the time to move forward with a discussion to find ways to positively engage with other countries in order to protect and use our natural resources.

"The United States has always been a world leader when it comes to environmental stewardship, and that was demonstrated on a global stage today," Administrator Pruitt said. "I believe engaging in international discussion is of the utmost importance to the United States when it comes to environmental issues. I want to thank the government of Italy and Minister Galletti for the tremendous hospitality and leadership over this meeting."

"The protection of the environment and public health," said Italian Minister of the Environment Gian Luca Galletti, "is a common goal for Italy and the United States. There are many themes that see our common commitment. The presence of Administrator Pruitt at the G7 Environment in Bologna has been a very important element that allowed us to start constructive dialogue on all environmental issues as well as to open new channels of business cooperation between our two countries."

Administrator Pruitt returned to the United States Sunday evening in order to attend the President's first full cabinet meeting scheduled for Monday.



U.S. EPA Administrator Pruitt (second from the L, front row) at the G7 in Bologna, Italy

R111

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To: Fotouhi, David[fotouhi.david@epa.gov]
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Sent: Tue 6/6/2017 2:34:09 PM
Subject: Pruitt On Morning Joe: President Trump Is Putting America's Interest First

Pruitt On Morning Joe: President Trump Is Putting America's Interest First

Click Here To Watch The Interview

KEY TAKEAWAYS

Why We Left Paris …

WILLIE GEIST: "You've seen reaction around the world to the withdrawal from the Paris Agreement. It hasn't been kind from our allies, it hasn't been kind from a lot people here in the United States. Could you just summarize for our viewers the decision that was made to pull out and why we did it?"

ADMINISTRATOR PRUITT: "When you look at what was agreed to in Paris, it put this country, our country at a disadvantage economically. Despite the fact, that we had taken several significant steps since the early-1990s with respect to reducing the co2 footprint. We're at pre-1994 levels with our co2 footprint. From 2000 to 2014, we reduced co2 emissions by 18-plus percent. We've been leading by action, in my estimation. What Paris represented was a commitment to achieve things that were unachievable. The previous administration, with every step they took in their climate action agenda, still fell 40% short of those 26 to 28% targets. What the decision was about was simply sending the message we're leading with action, not with words. We're going to make sure we put America first with respect to these decisions and continue to export our innovation and technology to the rest of the world with respect to how to reduce the co2 footprint."

President Trump's Work To Create American Jobs …

ADMINISTRATOR PRUITT: "The last seven months we've had a growing job market in the mining sector, including coal. We've had almost 50,000 jobs created since the 4th Quarter, of last year in the mining sector, including coal. We see actually optimism in that sector. Here is the deal: I really believe that we have to focus on the stability and security of our grid and make sure that as utility companies generate electricity, they generate electricity from a variety of sources, diverse sources to maintain that security."

America Has Made Tremendous Enviromental Progress …

ADMINISTRATOR PRUITT: "So what happens when Germany goes all renewable? When they go away from nuclear and they go away from all of the fossil fuels, what happens to the cost of electricity in Germany?"

STEVE RATTNER: "Germany has a terrible, Germany, has a terrible energy policy and I will agree

with you on that."

ADMINISTRATOR PRUITT: "What happens to the economy in those countries? For developed nations, for growing economies in this world, we have nothing to be apologetic about. We have a strong, strong approach to reducing emissions and have demonstrated that from 2000 to 2014 as I indicated. We have nothing to be apologetic about."

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No. 17-71692

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

In re: UNITED STATES OF AMERICA.

UNITED STATES OF AMERICA, *et al.*,
Petitioners,
v.

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF OREGON
Respondent,
and

KELSEY CASCADIA ROSE JULIANA, *et al.*,
Real Parties in Interest.

On Petition for a Writ of Mandamus in
Case No. 6:15-cv-01517-TC-AA (D. Or.)

PETITIONERS' REPLY IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS

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INTRODUCTION

The Answer of the Real Parties in Interest ("Plaintiffs") highlights the fundamentally improper nature of this case and the need for this Court to intervene. Plaintiffs reaffirm that their challenge is not directed at particular agency actions but instead at "the affirmative aggregate and systemic actions of Defendants," including everything the federal government has done over the past half-century associated with the development, transportation, or consumption of fossil fuels. Answer 1, 23. Plaintiffs reassert their entitlement to a trial focused on "determining the scientific level of atmospheric CO2 concentrations necessary to preserve Plaintiffs' constitutional rights," after which the district court would "'fashion practical remedies'" like "an injunction that requires carbon emissions to decline quickly." Answer 32, 33 n.13, 46. They reaffirm that the basis for this sweeping action is the vague and unprecedented substantive due process "right to a climate system capable of sustaining human life." Answer 36. Among other things, Plaintiffs reassert their view that this supposed constitutional right demands the invalidation of a statute that involves "promotion of fossil fuels" for that reason alone. Answer 18.

The district court's response to the petition (Ct. App. Dkt. 12) ignores the extraordinary nature of these claims. It simply points to the absence, so far, of discovery disputes requiring judicial resolution and to the alleged need to develop a factual record on the claims through discovery and trial. With respect, that fundamentally misses the central point. Having discovery and a trial on whether

current and past Administrations over five decades have dealt with the development, transport, and consumption of fossil fuel resources in a way that satisfies the district court's notion of substantive due process flagrantly violates multiple doctrines established to prevent this sort of judicial overreach. Discovery and a trial on these issues would invariably breach the separation of powers established by the Constitution, under which Congress and the Executive Branch, not the Judicial Branch, determine by democratic means the appropriate scope and pace of energy development in light of environmental concerns, and the President, and not the courts, oversees the programmatic and collective actions of Executive Branch departments and agencies. This Court should intervene to prevent this clear violation of long-standing constitutional norms by requiring dismissal of this improper action.

ARGUMENT

I. The order denying the motion to dismiss was based on clear error.

A. Standing doctrine clearly precludes this challenge.

Plaintiffs' argument for Article III standing turns on their theory that they need only allege an injury arising from "aggregate and systemic actions of Defendants" over the past 50 years that allegedly "contributed to the dangerous climate emergency" that Plaintiffs assert has led to threatened and ongoing injury. Answer 1, 23. The district court's acceptance of this "aggregation" theory for establishing standing was clear error. Under this theory, any and every person in the United States would have standing to challenge any self-defined set of government actions or inactions related

to energy development or CO2 emissions, simply by alleging that those actions or inactions "contribute[] to the dangerous climate emergency." But an essential purpose of standing doctrine is to preclude such sweeping challenges to governmental decision-making. The Supreme Court has made clear that Article III does not permit suits that seek "broad-scale investigation" into government functions, "with the district court determining at the conclusion of that investigation the extent to which those activities may or may not be appropriate," because "this approach would have the federal courts as virtually continuing monitors of the wisdom and soundness of Executive action." *Laird v. Tatum*, 408 U.S. 1, 14-15 (1972).

While Plaintiffs' standing allegations fail on many fronts, *see* Petition 11-21, the most obvious defect is their reliance on the "aggregation" of broad categories of government action. Plaintiffs must show that their alleged injury is "fairly traceable" to a specifically identified agency action (or a failure to take action that was legally compelled) taken by specific Defendants, and is, in addition, not the result of "the independent action of some third party not before the court." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992) (citation and internal quotation marks omitted). In their discussion of causation, Plaintiffs concede that "discrete" actions of the government "might not in themselves establish causation of a constitutional violation." Answer 30. They accordingly assert that the whole of the government's actions over the past 50 years, "taken 'in combination' and on a 'systemwide' basis," Answer 30 (quoting *Wilson v. Seiter*, 501 U.S. 294, 301 (1991)), provide a basis for

standing to challenge wholesale vast "categories of government policies, practices, and actions," Answer 28, which they need merely "describe[]" in general terms. Further, Plaintiffs then assert, "through each of these categories, Defendants authorize the combustion of all fossil fuels in the U.S. and that historically, the United States is responsible for emitting 25.5% of the world[']s cumulative CO2 emissions, thereby establishing Defendants' causal contribution to Plaintiffs' injuries." Answer 28-29 (internal quotation marks omitted).

There are numerous flaws in this theory. The allegation that Defendants in this case "authorize the combustion of all fossil fuels in the U.S." and that therefore the entire amount of the United States' contribution of CO2 to the atmosphere is traceable to Defendants is utterly implausible, and need not be taken as true for purposes of a motion to dismiss. *See, e.g., Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) ("To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is *plausible on its face*.") (internal quotation marks omitted and emphasis added).

More fundamentally, it is clearly insufficient for purposes of causation analysis to allege that an injury is caused by loosely defined "categories" of actions on the part of numerous government Departments. One need only look to the allegations of the complaint to see that, despite their protestations, Plaintiffs have provided no specificity in identifying particular government actions that assertedly caused their injury and that could be meaningfully subject to judicial review. *See, e.g.*, D. Ct. Dkt. 7

at 41, ¶ 112 ("Through its action in permitting the extraction of coal, coal-bed methane, oil, oilshale and natural gas, and oil, coal and electric infrastructure and transmission facilities, and logging, livestock grazing, and off-road vehicle use on public land, the [Department of the Interior] is substantially contributing to dangerous levels of atmospheric CO2 and a dangerous climate system in our nation").

The district court's acceptance of this kitchen-sink approach to alleging causation is clear error. Plaintiffs cite no decision that has permitted standing based on allegations that "categories of government policies, practices, and actions" have, in the aggregate, produced some sort of harm. Answer 28. Instead, they rely on two Supreme Court decisions in which standing was never mentioned. *Brown v. Plata*, 563 U.S. 493 (2011), *cited in* Answer 29, was a suit by prisoners against the Governor of California, where lower courts had previously enjoined Eighth Amendment violations in the State's provision of medical and mental health care. When the State violated the terms of that injunction, the prisoners convinced a three-judge court to reduce prison populations. *Id.* at 500-01. Plaintiffs here cite language from the Court's discussion of whether the remedy granted by the lower court was consistent with the Prison Litigation Reform Act, 18 U.S.C. § 3626, without revealing that this discussion had nothing to do with the plaintiffs' standing. *See* Answer 29 (citing 563 U.S. at 500 n.3). Similarly, *Wilson v. Seiter*, 501 U.S. 294 (1991), *cited in* Answer 30, never mentioned standing, but focused instead on whether the prisoners in that case had established an Eighth Amendment violation.

Also offering no support to Plaintiffs' aggregation approach are *Comer v. Murphy Oil USA, Inc.*, 585 F.3d 855 (5th Cir. 2009) or *Connecticut v. American Electric Power Co., Inc.*, 582 F.3d 309, 347 (2d Cir. 2009), *rev'd on non-standing grounds,* 564 U.S. 410, 429 (2011), *cited in* Answer 24. *Comer* is of no precedential value since it was "vacated" by a grant of rehearing en banc, *see* 607 F.3d 1049, 1053 (5th Cir. 2010), and in any event, did not involve aggregation of categories of actions by a government. *Connecticut* likewise did not involve an attempt to aggregate entire categories of government action. Rather, it involved nuisance claims brought by six states and others against specific utility companies, seeking to reduce emissions of CO2. The Supreme Court eventually reversed the court of appeals and ruled that the states' common law-claims involving CO2 emissions were displaced by the Clean Air Act; the Court dismissed the claims on that basis because the Court was equally divided on the issue of standing. 564 U.S. at 420-29

Washington Environmental Council v. Bellon, 732 F.3d 1131 (9th Cir. 2013), is a more pertinent decision, not only because it has not been vacated or overruled like the cases relied on by Plaintiffs but also because it challenged governmental action regarding CO2 emissions. *Bellon* distinguished *Connecticut,* in part on the ground that states were plaintiffs in that case, unlike in *Bellon* or here. *Id.* at 1143 n.6. This Court made clear that where standing rests on alleged climate-change injuries, to "satisfy the causality element for Article III standing, Plaintiffs must show that the injury is causally linked or 'fairly traceable' to the Agencies' alleged misconduct," and that

"simply saying that the Agencies have failed to curb emission of greenhouse gases, which contribute (in some undefined way and to some undefined degree) to their injuries, relies on an attenuated chain of conjecture insufficient to support standing." *Id.* at 1141, 1143 (internal quotation marks omitted). Here, Plaintiffs' allegations are even more conjectural than in *Bellon*; indeed Plaintiffs here do not even specify the particular agency actions or failures they allege cause their injury.

In response to Defendants' argument that the redressability element of standing was not adequately pleaded, Plaintiffs assert that their complaint "clearly alleges statutory and regulatory authority of Defendants to provide the relief requested." Answer 31 (citing D. Ct. Dkt. 7 at ¶¶ 98-130, 137, 147, 180, 183, 265, 266). But the cited paragraphs of the complaint contain only vague and general allegations like the President "has failed to dismantle the U.S. fossil fuel edifice" (¶ 180) and refer to statutes only in very general ways without citation to particular statutory provisions that could form the basis for relief directing agencies to reduce CO2 emissions—relief they have not even petitioned the relevant federal agencies to grant, in violation of exhaustion and numerous other principles governing judicial review of agency action. This approach is fatally insufficient for pleading redressability.

Finally, Plaintiffs mischaracterize Defendants' argument as asserting that their claims are not capable of resolution through the judicial process because they "are constitutionally rather than statutorily based." Answer 26. The Supreme Court has

stressed time and again that before any court decides questions of constitutional law, it must first "find that the question is presented in a 'case' or 'controversy' that is, in James Madison's words, 'of a Judiciary Nature,'"; that precept "requires plaintiffs, as the parties now asserting federal jurisdiction, to carry the burden of establishing their standing under Article III." *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 (2006). The district court lacks subject matter jurisdiction here not because Plaintiffs' claims are purportedly based on the Constitution, but because the sweeping, all-encompassing "controversy" they ask the courts to resolve is simply not "of the sort traditionally amenable to, and resolved by, the judicial process." *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 102 (2000).

B. Allowing Plaintiffs to proceed to trial by creating a substantive due process right, contrary to Supreme Court jurisprudence, was clear error.

The Supreme Court has instructed courts considering novel due process claims to "exercise the utmost care whenever we are asked to break new ground in this field, lest the liberty protected by the Due Process Clause be subtly transformed" into judicial policy preferences, and lest important issues be placed "outside the arena of public debate and legislative action." *Washington v. Glucksberg,* 521 U.S. 702, 720 (1997). The Court has "regularly observed that the Due Process Clause specially protects those fundamental rights and liberties which are, objectively, 'deeply rooted in this Nation's history and tradition.'" *Id.* at 720-21 (quoting *Moore v. City of East Cleveland*, 431 U.S. 494, 503 (1977) (plurality opinion)). The district court's refusal to

dismiss the Plaintiffs' utterly novel due process claim based on an "unenumerated fundamental right" to "a climate system capable of sustaining human life," D. Ct. Dkt. 83 at 31-32, was a clear error that threatens to put fundamental policy issues of energy development and environmental regulation "outside the arena of public debate and legislative action," *Glucksberg,* 521 U.S. at 720, and into the federal courts—indeed here a single district court—to oversee.

Plaintiffs' response is to assert that they allege the infringement of "fundamental rights long recognized by the judiciary." Answer 2. But they cite no case where the judiciary has found a fundamental right remotely comparable to a right to a particular "climate system," or to other aspects of the physical environment. Rather, they cite *Obergefell v. Hodges*, 135 S. Ct. 2584, 2598 (2015), but they make no effort to explain the relationship between a right to same-sex marriage and an alleged right to "a climate system capable of sustaining human life." And there is no relationship, because Plaintiffs' climate-system right has nothing to do with "certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs." *Id.* at 2597.

Equally devoid of support is Plaintiffs' assertion that the right to a climate system capable of sustaining human life is both "deeply rooted in this Nation's history and tradition" and "fundamental to our scheme of ordered liberty." Answer 36 (quoting *McDonald v. City of Chicago*, 561 U.S. 742, 767 (2010)). Plaintiffs' support for this novel proposition consists mostly of lengthy excerpts from an address made by

then-retired President James Madison to an agricultural society in 1818. Answer 37. Although Plaintiffs deserve marks for excavating Madison's views on the importance of the atmosphere to animals and vegetables, it is obvious that nothing in that address indicates a belief (by Madison or anyone else) in a legal "right" to a certain climate system, let alone such a right enshrined in the Constitution. And no other source suggests that such a right—held by every individual in the Nation—is "deeply rooted" in history and tradition.

Plaintiffs also point to the Clean Air Act, Answer 38, but nothing in that statute suggests that Congress believed it was fleshing out a "deeply rooted" legal (much less constitutional) right. Rather, Congress used its enumerated Article I powers to deal with a *new* problem: "the growth in the amount and complexity of air pollution brought about by urbanization, industrial development, and the increasing use of motor vehicles." 42 U.S.C. § 7401(a)(2).

Finally, Plaintiffs argue that the "right to a stable climate system capable of sustaining human life preserves the baseline conditions" upon which other recognized due process rights depend. Answer 39. It is undeniable that the enjoyment of recognized due process rights would become difficult or impossible without soil, plants, air, minerals and (for that matter) fossil fuels. That does not suggest, however, each and every citizen has judicially enforceable *substantive due process* rights to have the federal government protect those resources or promote their use, and no court has ever recognized such a right. The district court here violated the bedrock rule that in

the absence of "[a]ny historical, textual, or controlling precedential support" for an asserted due process right, a court should "decline to fashion a new due process right out of thin air." *Carlisle v. United States*, 517 U.S. 416, 429 (1996).

Plaintiffs' attempt to analogize this case to "state-created danger" cases is wholly unconvincing. Those cases proceed on a tort model, with requirements for liability that are much stricter than in ordinary tort cases. Thus, in *Pauluk v. Savage*, 836 F.3d 1117 (9th Cir. 2016), *cited in* Answer 39, this Court stressed that a plaintiff in a state-created danger suit must show more than a mere failure to take action: "a plaintiff must show that the state engaged in affirmative conduct that placed him or her in danger"; that "the affirmative conduct placed him in a worse position than that in which he would have been had [the state] not acted at all"; and that such conduct "exposed the plaintiff to an actual, particularized danger . . . and the resulting harm must have been foreseeable." *Id.* at 1124-25 (citations and internal quotation marks omitted). Finally and importantly, "the state actor must have acted with deliberate indifference to a known or obvious danger," which "requires a culpable mental state more than gross negligence." *Id.* at 1125 (same). Plaintiffs have satisfied none of these requirements. They have identified no specific affirmative acts carried out with the required culpable mental state that directly placed particular persons in a situation of obvious danger. They have not alleged—and it would be fantastical to allege—that CO2 emissions are actually *greater* than they would have been had the government "not acted at all," i.e., done nothing to regulate air quality. Nor have Plaintiffs

identified any case in which a court has permitted a state-created danger suit against programmatic government policies, actions, and inactions, or converted such a notion into a constitutional challenge.

C. The public trust doctrine does not supply a cause of action against federal agencies.

As explained in the Petition (at 28-30), the courts in the D.C. Circuit have recently and resoundingly rejected public trust claims against federal agencies identical to those asserted by Plaintiffs here. *See Alec L. v. Jackson*, 863 F. Supp. 2d 11 (D.D.C. 2012), *aff'd,* 561 Fed. Appx. 7 (D.C. Cir. 2014), *cert. denied*, 135 S. Ct. 774 (2014). Plaintiffs assert that those courts were "inattentive" in so ruling. Answer 43. On the contrary, those courts properly found that there is no public trust doctrine that "impose[s] duties on the federal government," 863 F. Supp. 2d at 13, correctly pointing out that the Supreme Court recently reaffirmed that "the public trust doctrine remains a matter of state law" and that "the contours of that public trust do not depend upon the Constitution." *PPL Mont., LLC v. Montana*, 565 U.S. 576, 603-04 (2012). Plaintiffs cite *Illinois Central Railroad Company v. Illinois*, 146 U.S. 387, 455 (1892), for the proposition that "the Public Trust Doctrine applies to all governments, state and federal," but the Supreme Court in *PPL Montana* made clear that its ruling in *Illinois Central* was " 'necessarily a statement of Illinois law' " and that "the public trust doctrine remains a matter of state law." 565 U.S. at 603-04 (quoting *Idaho v. Coeur d'Alene Tribe*, 521 U.S. 261, 285 (1997)). This Court ruled in *United States v. 32.42 Acres*

of Land, 683 F.3d 1030, 1038 (9th Cir. 2012), that *PPL Montana* is only the latest in a line of Supreme Court cases that have "repeatedly recognized" that the concept of a public trust doctrine pertains only to "the state's sovereign duties and powers," the "contours of which are determined by the states, not by the United States Constitution." *Id.* The district court's failure to follow this binding authority was clear error.

D. The constitutional challenge to Section 201 of the Energy Policy Act is not within the district court's jurisdiction.

As noted in the Petition (at 4 n.1), the *only* specific agency action identified in the First Amended Complaint is the Department of Energy's December 7, 2011 Order No. 3041. That Order granted approval for the export of liquefied natural gas to nations with free trade agreements in effect, from a proposed liquefaction facility and export terminal in Coos Bay, Oregon. *See* Attachment 1, at 2. DOE issued this Order pursuant to Section 201 of the Energy Policy Act of 1992, which was codified as Section 3(c) of the Natural Gas Act, 15 U.S.C. § 717b(c), and provides that the exportation of natural gas to "a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such . . . exportation shall be granted without modification or delay." *Id.* Plaintiffs allege that the export of natural gas through the Coos Bay facility pursuant to Section 201 will "increase carbon pollution and exacerbate already-dangerous climate instability," and thereby violate

Plaintiffs' fundamental rights. D. Ct. Dkt. 7 at 87-88, ¶ 288. Plaintiffs asked the district court to declare Section 201 "unconstitutional on its face," and to declare Order No. 3041 "unconstitutional as applied" and "set it aside." *Id.* at 94.

1. Plaintiffs lack standing to challenge Order 3041 or Section 201.

A court must be particularly careful to ensure that the requirements of Article III are satisfied when plaintiffs ask it to declare that a statute is unconstitutional. *See Am. Foreign Serv. Ass'n v. Garfinkel*, 490 U.S. 153, 161 (1989) (where "a case implicates the fundamental relationship between the Branches, courts should be extremely careful not to issue unnecessary constitutional rulings"). Plaintiffs bear the burden of demonstrating standing to challenge DOE Order No. 3041 or Section 201. They must discharge that burden by showing, among other things, that their alleged injury is sufficiently concrete and particularized. *Lujan*, 504 U.S. at 560. Plaintiffs fail here as they do with the rest of their claims. Plaintiffs simply rely on the vague allegation that *any* federal government action associated with energy production or transport "heightens the danger to Plaintiffs that Defendants' actions in the aggregate have created." D. Ct. Dkt. 7 at 3-4, ¶ 9. That theory utterly fails to allege the requisite "particularized injury" flowing from the agency action being challenged. *See Bellon*, 732 F.3d at 1143 (It "is currently beyond the scope of existing science to identify a specific source of CO2 emissions and designate it as the

cause of specific climate impacts at an exact location."). Accordingly, Plaintiffs lack standing to challenge either Order 3041 or Section 201.

2. Exclusive jurisdiction over challenges to orders issued pursuant to the Natural Gas Act is vested in the courts of appeals.

The Department of Energy (DOE) now administers Section 3(c) of the Natural Gas Act, which govern natural gas import/export authorizations with regard to free trade agreement nations. The provision requires DOE to approve natural gas import/export applications "without modification or delay" as to nations "with which there is in effect a free trade agreement requiring national treatment for trade in natural gas." 15 U.S.C. § 717b(c). To the extent that such import/export approvals are properly reviewable, Section 19(b) of the Natural Gas Act vests in the courts of appeals exclusive jurisdiction. Section 19(b) states that "[a]ny party to a proceeding under this chapter aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the court of appeals of the United States for any circuit wherein the natural-gas company to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia . . . . [S]uch court shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part." *Id.* § 717r(b).

This provision requires that challenges to orders regarding the import or export of natural gas under the Natural Gas Act be brought in the appropriate court of

appeals. *See, e.g., Sierra Club v. U.S. Dep't of Energy,* ___ F.3d ___, 2017 WL 3480702, at *10 n.5 (D.C. Cir. Aug. 15, 2017); *W. Va. Pub. Servs. Comm'n v. U.S. Dep't of Energy*, 681 F.2d 847, 852 & n.20 (D.C. Cir. 1982); *Indep. Petroleum Ass'n of Am. v. Economic Regulatory Admin.*, 870 F.2d 168, 173 (5th Cir. 1989); *Mich. Consol. Gas Co. v. Economic Regulatory Admin.*, 889 F.2d 1110, 1111 (D.C. Cir. 1989); *Panhandle Producers & Royalty Owners Ass'n v. Economic Regulatory Admin.*, 822 F.2d 1105, 1108 (D.C. Cir. 1987). As Plaintiffs' challenge is to an order issued pursuant to the Natural Gas Act, the district court lacks jurisdiction because review is "exclusive[ly]" vested in the appropriate court of appeals.

The Supreme Court has made clear that when jurisdiction over a class of orders is specifically vested in courts of appeals, jurisdiction is exclusive not only to review the terms of specific orders but also over any issues "inhering in the controversy." *City of Tacoma v. Taxpayers of Tacoma*, 357 U.S. 320, 336 (1958); *see also Am. Bird Conservancy v. FCC*, 545 F.3d 1190, 1194 (9th Cir. 2008); *Cal. Save Our Streams Council v. Yeutter*, 887 F.2d 908 (9th Cir. 1989); *Turtle Island Restoration Network v. U.S. Dep't of Commerce*, 438 F.3d 937 (9th Cir. 2006).

That Plaintiffs here raise a constitutional issue relating to the order in question, including a constitutional challenge to the statute that authorized the order, does not lead to a different result. In *Thunder Basin Coal Co. v. Reich*, 510 U.S. 200 (1994), the Supreme Court ruled that a district court lacked jurisdiction where the applicable statute (the Federal Mine Safety and Health Amendments Act) directed review to an

administrative agency and then to the court of appeals. The Court held that the plaintiff's constitutional claims could be "meaningfully addressed in the Court of Appeals" and that the case therefore did "not present the 'serious constitutional question' that would arise if an agency statute were construed to preclude all judicial review of a constitutional claim." *Id.* at 215 & n.20. In *Elgin v. Department of Treasury*, 567 U.S. 1, 9 (2012), the Court again ruled that district court jurisdiction is barred by a specific provision vesting review in a court of appeals, and it made clear that this would apply to a facial challenge to the constitutionality of a statute. Thus, the district court lacked jurisdiction over Plaintiffs' constitutional challenge to Section 201.

For these reasons, Plaintiffs cannot succeed on their claims, and the district court committed clear error in denying Defendants' motion to dismiss.

II. Defendants have no other means of obtaining immediate review needed to avoid a serious intrusion on the separation of powers; without action by this Court, Defendants will be prejudiced in a way not correctable on appeal.

This Court should grant the mandamus petition in order to avoid serious intrusion on the separation of powers and prejudice to Defendants stemming from both a trial and the discovery leading up to it.

Proceeding to a trial on Plaintiffs' nearly boundless challenges to federal policy —the alleged action and inaction of Congress, the President, and numerous federal agencies—would usurp the authority of the political branches to determine national policy regarding energy development, use of public lands, and environmental

protection through democratic means. The district court's rulings show a clear intent to usurp the constitutional authority of the President to "take Care that the Laws be faithfully executed," Art. II, § 3, and of the federal agencies to exercise the authority that Congress has assigned them, subject to specified standards and provisions for judicial review of discrete agency actions, to implement Congress' judgement about energy and environmental policy. Allowing a trial to proceed that ignores these authorities—all in order to weigh whether the entire federal government has violated a nonexistent constitutional right—should not be permitted. *See Perry v. Schwarzenegger*, 591 F.3d 1147, 1157-59 (9th Cir. 2010) (mandamus is appropriate where important constitutional interests could be compromised before appellate review is available).

As to discovery, the suit below is fundamentally contrary to the means Congress has prescribed for challenging agency action, which requires that claims first be presented to the agency and a record developed and assessed there, with subsequent review on that record. Plaintiffs cannot avoid these strictures by couching their objectives in constitutional terms and challenging all federal action concerning CO2 writ large. Plaintiffs, in short, are not entitled to *any* discovery to support an unfounded constitutional claim, which they have no standing to raise, and that seeks to transfer policy-making regarding climate change from Congress and the Executive Branch to the District Court for the District of Oregon.

In any event, Plaintiffs incorrectly claim that the discovery burden is "purely hypothetical" and that the parties have "resolve[d] all discovery disputes" that have

arisen to date. Answer 5; *see also* Answer 10-11. Even accepting as binding Plaintiffs' August 28, 2017 letter that lists certain discovery that they once requested but now no longer seek, the outstanding discovery requests are still far-reaching, burdensome, intrusive, and unresolved.[1] For example, Plaintiffs still seek production from the Departments of Agriculture, State, and Defense of "documents and electronically-stored information sent to or from upper level employees and politically appointed individuals that are not publicly available" on a wide range of topics. Duffy Decl. ¶ 23 & Exhibit 4.[2] To highlight one request among the 62 requests to the State Department, Plaintiffs seek "each document that refers, relates, regards, or pertains to briefings on climate change that were given or presented to each Secretary of State from 1965 to the present." Duffy Decl. Exhibit 4 at 9 (capitalization altered). And Plaintiffs "plan to serve additional [document requests] to [EPA], Department of Energy, and Department of Commerce." Ct. App. Dkt. 14-2 (page 36 of 96). As to depositions, Plaintiffs on July 12, 2017, sent a list of questions that purported to "narrow the matters for examination for the Rule 30(b)(6) depositions" for each of

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[1] We note that Plaintiffs sent this letter only after this Court stayed proceedings on July 25 and required a response to the mandamus petition on July 28. Because Plaintiffs sent the letter after this Court stayed proceedings below, its effect is unclear. As explained below, moreover, both the letter and Plaintiffs' Answer to the petition use conditional language at key junctures, further muddying the effect of the letter.

[2] The Court ordered the parties to "address the status of all current discovery requests; report all pending discovery deadlines; and identify any ongoing or expected discovery disputes." Ct. App. Dkt. 8 at 2. Defendants' detailed response is in the Declaration of Sean C. Duffy, Attachment 2 to this reply.

the eight defendant agencies. Duffy Decl. Exhibit 13. The list of topics is approximately 10 single-spaced pages, probing a massive array of issues and policy concerning climate change. And the "narrowing" is illusory, as the letter states that "[t]hese questions are not intended to replace the original matters for examination in the Rule 30(b)(6) notices," which were even broader. *Id.* at 1.

Plaintiffs' other promises to rein in their discovery requests are similarly illusory. For example, they merely "*do not anticipate* needing to serve a new [document request] on the Executive Office of the President or the President," and they merely *do not anticipate* any discovery disputes associated with scheduling expert depositions or the exchange of expert reports." Ct. App. Dkt. 14-2 (pages 17 and 21 of 96) (emphasis added). Regarding the former, Plaintiffs (and the district court) fail to give due "recognition to the paramount necessity of protecting the Executive Branch"—and especially the President and his close advisors—"from vexatious litigation that might distract it from the energetic performance of its constitutional duties." *Cheney v. U.S. District Court*, 542 U.S. 367, 382 (2004). Regarding the latter, Defendants have been required to undertake the serious burden of responding to Plaintiffs' thirteen expert reports on a wide array of subjects, including by retaining and developing Defendants' own expert witnesses. Duffy Decl. ¶ 34. While Plaintiffs tapped the brakes on discovery in response to this Court's orders, there is no guarantee that (were the Court were to deny the petition) Plaintiffs would not again aggressively pursue their pending discovery requests, and there is every guarantee that Defendants

would have to continue with their expensive and time-consuming engagement and preparation of expert witnesses.

In sum, the discovery Plaintiffs seek is still extraordinarily burdensome and intrusive, and the burden and cost cannot be corrected in an appeal from a final judgment. *See* Petition 32-37. Mandamus is justified by the combined burden of extraordinarily broad discovery and then a trial—all based on legal theories that have no basis in law and offend the separation of powers.

CONCLUSION

The petition should be granted, and the district court should be directed to dismiss the case.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Petitioners are today filing a motion for permission to file an over-length reply in support of petition for writ of mandamus. I certify that this reply contains 5,411 words, exclusive of the material specified in Fed. R. App. P. 32(f). I further certify that this reply complies with the requirements of Fed. R. App. P. 32(a)(5) because it has been prepared in 14-point Garamond, a proportionally spaced font.

s/ Robert J. Lundman
ROBERT J. LUNDMAN

CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2017, I electronically filed the foregoing reply with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. All counsel in this case are participants in and will be served by the Court of Appeals CM/ECF system.

s/ Robert J. Lundman
ROBERT J. LUNDMAN

ATTACHMENT 1: DEPARTMENT OF ENERGY ORDER 3041

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

JORDAN COVE ENERGY PROJECT, L.P.	)	FE DOCKET NO. 11-127-LNG

ORDER GRANTING LONG-TERM MULTI-CONTRACT AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS BY VESSEL
FROM THE JORDAN COVE LNG TERMINAL
TO FREE TRADE AGREEMENT NATIONS

DOE/FE ORDER NO. 3041

DECEMBER 7, 2011

I. DESCRIPTION OF REQUEST

On September 22, 2011, Jordan Cove Energy Project, L.P. (Jordan Cove), filed an application (Application), with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA)[1] for long-term, multi-contract authorization, to export up to nine million metric tons per year of liquefied natural gas (LNG) from the proposed Jordan Cove LNG terminal and liquefaction facility to be built in Coos Bay County, Oregon, for a 30-year term. The export volume is equivalent to approximately 438 billion cubic feet per year (Bcf/yr) of natural gas.[2] Jordan Cove seeks to export LNG by vessel to any nation with which the United States currently has, or in the future will have, a Free Trade Agreement (FTA) requiring the national treatment for trade in natural gas, and that currently has, or in the future develops, the capacity to import LNG via ocean-going carriers.[3] Jordan Cove seeks to export this LNG on its own behalf and also as agent for third parties. Jordan Cove requests that this authorization commence on the earlier of the date of first export or ten years from the date the authorization is issued (December 7, 2021).

II. BACKGROUND

Jordan Cove is a Delaware limited partnership, which has its principal place of business in Coos Bay, Oregon. It is owned by Jordan Cove Energy Project L.L.C., a Delaware limited liability company, as general partner, Fort Chicago LNG II U.S.L.P., a Delaware limited

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[1] The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA (15 U.S.C. §717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00-002.04E issued on April 29, 2011.

[2] Jordan Cove requested authorization to export up to nine million metric tons of LNG, and stated this is equivalent to 1.2 Bcf/day of natural gas. Consistent with DOE regulations (10 CFR part 590), applications are to provide volumes in Bcf. DOE/FE has converted the 1.2 Bcf/day to 438 Bcf/year, the volume to be authorized.

[3] The United States currently has free trade agreements requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Jordan, Mexico, Morocco, Oman, Peru, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas. FTAs with Colombia, South Korea, and Panama have been ratified by Congress but have not yet taken effect.

partnership, as limited partner, and Energy Projects Development L.L.C., a Delaware limited partnership, as limited partner.

Jordan Cove states that it will conduct its proposed export operations from an LNG terminal and liquefaction facility to be constructed on the North Spit of Coos Bay in Coos Bay County, Oregon. Jordan Cove's construction and operation of an LNG terminal at this location has already been authorized by the Federal Energy Regulatory Commission (FERC) as an import facility.[4] Jordan Cove asserts that it has developed modified plans to make use of the terminal as an export facility. According to Jordan Cove, the terminal facilities already authorized by the FERC include two 160,000 cubic meter LNG full-containment storage tanks, a single marine berth capable of accommodating LNG vessels up to Q-Flex size (which DOE/FE notes are up to 216,000 cubic meters of LNG; the equivalent of 4.6 Bcf of natural gas), and on-site utilities and services. The modified plans to enable the facilities to be used for exports of domestically produced LNG include large diameter LNG piping configured for exports and electrically driven liquefaction equipment. Jordan Cove states that the Jordan Cove terminal will be connected to a new interstate natural gas pipeline, the Pacific Connector Gas Pipeline (PCGP), also certificated by the FERC Order.

Jordan Cove states that the source of natural gas supply for Jordan Cove's exports will be the North American natural gas market which they further describe as follows. Jordan Cove's terminal will be connected via the PGCP to the northwest U.S. market hub at Malin, Oregon, providing interconnections with the interstate pipeline system grid, including GTN Pipeline, delivering gas from western Canada and, via its Stanfield interconnection with Northwest Pipeline, from the U.S. Rockies; Ruby Pipeline, delivering gas from western Wyoming,

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[4] Pacific Connector Gas Pipeline, LP; Jordan Cove Energy Project, L.P., 129 FERC ¶61,234 (December 17, 2009) (FERC Order). Rehearing requests of the FERC Order are currently pending.

northwestern Colorado and northern Utah; Tuscarora Pipeline, serving northern Nevada; and, PG&E Redwood Path, serving northern California.

Jordan Cove's contemplated commercial arrangements will be in the form of Liquefaction Tolling Agreements (LTA) under which an individual customer that holds title to natural gas will have the right to deliver that gas to Jordan Cove's terminal for liquefaction services and to receive LNG in exchange for a processing fee paid to Jordan Cove; and the LTA customer will be responsible to source the feed gas for the facility. According to Jordan Cove, the decision whether to utilize liquefaction capacity will be made by the LTA customer and driven by market economics. Jordan Cove is in the process of negotiating LTAs with prospective customers but has not concluded LTAs as of the date the Application was filed.

Jordan Cove further anticipates that the title holder of the LNG at the point of export may be the LTA customer or a party that purchases LNG from an LTA customer pursuant to a long-term contract. Jordan Cove is prepared to accept conditions on its authorization consistent with the conditions imposed in recent DOE/FE orders that have authorized applicants to export as agent for others when not holding title to the LNG at the point of export. In this regard, Jordan Cove states that it will undertake: (1) to file contracts associated with both the long-term supply of natural gas to the Jordan Cove terminal for processing into LNG for export, and the long-term export of LNG from the Jordan Cove terminal within 30 days after their execution; (2) to include in any contract for the transfer of LNG exported under its authorization a provision by which the customer makes the necessary commitments to comply with the requirements imposed by DOE/FE, including to limit deliveries of exported LNG to authorized countries and to report on the countries of destination for actual delieveries; and (3) to register with DOE/FE any title holder for whom Jordan Cove will act as agent to export LNG and to cause such title holder to

provide all information and commitments required by DOE/FE, including its agreement to comply with destination restrictions and other requirements, to include DOE/FE requirements in any subsequent purchase or sale agreement entered into by that title holder, and to file long-term agreements associated with the supply of gas to or the export of LNG from the Jordan Cove terminal.

Jordan Cove states that it intends to file a separate non-FTA application with DOE/FE requesting long-term, authorization to export LNG to those nations with which the United States does not have an FTA requiring national treatment for trade in natural gas, and to which the export of LNG by vessel is not prohibited by U.S. law or policy.

III. STATE OF OREGON PROTEST

Oregon's Position

On October 11, 2011, the State of Oregon (Oregon) submitted a protest (Protest) of Jordan Cove's application. Oregon charged that the Application is both premature and deficient. Oregon observes that Jordan Cove does not presently have a facility from which to export LNG nor has it commenced the process to obtain authorization from the FERC to construct those facilities. Referring to the statutory requirements of section 3(c) of the NGA which mandates approval of the instant application without modification or delay, Oregon states that "…there is currently no exportation of natural gas for which delay must be avoided, and such exportation is years away." Oregon asks that DOE/FE defer ruling on the Application until Jordan Cove has cured these alleged deficiencies. Additionally, Oregon states that, notwithstanding language in DOE's regulations calling for the publication of a notice of application in the Federal Register of all applications under section 3, DOE has not published a notice of Jordan Cove's Application. Oregon maintains that the regulations require that the public be given 30 days in which to

intervene in section 3 proceedings and that this 30 day period can only be shortened in the event of an emergency. According to Oregon, there is no emergency that warrants foregoing publication of a notice of the application.

Furthermore, Oregon maintains that the Application does not meet the minimal substantive requirements of DOE's regulations. Specifically, Oregon contends that:

(1) the Application does not provide the source and security of supply of the natural gas proposed for export, as required by section 590.202(b)(2) of the regulations (10 CFR 590.202(b)(2)); in this regard, because Jordan Cove has requested an authorization that will begin no later than ten years in the future and will run for a term of 30 years, Oregon maintains that the Application must describe the North American reserves supporting the project for nearly 40 years into the future and must take into account both existing authorizations to export and domestic uses that will tap into the same reserves;

(2) the Application does not describe the lack of a national or regional need for the gas, as required by section 590.202(b)(6) of the regulations (10 CFR 590.202(b)(6));

(3) the Application does not appear to contain a verified oath or affirmation by the person filing the Application, or by an officer or authorized representative having knowledge of the facts alleged, as required by section 590.103(b) of the regulations (10 CFR 590.103(b)); and

(4) the Application does not appear to contain the required certification that the signatory is a duly authorized representative of Jordan Cove, as also required by section 590.103(b).

Jordan Cove's Response

On October 17, 2011, Jordan Cove filed the "Response of Jordan Cove Energy Project, L.P. to State of Oregon Protest" (Response). Jordan Cove maintains in the Response that Oregon's Protest demonstrates a misunderstanding of the statutory requirements and the

regulatory processes applicable to FTA applications under section 3(c) of the NGA. Jordan Cove contends also that the Application is neither premature nor deficient and that it is entitled to the statutory presumption that exports to FTA nations are deemed to be within the public interest and must be granted without modification or delay. Jordan Cove states that it is irrelevant that the Jordan Cove Project is not yet constructed and that Jordan Cove has not yet commenced the pre-filing process at the FERC. Jordan Cove maintains that filing of the Application is the first step in a multi-step process and that a long-term export authorization from DOE is required in order to attract prospective customers willing to make large-scale, long-term investments in export arrangements.

Jordan Cove also states that DOE's processing of the Application without publication of a notice of the application in the Federal Register and without requiring a showing involving domestic need for the gas to be exported is consistent with DOE/FE's policy and practice for FTA applications. Jordan Cove observes that DOE's procedural regulations at 10 CFR Part 590 were last updated in 1989, prior to the amendment of NGA section 3(c) by the Energy Policy Act of 1992 (EPAct 1992). Jordan Cove cites to *Freeport LNG Expansion, L.P. and FLNG Liquefaction,* LLC, DOE/FE Order No. 2913 (February 10, 2011) at footnote 6, where the agency stated that "the requirement for granting the application without delay or modification overrides regulatory requirements for public notice and other hearing-type procedures in 10 CFR Part 590." Jordan Cove notes that DOE/FE also stated at page 6 of the *Freeport* order that "[i]n light of DOE's statutory obligation to grant the Application without modification or delay, there is no need for DOE to review the other arguments posed by [the Freeport Project] in support of the Application." Jordan Cove states that the quoted passages from the Freeport order indicate that DOE/FE will not analyze the arguments raised by Oregon that go to alleged deficiencies in

the Application, *e.g.* source and security of supply, description of supporting gas reserves, and national or regional need for the gas. Jordan Cove concludes that while DOE/FE practices do not align with regulations, they are fully consistent with the applicable amended provisions of the NGA. Additionally, Jordan Cove has attached a verification to its Application apparently to correct one of the alleged deficiencies identified by Oregon.

Discussion and Conclusions

The amendment of NGA section 3(c) in EPAct 1992 requires that applications to export natural gas, including LNG, to most FTA countries, shall be deemed in the public interest and shall be granted without modification or delay. DOE's procedural regulations have not been updated to reflect the impact of EPAct 1992 and Oregon appears to have drawn on this discrepancy between law and regulation in its protest. As discussed below, however, DOE is bound by the statutory amendments to the NGA and has consistently interpreted the notice of application requirements in DOE's regulations at 10 CFR 590.205 to apply only to requests for authorization to export LNG to non-FTA countries. DOE is in the process of preparing a rulemaking to update our procedural regulations in part to make them consistent with the requirements of EPAct 1992's changes and eliminate any confusion. Pending promulgation of a final rule implementing these changes, DOE will give full effect to the statutory requirements and continue to interpret the notice of application requirements in our existing rules to apply to non-FTA applications.

DOE's authority under section 3(c), as amended by EPAct 1992, is limited to two areas: (1) to ensure that applications are filed with sufficient information to confirm that the applicant is engaged in a meaningful (*i.e.,* not frivolous) effort to undertake natural gas export or import activities, and (2) to provide in any order granting a section 3(c) application that the applicant

will report its export or import activities in sufficient detail to enable DOE to monitor import and export activities.

In the present case, DOE/FE is satisfied of the applicant's seriousness of purpose and the instant order includes monitoring requirements sufficient to ensure that DOE is able to follow export activities under the proposed authorization. By virtue of the amendment of section 3(c) in 1992, our inquiry can go no further.

The substantive issues raised by Oregon regarding alleged deficiencies in the Application (source and security of supply, adequacy of supporting gas reserves, and national or regional need for the gas) and the claim that the Application is premature thus are not matters subject to regulatory review and they are not grounds for deferring or denying the Application.

Oregon also is concerned over this agency's practice of not publishing notices of section 3(c) applications in the Federal Register. In our view, the publication of a Federal Register notice of application serves two potential purposes. With respect to applications under section 3(a) of the NGA, a Federal Register notice alerts the public to the fact that an application has been filed and provides an avenue for the submission of motions to intervene, comments, and/or protests of the application.

Yet, with respect to applications under section 3(c) of the NGA, the law precludes any public interest review of the application and requires that the application be granted without modification or delay. In this circumstance, the publication of a Federal Register notice is meaningful only for the limited purpose of informing the public that an application has been filed and that DOE/FE has fulfilled its statutory charge by issuing an order granting the Application.

Neither Oregon's interests nor the interests of other potential intervenors in this or other section 3(c) applications have been prejudiced by the failure of this agency to publish Federal

Register notices of section 3(c) applications. There can be no prejudice where the agency is required to deem applications to be in the public interest and to grant them without modification or delay.

On the other hand, we do agree that publication of a Federal Register notice of a section 3(c) application may be helpful for the limited purpose of informing the public of the filing and the fact that it has been granted. All such applications and orders are already posted on the agency's website and maintained on the website for public viewing indefinitely. However, we agree that publication in the Federal Register could be a helpful way of keeping the public even better informed of the filing of section 3(c) applications and the issuances of orders authorizing section 3(c) imports and exports from and to FTA countries. To that end, we will commence publication of such notices on a monthly basis.

As noted previously, this agency is currently revising and updating its procedural regulations. As part of that exercise, we also intend to propose the adoption of this new notice publication procedure in our revised regulations.

FINDINGS

(1) Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that applications to authorize (a) the import and export of natural gas, including LNG, from and to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, and (b) the import of LNG from other international sources, be deemed consistent with the public interest and granted without

modification or delay. The instant Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting the Application without modification or delay.[5]

(2) In light of DOE's statutory obligation to grant the Application without modification or delay, there is no need for DOE/FE to review the other arguments posed by Jordan Cove in support of the Application. The instant grant of authority should not be read to indicate DOE's views on those arguments.

(3) The countries with which the United States has an FTA requiring national treatment for trade in natural gas currently are: Australia, Bahrain, Canada, Chile, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Peru, and Singapore.

(4) DOE/FE addressed the issue of agency rights in *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC,* DOE/FE Order No. 2913 (Order 2913), issued February 10, 2011. In Order 2913, DOE/FE approved a proposal by Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC (collectively, FLEX) to register each LNG title holder for whom FLEX sought to export LNG as agent. FLEX also proposed that this registration include a written statement by the title holder acknowledging and agreeing to comply with all applicable requirements included in its export authorization and to include those requirements in any subsequent purchase or sale agreement entered into by that title holder. In the FLEX application (FE Docket No. 10-160-LNG), FLEX also stated that it would file under seal with DOE/FE any relevant long-term commercial agreements that it reached with the LNG title holders on whose behalf the exports were performed.

[5] DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 CFR Part 590, are applicable only to applications seeking to export natural gas, including LNG, to countries with which the United States does not have a free trade agreement requiring national treatment for trade in natural gas.

In Order 2913, DOE/FE found that the above proposal was an acceptable alternative to the non-binding policy adopted by DOE/FE in *Dow Chemical,*[6] which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export. DOE/FE agreed to accept the FLEX alternative because it would ensure that the title holder was aware of all DOE/FE requirements applicable to the proposed export and would provide DOE with a record of all authorized exports and direct contact information and a point of contact with the title holder. Moreover, DOE/FE found that the registration process was responsive to current LNG markets and provided an expedited process by which companies seeking to export LNG can do so. Additionally, in Order 2913, DOE/FE noted that those entities that hold title or expect to hold title to LNG that is stored in domestic LNG terminals can choose to submit an application to DOE for their own authorization to export LNG, and are not required to use the agency rights held by others.

The same policy considerations that supported DOE/FE's acceptance of the alternative proposal in Order 2913 apply here as well. The authorization granted herein shall be conditioned to require that where Jordan Cove proposes to export as agent for others, Jordan Cove must register those companies in accordance with the procedures and requirements described herein.

ORDER

Pursuant to section 3 of the NGA, it is ordered that:

A. Jordan Cove is authorized to export domestically produced LNG by vessel from the Jordan Cove LNG terminal in Coos Bay, Oregon, up to the equivalent of 438 Bcf per year of natural gas (nine million metric tons per year) for a 30-year term, beginning on the earlier of the

[6] *The Dow Chemical Company,* DOE/FE Opinion and Order No. 2859 (FE Docket No. 10-57-LNG), October 5, 2010, at p. 7 and 8.

date of first export or 10 years from the date the authorization is issued (December 7, 2021), pursuant to one or more long-term LTAs with third parties that do not exceed the term of this authorization.

B. This LNG may be exported to Australia, Bahrain, Canada, Chile, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Peru, and Singapore, and to any nation that the United States subsequently enters into a FTA requiring national treatment for trade in natural gas, provided that the destination nation has the capacity to import ocean going vessels. FTA countries are currently identified by DOE/FE at: http://www.fossil.energy.gov/programs/gasregulation/index.html.

C. Jordan Cove shall ensure that all transactions authorized by this order are permitted and lawful under United States laws and policies, including the rules, regulations, orders, policies, and other determinations of the Office of Foreign Assets Control of the United States Department of the Treasury. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. Jordan Cove shall file with the Office of Natural Gas Regulatory Activities all executed long-term LTA's associated with the long-term export of LNG from the Jordan Cove LNG terminal within 30 days of their execution. Jordan Cove shall file with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term supply of natural gas to the Jordan Cove LNG terminal with the intent to process this natural gas into LNG for export within 30 days of their execution.

E. Jordan Cove shall include the following provision in any contract for the sale or transfer of LNG exported pursuant to this Order:

"Customer or purchaser acknowledges and agrees that it will resell or transfer LNG purchased hereunder for delivery only to countries identified in Ordering Paragraph B of DOE/FE Order No. 3041, issued December 7, 2011 in FE Docket No. 11-127-LNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such LNG to such countries. Customer or purchaser further commits to cause a report to be provided to Jordan Cove that identifies the country of destination, upon delivery, into which the exported LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that Jordan Cove is made aware of all such actual destination countries."

F. Jordan Cove is permitted to use its authorization in order to export LNG on behalf of or as agent for others, after registering the other party with DOE/FE. Registration materials shall include an acknowledgement and agreement by the registrant to supply Jordan Cove with all information necessary to permit Jordan Cove to register that person or entity with DOE/FE, including: (1) the registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 CFR Part 590, including but not limited to destination restrictions; (2) the exact legal name of the registrant, state/location of incorporation/registration, primary place of doing business, and the registrant's ownership structure, including the ultimate parent entity if the registrant is a subsidiary or affiliate of another entity; (3) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the registrant to whom inquiries may be directed; (4) within 30 days of execution, a copy, filed with DOE/FE under seal, of any long-term contracts, including processing agreements, that result in the export of natural gas, including LNG; and (5) within 30 days of execution by a person or entity required by this Order to register, a copy, filed with DOE/FE under seal, of any LTA's

associated with the long-term supply of natural gas to the Jordan Cove LNG terminal with the intent to process this natural gas into LNG for export pursuant to this authorization.

G. Each registration submitted pursuant to this Order shall have current information on file with DOE/FE. Any changes in company name, contact information, change in term of the long-term contract, termination of the long-term contract, or other relevant modification, shall be filed with DOE/FE within 30 days of such change(s).

H. Within two weeks after the first export of domestically produced LNG occurs from the Jordan Cove liquefaction facility, Jordan Cove shall provide written notification of the date that the first export of LNG authorized in Order Paragraph A above occurred.

I. Jordan Cove shall file with the Office of Natural Gas Regulatory Activities, on a semi-annual basis, written reports describing the progress of the planned liquefaction facility project. The reports shall be filed on or by April 1 and October 1 of each year, and shall include information on the progress of the Jordan Cove LNG Terminal liquefaction facility, the date the facility is expected to be operational, and the status of the long-term contracts associated with the long-term export of LNG and any long-term supply contracts.

J. Monthly Reports: With respect to the LNG exports authorized by this Order, Jordan Cove shall file with the Office of Natural Gas Regulatory Activities, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made. The first monthly report required by this Order is due not later than the 30th day of the month following the month of first export. In subsequent months, if exports have not occurred, a report of "no activity" for that month must be filed. If exports of LNG have occurred, the report must give the following details of each LNG cargo: (1) the name(s) of the authorized exporter registered with DOE/FE; (2) the name of the U.S. export terminal; (3) the name of the LNG

tanker; (4) the date of departure from the U.S. export terminal; (5) the country of destination; (6) the name of the supplier/seller; (7) the volume in Mcf; (8) the price at point of export per million British thermal units (MMBtu); (9) the duration of the supply agreement (indicate spot sales); and (10) the name(s) of the purchaser (s).

(Approved by the Office of Management and Budget under OMB Control No. 1901-0294)

K. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Natural Gas Regulatory Activities, P.O. Box 44375, Washington, D.C. 20026-4375, Attention: Ms. Yvonne Caudillo. Alternatively, reports may be e-mailed to Ms. Caudillo at Yvonne.caudillo@hq.doe.gov or ngreports@hq.doe.gov, or may be faxed to Ms. Caudillo at (202) 586-6050.

Issued in Washington, D.C., on December 7, 2011.

John A. Anderson
Manager, Natural Gas Regulatory Activities
Office of Oil and Gas Global Security and Supply
Office of Fossil Energy

ATTACHMENT 2: DECLARATION OF SEAN C. DUFFY

No. 17-71692

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

In re: UNITED STATES OF AMERICA.

UNITED STATES OF AMERICA, *et al.*,
Petitioners,
v.

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF OREGON
Respondent,

and

KELSEY CASCADIA ROSE JULIANA, *et al.*,
Real Parties in Interest.

On Petition For A Writ Of Mandamus In
Case No. 6:15-cv-01517-TC-AA (D. Or.)

DECLARATION OF SEAN C. DUFFY IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS

I, Sean C. Duffy, hereby declare as follows:

1. I am a trial attorney in the Natural Resources Section of the Environment and Natural Resources Division of the United States Department of Justice. I am an attorney of record for the Defendants in the proceedings before the District Court of the District of Oregon in this case and I have personal knowledge of the matters stated in this declaration.

2. On July 28, the Court ordered the parties to "address the status of all current discovery requests; report all pending discovery deadlines; and identify any ongoing or expected discovery disputes." Dkt. No. 8 at 2. I address each of these discovery-related issues below. I have also attached some of the relevant discovery documents to this declaration.

Requests for Admission ("RFAs")

3. On January 20, 2017, Plaintiffs propounded requests for admission jointly on the Executive Office of the President ("EOP") and the Environmental Protection Agency ("EPA"). The RFAs address complex scientific and policy matters. For example, the RFAs ask the EOP and the EPA to admit that global temperature increases of a certain level above pre-industrial levels and atmospheric carbon dioxide of a certain level of concentration threaten health and public welfare.

4. On May 31, the EOP and the EPA served their responses, objecting to the RFAs on several bases and denying each request. Plaintiffs complained that the

May 31 responses do not distinguish the EOP and EPA's different grounds for objecting. Ex. 10 (Joint Status Report as of June 12, 2017) at 3-4.

5. Following further discussions, on July 12, Defendants served separate responses to the RFAs on behalf of the EOP and the EPA. There are currently no pending deadlines as to this discovery request.

6. On August 28, after this Court stayed district court proceedings, Plaintiffs sent a letter stating that they "will not move to compel further responses to the RFAs" as to the EOP and will not seek to compel answers to the RFAs as to the EPA. Olson Decl. Ex. 5 at 1, Dkt. No. 14-2 at 116. Instead, Plaintiffs intend to obtain the information they seek from the EPA via a Rule 30(b)(6) deposition. *Id.*

Requests for Production ("RFPs") of Documents at Presidential Libraries and at National Archives Facilities

7. On February 21, Plaintiffs propounded RFPs on Defendants seeking unredacted copies of a total of 383 separately identified documents maintained at the presidential libraries of Presidents Reagan, George H.W. Bush, Clinton, and George W. Bush. On March 7, Plaintiffs propounded RFPs on Defendants seeking unredacted copies of unspecified additional documents on microfiche and in approximately 160 boxes housing collections of documents in the presidential libraries of Presidents Kennedy, Johnson, Reagan, George H.W. Bush, Clinton, and George W. Bush. Plaintiffs also sought unredacted records of the EPA and the U.S.

Information Agency located at the National Archives ("NARA") in College Park, Maryland.

8. Defendants conferred with NARA officials and explained to Plaintiffs that they sought (1) documents covered by the Presidential Records Act that may not be disclosed absent a waiver from the current White House and the White House from which the document originated, (2) classified materials that must undergo a lengthy declassification process, or (3) EPA records that NARA has not yet processed. Ex. 2 (March 8 Status Conf. Tr.) at 12:18-14:15; Ex. 5 (Joint Status Report as of April 3, 2017) at 9. In discussions with NARA, Defendants determined that the EPA documents constitute 388 cubic feet of documents. Ex. 5 at 10.

9. During the parties' April 7 status conference, the district court tolled the deadlines on document production to allow the parties to meet and confer as to the scope of document production. Ex. 6 (April 7 Status Conf. Tr.) at 28:21-29:3. Plaintiffs subsequently offered to visit NARA to review the 388 cubic feet of EPA documents. Defendants confirmed that Plaintiffs may visit records facilities and review non-classified records subject to an appropriate protective order that protects personally-identifiable information.

10. Defendants confirmed that the documents Plaintiffs seek pertaining to the George W. Bush administration cannot be obtained because the Presidential Records Act exempts such documents from disclosure until twelve years after the

conclusion of an administration. Ex. 10 (Joint Status Report as of June 12, 2017) at 7 (citing 44 U.S.C. § 2204).

11. On July 12, Defendants provided Plaintiffs with a draft protective order and a further update. *See* Olson Decl. Ex. 4, Dkt. No. 14-2 at 47-48. At the time the stay was entered, the parties had not yet negotiated a final protective order.

12. In their August 28 letter, Plaintiffs indicate that they will not move to compel the production of NARA documents that Defendants will not produce. Olson Decl. Ex. 5 at 1. Because the district court tolled discovery deadlines to allow the parties to meet and confer as to the scope of Plaintiffs' RFPs, and because the parties were continuing to do so when the stay was entered on July 25, there are no pending deadlines as to this discovery request.

RFPs of Documents Relating to "Wayne Tracker" Emails

13. On March 17, Plaintiffs propounded their Third Set of RFPs on Defendants seeking any communications on the subjects of climate change or energy policy between any Defendant and Rex Tillerson via a "Wayne Tracker" email address. The RFPs define Defendants broadly to include any and all current or former employees of all twelve Defendant entities in this case, without limitation.

14. The Parties discussed the "Wayne Tracker" RFPs several times, during which Defendants objected to these requests.

15. Because the district court tolled discovery deadlines to allow the parties to meet and confer as to the scope of Plaintiffs' RFPs, and because the meet and confer process was not complete when the stay was entered, there are no specific deadlines as to this discovery request.

16. In their August 28 letter, Plaintiffs withdrew their "Wayne Tracker" RFPs "in light of Intervenor Defendants' withdrawal from the case." Olson Decl. Ex. 5 at 2, Dkt. No. 14-2 at 51.

RFPs on the President and the EOP, and on the Departments of Agriculture, State, and Defense

17. On March 7, Plaintiffs propounded RFPs on President Donald J. Trump and the Executive Office of the President. Ex. 1 (March 7 RFPs on the President and the EOP). These requests demand, among other things, each document that "refers, regards, or pertains to the issue of climate change" over numerous presidential administrations. *Id.*

18. On March 31, Plaintiffs propounded RFPs on the Departments of Agriculture, State, and Defense. Among other characteristics, these requests define "agencies" to include every employee or contractor—present or former—that worked within the agency, without limitation. *See, e.g.*, Ex. 4 (March 31 RFPs on Dep't of State) at 4 (defining "Federal Defendant" to include "any and all of each FEDERAL GOVERNMENT DEFENDANT's current or former . . . employees . . . .").

19. In the April 3 Joint Status Report and during the April 7 status conference, Defendants emphasized to the Court the extraordinary burden that the process of identifying, reviewing, and producing responsive documents would impose, and stated that the process of responding would "immediately require an enormous investment of time and resources that cannot feasibly be accomplished" in the abridged time-frame for fact discovery that Plaintiffs are seeking. Ex. 5 (Joint Status Report as of April 3, 2017) at 10.

20. By way of example, Defendants noted that the requests propounded on the State Department alone sought documents pertaining to climate change from every single employee over the course of decades. Ex. 6 (April 7 Status Conf. Tr.) at 12:2-6; *see* Ex. 4 (March 31 RFPs on Dep't of State) at 11-13, 15-17. Defendants offered to meet and confer with Plaintiffs. Ex. 6 at 28:6-10. The district court tolled the discovery deadlines for the RFPs in order to allow the parties to meet and confer and for Plaintiffs to narrow the RFPs. *Id.* at 28:20-29:3.

21. The parties met and conferred on May 4 and Plaintiffs agreed to narrow their requests as to temporal scope, so that the requests apply only to certain agency personnel, and as to the types of documents sought. Ex. 7 (Joint Status Report as of May 12, 2017) at 3; *see also* Ex. 8 (May 18 Status Conf. Tr.) at 21:24-22:3.

22. On May 19, Plaintiffs propounded revised RFPs on the President and the EOP and on the Departments of Agriculture, State, and Defense supplanting the

previously propounded requests. The revised requests, however, do not alter many of the objectionable and burdensome features of the original requests. *Compare* Ex. 4 (March 31 RFPs on Dep't of State) *with* Ex. 9 (May 19 revised RFPs on Dep't of State); *see also* Ex. 10 (Joint Status Report as of June 12, 2017) at 6. In the case of the RFPs propounded on the President and the EOP, the revised RFPs also seek information that is subject to the executive privilege. Ex. 10 at 6; *see also* Ex. 11 (June 14 Status Conf. Tr.) at 10:24-11:2.

23. In the wake of the revised requests, Defendants transmitted a letter outlining the outstanding objections. Ex. 12 (Defs.' letter of June 23). In a June 27 response, Plaintiffs contended—despite the language in the RFPs—that the focus of the RFPs are documents "from upper level employees and politically appointed individuals that are not publicly available." Olson Decl., Ex. 2 at 2, Dkt. No. 14-2 at 35.

24. At the time the stay was entered on July 25, the parties continued to discuss what information Plaintiffs hope to obtain through the RFPs and how that information relates to specific factual disputes identified in the pleadings. Because the district court tolled discovery deadlines to allow the parties to meet and confer as to the scope of Plaintiffs' RFPs, and because that process was far from complete when the stay was entered, there are no specific deadlines as to these discovery requests.

25. There is an existing dispute between the parties as to whether Plaintiffs are permitted discovery into the internal deliberations of government officials. Defendants have taken the position that such communications are protected from disclosure pursuant to the deliberative process privilege, while Plaintiffs continue to seek such communications. *See* Olson Decl., Ex. 8 at 136:17-142:2, Dkt. No. 14-2 at 71-77; *see, e.g.*, Ex. 9 (May 19 revised RFPs on Dep't of State) at 9-10, ¶¶ 4-6 (seeking briefings on climate change given or presented to incoming and outgoing Secretaries of State and presidential administrations).

26. In their August 28 letter, Plaintiffs claim to withdraw the RFPs served on the President and the EOP. Olson Decl., Ex. 5 at 2, Dkt. No. 14-2 at 52. With regard to RFPs propounded on the Departments of Agriculture, State, and Defense, Plaintiffs claim to have again narrowed those RFPs, but have not yet served those "narrowed" RFPs.

Depositions

27. On March 24, Plaintiffs submitted a letter to Defendants indicating their intention to seek a total of twelve Rule 30(b)(6) depositions: one for each agency and executive-component Defendant. In addition, Plaintiffs indicated their intention to depose four cabinet-level Secretaries (or the equivalent)—(1) Secretary Rex Tillerson (United States Department of State), (2) Administrator Scott Pruitt (United States Environmental Protection Agency), (3) Secretary Rick Perry (United States

Department of Energy), and (4) Secretary Ryan Zinke (United States Department of the Interior)—as well as two other federal employees. Ex. 3 (Pls.' letter of March 24).

28. During a March 31 meet and confer, and in the parties' April 3 Joint Status Report, Defendants noted that it is extraordinary and highly unusual to seek the deposition of Cabinet-level Secretaries and that such a demand requires a showing of exceptional circumstances. Ex. 5 (Joint Status Report as of April 3, 2017) at 9. Defendants also noted that it would be impossible to meaningfully confer regarding the proposed 30(b)(6) depositions of the twelve Defendants until Plaintiffs identify topics upon which they will be seeking testimony. *Id.* at 11.

29. On May 11, Plaintiffs noticed the depositions of two government employees: Michael Kuperberg, Executive Director of the United States Global Change Research Program ("USGCRP"), and C. Mark Eakin, Coordinator of the National Oceanic and Atmospheric Administration's ("NOAA") Coral Reef Watch program. Ex. 7 (Joint Status Report as of May 12, 2017) at 4-5. The depositions of Drs. Kuperberg and Eakin took place on July 20 and 21, respectively.

30. During Dr. Kuperberg's deposition, Defendants objected to certain questions on potential executive privilege grounds. Ex. 14 (Kuperberg Depo.) at 100:11-102:16, 110:8-18. If the stay is lifted, Defendants will confer with the White House. If the White House decides to invoke executive privilege, there would be a dispute between the parties regarding executive privilege.

31. The parties met and conferred as to the 30(b)(6) depositions on June 30. Based on those discussions, on July 12, Plaintiffs withdrew one of the topics from a list they had provided and tendered a list of questions intended to inform future discussions on narrowing the Rule 30(b)(6) topics. Ex. 13 (Pls.' letter of July 12).

32. In their August 28 letter, Plaintiffs stated that they will not notice the depositions of the cabinet-level officials.

33. Plaintiffs' Rule 30(b)(6) notices remain outstanding. There is an existing dispute as to the proper scope of the Rule 30(b)(6) depositions. If the current stay were to be lifted, the parties would either continue to meet and confer in an effort to narrow the noticed Rule 30(b)(6) topics, or Defendants would have to move for a protective order to narrow the topics.

Expert Reports

34. Plaintiffs have proffered nine expert reports, and have indicated that they intend to proffer four additional expert reports. The expert reports address a wide-array of subjects. For example, some of Plaintiffs' proposed experts characterize the environmental impacts of climate change on various fronts, including with respect to the earth's energy balance, global ice sheet disintegration and glacier retreat, extreme weather events, ocean acidification and warming, coral reef loss, ecosystem shift, biodiversity loss, and physical and psychological impacts on humans. Other proposed experts opine on policy-related topics, such as the value of preparing

consumption-based greenhouse-gas inventories, carbon-sequestration efforts, the feasibility of transitioning to renewable-energy sources, and the social cost of carbon. Another proposed expert will testify to the historical knowledge of climate science and the relationship between the U.S. government and the fossil fuel industry. As a result, the Defendants will be required to expend significant time and resources retaining and developing their own expert witnesses on these topics.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 11, 2017

Respectfully submitted,

/s/ Sean C. Duffy

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Exhibit 1 to Declaration of Sean C. Duffy

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

KELSEY CASCADIA ROSE JULIANA; **XIUHTEZCATL TONATIUH M.**, through his Guardian Tamara Roske-Martinez; et al.

Plaintiffs,

v.

The UNITED STATES OF AMERICA; **DONALD TRUMP**, in his official capacity as President of the United States; et al.,

Federal Defendants.

Case No.: 6:15-cv-01517-TC

PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANTS THE EXECUTIVE OFFICE OF THE PRESIDENT AND PRESIDENT DONALD TRUMP

PROPOUNDING PARTIES: **PLAINTIFFS**

RESPONDING PARTIES: **DEFENDANTS THE EXECUTIVE OFFICE OF THE PRESIDENT AND PRESIDENT DONALD TRUMP**

SET NO: **ONE**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure ("FRCP"), Plaintiffs request Defendants The Executive Office of the President and President Donald Trump to produce the documents specified below, within thirty (30) days of service, or at such other time and place, or in such other manner, as may be mutually agreed upon by the parties. Production by the Federal Government Defendants of documents shall be in accordance with the Instructions and Definitions set forth below and FRCP 34.

I. DEFINITIONS

A. As used herein, the term "DOCUMENT(s)" means any kind of written, graphic, or recorded matter, however produced or reproduced, of any kind or description, whether sent, received, or neither, including drafts, originals, non-identical copies and information stored magnetically, electronically, photographically or otherwise, and including but not limited to: studies, papers, books, accounts, letters, diagrams, pictures, drawings, photographs, correspondence, telegrams, cables, text messages, emails, memoranda, notes, notations, work papers, intra-office and inter-office communications, communications to, between and among employees, contracts, financial agreements, grants, proposals, transcripts, minutes, orders, reports, recordings or other documentation of telephone or other conversations, interviews, committee meetings, departmental meetings, company meetings or other meetings, affidavits, slides, statements, summaries,

opinions, indices, analyses, publications, questionnaires, answers to questionnaires, statistical records, ledgers, journals, lists, logs, tabulations, charts, graphs, maps, surveys, sound recordings, computer printouts, tapes, discs, microfilm, all other records kept, regardless of the title, author or origin.

B. As used herein, the phrase "REFERS, RELATES, REGARDS, OR PERTAINS TO" means containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing, constituting, comprising, evidencing, setting forth, summarizing, or characterizing, either directly or indirectly, in whole or in part.

C. As used herein, the term "COMMUNICATION(S)" means every manner or method of disclosure, exchange of information, statement or discussion between or among two or more PERSONS, including but not limited to, face-to-face and telephone conversations, correspondence, memoranda, telegrams, telexes, email messages, transcribed voice-mail messages, text messages, meetings, discussions, releases, statements, reports, publications, or any recordings or reproductions.

D. As used herein, "DEFENDANT" means Federal Government Defendants and any and all of Defendants' current or former principals, officers, directors, employees, agents, attorneys, consultants, and other representatives.

E. As used herein "PRESIDENT" means the President, Vice President, Executive Office of the President, the President's Cabinet, Presidential advisory boards, Presidential and Vice Presidential task forces, White House Offices including but not limited to the White House Center for Environmental Quality, the White House Office of Management and Budget, the White House Office of Science and Technology Policy and any and all

current and former principals, employees, agents, attorneys, consultants and other representatives of the PRESIDENT.

F. As used herein, the term "INTERVENOR DEFENDANTS" shall refer to defendants AMERICAN PETROLEUM INSTITUTE, NATIONAL ASSOCIATION OF MANUFACTURERS, AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS, formerly known as National Petroleum Refiners Association (1961-1998), and their current or former principals, officers, directors, employees, agents, attorneys, consultants, and other representatives.

G. As used herein, the term "PERSON" means all individuals, entities, firms, organizations, groups, committees, regulatory agencies, governmental entities, business entities, corporations, partnerships, trusts and estates.

H. As used herein, the term "CLIMATE CHANGE" shall mean any change in the state of the climate lasting for an extended period of time. In other words, the term "CLIMATE CHANGE" includes changes in surface and ocean temperature, precipitation, or wind patterns, among other effects, that occur over several decades or longer, attributed directly or indirectly to human activity. The term "CLIMATE CHANGE" shall include ocean acidification, sea level rise, and other impacts resulting from the increased concentration of greenhouse gases in the atmosphere and oceans. "CLIMATE CHANGE" also has been called inadvertent weather modification, the greenhouse effect, CO_2 problem, carbon dioxide problem, climatic changes, global warming, global change, global heating, atmospheric pollution by carbon dioxide or other greenhouse gases, and dilution of carbon 14 by fossil carbon.

II. INSTRUCTIONS

A. Please produce and permit the inspection and copying of the DOCUMENTS described below which are in DEFENDANT'S possession, custody, or control, or in the possession, custody, or control DEFENDANT'S attorneys, consultants, agents, or representatives.

B. In producing the DOCUMENTS demanded, each DEFENDANT shall segregate those documents by each request set forth herein.

C. For any claim that a DOCUMENT which a DEFENDANT is required to produce in response to any of these demands is privileged, such DEFENDANT will:

   a. Identify the DOCUMENT'S title and general subject matter;

   b. State the DOCUMENT'S date;

   c. Identify the DOCUMENT'S author(s);

   d. Identify the PERSON or PERSONS for whom the DOCUMENT was prepared or to whom the DOCUMENT was sent;

   e. State the nature of the privilege claimed; and

   f. State in detail each and every fact upon which such DEFENDANT bases a claim of privilege.

D. The words "and" and "or" shall be construed in the conjunctive or disjunctive, whichever is most inclusive.

E. The singular form shall include the plural form and vice versa.

F. The present tense shall include the past tense and vice versa.

G. If any DOCUMENT cannot be produced in full, produce it to the extent possible, indicating what information is being withheld and the reason such information is being withheld.

H. If a DOCUMENT once existed, but has been lost, destroyed, no longer exists, or is no

longer in a DEFENDANT'S possession, custody, or control, identify each such DOCUMENT and separately state the details concerning the loss or destruction of the DOCUMENT, or the name and address of the current or last known custodian of any such document, if known to you.

I. Every REQUEST FOR PRODUCTION herein shall be deemed a continuing Request for Production, and each DEFENDANT is to supplement its answers promptly if such DEFENDANT obtains responsive DOCUMENTS which add to such DEFENDANT'S initial production.

J. REQUESTS FOR PRODUCTION are not intended to be duplicative. All requests should be responded to fully and to the extent not covered by other requests. If there are DOCUMENTS that are responsive to more than one request, please note and produce each such DOCUMENT in response to the first request.

III. DOCUMENTS

A. Each DOCUMENT that identifies the organizational structure of the Executive Office of the President of the United States as it REFERS, RELATES, REGARDS, OR PERTAINS to work in whole or in part on the issue of CLIMATE CHANGE.

B. Each DOCUMENT that identifies the organizational structure of the White House Council on Environmental Quality ("CEQ") as it REFERS, RELATES, REGARDS, OR PERTAINS to work in whole or in part on the issue of CLIMATE CHANGE.

C. Each DOCUMENT that identifies the organizational structure of the White House Office of Science and Technology Policy ("OSTP") as it REFERS, RELATES, REGARDS, OR PERTAINS to work in whole or in part on the issue of CLIMATE CHANGE.

D. Each DOCUMENT that identifies the organizational structure of the White House Office

of Management and Budget ("OMB") as it REFERS, RELATES, REGARDS, OR PERTAINS to work in whole or in part on the issue of CLIMATE CHANGE.

E. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO appointees of the Trump Administration who would be, as part of his or her duties, working on the issue of CLIMATE CHANGE.

F. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the Trump Administration directing the removal of government officials or employees who had been working in the administration of former President Barack Obama who, as part of their duties, were working on the issue of CLIMATE CHANGE.

G. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the removal of environmental information and information on the issue of CLIMATE CHANGE from government websites during the Trump Administration.

H. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO directing agencies to curb their dissemination of information on the issue of CLIMATE CHANGE to the public including restrictions on the use of social media during the Trump Administration.

I. Each DOCUMENT within the possession of the current PRESIDENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS concerning the issue of CLIMATE CHANGE impacts including but not limited to, observations or predictions of CLIMATE CHANGE and effects on permafrost, sea level rise, flooding, forest degradation, ocean acidification, air quality, public health and public health disparities,

extreme or unusual weather conditions, sea ice conditions and the impact of those changes on oil drilling operations.

J. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE from John Holdren to the Executive Office of the President during the time frame March 2009 and January 2017.

K. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE from Dr. Fabien Laurier, former Policy Advisor for Climate Adaptation, and Senior Policy Advisor and Director of National Climate Assessment, to the PRESIDENT during the time frame December 2013 and January 2016.

L. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE from Timothy "Tim" Stryker, Program Director, U.S. Group on Earth Observations Program, to the PRESIDENT during the time frame January 2012 and January 20, 2017.

M. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE between John Holdren and IPCC participant Christopher "Chris" Field during the time frame January 1, 2015 and January 20, 2017.

N. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE between the President's Council of Advisors on Science and Technology ("PCAST"), its members, and the PRESIDENT during the time frame 2011 and 2013, including, but not limited to,

   a. DOCUMENTS about a meeting with President Obama on November 30, 2012,

and

b. COMMUNICATIONS with the Director of White House Office of Science and Technology Policy.

O. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO any DOCUMENTS relating to the change in plans from the November 7, 2011 draft proposal which the Environmental Protection Agency ("EPA") sent to or from the OMB regarding the EPA's decision not to impose regulations on existing emitters of greenhouse gases.

P. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE between former EPA Administrator Lisa P. Jackson and the PRESIDENT, including, but not limited to, emails from the address windsor.richard@epa.gov, during the time frame January 1, 2009 and February 15, 2013.

Q. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE between former EPA Administrator Gina McCarthy and the PRESIDENT during the time frame January 1, 2013 and January 20, 2017.

R. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE between David McIntosh and the PRESIDENT during the time frame January 1, 2009 and June 10, 2011.

S. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE between Dan Costa, National Program Director, Air, Climate, and Energy Strategic Research Program, and the

PRESIDENT during the time frame January 1, 2009 and January 20, 2017.

T. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE between Tim Watkins, Deputy Director, Air, Climate, and Energy Strategic Research Program, and the PRESIDENT during the time frame January 1, 2009 and January 20, 2017.

U. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE from former DOE Secretary Steven Chu to the PRESIDENT during the time frame January 21, 2009 through April 22, 2013.

V. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE from former DOE Secretary Dr. Ernest Moniz to the PRESIDENT during the time frame April 22, 2013 and Dec. 31, 2016.

W. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE from Brian Deese, Advisor to the President, Deputy Director of the Office of Management and Budget, Acting Director of the Office of Management and Budget, and Deputy Director of the National Economic Council, to the PRESIDENT during the time frame January 1, 2009 and January 20, 2017.

X. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS from the Obama Administration to the Trump Administration on the issue of CLIMATE CHANGE.

Y. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue

of CLIMATE CHANGE impacts that result from atmospheric concentrations of carbon dioxide in the atmosphere exceeding 350 parts per million.

Z. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE impacts that result from atmospheric concentrations of carbon dioxide in the atmosphere exceeding 400 parts per million.

AA. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE impacts that result from atmospheric concentrations of carbon dioxide in the atmosphere exceeding 450 parts per million.

BB. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE impacts that result from a global temperature increase of 1.5 degrees Celsius or more.

CC. Each DOCUMENT and COMMUNICATION from the PRESIDENT that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE science and research including, but not limited to:

a. National Academy of Science research on safe levels of atmospheric concentrations of carbon dioxide in the atmosphere.

b. Science and research programs authorized under the 1987 Global Climate Protection Act (P.L. 100-204) and the United States Global Change Research Program;

c. Monitoring of carbon dioxide ("CO_2") levels at Keeling Lab;

d. DOCUMENTS referencing the National Academy of Sciences and National Research Council work on the issue of CLIMATE CHANGE, including, but not limited to, "Changing Climate: Report of the Carbon Dioxide Assessment

Committee" (1983);

e. Research conducted by the National Academy of Sciences Climate Research Board, including, but not limited to, reports entitled "NAS Energy and Climate Studies in Geophysics (1977)," and "Carbon Dioxide and Climate: A Scientific Assessment (1979)";

f. Research and the work of Jules Charney, Roger Revelle (including, but not limited to, the 1965 "Restoring the Quality of Our Environment—Atmospheric Carbon Dioxide"), Verner E. Suomi, and Bill Nierenberg.

g. DOCUMENTS referencing "The Report of the Air Conservation Commission of the American Association for the Advancement of Science (1965)."

h. DOCUMENTS referencing "The Carbon Dioxide Theory of Climate Change (1955)".

DD. Each COMMUNICATION from the PRESIDENT that REFERS, RELATES, REGARDS, OR PERTAINS TO GAO Reports that REFER, RELATE OR PERTAIN TO the issue of CLIMATE CHANGE during the time frame 1977-2016.

EE. Each DOCUMENT and COMMUNICATION between PERSONS with the George H.W. Bush Administration and former EPA Administrator William K. Reilly that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE.

FF. Each DOCUMENT and COMMUNICATION to or from the PRESIDENT that REFERS, RELATES, REGARDS, OR PERTAINS TO Congressional hearings about the issue of CLIMATE CHANGE.

GG. Each DOCUMENT and COMMUNICATION regarding the testimony of Dr.

James Hansen, including but not limited to, Dr. Hansen's testimony to Congress in 1984, 1988, 1989, and 2007.

HH. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO modification by the Office of Management and Budget of scientific statements and findings regarding the issue of CLIMATE CHANGE, including, but not limited to, statements and findings from the National Research Council, the National Academy of Sciences, and the National Aeronautics and Space Administration.

II. Each DOCUMENT and COMMUNICATION to or from the PRESIDENT from the time frame of prior to 2007 that REFERS, RELATES, REGARDS, OR PERTAINS TO policy and analysis on the regulation of industrial CO_2 as a pollutant under the Clean Air Act.

JJ. Each DOCUMENT and COMMUNICATION from the PRESIDENT, including, but not limited to, the White House Office of Science and Technology Policy ("OSTP") that REFERS, RELATES, REGARDS, OR PERTAINS TO reports and findings produced by DEFENDANT federal agencies that REFER TO the issue of CLIMATE CHANGE, including, but not limited to:

a. DOCUMENTS referencing EPA's "Policy Options for Stabilizing Global Climate" (1990);

b. DOCUMENTS referencing the Congressional Office of Technology Assessment document "Changing By Degrees: Steps to Reduce Greenhouse Gases" (1991);

c. DOCUMENTS referencing EPA's Social Cost of Carbon;

d. DOCUMENTS referencing EPA's "Endangerment and Cause or Contribute

Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act" (74 FR 66495) (2009), not including information available through the public record; and

e. DOCUMENTS referencing the Department of Homeland Security's 2014 Climate Action Plan.

KK. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS OR PERTAINS TO the United States Global Change Research Program National Assessments ("National Assessment"), including, but not limited to, COMMUNICATIONS between the PRESIDENT and any representative of the Competitive Enterprise Institute ("CEI") or Congressional Offices, including the offices of Senator Inhofe.

LL. Each DOCUMENT that and COMMUNICATION from the PRESIDENT that REFERS, RELATES, REGARDS, OR PERTAINS TO the 1965 Report of President Lyndon Johnson's Scientific Advisors, "Restoring the Quality of Our Environment."

MM. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the CEQ Annual Reports to Congress during the time frame of 1970-1997concerning the issue of CLIMATE CHANGE.

NN. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO carbon dioxide emission reduction targets under the George H.W. Bush Administration.

OO. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the alteration of EPA reports, memorandum, and publications that REFERS, RELATES, REGARDS, OR PERTAINS TO CLIMATE

CHANGE during the George W. Bush Administration, including, but not limited to, EPA's State of the Environment Report in 2003 and the 2002 U.S. Climate Action Report.

PP. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO CLIMATE CHANGE science and policy from OMB head Richard Darman under the George H.W. Bush Administration.

QQ. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE to or from the George C. Marshall Institute, or Marshall Institute, during the time frame 1989 and 1995 including but not limited to each COMMUNICATION between the PRESIDENT, including but not limited to OMB, and Fred Singer, Fred Seitz, Bill Nierenberg, or Robert Jastrow.

RR. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO policy and scientific analysis from the PRESIDENT related to Intergovernmental Panel on Climate Change Assessments 1, 2, 3, 4, and 5.

SS. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE related to the United Nations Framework Convention on Climate Change ("UNFCCC"), including, but not limited to:

a. COMMUNCIATIONS from representatives of the George H.W. Bush Administration in preparation for the 1992 United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, or the "Earth Summit";

b. COMMUNCIATIONS from representatives of the George H.W. Bush Administration following the 1992 United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, or the "Earth Summit"

c. COMMUNICATIONS from representatives of the Clinton Administration in preparation for the Kyoto meeting in 1997;

d. COMMUNICATIONS from representatives of the Clinton Administration following the Kyoto meeting in 1997;

e. COMMUNICATIONS from representatives of the George W. Bush Administration in preparation for UNFCCC 7th Conference of the Parties held from 29 October 2001 through 9 November 2001 in Marrakech;

f. COMMUNICATIONS from representatives of the George W. Bush Administration following UNFCCC 7th Conference of the Parties held from 29 October 2001 through 9 November 2001 in Marrakech;

g. COMMUNICATIONS between the PRESIDENT and former United States Ambassador to the United Nations Susan Rice during the time frame January 22, 2009 and August 2, 2013;

h. COMMUNICATIONS between the PRESIDENT and former United States Ambassador to the United Nations Samantha Power during the time frame August 2, 2013 and January 20, 2017; and

i. COMMUNICATIONS between Paul Elliot and the PRESIDENT in preparation for the UNFCCC meeting in Copenhagen in December 2009.

TT. Each DOCUMENT and COMMUNICATION from the PRESIDENT that REFERS, RELATES, REGARDS, OR PERTAINS TO the June 27-30, 1988 Toronto

Conference on Climate Change.

UU. Each DOCUMENT and COMMUNICATION from the PRESIDENT that REFERS, RELATES, REGARDS, OR PERTAINS TO the Second North American Conference on Preparing for Climate Change, Washington, D.C. December 6-8, 1988 including, but not limited to, each COMMUNICATION between the PRESIDENT and any of the INTERVENOR DEFENDANTS.

VV. Each DOCUMENT and COMMUNICATION between the PRESIDENT and any of the INTERVENOR DEFENDANTS and their members that REFERS, RELATES, REGARDS, OR PERTAINS TO the issue of CLIMATE CHANGE, including, but not limited to:

a. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the creation, administration, funding, or mandate of the United States Global Change Research Program;

b. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the EPA DOCUMENT "Policy Options for Stabilizing Global Climate" (1990);

c. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the 1997 World Petroleum Conference in Buenos Aires;

d. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the Global Climate Coalition.

e. Each COMMUNICATION between CEQ staff members (such as Philip Cooney) and any of the INTEVENOR DEFENDANTS (including Randy Randol and

William "Bill" O'Keefe);

f. Each COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the Competitive Enterprise Institute petition and lawsuit against the Bush Administration White House Office of Science and Technology Policy and the National Science and Technology Council to stop the release of the first National Assessment;

g. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO Mobil Oil Executive Dayton H. Clewell's work on the Presidential Council on Oceans and Atmosphere;

h. Each COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO EPA Proposals in 1989 to Curb Global Warming Pollution;

i. Each COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the Clinton Administration's "Climate Action Plan" (1993);

j. Each COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the Clinton BTU Tax Plan, also known as a carbon tax;

k. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the "Clear Skies" proposal announced in February 2002, including COMMMUNICTIONS to and from the Vice President's National Energy Policy Development Group, also known as the Cheney Task Force;

l. Each COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the staffing of positions under the George W. Bush Administration as such positions relate to the issue of CLIMATE CHANGE;

m. Each COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the removal of personnel hired under the Clinton Administration as the positions held by such personnel relate to the issue of CLIMATE CHANGE;

n. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the George W. Bush Administration's Climate Science Research Program, Climate Change research initiative, Climate Science Technology Program, and Committee on Climate Change Science and Technology Integration;

o. Each DOCUMENT AND COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO United States scientific positions, involvement, and representation at meetings of the United Nations Framework Convention on Climate Change;

p. Each DOCUMENT AND COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO United States scientific positions, involvement, and representation at meetings of the Intergovernmental Panel on Climate Change; and

q. Each COMMUNICATION REFERS, RELATES, REGARDS, OR PERTAINS TO scientific findings and conclusions in the Intergovernmental Panel on Climate Change Assessments 1, 2, 3, 4, and 5.

WW. Each DOCUMENT and COMMUNICATION from the PRESIDENT that REFERS, RELATES, REGARDS, OR PERTAINS TO a carbon tax and/or fee, or other carbon pricing mechanisms.

XX. Each DOCUMENT and COMMUNICATION from the PRESIDENT that REFERS, RELATES, REGARDS, OR PERTAINS TO CLIMATE CHANGE legislation and legislation impacting the development, expansion, and consumption of fossil fuels including, but not limited to:

a. The Climate Stewardship Act S. 139 (2003-2004), also known as the McCain-Lieberman bill;

b. The 2005 Climate Stewardship Act;

c. The Energy Policy Act of 2005;

d. The 2007 Climate Stewardship and Innovation Act;

e. The Lieberman-Warner Climate Security Act of 2007; and

f. The Waxman-Markey American Clean Energy and Security Act of 2009.

YY. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of the Trump Administration on the Paris Agreement, an agreement within the United Nations Framework Convention on Climate Change dealing with greenhouse gases emissions reduction, climate adaptation, and finance beginning in 2020.

ZZ. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS between any representative of the Trump Administration and the Canadian government regarding the Keystone XL Pipeline.

AAA. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS between any representative of the Trump Administration and TransCanada regarding the Keystone XL Pipeline.

BBB. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO

COMMUNICATIONS between any representative of the Trump Administration and Energy Transfer Partners regarding the Dakota Access Pipeline.

CCC. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS between any representative of the Trump Administration and any nongovernmental parties regarding Executive Orders, Presidential Memoranda, or Proclamations that impact fossil fuel pipelines, fossil fuel infrastructure, or the extraction, transportation, or consumption of fossil fuels, including, but not limited to:

a. Presidential Memorandum Regarding Construction of the Keystone XL Pipeline (January 24, 2017);

b. Presidential Memorandum Regarding Construction of the Dakota Access Pipeline (January 24, 2017);

c. Presidential Memorandum Regarding Construction of American Pipelines (January 24, 2017);

d. Presidential Memorandum Streamlining Permitting and Reducing Regulatory Burdens for Domestic Manufacturing (January 24, 2017);

e. Executive Order Expediting Environmental Reviews and Approvals For High Priority Infrastructure Projects (January 24, 2017);

f. Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017); and

g. Any draft Executive Orders, Presidential Memoranda, or Proclamations.

DDD. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS between any representative of the Trump Administration and any parties outside of the PRESIDENT regarding House Joint Resolution 38, signed into law

February 16, 2017.

Dated: March 7, 2017

/s/ Julia A. Olson

JULIA A. OLSON (OR Bar 062230)
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WILD EARTH ADVOCATES
1216 Lincoln Street
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Tel: (415) 786-4825

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of March, 2017, I have served the foregoing Plaintiffs' First Request for Production of Documents and Things to Defendants The Executive Office of the President and President Donald Trump by email on the following counsel for all parties.

Sean C. Duffy
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Dated: March 7, 2017

/s/ Julia A. Olson

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Attorney for Plaintiffs

Exhibit 2 to Declaration of Sean C. Duffy

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

KELSEY CASCADIA ROSE JULIANA,)
et al.,)
Plaintiffs,)
v.)No. 6:15-CV-1517-TC
THE UNITED STATES OF AMERICA,)
et al.,)
Defendants.)
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE JUDGE COFFIN

March 8, 2017

Wednesday

10:05 A.M.

-o0o-

Jan R. Duiven, CSR, FCRR, CRC

CC Court Reporting

172 East 8th Avenue

Eugene, Oregon 97401

541/485-0111

1 MS. PIROPATO: And, your Honor --
2 THE COURT: Let me ask one more
3 question before you answer or respond. What about
4 the document request?
5 MS. PIROPATO: Your Honor, this is
6 Marissa Piropato for the United States. Good
7 morning.
8 THE COURT: Good morning.
9 MS. PIROPATO: We were served
10 document requests, I believe, February 21st. We
11 quickly transmitted those document requests to
12 NARA. Most of those subject document requests,
13 which -- the ones -- the February 21st requests,
14 not the ones that we received last night at two
15 a.m. -- and we can discuss those if you would
16 like -- deal with documents that are subject to
17 executive privilege.
18 There's a process that NARA has in
19 place over which we have no control that addresses
20 requests for documents where executive privilege
21 is at issue. So what we did, because this
22 specific (phone cuts out) is not in our hands, we
23 got the process started right away. We asked NARA
24 to contact the respective presidential libraries.
25 That is the libraries of President Reagan,

1 President Bush I, President Clinton, and President
2 George H.W. -- George W. Bush to release those
3 documents to the White House and the incumbent
4 White House, and let me explain what I mean by
5 that.
6 When we have executive privilege
7 involved in the NARA documents, there are two sets
8 of reviewers, except in the case of President
9 Reagan. They get -- those respective reviewers,
10 the representatives -- or the representatives of
11 the two Bush presidents and President Clinton, get
12 to review the documents for 60 days to determine
13 whether privilege is applicable. It's the first
14 30-day period, and then they get an automatic
15 30-day renewal.
16 The incumbent White House also gets
17 that same 60-day period to review documents for
18 executive privilege. And the relevant statute is
19 44 USC section 228 [sic] contemplates, in fact,
20 the 60-day process.
21 So we immediately got that process
22 in motion. It is now in the hands of the
23 respective White Houses, and we told plaintiffs
24 we'll keep them apprised of what happens, and once
25 we understand what the status of the documents

1 are, we will let them know.
2 We have a very well-established
3 process in NARA that we're told that works very
4 well. This is not about delay. It's about a
5 process that's set in regulation that we are
6 following.
7 So I want to be clear there's only
8 two really discovery -- that were on the table
9 that -- one are the request for admissions and my
10 colleague, Mr. Dykema, explained the practical
11 difficulties we're dealing with. And then with
12 respect to the request for production, we very
13 quickly moved to get the process in motion to make
14 the documents available should privilege be waived
15 by the respective White Houses.
16 You know, just as a larger matter,
17 we are not trying to delay this case. There are
18 an extraordinary number of experts, documents,
19 requests for admissions, interrogatories, and
20 depositions that plaintiffs have been proposing in
21 their schedule. We have suggested two years is
22 appropriate and, in fact, I think it's very
23 aggressive given the scope of this case --
24 THE COURT: You have --
25 MS. PIROPATO: -- and the scope of

Exhibit 3 to Declaration of Sean C. Duffy

March 24, 2017

Sean C. Duffy
Marissa Piropato
U.S. DEPARTMENT OF JUSTICE ENVIRONMENT & NATURAL RESOURCES DIVISION
NATURAL RESOURCES SECTION
601 D Street NW
Washington, DC 20004
sean.c.duffy@usdoj.gov
Marissa.piropato@usdoj.gov

Re: ***Juliana v. United States,* 6:15-cv-01517-TC, Plaintiffs' meet and confer notice pursuant to L.R. 30-2 on notice for depositions**

Dear Counsel,

Pursuant to Local Rule 30-2, Plaintiffs hereby seek to set mutually convenient dates, times, and places for deposition of the following witnesses:

1. Rex Tillerson, Secretary of State
2. Scott Pruitt, Administrator, EPA
3. Rick Perry, Secretary of Energy
4. Ryan Zinke, Secretary of Interior
5. C. Mark Eakin, Coordinator of NOAA's Coral Reef Watch program, Satellite Oceanography & Climatology Division Marine Ecosystems & Climate Branch
6. Michael Kuperberg, Executive Director U.S. Global Change Research Program, OSTP
7. Rule 30(b)(6) witness for Executive Office of the President
8. Rule 30(b)(6) witness for Council on Environmental Quality
9. Rule 30(b)(6) witness for Office of Management and Budget
10. Rule 30(b)(6) witness for Office of Science and Technology Policy
11. Rule 30(b)(6) witness for Department of Energy
12. Rule 30(b)(6) witness for Department of Interior
13. Rule 30(b)(6) witness for Department of Agriculture
14. Rule 30(b)(6) witness for Department of Defense
15. Rule 30(b)(6) witness for Department of Commerce
16. Rule 30(b)(6) witness for Department of Transportation
17. Rule 30(b)(6) witness for Department of State
18. Rule 30(b)(6) witness for Environmental Protection Agency

Please confer with your clients to propose dates for depositions during the month of May. We propose a call on April 30, 2017 to discuss dates. We intend to notice depositions by April 5, 2017.

Sincerely,

/s/ Julia A. Olson

Julia A. Olson
Counsel for Plaintiffs
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JuliaAOlson@gmail.com
415-786-4825

cc: Philip Gregory
Daniel Galpern

Exhibit 4 to Declaration of Sean C. Duffy

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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

KELSEY CASCADIA ROSE JULIANA; **XIUHTEZCATL TONATIUH M.**, through his Guardian Tamara Roske-Martinez; et al.

Plaintiffs,

v.

The UNITED STATES OF AMERICA; **DONALD TRUMP**, in his official capacity as President of the United States; et al.,

Federal Defendants.

Case No.: 6:15-cv-01517-TC

PLAINTIFFS' REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT UNITED STATES DEPARTMENT OF STATE

PROPOUNDING PARTIES: **PLAINTIFFS**

RESPONDING PARTIES: **DEFENDANT UNITED STATES DEPARTMENT OF STATE**

SET NO: FOUR

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure ("FRCP"), Plaintiffs request Defendant United States Department of State to produce the documents and materials specified below, within thirty (30) days of service, or at such other time and place, or in such other manner, as may be mutually agreed upon by the Parties. Production of documents shall be in accordance with the Instructions and Definitions set forth below and FRCP 34.

I. DEFINITIONS

A. As used herein, the terms "DOCUMENT" or "DOCUMENTS" mean any kind of written, graphic, or recorded matter, however produced or reproduced, of any kind or description, whether sent, received, or neither, including drafts, originals, non-identical copies, and information stored magnetically, electronically, photographically, or otherwise. As used herein, the terms "DOCUMENT" or "DOCUMENTS" include, but are not limited to, studies, papers, books, accounts, letters, diagrams, pictures, drawings, photographs, correspondence, telegrams, cables, text messages, emails, memoranda, notes, notations, work papers, intra-office and inter-office COMMUNICATIONS, contracts, financial agreements, grants, proposals, transcripts, minutes, orders, reports, recordings, documentation of telephone or other conversations, interview notes, committee minutes, meeting minutes, affidavits, slides, statements, summaries, opinions, indices, analyses, publications, policies, questionnaires, answers to questionnaires, statistical records, ledgers, journals, lists, logs, tabulations, charts, graphs, maps, surveys, data sheets, computer printouts, tapes, discs, microfilm, and all other

records or COMMUNICATIONS kept, regardless of the title, author, or origin. As used herein, the terms "DOCUMENT" or "DOCUMENTS" also include, but are not limited to, COMMUNICATIONS to, between, and among members, directors, employees, contractors, agents, or representatives.

B. As used herein, the phrase "REFERS, RELATES, REGARDS, OR PERTAINS TO" means containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing, constituting, comprising, evidencing, setting forth, summarizing, amending, or characterizing, either directly or indirectly, in whole or in part.

C. As used herein, the term "DEPARTMENT OF STATE," means Defendant United States Department of State and shall refer to any and all current and former principals, employees, agents, attorneys, consultants, ambassadors, consuls, secretaries, special envoys, coordinators, advisers, and other representatives of the United States Department of State, including all offices, bureaus, agencies, departments, and programs within the United States Department of State.

D. As used herein, "FEDERAL DEFENDANTS" means the defendants in this action, including: The UNITED STATES OF AMERICA; DONALD TRUMP, in his official capacity as President of the United States; The OFFICE OF THE PRESIDENT OF THE UNITED STATES; CHRISTY GOLDFUSS and any Successor, in her official capacity as Director of Council on Environmental Quality; JOHN MICHAEL MULVANEY, in his official capacity as Director of the Office of Management and Budget; DR. JOHN HOLDREN and any Successor, in his official capacity as Director of the Office of Science and Technology Policy; The UNITED STATES DEPARTMENT OF ENERGY; JAMES RICHARD PERRY, in his official capacity as Secretary of Energy; The UNITED STATES DEPARTMENT OF THE

INTERIOR; RYAN ZINKE, in his official capacity as Secretary of Interior; The UNITED STATES DEPARTMENT OF TRANSPORTATION; ELAINE CHAO, in her official capacity as Secretary of Transportation; The UNITED STATES DEPARTMENT OF AGRICULTURE; MICHAEL YOUNG, in his official capacity as Acting Secretary of Agriculture; The UNITED STATES DEPARTMENT OF COMMERCE; WILBUR ROSS, in his official capacity as Secretary of Commerce; The UNITED STATES DEPARTMENT OF DEFENSE; JAMES NORMAN MATTIS, in his official capacity as Secretary of Defense; The UNITED STATES DEPARTMENT OF STATE; REX TILLERSON, in his official capacity as Secretary of State; The UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; EDWARD SCOTT PRUITT, in his official capacity as Administrator of the EPA, and any and all of each FEDERAL DEFENDANT's current or former principals, predecessors, officers, directors, employees, agents, attorneys, consultants, and other representatives.

E. As used herein, the term "INTERVENOR DEFENDANTS" shall refer to defendants AMERICAN PETROLEUM INSTITUTE, NATIONAL ASSOCIATION OF MANUFACTURERS, AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS, previously referred to National Petrochemical & Refiners Association and National Petroleum Refiners Association, and their current or former principals, officers, directors, employees, agents, attorneys, consultants, and other representatives.

F. As used herein, the terms "AMERICAN PETROLEUM INSTITUTE" or "API" shall refer to Intervenor Defendant American Petroleum Institute, and to all of its current and former employees, agents, officers, directors, representatives, consultants, affiliates, members, accountants, and attorneys, including any PERSON who has served in any such capacity at any time.

G. As used herein, the term "NATIONAL ASSOCIATION OF MANUFACTURERS" or "NAM" shall refer to Intervenor Defendant National Association of Manufacturers, and to all of its current and former employees, agents, officers, directors, representatives, consultants, affiliates, members, accountants, and attorneys, including any PERSON who has served in any such capacity at any time.

H. As used herein, the term "AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS" or "AFPM" shall refer to Intervenor Defendant American Fuel & Petrochemical Manufacturers and to all of its current and former employees, agents, officers, directors, representatives, consultants, affiliates, members, accountants, and attorneys, including any PERSON who has served in any such capacity at any time.

I. As used herein, the term "COMMUNICATION," "COMMUNICATIONS," or "COMMUNICATE" means every manner or method of disclosure, exchange of information, statement, or discussion between or among two or more PERSONS, including, but not limited to, face-to-face and telephone conversations, correspondence, memoranda, telegrams, telexes, email messages, transcribed voice-mail messages, text messages, meetings, discussions, releases, statements, reports, publications, or any recordings or reproductions thereof.

J. As used herein, the term "PERSON" means all individuals, entities, firms, organizations, groups, committees, regulatory agencies, governmental entities, business entities, corporations, partnerships, trusts, and estates.

K. As used herein, the term "CLIMATE CHANGE" shall mean any change in the state of the climate lasting for an extended period of time. In other words, the term "CLIMATE CHANGE" includes changes in surface and ocean temperature, precipitation, or wind patterns, among other effects, that occur over several decades or longer, attributed directly or indirectly to

human activity. The term "CLIMATE CHANGE" shall include ocean acidification, sea level rise, and other impacts resulting from the increased concentration of greenhouse gases in the atmosphere and oceans. "CLIMATE CHANGE" also has been called inadvertent weather modification, the greenhouse effect, CO_2 problem, carbon dioxide problem, climate changes, GLOBAL WARMING, global change, global heating, atmospheric pollution by carbon dioxide or other greenhouse gases, and dilution of carbon 14 by fossil carbon.

L. As used herein, the term "GLOBAL WARMING" shall mean the rise in global average temperatures near Earth's surface. GLOBAL WARMING causes CLIMATE CHANGE but GLOBAL WARMING is only one aspect of CLIMATE CHANGE.

M. As used herein, the term "PREINDUSTRIAL GLOBAL AVERAGE TEMPERATURE" shall mean the 1890 global average temperature and global average atmospheric carbon dioxide concentration baselines and is the zero-point for temperature anomalies. The preindustrial era exemplifies the warmer interglacial periods of the Holocene, the era in which human civilization developed. This period is the earliest period with substantial global coverage of instrumental measurements.

N. As used herein, "ATMOSPHERIC CO_2 CONCENTRATION" shall mean the global average atmospheric CO_2 concentration that is determined after analyzing air samples that are collected around the clock from "4 baseline observatories and 8 tall towers, air samples collected by volunteers at more than 50 sites, and air samples collected regularly from small aircraft mostly in North America." The elevation of these sampling locations varies.

O. As used herein, the term "ENERGY POLICY" is the manner in which an entity, including, but not limited to, any of the FEDERAL DEFENDANTS and any of the INTERVENOR DEFENDANTS, decide to address issues of energy development

including energy production, distribution and consumption. Attributes of ENERGY POLICY may include, but are not limited to, legislation, international treaties, subsidies, incentives, guidelines for energy conservation or exploration, taxation, or other policy techniques related to energy.

II. INSTRUCTIONS

A. Please produce and permit the inspection and copying of the DOCUMENTS described below which are in the possession, custody, or control of DEPARTMENT OF STATE, or in the possession, custody, or control of any attorney, consultant, agent, or representative of DEPARTMENT OF STATE.

B. Electronically stored information ("ESI") shall be produced in its native form; that is, in the form in which the information was created, used, and stored by the native application employed by the producing party in the ordinary course of business. Near-native form is permitted; that is, in a form in which the item can be imported into an application without a material loss of content, structure, or functionality as compared to the native form. Compressed native files must be extracted and processed prior to delivery, including metadata which must be submitted with the corresponding native file. Metadata should be extracted from the native files and submitted with a corresponding load file. The parties may produce information items as single page Tagged Image File Format ("TIFF") image files when practical to do so, such as in the case of producing scanned paper records or native files requiring redaction. Each TIFF file must be accompanied by a multi-page text load file.

C. For any DOCUMENT that DEPARTMENT OF STATE is required to produce in response to any of these requests, if such DOCUMENT is privileged, then DEPARTMENT OF STATE will:

a. Identify the title and general subject matter of the DOCUMENT;

b. State the date of the DOCUMENT;

c. Identify the author(s) of the DOCUMENT;

d. Identify the PERSONS for whom the DOCUMENT was prepared or to whom the DOCUMENT was sent;

e. State the nature of the privilege claimed; and

f. State in detail each and every fact upon which DEPARTMENT OF STATE bases a claim of privilege for the DOCUMENT.

D. The words "and" and "or" shall be construed in the conjunctive or disjunctive, whichever is most inclusive.

E. The singular form shall include the plural form and vice versa.

F. The present tense shall include the past tense and vice versa.

G. If any DOCUMENT cannot be produced in full, produce the DOCUMENT to the extent possible, indicating what information is being withheld and the reason such information is being withheld.

H. If a DOCUMENT once existed, but has been lost, destroyed, no longer exists, or is no longer in the possession, custody, or control of DEPARTMENT OF STATE, identify each such DOCUMENT and separately state the details concerning the loss or destruction of the DOCUMENT, or the name and address of the current or last known custodian of the DOCUMENT, if known.

I. Every Request for Production herein shall be deemed a continuing Request for Production, and DEPARTMENT OF STATE is to supplement its response promptly if DEPARTMENT OF STATE subsequently obtains or discovers one or more responsive

DOCUMENTS.

III. REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Each DOCUMENT that identifies the organizational structure of the DEPARTMENT OF STATE as it REFERS, RELATES, REGARDS, OR PERTAINS to work in whole or in part on the issue of CLIMATE CHANGE.

2. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO Executive Order 13653: "Preparing the United States for the Impacts of Climate Change" (2013).

3. President Trump's Executive Order: "Presidential Executive Order on Promoting Energy Independence and Economic Growth" (2017).

4. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO briefings on CLIMATE CHANGE that were given or presented to each Secretary of State from 1965 to the present.

5. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO briefings on CLIMATE CHANGE that were provided to an incoming Presidential administration from 1965 to the present, including, but not limited to, transition books, briefs, and memoranda.

6. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO briefings on CLIMATE CHANGE that were provided by an outgoing Secretary of State to an incoming Secretary of State from 1965 to the present, including, but not limited to, transition books, briefs, and memoranda.

7. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS between Secretary of State Rex Tillerson and INTERVENOR DEFENDANTS on the issue of CLIMATE CHANGE since February 1, 2017.

8. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS between Secretary of State Rex Tillerson and INTERVENOR DEFENDANTS on the issue of ENERGY POLICY since February 1, 2017.

9. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS between Secretary of State Rex Tillerson and President Donald Trump on the issue of CLIMATE CHANGE since February 1, 2017.

10. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS between Secretary of State Rex Tillerson and President Donald Trump on the issue of ENERGY POLICY since February 1, 2017.

11. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS how the impacts of CLIMATE CHANGE, including, but not limited to, sea level rise, extreme weather events, and declining Arctic sea ice, will impact oil drilling operations in United States territorial waters off of the Arctic Coast of Alaska, the Alaska North Slope, the Gulf of Mexico, Canada, Greenland, Norway, and Russia.

12. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS from 2009 to the present with any representative of TransCanada regarding the impacts on CLIMATE CHANGE of the Keystone XL Pipeline.

13. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS from 2009 to the present with any representative of the Canadian government regarding the impacts on CLIMATE CHANGE of the Keystone XL Pipeline.

14. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS with any representative of TransCanada regarding the United Nations

Climate Change Conference in Copenhagen, including, but not limited to, COMMUNICATIONS to or from Paul Elliott.

15. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the 2016 decision to lift the ban on U.S. oil exports, including, but not limited to, COMMUNICATIONS about how the decision to lift the ban on U.S. oil exports would impact U.S. oil production.

16. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS with the Global Climate Coalition between 1989 and 2002 related to international CLIMATE CHANGE negotiations.

17. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO Circular 175 memoranda that were prepared for international CLIMATE CHANGE negotiations from 1979 to the present, including the Circular 175 memoranda and supporting DOCUMENTS.

18. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the First World Climate Conference in Geneva, Switzerland from February 12-23, 1979, including, but not limited to, each COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the Declaration of the World Climate Conference, issued at the conclusion of the First World Climate Conference.

19. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO conclusions of the Villach Conferences in 1985 and 1987, including, but not limited to, DOCUMENTS regarding the participation of any FEDERAL DEFENDANT in the Villach conferences, scientific reports or other DOCUMENTS received by agency officials as background or briefing material prior to each Villach conference, COMMUNICATIONS with any INTERVENOR DEFENDANT regarding each Villach

conference, and COMMUNICATIONS about the Villach conference recommendations.

20. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS on the recommendation following the conference entitled "The Changing Atmosphere: Implications for Global Security," held in Toronto, Canada from June 27 to 30, 1988, that governments "[r]educe CO_2 emission by approximately 20% of 1988 levels by the year 2005 as an initial global goal."

21. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the FEDERAL DEFENDANTS' preparation for, input to, participation in, or response to the conference entitled "The Changing Atmosphere: Implications for Global Security," held in Toronto, Canada from June 27 to 30, 1988, including, but not limited to, DOCUMENTS relating to the Call to Action and Action Plan adopted at the conference, records of attendance, participation by agency personnel, and COMMUNICATIONS with any of the INTERVENOR DEFENDANTS regarding the conference or its outcomes.

22. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the environmental summit that took place at The Hague on March 11, 1989.

23. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS to or from John Sununu in 1989 pertaining to opposition by any of the FEDERAL DEFENDANTS to negotiations on a CLIMATE CHANGE treaty.

24. Each COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO United Nations General Assembly Resolution A/RES/45/212, December 21, 1990, "Protection of Global Climate for Present and Future Generations of Mankind."

25. Each DOCUMENT and COMMUNICATION between 1991 and 1997 that

REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS on or interpretation of paragraph two of the preamble to the United Nations Framework Convention on Climate Change ("UNFCCC").

26. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS at the United Nations Negotiating Committee on Climate Change meeting in Washington, D.C., in February 1991, including, but not limited to COMMUNICATIONS regarding the White House "Action Agenda."

27. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS on, and interpretation of, the following clauses of Article 3.1 of the UNFCCC: "[t]he Parties should protect the climate system for the benefit of present and future generations of humankind . . . . Accordingly, the developed country Parties should take the lead in combating climate change the adverse effects thereof."

28. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO proposals and statements to other countries prior to the adoption of the agreed final text by each of the FEDERAL DEFENDANTS of the following clauses of Article 3.1 of the UNFCCC: "[t]he Parties should protect the climate system for the benefit of present and future generations of humankind . . . . Accordingly, the developed country Parties should take the lead in combating climate change the adverse effects thereof."

29. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS on, and interpretation of, Article 3.3 of the UNFCCC.

30. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS by each of the FEDERAL DEFENDANTS with any of the INTERVENOR DEFENDANTS prior to the adoption of the agreed final text of Article 3.3 of the UNFCCC.

31. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO scientific information underlying the position of any of the FEDERAL DEFENDANTS prior to the adoption of Article 3.3 of the UNFCCC.

32. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS on Article 2 of the UNFCCC.

33. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS by each of the FEDERAL DEFENDANTS with any of the INTERVENOR DEFENDANTS prior to the adoption of the agreed final text of Article 2 of the UNFCCC.

34. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO interpretations of the meaning of Article 2 of the UNFCCC by each of the FEDERAL DEFENDANTS, including, but not limited to, interpretation of the phrases "dangerous anthropogenic interference with the climate system" and "a time-frame sufficient to allow ecosystems to adapt naturally to climate change . . . ."

35. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO interpretations of the meaning of Article 4, paragraph 2(a) of the UNFCCC by each of the FEDERAL DEFENDANTS at the time of signing.

36. Each DOCUMENT and COMMUNICATION that REFERS, RELATES,

REGARDS, OR PERTAINS TO the interpretation by each of the FEDERAL DEFENDANTS of the phrase "recognizing that the return by the end of the present decade to earlier levels of anthropogenic emissions of carbon dioxide and other greenhouse gases . . ." in Article 2 of the UNFCCC.

37. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the use of 1990 greenhouse gas emission levels as a baseline year for greenhouse gas emission reductions under the UNFCCC.

38. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the use of 2005 greenhouse gas emission levels as a baseline year for measuring United States greenhouse gas emission reductions.

39. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS on the feasibility, timing, and scale of necessary greenhouse gas reductions, developed in anticipation of the United Nations Conference on Environment and Development ("UNCED"), Rio de Janeiro, June 3-14, 1992, also known as the Rio Earth Summit.

40. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the Berlin Mandate leading up to and immediately after the first conference of the Parties in Berlin, March 28 to April 7, 1995.

41. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the adequacy of commitments of Article 4, paragraph 2(a) and (b), of the UNFCCC leading up to and immediately after the first conference of the Parties in Berlin, March 28 to April 7, 1995.

42. Each COMMUNICATION that REFERS, RELATES, REGARDS, OR

PERTAINS TO the position of each of the FEDERAL DEFENDANTS regarding the achievement of United States' negotiating objectives of the 1997 UNFCCC meeting in Kyoto.

43. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO information supporting the negotiating position taken by each of the FEDERAL DEFENDANTS leading up to the 1997 UNFCCC meeting in Kyoto.

44. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO FEDERAL DEFENDANTS' goals for outcomes from the 6th Conference of the Parties, prior to January 19, 2001.

45. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the goals of each of the FEDERAL DEFENDANTS for the 6th Conference of the Parties, which occurred between January 20 and July 27, 2001.

46. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO officials of the DEPARTMENT OF STATE engaged in COMMUNICATIONS with representatives of other countries to reject the Kyoto Protocol.

47. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the decision of each of the FEDERAL DEFENDANTS to withdraw from the Kyoto Protocol, including, but not limited to COMMUNICATIONS with any of the INTERVENOR DEFENDANTS.

48. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO formal positions tabled by and statements made by any of the FEDERAL DEFENDANTS during the UNFCCC Bali Climate Change Conference in 2007, including, but not limited to, statements by DEPARTMENT OF STATE official Paula Dobriansky on December 15, 2007.

49. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the participation by any of the FEDERAL DEFENDANTS in the final plenary session of Intergovernmental Panel on Climate Change ("IPCC") Second Assessment report in Madrid in 1995, including, but not limited to, any DEPARTMENT OF STATE communiques referencing findings in the Second Assessment report and COMMUNICATIONS regarding the Second Assessment report's Summary for Policymakers.

50. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO international consensus on CLIMATE CHANGE discussed in the IPCC Second Assessment report, including, but not limited to, COMMUNICATIONS regarding the phrase "the balance of evidence suggests that there is a discernable human influence on global climate."

51. Each DOCUMENT and COMMUNICATION from January 20, 2017 to the present that REFERS, RELATES, REGARDS, OR PERTAINS TO the potential withdrawal by any of the FEDERAL DEFENDANTS from the UNFCCC.

52. Each DOCUMENT and COMMUNICATION from January 20, 2017 to the present that REFERS, RELATES, REGARDS, OR PERTAINS TO the potential withdrawal by any of the FEDERAL DEFENDANTS from the Paris Agreement.

53. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the goal of the Paris Agreement of "holding the increase in the global average temperature to well below 2 C above preindustrial levels and pursuing efforts to limit the temperature increase to 1.5 C," including, but not limited to, COMMUNICATIONS to or from Todd Stern.

54. Each DOCUMENT and COMMUNICATION that REFERS, RELATES,

REGARDS, OR PERTAINS TO impacts from CLIMATE CHANGE that result from an ATMOSPHERIC CO_2 CONCENTRATION in the atmosphere between 350 parts per million and 400 parts per million.

55. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO impacts from CLIMATE CHANGE that result from an ATMOSPHERIC CO_2 CONCENTRATION in the atmosphere between 400 parts per million and 450 parts per million.

56. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO impacts from CLIMATE CHANGE that result from an ATMOSPHERIC CO_2 CONCENTRATION in the atmosphere exceeding 450 parts per million.

57. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO impacts from CLIMATE CHANGE that result from a global temperature increase of 1.5 Celsius or more, including comparisons between global temperature increase of 1.5 and 2 Celsius.

58. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the safe ATMOSPHERIC CO_2 CONCENTRATION.

59. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the safe level of GLOBAL WARMING above the PREINDUSTRIAL GLOBAL AVERAGE TEMPERATURE.

60. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the commitment by each of the FEDERAL DEFENDANTS to "rationalize and phase out over the medium term, inefficient fossil fuel subsidies that encourage wasteful consumption" during the G20 Summit in Pittsburgh, Pennsylvania on September 25,

2009, including, but not limited, to COMMUNICATIONS between each of the FEDERAL DEFENDANTS and each of the INTERVENOR DEFENDANTS prior to and after the announcement of this commitment.

61. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS sent or received from Susan Rice, former U.S. Ambassador to the United Nations between January 22, 2009 and August 2, 2013, on the issue of CLIMATE CHANGE.

62. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS sent or received from Susan Rice, former U.S. Ambassador to the United Nations, between January 22, 2009 and August 2, 2013, on the issue of ENERGY POLICY.

63. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS sent or received from Susan Rice, former U.S. Ambassador to the United Nations, between January 22, 2009 and August 2, 2013, on the issue of atmospheric carbon dioxide level targets (usually expressed as ppm) or GLOBAL WARMING-induced temperature change targets (usually expressed as Celsius degrees).

64. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS sent or received from Samantha Power, former U.S. Ambassador to the United Nations, between August 2, 2013 and June 11, 2015, on the issue of atmospheric carbon dioxide level targets (usually expressed as ppm) or GLOBAL WARMING-induced temperature change targets (usually expressed as Celsius degrees).

65. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO CLIMATE CHANGE relied upon in the First Biennial Report of the United States of America under the UNFCCC.

66. Each DOCUMENT and COMMUNICATION that REFERS, RELATES,

REGARDS, OR PERTAINS TO CLIMATE CHANGE relied upon in the Second Biennial Report of the United States of America under the UNFCCC.

67. Each DOCUMENT and COMMUNICATION from November 2016 to the present that REFERS, RELATES, REGARDS, OR PERTAINS TO removing DOCUMENTS from government websites, or removing entire government websites, which contain information on CLIMATE CHANGE.

68. Each DOCUMENT and COMMUNICATION from 2001 to the present that REFERS, RELATES, REGARDS, OR PERTAINS TO how employees of the DEPARTMENT OF STATE should or should not COMMUNICATE information to third parties about CLIMATE CHANGE and the impacts of CLIMATE CHANGE, including, but not limited to, the existence of CLIMATE CHANGE, the role of human activity in CLIMATE CHANGE, scientific uncertainty regarding the existence or causes of CLIMATE CHANGE, sea level rise, extreme weather events, ocean acidification, droughts, floods, and human health impacts.

69. Each COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO existing DEPARTMENT OF STATE plans, policies, strategies, or regulations pertaining to CLIMATE CHANGE that the Trump administration intends to eliminate, scale back, not enforce, or otherwise decide not to implement, from January 20, 2017 to the present.

70. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the removal of officials or employees of the DEPARTMENT OF STATE who had been working in the administration of former President Barack Obama and who, as part of their duties, were working on CLIMATE CHANGE, from January 20, 2017 to the present.

Dated: March 31, 2017

/s/ Philip L. Gregory

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CERTIFICATE OF SERVICE

I am employed in San Mateo County where service of the document referred to below occurred. I am over the age of 18 and not a party to the action. My business address is Cotchett, Pitre & McCarthy, LLP, San Francisco Airport Office Center, 840 Malcolm Road, Burlingame, CA 94010. I hereby certify that on this date, I served or caused to be served a true copy of the foregoing **Plaintiffs' Requests for Production of Documents to Defendant United States Department of State** by email to the addressees specified below.

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Exhibit 5 to Declaration of Sean C. Duffy

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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

KELSEY CASCADIA ROSE JULIANA; **XIUHTEZCATL TONATIUH M.**, through his Guardian Tamara Roske-Martinez; *et al.*,

Plaintiffs,

v.

The UNITED STATES OF AMERICA; **DONALD TRUMP**, in his official capacity as President of the United States; *et al.*,

Federal Defendants.

Case No.: 6:15-cv-01517-TC

JOINT STATUS REPORT AS OF APRIL 3, 2017

At the Rule 16 Conference on February 7, 2017, the Court and counsel for the parties agreed to monthly status conferences, where the Court would be apprised on the status of discovery and counsel for the Parties would bring new matters to the Court's attention. Counsel for the parties have conferred on the following issues: the Intervenor Defendants' Answer and Plaintiffs' Request for Admissions related to the Federal Defendants' Answer; the pending Motions to Certify and Stay; Requests for Production; Requests for Admissions; Initial Expert Disclosures; and Future Fact Discovery.

The Parties hereby submit their Joint Status Report.

1. The Intervenor Defendants' Answer

A. Plaintiffs' Section:

By denying virtually all of the First Amended Complaint's allegations of fact based on alleged lack of sufficient information and knowledge, the answer filed by the Intervenor Defendants on December 15, 2016 did nothing to narrow disputed issues of fact. During the February 7 and March 8 Status Conferences, the Court raised concerns that denials by the Intervenor-Defendants (based on insufficient information or belief) in their answer could impede Plaintiffs' ability to prove their claims, if the Intervenor-Defendants were to challenge issues that the Federal Defendants admitted in their answer to the First Amended Complaint. To date, counsel for the Intervenor Defendants have refused to take a position, stating that he "did not know" what position the Intervenor Defendants would take as to matters admitted by the Federal Defendants. There remains no firm answer to the Court's question: Whether the Intervenor Defendants will contest admissions that the United States makes in this litigation?

On February 15, 2017, counsel for Plaintiffs wrote counsel for the Intervenor Defendants about the deficiencies in the answer and attached a summary of the

admissions made by Federal Defendants in their answer to Plaintiffs' First Amended Complaint. On March 24, 2017, Plaintiffs propounded Requests for Admissions directed to the central allegations in the First Amended Complaint, which Federal Defendants admitted and the Intervenor Defendants claimed a "lack of sufficient knowledge to admit or deny."

B. Intervenor Defendants' Section:

Intervenor Defendants' Answer complies with all requirements of the Federal Rules. At a previous status conference, the Court suggested that Plaintiffs could use Requests for Admission to seek to narrow the disputed facts at issue in the case. On March 24, 2017, Plaintiffs' served nearly 100 Requests for Admission, and Intervenor Defendants are in the process of responding to those requests. While Intervenors continue to believe that their position on the allegations in the First Amended Complaint is not relevant to any of plaintiffs' claims, these responses should help narrow the disputed issues, insofar as possible, in the manner suggested by the Court.

2. Motions to Certify and for a Stay

A. Plaintiffs' Section:

Both the Federal Defendants and the Intervenor Defendants have filed Motions for: Interlocutory appeal and stay pending appeal; Expedited consideration of the motion for interlocutory appeal; and a stay of all discovery during the pendency of the interlocutory appeal process and expedited hearing on that motion to stay.

Plaintiffs' oppositions to these motions are due April 3, 2017.

If this Court sets Defendants' Motions to Certify and to Stay for oral argument, Plaintiffs would request that the hearing be conducted in person, with the availability of

counsel to appear by telephone if they so wish. Counsel for Plaintiffs are unavailable for a hearing from April 21 to April 28.

B. Federal Defendants' Section:

Federal Defendants will file a reply brief in support of their motion for interlocutory appeal on April 10. 2017. Federal Defendants initially requested a decision on these motions by April 10, but the Plaintiffs sought and received a two-week extension of their response deadline. Federal Defendants now request a decision by April 17. Federal Defendants' believe that the issues briefed are familiar to the Court and the parties and therefore additional oral argument is unnecessary. Expedited consideration is requested because the proceedings in this case — and particularly the significant discovery burden— continue to disrupt normal agency operation.

C. Intervenor-Defendants' Section:

Intervenors believe that time is of the essence in ruling on the motions for interlocutory appeal. Intervenors do not believe a hearing is necessary but of course will participate if the Court believes that a hearing would be helpful to its consideration of the pending motions. Intervenors will file their reply brief in support of the motion for interlocutory appeal on April 10, 2017.

3. Discovery Issues

A. Plaintiffs' Section:

Simplifying Discovery: Plaintiffs have received this Court's guidance that the goal is to simplify this case from a case management perspective. As this Court stated at the February 7 Status Conference: "this case is mainly going to be guided by expert testimony in terms of the main issue." On March 24, 2017, Plaintiffs commenced early disclosure of their expert witnesses by identifying their experts and providing short summaries of the

content of their experts' testimony. Plaintiffs will disclose additional experts on a rolling basis if necessary, as discovery proceeds. Plaintiffs have also been serving focused document requests on Defendants. Plaintiffs intend to have completed all initial requests for production of documents by April 7, 2017. On March 24, 2017, pursuant to Local Rule 30-2, Plaintiffs also initiated a meet and confer process on Defendant depositions Plaintiffs intend to notice, by providing counsel for Defendants a list of deponents.

Phased Discovery: Discovery will focus primarily on two aspects of the case: (a) Defendants' knowledge that key federal policies and decisions were made in knowing disregard of their climate consequences; and (b) climate science. Plaintiffs do not believe discovery should be conducted in phases or be limited to or focused on particular issues.

Status of Discovery Propounded to date:

To date, Plaintiffs have propounded the following discovery:

DATE PROPOUNDED	DATE RESPONSES DUE	PARTY OR PARTIES	TITLE	STATUS
12/28/2017		API	Plaintiffs' Notice of Deposition of Rex Tillerson	To be re- noticed
1/20/2017	5/6/2017	EOP, EPA	First Set of Requests for Admission to Defendants Executive Office of the President and the Environmental Protection Agency	On March 7, 2017, Plaintiffs sent additional definitions for these Requests for Admission.
2/17/2017	3/23/2017	API	Request for Production of Documents to American Petroleum Institute	On March 20, 2017, Intervenor Defendants responded without producing any documents, only serving objections.
2/21/2017	5/6/2017	All Federal Defendants	Requests for Production of Documents to Federal Defendants (documents from Presidential Libraries)	
3/7/2017	4/6/2017	All Intervenor Defendants	Request for Production of Documents	
3/7/2017	5/6/2017	All Federal Defendants	Second Set of Requests for Production of Documents to	

			Federal Defendants (documents from Presidential Libraries)	
3/7/2017	5/6/2017	EOP, DT	Request for Production of Documents to Defendants Executive Office of the President and President Donald Trump	
3/17/2017	4/16/2017	API	Third Set of Requests for Production of Documents to American Petroleum Institute (re: "Wayne Tracker" emails)	
3/17/2017	5/16/2017	All Federal Defendants	Third Set of Requests for Production of Documents to Federal Defendants (re: "Wayne Tracker" emails)	
3/24/2017	4/23/17	All Intervenor Defendants	Request for Admission to Intervenor Defendants	
3/31/2017	5/1/2017	USDA	Request for Production of Documents to Defendant United States Department of Agriculture	
3/31/2017	5/1/2017	USDOD	Request for Production of Documents to Defendant United States Department of Defense	
3/31/2017	5/1/2017	State	Request for Production of Documents to Defendant United States Department of State	

Informal Methods of Obtaining Information: In developing their discovery plan, Plaintiffs have been conducting informal discovery in order to limit the scope of formal discovery. To ensure ongoing access to data and information relevant to Plaintiffs' claims from Defendants, on January 24, 2017, counsel for Plaintiffs sent a document preservation and litigation hold letter to all Defendants. Defendants have yet to provide any written response to the January 24, 2017 letter. Plaintiffs continue to request assurance that counsel for Defendants have taken the appropriate steps to insure that all potentially relevant information and data have been and are being preserved.

Specifically, Plaintiffs have requested that Defendants produce the document preservation/litigation hold letters that counsel for Defendants have stated were sent by the

General Counsels to the various Defendant Departments and Agencies. Plaintiffs seek to review these letters in an effort to ensure that direction given to Defendants is adequate and to address counsel for Defendants' concerns about the breadth of Plaintiffs' litigation hold/document preservation letter. Defendants have not produced any of these letters.

Discovery as to the Intervenor Defendants: The Intervenor Defendants take the position that they should not be subject to fact discovery. In a Status Report, the Intervenor Defendants stated they "do not intend to propound fact discovery (document production request, interrogatories, requests for admission) to either the Plaintiffs or the Federal Defendants." The Intervenor Defendants indicated they would, however, engage in expert discovery. Plaintiffs believe the Intervenor Defendants should be subject to discovery as parties. That is the basis on which they intervened in this case: "Proposed Intervenor-Defendants should also be allowed to participate as full parties with no court-imposed limits on discovery, briefing page limits, or agreements not to address the same arguments as Defendants make." Reply in Support of Proposed Intervenor-Defendants' Motion to Intervene, ECF 37 at 17. Because the Intervenor Defendants sought "to intervene in all phases of litigation asserting that once liability is established, the harm to their interests will be complete" (ECF 50 at 4), the Intervenor Defendants should be subject to fact discovery.

Resolving Discovery Disputes: Plaintiffs request guidance from the Court on handling discovery issues going forward. For example, Plaintiffs propounded Requests for Production on the Intervenor Defendants. On March 20, 2017, the Intervenor Defendants responded without producing any documents, only serving numerous objections. A copy of that response is attached as **Exhibit 1**. While Plaintiffs will meet and confer with the Intervenor Defendants, assuming that issues remain, should

Plaintiffs then proceed by way of a Motion to Compel under Local Rules 26-3 and 37, a letter brief, or a telephone conference?

B. Federal Defendants' Section:

Discovery in this matter should temporarily be held in abeyance. There are two principal grounds for this proposed suspension of discovery.

First, all discovery in this matter should await a decision by the Court on Federal Defendants' Motion for Interlocutory Appeal and Motion to Stay (ECF Nos. 120 & 121). Federal Defendants request a decision on these motions by April 17. Resolution by the Ninth Circuit Court of Appeals of the controlling questions raised by Federal Defendants' Motion for Interlocutory Appeal in favor of the United States would dispose of the claims before the Court. Discovery in such a case would not merely be unnecessary but improper in the first instance. Given that the legal issues presented in Federal Defendants' Motion for Interlocutory Appeal are dispositive, it is entirely proper for discovery to await their resolution.

Second, Plaintiffs have not made any serious effort to narrow the scope of discovery. As discussed below, the discovery propounded to date — and the discovery that Plaintiffs have indicated they intend to propound in the future — is extraordinarily broad and intrusive, and will unnecessarily draw out the discovery process. Plaintiffs' proposed inquiry into decades of information related to climate change would require substantial effort and would place an undue burden on the agencies that gather and analyze climate-change related data. Moreover, Plaintiffs' have indicated that they intend to notice the deposition of twelve 30(b)(6) depositions, including a 30(b)(6) deposition on the Executive Office of the President.

In addition, Plaintiffs have indicated that they intend to depose four Cabinet-level

Secretaries (or the equivalent) and other high level Executive branch officials. This is entirely improper. Depositions of high level executive officials are impermissible absent "extraordinary circumstances," that is, only when the party seeking testimony establishes that the official's testimony is both essential to the case and not obtainable from another source. Moreover, all discovery propounded on the Office of the President and other components of the Executive Office of the President lacks foundation given that a suit directly against the President for injunctive relief cannot lie. (ECF No. 120-1 at 17). In short, because discovery in this matter will impose immense burdens, it should await the resolution of Federal Defendants' Motion for Interlocutory Appeal and Stay.

At the very minimum, the Court should move all outstanding discovery deadlines to May 8. This would allow time for the resolution of Federal Defendants' Motion for Interlocutory Appeal and Stay and could alleviate the immediate press of the massive discovery burden imposed by Plaintiffs' outstanding requests.

Fact Discovery

To date, Plaintiffs propounded on Federal Defendants: (1) Requests for Admission (responses due May 8); and (2) four Requests for Production (responses due May 8 and April 17). Federal Defendants continue to coordinate with their agency clients and the National Archives and Records Administration (NARA) on responding to these requests. In connection with two of the outstanding Requests for Production, Plaintiffs seek documents from Presidential libraries that are (1) covered by the Presidential Records Act and that may not be disclosed absent a waiver from the current White House and the White House from which the document originated; (2) classified materials that must undergo a lengthy declassification process before production; and (3) EPA records that NARA has not yet processed. With respect to the EPA records, NARA has determined that there are 388

cubic feet of records that are available in College Park, Maryland. Federal Defendants continue to work with NARA and will update Plaintiffs on a rolling basis as the status of the documents are determined and, where applicable, the production timeline is available.

On March 7, Plaintiffs propounded a third set of Requests for Production on President Donald J. Trump and the Executive Office of the President that demand, among other things, each document that "refers, relates, regards, or pertains to the issue of climate change" over numerous Presidential administrations. ECF No. 126-1. Federal Defendants' deadline to respond is May 8. As previously noted, for that request alone, the process of identifying, reviewing, and producing responsive documents will immediately require an enormous investment of time and resources that cannot feasibly be accomplished in an abridged period of fact discovery. ECF No. 126.

On March 17, Plaintiffs propounded a fourth set of Requests for Production to Federal Defendants and the American Petroleum Institute, an Intervenor-Defendant, requesting documents and communications that refer, relate, regard or pertain to climate change and energy policy between any Federal Defendant – defined broadly to include all employees of the Federal Defendants – and Rex Tillerson, including emails sent to or received from his alleged email address Wayne.Tracker@exxonmobil.com. Federal Defendants' deadline to respond is April 17.

In addition to the formal discovery discussed above, on March 24, Plaintiffs sent a "Meet and Confer" letter to Federal Defendants identifying six fact depositions and twelve 30(b)(6) depositions they propose scheduling. Specifically, Plaintiffs seek the depositions of the following agency heads: (1) Secretary Rex Tillerson (United States Department of State); (2) Administrator Scott Pruitt (EPA); (3) Secretary Rick Perry (United States Department of Energy); and (4) Secretary Ryan Zinke (United States Department of the

Interior). Plaintiffs also seek to depose two other officials: (5) C. Mark Eakin, Coordinator of National Ocean and Atmospheric Administration's Coral Reef Watch program, Satellite Oceanography & Climatology Division and (6) Michael Kuperberg, Executive Director, United States Global Change Research Program. With respect to the proposed 30(b)(6) depositions, Plaintiffs list twelve agencies and/or executive components that they seek to depose but do not indicate the proposed topics for such depositions.

Federal Defendants are conferring with their clients concerning Plaintiffs' proposed depositions. Federal Defendants note, however, it is an extraordinary and highly unusual measure to seek the deposition of a Cabinet-level Secretary and that such a demand —if made— requires a showing of exceptional circumstances. Federal Defendants further note that it will not be possible to meaningfully confer regarding the proposed 30(b)(6) depositions of 12 federal agencies until Plaintiffs identify the topics on which they will be seeking testimony; particularly because experience demonstrates that, depending upon the breadth of the topics, multiple deponents are often necessary to provide 30(b)(6) testimony on behalf of a single federal agency.

Finally, Federal Defendants continue to work with each of their clients on document preservation and have begun bi-weekly meetings with their clients to remain apprised of ongoing document preservation efforts. However, Federal Defendants do not agree that Plaintiffs are entitled to review letters containing guidance from Department of Justice counsel to the defendant agencies, as those letters are protected by the attorney-client privilege.

Expert Discovery

On March 24, Plaintiffs provided Federal Defendants with a list of eleven experts across numerous disciplines whom Plaintiffs may proffer under Fed. R. Civ. P. 26(a)(2).

Plaintiffs have also reserved the right to introduce new experts at a subsequent date. Given the immense scope of Plaintiffs' expert designations, Federal Defendants are, among other things, coordinating with their clients to identify appropriate rebuttal experts.

C. Intervenor Defendants' Section :

As Plaintiffs have stated, this action "relate[s] solely to harm caused by the actions (or inactions) of the Federal Defendants." Dkt. 33 at 19. Their Complaint "does not allege private parties, such as the [Intervenors], have any constitutional or public trust fiduciary obligations to Youth Plaintiffs." Id. at 17. The Intervenors were permitted to intervene in this case to protect their members' interests with regard to the alleged future damages and proposed remedies, but their presence in the case does not somehow convert irrelevant inquiries into permissible discovery. The discovery sought thus far by the Plaintiffs is improper and only adds needless complication and expense to a case that must be streamlined to have any chance of resolution in a reasonable timeframe.

Although the Plaintiffs give a passing acknowledgment to this Court's recognition that the case is "mainly going to be guided by expert testimony" and that the Court's goal is to "simplify the case from a case management perspective," Plaintiffs have done nothing of the sort.

For example, Plaintiffs have informed Defendants of their intent to immediately depose the Secretary of State, Administrator of the EPA, Secretary of Energy, Secretary of the Interior, Coordinator of NOAA, Executive Director of the U.S. Global Change Research Program, and 11 additional 30(b)(6) witnesses. They also seek to depose the CEO of API, the President of AFPM, the Director of NAM, and other witnesses from those entities.

Plaintiffs also say that they have served and will continue to serve "focused document requests." Yet, thus far, Plaintiffs have served dozens of requests for production,

many with no time limitation at all, and all of which seek documents not even potentially relevant here. For example,

- Plaintiffs' seek every document related to the membership of the Intervenor associations from their inception to today. For these associations, this will be decades of information and includes thousands of different members. It would be impossible for the associations to provide lists of all historical members and it would also be irrelevant. Plaintiffs have no basis to suggest that the name of every member—and every document related to their membership—is relevant to this case. Moreover, discovery into these sorts of matters is restricted by the First Amendment.
- Plaintiffs also seek every document related to API's computer systems and electronic data without any time limitation. This would include purchase orders, IT service information, and computer hardware specifications. Again, this sort of material is not relevant under any standard to any issue in this case.
- Plaintiffs also seek all documents related to the tax-exempt status of the Intervenor associations. The tax status of the associations is not at issue or of any relevance to Plaintiffs' claims.

These are just three examples of the egregious discovery requests, but they serve to highlight the irrelevant and overreaching nature of Plaintiffs' discovery.

This case is about laws and regulations enacted by the federal Defendants and scientific and economic information, which, as the Court said, will be mainly "guided by expert testimony." The conduct or knowledge of the Intervenor-Defendants is not relevant to any claim or any defense in this case. Intervenor-Defendants intervened in this action in

order to address expert issues regarding the alleged future impact of GHG emissions and the costs and benefits of proposed future remedies, including the legal sufficiency of the claims underlying those remedies. As the Court noted in granting the motion to intervene:

> Plaintiffs seek to phase out fossil fuel emissions. Proposed intervenors produce and/or rely on those fossil fuels. There is no question that the interests of proposed intervenors would be impaired through court mandated regulation that has the goal of eliminating emissions altogether.

Intervenors can and will respond to reasonable and appropriate discovery requests related to the matters actually at issue in this case for which intervention was granted by this Court.

Resolving Discovery Disputes

Plaintiffs have served broad and burdensome discovery requests on the Intervenor Defendants. Pursuant to Rule 26, Intervenor Defendants plan to file a motion for an order to put an end to Plaintiffs' harassing discovery practices. Intervenor Defendants will use a different procedure if the Court prefers another method to resolve the current and likely ongoing disputes.

4. Scheduling

A. Plaintiffs' Section:

Given the urgency of the climate crisis and in light of the well-publicized fact that the Federal Defendants are acting now to accelerate fossil fuel development, Plaintiffs are prepared to promptly complete discovery and will be ready for a court trial by November 2017. The Federal Defendants seek to delay discovery and trial. For example, the Federal Defendants suggested that fact discovery should remain open until 2019, ***over two years*** after this Rule 16 Conference and ***almost four years*** after the Complaint was filed and served.

PROPOSED DATES FOR THE SCHEDULING ORDER

April 24, 2017	DEFENDANTS' INITIAL DISCLOSURE OF EXPERTS
June 23, 2017	DISCOVERY MOTIONS ARE DUE TO BE FILED.
July 14, 2017	NON-EXPERT DISCOVERY IS TO BE COMPLETED.
June 23, 2017	EXPERT DISCLOSURES ARE DUE.
July 28, 2017	EXPERT DISCOVERY TO BE COMPLETED.
August 31, 2017	DISPOSITIVE MOTIONS ARE DUE TO BE FILED.

THE PRETRIAL ORDER IS DUE 45 DAYS AFTER DISPOSITIVE MOTIONS HAVE BEEN RULED ON OR BY **SEPTEMBER 8, 2017** IF NO DISPOSITIVE MOTIONS ARE FILED.

THE JOINT ADR REPORT IS DUE 45 DAYS AFTER DISPOSITIVE MOTIONS HAVE BEEN RULED ON.

B. Defendants' Section:

Plaintiffs' proposed schedule is wholly infeasible. Plaintiffs' suggestion that expert and fact discovery on over six decades of information and on complex scientific topics can occur in a matter of mere months is without precedent. Plaintiffs' actions make plain that they themselves are not serious about the very schedule they propose. The discovery Plaintiffs have thus far propounded or indicated that they intend to propound in the future reflects an extraordinarily intrusive and an exceptionally expansive discovery process. For example, Plaintiffs have indicated that they intend to notice at least twelve 30(b)(6) depositions with an as-yet undisclosed number of topics for each such deposition. If those topics parallel the scope of the requests for production and the requests for admission already propounded, the resources required to prepare and defend such depositions will be immense. Moreover, if Plaintiffs' January 24 Litigation Hold Letter is any indication, the

scope of the topics in those 30(b)(6) depositions could be sweeping in their breadth. In that letter, Plaintiffs demand that Federal Defendants preserve any and all documents and records related to the claims in the complaint, including, *inter alia* all documents and records "related to climate change since the Federal Defendants or the Intervenor Defendants (and their member companies) became aware of the possible existence of climate change." Pls.' Jan. 24, 2017 Litigation Hold Demand Letter at 5 (attached as Ex. A). Plaintiffs cannot have it both ways: they cannot seek a trial of this magnitude but propose a timeframe more appropriate for a simple tort action. In light of this, and in light of the pending Motion for Interlocutory Appeal, Federal Defendants believe that it is premature to establish a schedule for discovery at this juncture.

C. Intervenor-Defendants' Section:

Given the broad swath of discovery Plaintiffs seek, Intervenor-Defendants do not view Plaintiffs' proposal as realistic or achievable. The discovery sought against the federal defendants alone would likely take at least two years to complete. Because there are dispositive issues to present to the Court of Appeals at this time, discovery should be stayed until those issues can be decided.

DISCOVERY PLAN

A. Plaintiffs' Section:

Initial disclosures: Plaintiffs do not believe that initial disclosures need to be exchanged.

Phased Discovery: Plaintiffs do not believe that discovery should be conducted in phases or be limited to or focused on particular issues.

Number of Depositions: Plaintiffs believe ten depositions per side would be insufficient to provide full discovery in this case. It is important that Plaintiffs have an

opportunity to thoroughly develop a complete record through discovery and be able to identify the most knowledgeable witnesses. Not only will this allow Plaintiffs to present a case before the Court at trial as completely and efficiently as possible, it will narrow the issues.

To achieve these general goals, Plaintiffs believe the specifics of this case require 35 substantive fact depositions per side. Given the number of federal agency defendants and third parties who possess discoverable information, including companies doing business in the fossil fuel industry and consultants to the Federal Defendants and the Intervenor Defendants, Plaintiffs respectfully request this Court order that, absent good cause shown, and notwithstanding Federal Rule of Civil Procedure 30(a)(2)(A)(i), the parties may take up to, but no more than, 35 depositions per side (excluding experts). For the purpose of this request, a deposition of a party or non-party taken pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure shall count as one deposition, regardless of the number of witnesses presented to address the matters set forth in the notice. Additionally, depositions taken for the sole purpose of establishing the authenticity and admissibility of documents should not count against the 35 deposition limit. Finally, Plaintiffs believe each Party should have an opportunity to take the deposition of any individual who appears on the other Party's Federal Rule of Civil Procedure 26(a)(3) pretrial disclosures, without regard to whether the allotted depositions have been exhausted, so long as the deposing party did not have reasonable notice that the person might be a trial witness and so long as the person was not previously deposed.

Number of Interrogatories/Requests for Production/Requests for Admission: Plaintiffs believe that each party should be allowed to propound the following discovery to each other party: 100 interrogatories, 200 document requests, and unlimited requests

for admission.

Electronically Stored Information (ESI): Plaintiffs have complied with the requirements of LR 26-1 concerning ESI. Plaintiffs propose the parties agree and the Court enter a stipulation similar to the form attached hereto as **Exhibit 2**.

B. Defendants' Section:

As discussed above, it is premature to establish a schedule for discovery at this juncture. In light of the exceptional burden on Federal Defendants posed by these requests, discovery[1] should be held in abeyance until this Court resolves Federal Defendants' Motion for Interlocutory Appeal and Stay. Alternatively, all discovery deadlines should be moved to May 8, 2017.

C. Intervenor-Defendants' Section:

Plaintiffs' unreasonable and unrealistic approach to discovery is revealed by their discovery plan, in which they propose the Parties to complete, by July 14, 2017, fact discovery, which Plaintiffs claim should include "100 interrogatories, 200 document requests, and unlimited requests for admission" and up to 35 individual fact depositions, including 30(b)(6) depositions where a noticed 30(b)(6) deposition "shall count as one deposition, regardless of the number of witnesses presented to address the matters set forth in the notice." And, that is just the Plaintiffs' fact discovery. A case of this magnitude would take at least two years to get ready for trial and cost millions of dollars in the process. All of this time, money, and effort will be wasted if, on appeal, the Ninth Circuit Court of Appeals finds that the Plaintiffs' suit is barred for the reasons stated in the Federal Defendants' and Intervenor-Defendants' Motions for Interlocutory Appeal. The Intervenor-

[1] By discovery, Federal Defendants specifically refer to requests for production, requests for admissions, interrogatories and depositions. Federal Defendants are complying with appropriate document preservation obligations.

Defendants submit to the Court that Plaintiffs' proposed discovery plan highlights the need for immediate appellate review and a stay of discovery.

JOINT STATUS REPORTS

A. Plaintiffs' Section:

This Court previously ordered the parties to meet and confer and submit a Joint Status Report. On Wednesday, March 29, Plaintiffs circulated their section of this Joint Status Report. Plaintiffs did not receive the Federal Defendants' sections until March 31 and did not receive the Intervenor Defendants' sections until April 3. A copy of those emails are attached as **Exhibit 3**. Further, during a purported "meet and confer" telephone conference on March 31, 2017, counsel for both sets of Defendants said they did not have approval from their clients to share their sections of the joint report with Plaintiffs. Instead, Intervenors requested additional time to exchange their sections for the joint report. As a result, Plaintiffs were unable to meaningfully meet and confer regarding Defendants' sections before submission of this Joint Status Report. Plaintiffs would request this Court issue an order along the following lines: (1) At least 10 days before a Joint Status Conference, the parties will exchange their respective sections of the Joint Status Report: (2) At least 8 days before the Joint Status Conference, counsel for the parties shall meet and confer about any issues to be raised in the Joint Status Conference; and (3) At least 7 days before a Joint Status Conference, the parties shall submit a Joint Status Report.

B. Federal Defendants' Section:

Federal Defendants have agreed to file a Joint Status Report one week prior to status conferences to give the Court the opportunity to understand the parties' positions prior to the hearing. Federal Defendants will continue to agree to this or any other arrangement that facilitates the Court's understanding of the issues. However, Federal Defendants do not

believe that it is helpful or conducive to resolution of the issues to have the Court's active involvement in regulating the time and manner of conferral among counsel in the manner that Plaintiffs propose. Nor would this approach suit the needs of either the Court or the parties. Plaintiffs continue to propound discovery on a rolling basis and not on any particular schedule so far as Federal Defendants can discern. Indeed, in this case, Plaintiffs propounded substantial Requests for Production on the Department of State, the Department of Defense, and the Department of Agriculture on the evening of Friday, March 31, after the close of business in Washington, D.C.

While Plaintiffs' claim that they were unable to meaningfully meet and confer prior to filing this Joint Status Report, this claim is not supported by the facts. Counsel for Federal Defendants met and conferred with Plaintiffs in good faith on two occasions—on Thursday, March 30, and again on Friday, March 31. And in the latter case, Federal Defendants agreed to confer at a time that presented a conflict for Federal Defendants' undersigned counsel in order to accommodate Ms. Olson's schedule. Federal Defendants have and will continue to meet and confer in good faith going forward.

C. Intervenor-Defendants' Section:

The Intervenor-Defendants agree with the position of the Federal Defendants as set forth above. The Intervenor-Defendants will participate in any case management procedure that would be helpful to the Court, but do not believe having Court involvement in the time and manner of conferrals among the Parties will be productive. The impediment to meaningful conferrals among the Parties at this juncture is the fundamental disagreement between the Plaintiffs and the Defendants regarding the appropriate scope of discovery in this case.

Dated: April 3, 2017

By: /s/*Julia A. Olson*
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Dated: April 3, 2017

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ATTESTATION OF FILING

I, Julia A. Olson, hereby attest, pursuant to District of Oregon, Local Rule 11(d), that consent to the filing of this document has been obtained from each signatory hereto.

/s/ *Julia A. Olson*
JULIA A. OLSON

Exhibit 6 to Declaration of Sean C. Duffy

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF OREGON

3 THE HON. THOMAS M. COFFIN, JUDGE PRESIDING

4

5

6 KELSEY CASCADIA ROSE JULIANA, et)
al.,)
7)
Plaintiffs,)
8)
v.) No. 6:15-cv-01517-TC
9)
UNITED STATES OF AMERICA, et al.,)
10)
Defendants.)
11 _____)

12

13

14 REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 EUGENE, OREGON

16 FRIDAY, APRIL 7, 2017

17 PAGES 1 - 40

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22 Kristi L. Anderson
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24 Eugene, Oregon 97401
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1 effectively adds up to millions.
2 I mean, the recent request for production
3 propounded on the State Department alone seeks from every
4 employee within the State Department, you know, documents
5 over the course of the past five decades related to climate
6 change.
7 THE COURT: Okay.
8 MS. PIROPATO: The State Department is a large
9 entity, and they are looking into it to give me more
10 specifics in connection with a potential motion for
11 protective order.
12 But the response I got was it's unfathomable how
13 we are going to do this in a reasonable time frame because
14 we are talking about that many documents, Your Honor.
15 THE COURT: Okay. Well, my impression in
16 combining these document requests on the one hand with the
17 admissions made by the government on the other hand, and
18 this is why I asked Mr. Duffy to explain whether or not the
19 government was somehow going to try to retract some of these
20 admissions because -- and I don't know that you can
21 successfully do that, so I am not expressing an opinion on
22 that at this time.
23 But my thought was given the admissions of the
24 government that are here in the record and to summarize the
25 significance of those admissions, the government is

1 to act like we are going to respond to them. That is our
2 legal obligation. So I just want to be clear that we are
3 really being put in a pickle.
4 THE COURT: I lost you.
5 MS. PIROPATO: Oh. I am sorry.
6 I want to be clear that we are fine with meeting
7 and conferring with plaintiffs. We think it would be
8 useful. We will do so in person to the extent that everyone
9 thinks that would be the best path forward and we'll work
10 that out.
11 But I do want to emphasize, until such time as
12 there is an agreement among the parties, the United States
13 must assume that it needs to respond to the requests as
14 propounded, which is, as I said, an onerous burden. So we
15 believe we have to do the expert identification process and
16 at the same time respond to the requests so that our clients
17 are not in the position where they could be sanctioned
18 because the existing deadlines currently are within a month,
19 and that is something that hangs heavy above our clients.
20 THE COURT: Well, I will do this for you:
21 I will extend the deadlines until after you meet
22 and confer, and so -- because I don't want you to be
23 propounding answers to demands for production that maybe are
24 sliced down to -- and eliminated, and so I won't know that
25 and you won't know that until after you meet and confer.

1 And then -- so we will add that time to the deadlines that
2 have been proposed so you don't lose any time waiting for a
3 meet and confer.
4 Does that make sense?
5 MS. PIROPATO: That would be helpful. Thank you,
6 Your Honor.
7 THE COURT: Okay.
8 MR. VOLPE: It would, Your Honor. This is Frank
9 Volpe.
10 So the intervenor defendants are prepared shortly
11 to file what is essentially a motion for protective order
12 related to discovery. I take it the judge would like us to
13 wait until we have this meet and confer before we file.
14 THE COURT: Yeah, absolutely. Absolutely. See
15 what you can work out among yourselves.
16 MR. VOLPE: Okay.
17 THE COURT: And then you can file your motion if
18 it hasn't worked out to your satisfaction.
19 And I hope I have given everybody some direction
20 today because I just -- you know, right now what I am
21 presented with is a proposed schedule that is contradicted
22 by, you know, the different objectives that are being
23 pursued in discovery, and I understand the defendants'
24 practical problems in trying to meet a compressed trial
25 schedule while at the same time having to deal with a

Exhibit 7 to Declaration of Sean C. Duffy

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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

KELSEY CASCADIA ROSE JULIANA; **XIUHTEZCATL TONATIUH M.**, through his Guardian Tamara Roske-Martinez; *et al.*,
Plaintiffs,
v.
The UNITED STATES OF AMERICA; **DONALD TRUMP**, in his official capacity as President of the United States; *et al.*,
Federal Defendants.

Case No.: 6:15-cv-01517-TC

JOINT STATUS REPORT AS OF MAY 12, 2017

On May 4, 2017, counsel for the parties met and conferred for a full day in person in Portland, Oregon. The parties conferred on the following topics and hereby respectfully provide this joint status report to inform the court of the status of discovery and other pending or upcoming motions.

Defendants' Motions for Interlocutory Appeal and Stay

On May 5, 2017, Federal Defendants filed objections to Magistrate Judge Coffin's May 1, 2017 Findings and Recommendations ("F&Rs"). On May 9, 2017, Intervenor Defendants filed objections to the F&Rs. Plaintiffs will file their response to Federal Defendants' Objections by May 19, 2017 and to Intervenor Defendants' Objections by May 23, 2017, pursuant to Fed. R. Civ. P. 72 and Magistrate Judge Coffin's Findings and Recommendations. Federal Defendants have asked the Court to expedite consideration of the objections and issue a decision by May 19, 2017. Plaintiffs oppose expedited review and Intervenor Defendants do not oppose.

On May 9, 2017, Federal Defendants filed objections to Magistrate Judge Coffin's denial of their motion to stay and have asked the Court to expedite consideration of that motion. Plaintiffs oppose expedited review and Intervenor Defendants do not oppose. Plaintiffs will file their response to these objections on May 23, 2017.

Plaintiffs' Requests for Production of Documents

Intervenor Defendants objected to Plaintiffs' requests for production of documents and the parties have conferred on those requests. Plaintiffs agreed to narrow the requests to address Intervenor Defendants' concerns of overbreadth. However, the parties disagree as to whether the requests, even when narrowed, are relevant to the claims in the case and will need to brief the issue for the Court's resolution.

Federal Defendants have not formally served objections to Plaintiffs' requests for production of documents. Federal Defendants and Plaintiffs have conferred regarding Federal Defendants' concerns with regard to the scope of the requests for production of documents and possible claims of deliberative process and/or executive privilege. Federal Defendants agreed to produce documents related to the organizational structure of the State Department. Plaintiffs agreed to narrow their other requests temporally, to certain agency personnel, and as to types of documents.

Federal Defendants' position is that Plaintiffs have stated an intent to propound new RFPs on the Executive Office of the President, the Department of State, the Department of Defense, and the United States Department of Agriculture on May 15. Those new RFPs would supplant Plaintiffs' previous RFPs on those Federal Defendants. The parties will then meet and confer. Defendants reserve their right to assert all privileges, including deliberative process and executive privilege as appropriate. During a call with counsel on May 11, Plaintiffs stated that they needed to review Federal Defendants' objections to the initial RFPs before they could file narrowed requests. Federal Defendants offered to provide objections by June 1, after which Plaintiffs would provide narrowed requests. Following the call, Plaintiffs counter-offered to provide narrowed RFPs on May 15 if Federal Defendants would respond by June 5. Narrowed RFPs that supplant the original RFPs would render objections to the former futile. Because Federal Defendants have not yet seen the narrowed RFPs, they are unable to commit to a shortened timeline (*i.e.* June 5) for their response to such narrowed RFPs.

Plaintiffs, however, disagree with Defendants on this point and their position is that, during a call with counsel on May 11, Federal Defendants offered to provide written

responses to the requests Plaintiffs have already served by June 1. Plaintiffs then offered by May 15 to narrow the requests to which Federal Defendants need respond and offered to give Federal Defendants until June 5 to provide their written responses. After counsel initially agreed to this, Federal Defendants ultimately would not agree to this. Plaintiffs request that either: 1) Federal Defendants provide written objections to the RFPs already served by June 1; or 2) Plaintiffs send a narrowed list of those requests by May 15, to which Federal Defendants would have until June 5 to respond.

Plaintiffs have offered to go to NARA libraries to review 388 boxes of records from the Environmental Protection Agency ("EPA") that are located in College Park, Maryland, and other boxes of documents that Federal Defendants make available at NARA facilities. Federal Defendants continue to work with NARA and will update Plaintiffs on a rolling basis as to the status of the documents and whether they can be produced even where protected and/or classified. Federal Defendants will provide Plaintiffs with an update on the timeline regarding any assertions of presidential privilege.

Depositions

Plaintiffs seek to depose cabinet level officials as well as the heads of Intervenor Defendants. All Defendants object to these depositions and will seek a protective order. The parties will need this issue resolved by the Court. Intervenor Defendants indicated that they would likely allow the individuals that filed declarations with their motion to intervene or 30(b)(6) witnesses on the topics contained therein to be deposed. Plaintiffs and Intervenor Defendants will discuss this further.

After meeting and conferring, on May 11, 2017, Plaintiffs noticed the depositions of two federal government employees: C. Mark Eakin, Coordinator of National Ocean and

Atmospheric Administration's Coral Reef Watch program, Satellite Oceanography & Climatology Division; and Michael Kuperberg, Executive Director, United States Global Change Research Program. Federal Defendants stated they would not raise the same objections to these depositions as to the cabinet level defendants but reserve the right to object on other grounds. Federal Defendants explained that these two witnesses may not be 30(b)(6) designees of the Federal Defendants, which Plaintiffs acknowledged.

Plaintiffs have provided a list of preliminary proposed topics for Rule 30(b)(6) depositions and have conferred with Defendants, who requested that the topic areas be limited. Plaintiffs will formally notice the depositions before the end of May. All Defendants reserve all objections until they are able to review the formal 30(b)(6) notices of deposition.

The Federal Defendants intend to depose each of the named Plaintiffs for purposes, among others, of exploring each named Plaintiff's standing.

Plaintiffs' Request for Admissions

Federal Defendants and Plaintiffs have previously conferred on the Requests for Admission to the EOP and EPA. Responses to the Requests for Admission are due by May 31, 2017. Federal Defendants have not yet determined whether they will provide substantive responses, objections, or a combination thereof in response to the RFAs.

Intervenor Defendants are working toward providing responses to Plaintiffs' Requests for Admission on Federal Defendants' answer, which are currently due by May 18, 2017. Intervenor Defendants have moved for an extension of time until June 7, 2017, to provide those responses. Plaintiffs oppose the motion for an extension of time.

Federal Defendants have reserved the right to move to amend yet have nothing

further to report on the issue.

Experts

Plaintiffs have disclosed the names of their experts and the subject matter of their testimony. Federal Defendants have spoken to potential experts who have not had an opportunity to review Plaintiffs' experts' opinions. Thus, Federal Defendants request that Plaintiffs' experts prepare their reports before Federal Defendants are required to disclose their experts. Plaintiffs do not agree to this sequencing. Intervenor Defendants intend to defer to Federal Defendants' experts on many issues, except perhaps regarding the feasibility of the remedy, and agree that having Plaintiffs' expert reports in advance of disclosing experts and having more clarity on what topics the Federal Defendants will offer expert testimony would be beneficial. The scope of admissions by Intervenor Defendants will help determine the scope of Plaintiffs' expert reports. Plaintiffs are working expeditiously with their experts to prepare expert reports.

The parties agree that they need a schedule for Plaintiffs' expert reports, Defendants' expert reports, and expert depositions, but have not yet agreed to a schedule.

Informal Methods of Obtaining Information

Plaintiffs assert that information, documents, and data related to climate change continue to be removed from websites maintained by Federal Defendants. Federal Defendants have agreed to provide to Plaintiffs documents that Plaintiffs can no longer locate on the internet, if Plaintiffs provide a list of such documents. The parties have not agreed to a timeframe for producing such documents.

Trial Schedule

Given Plaintiffs' concerns about the urgency of climate change, Plaintiffs continue

to prepare for a late 2017 trial date, and believe that if a discovery schedule is set and adhered to by the parties, the parties will be ready for trial this year. As previously briefed, Defendants believe that this matter should be stayed and, if no stay is granted, that a trial schedule should not be set until this Court resolves some of the present discovery disputes and the scope of the issues to be decided at trial. Defendants also believe that a late 2017 trial date is wholly unrealistic given the extraordinary scope of this matter.

Protective Order

Defendants' Position:

Plaintiffs assert that a protective order is necessary to protect named Plaintiffs. Federal Defendants and Intervenor Defendants are willing to negotiate a protective order that is tailored to meet Plaintiffs' concerns. Those negotiations have not occurred nor have the parties drafted a proposed protective order to aid their discussions. Federal Defendants reiterated their willingness to confer as to the appropriate scope of any protective order during the May 4 meet and confer.

Plaintiffs' Position:

It is Plaintiffs' position that all counsel had previously agreed to protect information obtained about all the plaintiffs in discovery, such as their deposition testimony, via a protective order. During the February 7 case management conference, Defendants explicitly agreed to a protective order (ECF 115, at 43-44). During the May 4 meet and confer, the parties agreed to confer as needed to determine whether certain portions of deposition testimony Defendants wish to use in briefing, can be exempted from the protective order to avoid having entire briefs filed under seal. Defendants now appear to be walking back from what they agreed to at the February 7 case management conference and May 4 meet and

confer. Plaintiffs find this very troubling, especially in light of the threats the Plaintiffs unjustly receive as a result of being plaintiffs in this case.

Status of Discovery Propounded to Date

Plaintiffs have propounded the following discovery:

DATE PROPOUNDED	DATE RESPONSES DUE	PARTY OR PARTIES	TITLE	STATUS
12/28/2017		API	Plaintiffs' Notice of Deposition of Rex Tillerson	To be re-noticed
1/20/2017	5/31/2017	EOP, EPA	First Set of Requests for Admission to Defendants Executive Office of the President and the Environmental Protection Agency	On March 7, 2017, Plaintiffs sent additional definitions for these Requests for Admission.
2/17/2017	3/23/2017	API	Request for Production of Documents to American Petroleum Institute	On March 20, 2017, Intervenor Defendants responded without producing any documents, only serving objections. Plaintiffs will narrow. Intervenor Defendants refuse to produce even when narrowed.
2/21/2017	5/6/2017	All Federal Defendants	Requests for Production of Documents to Federal Defendants (documents from Presidential Libraries)	No production yet.
3/7/2017	4/6/2017	All Intervenor Defendants	Request for Production of Documents	Plaintiffs will narrow
3/7/2017	5/6/2017	All Federal Defendants	Second Set of Requests for Production of Documents to Federal Defendants (documents from Presidential Libraries)	No production yet.
3/7/2017	Originally 5/6/2017 Court extended to after meet and confer process	EOP, DT	Request for Production of Documents to Defendants Executive Office of the President and President Donald Trump	See RFP section above
3/17/2017	4/16/2017	API	Third Set of Requests for Production of Documents to American Petroleum Institute (re: "Wayne Tracker" emails)	
3/17/2017	Originally 5/16/2017 Court extended to after meet and confer process	All Federal Defendants	Third Set of Requests for Production of Documents to Federal Defendants (re: "Wayne Tracker" emails)	
3/24/2017	5/18/17	All Intervenor Defendants	Request for Admission to Intervenor Defendants	

3/31/2017	Originally 5/1/2017 Court extended to after meet and confer process	USDA	Request for Production of Documents to Defendant United States Department of Agriculture	See RFP section above
3/31/2017	Originally 5/1/2017 Court extended to after meet and confer process	USDOD	Request for Production of Documents to Defendant United States Department of Defense	See RFP section above
3/31/2017	Originally 5/1/2017 Court extended to after meet and confer process	State	Request for Production of Documents to Defendant United States Department of State	See RFP section above

Dated: May 12, 2017

By: /s/*Julia A. Olson*
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Dated: May 12, 2017

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Dated: May 12, 2017

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Attorneys for Intervenor-Defendants

Certificate of Service

I hereby certify that on May 12, 2017, I filed the foregoing with the Clerk of Court via the CM/ECF system, which will provide service to all attorneys of record.

/s/ Sean C. Duffy
Sean C. Duffy

Attorney for Federal Defendants

Exhibit 8 to Declaration of Sean C. Duffy

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

THE HON. THOMAS M. COFFIN, JUDGE PRESIDING

KELSEY CASCADIA, ROSE JULIANA, et al.,
Plaintiffs,
v.
UNITED STATES OF AMERICA, et al.,
Defendants.

No. 6:15-cv-01517-TC

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EUGENE, OREGON

THURSDAY, MAY 18, 2017

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1 MS. OLSON: Your Honor, this is Julia Olson again.
2 I want to be clear that counsel represented during
3 our meet and confer that they have already been talking with
4 experts.
5 The intervenor defendants have as well. The
6 intervenor defendants have identified the experts of ours
7 whom they will bring experts to rebut.
8 I think that counsel can move forward with their
9 experts. Many of their experts are colleagues with our
10 experts and are very familiar with their work and what they
11 will put in their expert reports, and they have numerous
12 published papers.
13 So I hope that if we produce our expert reports by
14 July 1st that the tentative time line will become a final
15 order so that we can avoid further delay in the case.
16 THE COURT: Okay. Again, we can address this at
17 our in-person conference, and hopefully at that time it can
18 be concluded and we can give you a final order.
19 MS. OLSON: Thank you, Your Honor.
20 The next topic I wanted to address is the request
21 for production of documents and to let the court know and
22 counsel know that we have considered the written objections
23 of the intervenor defendants. We have considered the verbal
24 concerns stated by the federal defendants' counsel, and we
25 have been working to revise and narrow the requests that we

1 originally submitted, and we will, by tomorrow, have sent
2 out revised requests for production of documents to both the
3 intervenor defendants and the federal defendants.
4 And we would like to have their formal written
5 responses to those no later than 30 days from tomorrow
6 because based on our meet and confer, it's our understanding
7 that they are not going to produce documents. They are
8 going to object. They are going to assert privileges. They
9 are going to argue the documents are irrelevant. And we
10 need to tee this up for a dispute resolution by Your Honor.
11 THE COURT: All right. When you say they are
12 going to object and assert privilege, are you talking about
13 the intervenors?
14 MS. OLSON: Both the federal defendants and the
15 intervenor defendants.
16 THE COURT: All right. Well, I can't rule on that
17 in advance of seeing the objections, but what's the -- let's
18 take the intervenors first.
19 What's the intervenors' position on the request
20 for production? You haven't seen the narrowed request--
21 MR. VOLPE: Right.
22 THE COURT: -- but are you objecting to the
23 production of any documents as irrelevant?
24 MR. VOLPE: No, I am not. This is Frank Volpe on
25 behalf of the intervenors.

Exhibit 9 to Declaration of Sean C. Duffy

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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

KELSEY CASCADIA ROSE JULIANA; **XIUHTEZCATL TONATIUH M.**, through his Guardian Tamara Roske-Martinez; et al.

Plaintiffs,

v.

The UNITED STATES OF AMERICA; **DONALD TRUMP**, in his official capacity as President of the United States; et al.,

Federal Defendants.

Case No.: 6:15-cv-01517-TC

PLAINTIFFS' REVISED REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT THE UNITED STATES DEPARTMENT OF STATE

PROPOUNDING PARTIES: **PLAINTIFFS**

RESPONDING PARTY: **DEFENDANT UNITED STATES DEPARTMENT OF STATE**

SET NO: **REVISED SET FOUR**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure ("FRCP"), Plaintiffs request Defendant United States Department of State to produce the documents and materials specified below, within thirty (30) days of service, or at such other time and place, or in such other manner, as may be mutually agreed upon by the Parties. Production of documents shall be in accordance with the Instructions and Definitions set forth below and FRCP 34.

I. DEFINITIONS

A. As used herein, the terms "DOCUMENT" or "DOCUMENTS" mean any kind of written, graphic, or recorded matter, however produced or reproduced, of any kind or description, whether sent, received, or neither, including drafts, originals, non-identical copies, and information stored magnetically, electronically, photographically, or otherwise. As used herein, the terms "DOCUMENT" or "DOCUMENTS" include, but are not limited to, studies, papers, books, accounts, letters, diagrams, pictures, drawings, photographs, correspondence, telegrams, cables, text messages, emails, memoranda, notes, notations, work papers, intra-office and inter-office COMMUNICATIONS, contracts, financial agreements, grants, proposals, transcripts, minutes, orders, reports, recordings, documentation of telephone or other conversations, interview notes, committee minutes, meeting minutes, affidavits, slides, statements, summaries, opinions, indices, analyses, publications, policies, questionnaires, answers to questionnaires, statistical records, ledgers, journals, lists, logs, tabulations, charts, graphs, maps, surveys, data sheets, computer printouts, tapes, discs, microfilm, and all other

records or COMMUNICATIONS kept, regardless of the title, author, or origin. As used herein, the terms "DOCUMENT" or "DOCUMENTS" also include, but are not limited to, COMMUNICATIONS to, between, and among members, directors, employees, contractors, agents, or representatives.

B. As used herein, the phrase "REFERS, RELATES, REGARDS, OR PERTAINS TO" means containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing, constituting, comprising, evidencing, setting forth, summarizing, amending, or characterizing, either directly or indirectly, in whole or in part.

C. As used herein, the term "DEPARTMENT OF STATE," means Defendant United States Department of State and shall refer to any and all current and former principals, employees, agents, attorneys, consultants, ambassadors, consuls, secretaries, special envoys, coordinators, advisers, and other representatives of the United States Department of State, including all offices, bureaus, agencies, departments, and programs within the United States Department of State.

D. As used herein, "FEDERAL DEFENDANTS" means the defendants in this action, including: The UNITED STATES OF AMERICA; DONALD TRUMP, in his official capacity as President of the United States; The OFFICE OF THE PRESIDENT OF THE UNITED STATES; CHRISTY GOLDFUSS and any Successor, in her official capacity as Director of Council on Environmental Quality; JOHN MICHAEL MULVANEY, in his official capacity as Director of the Office of Management and Budget; DR. JOHN HOLDREN and any Successor, in his official capacity as Director of the Office of Science and Technology Policy; The UNITED STATES DEPARTMENT OF ENERGY; JAMES RICHARD PERRY, in his official capacity as Secretary of Energy; The UNITED STATES DEPARTMENT OF THE

INTERIOR; RYAN ZINKE, in his official capacity as Secretary of Interior; The UNITED STATES DEPARTMENT OF TRANSPORTATION; ELAINE CHAO, in her official capacity as Secretary of Transportation; The UNITED STATES DEPARTMENT OF AGRICULTURE; SONNY PERDUE, in his official capacity as Acting Secretary of Agriculture; The UNITED STATES DEPARTMENT OF COMMERCE; WILBUR ROSS, in his official capacity as Secretary of Commerce; The UNITED STATES DEPARTMENT OF DEFENSE; JAMES NORMAN MATTIS, in his official capacity as Secretary of Defense; The UNITED STATES DEPARTMENT OF STATE; REX TILLERSON, in his official capacity as Secretary of State; The UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; EDWARD SCOTT PRUITT, in his official capacity as Administrator of the EPA, and any and all of each FEDERAL DEFENDANT's current or former principals, predecessors, officers, directors, employees, agents, attorneys, consultants, and other representatives.

E. As used herein, the term "INTERVENOR DEFENDANTS" shall refer to defendants AMERICAN PETROLEUM INSTITUTE, NATIONAL ASSOCIATION OF MANUFACTURERS, AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS, previously referred to National Petrochemical & Refiners Association and National Petroleum Refiners Association, and their current or former principals, officers, directors, employees, agents, attorneys, consultants, and other representatives.

F. As used herein, the terms "AMERICAN PETROLEUM INSTITUTE" or "API" shall refer to Intervenor Defendant American Petroleum Institute, and to all of its current and former employees, agents, officers, directors, representatives, consultants, affiliates, members, accountants, and attorneys, including any PERSON who has served in any such capacity at any time.

G. As used herein, the term "NATIONAL ASSOCIATION OF MANUFACTURERS" or "NAM" shall refer to Intervenor Defendant National Association of Manufacturers, and to all of its current and former employees, agents, officers, directors, representatives, consultants, affiliates, members, accountants, and attorneys, including any PERSON who has served in any such capacity at any time.

H. As used herein, the term "AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS" or "AFPM" shall refer to Intervenor Defendant American Fuel & Petrochemical Manufacturers and to all of its current and former employees, agents, officers, directors, representatives, consultants, affiliates, members, accountants, and attorneys, including any PERSON who has served in any such capacity at any time.

I. As used herein, the term "COMMUNICATION," "COMMUNICATIONS," or "COMMUNICATE" means every manner or method of disclosure, exchange of information, statement, or discussion between or among two or more PERSONS, including, but not limited to, face-to-face and telephone conversations, correspondence, memoranda, telegrams, telexes, email messages, transcribed voice-mail messages, text messages, meetings, discussions, releases, statements, reports, publications, or any recordings or reproductions thereof. Unless otherwise specified in the requests, COMMUNICATIONS are limited to those within the custody of the Secretary of State, the Under Secretaries of State, the Assistant Secretaries of State, the offices within the Under Secretary for Economic Growth, Energy and Environment, the Office of Policy Planning, including the Bureau of Oceans, Environment and Science, the Office of Democracy, Human Rights, and Labor, the Office of the Special Envoy for Climate Change, the Office of Population, Refugees and Migration, and any other office, envoy, or bureau that works on the issue of CLIMATE CHANGE.

J. As used herein, the term "PERSON" means all individuals, entities, firms, organizations, groups, committees, regulatory agencies, governmental entities, business entities, corporations, partnerships, trusts, and estates.

K. As used herein, the term "CLIMATE CHANGE" shall mean any change in the state of the climate lasting for an extended period of time. In other words, the term "CLIMATE CHANGE" includes changes in surface and ocean temperature, precipitation, or wind patterns, among other effects, that occur over several decades or longer, attributed directly or indirectly to human activity. The term "CLIMATE CHANGE" shall include ocean acidification, sea level rise, and other impacts resulting from the increased concentration of greenhouse gases in the atmosphere and oceans. "CLIMATE CHANGE" also has been called inadvertent weather modification, the greenhouse effect, CO_2 problem, carbon dioxide problem, climate changes, GLOBAL WARMING, global change, global heating, atmospheric pollution by carbon dioxide or other greenhouse gases, and dilution of carbon 14 by fossil carbon.

L. As used herein, the term "GLOBAL WARMING" shall mean the rise in global average temperatures near Earth's surface. GLOBAL WARMING causes CLIMATE CHANGE but GLOBAL WARMING is only one aspect of CLIMATE CHANGE.

M. As used herein, the term "PREINDUSTRIAL GLOBAL AVERAGE TEMPERATURE" shall mean the 1890 global average temperature and global average atmospheric carbon dioxide concentration baselines and is the zero-point for temperature anomalies. The preindustrial era exemplifies the warmer interglacial periods of the Holocene, the era in which human civilization developed. This period is the earliest period with substantial global coverage of instrumental measurements.

N. As used herein, "ATMOSPHERIC CO_2 CONCENTRATION" shall mean the

global average atmospheric CO_2 concentration that is determined after analyzing air samples that are collected around the clock from "4 baseline observatories and 8 tall towers, air samples collected by volunteers at more than 50 sites, and air samples collected regularly from small aircraft mostly in North America." The elevation of these sampling locations varies.

O. As used herein, the term "ENERGY POLICY" is the manner in which an entity, including, but not limited to, any of the FEDERAL DEFENDANTS and any of the INTERVENOR DEFENDANTS, decide to address issues of energy development including energy production, distribution and consumption. Attributes of ENERGY POLICY may include, but are not limited to, legislation, international treaties, subsidies, incentives, guidelines for energy conservation or exploration, taxation, or other policy techniques related to energy.

II. INSTRUCTIONS

A. Please produce and permit the inspection and copying of the DOCUMENTS described below which are in the possession, custody, or control of DEPARTMENT OF STATE, or in the possession, custody, or control of any attorney, consultant, agent, or representative of DEPARTMENT OF STATE.

B. Electronically stored information ("ESI") shall be produced in its native form; that is, in the form in which the information was created, used, and stored by the native application employed by the producing party in the ordinary course of business. Near-native form is permitted; that is, in a form in which the item can be imported into an application without a material loss of content, structure, or functionality as compared to the native form. Compressed native files must be extracted and processed prior to delivery, including metadata which must be submitted with the corresponding native file. Metadata should be extracted from

the native files and submitted with a corresponding load file. The parties may produce information items as single page Tagged Image File Format ("TIFF") image files when practical to do so, such as in the case of producing scanned paper records or native files requiring redaction. Each TIFF file must be accompanied by a multi-page text load file.

C. For any DOCUMENT that DEPARTMENT OF STATE is required to produce in response to any of these requests, if such DOCUMENT is privileged, then DEPARTMENT OF STATE will:

a. Identify the title and general subject matter of the DOCUMENT;

b. State the date of the DOCUMENT;

c. Identify the author(s) of the DOCUMENT;

d. Identify the PERSONS for whom the DOCUMENT was prepared or to whom the DOCUMENT was sent;

e. State the nature of the privilege claimed; and

f. State in detail each and every fact upon which DEPARTMENT OF STATE bases a claim of privilege for the DOCUMENT.

D. The words "and" and "or" shall be construed in the conjunctive or disjunctive, whichever is most inclusive.

E. The singular form shall include the plural form and vice versa.

F. The present tense shall include the past tense and vice versa.

G. If any DOCUMENT cannot be produced in full, produce the DOCUMENT to the extent possible, indicating what information is being withheld and the reason such information is being withheld.

H. If a DOCUMENT once existed, but has been lost, destroyed, no longer exists, or

is no longer in the possession, custody, or control of DEPARTMENT OF STATE, identify each such DOCUMENT and separately state the details concerning the loss or destruction of the DOCUMENT, or the name and address of the current or last known custodian of the DOCUMENT, if known.

I. Every Request for Production herein shall be deemed a continuing Request for Production, and DEPARTMENT OF STATE is to supplement its response promptly if DEPARTMENT OF STATE subsequently obtains or discovers one or more responsive DOCUMENTS.

III. REQUESTS FOR PRODUCTION OF DOCUMENTS

1. DOCUMENTS that identify the current offices, Under Secretaries, and employees within the DEPARTMENT OF STATE with primary responsibility for work on CLIMATE CHANGE.

2. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO both Executive Order 13653: "Preparing the United States for the Impacts of Climate Change" (2013) and any CLIMATE CHANGE mitigation strategies of DEPARTMENT OF STATE.

3. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO President Trump's Executive Order: "Presidential Executive Order on Promoting Energy Independence and Economic Growth" (2017).

4. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO briefings on CLIMATE CHANGE that were given or presented to each Secretary of State from 1965 to the present.

5. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO briefings on CLIMATE CHANGE that were provided to an incoming Presidential administration from 1965 to the present, including, but not limited to, transition books, briefs, and memoranda.

6. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO briefings on CLIMATE CHANGE that were provided by an outgoing Secretary of State to an incoming Secretary of State from 1965 to the present, including, but not limited to, transition books, briefs, and memoranda.

7. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS between Secretary of State Rex Tillerson and any representative of any INTERVENOR DEFENDANT on the issue of CLIMATE CHANGE since January 20, 2017.

8. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS between Secretary of State Rex Tillerson and any representative of any INTERVENOR DEFENDANT on the issue of ENERGY POLICY since January 20, 2017.

9. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS between Secretary of State Rex Tillerson and President Donald Trump on the issue of CLIMATE CHANGE since January 20, 2017.

10. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS between Secretary of State Rex Tillerson and President Donald Trump on the issue of ENERGY POLICY since January 20, 2017.

11. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS from 2009 to the present with any representative of TransCanada regarding both the impacts on CLIMATE CHANGE of the Keystone XL Pipeline and the greenhouse gas emissions from fossil fuels to be transported by that pipeline.

12. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS from 2009 to the present with any representative of the Canadian government regarding both the impacts on CLIMATE CHANGE of the Keystone XL Pipeline and the emissions from fossil fuels to be transported by that pipeline.

13. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS with any representative of TransCanada regarding the United Nations Climate Change Conference in Copenhagen, including, but not limited to, COMMUNICATIONS to or from Paul Elliott.

14. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the 2016 decision to lift the ban on U.S. oil exports, including, but not limited to, COMMUNICATIONS about how the decision to lift the ban on U.S. oil exports would impact U.S. oil production and CLIMATE CHANGE.

15. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS with the Global Climate Coalition between 1989 and 2002 related to international CLIMATE CHANGE negotiations.

16. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO Circular 175 memoranda that were prepared for international CLIMATE CHANGE negotiations from 1979 to the present, including the Circular 175 memoranda and supporting DOCUMENTS.

17. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO positions, briefings, discussions, strategies, recommendations on CLIMATE CHANGE in conjunction with the First World Climate Conference in Geneva, Switzerland from February 12-23, 1979, including, but not limited to, each COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the Declaration of the World

Climate Conference, issued at the conclusion of the First World Climate Conference.

18. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS on the recommendation following the conference entitled "The Changing Atmosphere: Implications for Global Security," held in Toronto, Canada from June 27 to 30, 1988, that governments "[r]educe CO_2 emission by approximately 20% of 1988 levels by the year 2005 as an initial global goal."

19. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS to be taken at the conference entitled "The Changing Atmosphere: Implications for Global Security," held in Toronto, Canada from June 27 to 30, 1988, including, but not limited to, DOCUMENTS relating to COMMUNICATIONS with any of the INTERVENOR DEFENDANTS regarding the conference or its outcomes.

20. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the response of each of the FEDERAL DEFENDANTS to the conference entitled "The Changing Atmosphere: Implications for Global Security," held in Toronto, Canada from June 27 to 30, 1988, including, but not limited to, DOCUMENTS relating to the Call to Action and Action Plan adopted at the conference, records of attendance, participation by agency personnel, and COMMUNICATIONS with any of the INTERVENOR DEFENDANTS regarding the conference or its outcomes.

21. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS to or from John Sununu in 1989 pertaining to negotiations on a treaty that relates in whole or in part to CLIMATE CHANGE.

22. Each COMMUNICATION that REFERS, RELATES, REGARDS, OR

PERTAINS TO United Nations General Assembly Resolution A/RES/45/212, December 21, 1990, "Protection of Global Climate for Present and Future Generations of Mankind."

23. Each DOCUMENT and COMMUNICATION between 1991 and 1997 that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS on, or interpretation of, paragraph two of the preamble to the United Nations Framework Convention on Climate Change ("UNFCCC").

24. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS at the United Nations Negotiating Committee on Climate Change meeting in Washington, D.C., in February 1991, including, but not limited to COMMUNICATIONS regarding the White House "Action Agenda."

25. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS on, and interpretation of, the following clauses of Article 3.1 of the UNFCCC: "[t]he Parties should protect the climate system for the benefit of present and future generations of humankind . . . . Accordingly, the developed country Parties should take the lead in combating climate change the adverse effects thereof."

26. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO proposals and statements to other countries prior to the adoption of the agreed final text by each of the FEDERAL DEFENDANTS of the following clauses of Article 3.1 of the UNFCCC: "[t]he Parties should protect the climate system for the benefit of present and future generations of humankind . . . . Accordingly, the developed country Parties should take the lead in combating climate change the adverse effects thereof."

27. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS on, and interpretation of, Article 3.3 of the UNFCCC.

28. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS by each of the FEDERAL DEFENDANTS with any representative of any of the INTERVENOR DEFENDANTS prior to the adoption of the agreed final text of Article 3.3 of the UNFCCC.

29. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO scientific information on CLIMATE CHANGE and levels of atmospheric CO_2 and temperature increases underlying the position of any of the FEDERAL DEFENDANTS prior to the adoption of Article 3.3 of the UNFCCC.

30. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS on interpreting Article 2 of the UNFCCC.

31. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS by each of the FEDERAL DEFENDANTS with any representative of any of the INTERVENOR DEFENDANTS prior to the adoption of the agreed final text of Article 2 of the UNFCCC.

32. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO interpretations of the meaning of Article 2 of the UNFCCC by each of the FEDERAL DEFENDANTS, including, but not limited to, interpretation of the phrases "dangerous anthropogenic interference with the climate system" and "a time-frame sufficient to allow ecosystems to adapt naturally to climate change . . . ."

33. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO interpretations of the meaning of Article 4, paragraph 2(a) of the UNFCCC by each of the FEDERAL DEFENDANTS at the time of signing.

34. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the interpretation by each of the FEDERAL DEFENDANTS of the phrase "recognizing that the return by the end of the present decade to earlier levels of anthropogenic emissions of carbon dioxide and other greenhouse gases . . ." in Article 2 of the UNFCCC.

35. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the recommendation or decision to use 1990 greenhouse gas emission levels as a baseline year for greenhouse gas emission reductions under the UNFCCC.

36. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the recommendation or decision to use of 2005 greenhouse gas emission levels as a baseline year for measuring United States greenhouse gas emission reductions.

37. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the position of each of the FEDERAL DEFENDANTS on the feasibility, timing, and scale of necessary greenhouse gas reductions, developed in anticipation of the United Nations Conference on Environment and Development ("UNCED"), Rio de Janeiro, June 3-14, 1992, also known as the Rio Earth Summit.

38. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO both CLIMATE CHANGE mitigation strategies, opportunities, plans, and recommendations and the Berlin Mandate leading up to and immediately after the first

conference of the Parties in Berlin, March 28 to April 7, 1995.

39. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the commitments of Article 4, paragraph 2(a) and (b), of the UNFCCC leading up to and immediately after the first conference of the Parties in Berlin, March 28 to April 7, 1995.

40. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO information supporting the negotiating position taken by each of the FEDERAL DEFENDANTS leading up to the 1997 UNFCCC meeting in Kyoto.

41. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the positions of each of the FEDERAL DEFENDANTS for the 6th Conference of the Parties, which occurred between January 20 and July 27, 2001.

42. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO officials of the DEPARTMENT OF STATE engaged in COMMUNICATIONS with representatives of other countries to reject the Kyoto Protocol.

43. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the decision of each of the FEDERAL DEFENDANTS to withdraw from the Kyoto Protocol, including, but not limited to COMMUNICATIONS with any representatives of the INTERVENOR DEFENDANTS.

44. Each DOCUMENT and COMMUNICATION to or from DEPARTMENT OF STATE official Paula Dobriansky that REFERS, RELATES, REGARDS, OR PERTAINS TO the UNFCCC Bali Climate Change Conference in 2007.

45. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the participation by any of the FEDERAL DEFENDANTS in

the final plenary session of Intergovernmental Panel on Climate Change ("IPCC") Second Assessment report in Madrid in 1995, including, but not limited to, any DEPARTMENT OF STATE communiques referencing findings in the Second Assessment report and COMMUNICATIONS regarding the Second Assessment report's Summary for Policymakers.

46. Each DOCUMENT and COMMUNICATION from January 20, 2017 to the present that REFERS, RELATES, REGARDS, OR PERTAINS TO the United States withdrawing from the UNFCCC.

47. Each DOCUMENT and COMMUNICATION from January 20, 2017 to the present that REFERS, RELATES, REGARDS, OR PERTAINS TO the United States withdrawing from the Paris Agreement.

48. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the support for, critiques of, or analysis of, the goal of the Paris Agreement of "holding the increase in the global average temperature to well below 2° C above preindustrial levels and pursuing efforts to limit the temperature increase to 1.5° C," including, but not limited to, COMMUNICATIONS to or from Todd Stern.

49. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO DEPARTMENT OF STATE's consideration, evaluation, or analysis of impacts from CLIMATE CHANGE that result from an ATMOSPHERIC CO_2 CONCENTRATION in the atmosphere between 350 parts per million and 400 parts per million.

50. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO DEPARTMENT OF STATE's consideration, evaluation, or analysis of impacts from CLIMATE CHANGE that result from an ATMOSPHERIC CO_2 CONCENTRATION in the atmosphere between 400 parts per million and 450 parts per million.

51. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO DEPARTMENT OF STATE's consideration, evaluation, or analysis of impacts from CLIMATE CHANGE that result from an ATMOSPHERIC CO_2 CONCENTRATION in the atmosphere exceeding 450 parts per million.

52. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO DEPARTMENT OF STATE's consideration, evaluation or analysis of impacts from CLIMATE CHANGE that result from a global temperature increase of 1.5° Celsius or more, including comparisons between global temperature increase of 1.5° and 2° Celsius.

53. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO DEPARTMENT OF STATE's consideration, evaluation, or analysis of the safe ATMOSPHERIC CO_2 CONCENTRATION.

54. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO DEPARTMENT OF STATE's consideration, evaluation, or analysis of the safe level of GLOBAL WARMING above the PREINDUSTRIAL GLOBAL AVERAGE TEMPERATURE.

55. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO the commitment by each of the FEDERAL DEFENDANTS to "rationalize and phase out over the medium term, inefficient fossil fuel subsidies that encourage wasteful consumption" during the G20 Summit in Pittsburgh, Pennsylvania on September 25, 2009, including, but not limited, to COMMUNICATIONS between each of the FEDERAL DEFENDANTS and each of the INTERVENOR DEFENDANTS prior to and after the announcement of this commitment.

56. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS sent or received from Susan Rice, former U.S. Ambassador to the United Nations between January 22, 2009 and August 2, 2013, on the issue of CLIMATE CHANGE mitigation, including atmospheric carbon dioxide level targets (usually expressed as ppm) or GLOBAL WARMING-induced temperature change targets (usually expressed as Celsius degrees).

57. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS sent or received from Susan Rice, former U.S. Ambassador to the United Nations, between January 22, 2009 and August 2, 2013, on the issue of ENERGY POLICY as it relates to CLIMATE CHANGE.

58. Each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS sent or received from Samantha Power, former U.S. Ambassador to the United Nations, between August 2, 2013 and June 11, 2015, on the issue of atmospheric carbon dioxide level targets (usually expressed as ppm) or GLOBAL WARMING-induced temperature change targets (usually expressed as Celsius degrees).

59. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO CLIMATE CHANGE mitigation strategies, opportunities, plans, and recommendations relied upon in the First Biennial Report of the United States of America under the UNFCCC.

60. Each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO CLIMATE CHANGE mitigation strategies, opportunities, plans, and recommendations relied upon in the Second Biennial Report of the United States of America under the UNFCCC.

61. Each DOCUMENT and COMMUNICATION from November 2016 to the present that REFERS, RELATES, REGARDS, OR PERTAINS TO direction to remove DOCUMENTS from government websites, or removing entire government websites, which contain information on CLIMATE CHANGE.

62. Each DOCUMENT and COMMUNICATION from 2001 to the present that REFERS, RELATES, REGARDS, OR PERTAINS TO direction to employees of the DEPARTMENT OF STATE as to how they should or should not COMMUNICATE information to third parties about CLIMATE CHANGE and the impacts of CLIMATE CHANGE, including, but not limited to, the existence of CLIMATE CHANGE, the role of human activity in CLIMATE CHANGE, scientific uncertainty regarding the existence or causes of CLIMATE CHANGE, sea level rise, extreme weather events, ocean acidification, droughts, floods, and human health impacts.

Dated: May 19, 2017

/s/ Julia A. Olson

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of May, 2017, I have served the foregoing Plaintiffs' Revised Requests for Production of Documents to Defendant United States Department of State to Defendant Department of State by email on the following counsel for all parties.

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Dated: May 19, 2017

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Exhibit 10 to Declaration of Sean C. Duffy

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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

KELSEY CASCADIA ROSE JULIANA, et al.,
Plaintiffs,

v.
UNITED STATES OF AMERICA, et al.,
Federal Defendants.

Case No. 6:15-cv-01517-TC

JOINT STATUS REPORT AS OF JUNE 12, 2017

The parties have met and conferred and hereby respectfully provide this joint status report to inform the court of the status of discovery and other pending or upcoming motions.

I. Intervenors' Motions to Withdraw

All three Intervenor Defendants have filed motions to withdraw from the case. Plaintiffs have filed their response briefs to the three motions to withdraw.

Plaintiffs' Position

Plaintiffs do not oppose the motions to withdraw but are requesting that such withdrawal only be granted with conditions. Plaintiffs have requested this Court order that: (1) Intervenor Defendants' withdrawal be with prejudice, finding that Intervenor Defendants no longer meet the requirements of FRCP 24; (2) Intervenor Defendants pay attorneys' fees and costs attributed to Intervenor Defendants' participation in the case; (3) the legal determinations in the case have a *stare decisis* effect on Intervenor Defendants' interest or available remedies in other litigation; (4) Intervenor Defendants and each of their members are precluded from participating in this case as a party and any future participation is limited to *amicus curiae* participation, if at all; and (5) all of Intervenor Defendants' pending motions and objections in the case are dismissed. If the Court decides not to grant the Intervenor Defendants' motions to withdraw, Plaintiffs request that Intervenor Defendants be required to provide full and complete responses to all outstanding discovery requests within 5 days of the Court's order denying the motions to withdraw.

Intervenor Defendants' Position

Plaintiffs have clearly indicated, in pleadings and in the media that they do not oppose Intervenors' motions to withdraw. The conditions Plaintiffs seek to impose on withdrawal

have no legal or factual bases. Intervenors will respond more fully in their Reply briefs in support of the motions to withdraw. With regard to the discussions about discovery, in light of the pending motions to withdraw, Intervenors do not currently have a view regarding the issues raised herein.

Federal Defendants' Position

Federal Defendants do not oppose the intervenors' motion to withdraw.

II. Plaintiffs' Requests for Admission to Federal Defendants

Plaintiffs' Position

Four months after they were served with Plaintiffs' Requests for Admissions, Federal Defendants have only objected to Plaintiffs' ten Requests for Admission to Defendants the Executive Office of the President and the Environmental Protection Agency. Federal Defendants did not answer any of the ten requests, and instead served joint objections that do not distinguish the different grounds for objections between the Executive Office of the President and the Environmental Protection Agency, including assertions of executive privilege. Plaintiffs met and conferred with Federal Defendants on June 9 requesting that they distinguish the grounds for objections for each defendant in order to inform Plaintiffs' decision to move to compel responses. Despite this Court's statements at the Status Conferences and this Court's denials of the various motions to stay, Federal Defendants have yet to provide a substantive response to any discovery, have yet to schedule a single witness for deposition, and have yet to produce a single document. Their "game" is clearly to delay the discovery process for as long as possible. Plaintiffs' position is that, absent an order of this Court, Federal Defendants will continue to take the position that they do not have to provide substantive responses or produce any documents. Rather than burden this Court with numerous motions to compel and for

sanctions, Plaintiffs request that the parties and this Court use the June 14 Status Conference to review the outstanding discovery and the discovery responses to date and develop a firm schedule for substantive discovery responses, depositions, and production of documents.

Federal Defendants' Position

Federal Defendants continue to oppose discovery at this stage of the litigation for the reasons set forth in the objections to the Findings and Recommendation (ECF No. 149) and motion to stay the litigation (ECF No. 151). Nonetheless, Federal Defendants f iled responses to Plaintiffs' First Set of Requests for Admission on May 31. Those responses address the only RFAs that have been propounded on Federal Defendants. The responses object to the Requests for Admission on a number of bases and on these bases deny each request. If Plaintiffs dispute the objections, the next step is for the parties to meet and confer.

III. Plaintiffs' Requests for Production of Documents on Federal Defendants

Plaintiffs' Position

Federal Defendants have not formally served ob jections to any of Plaintiffs' requests for production of documents, but have conferred with Plaintiffs regarding their concerns about the scope of the requests and possible claims of deliberative process and/or executive privilege. In the interest of movi ng our discovery disputes forward to a quick resolution, Plaintiffs have in good faith substantially narrowed their request for production of documents to The Executive Office of the President and President Donald Trump, The United States Department of Sta te, The United States Department of Agriculture, and The United States Department of Defense. Plaintiffs believe the revised requests for production of documents are sufficiently narrow and will lead to important evidence relevant to Plaintiffs' claims.

Plaintiffs have not received any updates from Federal Defendants since the May 4, 2017

in person meet and confer regarding the status of the two outstanding Request for Production of Documents seeking documents located at National Archives and Records Admini stration ("NARA"). Since March, Federal Defendants have represented to Plaintiffs that said records are undergoing a declassification process, but may be subject to executive privilege. In the April 3, 2017 Joint Status Report, Federal Defendants committed to "update Plaintiffs on a rolling basis as the status of the documents are determined and, where applicable, the production timeline is available." ECF 131, p. 10. However, Plaintiffs have received no updates on the status of the processing of the documents, their production timeline, or whether a determination has been made on whether the President intends to attempt to exercise executive privilege for all or any specific documents since the May 4 meet and confer. In an attempt to speed up the process, Plaintiffs have even offered to go to the libraries to review the records. If Federal Defendants do not provide Plaintiffs with an update on the NARA RFPs and a reasonable timeframe by which they will either produce the documents or file written objections Plaintiffs will move to compel the production of the documents before the end of June.

Further, Federal Defendants have ignored Plaintiffs' Third Set of Requests for Production of Documents to Federal Defendants and have not served written objections, sought further extension, or produced any documents. As a result of their failure to timely respond, Federal Defendants have waived all objections, including any objections as to privilege. Plaintiffs will move to compel production of those documents before th e end of June.

Despite this Court's statements at the Status Conferences and this Court's denials of the various motions to stay, Federal Defendants have yet to provide a substantive response to any discovery, have yet to schedule a single witness for depo sition, and have yet to produce a

single document. Rather than burden this Court with numerous motions to compel and for sanctions, Plaintiffs request that the parties and this Court use the June 14 Status Conference to review the outstanding discovery and the discovery responses to date and develop a firm schedule for substantive discovery responses, depositions, and production of documents.

Federal Defendants' Position

A. Requests for Production on the Executive Office of the President

On May 19, Plaintiffs filed revised requests for production of documents on the Executive Office of the President that supplant the previously propounded request for production on the Executive Office. The revised requests do not narrow the overbroad definitions, nor do they "substantially narrow" the requests. The requests are objectionable because they seek information that is subject to the executive privilege. In addition, the revised requests, like the initial requests that they supplant, are bur densome, overbroad, and are not proportional to the needs of the case. The time in which to respond to the requests has not yet lapsed.

B. Requests for Production on the Departments of State, Defense, and Agriculture

On May 19, Plaintiff filed revised requests for production separately on the Departments of State, Defense, and Agriculture that supplant the previously propounded request for production on each of these agencies. The time in which to respond to these revised requests has not yet lapsed. The re vised requests that were propounded do not narrow the overbroad definitions , nor do they "substantially narrow" the requests. Instead, t he revised requests, like the initial requests they supplant , are objectionable because they are burdensome, overbroad, and are not proportional to the needs of the case. Nonetheless, with respect to each agency, Federal Defendants are exploring the extent which they can commence production of certain non-privileged, responsive material on a rolling basis.

C. Requests Seeking Emails from Rex Tillerson while he was an employee of Exxon Mobil.

On March 17, Plaintiffs propounded their Third Set of Requests for Production. These requests seek any communications any Federal Defendant had with Secretary of State Rex Tillerson through a pseudonym or alias "Wayne Tracker" on the subject of climate change or energy policy. This request was discussed during the parties' in-person meet and confer on May 4 and again during a telephonic meet and confer on June 9. Federal Defendants informed Plaintiffs that they will object to this request on the grounds, among others, that it is not designed to produce any admissible evidence on any claim or defense in this case, is overbroad, unduly burdensome, is not proportional to the needs of the case, and seeks information that is more readily available from other sources. During the June 9 meet and confer, Plaintiffs indicated that they disagree, but committed to provide a letter explaining the probative value of these requests. Federal Defendants await that letter.

D. Document Requests Pertaining to Documents Held in Presidential Libraries and the National Archives and Records Administration.

On February 21 and March 7, Plaintiffs propounded discovery requests on Federal Defendants seeking presidential records housed in presidential libraries and EPA records housed in facilities operated by the National Archives and Records Administration ("NARA"). Through discussions with NARA, Federal Defendants have learned that the records sought, insofar as they pertain to the George W. Bush administration, cannot be obtained because the Presidential Records Act exempts such records from disclosure until 12 years after the conclusion of an administration. 44 U.S.C. § 2204.

In addition, with respect to records sought by Plaintiffs of administrations that preceded the George W. Bush administration (*i.e.* records of the Kennedy, Johnson, Reagan, George

H.W. Bush, and Clinton administrations), Federal Defendants have conferred with NARA, which has confirmed that some of the documents sought are designated as classified and will be withheld on that basis. With respect to non-classified documents, Plaintiffs may visit the relevant records facilities and review non-classified records after an appropriate protective order that accounts for, among other things, the non-disclosure of the personally identifiable information of individuals is in place. Federal Defendants are preparing a proposed draft protective order for the Plaintiffs to review.

IV. Depositions

Plaintiffs' Position

Plaintiffs noticed the depositions of two federal government employees: C. Mark Eakin, Coordinator of National Ocean and Atmospheric Administration's Coral Reef Watch program, Satellite Oceanography & Climatology Division; and Michael Kuperberg, Executive Director, United States Global Change Research Program. Those depositions are noticed for June 14 and 15, respectively. To date, Federal Defendants have not formally responded to these notices. During the course of the June 9 meet and confer, Federal Defendants stated the witnesses would not be produced on the dates noticed and they are attempting to provide available dates in July for the depositions.

After multiple meet and confers, on June 12, 2017, Plaintiffs noticed the FRCP 30(b)(6) depositions to the following defendant agencies: United States Department of Agriculture, Department of State, Department of Defense, Department of Commerce, Department of Energy, Department of Interior, Department of Transportation, and the Environmental Protection Agency.

Federal Defendants' Position

Plaintiffs noticed the depositions of two federal government employees: C. Mark Eakin,

Coordinator of National Ocean and Atmospheric Administration's Coral Reef Watch program, Satellite Oceanography & Climatology Division; and Michael Kuperberg, Executive Director, United States Global Change Research Program. Plaintiffs noticed the depositions for June 14 and June 15 respectively, both to be held in Washington, D.C. , where these witnesses are located. Neither of the two deponents is available on those dates. These dates also conflict with the in-person status conference in Eugene, Oregon. The parties are exploring mutually-agreeable dates for these depositions.

Federal Defendants have yet to receive any deposition notices pursuant to Fed. R. Civ. P. 30(b)(6).

V. Stipulation Regarding Discovery Procedure

Plaintiffs' Position

In their Status Reports of January 31, 2017 (ECF 110), March 7, 2017 (ECF 119), and April 3, 2017 (ECF 131), Plaintiffs proposed a Stipulation concerning Electronically Stored Information ("ESI"). To date, Federal Defendants have not responded with any comments. On June 8, 2017, Federal Defendants circulated a draft order and stipulation on discovery as well as an appendix that accompanies that document. At the June 14 Joint Status Conference, Plaintiffs are prepared to negotiate and enter into both their Stipulation concerning ESI and Federal Defendants' order and stipulation on discovery.

Federal Defendants' Position

Federal Defendants provided Plaintiffs with a proposed order and stipulation governing discovery in this case, with provisions pertaining to the handling of electronically stored information, and taking account of unique laws that apply to federal government. The parties need to negotiate the relevant terms of a proposed order and stipulation. Federal Defendants await Plaintiffs response to the proposed order and stipulation that has been provided.

VI. Experts

Plaintiffs' Position

Plaintiffs are actively working with experts to prepare their expert reports and the reports are currently being drafted by the experts. While Plaintiffs anticipate being able to serve the majority of their expert reports by July 1, as directed by the Court, due to the travel schedules and other issues of certain experts, it is likely that all of Plaintiffs' expert reports will not be finalized by July 1. Plaintiffs will disclose expert reports that are completed on July 1 and will propose a new deadline for certain expert reports during the June 14 Joint Status Conference.

Plaintiffs will be substituting previously disclosed sequestration expert Keith Paustian with Phil Robertson, University Distinguished Professor of Ecosystem Science at Michigan State University. While Keith Paustian agreed to be an expert for Plaintiffs, he also serves on a National Academy of Sciences ("NAS") committee, and NAS lawyers would not allow him to be an expert in this case while he serves on the committee, despite his efforts to obtain their permission. Plaintiffs also intend to disclose up to three additional experts.

Federal Defendants' Position

At the Court's May 18 status conference, the Court asked Plaintiffs to provide expert reports for their 11 anticipated experts by July 1 and for Federal Defendants to provide expert disclosures 45 days after the reports are filed. Both parties indicated t hey would endeavor to do so. Federal Defendants have continued to meet with potential candidates and will endeavor to meet the Court's suggested 45 -day timeframe, but remain cognizant that identification of specific experts are difficult until Federal Def endants can fully digest the opinions offered by Plaintiffs' experts, share those opinions with potential expert candidates, and determine which

potential experts are appropriate to support Federal Defendants' defense.

The identity and subject matter of the testimony of any additional expert witness whom Plaintiffs intend to call should be promptly identified.

VII. Trial Schedule

Plaintiffs' Position

Given Plaintiffs' concerns about the urgency of addressing climate change and redressing their injuries, Plaintiffs continue to prepare for a late 2017 trial date.

Federal Defendants' Position

Federal Defendants believe that this matter should be stayed and, if no stay is granted, that a trial schedule should not be set until this Court resolves some of the p resent discovery disputes and the scope of the issues to be decided at trial. Federal Defendants believe that a late 2017 trial date is entirely unrealistic given the extraordinary scope of the case and the discovery that Plaintiffs have propounded, which will assuredly take much longer to respond to.

VIII. Plaintiffs' Protective Order

Plaintiffs' Position

Plaintiffs are drafting a proposed protective order and will circulate to Federal Defendants before the June 14 meet and confer.

Federal Defendants' Position

Federal Defendants have yet to receive a proposed protective order.

IX. Status of Discovery Propounded to Date

To date, Plaintiffs have propounded the following discovery:

DATE PROPOUNDED	PLAINTIFFS' POSITION ON RESPONSES DUE DATE	FEDERAL DEFENDANTS POSITION ON RESPONSES DUE DATE	PARTY OR PARTIES	TITLE	STATUS

12/28/2017			API	Plaintiffs' Notice of Deposition of Rex Tillerson	To be re-noticed
1/20/2017	Responses served on May 31	Responses served on May 31	EOP, EPA	First Set of Requests for Admission to Defendants Executive Office of the President and the Environmental Protection Agency	Responses filed
2/17/2017	3/23/2017	3/23/2017	API	Request for Production of Documents to American Petroleum Institute	Objections filed. Narrowed and re-served
2/21/2017	6/5/2017	Deadlines tolled pending meet and confer	All Federal Defendants	Requests for Production of Documents to Federal Defendants (documents from Presidential Libraries)	Parties negotiating protective order
3/7/2017	6/5/2017	Deadlines tolled pending meet and confer	All Federal Defendants	Second Set of Requests for Production of Documents to Federal Defendants (documents from Presidential Libraries)	Parties negotiating protective order
3/17/2017	4/16/2017	4/16/2017	API	Third Set of Requests for Production of Documents to American Petroleum Institute (re: "Wayne Tracker" emails)	Not answered; motions to withdraw pending
3/17/2017	6/5/2017	Deadlines tolled pending meet and confer	All Federal Defendants	Third Set of Requests for Production of Documents to Federal Defendants (re: "Wayne Tracker" emails)	Meet and confer. Plaintiffs to provide letter response to Federal Defs.
3/24/2017	5/25/17	5/25/17	All Intervenor Defendants	Request for Admission to Intervenor Defendants	Objections filed. Narrowed and re-served
5/11/2017	6/14/2017	6/14/2017	Federal Defendants	Plaintiffs' Notice of Deposition to C. Mark Eakin	Parties met and conferred June 9
5/11/2017	6/15/2017	6/15/2017	Federal Defendants	Plaintiffs' Notice of Deposition to Mark Kuperberg	Parties met and conferred June 9
5/19/2017	6/19/2017	6/19/2017	API	Revised Request for Production of Documents to American Petroleum Institute	
5/19/2017	6/19/2017	6/19/2017	All Intervenor Defendants	Revised Request for Production of Documents	
5/19/2017	6/19/2017	6/19/2017	USDA	Revised Request for Production of Documents to Defendant United States Department of Agriculture	
5/19/2017	6/19/2017	6/19/2017	DOD	Revised Request for Production of Documents to Defendant United States Department of Defense	
5/19/2017	6/19/2017	6/19/2017	State	Revised Request for Production of Documents to Defendant United States Department of State	
5/19/2017	6/19/2017	6/19/2017	EOP, DT	Revised Request for Production of Documents to Defendants the Executive Office of the President and President Donald	

				Trump	
6/12/2017			EPA	Plaintiffs' 30(b)(6) Notice of Deposition to Defendant United States Environmental Protection Agency	
6/12/2017			DOI	Plaintiffs' 30(b)(6) Notice of Deposition to Defendant United States Department of Interior	
6/12/2017			State	Plaintiffs' 30(b)(6) Notice of Deposition to Defendant United States Department of State	
6/12/2017			Commerce	Plaintiffs' 30(b)(6) Notice of Deposition to Defendant United States Department of Commerce	
6/12/2017			DOT	Plaintiffs' 30(b)(6) Notice of Deposition to Defendant United States Department of Transportation	
6/12/2017			DOD	Plaintiffs' 30(b)(6) Notice of Deposition to Defendant United States Department of Defense	
6/12/2017			DOE	Plaintiffs' 30(b)(6) Notice of Deposition to Defendant United States Department of Energy	
6/12/2017			USDA	Plaintiffs' 30(b)(6) Notice of Deposition to Defendant United States Department of Agriculture	

Dated: June 12, 2017

By: /s/*Julia A. Olson*
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Dated: June 12, 2017

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ATTESTATION OF FILING

I, Julia A. Olson, hereby attest, pursuant to District of Oregon, Local Rule 11(d), that consent to the filing of this document has been obtained from each signatory hereto.

/s/ *Julia A. Olson*
JULIA A. OLSON

Exhibit 11 to Declaration of Sean C. Duffy

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF OREGON

3 THE HON. THOMAS M. COFFIN, JUDGE PRESIDING

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6 KELSEY CASCADIA, ROSE JULIANA, et)
al.,)
7)
Plaintiffs,)
8)
v.) No. 6:15-cv-01517-TC
9)
UNITED STATES OF AMERICA, et al.,)
10)
Defendants.)
11 _____)

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14 REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 EUGENE, OREGON

16 WEDNESDAY, JUNE 14, 2017

17 PAGES 1 - 48

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1 sort of understanding of the case entirely at this point.
2 But, you know, it's going to deal with, you know,
3 not so much with who knew what when, which I don't think
4 there is a lot of dispute on that if you put those two
5 documents next to each other, but it's going to get into
6 technical issues of how dramatic is this, what is going to
7 happen, what would need to be done to prevent it. And
8 that's really a topic for the experts.
9 Now, you know, just in terms of when we are
10 talking about the scope and how burdensome it is, I am also
11 looking at this from a process perspective because, in
12 addition to interfacing with the plaintiffs when we are
13 doing these reports and meeting and conferring, I am
14 interfacing with each of these agencies, and they very
15 much -- that's very much in the front of their mind because
16 they are looking at their program budgets and saying, do I
17 have the resources to do this, how many thousands of people
18 are going to have to be involved in this process.
19 THE COURT: You are talking about the process of
20 discovery?
21 MR. DUFFY: Correct, because the discovery as we
22 have it now, and I will just use one example so it's
23 somewhat concrete, but on the Executive Office of the
24 President we have each document and communication that
25 refers, relates, regards, or pertains to briefing on climate

1 change that was given or presented to each president from
2 1965 to the present. That's a monumental task.
3 And so where I see this going in terms of the
4 discovery is us conferring with the plaintiffs and deciding,
5 okay, what do you really need here. Do we need to be going
6 into archives going back 60 years to find things where I
7 don't even know if there's much dispute?
8 But it would surely be burdensome to require so
9 many individuals to take the image off of their laptop
10 computer and to copy -- I mean, they are asking for every
11 kind of document. So we are talking about paper documents
12 that are often archived somewhere as well.
13 And so the way I see this going forward is not us
14 producing adversarial positions on these status reports but
15 actually meeting and conferring.
16 And the way these things usually proceed with this
17 kind of broad request is we end up with a finite number of
18 custodians, with a finite types of documents that we are
19 going to produce. For example, you know, maybe we are not
20 going to produce voice mail messages or things that are on
21 backup tapes, which are very expensive to produce. But
22 maybe we are going to run some search terms through people's
23 e-mail over a period of time and see if that produces
24 anything.
25 THE COURT: Well, I know how difficult that

Exhibit 12 to Declaration of Sean C. Duffy

United States Department of Justice

Environment & Natural Resources Division

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Sean C. Duffy
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June 23, 2017

Via Email

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Re: *Juliana v. United States*, No. 6:15-cv-1517-TC (D. Or.)

Counsel:

As discussed during our June 14, 2017 meet-and-confer, I write to set forth the United States' informal responses to Plaintiffs' revised requests for production and to offer a proposed document discovery plan that is compatible with the Court's schedule for expert witness disclosures and stated preference for trial in early 2018. As stated in our mandamus petition, Defendants believe that the district court proceedings should be stayed in this improper case.

I. *Plaintiffs' discovery requests cannot be completed in advance of an early 2018 trial date.*

Magistrate Coffin's comments during the June 14, 2017 status conference directly impact the scope and timing of fact discovery in this case. We take as genuine Plaintiffs' representation to Magistrate Coffin that they will narrow their factual discovery demands and focus on expert work in conjunction with an early 2018 trial date. To that end, we submit that Plaintiffs' current requests for production—even the revised requests—seek far more material than could be reasonably assembled by the *end* of 2018, much less in sufficient time in advance of an early 2018 trial to be useful. Those requests are also not tailored in a meaningful manner to address the factual disputes set forth in the parties' respective pleadings.

The initial overbreadth of Plaintiffs' requests lies in the definitions. The definition of "document" includes all manner of recorded information. It would concern sticky notes to discs, e-mails to voicemails, and reports to questionnaires, among other materials. The definition of "climate change" captures "*any* change in the state of the climate lasting for an extended period of time" (emphasis added). The definition of "relating to," a phrase that modifies several of the requests propounded, seeks production of "documents" that, among other things, merely "allud[e] to" a topic "either directly or indirectly, in whole or in part." Each of the cabinet-level

agencies is defined to include "all current and former principles, employees, agents, attorneys, consultants, secretaries, coordinators, advisers, and other representatives" of agencies, including "all offices, bureaus, departments, and programs" within the agencies. These broad definitions expand the scope of what are already broad document requests. Defendants objected to the scope of the definitions in the original requests. Defendants were disappointed to find that the definitions were not altered in Plaintiffs' revised requests.

The overbreadth of the definitions mirrors the overbreadth of the specific requests. By way of example, a revised request propounded on the Executive Office of the President seeks "each DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS OR PERTAINS TO briefing on CLIMATE CHANGE that was given or presented to each PRESIDENT from 1965 to the present." Similarly, a revised request propounded on the Department of Defense seeks "[e]ach briefing on CLIMATE CHANGE that was given to or presented to each Secretary of Defense from 1965 to present." Identical requests seek briefings to the Secretaries of State, Agriculture, and Transportation.

In addition to these overarching, wide-ranging requests for briefings on the overbroad definition of "climate change," the requests seek production of documents on issues that are not relevant to the disputed factual issues in this case. For example, revised Request for Production ("RFP") No. 12 on the State Department seeks "each DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO COMMUNICATIONS from 2009 to the present with any representative of the Canadian Government regarding both the impacts on CLIMATE CHANGE of the Keystone XL Pipeline and the emissions from fossil fuels to be transported by that pipeline." Other examples are revised RFP Nos. 10, 11, and 12 on the Department of Agriculture seeking "[e]ach DOCUMENT and COMMUNICATION that REFERS, RELATES, REGARDS, OR PERTAINS TO CLIMATE CHANGE between" senior agency personnel and "each of the INTERVENOR DEFENDANTS from 1990 to the present."

Finally, even where the revised requests identify a single report, the requests employ qualifiers and the above-mentioned overbroad defined terms to expand the scope of production. An example is revised RFP No. 7 on the Agriculture Department, which seeks "[e]ach COMMUNCATION and DOCUMENT that REFERS, RELATES, REGARDS, OR PERTAINS TO the DEPARTMENT OF AGRICULTURE'S 2010 Climate Change Science Plan and related analyses or recommendations on how USDA can mitigate CLIMATE CHANGE." Again, the breadth of the defined terms in Plaintiffs' requests expands the scope of production from a single 2010 plan to a far-ranging production of material that addresses the far-ranging definition of "climate change." In short, Plaintiffs' revised requests do not reflect a serious effort to narrow fact discovery in this case, nor are they tailored in any meaningful fashion to specific factual disputes from the pleadings in this case.

With respect to electronically stored information, Plaintiffs' definition of "documents" includes "any kind of written, graphic, or recorded matter." Plaintiffs' requests also identify specific instructions pertaining to the production of electronically stored information that the Federal Rules of Civil Procedure do not mandate and that complicate and, therefore, lengthen the time for production. The process for identifying, gathering, processing, reviewing, and producing electronically stored information is arduous and lengthy. The process starts by conducting a review of each responding agency to determine how and where records are stored and who the possible custodians are that might possess records that are responsive to the requests. The members of that pool of custodians whose records should be queried will depend on a number of factors, including the potential for duplication across custodians and the possibility that a custodian's exposure to relevant information is tenuous. Once a pool of

custodians is identified, an effort to identify search terms is undertaken. The development of search terms is an iterative process of trial and error that aims at striking a reasonable balance between the risks of (1) conducting a search that omits useful information and (2) conducting a search that includes extraneous, irrelevant information that escalates the time and cost of production with little or no benefit to the case. The balancing and give-and-take of identifying custodians and search terms is an iterative process that requires running sample queries against various repositories, measuring the output of those sample queries, and then making adjustments to account for relevance, cost, time, and resource constraints. Prior experience shows that the final identification of custodians and the development of search terms in cases seeking more discrete factual events than those explored in this case can take several months to accomplish.

After consultation with our client agencies and our own IT personnel, we have concluded that the revised requests, as written, present a production demand that is impossible to complete in time for an early 2018 trial or for the Court's schedule for expert disclosures. This conclusion is in addition to our assessment that the requests frequently call for documents that are protected from disclosure under various privileges and protections. Plaintiffs' revisions make no effort to address Federal Defendants' previously-stated objections to the breadth of the requests' defined terms. And the requests themselves are not tailored to the discrete factual disputes staked out in the parties' respective pleadings. Magistrate Coffin expressed his view that trial in this case turns on expert witness testimony, not document discovery or fact witnesses. Plaintiffs' commitment to serve their expert reports by early July and no later than July 31, 2017, reflects an acknowledgment that their experts do not require the documents sought in the revised requests for production (or, for that matter, any of their discovery requests) for purposes of drafting their reports. Given these dynamics, we fail to see how Plaintiffs' revised requests are drafted with an eye toward "the importance of the issues at stake in the action," "the importance of discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit." Fed. R. Civ. P 26(b).

II. *Fact discovery should be conducted in an orderly manner that is compatible with the schedule for expert discovery and the Magistrate's stated preference for an early 2018 trial.*

While it is evident to Defendants that Plaintiffs are willing to serve their experts' reports during open fact discovery, it is equally evident to Defendants that such an approach is untenable for Defendants' experts. Fact discovery should be scheduled in coordination with the Court's schedule for Defendants' expert disclosures. Because the documents and Rule 30(b)(6) testimony provide facts that Federal Defendants' experts may rely upon in their reports, it is important that fact discovery be closed sufficiently in advance of Federal Defendants' October 13, 2017, expert report deadline so that Federal Defendants' experts may review and accommodate those facts in their analyses and resulting reports. To allow for this timing, Federal Defendants submit that the production of documents be completed by July 31, 2017. This is another reason why the requests need to be substantially narrowed. Relatedly, the completion of Rule 30(b)(6) testimony should be completed by August 15, 2017. This will allow sufficient time for Federal Defendants' experts to digest the material produced and the organizational testimony offered in advance of the current deadline for completing their reports.

III. *Federal Defendants' proposal for production of documents.*

For the reasons discussed in the previous two sections, we have asked the client agencies to project what document discovery they can complete by July 31, 2017. Because only a short

time has passed since the June 14 status conference that initiated this inquiry, the client agencies' analysis of this question is ongoing. Nevertheless, the agencies currently report as follows:

Agency	Report
Department of State	• Annual inventories of U.S. greenhouse gas emissions and sinks submitted to the United Nations Framework Convention on Climate Change (UNFCCC), from 1997 to the present • National Communications submitted every four years to the UNFCCC describing, *inter alia*, policies and measures adopted to address climate change, going back to 1997 • The 2020 greenhouse gas emissions reduction target submitted by the United States in 2010 • Biennial Reports submitted in 2014 and 2016 to the UNFCCC, describing, *inter alia*, progress towards the above-referenced 2020 emissions reduction target • A PowerPoint presentation delivered by the United States in May 2017 at a meeting of the parties to the UNFCCC in connection with a "multilateral assessment" of the above-referenced U.S. 2016 Biennial Report • The "intended nationally determined contribution" submitted by the United States in 2015 • The State Department's public organizational chart • Executive Order 13653 and the Department's Climate Change Adaptation plan developed in relation to 13653 • United Nations General Assembly Resolution A/RES/45/212 • The UNFCCC and the Senate Foreign Relations Committee report on a hearing on the ratification of the UNFCCC, which includes responses to questions for the record submitted by the executive branch and other materials submitted to Congress in relation to the ratification
Department of Defense	• Appendix C. 2013 Addendum to the DoD FY 2012 Climate Change Adaptation Roadmap • Department of Defense 2014 Climate Change Roadmap • Appendix 2: DoD FY 2012 Climate Change Adaptation Roadmap • Internal Distribution of the Department of Defense Climate Change Adaptation Roadmap, 2014 • DoD Directive 4715.AD, Climate Change Adaptation and Resilience • SECDEF Memo, Subject: Leadership in Environment, Energy and Economic Performance, January 6, 2010 • Climate and National Security Action Plan, December 27, 2016 • DEPSECDEF Memo, Subject: Presidential Memorandum on Climate Change and National Security, August 10, 2016 • U.S. Army Sustainability Campaign Plan, Sustainable Operations for a Secure Future, May 2010 • USA-VCSA Memo, Subject: Execution of the Army Sustainability Campaign Plan, March 4, 2011 • ASA (IE&E) Letter, Signed by Katherine Hammack (2016)

	• U.S. Army Sustainability Report, 2014 • U.S. Army Sustainability Report Annex, 2014 • U.S. Army Sustainability Report, 2012 • ASA (IE&E) Letter, Signed by Katherine Hammack, September 26, 2012 • Acting Deputy Under Secretary of Defense (Installations & Environment) Memo, Subject: DoD Climate Preparedness and Resilience Planning Pilots, October 29, 2014 • U.S. Navy Arctic Roadmap, October 2009 • U.S. Navy Climate Change Roadmap, April 2010 • Secretary of the Navy Instructions, Manuals, and Publications relating to energy conservation, alternative energy options, or climate change • Chief of Naval Operations Instructions and issuances relating to energy conservation, alternative energy options, or climate change • U.S. Navy reports submitted to the Department of Defense and Council on Environmental Quality pursuant to Executive Orders 13512 and 13693 • U.S. Army Corps of Engineers Strategic Sustainability Performance Plans, 2013, 2014, 2015 • U.S. Army Corps of Engineers Climate Change Adaptation Plan, 2014 • U.S. Army Corps of Engineers Coastal Program Guide – North Atlantic Coast Comprehensive Study, January 2015
Department of Agriculture	• 2010 USDA Climate Change Science Plan • Climate Change Impacts on Crop Insurance, May 2010 • USDA Risk Management Agency Climate Adaptation Plan 2014 • U.S. Agriculture and Forestry Greenhouse Gas Inventory: 1990-2013, Technical Bulletin No. 1943, September 2016 • USDA Building Blocks for Climate Smart Agriculture and Forestry, Implementation Plan and Progress Report, May 2016

We note that the willingness of the above-listed agencies to produce the above-referenced documents does not imply that Federal Defendants view these documents as relevant to a trial in this case. Nor does the identification of documents in the above list suggest or commit Federal Defendants to produce any other documents.

We cannot presently commit to produce documents by July 31 on behalf of the Executive Office of the President. "It is well established that 'a President's communications and activities encompass a vastly wider range of sensitive material than would be true of an 'ordinary individual.'" *Cheney v. U.S. District Court*, 542 U.S. 367, 381 (2004) (quoting *United States v. Nixon*, 418 U.S. 683, 715 (1974)). Discovery against the President and his advisors, if it is to be permitted at all, must therefore be narrowly tailored to avoid interference with the President's constitutional duties. *Id.* at 385-91. And the burden to tailor any discovery requests appropriately rests squarely on Plaintiffs, not the Executive Office of the President. *See id.* at 388. We will try to determine by our June 30, 2017 meet-and-confer whether the Executive Office of the President can commit to produce any documents by July 31. Plaintiffs, however,

should be prepared to identify which specific documents, if any, they believe to be critical to their case.

Discovery of electronically stored information poses unique challenges. While we began working with our client agencies before the June 14 status conference to identify custodians, explore repositories, and identify viable search terms, it is evident to us that this process cannot be completed in an orderly, reliable, or efficient manner in advance of an early 2018 trial date. While we are willing to explore with Plaintiffs whether a substantially narrowed search for electronically stored information relevant to disputed factual issues in the case could be completed in a manner consistent with an early 2018 trial, our position is that the compressed case schedule does not afford sufficient time to conduct a search of e-mail or other electronically stored information. We believe that the time spent negotiating an order for electronically stored information, therefore, would be wasted. Also, time and resources spent aligning the intricacies of electronic production would be unwarranted since there is insufficient time to conduct discovery of electronically stored information.

* * *

In sum, the wide-ranging discovery called for in Plaintiffs' revised requests for production is incompatible with the trial and expert discovery schedule, as well as Magistrate Coffin's admonitions at the June 14 status conference. In order to move the case forward to an early 2018 trial, fact discovery must be curtailed and completed so as not to upend the expert discovery work that Magistrate Coffin has repeatedly opined is the heart of trial in this case. We look forward to meeting and conferring with you as the parties work toward streamlining discovery in this case and preparing it for trial.

Sincerely,

/s/ Sean C. Duffy
Sean C. Duffy
Trial Attorney
U.S. Department of Justice

CC: Frank J. Singer
Peter Dykema

Exhibit 13 to Declaration of Sean C. Duffy

July 12, 2017

VIA EMAIL

Sean C. Duffy
Frank Singer
U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES DIVISION
NATURAL RESOURCES SECTION
601 D Street NW
Washington, DC 20004
sean.c.duffy@usdoj.gov
frank.singer@usdoj.gov

Re: ***Juliana v. United States*, 6:15-cv-01517-TC**
Meet and confer related to Rule 30(b)(6) deposition matters for examination

Dear Sean and Frank,

As we agreed at our June 30, 2017 meet and confer, I attach a list of questions to narrow the matters for examination for the Rule 30(b)(6) depositions. These questions are not intended to replace the original matters for examination in the Rule 30(b)(6) notices, but rather provide the respective agencies with additional guidance on the matters that Plaintiffs will discuss in more detail so that you may more easily identify deponents.

At the June 30 meet and confer, you indicated the affirmative defenses that Defendants raised in their answer are legal defenses and Defendants do not intend to present facts at trial to support their affirmative defenses, with the exception of taking the depositions of Plaintiffs for purposes of arguing standing. Based on these assurances, Plaintiffs will remove from the Rule 30(b)(6) deposition notices the matter for examination that goes to the factual bases for each affirmative defense asserted by the agencies in their answer.

Finally, during our call on July 13, can you please confirm dates for our team to review the NARA documents this month at the various facilities. We are available to travel the week of July 16. We are unsure why that is taking so long.

Regards,

/s/

JULIA A. OLSON

Cc: **Philip Gregory**
Daniel Galpern

QUESTIONS TO GUIDE IDENTIFICATION OF RULE 30(b)(6) DEPONENTS AS OF JULY 12, 2017

Department of State

- How does the State Department make decisions about what temperature targets or atmospheric CO_2 concentration to advocate for in international climate change negotiations?
- Has the State Department ever considered what concentration of CO_2 in the atmosphere would avoid endangerment of human health and welfare for current and future generations? If not, does the State Department know who within the federal government has?
- Has the State Department ever considered what level of global warming above pre-industrial temperatures would endanger human health and welfare for current and future generations? If not, does the State Department know who within the federal government has?
- Has the State Department ever considered what level of ocean warming and acidification would endanger human health and welfare for current and future generations?
- Is the State Department using social cost of carbon analysis? What social cost of carbon analysis (or analyses) is the State Department using? How long has the State Department used each social cost of carbon analysis? How has each social cost of carbon analysis impacted State Department decisions?
- Is the State Department using discounting analysis on issues relating to climate change and energy policy? What discounting analysis (or analyses) on issues relating to climate change and energy policy is the State Department using? How long has the State Department used discounting analysis on issues relating to climate change and energy policy? How has each discounting analysis impacted State Department decisions on issues relating to climate change and energy policy?
- How does the State Department consider the climate change impacts resulting from the issuance of Presidential Permits for the transportation of fossil fuels across international borders? Does the State Department consider how those decisions will be consistent with temperature and CO_2 targets it has identified as necessary to protect our country's climate system and U.S. citizens?

Department of Energy ("DOE")

- What type of studies and analyses has the DOE done on transitioning the U.S. energy system off of fossil fuels to renewable energy sources? When did it begin doing this research? What were its findings and recommendations?
- Is the DOE currently engaged in studies and analyses on transitioning the U.S. energy system off of fossil fuels to renewable energy sources? If so, who is engaged in these studies and analyses? When does the DOE expect to conclude work on each study and analysis?
- Has the DOE considered what the national energy mix could look like if our country completely moved away from fossil fuel energy sources?
- Has the DOE considered the work of Mark Jacobson and his co-authors, which outlines plans to transition off of fossil fuels by mid-century?
- What role does the DOE play in formulating the current U.S. national energy policy and the national energy mix, including the America First Energy Plan? Who in the DOE has been involved in formulating the current U.S. national energy policy and the national energy mix, including the America First Energy Plan? When did the DOE begin playing a role in the national energy plans of the U.S.? In formulating the current U.S. national energy policy and the national energy mix, including the America First Energy Plan, did the DOE consider how those decisions will be consistent with temperature and CO_2 targets it has identified as necessary to protect our country's climate system and U.S. citizens?
- How does the DOE support fossil fuel extraction, transportation, and combustion through research and development, funding, subsidies, or other means? Does the DOE consider how those decisions will be consistent with temperature and CO_2 targets it has identified as necessary to protect our country's climate system and U.S. citizens?
- How does the DOE support the use of renewable energy sources through research and development, funding, subsidies, or other means? Does the DOE consider how those decisions will be consistent with temperature and CO_2 targets it has identified as necessary to protect our country's climate system and U.S. citizens?
- How does the DOE support energy efficiency standards for appliances and building efficiency standards? Does the DOE set efficiency standards in order to be consistent with CO_2 and temperature targets set by the U.S. government? Does the DOE consider CO_2 and temperature targets in setting efficiency standards?
- Has the DOE ever considered what concentration of CO_2 in the atmosphere would avoid endangerment of human health and welfare for current and future generations? If not, does the DOE know who within the federal government has?
- Has the DOE ever considered what level of global warming above pre-industrial temperatures would endanger human health and welfare for current and future generations? If not, does the DOE know who within the federal government has?
- Is the DOE using social cost of carbon analysis? What social cost of carbon analysis (or analyses) is the DOE using? How long has the DOE used each social cost of carbon analysis? How has each social cost of carbon analysis impacted DOE decisions?
- Is the DOE using discounting analysis on issues relating to climate change and energy policy? What discounting analysis (or analyses) on issues relating to climate change and energy policy is the DOE using? How long has the DOE used discounting analysis on

issues relating to climate change and energy policy? How has each discounting analysis impacted DOE decisions on issues relating to climate change and energy policy?

Department of Agriculture ("USDA")

- Has the USDA ever considered what concentration of CO_2 in the atmosphere would avoid endangerment of human health and welfare for current and future generations? If not, does the USDA know who within the federal government has?
- Has the USDA ever considered what level of global warming above pre-industrial temperatures would endanger human health and welfare for current and future generations? If not, does the USDA know who within the federal government has?
- Has the USDA done studies or analyses on how different atmospheric concentrations of CO_2, will impact the natural resources under its regulatory jurisdiction?
- Has the USDA done studies or analyses on how different levels of global warming, will impact the natural resources under its regulatory jurisdiction?
- Has the USDA done studies or analyses on the ability and capacity of biotic resources, including, but not limited to, forests, wetlands, and agricultural areas, to sequester CO_2?
- What types of risks, including financial risks, does the USDA anticipate climate change impacts will pose to agriculture and public lands in the U.S. The term "climate change impacts" includes, but is not limited to, floods, drought, heat waves, and extreme weather events.
- How does the USDA support fossil fuel extraction, transportation, and combustion? Does USDA consider how those decisions will be consistent with temperature and CO_2 targets it has (or other government agencies have) identified as necessary to protect the climate system and U.S. citizens?
- Is the USDA using social cost of carbon analysis? What social cost of carbon analysis (or analyses) is USDA using? How long has USDA used each social cost of carbon analysis? How has each social cost of carbon analysis impacted USDA decisions on authorizing, leasing, permitting, or otherwise allowing for coal, oil, and gas mining and production on federal lands?
- Is the USDA using discounting analysis on issues relating to climate change and energy policy? What discounting analysis (or analyses) on issues relating to climate change and energy policy is the USDA using? How long has the USDA used discounting analysis on issues relating to climate change and energy policy? How has each discounting analysis impacted USDA decisions on issues relating to climate change and energy policy?

Department of Transportation ("DOT")

- Has the DOT ever considered what concentration of CO_2 in the atmosphere would avoid endangerment of human health and welfare for current and future generations? If not, does the DOT know who within the federal government has?
- Has the DOT considered what level of global warming above pre-industrial temperatures would endanger human health and welfare for current and future generations? If not, does the DOT know who within the federal government has?
- What studies and research has the DOT done to consider the technical feasibility of transitioning the transportation sector away from the internal combustion engine and fossil fuels towards electric and/or hydrogen-powered vehicles? When did the DOT begin conducting these studies and research? What were the findings and recommendations of each study and research that has considered the technical feasibility of transitioning the transportation sector away from the internal combustion engine and fossil fuels towards electric and/or hydrogen-powered vehicles?
- Has the DOT developed plans, models, or analyses regarding the national transportation system and ways to move it away from fossil fuels? What plans, models, and analyses has DOT developed regarding the national transportation system and ways to move it away from fossil fuels? What were the findings or conclusions of each plan, model, or analysis regarding the national transportation system and ways to move it away from fossil fuels?
- What, if anything, has the DOT done to transition the transportation sector away from the internal combustion engine and fossil fuels?
- What factors does the DOT consider when setting fuel economy standards? Does the DOT consider climate change when setting fuel economy standards? If so, how does the DOT consider climate change when setting fuel economy standards? When setting fuel economy standards, does the DOT consider how those decisions will be consistent with temperature and CO_2 targets it has (or other government agencies have) identified as necessary to protect our country's climate system and U.S. citizens?
- Is the DOT using social cost of carbon analysis? What social cost of carbon analysis (or analyses) is the DOT using? How long has the DOT used each social cost of carbon analysis? How has each social cost of carbon analysis impacted DOT decisions?
- Is the DOT using discounting analysis on issues relating to climate change and energy policy? What discounting analysis (or analyses) on issues relating to climate change and energy policy is the DOT using? How long has the DOT used discounting analysis on issues relating to climate change and energy policy? How has each discounting analysis impacted DOT decisions on issues relating to climate change and energy policy?

Department of Interior ("DOI")

- Has the DOI ever considered what concentration of CO_2 in the atmosphere would avoid endangerment of human health and welfare for current and future generations? If not, does the DOI know who within the federal government has?
- Has the DOI ever considered what level of global warming above pre-industrial temperatures would endanger human health and welfare for current and future generations? If not, does the DOI know who within the federal government has?
- What role does the DOI play in formulating the current U.S. national energy policy and the national energy mix, including the America First Energy Plan? Who in the DOI has been involved in formulating the current U.S. national energy policy and the national energy mix, including the America First Energy Plan? When did the DOI begin playing a role in the national energy plans of the U.S.? In formulating the current U.S. national energy policy and the national energy mix, including the America First Energy Plan, did the DOI consider how those decisions will be consistent with temperature and CO_2 targets it has identified as necessary to protect our country's climate system and U.S. citizens?
- How does the DOI support fossil fuel extraction, transportation, and combustion through research and development, funding, subsidies, or other means? Does the DOI consider how those decisions will be consistent with temperature and CO_2 targets it has identified as necessary to protect our country's climate system and U.S. citizens?
- How does the DOI support the use of renewable energy sources through research and development, funding, subsidies, or other means? Does the DOI consider how those decisions will be consistent with temperature and CO_2 targets it has identified as necessary to protect our country's climate system and U.S. citizens?
- Has the DOI considered how permitting fossil fuel extraction will worsen climate change and negatively impact the prospects of survival for the polar bear, wolverine, and other threatened or endangered species? If so, how has the DOI considered how permitting fossil fuel extraction will worsen climate change and negatively impact the prospects of survival for the polar bear, wolverine, and other threatened or endangered species? Is the DOI currently considering how permitting fossil fuel extraction will worsen climate change and negatively impact the prospects of survival for the polar bear, wolverine, and other threatened or endangered species?
- Has the DOI conducted any studies or analyses on how different atmospheric concentrations of CO_2, above pre-industrial temperatures, will impact the natural resources under its regulatory jurisdiction?
- Has the DOI conducted any studies or analyses on how different levels of global warming above pre-industrial temperatures, will impact the natural resources under its regulatory jurisdiction?
- Has the DOI done studies or analyses on the ability and capacity of biotic resources like forests, wetlands, and rangeland to sequester CO_2? If so, what studies or analyses has the DOI done on the ability and capacity of biotic resources like forests, wetlands, and rangeland to sequester CO_2? Who in the DOI worked on the studies or analyses on the ability and capacity of biotic resources like forests, wetlands, and rangeland to sequester CO_2?

- Is the DOI using social cost of carbon analysis? What social cost of carbon analysis (or analyses) is the DOI using? How long has the DOI used each social cost of carbon analysis? How has each social cost of carbon analysis impacted DOI decisions?
- Is the DOI using discounting analysis on issues relating to climate change and energy policy? What discounting analysis (or analyses) on issues relating to climate change and energy policy is the DOI using? How long has the DOI used discounting analysis on issues relating to climate change and energy policy? How has each discounting analysis impacted DOI decisions on issues relating to climate change and energy policy?

Environmental Protection Agency ("EPA")

- Has the EPA ever considered what concentration of CO_2 in the atmosphere would avoid endangerment of human health and welfare for current and future generations? If not, does the EPA know who within the federal government has?
- Has the EPA ever considered what level of global warming above pre-industrial temperatures would endanger human health and welfare for current and future generations? If not, does the EPA know who within the federal government has?
- Has the EPA ever conducted a study or analysis of what the limits should be on annual U.S. CO_2 emissions in order to be consistent with the best available science on keeping atmospheric CO_2 concentrations and rising temperatures within limits to avoid endangering human health and welfare for current and future generations? If so, what is the best available science relied upon by EPA to both establish the CO_2 and temperature targets and the corresponding emissions limits?
- Does EPA consider how its permitting authorizing greenhouse gas pollution are consistent with best available science and temperature and CO_2 targets it has (or other government agencies have) identified as necessary to protect our country's climate system and U.S. citizens or prevent the endangerment of human health and welfare for current and future generations? If so, who performed these analyses? If so, where are these analyses? Have these analyses ever been made available for public review?
- Does EPA consider how its regulatory decisions authorizing greenhouse gas pollution and regulating sources of greenhouse gas pollution are consistent with best available science and temperature and CO_2 targets it has (or other government agencies have) identified as necessary to protect our country's climate system and U.S. citizens or prevent the endangerment of human health and welfare for current and future generations? If so, who performed these analyses? If so, where are these analyses? Have these analyses ever been made available for public review?
- Has EPA done studies or analyses on the capacity of biotic drawdown in the U.S. to sequester CO_2? Who conducted the studies and analyses on the capacity of biotic drawdown in the U.S. to sequester CO_2? What were the findings and recommendations?
- Has the EPA ever considered what requirements should be placed on U.S. biotic sequestration resources in order to be consistent with the best available science on keeping atmospheric CO_2 concentrations and rising temperatures within limits that would avoid endangering human health and welfare for current and future generations? If so, what is the best available science relied upon by EPA regarding biotic sequestration? Who conducted the studies and regarding biotic sequestration? What were the findings and recommendations?
- What studies and analyses has the EPA done on transitioning the U.S. energy system off of fossil fuels or to renewable energy sources? Who conducted the studies and analyses on transitioning the U.S. energy system off of fossil fuels or to renewable energy sources? What were the findings and recommendations?
- Has the EPA considered the work of Mark Jacobson and his co-authors, which outlines plans to transition off of fossil fuels by mid-century? Who considered the work of Mark Jacobson and his co-authors, which outlines plans to transition off of fossil fuels by mid-century? What were the findings and recommendations?

- Has the EPA considered what the national energy mix could look like if we completely moved away from fossil fuel energy sources? Who considered what the national energy mix could look like if we completely moved away from fossil fuel energy sources? What were the findings and recommendations?
- What role does the EPA play in formulating the current U.S. national energy policy and the national energy mix, including the America First Energy Plan? Who in the EPA has been involved in formulating the current U.S. national energy policy and the national energy mix, including the America First Energy Plan? When did the EPA begin playing a role in the national energy plans of the U.S.? In formulating the current U.S. national energy policy and the national energy mix, including the America First Energy Plan, did the EPA consider how those decisions will be consistent with temperature and CO_2 targets it has identified as necessary to protect our country's climate system and U.S. citizens?
- Has the EPA used studies and analysis to evaluate the possibility of setting a National Ambient Air Quality Standard ("NAAQS") for CO_2? What studies and analysis has the EPA used to evaluate the possibility of setting a NAAQS for CO_2? Has the EPA evaluated what level of atmospheric CO_2 would be appropriate for a NAAQS? If so, what were the results of the EPA evaluation on the level of atmospheric CO_2 that would be appropriate for a NAAQS? Who conducted the EPA evaluation on the level of atmospheric CO_2 that would be appropriate for a NAAQS? Has the EPA done an analysis regarding the 2009 petition by the Center for Biological Diversity for a NAAQS of 350 ppm? If so, what were the results of the EPA analysis regarding the 2009 petition by the Center for Biological Diversity for a NAAQS of 350 ppm? Who conducted the EPA analysis regarding the 2009 petition by the Center for Biological Diversity for a NAAQS of 350 ppm? Why is there no NAAQS rulemaking for a NAAQS of 350 ppm?
- Is the EPA using social cost of carbon analysis? What social cost of carbon analysis (or analyses) is the EPA using? How long has the EPA used each social cost of carbon analysis? How has each social cost of carbon analysis impacted EPA decisions?
- Is the EPA using discounting analysis on issues relating to climate change and energy policy? What discounting analysis (or analyses) on issues relating to climate change and energy policy is the EPA using? How long has the EPA used discounting analysis on issues relating to climate change and energy policy? How has each discounting analysis impacted EPA decisions on issues relating to climate change and energy policy?

Department of Defense ("DOD")

- Has the DOD ever considered what concentration of CO_2 in the atmosphere would avoid endangerment of human health and welfare for current and future generations? If not, does the DOD know who within the federal government has?
- Has the DOD ever considered what level of global warming above pre-industrial temperatures would endanger human health and welfare for current and future generations? If not, does the DOD know who within the federal government has?
- Has the Navy considered how different levels of CO_2 in the atmosphere, or different levels of global warming above pre-industrial temperatures, will impact the Arctic sea ice? Who conducted the studies and analyses on how different levels of CO_2 in the atmosphere, or different levels of global warming above pre-industrial temperatures, will impact the Arctic sea ice? What were the findings and recommendations?
- What type of studies and analyses has the DOD done on transitioning the U.S. military away from fossil fuels and towards renewable energy sources? How quickly can this be technically be accomplished? Who conducted the studies and analyses on transitioning the U.S. military away from fossil fuels and towards renewable energy sources? What were the findings and recommendations?
- Has the DOD considered or done studies on how climate change, and the accompanying sea level rise, will result in the relocation of U.S. citizens/communities and U.S. military installations? Does the DOD have projections on the scale of relocation necessary for different amounts of sea level rise and the estimated timing of that relocation? Who conducted the studies and analyses on how climate change, and the accompanying sea level rise, will result in the relocation of U.S. citizens/communities and U.S. military installations? What were the findings and recommendations?
- Does the DOD know that burning fossil fuels was not in the public interest and that transitioning to renewable energy resources would better protect U.S. citizens? When did the DOD first learn that burning fossil fuels was not in the public interest and that transitioning to renewable energy resources would better protect U.S. citizens?
- Does DOD's Army Corps of Engineers consider how its permitting and regulatory decisions regarding fossil fuel infrastructure and greenhouse gas pollution are consistent with best available science and temperature and CO_2 targets it has (or other government agencies have) identified as necessary to protect the climate system and U.S. citizens or prevent the endangerment of human health and welfare for current and future generations? If so, who conducted these analyses? If so, where are these analyses? Have these analyses ever been made available for public review?
- Is the DOD using social cost of carbon analysis? What social cost of carbon analysis (or analyses) is the DOD using? How long has the DOD used each social cost of carbon analysis? How has each social cost of carbon analysis impacted DOD decisions?
- Is the DOD using discounting analysis on issues relating to climate change and energy policy? What discounting analysis (or analyses) on issues relating to climate change and energy policy is the DOD using? How long has the DOD used discounting analysis on issues relating to climate change and energy policy? How has each discounting analysis impacted DOD decisions on issues relating to climate change and energy policy?

Department of Commerce ("DOC")

- Has the DOC ever considered what concentration of CO_2 in the atmosphere would avoid endangerment of human health and welfare for current and future generations? If not, does the DOC know who within the federal government has?
- Has the DOC ever considered what level of global warming above pre-industrial temperatures would endanger human health and welfare for current and future generations? If not, does the DOC know who within the federal government has?
- What role does the DOC play in formulating the current U.S. national energy policy and the national energy mix, including the America First Energy Plan? Who in the DOC has been involved in formulating the current U.S. national energy policy and the national energy mix, including the America First Energy Plan? When did the DOC begin playing a role in the national energy plans of the U.S.? In formulating the current U.S. national energy policy and the national energy mix, including the America First Energy Plan, did the DOC consider how those decisions will be consistent with temperature and CO_2 targets it has identified as necessary to protect our country's climate system and U.S. citizens?
- What studies and analyses has the DOC done on transitioning the U.S. energy system to renewable energy sources? Who conducted the studies and analyses that the DOC has done on transitioning the U.S. energy system to renewable energy sources? What were the findings and recommendations?
- Has the DOC considered the work of Mark Jacobson and his co-authors, which outlines plans to transition off of fossil fuels by mid-century? Who conducted the studies and analyses on the work of Mark Jacobson and his co-authors, which outlines plans to transition off of fossil fuels by mid-century? What were the findings and recommendations?
- Has the DOC considered how ocean warming and ocean acidification will impact the survival and recovery of ringed seals, coral species and coral reefs, listed salmonids, and the health of those species' habitats, within the U.S.? Who conducted the studies and analyses on how ocean warming and ocean acidification will impact the survival and recovery of ringed seals, coral species and coral reefs, listed salmonids, and the health of those species' habitats, within the U.S.? What were the findings and recommendations?
- Has the DOC ever considered what level of atmospheric CO_2, ocean warming, and ocean acidification would adversely impact the survival and recovery of ringed seals, coral species and coral reefs, listed salmonids, and the health of those species' habitats, within the U.S.? Who conducted the studies and analyses on what level of atmospheric CO_2, ocean warming, and ocean acidification would adversely impact the survival and recovery of ringed seals, coral species and coral reefs, listed salmonids, and the health of those species' habitats, within the U.S.? What were the findings and recommendations?
- Does the DOC consider how its permitting and regulatory decisions regarding greenhouse gas pollution are consistent with best available science and temperature and CO_2 targets it has (or other government agencies have) identified as necessary to protect the climate system and U.S. citizens or protect listed species from extinction? If so, who conducted these analyses? If so, where are these analyses? Have these analyses ever been made available for public review?

- Is the DOC using social cost of carbon analysis? What social cost of carbon analysis (or analyses) is the DOC using? How long has the DOC used each social cost of carbon analysis? How has each social cost of carbon analysis impacted DOC decisions?
- Is the DOC using discounting analysis on issues relating to climate change and energy policy? What discounting analysis (or analyses) on issues relating to climate change and energy policy is the DOC using? How long has the DOC used discounting analysis on issues relating to climate change and energy policy? How has each discounting analysis impacted DOC decisions on issues relating to climate change and energy policy?

Exhibit 14 to Declaration of Sean C. Duffy

1 BEFORE THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF OREGON
3 - - - - - - - - - - - - - - - - x
4 KELSEY CASCADIA ROSE JULIANA, :
5 XIUHTEZCATL TONATIUH M., :
6 through his Guardian TAMARA :
7 ROSKE-MARTINEZ, et. al, : Case Number
8 Plaintiffs, : 6:15-cv-01517-TC
9 vs. :
10 THE UNITED STATES OF AMERICA, :
11 DONALD TRUMP, in his official :
12 capacity as President of the :
13 United States, et al., :
14 Defendants. :
15 - - - - - - - - - - - - - - - - x
16
17 VIDEOTAPED DEPOSITION OF JAMES MICHAEL KUPERBERG
18
19 Washington, D.C.
20 Thursday, July 20, 2017
21 REPORTED BY:
22 SARA A. WICK, RPR, CRR

1 First A Budget Blueprint to Make America Great
2 Again" Office of Management and Budget document?
3 A It appears to be.
4 Q Did USGCRP have any role in the
5 development of this document? 15:05:03
6 A No, we did not.
7 Q Since this document was generated, have
8 you had any discussions with anyone about the
9 contents of this document?
10 A Yes, I have. 15:05:27
11 Q Anyone with the Executive Office of the
12 President?
13 A Yes, I have.
14 Q Who have you had discussions with?
15 A I've had discussions with my division of 15:05:41
16 the -- the Environment and Energy Division at OSTP,
17 I've had discussions with OMB about the budget.
18 Q And in your discussions with OMB about the
19 budget, what topic or topics did you discuss?
20 MR. SINGER: Hold on before you answer 15:06:10
21 that.
22 I have two concerns. One is, I'm

1 concerned that we're getting into subject matter
2 that could involve executive privilege, which is the
3 President's to raise and not necessarily Justice's
4 right here.
5 And second, I have a concern about 15:06:27
6 relevance to the lawsuit, what the budget -- what a
7 proposed budget's relevance is to the lawsuit.
8 So I don't want to instruct you not to
9 answer on executive privilege.
10 But I just would, one, want to know what, 15:06:40
11 the relevance of this is, and two, if it's something
12 that you feel you do need to pursue, perhaps we need
13 to try to find out whether the Executive Office of
14 the President wants to exert executive privilege
15 over communications that the witness has had with 15:06:55
16 the Executive Office of the President. And we can
17 try to make a timeline to make a decision on that.
18 MR. GREGORY: Okay. Well, A, I don't
19 think it's appropriate under the Federal Rules to
20 instruct on the grounds of relevance, particularly 15:07:12
21 discussions regarding budget -- discussions
22 regarding the budget for his agency.

1 But if you want to -- me to table this
2 while you wait for a decision on executive
3 privilege, we don't even have to get into the
4 relevance.
5 MR. SINGER: That's fine. I mean -- 15:07:29
6 MR. GREGORY: If you understand what I'm
7 saying.
8 MR. SINGER: I understand what you're
9 saying. I think I do. And I'm happy to talk
10 offline. Perhaps a better understanding of what 15:07:37
11 line of inquiry Plaintiffs want to see so that the
12 Executive Office of the President can make a
13 decision as to whether or not a privilege should be
14 asserted. But in any event, I will -- I appreciate
15 and will accept your offer to defer questioning on 15:07:51
16 this until we can get an answer.
17 MR. GREGORY: Do you mind, can we just
18 talk quickly right now?
19 MR. SINGER: We can go off the record,
20 sure. 15:08:04
21 VIDEOGRAPHER: This is the end of DVD 2.
22 Off the record at 3:10.

1 detailed --
2 A I would call it the detailed.
3 Q Okay. And then we'll call this the --
4 A This is commonly called the skinny budget.
5 Q Okay. We'll call it the skinny budget and 15:40:06
6 the detailed budget. Is that --
7 A Sure. Thank you.
8 Q And have you had discussions with anyone
9 from -- just to clarify, because I'm going to --
10 have you had discussions with anyone from the 15:40:20
11 Executive Office of the President about the more
12 detailed budget?
13 A Yes, I have.
14 MR. GREGORY: And you would give the same
15 instruction? 15:40:29
16 MR. SINGER: Right. Don't reveal details.
17 We need to vet it. But the existence of the
18 communication, we can --
19 MR. GREGORY: Yeah, because I just didn't
20 want to be limited to the America First. Okay. 15:40:37
21 BY MR. GREGORY:
22 Q And then have you had discussions at

1 A No.
2 Q In your capacity as a member of the OSTP,
3 were you present for any conversations between the
4 Executive Office of the President and John Holdren
5 about the climate action plan? 16:44:23
6 A Yes.
7 Q And what was discussed with John Holdren
8 about the climate action plan in conversations where
9 you were present?
10 MR. SINGER: Before you answer that, I 16:44:41
11 need a little bit of background on who John Holdren
12 is.
13 THE WITNESS: John Holdren was the former
14 director of OSTP, eight years under the Obama
15 Administration. 16:44:52
16 MR. SINGER: Okay. I think that falls
17 under the bucket of the executive privilege. It's
18 communications with EOP. I think we can add that to
19 the category of things that I need to raise with
20 White House counsel. Oh, he's assistant to the 16:45:06
21 President. Okay. So I think we need to add that to
22 the group of discussions that I need to raise with

1 White House counsel as to whether the President
2 wants to assert the executive privilege on that or
3 not.
4 BY MR. GREGORY:
5 Q To your knowledge, did OSTP give CEQ 16:45:23
6 advice on by how much carbon emissions should be
7 reduced to protect the Arctic?
8 MR. SINGER: Again, I think that's calling
9 for communications between components of the
10 Executive Office, between CEQ and OSTP. And that 16:45:39
11 will fall both under executive privilege and to the
12 extent it goes for a potential decision on policy by
13 either CEQ or OSTP. It could be deliberative
14 process.
15 But you know -- actually, you're asking 16:45:54
16 whether communications exist?
17 MR. GREGORY: Yes.
18 MR. SINGER: Let's get that answer first,
19 and then I'll assert the privilege as to content.
20 But if you know whether communications
21 exist, you can answer whether you know if
22 communications exist.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bowman, Liz
Sent: Wed 5/31/2017 9:01:34 PM
Subject: TRUMP_ Paris Facts.docx
TRUMP_ Paris Facts.docx

To: Wilcox, Jahan[wilcox.jahan@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Konkus, John[konkus.john@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Bowman, Liz
Sent: Wed 5/31/2017 8:27:17 PM
Subject: RE: DRAFT: Possible Talking Points Regarding Paris (Deadline of 4:30 PM)

Got it, thanks for pulling it together!

From: Wilcox, Jahan
Sent: Wednesday, May 31, 2017 4:25 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Konkus, John <konkus.john@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: RE: DRAFT: Possible Talking Points Regarding Paris (Deadline of 4:30 PM)

This is not for any pitches. This is just a draft document that I am preparing in the event we need this.

From: Bowman, Liz
Sent: Wednesday, May 31, 2017 4:23 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Konkus, John <konkus.john@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: RE: DRAFT: Possible Talking Points Regarding Paris (Deadline of 4:30 PM)

Ex. 5 - Deliberative Process

From: Wilcox, Jahan
Sent: Wednesday, May 31, 2017 4:00 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Konkus, John <konkus.john@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: DRAFT: Possible Talking Points Regarding Paris (Deadline of 4:30 PM)

Below and attached are some draft talking points. Please feel free to add any suggestions. Again this is just a rough draft.

Talking Points Regarding The Paris Accord

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Jahan Wilcox
EPA
Strategic Communications Advisor
Work Cell: 202.309.0934
Work Email: wilcox.jahan@epa.gov

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Dunham, Sarah[Dunham.Sarah@epa.gov]
From: Nishida, Jane
Sent: Wed 6/14/2017 11:01:58 PM
Subject: FW: Meeting request

Mandy,

The French Embassy is requesting a meeting to discuss to next steps post the decision to withdraw from the Paris Agreement. Presume it is too early to discuss next steps and I should respond accordingly.

Jane

From: KREMBEL David [mailto:David.KREMBEL@dgtresor.gouv.fr]
Sent: Wednesday, June 14, 2017 5:19 PM
To: Nishida, Jane <Nishida.Jane@epa.gov>; Phillips, Anna <Phillips.Anna@epa.gov>
Cc: DOUCERAIN Diane (WASHINGTON) (MAEDI) <diane.doucerain@diplomatie.gouv.fr>
Subject: Meeting request

Dear Jane and Anna,

I hope you are well. After the POTUS announcement of June 1st regarding US intention to withdraw from the Paris Agreement, France and other European partners would be interested to talk with you and learn more about the EPA's vision regarding next steps.

Topics we would want to discuss include :

- withdrawal modalities

- meaning and scope of "renegociation"
- US position in the negotiations about implementing the Paris agreement ("rulebook")
- US actions regarding the goal of emissions reduction

Would you be available to meet early next week ? How about next Tuesday (June 20) or Wednesday (June 21) in the morning ?

Many thanks,

David

David Krembel

Counselor for Ecology, Energy, and Climate Change

Embassy of France in the U.S.

4101 Reservoir Rd NW

Washington, DC 20007-2179

Tel : +1 (202) 944-6088

Mobile : +1 (202) 280-3439

david.krembel@dgtresor.gouv.fr

To: Jackson, Ryan[jackson.ryan@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Ferguson, Lincoln
Sent: Wed 5/31/2017 5:26:59 PM
Subject: SP Paris Speech
SP Paris.docx

For your review.

Thanks,
Lincoln

Lincoln Ferguson

Senior Advisor to the Administrator

Office of Public Affairs

U.S. EPA

(202) 564-1935

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Gunasekara, Surya
Sent: Mon 6/12/2017 2:38:49 PM
Subject: RE: United States Resets Climate Change Discussion At G7

Very nice.

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Monday, June 12, 2017 10:32 AM
To: Gunasekara, Surya; mcgrevey1@aol.com
Subject: Fwd: United States Resets Climate Change Discussion At G7

Sent from my iPhone

Begin forwarded message:

From: "Lincoln Ferguson (EPA)" <ferguson.lincoln@epa.gov>
Date: June 12, 2017 at 3:38:33 PM GMT+2
To: "Gunasekara.Mandy@epa.gov" <Gunasekara.Mandy@epa.gov>
Subject: United States Resets Climate Change Discussion At G7
Reply-To: ferguson.lincoln@epa.gov

United States Resets Climate Change Discussion At G7

U.S. Formally Joins Communiqué, Reaching Consensus On Important Environmental Issues

June 12, 2017

Bologna, Italy – Today, U.S. Environmental Protection Agency Administrator Scott Pruitt announced that the United States stands firm on its decision to withdraw from the Paris Agreement and has reset the conversation about climate change reflective of the new priorities of the Trump Administration and the expectations of the American people.

"Respective of the importance to engage with longstanding allies and key international partners, we approached the climate discussions head on from a position of strength and clarity. We are resetting the dialogue to say Paris is not the only way forward to making progress. Today's action of reaching consensus makes clear that the Paris Agreement is not the only mechanism by which environmental stewardship can be demonstrated. It also demonstrates our commitment to honest conversations, which are the cornerstone of constructive international dialogue, " said Administrator Scott Pruitt.

While a party to the communiqué, the United States did not join the climate change sections, explicitly stating:

We the United States of America continue to demonstrate through action, having reduced our CO2 footprint as demonstrated by achieving pre-1994 CO2 levels domestically. The United States will continue to engage with key international partners in a manner that is consistent with our domestic priorities, preserving both a strong economy and a healthy environment. Accordingly, we the United States do not join those sections of the communiqué on climate and MDBs, reflecting our recent announcement to withdraw and immediately cease implementation of the Paris Agreement and associated financial commitment.

The United States and its G7 counterparts found common ground engaging in robust and constructive dialogue regarding other, equally important environmental issues. The United States joined consensus throughout the communiqué including the sections discussing resource efficiency, marine litter, and environmental policies and jobs.

"The United States will continue to show leadership by offering action-oriented solutions to the world's environmental challenges. We have indicated a willingness to engage on an international stage that stands to greatly benefit from American ingenuity, innovation, and advanced technologies. We have already demonstrated significant progress towards mitigating environmental problems and we will continue to develop these for the benefit of all nations," Administrator Pruitt said.

BACKGROUND ...

G7 Bologna Environment Ministers' Meeting: Communiqué

"We, the G7 Environment Ministers and high representatives, and European Commissioners responsible for environment and climate, met in Bologna on 11-12 June 2017. We were joined by heads and senior officials of International Organizations and by representatives of universities and firms." (G7 Bologna Environment Ministers' Meeting, 06/12/17)

http://usenvironmentalprotectionagency.cmail19.com/t/d-l-kilihul-aqdkjip-j/

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1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Bowman, Liz[Bowman.Liz@epa.gov]
From: Zack Colman
Sent: Wed 5/31/2017 1:03:06 PM
Subject: Re: Paris

Thanks Mandy. And hello, Liz! Just trying to get a confirmation of these reports. Also was wondering if there would be an official announcement of any sort. Beyond that, is the plan to begin a Paris withdrawal, or a full UNFCCC exit?
On Wed, May 31, 2017 at 9:00 AM Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Let me connect you with our comms team (Liz, CC'd).

Sent from my iPhone

On May 31, 2017, at 8:19 AM, Zack Colman <zcolman@gmail.com> wrote:

Hi Mandy,
Is there any truth to this Axios scoop? Just trying to get my day in order.

https://www.axios.com/scoop-trump-is-pulling-u-s-out-of-paris-climate-deal-2427773025.html

-Zack
--
Zack Colman

energy/enviro journalist
Knight Science Journalism fellow at MIT, '15-16
248.563.9744
Twitter: @zcolman

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--
Zack Colman

energy/enviro journalist
Knight Science Journalism fellow at MIT, '15-16
248.563.9744
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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Lincoln Ferguson (EPA)
Sent: Mon 6/12/2017 1:38:33 PM
Subject: United States Resets Climate Change Discussion At G7

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.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; mandy.gunasekara@gmail.com[mandy.gunasekara@gmail.com]
From: Mark Carr
Sent: Wed 5/31/2017 12:53:25 PM
Subject: FW: TRCS Letter to President Trump , copy to Pruitt, Perry & Tillerson
2017-05 TRCS Letter to President Trump--FINAL with signatures May 26 .pdf
2016-11-30 RECOMMENDATIONS TO THE TRUMP EPA TRANSITION TEAM.pdf

Mandy, Kindly note the attachments prepared by a corps of retired NASA astronauts. The attachments are a petition and a recommendation for a scientific panel. Kindly let me know if you have questions.

Respectfully,

Mark J Carr
CO2 Coalition communications

Channel Design Group
314-616-6957
MarkC@ChannelDesignGroup.com
DC - NOLA - StL

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Jackson, Ryan
Sent: Wed 5/31/2017 10:53:15 AM
Subject: Fwd: Ryan, Here are the smoking guns on the claim that Paris allows us to reduce our commitment

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

Begin forwarded message:

From: Myron Ebell <Myron.Ebell@cei.org>
Date: May 30, 2017 at 5:54:03 PM EDT
To: "jackson.ryan@epa.gov" <jackson.ryan@epa.gov>
Subject: Ryan, Here are the smoking guns on the claim that Paris allows us to reduce our commitment

Dear Ryan, Here are the smoking guns on the recent claim by Todd Stern and others that of course the Paris Climate Treaty allows parties to withdraw their Nationally Determined Contributions and submit less ambitious ones. Yours, Myron.

From a discussion with Todd Stern, the State Department's chief climate negotiator, at Brookings on 17th December 2015—that is, the week after returning from negotiating the Paris Climate Treaty. Stern affirms that the text of Article 4 means what it says it means and not what he now says it means.

Todd Stern, starting at 5:58, https://www.brookings.edu/events/unpacking-the-paris-climate-conference-a-conversation-with-todd-stern/:

"Second of all, really important with respect to ambition. We started off with the completely extraordinary fact that here were 186 countries that had put forward their targets, their so-called INDCs in the lingo, during the course of 2015. **And then there was an architecture built around that in the agreement of five-year cycles to ratchet those up. And countries either put in new targets or, if they're in the middle of a longer target period, they have to either revise it upward or reconfirm it every five years**. And the five-year cycle follows a global stock-take to see where we are in the aggregate vis-à-vis our long-term goals, vis-à-vis what science is telling us. So you've got an every-five-year stock-take and then about a year after the every-five-year stock-take **countries have to either reconfirm and say, yes, I'm going to hold where I am or I'm going to increase where I am or if they're in the period of time where they have to put in a target anyway, obviously they do. So that was really important**."

"So in the first set of **these INDCs which are going to keep ratcheting up, again we hope every five years**, that there's already been this big, big move."

"... **[T]he structure that you have these five-year review periods and the ratcheting up cycle of what countries are supposed to do built into the agreement**."

My colleague Chris Horner received the attached e-mail last Friday as the result of a FOIA to the State Department. The e-mail is from Michael Jacobs to Todd Stern. Here are the key statements:

"When I was in DC I mentioned to you my view that INDCs should be describes as minimum or floor contributions, in order to preserve the possibility of further ambition coming later."

"They have to be minimums rather than revisable in both directions, otherwise we have not real agreement in Paris at all."

Myron Ebell

Director, Center for Energy and Environment

Competitive Enterprise Institute

1310 L Street, N. W., Seventh Floor

Washington, DC 20005, USA

Tel direct: (202) 331-2256

Tel mobile: (202) 320-6685

E-mail: Myron.Ebell@cei.org

Stop continental drift!

UNCLASSIFIED U.S. Department of State Case No. F-2015-02212 Doc No. C05836980 Date: 05/15/2017

Hartmann, Lorraine

From: [redacted]@gmail.com on behalf of Michael Jacobs <[redacted]@newclimateeconomy.net> B6
Sent: Tuesday, December 02, 2014 9:59 AM
To: Stern, Todd D (S/SECC)
Cc: Sierawski, Clare S; Biniaz, Susan N
Subject: Re: Lima

RELEASE IN PART B6

Good idea. Free before 4pm, when I'm speaking at an event.

MJ

REVIEW AUTHORITY: David Van Valkenburg, Senior Reviewer

MICHAEL JACOBS I Senior Adviser

THE NEW CLIMATE ECONOMY I The Global Commission on the Economy and Climate

PHONE (C[redacted] B6
WEBSITE www.newclimateeconomy.net
ADDRESS Overseas Development Institute, 203 Blackfriars Road, London, SE1 8NJ

Sign up for our newsletter here

On Tue, Dec 2, 2014 at 2:53 PM, Stern, Todd D (S/SECC) <SternTD@state.gov> wrote:
Michael -- let's definitely get together. We arrive very early morning 6th. Let's try on the 7th, if possible.

From: Michael Jacobs [mailto:[redacted]@newclimateeconomy.net] B6
Sent: Tuesday, December 02, 2014 09:37 AM Eastern Standard Time
To: Stern, Todd D (S/SECC); Sierawski, Clare S
Subject: Lima

Hi Todd, Claire

Just to say that I'll be in Lima from Saturday 6th evening. I know how busy you will be but it would be good to catch up if a moment can be found.

Many congratulations on the US-China statement. I know a lot of work went into that for a long period. I recognised some of the text! - I hope that paper I sent with Hal H was useful.

When I was in DC I mentioned to you my view that INDCs should be described as minimum or floor contributions, in order to preserve the possibility of further ambition coming later. Have discussed this with a few delegations and groups and there seems to be some interest. See below for more.

Best - and hope to see you next week

Michael

INDCs as floors or minimums

Rationale

When major countries' INDCs are published in March-April it is likely that collectively they will look far from a 2C path (indeed, the emissions gap may have widened) but countries will say they cannot revise them before Paris. This means Paris may be declared a failure 6 months before it begins.

The way to avoid this (apart from a much more concerted
effort
now
to raise intended levels of ambition) is to agree in Lima that INDCs are minimum contributions, to which countries may add subsequently. This should anyway be the case. After all, which country decides everything that will affect their emissions in 2025 in March 2015? If they are clearly specified as minimum contributions:

- we have a clear answer to the question 'so hasn't Paris already failed?' - no, because more could still be done
- this allow countries to add to the INDCs even after Paris, up to the point at which they are formally inscribed in the ratified agreement in 2017-1
8

- this in turn allows countries to absorb the new economic evidence on the benefits of action (eg falling renewables prices

)

over a longer period, and so raise ambition; these

costs will continue to fall after March 2015
- it opens the potential to get more ambition before December in response to the 'assessment'
- it avoids the terrible risk that INDC numbers will lock in low ambition for another ten years, as countries fixate on their INDCs even after circumstances and costs change. We have seen
exactly
this happen with the EU's 20% by 2020.
C
onservative force
s in every country
can say 'we don't need to do any more.'

They have to be minimums rather than revisable in both directions, otherwise we have not real agreement in Paris at all

Language to be agreed in Lima (to be refined!)

Parties are free to strengthen their INDCs in the period between initial submission and their inscription into the Paris agreement.

INDCs should be regarded as 'floor' or 'minimum' contributions, to which parties may choose to add as they conduct further analysis of policy options, and as domestic and international conditions change, including as a result of the Paris agreement itself.

MICHAEL JACOBS | Senior Adviser

THE NEW CLIMATE ECONOMY | The Global Commission on the Economy and Climate

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UNCLASSIFIED U.S. Department of State Case No. F-2015-02212 Doc No. C05836980 Date: 05/15/2017

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Bowman, Liz
Sent: Mon 5/29/2017 11:34:32 PM
Subject: Re: Fact

Ex. 5 - Deliberative Process

Sent from my iPhone

On May 29, 2017, at 7:21 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Ex. 5 - Deliberative Process

We'll need to adjust that for the final version **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

From: Bowman, Liz
Sent: Monday, May 29, 2017 7:15 PM
To: Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Re: Fact

https://www.americancommitment.org/content/trump-should-keep-his-promise-cancel-obama-climate-deal

Sent from my iPhone

On May 29, 2017, at 6:58 PM, Ferguson, Lincoln <ferguson.lincoln@epa.gov> wrote:

> Looping in Liz...
>
> Sent from my iPhone
>
> On May 29, 2017, at 6:57 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:
>
> > I'm working on citing all of our facts - where does this come from:

Ex. 5 - Deliberative Process

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[1] Green Climate Fund, "Contributors," available at: http://www.greenclimate.fund/partners/contributors/resources-mobilized.

[2] OECD "2020 Projections of Climate Finance Towards the USD 100 Billion Goal" (2016) available at: https://www.oecd.org/environment/cc/Projecting%20Climate%20Change%202020%20WEB.pdf

[3] Id.

[4] Id.

[5] Id.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: U.S. EPA Media Relations
Sent: Sun 6/11/2017 3:40:39 PM
Subject: Administrator Pruitt Promotes Importance of International Engagement at First G7 Meeting

CONTACT:
press@epa.gov

FOR IMMEDIATE RELEASE
June 11, 2017

Administrator Pruitt Promotes Importance of International Engagement at First G7 Meeting

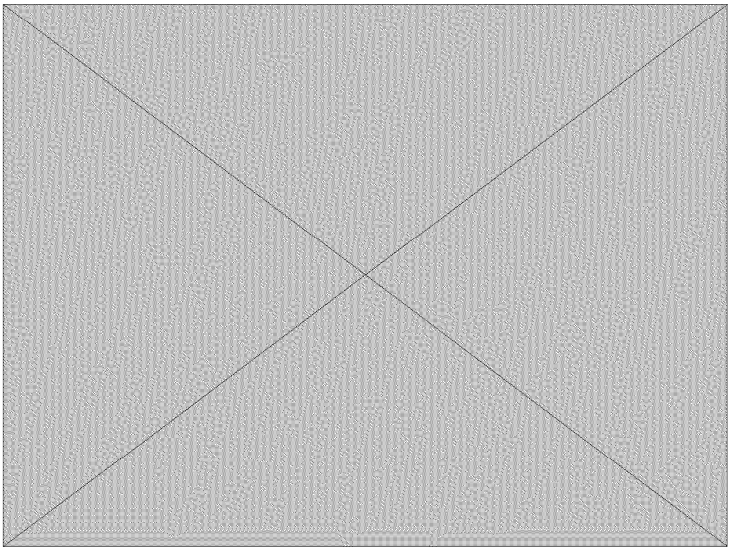
Bologna, Italy – U.S. EPA Administrator Scott Pruitt attended his first G7 Environmental Ministerial Meeting, taking part in thoughtful bilateral discussions with his G7 counterparts.

Less than two weeks after President Trump announced the United States' withdrawal from the Paris Accord, Administrator Pruitt emphasized now is the time to move forward with a discussion to find ways to positively engage with other countries in order to protect and use our natural resources.

"The United States has always been a world leader when it comes to environmental stewardship, and that was demonstrated on a global stage today," Administrator Pruitt said. "I believe engaging in international discussion is of the utmost importance to the United States when it comes to environmental issues. I want to thank the government of Italy and Minister Galletti for the tremendous hospitality and leadership over this meeting."

"The protection of the environment and public health," said Italian Minister of the Environment Gian Luca Galletti, "is a common goal for Italy and the United States. There are many themes that see our common commitment. The presence of Administrator Pruitt at the G7 Environment in Bologna has been a very important element that allowed us to start constructive dialogue on all environmental issues as well as to open new channels of business cooperation between our two countries."

Administrator Pruitt returned to the United States Sunday evening in order to attend the President's first full cabinet meeting scheduled for Monday.



U.S. EPA Administrator Pruitt (second from the L, front row) at the G7 in Bologna, Italy

R111

R110

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Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460 United States

To: Filyk, Greg (EC)[greg.filyk@canada.ca]; "DUMOULIN Virginie (Directrice des affaires européennes et internationales) - SG/DAEI"[virginie.dumoulin@developpement-durable.gouv.fr]; "BARGIARELLI Pascal (Chargé de mission) - SG/DAEI/CCDD3"[pascal.bargiarelli@developpement-durable.gouv.fr]; Sach, Karsten[Karsten.Sach@bmub.bund.de]; Schroeder, Marcus[Marcus.Schroeder@bmub.bund.de]; TAKESHI_SEKIYA@env.go.jp[TAKESHI_SEKIYA@env.go.jp]; SATORU_MORISHITA@env.go.jp[SATORU_MORISHITA@env.go.jp]; KEITARO_TSUJI@env.go.jp[KEITARO_TSUJI@env.go.jp]; Case, Cheryl (Defra)[cheryl.case@DEFRA.GSI.GOV.UK]; Corrigan, Tanya (DEFRA)[Tanya.Corrigan@defra.gsi.gov.uk]; Finman, Hodayah[Finman.Hodayah@epa.gov]; Cyril.LOISEL@ec.europa.eu[Cyril.LOISEL@ec.europa.eu]; Luca.Marmo@ec.europa.eu[Luca.Marmo@ec.europa.eu]; erin.silsbe@canada.ca[erin.silsbe@canada.ca]; jacob.werksman@ec.europa.eu[jacob.werksman@ec.europa.eu]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Marguccio Stefano[Marguccio.Stefano@minambiente.it]; La Camera Francesco[Lacamera.Francesco@minambiente.it]; Ravazzi Aldo[Ravazzi.Aldo@minambiente.it]; PierCarlo Sandei[PierCarlo.Sandei@unep.org]; Pasella Daniela[Pasella.Daniela@minambiente.it]; Carlotta Demofonti[C.Demofonti@governo.it]; Luca Bergamaschi[L.Bergamaschi@governo.it]; A: G7emm[G7emm@minambiente.it]; A: G7logistica[G7logistica@minambiente.it]; Brunelli Giovanni[Brunelli.Giovanni@minambiente.it]; Fricano Federica[Fricano.federica@minambiente.it]; Negrin Alessandro[Negrin.Alessandro@minambiente.it]; Dell'Anno Benedetta[DellAnno.benedetta@minambiente.it]; Manzione Pierluigi[Manzione.Pierluigi@minambiente.it]; Castaldi Gionata[Castaldi.Gionata@minambiente.it]; Eboli Fabio[Eboli.Fabio@minambiente.it]; Molocchi Andrea[Molocchi.Andrea@minambiente.it]; Medaglia Carlo Maria[Medaglia.CarloMaria@minambiente.it]
From: A: G7emm
Sent: Fri 6/9/2017 9:17:26 PM
Subject: additional documents from the WG Communiqué
Action Plan.pdf
Final Proposal for climate.docx

Dear Colleagues,

as announced, please find below the text proposed by the Prime Ministers office as a follow up to the Taormina Summit communiqué.

"We acknowledge Leaders' attention in Taormina on the importance of equipping our Countries with NPR-Enabling quality infrastructure, as stated by Leaders' People Centered Action Plan Key Policy Priority 7.

In particular, we recognize the importance to equipe our Countries, starting from our Cities, with a set of new or upgraded quality infrastructures that could definitely improve the productivity of the business, the mobility of people and goods and the access of poeple, business and researchers to NPR-related innovation.

Hence, we welcome the opportunity to setup a collaboration among competent Ministers, so as to foster the dialogue on how to design policies aimed at deploying and interconnecting NPR-enabling quality infrastructures, such as high-speed broadband networks; green, resilient, smart grids; smart logistic and mobility platforms."

For your ease of reference, we are also attaching a supporting relevant document agreed in Taormina.

Moreover I am attaching the text of the US footnote as well as the proposed text of the text from the other countries on climate change.

"The United States of America is not in a position to join consensus on those portions of the Communique on climate and finance, reflecting its recent announcement to immediately cease implementation of the Paris Agreement and associated financial commitments. The US is creating a domestic process to assess climate priorities and is engaging key international partners on reentering the Paris Agreement or negotiating a new Agreement in a manner that is consistent with domestic priorities, ensuring both a strong economy and a healthy environment."

Please forward this email to any colleague we might have involuntarily missed.

G7 Team Presidency

To: Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]
From: Bowman, Liz
Sent: Wed 6/7/2017 6:11:24 PM
Subject: FW: Washington Post: The Energy 202: Pruitt steps up media profile in wake of Paris accord pullout, 6/7/17

Flagging for your awareness.

From: So, Katherine
Sent: Wednesday, June 7, 2017 11:28 AM
To: AO OPA OMR CLIPS <AO_OPA_OMR_CLIPS@epa.gov>
Subject: Washington Post: The Energy 202: Pruitt steps up media profile in wake of Paris accord pullout, 6/7/17

Washington Post

https://www.washingtonpost.com/news/powerpost/paloma/the-energy-202/2017/06/07/the-energy-202-pruitt-steps-up-media-profile-in-wake-of-paris-accord-pullout/5936ea30e9b69b2fb981dc76/?utm_term=.d510d4b1ea58

The Energy 202: Pruitt steps up media profile in wake of Paris accord pullout

By Dino Grandoni 6/7/17

There has been much interest -- among Republicans, it's hopeful; among Democrats, it's fearful -- in how science will be conducted differently at the Environmental Protection Agency under Scott Pruitt. Following President Trump's withdrawal from the Paris climate accord, the EPA head is seeking to explain.

The former Oklahoma attorney general is suddenly appearing on all kinds of media outlets -- from "Meet the Press" this past Sunday, to MSNBC's "Morning Joe" on Tuesday to Fox News and Breitbart. In these segments, Pruitt not only defends the decision to depart the Paris accords ("all hat and no cattle," Pruitt called Paris to Fox's Martha MacCallum) but hints at what might come at the EPA.

On "Morning Joe" (not President Trump's favorite forum, incidentally), host and former Florida GOP congressman Joe Scarborough pressed Pruitt on whether he knew (no one else seems to) whether Trump believes that human activity causes climate change. See the exchange below:

https://youtu.be/3H4NhDfyoKI

The appearances on NBC and MSNBC mark a bit of a turning point for Pruitt, who until recently stuck to conservative news organizations. As Scott Waldman of E&E News reported, Pruitt sought out friendly outlets after causing an uproar on CNBC's "Squawk Box" in March after saying that carbon dioxide is not a "primary contributor" to global warming, a position that contradicts the EPA's own science.

But Pruitt is still getting himself in front of Trump's base, where he's talking up some new ideas at his agency. In an interview Monday with a Breitbart podcast, Pruitt endorsed the idea of conducting something called a "Red Team/Blue Team" exercise for climate-change science at the EPA. Pruitt said:

What the American people deserve, I think, is a true, legitimate, peer-reviewed, objective, transparent discussion about CO2. And, uh, there was a great article in The Wall Street Journal about a month or so ago, Joel, called "Red Team/Blue Team" by Steve Koonin, a scientist I believe at NYU, and he talked about the importance of having a Red Team of scientists and a Blue Team of scientists, and those scientists get in a room and ask, what do we know, what don't we know, and what risk does it pose to human health and the United States and the world, with respect to this issue of CO2. The American people need to have that type of honest, open discussion, and it's something that we hope to provide as part of our leadership.

Let's explain:

What is a "Red Team"?

Essentially, it's a group of people at an organization designated to be the Devil's Advocate (whereas "Blue Team" denotes the status quo). As Koonin, a theoretical physicist at New York

University and under secretary for science at President Obama's Department of Energy, put it in the aforementioned op-ed in the WSJ: "The national-security community pioneered the "Red Team" methodology to test assumptions and analyses, identify risks, and reduce—or at least understand—uncertainties. The process is now considered a best practice in high-consequence situations such as intelligence assessments, spacecraft design and major industrial operations."

Who thinks it's a good idea?

Naturally, many scientists outside of the consensus on man-made climate change believe this is the right approach for organizations like the EPA to take. One such scientist -- Judith Curry, professor emeritus at Georgia Tech's School of Earth and Atmospheric Sciences -- said as much to the House Science Committee, which oversees the agency, during testimony in March:

"A scientist's job is to continually challenge his/her own biases and ask 'How could I be wrong? Playing 'Devil's Advocate' helps a scientist examine how their conclusions might be misguided and how they might be wrong. Overcoming one's own biases is difficult; an external Devil's Advocate can play a useful role in questioning and criticizing the logic of the argument."

Who thinks it's a bad idea?

Naturally, the scientists whose consensus on climate change is being challenged. They argue that conventional science already has a rigorous process of testing conclusions called peer review in which researchers in the same field anonymously scrutinized research results for errors before publication. (Proponents of the "Red Team" approach counter that a public debate is more honest).

When asked to elaborate on Pruitt's comments, EPA spokesperson Liz Bowman said, "We do not have anything to announce at this time, but as Administrator Pruitt said, the American people need to have that kind of honest, open debate."

If Pruitt decides to have warring teams of scientists duel to the truth inside the EPA, Trump's base might enjoy the spectacle.

Science and global warming especially has become a symbol among conservatives for everything that was wrong with the Obama administration and how the Trump White House can fix it. Trump's withdrawal from the Paris climate accord last week was applauded by 67 percent of Republicans, according to a new Washington Post-ABC News poll, while 25 percent of GOPers opposed it.

If Pruitt goes through with the plan, he would likely endear himself to climate change skeptics, which -- judging by right-wing media sites -- has sometimes not been terribly happy with him, although that was before the Paris exit.

There was much blowback after an ill-received Fox News interview with Pruitt in early April in which Breitbart condemned the EPA head as having **"sweated, stuttered, and floundered"** and not adequately defending the view that climate change is exaggerated. "Here is the guy who was carefully selected to be in the vanguard of President Trump's war on the Green Blob which, for decades, has been doing untold damage to liberty, the scientific method, and the economy. And he can't even answer a few basic and obvious questions about why the job he is doing is necessary, important, and right," wrote Breitbart's James Delingpole.

Here is the offending video: https://youtu.be/DRHKB7Vmxzk

But at least Pruitt showed up. Before the Paris deal, some administration officials were sharply divided on what to do about the Paris accords, with Trump's daughter Ivanka and Secretary of State Rex Tillerson leading the pro-Paris side and White House chief strategist Stephen K. Bannon and Pruitt pushing the anti-Paris cause. **Only the withdrawal camp in the White House had an effective advocate on television in Pruitt. The other side didn't.**

And by all appearances, Pruitt has gotten a bit better at handling interviewers. Questioned again last Sunday by "Meet the Press" host Chuck Todd about what he believes the primary cause of climate change to be, Pruitt deflected:

TODD: "You don't believe that CO2 is the primary cause?"

PRUITT: "No, I didn't say that. I said it's a cause."

TODD: "Primary?"

PRUITT: "It's a cause of many. It's a cause like methane, and water vapor, and the rest."

https://youtu.be/L5nkrMBF3gM

Meanwhile, Pruitt is making his own stop at the Vatican ahead of a meeting with the G-7 ministers in Italy this week, reports my colleague Juliet Eilperin. It's unclear whether he'll meet, like Trump, with Pope Francis and be gifted a second copy of the pope's climate-change encyclical after Trump got one during his recent European trip.

Katherine So

Office of Media Relations Intern

U.S. Environmental Protection Agency

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so.katherine@epa.gov

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: EPA Press Office
Sent: Tue 6/6/2017 2:34:09 PM
Subject: Pruitt On Morning Joe: President Trump Is Putting America's Interest First

Pruitt On Morning Joe: President Trump Is Putting America's Interest First

Click Here To Watch The Interview

KEY TAKEAWAYS

Why We Left Paris …

WILLIE GEIST: "You've seen reaction around the world to the withdrawal from the Paris Agreement. It hasn't been kind from our allies, it hasn't been kind from a lot people here in the United States. Could you just summarize for our viewers the decision that was made to pull out and why we did it?"

ADMINISTRATOR PRUITT: "When you look at what was agreed to in Paris, it put this country, our country at a disadvantage economically. Despite the fact, that we had taken several significant steps since the early-1990s with respect to reducing the co2 footprint. We're at pre-1994 levels with our co2 footprint. From 2000 to 2014, we reduced co2 emissions by 18-plus percent. We've been leading by action, in my estimation. What Paris represented was a commitment to achieve things that were unachievable. The previous administration, with every step they took in their climate action agenda, still fell 40% short of those 26 to 28% targets. What the decision was about was simply sending the message we're leading with action, not with words. We're going to make sure we put America first with respect to these decisions and continue to export our innovation and technology to the rest of the world with respect to how to reduce the co2 footprint."

President Trump's Work To Create American Jobs …

ADMINISTRATOR PRUITT: "The last seven months we've had a growing job market in the mining sector, including coal. We've had almost 50,000 jobs created since the 4th Quarter, of last year in the mining sector, including coal. We see actually optimism in that sector. Here is the deal: I really believe that we have to focus on the stability and security of our grid and make sure that as utility companies generate electricity, they generate electricity from a variety of sources, diverse sources to maintain that security."

America Has Made Tremendous Enviromental Progress …

ADMINISTRATOR PRUITT: "So what happens when Germany goes all renewable? When they go away from nuclear and they go away from all of the fossil fuels, what happens to the cost of electricity in Germany?"

STEVE RATTNER: "Germany has a terrible, Germany, has a terrible energy policy and I will agree

with you on that."

ADMINISTRATOR PRUITT: "What happens to the economy in those countries? For developed nations, for growing economies in this world, we have nothing to be apologetic about. We have a strong, strong approach to reducing emissions and have demonstrated that from 2000 to 2014 as I indicated. We have nothing to be apologetic about."

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bowman, Liz
Sent: Tue 6/6/2017 12:47:49 PM
Subject: FW: FYI ... Morning Joe (MSNBC) – EPA Administrator Scott Pruitt Interview

From: Wilcox, Jahan
Sent: Tuesday, June 6, 2017 7:59 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Konkus, John <konkus.john@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: FYI ... Morning Joe (MSNBC) – EPA Administrator Scott Pruitt Interview

Morning Joe (MSNBC) – EPA Administrator Scott Pruitt Interview

http://mms.tveyes.com/transcript.asp?PlayClip=FALSE&DTSearch=TRUE&DateTime=06%2F

WILLIE GEIST: welcome back to "morning joe". joining us now, epa administrator mr. scott pruitt.

ADMINISTRATOR SCOTT PRUITT: good morning, gentlemen.

GEIST: you've seen reaction around the world from the withdrawal from the paris agreement. could you summarize to our viewers the decision made to pull out and why we did it?

ADMINISTRATOR PRUITT: it put this country, our country at a disadvantage economically, despite the fact that we had taken several steps with respect to

reducing the co2 footprint. we're at pre1994 levels with our co2 footprint. from 2000 to 2014, w reduced it by 18%. what paris represented was a commitment to achieve things that were unachievable. the previous administration, with every step they took still fell 40% short of those 26 to 28% targets. what the decision was about was simply sending the message we're leading with action, not with words. we're going to make sure we put america first with respect to these decisions and continue to export our innovation and technology to the rest of the world with respect to how to reduce the co2 footprint.

GEIST: it's true, is it not, that more jobs are created by solar energy, next wave than by the coal jobs you've cited?

ADMINISTRATOR PRUITT: i think what's important is that the epa and u.s. government should not be in the business of picking winners and losers. all jobs matter. when you look at the coal sector and our power grid, energy security is a big deal. when you look at the ability to store solid hydrocarbons on site to generate electricity, draw down coal at 30% today, that creates vulnerability. attacks on infrastructure.

GEIST: do you believe broadly that clean energy creates more jobs than coal?

ADMINISTRATOR PRUITT: the last seven months we've had a growing job market including coal. fourth quarter last year in the mining sector, including coal. we see actually optimism in that sector. here is the deal. we have to focus on the security of our grid and make sure as companies generate electricity, they generate it from a variety of diverse sources to maintain that security.

GEIST: the coal industry generated 4 million jobs and last quarter 17 so where do you get your numbers? including several industries here?

ADMINISTRATOR PRUITT: last i checked you mine coal. other mining industries, too,s a broad section in the mining sector. but, willie, there's optimism in that sector. there's investment taking place. when you look at japan, they have 45 ultra critical coal generation facilities. we have one. we need to focus on that as a nation. again, to focus on energy security and stability.

GEIST: you said just a couple of days ago, and repeated again you haven't had a chance to talk to the president of the united states about whether or not he believes climate change is real or whether or not humans have impacted it. have you had a chance to talk to him about that?

ADMINISTRATOR PRUITT: i said our conversations have been on the merits and demerits of the paris deal.

GEIST: in your conversations you've never talked to him about whether climate change is real or impact bid humans?

ADMINISTRATOR PRUITT: the focus of our discussions was and has been on the merits and demerits of the paris accord. and the reason for that is, look, he took input from a variety of his cabinet, very informed, thoughtful approach. it took weeks of ooh evaluating this. he put america first with respect to this decision.

GEIST: and climate change never came up in those meetings?

ADMINISTRATOR PRUITT: i want to say this to you. he also emphasized in his speech thursday the importance of engagement. that's what's being missed in this. the president did not exit paris. he exited paris because it's a bad deal and we're going to continue engagement on co2 reduction, part of the ccc as you know. we

led the world with respect to look at the decision made in paris, russia, india, china -- india didn't have to take any steps until they received $2.5 trillion of aid. chien ra didn't take any steps until the year 20306789 we front loaded all of our costs, costing up to 400,000 jobs.

GEIST: o at its core it's about climate change and the human impact on it.

ADMINISTRATOR PRUITT: the focus of the discussion was on the merits and tee merits of what paris sought to achieve. what'sdiscussion, when you look at what was achieved.

JOE SCARBOROUGH: mr. pruitt, it's a simple question. mr. pruitt, it's a simple question. have you ever talked to the president about whether rhe believes climate change is real? does he still believe it was a hoax launched in china?

ADMINISTRATOR PRUITT: i think, joe --

SCARBOROUGH: wouldn't you like to know?

ADMINISTRATOR PRUITT: i think what's important, joe, is that the president has said when you make decisions on environmental decisions internationally that we put america's interest first.

SCARBOROUGH: i understand that. and i agree with that. i agree with that.

ADMINISTRATOR PRUITT: the president said the climate is changing.

confirmation process --

SCARBOROUGH: we're just trying to get an answer from you. i agree, we should always put america first i disagree with getting out of paris because it's voluntary. the goals set were voluntary. but i just want -- it's important for americans to know -- it's important for americans to know whether their president believes that global warming was hatched as a conspiracy theory in china. doesn't that matter to you?

ADMINISTRATOR PRUITT: with respect to the voluntary contributions you're talking about, the 26 to 28%, we, when you look at domestically third party lawsuits, you've heard about the litigation where the epa has sued and compels regulatory response.

SCARBOROUGH: right.

ADMINISTRATOR PRUITT: with the framers of the paris accord understood is that america would take regulatory steps to carry out that 26 to 28% reduction. when we're withdrawing energy independent order, that creates a gap of almost 60%. it created exposure with respect to obligations.

SCARBOROUGH: so, i'm sorry, i'm sorry. i've got to stop. i want to stop it. this interview has to stop in its tracks until i just get a yes, no answer from you on whether you believe it's important that americans find out whether their president believes that climate change is a conspiracy theory based out of china.

ADMINISTRATOR PRUITT: the president has indicated, joe, that the climate is changing. i my confirmation process that there's a warming trend with respect to the climate. and, moreover there's a human contribution to it. measuring that with precision is very difficult. the real question is, what do we do about it? what we've

done as a country is lead through innovation and technology. as i indicated since the year 2000, a reduction of over 18% in that co2 footprint through hydraulic fracturing, horizontal drilling. you don't hear that from the environmental left. we ought to be exporting that so other nations can get to natural gas.

GEIST: the position you laid out is much different than climate change is a hoax by perpetrated by the chinese. so humans have a hand in it, and it's difficult to measure how much they've had a hand in it. is that what the president believes?

ADMINISTRATOR PRUITT: the president has indicated the climate is changing. i think you're trying to get away from the merits and demerits of the paris accord.

GEIST: not at all. no.

ADMINISTRATOR PRUITT: what we've done as a nation to address the co2 footprint, paris has almost become symbolic. it's mostly words. it truly is. this president is about leading with action not words. the past administration tried to regulate co2 and failed. it's not just about paris. you also repealed the clean power plan.

STEVE RATTNER: because it's not consistent with the clean air act. you come on this show and have been promoting coal as an alternative fuel. solid fuels.

ADMINISTRATOR PRUITT: diversifying.

RATTNER: touting the fact that you're increasing coal jobs even though it's smaller than what you're saying. you're promoting fuels and policies that would warm the planet, not stop the warming of the planet even as you agree that the

planet is warming and it is man made.

ADMINISTRATOR PRUITT: despite the fact that we've had more energy reduction and reduced the cod2 footprint. it is not a wise thing to limit the number of resources. it creates vulnerabilities. we need more diversity from coal, natural gas, oil, hydro, nuclear, across the board. what we ought to be talking about is how we burn coal, how we burn electricity using natural gas, using the latest technology, innovation to reduce emissions. that's what our example has been. we've reduced it 18 plus percent through actions not word.

http://mms.tveyes.com/transcript.asp?PlayClip=FALSE&DTSearch=TRUE&DateTime=06%2F

SCARBOROUGH: and we have. i think one of the great untold stories of what this country has done is the fact that we actually have actually made very good progress over the past two decades. we don't report about that enough. i don't think we have. but let's just say i agree with your -- barack obama's all of the above approach, we have to be diversified, that we have to look at every option in front of us. and i also agree that maybe paris, the impact of paris pulling out has been exaggerated. i personally think it's more of a diplomatic problem than anything else. what would you say, though, to the fact that of all the things that you're saying here that we agree and disagree with that only 28% of americans think it was a wise move to get out of the paris accord, according to an abc news/washington post poll? 28% support the decision. 59% oppose it. could that be that this administration is on the wrong side of history when it comes to the climate?

ADMINISTRATOR PRUITT: joe, what's interesting about it, there are several surveys. this is not recent. this goes back some time when you ask people to rank issues most important to them, this particular issue ranks way down the list. when you ask them are you willing to pay anything to do something about it, it ranks even lower. s that the decisions made in paris impact the regulatory response here, which impacts the cost of electricity to every american across the country. i mean, our price per kilowatt in this country is far better than europe, far better than germany.

SCARBOROUGH: why do so many americans oppose this, though?

ADMINISTRATOR PRUITT: i think it's what i said earlier, joe. it's been a belief that paris is symbolic of whether we're going to do anything about the co2 footprint. they don't know the facts that i talked about earlier. we are doing a lot already, reducing our carbon footprint through innovation and technology and they're not aware of what steps we're taking. i think that's the primary reason.

SCARBOROUGH: if you listen to steve rattner has been saying and what's being reported it appears that you all are moving away from steps that would actually help on the issue of climate change.

ADMINISTRATOR PRUITT: i'm not sure how. because we're still part of the framework convention. we're going to continue, and the president said last week, engagement matters. international discussion on this matters. and i think, joe, what the focus needs to be upon is really exporting what we know here, innovation and technology to assist those countries. short memory, i think, many times with respect to the environmental left, go back to 2015 when this deal was cut. the head of nasa scientist said that the paris accord was a fake and a fraud. the general counsel criticized the mistakes made in paris largely because china and india, the largest polluters in the world didn't have to take any steps while we did.

RATTNER: they also criticized it because it was a voluntary agreement. they wanted it to be a mandatory agreement. china and india are different cases, obviously. let's come back to the u.s. when you go around saying we're creating all these coal jobs, when you go around saying we repeal the clean power plan, when you go around talking about the use of fossil fuels fcenturies to come, you are, in effect, promoting global warming. that's what you're doing. all those things contribute to global warming. yes, we have reduced our co2 emissions but we need to reduce them a lot more. i don't hear you talking about that.

ADMINISTRATOR PRUITT: so what happens when germany goes all renewable? when they go away from nuclear and all the fossil fuels, what happens to the cost of electricity?

RATTNER: germany has a terrible -- look at their price per kilowatt. they have a terrible policy. i will agree with you in that.

ADMINISTRATOR PRUITT: growing economies in this world, we have nothing to be apologetic about. we have a strong, strong approach to reducing emissions and have demonstrated that for 15 -- 2000, 2014 as i indicated. we have nothing to be apologetic about. at times, the message is not really receive bid the american public that we have made tremendous progress.

RATTNER: we've made tremendous progress. you're talking about going the other way. using dirty fuels more than what we've been doing.

ADMINISTRATOR PRUITT: the past administration brought us a mind-set that we could not be pro-growth and also pro-environment. and that's just simply wrong. we've always, as a nation, embraced growth in jobs, growth in the economy, being a good steward of our environment. as an example since 1980 we've grown our gdp substantially in this country but also seen a 65% production in the pollutants that we regulate under the clean air act. we do it better than anybody in the world, growing the economy and being a good steward in our environment and can do that in this space as well.

GEIST: why do you think rex tillerson, secretary of state, former ceo, speaking of oil and gas of exxonmobil, supported staying in paris?

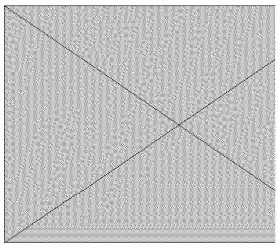
ADMINISTRATOR PRUITT: i think he, just like many voices across the cabinet, is therto make a decision. our job is to communicate to them that america is not going to be disengaged. we're going to engage. we're going to continue the discussion. we're going to continue to lead.

GEIST: don't you think the former ceo of exxonmobil knows what's good for the american economy?

ADMINISTRATOR PRUITT: "the new york times" had a piece over the weekend talking about the small business owners that were euphoric at the decision that the president made, representing about 99,000 jobs in this country. pro jobs, pro growth for this country. he said he's going to maintain engagement and we're going to do that and focus on innovation and technology as opposed to targets that can't be met.

GEIST: they're pulling you out of here to go. mr. pruitt, thank you.

To: Bowman, Liz[Bowman.Liz@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Konkus, John
Sent: Sun 6/4/2017 4:03:19 PM
Subject: MORNING COMMUNICATIONS BRIEFING - June 4, 2017



MORNING COMMUNICATIONS BRIEFING
June 4, 2017

TERROR ATTACK IN LONDON

Readout of President Trump's Call with Prime Minister May

President Donald J. Trump spoke with Prime Minister Theresa May of the United Kingdom today [JUNE 3]. The President offered his condolences for the brutal terror attacks on June 3 in central London. He praised the heroic response of police and other first responders and offered the full support of the United States Government in investigating and bringing those responsible for these heinous acts to justice.

POTUS Tweet

- Whatever the United States can do to help out in London and the U. K., we will be there - WE ARE WITH YOU. GOD BLESS!

TOP HIGHLIGHTS FROM SUNDAY'S SHOWS

EPA Administrator Scott Pruitt on NBC's *Meet the Press* on the bright future of American energy:

NBC'S CHUCK TODD: "He is right that you are making a false promise to some of the fossil fuel industries?"

ADMINISTRATOR PRUITT: "Dead wrong. The numbers show the exact opposite. Since the fourth quarter of last year to most recently added 50,000 jobs in the coal sector. In the month of May alone, 7,000 jobs. Here's what's key about our power grid in this country. You have to have fuel diversity, Chuck. because if we go to an all renewable, all natural gas type of approach, if there is an attack on the transportation network, there is only so much natural gas that can go into that facility to generate electricity. We need solids stored on site to draw down upon for threats to our grid. Fuel diversity, stability, consistency is key to the manufacturing base. It's also key to keeping costs low.

Our price per kilowatt is far less in Germany, far less than what it is in Europe. We need to keep that approach."

Administrator Pruitt on ABC's *This Week* on the "euphoric" response to the President's decision on the Paris Agreement from the small business community:

ADMINISTRATOR PRUITT: "Well, when you look at, even the 'New York Times' had an article, I think, within the last couple of days that talked about small business celebrating, euphoria, with respect to the president's decision. I mean, it's very speculative in my estimation, George, for those multinational companies to say this is going to somehow impact the exporting of green technology across the globe. What we do know, what we do know objectively, is that the Paris agreement represented a $2.5 trillion reduction in our Gross Domestic Product over ten years. What we do know, is that it impacted up to 400,000 jobs as well. And so this is something that was bad for our country, this makes common sense. That when you take energy sector jobs and say, 'we're no longer going to produce energy in those sectors' it is going to impact the manufacturing base and the energy jobs in this country. We've had over 50,000 jobs since last quarter. Coal jobs, mining jobs, created in this country. We've had almost 7,000 mining and coal jobs created in the month of May alone. The unemployment rate is 4.3% as you know, George. This president's deregulation agenda, particularly in the energy space, is making a substantial impact on the jobs across this country and giving people hope. And I will say this to you, it's also rejecting the previous administration's view that you can't grow jobs and protect the environment, because as I indicated earlier, we have reduced our CO2 footprint with action, from 2000 to 2014 by over 18% through innovation and technology."

Administrator Pruitt on Fox's *Fox News Sunday* on the President's regulation philosophy:

ADMINISTRATOR PRUITT: "This President has said we truly need an all above approach. We should not penalize sectors of our economy, Chris. Government regulation shouldn't be used to pick winners and losers. The past administration declared a war on coal and there were several coal facilities across this country shut down because of their past efforts. That is not what government regulation should be about. Government regulation should be about making things regular, not picking winners and losers and making sure we have fuel diversity in generating electricity in this country. And as I indicated the job numbers show already, already, that this President's deregulatory agenda, his leadership in the energy space is making a difference for jobs across this country, almost 50,000 in the coal sector alone."

UN Ambassador Nikki Haley on CNN's *State of the Union* on why the previous administration didn't get Senate approval before signing onto the Paris Agreement:

AMB. HALEY: "Why didn't President Obama get this through the Senate? There's a reason President Obama did this from an executive standpoint as opposed to going through the Senate because he knew he couldn't get it to pass. It was too onerous, the regulations were too strict, and it wasn't achievable. Even if we had stayed in the Paris Agreement – and this is the part everyone needs to really think about – if we had stayed in the Paris Agreement, which the countries told us, oh you can do it, we won't say anything. That's not who the U.S. is. One, we're truth tellers. We're going to tell the truth. Two, it was not achievable. what president Obama submitted the U.S. to was not achievable under our standards or any other countries standards. And then we've got to look at the fact, we didn't want to be in violation of the agreement. And if you look at the executive order that President Trump signed that rolled back the clean power act a few months ago, that was already moving towards a pro-business situation. But what we do have is a lot of companies who care about green technology, care about making sure that we take care of the environment, and you have a President who is very focused on clean air, clean water, and jobs."

Ambassador Haley on CBS's *Face the Nation* on the President's America First message to

the world:

AMBASSADOR NIKKI HALEY: "I think they understand, they understand that the U.S. is doing what is in the best interest for the U.S. And the thing is, John, we've always been a leader when it comes to the environment, and we've always been very conscious of that, and what you are seeing the U.S. do is making sure we are taking care of the U.S. first. Our first concern does not need to be what the international community thinks of us. Our concern needs to be: are we doing right by the American citizens?"

POTUS SCHEDULE

- Ford's Theatre Reception

TOP POINTS FROM THIS WEEK

Paris Accord

Topline:

- The Paris Accord is a BAD deal for America. The President's action today puts the interests of American workers first.
  - President Trump was elected to represent the citizens of Pittsburgh, not Paris.
- The Accord was negotiated poorly by the Obama Administration and signed out of desperation.
- It frontloads costs on the American people to the detriment of our economy and job growth while extracting meaningless commitments from the world's top global emitters, like China.
- The U.S. is already leading the world in energy production and doesn't need a bad deal that will harm American workers.
  - America has already reduced its carbon-dioxide emissions dramatically.
    - Since 2006, CO_2 emissions have declined by 12 percent, and are expected to continue to decline.
    - According to the Energy Information Administration (EIA), the U.S. is the leader in oil & gas production.

The Paris Deal:

- **UNDERMINES U.S. Competitiveness and Jobs**
  - According to a study by NERA Consulting, meeting the Obama Administration's requirements in the Paris Accord would cost the U.S. economy nearly $3 trillion over the next several decades.
  - By 2040, our economy would lose 6.5 million industrial sector jobs – including 3.1 million manufacturing sector jobs
    - It would effectively decapitate our coal industry, which now supplies about one-third of our electric power
- **Was negotiated BADLY, and extracts meaningless commitments from the world's top polluters**
  - The Obama-negotiated Accord imposes unrealistic targets on the U.S. for reducing our carbon emissions, while giving other countries a free pass for years to come.

    - For example, under the Agreement, China will be able to increase emissions for the next 13 years.
    - India makes its participation contingent on receiving billions in foreign aid from developed countries.
- **Funds a UN Climate Slush Fund underwritten by American taxpayers**
    - President Obama committed $3 billion to the Green Climate Fund - which is about 30 percent of the initial funding – without authorization from Congress
    - With $20 trillion in debt, the U.S. taxpayers should not be paying to subsidize other countries' energy needs.
- **Accomplishes LITTLE for the climate**
    - According to researchers at MIT, if all member nations met their obligations, the impact on the climate would be negligible.
    - The impacts have been estimated to be likely to reduce global temperature rise by less than .2 degrees Celsius in 2100.

Notable Lines from President Trump's Remarks (As Prepared):

- In order to fulfill my solemn duty to protect America and its citizens, the United States will withdraw from the Paris Climate Accord but begin negotiations to re-enter either the Paris Accord, or an entirely new agreement, on terms that are fair to the United States, its businesses, its workers and its people.
- This agreement is less about the climate and more about other countries gaining a financial advantage over the United States. The rest of the world applauded when we signed the Paris Agreement for the simple reason that it put our country at a very big economic disadvantage.
- We have among the most abundant energy reserves on the planet, sufficient to lift millions of America's poorest workers out of poverty. Yet, under this Agreement we are effectively putting these reserves under lock and key – taking away the great wealth of our nation, and leaving millions of families trapped in poverty and joblessness.
- I will work to ensure America remains the world's leader on environmental issues, but under a framework that is fair and where the burdens and responsibilities are equally shared among the many nations around the world.
- Staying in the agreement could also pose serious obstacles for the United States as we begin the process of unlocking the restrictions on America's abundant energy reserves. It would once have been unthinkable that an international agreement could prevent the United States from conducting its own domestic economic affairs; but this is the new reality we face if we do not leave the agreement and negotiate a better deal.
- As President, I have one obligation: and that obligation is to the American People. The Paris Accord would undermine our economy, hamstring our workers, weaken our sovereignty, impose unacceptable legal risks, and put us at a permanent disadvantage to the other countries of the world. It is time to exit the Paris Accord, and pursue a new deal that protects the environment, our companies, our citizens, and our country.
- It is time to put Youngstown, Ohio; Detroit, Michigan; and Pittsburgh, Pennsylvania before Paris, France. It is time to Make America Great Again.

Jobs Numbers

- We are glad that 138,000 new jobs were added in May, and that Americans seeking jobs are having more success finding them than at any point in the last **16 years.** There are a lot of

good signs in today's jobs report:
  - **Over 600,000 private sector jobs have been added** since the President took office
  - Since President Trump took office, the unemployment rate has **fallen by 0.5 percentage point**
  - The U6 unemployment rate (those marginally connected to the labor market) **fell 1 full percentage point** since the President took office.
  - Long-term unemployment is **down by 187,000 since** the President took office.
  - America's miners and drillers are getting back to work, with the seventh straight month of job growth
- But the President is not going to stop until every American who wants work can find meaningful employment. That's why the administration is working around the clock on policies that will keep the economy growing:
  - A tax plan that will leave more money in the pockets of hardworking Americans and make it easier for business to thrive
  - An infrastructure initiative that will generate $1 trillion of investment and put Americans back to work rebuilding our nation's crumbling roads and bridges
  - Repealing and replacing the job-killing Obamacare with a system that encourages competition and drives down prices
  - Systemic regulatory reform to reduce unnecessary burdens on manufacturing and other key industries, aiming towards the most far-reaching rollback since the Reagan presidency

<u>Travel EO to SCOTUS</u>

The Latest

- The Department of Justice has asked the Supreme Court to hear this important case.
- We are confident that President Trump's executive order is well within his lawful authority to keep the Nation safe and protect our communities from terrorism.
- The President is not required to admit people from countries that sponsor or shelter terrorism, until he determines that they can be properly vetted and do not pose a security risk to the United States.

Background:

- The law and the Constitution give the President the power to suspend immigration when he deems it to be in the national interest.
  - 8 U.S. Code 1182:
    - "Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate."
- The President signed this executive order in the interest of national security, an area in which the Constitution grants him broad authority.
  - It is his duty to put the safety of the American people and security of the American people first.

- We must be able to properly vet foreign nationals seeking entry into our country, particularly from terrorist hotbeds.
- We welcome those who wish to contribute to our country's prosperity and well-being, but we cannot allow our immigration system to become a vehicle for admitting people who might pose a risk to our national security.
- This executive order was drafted in close consultation with the affected agencies, and includes a delayed effective date to allow those involved in its enforcement even more time to facilitate an orderly rollout.
- By using the most precise language possible, this order clears up any misconceptions about what individuals are covered by the travel pauses and limits the effects only to what is absolutely necessary to protect our country.
- We need to take these steps to ensure that the United States government honors its most important obligation: to protect the American people.

Unsubscribe

The White House · 1600 Pennsylvania Avenue, NW · Washington DC 20500 · 202-456-1111

To: Henning, Alexa A. EOP/WHO[**Ex. 6 - Personal Privacy**
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Konkus, John[konkus.john@epa.gov]
From: Bowman, Liz
Sent: Sat 6/3/2017 7:23:34 PM
Subject: RE: "Small Businesses Cheer 'New Sheriff In Town' After Climate Pact Exit"

Thanks; we will print this for him.

The New York Times published a good article on how small businesses across the country are cheering President Trump's decision to pull out of the Paris accord. As the article notes, "many small companies around the country were cheering him on (for pulling out of the Paris accord), embracing the choice as a tough-minded business move that made good on Mr. Trump's commitment to put America's commercial interests first."

###

Small Businesses Cheer 'New Sheriff In Town' After Climate Pact Exit

By Landon Thomas Jr.

New York Times

June 2, 2017

As news that President Trump was pulling out of the Paris climate accord hit at a luncheon for small-business owners in Toledo, Ohio, on Thursday, an already happy crowd suddenly turned euphoric.

"It was like a major win at a football game," said Rick Longenecker, a management consultant who had been among the 50 or so attendees who gathered to trade thoughts amid a rapidly improving local economy.

While multinational corporations such as Disney, Goldman Sachs and IBM have opposed the president's decision to walk away from the international climate agreement, many small companies around the country were cheering him on, embracing the choice as a tough-minded business move that made good on Mr. Trump's commitment to put America's commercial interests first.

…

In Michigan, Ohio, Missouri and beyond, many small businesses are reporting improved sales and bigger work forces — regardless of what is going on in Washington.

"We've had customers who actually brought business back from Mexico that we haven't done in seven years," said Bill Polacek, president of JWF Industries, a manufacturer in Johnstown, Pa.

…

"There is a new sheriff in town," said Louis M. Soltis, the owner of a company in Toledo that manufactures control panels for large factories. "But the biggest frustration that I have is that there is so much resistance that is keeping him from moving forward."

In the months following Mr. Trump's election victory, as stock markets hit historical highs and companies kept adding jobs, the business community as a whole seemed willing to give the president a chance to follow through on his bold promises to revitalize the economy by cutting taxes and rolling back regulations.

…

Many small-business leaders in the Midwest, on the other hand, were largely unfazed.

For those more concerned with their local economies than global greenhouse gas emissions, walking away from the Paris agreement was just another example of a bottom-line business decision made by a president who knows a good deal from a bad one.

"This just heightens the divide between big business and small business," said Jeffrey Korzenik, an investment strategist for Fifth Third Bank in Cincinnati who spends much of his time talking to small businesses in the Midwest. "They really have different worldviews."

At the root of this disconnect is a sense that companies that employ up to a few hundred workers — such companies make up 99 percent of businesses in the United States and account for half of its private sector employment — are held to a more onerous standard than their larger peers when it comes to complying with regulations.

Click Here To Read The Full Article

Andy Hemming

Director Of Rapid Response

The White House

Ex. 6 - Personal Privacy

To: Hale, Michelle[hale.michelle@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Bowman, Liz
Sent: Fri 6/2/2017 9:15:31 PM
Subject: RE: From Heartland: GUEST AVAILABILITY: Meet the 'Climate Realists' Who Helped Trump Withdraw from Paris

Thanks, Michelle!

From: Hale, Michelle
Sent: Friday, June 2, 2017 4:55 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: FW: From Heartland: GUEST AVAILABILITY: Meet the 'Climate Realists' Who Helped Trump Withdraw from Paris

From: Joseph Bast [mailto:JBast@heartland.org]
Sent: Friday, June 2, 2017 4:47 PM
Subject: From Heartland: GUEST AVAILABILITY: Meet the 'Climate Realists' Who Helped Trump Withdraw from Paris

Friends,

This news release is going out now to address fake claims that **climate science** supports staying in the Paris Accord.

If you are on the list, be prepared to get a call from reporters or Jim Lakely.

Joe

From: Jim Lakely [mailto:jlakely@heartland.org]

Sent: Friday, June 02, 2017 2:56 PM
To: Joseph Bast
Subject: GUEST AVAILABILITY: Meet the 'Climate Realists' Who Helped Trump Withdraw from Paris

GUEST AVAILABILITY: Meet the 'Climate Realists' Who Helped Trump Withdraw from Paris

Joseph,

President Trump yesterday made the bold and correct decision to withdraw the United States from the Paris Climate Agreement. He offered sound economic arguments for exiting the accord, but the scientific justifications for getting out are just as strong.

The Heartland Institute – a national free-market think tank based in Illinois – has done more to promote the work of scientists skeptical of catastrophic man-caused global warming than any other organization. Below is a list of more than 200 scientists, economists, and policy experts who can make the scientific case for the United States exiting the Paris Climate Accord.

To interview any of these experts, please contact Heartland Institute Director of Communications Jim Lakely at jlakely@heartland.org or call/text 312-731-9364.

LIST OF TOP 'SKEPTICS' OF MAN-CAUSED GLOBAL WARMING		
A Habibullo Abdussamatov Alexandre Aguiar Syun Akasofu George Allen Helmut Alt David Archibald J. Scott Armstrong Robert Armstrong Jerry Arnett Ron Arnold Dennis Avery	**H** Tom Harris Kenneth Haapala William Happer Howard Hayden Dennis Hedke Roger Helmer Victor Manuel Velasco Herrara Art Horn David Henderson Donald Hertzmark Christopher Horner Horst Lüdecke John Humphreys Tam Hunt	**O** James O'Brien Kendra Okonski Isaac Orr

	Mary Hutzler	
B Tim Ball Robert Balling Joseph Bast Joe Bastardi Charles Battig E. Calvin Beisner Larry Bell Cory Bernardi Roger Bezdek Sonja Boehmer-Christiansen Christopher Booker Donald Boudreaux Alexandra (Sandy) Liddy Bourne Robert L. Bradley, Jr. William Briggs Barry Brill H. Sterling Burnett	**I** Craig Idso Andrei Illarionov James Inhofe Roy Innis Yuri Izrael	**P** Garth William Paltridge Genrot Patzelt Tim Patterson Benny Peiser Ian Plimer Andreas Prokoph
C Gabriel Calzada Francisco Capella Robert "Bob" Carter Alan Carlin John Charles Paul Chesser George Christensen Joseph Clark John Coleman Russell Cook Roy Cordato Piers Corbyn William Cotton Richard Courtney Susan Crockford Walter Cunningham	**J** Avril Terri Jackson Jim Johnston Michael Jungbauer	**R** Paul Reiter Arthur Robinson Helen Roe Dana Rohrabacher Ronald Rychlak
D Joseph D'Aleo Kevin Dayaratna	**K** Sam Kazman	**S** Nicola Scarfetta David Schnare Harrison Schmitt Joel Schwartz Tom Segalstad Russell Seitz James Sensenbrenner Gary Sharp

Donn Dears James Delingpole Scott Denning Harold Doiron David Douglass Paul Driessen Terry Dunleavy Becky Norton Dunlop John Dale Dunn	Richard Keen Madhav Khandekar William Kininmonth Hon. Vaclav Klaus Paul C. "Chip" Knappenberger David Kreutzer Jeff Kueter George Kukla	Nir Shaviv Daniel Simmons Randy Simmons S. Fred Singer Fred Smith Lamar Smith Lawrence Solomon Douglas Southgate Willie Soon Roy Spencer Carlo Stagnaro H. Leighton Steward John Stossel Aaron Stover John Sununu Brain Sussman Daniel Sutter Graeme Swindles
E Don Easterbrook Myron Ebell James Enstrom Willis Eschenbach Christopher Essex Michael Economides David Evans	**L** Hans Labohm Donna Laframbois David Legates Jay Lehr Marlo Lewis Bryan Leyland Ben Lieberman Richard Lindzen Keith Lockitch Craig Loehle Sebastian Lüning Anthony Lupo	**T** James Taylor Thomas Tanton George Taylor Mitchell Taylor John Theon Richard Trzupek David Tuerck
F Peter Ferrara Robert Ferguson Sr. Walter Fett Terrence Flower Michelle Michot Foss Eigil Friis-Christensen	**M** Howard Maccabee Ken Malloy Jennifer Marohasy Jim Martin Gerald Marsh Phelim McAleer Tom McClintock Ann McElhinney Stephen McIntyre Ross McKitrick Owen McShane Robert Mendelsohn Patrick Michaels Robert Michaels	**V** Brian Valentine Jan Veizer

Michael Fox Chris de Freitas	Steven J. Milloy Ferenc Miskolczi Barun Mitra Christopher Monckton Patrick Moore Kilez More Alan Moran Marc Morano Nils-Axel Mörner Julian Morris Robert Murphy Iain Murray Todd Myers	
G Indur Goklany Fred Goldberg Stan Goldenberg Robert Gordon Steve Goreham Pamela Gorman Laurence Gould Vincent Gray William Gray Kenneth Green Bette Grande Kesten Green	**N** Marita Noon Mike Noel Joanne Nova	**W** Paul Waggoner Anthony Watts Gerd-Rainer Weber Todd Wynn Thomas Wysmuller **Z** Miklos Zagoni Benjamin Zycher

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The Heartland Institute is a 33-year-old national nonprofit organization headquartered in Arlington Heights, Illinois. Its mission is to discover, develop, and promote free-market solutions to social and economic problems. For more information, call 312/377-4000.

If you would rather not receive future communications from The Heartland Institute, let us know by clicking here.
The Heartland Institute, 3939 N. Wilke Road, Arlington Heights, IL 60004 United States

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Hale, Michelle
Sent: Fri 6/2/2017 4:12:11 PM
Subject: FW: How will Trump remove the U.S. from the Paris Accord?

From: Joseph Bast [mailto:JBast@heartland.org]
Sent: Friday, June 2, 2017 12:02 PM
Subject: How will Trump remove the U.S. from the Paris Accord?

Friends,

I was very pleased to receive the invitation to attend President Trump's Rose Garden presentation announcing the U.S. withdrawal from the Paris Accord. I'm not a big fan of traveling to Washington DC, or showing up at political events, or of politicians generally or specifically, but it was a historic moment and a touching gesture to be invited to attend. Thank you to all who made it possible and made me feel welcome there.

Christopher Monckton wrote to a group of us:

One question not answered in Trump's speech was whether the U.S. had given, or would give, formal notice to the French Government as depositary state of the Paris treaty, or (preferably) to the U.N. as depositary state of the Framework Convention. Giving one year's notice under the Framework Convention gets us out of Paris too. Giving notice under Paris takes three years and still leaves us in the Convention. But I'm afraid it's far from clear that Trump has done or will do either. - Christopher

The Viscount Monckton of Brenchley
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Perhaps someone on the bcc line of this message can answer the implied question.

President Trump and Administrator Pruitt were emphatic that the U.S. is leaving the accord and will stop implementation immediately. Since there are no enforcement mechanisms in the agreement, stopping implementation should not result in any sanctions, at least not sanctions arising from the accord itself.

I wonder… what if President were now to submit a letter withdrawing from the UNFCCC?

Since he left unclear exactly how the U.S. would withdraw, he could simply say that he and his advisor decided withdrawal from UNFCCC was the fastest and best way to withdraw from the Paris Accord, a position many of us have advocated for. It would be consistent with his public remarks. For 99% of the public, the difference between withdrawing from the UNFCCC and Paris Accord is high weeds and just more blah, blah, blah. It would produce huge legal and tactical advantages down the road, helping make possible implementation of the America First Energy Plan.

No doubt the left, including legacy media and the political class in the U.S. and abroad, would go crazy over such an announcement… for a week or two. They would spend a lot of time trying to explain the difference between UNFCCC and the Paris Accord, why it matters, etc. etc. In politics, if you are explaining, you are losing. And they've already "shot their wad," as we like to say here in the Heartland, by going nuclear over yesterday's announcement. So what else can they throw at this president?

Is it possible? There is a fine line, I suppose, between brilliant and insane.

Joe

Joseph Bast

President

The Heartland Institute

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To: Myron Ebell[Myron.Ebell@cei.org]
From: Myron Ebell
Sent: Mon 4/17/2017 5:54:30 PM
Subject: FW: Embargoed Paris Paper
Chris Horner and Marlo Lewis - Paris Climate Agreement - EMBARGOED.pdf

More than you ever wanted to know about the Paris Climate Treaty by Marlo and Chris. Some much shorter talking points to follow.

Myron Ebell

Director, Center for Energy and Environment

Competitive Enterprise Institute

1310 L Street, N. W., Seventh Floor

Washington, DC 20005, USA

Tel direct: (202) 331-2256

Tel mobile: (202) 320-6685

E-mail: Myron.Ebell@cei.org

Stop continental drift!

To: Myron Ebell[Myron.Ebell@cei.org]
From: Myron Ebell
Sent: Thur 5/18/2017 4:05:14 PM
Subject: Reminder: next Cooler Heads Coalition meeting Monday, 22nd May, at noon at CEI

Reminder: the Cooler Heads Coalition will hold its monthly strategy meeting beginning at 12 noon on Monday, 22nd May, at CEI, 1310 L Street, N. W., Seventh Floor. Please e-mail or ring me at 331-2256 with agenda items or questions.

Pasted below is a news release on CEI's short but intense teevee advertising campaign this week on the Paris Climate Treaty:

CEI Launches Television Ad Campaign Urging President Trump to Withdraw from Paris Climate Agreement

May 18, 2017

WASHINGTON -- The Competitive Enterprise Institute (CEI) launched an aggressive advertising campaign this week that includes nearly 70 television spots over the course of three days aimed at urging President Trump to keep his campaign promise to American voters and withdraw from the harmful Paris Climate Agreement.

For more than a year, CEI has argued the Paris Climate Agreement would devastate the U.S. economy and impose higher energy prices on millions of Americans. Instead of following in President Obama's footsteps, President Trump should declare the Paris agreement a treaty, restore the Senate's Constitutional role in representing the will of the people, and allow members of Congress an opportunity to vote against the deal.

"**Keeping his campaign promise to withdraw from the Paris Climate Treaty is a prime opportunity for President Trump to listen to the people who elected him, reject the Washington Swamp, and restore the constitutional treaty process**," said Myron Ebell, director of CEI's Center for Energy and Environment. "**Staying in Paris threatens the President's energy agenda, which is a key part of his plan to increase economic growth.**"

The majority of CEI's ads will run on Thursday, May 18, before Trump leaves for his first foreign trip that concludes with the G7 Summit in Sicily. CEI also has a concurrent petition that can be found at: StopParisClimateTreaty.org.

>> **Watch CEI's TV Ad**

Myron Ebell

Director, Center for Energy and Environment

Competitive Enterprise Institute

1310 L Street, N. W., Seventh Floor

Washington, DC 20005, USA

Tel direct: (202) 331-2256

Tel mobile: (202) 320-6685

E-mail: Myron.Ebell@cei.org

Stop continental drift!

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Gunasekara, Surya
Sent: Mon 4/17/2017 5:49:51 PM
Subject: FW: Sign on Letter

Sensenbrenner is doing an additional letter.

From: Bos, Amy
Sent: Monday, April 17, 2017 1:06 PM
To: Bos, Amy
Subject: Sign on Letter

LD's- Wanted to invite your boss to sign on to a letter to President Trump, encouraging him to withdraw the U.S. from the Paris Climate Treaty. Text of the letter is below.

For questions, or if your boss would like to sign on, please contact amy.bos@mail.house.gov.

Amy Bos

Rep. F. James Sensenbrenner

2449 Rayburn HOB

202-225-5101

President Donald J. Trump

The White House

1600 Pennsylvania Avenue, NW

Washington, DC 20500

As you've acknowledged, the Paris Climate Treaty is a bad deal for America. We write to express our serious concerns with recent proposals that the United States remain a participant in Paris with a lower commitment. We encourage you instead to leave the treaty and consider removing the U.S. from the underlying UN Framework Convention on Climate Change.

When the Obama administration filed its acceptance of the Paris Climate Treaty, the United States became a formal party to it with all of the roles and legally-binding responsibilities that it entails. In support of the treaty, the Obama administration pledged a 26 to 28 percent reduction in net U.S. greenhouse gas emission by 2025, compared to a 2005 baseline. This target was unrealistic, and as recent studies by NERA Economic Consulting and the Energy Information Administration show, achieving it would negatively impact our economy and jobs, particularly in the manufacturing industry. In the meantime, some of the world's largest emitters like China, India, and Russia have promised to do next to nothing through 2030.

Remaining in the treaty would reward the Obama administration's open defiance of constitutional norms. Throughout the entire negotiating process, it sought no Congressional input, either in regard to the emissions goal or to the treaty itself. In fact, then-Secretary of State John Kerry brazenly coordinated with the French government to "Senate proof" the agreement in order to bypass Congressional scrutiny, even though it requires the United States every five years to make increasingly stringent emissions pledges with far-reaching economic consequences. Indeed, because the Paris Agreement sets the broad outlines of U.S. climate policy in perpetuity and calls for billions of dollars in assistance, it should have been approved by Congress.

It has been suggested that instead of withdrawing from the treaty, your administration should keep the United States within it and submit a new, less onerous emissions pledge. Such an approach would undermine the progress of your energy and manufacturing agenda by unintentionally gifting future administrations a powerful tool to pursue an economy-wide carbon tax.

Not satisfied with stretching the meaning of Section 111 of the Clean Air Act beyond all recognition to ram through its unlawful Clean Power Plan, liberal activists and lawyers assert that the Paris climate agreement grants EPA the authority found in a previously unused provision of that statute, Section 115, to regulate practically all aspects of the U.S. economy, not just the electricity sector. The Center for American Progress laid this all out in "How the Paris Climate Agreement Supercharges the Clean Air Act," [< https://thinkprogress.org/how-the-paris-climate-

agreement-super-charges-the-clean-air-act-d7220e399833#.3nhri5eki>] and the Sierra Club's former chief climate counsel calls the Paris agreement a "silver bullet" [<http://www.eenews.net/greenwire/stories/1060038727/>] that environmentalists could use to impose massive new job-killing rules. If the United States remains a part of the Paris Agreement, regardless of what the U.S. pledge is, this silver bullet will be available for special interest groups and a future Democratic administration to justify all sorts of regulatory overreaches.

It is also likely that well-funded environmental groups will use the courts to compel your administration to uphold the provisions of the Paris deal. With the courts now stacked with Obama-era appointees, it is entirely possible these claims, no matter how far-reaching, will get a hearing.

Despite claims to the contrary, getting out of the Paris deal would not require the United States to relinquish its seat on the Green Climate Fund. This fund acts as the Financial Mechanism of the UNFCCC and was set up years before the Paris Agreement, so exiting the accord would not prevent us from exercising our power to veto any projects that waste taxpayer money and make it harder for developing countries to increase energy access for their people.

Finally, getting out of Paris would be a significant step forward in achieving your goal to make America energy independent, as well as fulfilling your promise to American miners to stop the Obama administration's significant regulatory overreaches.

Mr. President, you have already shown you are willing to override the harmful excesses of the previous administration, and withdrawing the United States from the Paris Climate Treaty is another step forward on this front. It is a bad deal for America that will cost our country millions of taxpayer dollars, countless jobs, and the competitive edge that we need to grow our economy. For all these reasons, we respectfully call on you to remove the U.S. from the Paris Agreement.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Paul Cicio
Sent: Fri 6/2/2017 12:29:22 PM
Subject: IECA's Press Release on Trump Paris Climate Accord Decision
06.02.17_Paris Climate Accord Press Release.pdf

Hi Mandy,

Attached is our press release on the Accord. Please reroute to others who value the manufacturing point of view.

Please note that we highlight NSR as a barrier to reducing GHG emissions.

With kind regards,

Paul Cicio

President

Industrial Energy Consumers of America

1776 K Street, NW, Suite 720

Washington, DC 20006

(O) 202-223-1661

(C) 703-216-7402

www.ieca-us.org

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with $1.0 trillion in annual sales, over 2,300 facilities nationwide, and with more than 1.6 million employees worldwide. It is an organization created to promote the interests of manufacturing companies through advocacy and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: chemical, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer,

insulation, glass, industrial gases, pharmaceutical, building products, automotive, brewing, independent oil refining, and cement.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
Cc: Bowman, Liz[Bowman.Liz@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Freire, JP[Freire.JP@epa.gov]
From: Bennett, Tate
Sent: Thur 5/18/2017 2:04:10 PM
Subject: Re: H. Sterling Burnett in the Detroit News: Escaping the Paris Climate Agreement

Thanks!

On May 18, 2017, at 9:59 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

For the list

Sent from my iPhone

Begin forwarded message:

From: "Hale, Michelle" <hale.michelle@epa.gov>
Date: May 18, 2017 at 9:56:38 AM EDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Subject: FW: H. Sterling Burnett in the Detroit News: Escaping the Paris Climate Agreement

fyi

From: Joseph Bast [mailto:JBast@heartland.org]
Sent: Thursday, May 18, 2017 9:34 AM
Subject: H. Sterling Burnett in the Detroit News: Escaping the Paris Climate Agreement

FYI.

http://www.detroitnews.com/story/opinion/2017/05/18/paris-climate/101815198/

Billy Aouste

Media Specialist

The Heartland Institute

3939 North Wilke Road

Arlington Heights, IL 60004

Detroit News
5/18/17

Escaping the Paris Climate Agreement

By: H. Sterling Burnett, the Heartland Institute

As a candidate for president, Donald Trump said he would withdraw the United States from the Paris climate agreement and called it a bad deal for America. In an April speech in Harrisburg, Penn., Trump reiterated this claim, saying the Paris climate agreement in its current form hurts America. Despite his continued opposition, however, it remains unclear whether a withdrawal is in the nation's future.

It's time for this administration to keep its promise, by getting the U.S. out of this flawed, costly agreement.

Some in Trump's team have reportedly said if the United States' commitments are restructured there might be a path to stay in the Paris climate agreement. While there may be a better deal to be had — after all, the Obama administration could hardly have negotiated a worse deal for Americans — there is no deal that would be good for the country. Even Trump can't put lipstick on this very ugly pig.

While our economic competitors, such as China and India, do not have to limit their

fossil-fuel use under the agreement, the U.S. is required to make steep cuts, which are estimated to cost our economy trillions of dollars over the life of the agreement without providing any appreciable environmental benefits. Additionally, a deal isn't possible without the U.S. paying into the political slush fund called the Green Climate Fund, which Trump promised to halt payments to. What is gained by staying in? Nothing.

The question is not whether Trump should keep his word and withdraw from the Paris agreement; it's simply a matter of choosing the best way to do so. There are three options.

The first way to cancel America's participation in the Paris climate agreement — and the one that most directly satisfies Trump's campaign commitment — is simply to withdraw the United States' signature entirely. Under the Paris agreement, any country can withdraw from the agreement by giving written notice of a decision to do so to the U.N. secretary general. Unfortunately, under the terms of the agreement, Trump can't give such notice until the agreement has been in place for three years, which means the earliest withdrawal date is Oct. 5, 2019.

Making matters worse, the withdrawal does not become effective until one year after the written notice is delivered. This means even if Trump determines to withdraw from the Paris agreement today, the country will remain stuck with its terms for a minimum of almost four years, and while America remains a party to the agreement, it is obligated to keep its commitments. Because the four-year withdrawal period will not run out until after Trump's first term is over, should he decide not to run for president again or should he run for re-election and lose, the next president could simply recommit the United States to the agreement with a simple signature.

The second way to scotch America's commitments under the Paris climate agreement would be for Trump to submit it to the Senate for formal approval as a treaty. This is what Obama should have done in the first place. To become a binding treaty, the Senate would have to approve the Paris climate agreement by a two-thirds vote. If the agreement loses the treaty vote — and it likely would in a full vote of the Senate — the deal is canceled.

However, nothing requires the Senate to hold an up-or-down vote on the Paris climate

agreement if Trump submits it to them. Using the Senate filibuster rules, Senate Democrats could block the treaty from ever coming up for a vote. Such a move is likely, since the vast majority of Democrats support the Paris agreement. Under this scenario, the treaty would remain pending, leaving a future Senate to decide its fate.

The easiest way for Trump to end U.S. participation in Paris and all international climate agreements would be for him to remove the country's signature from the U.N. Framework Convention on Climate Change (UNFCCC), signed by President George H.W. Bush in 1992. Article 25 of the UNFCCC allows any state party to the convention to withdraw, without further obligation, upon giving one year's notice. Withdrawing from UNFCCC would cancel the United States' obligations to all other United Nations-brokered climate agreements made subsequent to UNFCCC, because they are all built on it.

This would be the best and easiest way to get out of the Paris climate agreement, and it would help to prevent future burdensome climate agreements.

Mr. President, whichever path you choose, please keep your promise and withdraw the United States from the Paris agreement, placing it firmly in the dustbin of history — where it belongs.

H. Sterling Burnett, Ph.D., is a research fellow on energy and the environment at the Heartland Institute.

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Gunasekara, Surya
Sent: Fri 6/2/2017 10:19:17 AM
Subject: Fwd: Is the Paris Agreement QTIIPS?

Surya G. Gunasekara
Chief of Staff
Congressman Renacci (OH-16)

Sent from my iPhone

Begin forwarded message:

From: Keith Hennessey <blog@keithhennessey.com>
Date: June 1, 2017 at 10:07:02 PM EDT
To: <surya@mail.house.gov>
Subject: Is the Paris Agreement QTIIPS?
Reply-To: Keith Hennessey <blog@keithhennessey.com>

Is the Paris Agreement QTIIPS?

Both President Obama's 2016 signing of the Paris Agreement on climate change and President Trump's withdrawal from that agreement today fit into a category I will label as **QTIIPS**.

QTIIPS stands for **Quantitative Trivial Impact + Intense Political Symbolism**.

QTIIPS policy changes provoke fierce political battles over trivially small policy impacts. Passionate advocates on both sides ignore numbers and policy details while fighting endlessly about symbols.

A policy change is **QTIIPS** if:

- its direct measurable effects are quite small relative to the underlying policy problem to be solved;
- it is viewed both by supporters and opponents as a first step toward an end state that all agree would be quite a large change;
- supporters and opponents alike attach great significance to the direction of the change, as a precursor to possible future movement toward that quantitatively significant end goal; and
- a fierce political battle erupts over the symbolism of this directional shift. This

political battle is often zero-sum, unresolvable, and endless.

Advocates on either side of a QTIIPS policy change have desired end states that represent fundamentally different policy outcomes. But while the policy gap between their desired end states is measured in miles, on a QTIIPS policy, actual changes are measured in inches. The battle rages over which end state is the right one, but when policy shifts back and forth it changes direction often but moves only a tiny bit each time. Political constraints make the theoretical debate about miles-apart differences irrelevant because neither end state will ever occur, but that does not deter the theoretical war from raging during the real-world battles over a tiny actual change in direction.

If you listened to President Trump's remarks today you would think staying in the Paris Agreement would destroy the U.S. economy. If you listen to many advocates who support the agreement, you would think you need to start building an ark, soon.

I therefore read the text of the agreement to see for myself. Doing so reinforced the view I developed when the agreement was concluded. Relative to the scope of the problem it is trying to solve, the Paris Agreement is quantitatively trivial. It is a set of weak process agreements, with many areas of ambiguous language and "flexibility" for countries to reinterpret their only loosely binding quantitative commitments to reduce greenhouse gas emissions many years from now.

The national leaders who supported Paris, including President Obama, had a political interest in overselling their policy accomplishment. Similarly, President Trump has a political interest in selling today's move to his base as an enormous policy win, when to me it appears he is nullifying American participation in an agreement that on policy grounds was insignificant to begin with.

QTIIPS policy changes rest on the assumption that the first step is likely to lead to that theoretical quantitatively significant outcome. Most supporters of the Paris Agreement would privately concede that it is only a modest first step, and would then express hope that it could/will/might/should lead to further progress in the future. Opponents of the agreement would share their fears that this first step could/will/might lead to an eventual outcome they fear.

But this shared assumption, of a first step or slippery slope, could easily be wrong. If the Paris Agreement were never to have led to a more significant next step, then a key premise of the fight is wrong. The intense political symbolism and the fierce battles waged over both President Obama's and President Trump's relatively small policy moves would then be unsupported by strong policy arguments.

I think that's the case here. I think Paris was not just the first step, I think it was likely the last step, that those who hoped it would lead to "deepening future commitments" were fooling themselves and others. I think Paris was agreed to

only because national leaders realized it was impossible to get a numerically meaningful set of binding national commitments to reduce greenhouse gas emissions by specific large amounts. They therefore grabbed the best agreement they could, however weak, kicking the can down the road in the hope that somehow their successors might have more luck. Because I am so skeptical about the first step claim, and because I care far more about the policy impact than about the symbolism, my reaction is mild both to President Obama's signing in 2016 and to President Trump's withdrawal announcement today. I think neither agreeing to Paris nor withdrawing from it would have changed future global temperatures by any meaningful amount. Even before today I was skeptical that it would lead to any significant next steps, so I conclude that these symbolic battles about the Paris Agreement are almost meaningless.

A surprising dynamic often surrounds QTIPS policy changes—the most passionate supporters and opponents have a common interest in arguing that this particular policy change is enormously important, while downplaying the reality that its direct impact is barely measurable. These mortal opponents have a shared goal of hyping the issue and the battle. Issue advocates on both sides can generate political and financial support by convincing you this fight is important, even when it's not. If you hear advocates arguing fiercely about "what this policy change means more broadly" or "the precedent it sets for future action" or "what it says about us/America/society" rather than about "what it does" and "what effect it has," there is a good chance it is QTIIPS.

QTIIPS issues are unfortunately great fits for our modern advocacy, political, and communications structures. Everyone can virtue signal to their heart's content. No one has to read the text of the policy change, look at the numbers, or ask hard questions of a relevant policy expert. Political tribes can inhabit their comfort zones and preach to the converted while heaping scorn and derision on the other tribe. Passion abounds while everyone ignores the policy nerds saying "Um… I think the actual effect here is too small to matter."

Q: Do you agree with me that agreeing to and withdrawing from the Paris Agreement are QTIIPS?

Q: What other hotly debated policy changes are QTIIPS?

How about the 2014 debate about banning immigration of refugees from Ebola-infected West African countries? Or the debate about incremental changes to gun laws? Or other hot-button social issues that dominate news cycles? Are they QTIIPS? Can you think of others?

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You are receiving this email because you signed up for my list!

Our mailing address is:
Keith Hennessey
P.O. Box 19724
Stanford, CA 94309-8936

Add us to your address book

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You can **update your preferences** **or** **unsubscribe from this list**

To: Jackson, Ryan[jackson.ryan@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Hale, Michelle
Sent: Thur 5/18/2017 1:56:38 PM
Subject: FW: H. Sterling Burnett in the Detroit News: Escaping the Paris Climate Agreement

fyi

From: Joseph Bast [mailto:JBast@heartland.org]
Sent: Thursday, May 18, 2017 9:34 AM
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Billy Aouste

Media Specialist

The Heartland Institute

3939 North Wilke Road

Arlington Heights, IL 60004

Detroit News
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Mr. President, whichever path you choose, please keep your promise and withdraw the United States from the Paris agreement, placing it firmly in the dustbin of history — where it belongs.

H. Sterling Burnett, Ph.D., is a research fellow on energy and the environment at the Heartland

Institute.

To: Myron Ebell[Myron.Ebell@cei.org]
From: Myron Ebell
Sent: Thur 6/1/2017 9:36:53 PM
Subject: FW: Statement by President Trump on the Paris Climate Accord

Paris Climate Cup

Final / OT

Swamp	0
Deplorables	1

In response to numerous requests, please see below. Thanks again for all you can do to flood the zone with public support for this pullout today….

Paul Teller

Special Assistant to the President for Legislative Affairs

The White House

From: White House Press Office [mailto:whitehouse-noreply@messages.whitehouse.gov]
Sent: Thursday, June 1, 2017 5:11 PM
To: Teller, Paul S. EOP/WHO
Subject: Statement by President Trump on the Paris Climate Accord

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release June 1, 2017

STATEMENT BY PRESIDENT TRUMP

ON THE PARIS CLIMATE ACCORD

Rose Garden

3:32 P.M. EDT

THE PRESIDENT: Thank you very much. (Applause.) Thank you. I would like to begin by addressing the terrorist attack in Manila. We're closely monitoring the situation, and I will continue to give updates if anything happens during this period of time. But it is really very sad as to what's going on throughout the world with terror. Our thoughts and our prayers are with all of those affected.

Before we discuss the Paris Accord, I'd like to begin with an update on our tremendous -- absolutely tremendous -- economic progress since Election Day on November 8th. The economy is starting to come back, and very, very rapidly. We've added $3.3 trillion in stock market value to our economy, and more than a million private sector jobs.

I have just returned from a trip overseas where we concluded nearly $350 billion of military and economic development for the United States, creating hundreds of thousands of jobs. It was a very, very successful trip, believe me. (Applause.) Thank you. Thank you.

In my meetings at the G7, we have taken historic steps to demand fair and reciprocal trade that gives Americans a level playing field against other nations. We're also working very hard for peace in the Middle East, and perhaps even peace between the Israelis and the Palestinians. Our attacks on terrorism are greatly stepped up -- and you see that, you see it all over -- from the previous administration, including getting many other countries to make major contributions to the fight against terror. Big, big contributions are being made by countries that weren't doing so much in the form of contribution.

One by one, we are keeping the promises I made to the American people during my campaign for President –- whether it's cutting job-killing regulations; appointing and confirming a tremendous Supreme Court justice; putting in place tough new ethics rules; achieving a record reduction in illegal immigration on our southern border; or bringing jobs, plants, and factories back into the United States at numbers which no one until this point thought even possible. And believe me, we've just begun. The fruits of our labor will be seen very shortly even more so.

On these issues and so many more, we're following through on our commitments. And I don't want anything to get in our way. I am fighting every day for the great people of this country. Therefore, in order to fulfill my solemn duty to protect America and its citizens, the United States will withdraw from the Paris Climate Accord -- (applause) -- thank you, thank you -- but begin negotiations to reenter either the Paris Accord or a really entirely new transaction on terms that are fair to the United States, its businesses, its workers, its people, its taxpayers. So we're getting out. But we will start to negotiate, and we will see if we can make a deal that's fair. And if we can, that's great. And if we can't, that's fine. (Applause.)

As President, I can put no other consideration before the wellbeing of American citizens. The Paris Climate Accord is simply the latest example of Washington entering into an agreement that disadvantages the United States to the exclusive benefit of other countries, leaving American workers -- who I love -- and taxpayers to absorb the cost in terms of lost jobs, lower wages, shuttered factories, and vastly diminished economic production.

Thus, as of today, the United States will cease all implementation of the non-binding Paris Accord and the draconian financial and economic burdens the agreement imposes on our country. This includes ending the implementation of the nationally determined contribution and, very importantly, the Green Climate Fund which is costing the United States a vast fortune.

Compliance with the terms of the Paris Accord and the onerous energy restrictions it has placed on the United States could cost America as much as 2.7 million lost jobs by 2025 according to the National Economic Research Associates. This includes 440,000 fewer manufacturing jobs -- not what we need -- believe me, this is not what we need -- including automobile jobs, and the further decimation of vital American industries on which countless communities rely. They rely for so much, and we would be giving them so little.

According to this same study, by 2040, compliance with the commitments put into place by the previous administration would cut production for the following sectors: paper down 12 percent; cement down 23 percent; iron and steel down 38 percent; coal -- and I happen to love the coal miners -- down 86 percent; natural gas down 31 percent. The cost to the economy at this time would be close to $3 trillion in lost GDP and 6.5 million industrial jobs, while households would have $7,000 less income and, in many cases, much worse than that.

Not only does this deal subject our citizens to harsh economic restrictions, it fails to live up to our environmental ideals. As someone who cares deeply about the environment, which I do, I cannot in good conscience support a deal that punishes the United States -- which is what it does – the world's leader in environmental protection, while imposing no meaningful obligations on the world's leading polluters.

For example, under the agreement, China will be able to increase these emissions by a staggering number of years -- 13. They can do whatever they want for 13 years. Not us. India makes its participation contingent on receiving billions and billions and billions of dollars in foreign aid from developed countries. There are many other examples. But the bottom line is that the Paris Accord is very unfair, at the highest level, to the United States.

Further, while the current agreement effectively blocks the development of clean coal in America -- which it does, and the mines are starting to open up. We're having a big opening in two weeks. Pennsylvania, Ohio, West Virginia, so many places. A big opening of a brand-new mine. It's unheard of. For many, many years, that hasn't happened. They asked me if I'd go. I'm going to try.

China will be allowed to build hundreds of additional coal plants. So we can't build the plants, but they can, according to this agreement. India will be allowed to double its coal production by 2020. Think of it: India can double their coal production. We're supposed to get rid of ours. Even Europe is allowed to continue construction of coal plants.

In short, the agreement doesn't eliminate coal jobs, it just transfers those jobs out of America and the United States, and ships them to foreign countries.

This agreement is less about the climate and more about other countries gaining a financial advantage over the United States. The rest of the world applauded when we signed the Paris Agreement -- they went wild; they were so happy -- for the simple reason that it put our country, the United States of America, which we all love, at a very, very big economic disadvantage. A cynic would say the obvious reason for economic competitors and their wish to see us remain in the agreement is so that we continue to suffer this self-inflicted major economic wound. We would find it very hard to compete with other countries from other parts of the world.

We have among the most abundant energy reserves on the planet, sufficient to lift millions of America's poorest workers out of poverty. Yet, under this agreement, we are effectively putting these reserves under lock and key, taking away the great wealth of our nation -- it's great wealth, it's phenomenal wealth; not so long ago, we had no idea we had such wealth -- and leaving millions and millions of families trapped in poverty and joblessness.

The agreement is a massive redistribution of United States wealth to other countries. At 1 percent growth, renewable sources of energy can meet some of our domestic demand, but at 3 or 4 percent growth, which I expect, we need all forms of available American energy, or our country -- (applause) -- will be at grave risk of brownouts and blackouts, our businesses will come to a halt in many cases, and the American family will suffer the consequences in the form of lost jobs and a very diminished quality of life.

Even if the Paris Agreement were implemented in full, with total compliance from all nations, it is estimated it would only produce a two-tenths of one degree -- think of that; this much -- Celsius reduction in global temperature by the year 2100. Tiny, tiny amount. In fact, 14 days of carbon emissions from China alone would wipe out the gains from America -- and this is an incredible statistic -- would totally wipe out the gains from America's expected reductions in the year 2030, after we have had to spend billions and billions of dollars, lost jobs, closed factories, and suffered much higher energy costs for our businesses and for our homes.

As the Wall Street Journal wrote this morning: "The reality is that withdrawing is in America's

economic interest and won't matter much to the climate." The United States, under the Trump administration, will continue to be the cleanest and most environmentally friendly country on Earth. We'll be the cleanest. We're going to have the cleanest air. We're going to have the cleanest water. We will be environmentally friendly, but we're not going to put our businesses out of work and we're not going to lose our jobs. We're going to grow; we're going to grow rapidly. (Applause.)

And I think you just read -- it just came out minutes ago, the small business report -- small businesses as of just now are booming, hiring people. One of the best reports they've seen in many years.

I'm willing to immediately work with Democratic leaders to either negotiate our way back into Paris, under the terms that are fair to the United States and its workers, or to negotiate a new deal that protects our country and its taxpayers. (Applause.)

So if the obstructionists want to get together with me, let's make them non-obstructionists. We will all sit down, and we will get back into the deal. And we'll make it good, and we won't be closing up our factories, and we won't be losing our jobs. And we'll sit down with the Democrats and all of the people that represent either the Paris Accord or something that we can do that's much better than the Paris Accord. And I think the people of our country will be thrilled, and I think then the people of the world will be thrilled. But until we do that, we're out of the agreement.

I will work to ensure that America remains the world's leader on environmental issues, but under a framework that is fair and where the burdens and responsibilities are equally shared among the many nations all around the world.

No responsible leader can put the workers -- and the people -- of their country at this debilitating and tremendous disadvantage. The fact that the Paris deal hamstrings the United States, while empowering some of the world's top polluting countries, should dispel any doubt as to the real reason why foreign lobbyists wish to keep our magnificent country tied up and bound down by this agreement: It's to give their country an economic edge over the United States. That's not going to happen while I'm President. I'm sorry. (Applause.)

My job as President is to do everything within my power to give America a level playing field and to create the economic, regulatory and tax structures that make America the most prosperous and productive country on Earth, and with the highest standard of living and the highest standard of environmental protection.

Our tax bill is moving along in Congress, and I believe it's doing very well. I think a lot of people will be very pleasantly surprised. The Republicans are working very, very hard. We'd love to have support from the Democrats, but we may have to go it alone. But it's going very well.

The Paris Agreement handicaps the United States economy in order to win praise from the very foreign capitals and global activists that have long sought to gain wealth at our country's expense. They don't put America first. I do, and I always will. (Applause.)

The same nations asking us to stay in the agreement are the countries that have collectively cost America trillions of dollars through tough trade practices and, in many cases, lax contributions to our critical military alliance. You see what's happening. It's pretty obvious to those that want to keep an open mind.

At what point does America get demeaned? At what point do they start laughing at us as a country? We want fair treatment for its citizens, and we want fair treatment for our taxpayers. We don't want other leaders and other countries laughing at us anymore. And they won't be. They won't be.

I was elected to represent the citizens of Pittsburgh, not Paris. (Applause.) I promised I would exit or renegotiate any deal which fails to serve America's interests. Many trade deals will soon be under renegotiation. Very rarely do we have a deal that works for this country, but they'll soon be under renegotiation. The process has begun from day one. But now we're down to business.

Beyond the severe energy restrictions inflicted by the Paris Accord, it includes yet another scheme to redistribute wealth out of the United States through the so-called Green Climate Fund - nice name -- which calls for developed countries to send $100 billion to developing countries all on top of America's existing and massive foreign aid payments. So we're going to be paying

billions and billions and billions of dollars, and we're already way ahead of anybody else. Many of the other countries haven't spent anything, and many of them will never pay one dime.

The Green Fund would likely obligate the United States to commit potentially tens of billions of dollars of which the United States has already handed over $1 billion -- nobody else is even close; most of them haven't even paid anything -- including funds raided out of America's budget for the war against terrorism. That's where they came. Believe me, they didn't come from me. They came just before I came into office. Not good. And not good the way they took the money.

In 2015, the United Nation's departing top climate officials reportedly described the $100 billion per year as "peanuts," and stated that "the $100 billion is the tail that wags the dog." In 2015, the Green Climate Fund's executive director reportedly stated that estimated funding needed would increase to $450 billion per year after 2020. And nobody even knows where the money is going to. Nobody has been able to say, where is it going to?

Of course, the world's top polluters have no affirmative obligations under the Green Fund, which we terminated. America is $20 trillion in debt. Cash-strapped cities cannot hire enough police officers or fix vital infrastructure. Millions of our citizens are out of work. And yet, under the Paris Accord, billions of dollars that ought to be invested right here in America will be sent to the very countries that have taken our factories and our jobs away from us. So think of that.

There are serious legal and constitutional issues as well. Foreign leaders in Europe, Asia, and across the world should not have more to say with respect to the U.S. economy than our own citizens and their elected representatives. Thus, our withdrawal from the agreement represents a reassertion of America's sovereignty. (Applause.) Our Constitution is unique among all the nations of the world, and it is my highest obligation and greatest honor to protect it. And I will.

Staying in the agreement could also pose serious obstacles for the United States as we begin the process of unlocking the restrictions on America's abundant energy reserves, which we have started very strongly. It would once have been unthinkable that an international agreement could prevent the United States from conducting its own domestic economic affairs, but this is the new reality we face if we do not leave the agreement or if we do not negotiate a far better deal.

The risks grow as historically these agreements only tend to become more and more ambitious over time. In other words, the Paris framework is a starting point -- as bad as it is -- not an end point. And exiting the agreement protects the United States from future intrusions on the United States' sovereignty and massive future legal liability. Believe me, we have massive legal liability if we stay in.

As President, I have one obligation, and that obligation is to the American people. The Paris Accord would undermine our economy, hamstring our workers, weaken our sovereignty, impose unacceptable legal risks, and put us at a permanent disadvantage to the other countries of the world. It is time to exit the Paris Accord -- (applause) -- and time to pursue a new deal that protects the environment, our companies, our citizens, and our country.

It is time to put Youngstown, Ohio, Detroit, Michigan, and Pittsburgh, Pennsylvania -- along with many, many other locations within our great country -- before Paris, France. It is time to make America great again. (Applause.) Thank you. Thank you. Thank you very much.

Thank you very much. Very important. I'd like to ask Scott Pruitt, who most of you know and respect, as I do, just to say a few words.

Scott, please. (Applause.)

ADMINISTRATOR PRUITT: Thank you, Mr. President. Your decision today to exit the Paris Accord reflects your unflinching commitment to put America first.

And by exiting, you're fulfilling yet one more campaign promise to the American people. Please know that I am thankful for your fortitude, your courage, and your steadfastness as you serve and lead our country.

America finally has a leader who answers only to the people -- not to the special interests who have had their way for way too long. In everything you do, Mr. President, you're fighting for the forgotten men and women across this country. You're a champion for the hardworking citizens all across this land who just want a government that listens to them and represents their interest.

You have promised to put America First in all that you do, and you've done that in any number of ways -- from trade, to national security, to protecting our border, to rightsizing Washington, D.C. And today you've put America first with regard to international agreements and the environment.

This is an historic restoration of American economic independence -- one that will benefit the working class, the working poor, and working people of all stripes. With this action, you have declared that the people are rulers of this country once again. And it should be noted that we as a nation do it better than anyone in the world in striking the balance between growing our economy, growing jobs while also being a good steward of our environment.

We owe no apologies to other nations for our environmental stewardship. After all, before the Paris Accord was ever signed, America had reduced its CO2 footprint to levels from the early 1990s. In fact, between the years 2000 and 2014, the United States reduced its carbon emissions by 18-plus percent. And this was accomplished not through government mandate, but accomplished through innovation and technology of the American private sector.

For that reason, Mr. President, you have corrected a view that was paramount in Paris that somehow the United States should penalize its own economy, be apologetic, lead with our chin, while the rest of world does little. Other nations talk a good game; we lead with action -- not words. (Applause.)

Our efforts, Mr. President, as you know, should be on exporting our technology, our innovation to nations who seek to reduce their CO2 footprint to learn from us. That should be our focus versus agreeing to unachievable targets that harm our economy and the American people.

Mr. President, it takes courage, it takes commitment to say no to the plaudits of men while doing what's right by the American people. You have that courage, and the American people can take comfort because you have their backs.

Thank you, Mr. President.

END 4:03 P.M. EDT

ED_001657A_00007577

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
From: Bennett, Tate
Sent: Tue 5/16/2017 1:45:24 PM
Subject: FW: 12 Governors letter to POTUS re Paris Climate Agreement
Govs ltr to POTUS re Paris Agreement 050317.pdf

Meant to share last week.

From: Hoelscher, Douglas L. EOP/WHO [mailto: Ex. 6 - Personal Privacy
Sent: Wednesday, May 3, 2017 11:29 AM
To: Clark, Justin R. EOP/WHO Ex. 6 - Personal Privacy Catanzaro, Michael J. EOP/WHO Ex. 6 - Personal Privacy Bennett, Tate <Bennett.Tate@epa.gov>; Neumayr, Mary B. EOP/CEQ Ex. 6 - Personal Privacy Killion, William <KillionW@state.gov>
Cc: Johnson, Julia B. EOP/WHO Ex. 6 - Personal Privacy
Subject: 12 Governors letter to POTUS re Paris Climate Agreement

Fyi

Julia – please log.

From: Ricketts, Sam (GOV) [mailto:Sam.Ricketts@gov.wa.gov]
Sent: Wednesday, May 3, 2017 11:16 AM
To: Hoelscher, Douglas L. EOP/WHO Ex. 6 - Personal Privacy Johnson, Julia B. EOP/WHO Ex. 6 - Personal Privacy
Cc: Davis, Chris (GOV) <chris.davis@gov.wa.gov>; Aimee Barnes (Aimee.Barnes@gov.ca.gov) <Aimee.Barnes@gov.ca.gov>; Katie Wheeler Mathews (Katie.WheelerMathews@wdc.ca.gov) <Katie.WheelerMathews@wdc.ca.gov>
Subject: Governors letter to POTUS re Paris Climate Agreement

Doug, Julia - Attached please find a letter from 12 governors to President Trump regarding continued U.S. participation in the Paris Climate Agreement.

Thank you

Sam Ricketts

Director, Washington, DC Office

Office of Governor Jay Inslee

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bolen, Brittany
Sent: Wed 5/10/2017 8:56:43 PM
Subject: FW: Afternoon Energy, presented by Trout Unlimited: Methane CRA shut down — Cramer stirs Senate speculation — Trump delay offers hope to Paris supporters

Hey – FYI on afternoon energy. Also, I just noticed this and added it to the tracker. Can you

Ex. 5 - Deliberative Process

From: POLITICO Pro Energy [mailto:politicoemail@politicopro.com]
Sent: Wednesday, May 10, 2017 4:33 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Subject: Afternoon Energy, presented by Trout Unlimited: Methane CRA shut down — Cramer stirs Senate speculation — Trump delay offers hope to Paris supporters

By Kelsey Tamborrino | 05/10/2017 04:28 PM EDT

With help from Alex Guillén, Darius Dixon and Esther Whieldon

METHANE CRA SHUT DOWN: In an unexpected turn of events, the Senate today failed to advance legislation to repeal the Obama-era rule that would curb methane emissions from oil and gas operations, leaving the regulation in place for now. The 49-51 vote marks what likely was Republicans' last chance to repeal an Obama administration regulation through the Congressional Review Act. After Thursday, the Senate will no longer be able to take advantage of special CRA rules that shield resolutions from being filibustered.

'Thank you' notes: Opponents of the repeal have Republican Sens. Susan Collins, Lindsey Graham and John McCain to thank, all of whom joined Democrats this morning in voting against a procedural motion to take up the resolution, Ben Lefebvre reports . In a statement, McCain said he voted "no" over concerns that Interior would not be able to rewrite a new version of the rule. "While I am concerned that the BLM rule may be onerous, passage of the resolution would have prevented the federal government, under any administration, from issuing a rule that is 'similar,' according to the plain reading of the Congressional Review Act," he said. Read more here.

What's next? The Interior Department is taking aim at the rule, Eric Wolff reports. "As part of President Trump's America-First Energy Strategy and executive order, the Department has reviewed and flagged the Waste Prevention rule as one we will suspend, revise or rescind given its significant regulatory burden that encumbers American energy production, economic growth and job creation," said Kate MacGregor, acting assistant secretary of the Interior for Land and Minerals, in a statement.

Welcome to Afternoon Energy and welcome to Wednesday! I'm your host Kelsey Tamborrino. Send your thoughts, news and tips to ktamborrino@politico.com, mdaily@politico.com and njuliano@politico.com, and keep up with us on Twitter at @kelseytam, @dailym1, @nickjuliano, @Morning_Energy and @POLITICOPro.

** **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 **

CRAMER FOR SENATE? Fueling speculation that he may challenge Sen. Heidi Heitkamp for her seat, North Dakota Rep. Kevin Cramer today ripped the Senate for its failure to repeal the methane rule, Ben reports. The failed CRA was "a huge missed opportunity to protect our energy jobs in Western North Dakota and across America, and any senator who voted against this rule should be ashamed of themselves," Cramer said in a statement. "I thank Senator [John] Hoeven for his unwavering support for the BLM Methane CRA, and I hope we see stronger support from our senators for America's energy industry in the future." North Dakota is the nation's No. 2 oil and natural gas producer, and many wells there have not yet been hooked up to pipelines that could ship the excess gas to market. Cramer has been mentioned as a possible challenger to Heitkamp when the first-term senator's seat comes up next year.

After the vote, Heitkamp and Joe Manchin (D-W.Va.) sent a letter to the Interior Department recommending it halt enforcement of an Obama-era methane emissions rule that the Senate failed to repeal this morning.

HOPE FOR PARIS: Those who support the U.S. staying in the Paris climate deal expect the president and his team to be inundated in the coming weeks with calls from foreign leaders and diplomats who will make the case that a U.S. withdrawal could have disastrous political consequences, Andrew Restuccia reports . One U.S. official said President Donald Trump is expected to receive a "fact check" from the international community in the coming days. Already, proponents on either side have begun weighing in. A source close to former Vice President Al Gore confirmed to POLITICO that he had a Tuesday phone call with Trump to discuss the deal.

WALDEN WANTS UPDATES ON HANFORD: House Energy and Commerce Chairman Greg Walden (R-Ore.) said today that he's been in touch with the Energy Department over Tuesday's train tunnel collapse at Hanford that triggered an emergency — and he wants the information. Walden, whose sprawling Oregon congressional district is downriver from the Cold

War nuclear weapons cleanup site, said he's asked that DOE provide a bipartisan briefing on the incident for lawmakers and staff. The partial cave-in, which occurred near a defunct plutonium extraction facility, hasn't led to any reports of injuries and many employees were told not to report in today, but workers began filling the hole with about 50 truckloads of soil.

HE'S BAAAAAAACK: It didn't take long for Don Blankenship to get back in the saddle this morning after ending his one-year prison sentence in connection with the 2010 Upper Big Branch Mine disaster that killed 29 people. "Ann Coulter free speech in news lately. She's lucky — govt put me under $5M bond, gag order, and in prison said my speech 'troubles the US'," @DonBlankenship wrote at the beginning of a string of tweets, referring to the conservative commentator's recent controversial appearances on college campuses. Blankenship went on to reiterate his claim that government-ordered actions actually triggered the deadly blast, an argument independent investigators have long refuted. He also criticized Sen. Manchin for saying in 2014 that Blankenship has "blood on his hands," tweeting: "I challenge Sen. Manchin to debate UBB truth. A U.S. Senator who says I have 'blood on my hands' should be man enough to face me in public."

APPEALS COURT DELAYS AIR WAIVER SUIT: The 9th Circuit Court of Appeals today granted EPA's request to postpone oral arguments over a Clean Air Act waiver allowing California to more strictly regulate emissions from certain engines. Alex Guillén reports that the order directs EPA to file updates on its review of the waiver every 90 days, and says arguments will be rescheduled "if and when appropriate." Arguments had been slated for May 18. More here.

MOVERS, SHAKERS: The American Wind Energy Association has hired Amy Farrell, a former market development director at the American Petroleum Institute, as AWEA's head of government and public affairs. Farrell also previously worked at Exxon Mobil and at the EPA, OMB and Council on Environmental Quality during the George W. Bush administration. Farrell fills the position vacated by Rob Gramlich in January.

— **Cornerstone adds Shimkus aide:** Cornerstone Government Affairs is adding Chris Sarley, a longtime aide to Rep. John Shimkus (R-Ill.), as a vice president. Sarley spent nearly a decade working for Shimkus as his liaison to the House Energy and Commerce Committee. He'll focus on health care, energy and environmental work. (h/t POLITICO Influence)

EEI OUTLINES VIEWS ON ENERGY STORAGE: The Edison Electric Institute in a new white paper on electricity storage says its member investor-owned utilities should be able to own and invest in energy storage regardless of a state's regulatory regime. The paper also argues that states should ensure retail rates avoid cost shifting to customers who do not own storage — something utilities have said happened with rooftop solar under net metering programs. The paper says FERC and states should define storage products in a technology-neutral way and that utilities should have some control over how the devices are operated and where they are built to ensure grid reliability.

INTERIOR PUBLISHES NOTICE OF COMMENT: The Interior Department is slated to publish a Federal Register notice tomorrow officially opening the comment period on Secretary

Ryan Zinke's review of nearly two dozen national monuments. Zinke is in Utah this week touring two monuments, including Bears Ears, and hearing from local groups and officials.

EXXON MOBIL HIRES NEW LOBBYISTS: Williams & Jensen has signed five new clients, including Exxon Mobil. Susan Hirschmann, the firm's chief executive, will lobby for Exxon on "general issues related to oil and natural gas exploration and production and gasoline refining; issues related to energy tax provisions and impact on oil and gas industry," according to the filing. The firm also signed the American Association of Crop Insurers, the Global Healthy Living Foundation, the News Media Alliance and the Amalgamated Sugar Company. (h/t POLITICO Influence)

QUICK HITS:

— Trump takes aim at Western monuments that may hold oil, coal, Bloomberg.

— Who stands behind Suniva's trade case? E&E News.

— Dakota pipeline is ready for oil, without spill response plan for Standing Rock, InsideClimate News.

— U.S. crude oil stockpiles take a steady dip, FuelFix.

— In Massachusetts, utilities take a collaborative approach to EV infrastructure, Utility Dive.

WIDE WORLD OF POLITICS:

— Behind Comey's firing: An enraged Trump, fuming about Russia

— California takes center stage in battle for House majority

— Ricky Waddell named White House deputy national security adviser

** **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/afternoon-energy/2017/05/methane-cra-shut-down-022775

Stories from POLITICO Pro

Senate fails to advance methane CRA Back

By Ben Lefebvre | 05/10/2017 10:33 AM EDT

Republicans may have seen their last chance to easily overturn an Obama-era regulation disappear this morning after the Senate failed to advance legislation to repeal an Obama-era rule on methane emissions.

Senators voted 49-51 against a procedural measure to take up the Congressional Review Act resolution reversing the BLM regulation tightening limits on methane leaking from oil wells and pipelines. This week is the last chance for Senate Republicans to block late Obama-era regulations under special CRA rules that block CRA resolutions from being filibustered. Sens. Susan Collins, John McCain and Lindsey Graham joined all Democrats in voting against the motion.

Oil companies have fought to repeal the rule, arguing it would raise their cost of doing business. Democrats and environmentalists have said the rule would increase the amount of methane sold on federal lands, increasing royalty payments into federal coffers.

WHAT'S NEXT: The failed vote prevents Congress from easily reversing the BLM methane rule, but President Donald Trump has directed his administration to review and possibly revise it.

To view online click here.

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Senate fails to overturn Obama-era methane rule Back

By Nick Juliano, Darius Dixon and Ben Lefebvre | 05/10/2017 12:12 PM EDT

Republicans' last chance to block an Obama-era energy rule may have just evaporated into thin air.

The Senate on Wednesday unexpectedly failed to advance a filibuster-proof resolution that would have allowed them to prevent the Interior Department from cracking down on the amount of methane oil and gas companies release from their wells and pipelines. Three Republicans — John McCain, Lindsey Graham and Susan Collins — joined all Democrats in blocking the resolution.

Had the vote succeeded, it would have been the 15th time this year that lawmakers deployed the Congressional Review Act to help President Donald Trump erase his predecessor's late-term regulations. The CRA, which had only been used once before this year, gives Congress a short

amount of time to block rules completed since about the middle of last year, but that clock runs out on Thursday

The methane resolution narrowly passed the House last February, but John Barrasso, who sponsored the Senate companion, had been unable to round up the votes he needed from his colleagues. It was the only such measure to come to a vote and fail, although Republicans targeted numerous other Obama rules with CRA resolutions that never made it to the floor of either chamber.

For now, the Bureau of Land Management's methane rule remains in place, but Trump has directed his administration to consider repealing it.

"It's disappointing but I'm going to call on the secretary of Interior to withdraw the rule immediately," Barrasso said after the vote.

While Collins and Graham had announced their opposition weeks ago, McCain's vote came as a surprise. Other closely watched GOP moderates, including Jeff Flake (Ariz.) and Dean Heller (Nev.), who are up for reelection next year, backed the resolution. But there was no aisle-crossing from Democrats facing tough races in energy-producing states, such as Heidi Heitkamp and Joe Manchin.

In a statement, McCain said he voted no over concerns that Interior would not be able to rewrite a new version of the rule.

"While I am concerned that the BLM rule may be onerous, passage of the resolution would have prevented the federal government, under any administration, from issuing a rule that is "similar,' according to the plain reading of the Congressional Review Act," he said.

McCain, who labelled methane emissions an "important public health and air quality issue," called on Interior to "revise and improve the BLM methane rule."

John Hoeven, who had been helping whip votes for the measure, said McCain had told Barrasso Tuesday night that he had concerns with the resolution. But Hoeven said they took a chance, hoping that some undecided Democrats would join them in voting for it.

"We had to go because May 11 — that's the last day we could do it. So, we had to go. ... And we had some Ds that were undecided so we thought we might still get it," Hoeven told reporters after the vote.

Tom Carper, the top Democrat on the Environment and Public Works Committee, said he was not completely surprised by McCain's maverick vote.

"I think the Republican leader was looking at that time running out on the ability to bring up the CRAs and decided to roll the dice," Carper said. "I applaud those who saw the issues as we did and voted with us."

The methane rule adjusts how the government collects royalties for oil and gas extracted from public land to prevent drilling companies from wasting excess gas by flaring it off or venting methane straight into the atmosphere. Environmentalists and other rule supporters say the rule helps limit emissions of a powerful greenhouse gas and ensures taxpayers get a fair return for oil and gas extracted from public lands, though the energy industry argued that collecting the gas increases costs and could impede oil production.

"While it is disappointing that the Senate did not act to correct the rule more quickly, we look forward to working with the administration on policies that continue our commitment to safely produce the energy that Americans rely on, help consumers, create jobs, strengthen our national security, and protect our environment," said Erik Milito, of the American Petroleum Institute.

Democrats were elated at the resolution's failure.

"Today's vote is a win for American taxpayers, a win for public health and a win for our climate," Ed Markey (D-Mass.) said in a statement. "When it comes to natural gas production on public lands, the oil industry should embrace the slogan 'waste not, want not.' These commonsense rules issued by the Obama administration ensure that we can reduce methane emissions that contribute to climate change and ensure that taxpayers receive their fair share for their precious natural resources."

The Sierra Club and other green groups said they had been surprised by McCain's vote though they had been lobbying the Arizona senator as part of its campaign against the CRA in western states.

"We had high hopes on McCain, given his past history of action on climate change," said Lena Moffitt, director of the group's Dirty Fuels campaign. "But he remained mum" on his vote.

The resolution was briefly hung-up this month by requests from corn-state Republicans for help securing an EPA waiver that would benefit sales of higher-blend ethanol in exchange for their support. But John Thune (R-S.D.) said those lawmakers relented after receiving assurances from leadership.

While the result was disappointing for the oil industry, one lobbyist took solace in the diminished likelihood of an ethanol deal taking shape.

"Looks like we won't have to do the [ethanol waiver] circus at EPW after all," said Stephen Brown, with refining company Tesoro.

Rob Portman, (R-Ohio) another longstanding holdout, surprisingly announced his support for the resolution on Monday, after Secretary Ryan Zinke sent him a letter promising to look for ways to limit methane emissions that would not have as large of an economic impact on the industry. But experts said that reassurance rested on shaky ground given the untested nature of the Congressional Review Act's prohibition on re-issuing regulations that are overturned.

First enacted in 1996, the CRA had been used just once before this year, to block a Clinton-era

ergonomics rule in the first year of George W. Bush's presidency. The law prevents agencies from writing new rules that are "substantially the same" as those Congress overturns, but courts have never tested those limits nor weighed in on how to address a conflicting law telling an agency to write a rule Congress has blocked.

While Congress managed to block 14 Obama regulations so far this year, Democrats took solace in the fact that their last attempt came up short.

Carper plans to thank McCain the next time he sees him.

"He and I served in the Vietnam War together — both Navy veterans," Carper said. "When I see him I'll give him a hug. If not that, a salute."

Alex Guillen, Eric Wolff and Esther Whieldon contributed to this report.

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Interior to take aim at methane rule after failed CRA Back

By Eric Wolff | 05/10/2017 01:32 PM EDT

The Interior Department is aiming to gut the Obama administration's methane waste rule that the Senate failed to kill off today.

"As part of President Trump's America-First Energy Strategy and executive order, the Department has reviewed and flagged the Waste Prevention rule as one we will suspend, revise or rescind given its significant regulatory burden that encumbers American energy production, economic growth and job creation," said Kate MacGregor, acting assistant secretary of the Interior for Land and Minerals, in a statement.

The Obama-era rule required companies drilling on public land to take steps to eliminate methane leakage or flaring from their operations. The rule was attacked by the industry and many Republicans as too expensive to comply with, but Republican Sens. John McCain (Ariz.), Susan Collins (Maine) and Lindsey Graham (S.C.) today joined with Democrats to defeat a resolution under the Congressional Review Act that would have nullified it.

"The vote today in the Senate doesn't impact the administration's commitment to spurring investment in responsible energy development and ensuring smart regulatory protections," MacGregor said.

"The rule is expected to have real and harmful impacts on onshore energy development and could impact state and local jobs and revenue. Small independent oil and gas producers in states

like North Dakota, Colorado and New Mexico, which account for a substantial portion of our nation's energy wealth, could be hit the hardest," she added.

WHAT'S NEXT: Interior will have to issue a proposed rule to revise or withdraw the rule.

To view online click here.

Back

Cramer rips Senate for not repealing methane rule Back

By Ben Lefebvre | 05/10/2017 01:43 PM EDT

Rep. Kevin Cramer (R-N.D.) railed against the Senate's failure to repeal an Obama-era methane emissions rule today, again fueling speculation that he may seek to challenge Sen. Heidi Heitkamp (D-N.D.) for her seat.

Heitkamp and 50 other senators shot down the CRA in a procedural vote, an outcome that caught many Hill watchers by surprise. Republicans had more than a month to try to build support to repeal the BLM rule.

North Dakota is the nation's No. 2 oil and natural gas producer, and many wells there have not yet been hooked up to pipelines that could ship the gas to market.

The failure to adopt the CRA was″ a huge missed opportunity to protect our energy jobs in Western North Dakota and across America, and any senator who voted against this rule should be ashamed of themselves," Cramer said in a statement. "I thank Senator Hoeven for his unwavering support for the BLM Methane CRA, and I hope we see stronger support from our senators for America's energy industry in the future."

Cramer, an at-large representative, has been mentioned as a possible challenger to Heitkamp when the first-term senator's seat comes up next year. He met with Majority Leader Mitch McConnell last year to discuss the move.

A Cramer spokesman did not reply to questions about the representatives plans for 2018. A Heitkamp spokesman did not immediately respond to questions.

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Back

Heitkamp, Manchin tell Interior to suspend methane rule enforcement Back

By Ben Lefebvre | 05/10/2017 03:40 PM EDT

Sens. Heidi Heitkamp (D-N.D.) and Joe Manchin (D-W.Va,) are recommending that the Department of Interior halt enforcement of an Obama-era methane emissions rule that the Senate failed to repeal this morning.

Heitkamp and Manchin surprised some by voting to block the Congressional Review Act that would have repealed the methane emissions rule. Republicans had hoped the two senators would join them in killing the measure, which uses royalty rates to push oil and gas producers to cut methane emissions from oil wells and pipelines.

But in a letter to Interior Secretary Ryan Zinke dated today, the two senators say they still think the methane rule goes too far. They write that they agree with President Donald Trump's March executive order calling for a review of the rule and suggest that BLM stop enforcing it in the meantime.

"Begin revising the rule by issuing both a rule suspending enforcement and a replacement rule to correct the inherent flaws in the current rule," the senators suggest to Zinke as one possible action.

Interior said earlier today that it planned to revise, suspend or rescind the regulation. Such a process could take years, however, and environmental groups have said any drastic action from the department could face legal action.

WHAT'S NEXT: Interior is expected to issue a review of the methane rule.

To view online click here.

Back

Trump climate pact delay offers hope to Paris supporters Back

By Andrew Restuccia | 05/10/2017 12:54 PM EDT

U.S. officials and outside groups pressuring President Donald Trump to stay in the Paris climate change agreement are taking some solace in the president's decision to delay his final verdict on the accord.

Those who support the U.S. staying in the 2015 climate deal expect Trump and his team to be inundated in the coming weeks with calls from foreign leaders and diplomats who will make the case that a U.S. withdrawal could have disastrous political consequences.

The delay until after the May 26-27 G-7 meeting also means Trump will probably receive some

direct lobbying during the summit from the leaders of Japan, the United Kingdom, Italy, France, Germany and Canada, who all support the Paris agreement.

Just last week, it seemed like momentum was building inside the White House toward a withdrawal. But U.S. officials and outside groups who believe pulling out would greatly damage U.S. relations with other countries said the delay gives them more time to make their case, and to counter a campaign by some in the administration to raise questions about the legal implications of remaining.

One U.S. official said Trump is expected to receive a "fact check" from the international community in the coming days.

Already, Trump and his advisers have heard from a steady stream of voices calling on the president to stay in the agreement and dismissing concerns that the pact could put the administration in a legal bind as it tries to undo former President Barack Obama's climate agenda. Diplomats from the U.S., Germany, France and the European Commission have all reached out to the administration in recent weeks, sources told POLITICO.

A European Union diplomat pressed the U.S. not to withdraw from the Paris deal during a United Nations Security Council meeting on Tuesday that included U.S. Ambassador to the United Nations Nikki Haley.

Former Secretary of State Condoleezza Rice and Al Gore have also spoken directly to Trump about the benefits of remaining. A source close to Gore confirmed to POLITICO that the former vice president had a Tuesday phone call with Trump to discuss the Paris deal.

Trump's policy decisions have sometimes been influenced by conversations with foreign leaders. The National Post, a Canadian newspaper, reported this week that White House officials urged staff in Prime Minister Justin Trudeau's office to call Trump and press him not to withdraw from the North American Free Trade Agreement. Trudeau subsequently called the president, and Trump later said their conversation helped changed his mind, convincing him not to immediately withdraw from the agreement.

Trudeau will attend the G-7 meeting in Italy later this month and he is expected to again pitch Trump on staying in an international agreement: this time, the Paris climate deal.

Still, the delay could cut both ways by giving opponents of the agreement, including chief strategist Steve Bannon, more time to influence Trump.

"The simple reality remains and is inescapable: the president made an explicit promise, no one wants U.N. bureaucrats involved in energy decisions in this nation, and the State Department is hopelessly compromised on this," said Republican energy lobbyist Mike McKenna, a vocal critic of the agreement. "Paris is a corpse; more time is only going to make it smell worse."

McKenna added that the appeals of environmental groups and Democratic politicians will do little to sway Trump.

But other opponents of the Paris deal worried that the delay could give supporters of the accord time to mobilize.

"I think the remain crowd benefits from a delay because it gives them all time to lobby the president," said American Energy Alliance President Tom Pyle.

Defenders of the pact, which has won the backing of 195 nations, remain hopeful.

"I think it's an encouraging sign," Sen. Ben Cardin (Md.), the top Democrat on the Senate Foreign Relations Committee, told POLITICO. "It also means there will be more opportunities for the president to get input."

Noting that Secretary of State Rex Tillerson has called for keeping a seat at the table in international climate talks, Cardin argued that "it's good news for staying in Paris" if the State Department, which will likely coordinate much of the U.S. activity during the G-7, becomes more involved in the decision.

"There is counter-pressure at the White House — plus a lot of outside interest," Cardin added. "So I think that's good news."

Nick Juliano contributed to this story.

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Court delays lawsuit over California air waiver Back

By Alex Guillén | 05/10/2017 01:33 PM EDT

The 9th Circuit Court of Appeals today granted EPA's request to postpone oral arguments over a Clean Air Act waiver allowing California to more strictly regulate emissions from certain engines.

The order directs EPA to file updates on its review of the waiver every 90 days, and says arguments will be rescheduled "if and when appropriate." Arguments had been slated for May 18.

The waiver, issued by EPA in 2013, gives California the authority to more strictly regulate pollution from "non-road" diesel engines such as tractors and bulldozers. EPA on Friday asked for a delay as it reviews the waiver and potentially reconsiders it.

California argues that the Clean Air Act does not give EPA the authority to revoke such a waiver

after it is granted. This case is seen as a potential test of that legal dispute ahead of a bigger fight over California's waiver to more stringently regulate auto emissions.

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Interior asks for input on monument review Back

By Esther Whieldon | 05/05/2017 05:21 PM EDT

The Interior Department is asking members of the public to weigh in on Secretary Ryan Zinke's review of national monuments spanning tens of millions of acres of federal land.

The department released a list of 22 monuments created since 1996 that Zinke will be reviewing in conjunction with an executive order President Donald Trump signed last month.

Zinke was given 45 days to review Bears Ears National monument in Utah and he is slated to visit with officials in the state early next week. The secretary has 120 days to examine the remaining 21 monuments on the list and come back with recommendations, which could include legislative fixes.

WHAT'S NEXT: The Interior said it will begin accepting public comments next Friday. Comments will be accepted for 15 days on Bears Ears and 60 days on the other designations.

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Behind Comey's firing: An enraged Trump, fuming about Russia Back

By Josh Dawsey | 05/10/2017 12:02 AM EDT

President Donald Trump weighed firing his FBI director for more than a week. When he finally pulled the trigger Tuesday afternoon, he didn't call James Comey. He sent his longtime private security guard to deliver the termination letter in a manila folder to FBI headquarters.

He had grown enraged by the Russia investigation, two advisers said, frustrated by his inability to control the mushrooming narrative around Russia. He repeatedly asked aides why the Russia investigation wouldn't disappear and demanded they speak out for him. He would sometimes scream at television clips about the probe, one adviser said.

Trump's firing of the high-profile FBI director on the 110th day after the president took office marked another sudden turn for an administration that has fired its acting attorney general, national security adviser and now its FBI director, whom Trump had praised until recent weeks and even blew a kiss to during a January appearance.

The news stunned Comey, who saw news of his dismissal on TV while speaking inside the FBI office in Los Angeles. It startled all but the uppermost ring of White House advisers, who said grumbling about Comey hadn't dominated their own morning senior staff meetings. Other top officials learned just before it happened and were unaware Trump was considering firing Comey. "Nobody really knew," one senior White House official said. "Our phones all buzzed and people said, 'What?'"

By ousting the FBI director investigating his campaign and associates, Trump may have added more fuel to the fire he is furiously trying to contain — and he was quickly criticized by a chorus of Republicans and Democrats. "The timing of this firing was very troubling," said Sen. Ben Sasse, a Nebraska Republican.

Trump had grown angry with the Russia investigation — particularly Comey admitting in front of the Senate that the FBI was investigating his campaign — and that the FBI director wouldn't support his claims that President Barack Obama had tapped his phones in Trump Tower.

Bipartisan criticism of Comey had mounted since last summer after the director delivered a lengthy statement outlining why no charges would be brought against former Secretary of State Hillary Clinton for her use of a private email server.

But the fallout seemed to take the White House by surprise. Trump made a round of calls around 5 p.m., asking for support from senators. White House officials believed it would be a "win-win" because Republicans and Democrats alike had had problems with the FBI director, one person briefed on the administration's deliberations said.

Instead, Senate Minority Leader Chuck Schumer (D-N.Y.) told him he was making a big mistake — and Trump seemed "taken aback," according to a person familiar with the call.

By Tuesday evening, the president was watching the coverage of his decision and frustrated no one was on TV defending him, a White House official said. He wanted surrogates out there beating the drum.

Instead, advisers were attacking one another for not realizing the gravity of the situation as events blew up. "How are you not defending your position for three solid hours on TV?" the White House aide asked.

Two White House officials said there was little communications strategy in handling the firing, and that staffers were given talking points late Tuesday for hastily arranged media appearances. Aides soon circulated previous quotes from Schumer hitting Comey. After Schumer called for a special prosecutor, the White House huddled in press secretary Sean Spicer's office to devise a strategy and sent "fresh faces" to TV, one White House official said.

By Tuesday night, aides were using TV appearances to spin the firing as a simple bureaucratic matter and call for an end to the investigation. "It's time to move on," Sarah Huckabee Sanders, the deputy press secretary, said on Fox News.

In his letter dismissing Comey, Trump said the FBI director had given him three private assurances that he wasn't under investigation. The White House declined to say when those conversations happened — or why Comey would volunteer such information. It is not the first time Trump has publicly commented on an ongoing investigation — typically a no-no for presidents. He said earlier this month that Comey had done Clinton a favor by letting her off easy.

Trump received letters from Rod Rosenstein, the deputy attorney general, and Jeff Sessions, the attorney general, calling for Comey's dismissal, on Tuesday, a spokesman said. The president then decided to fire the FBI director based on the recommendations and moved quickly. The spokesman said Trump did not ask for the letters in advance, and that White House officials had no idea they were coming.

But several other people familiar with the events said Trump had talked about the firing for more than a week, and the letters were written to give him a rationale for firing Comey.

The decision marked a turnabout for Trump. On the campaign trail, the candidate led chants of "Lock her up!" and praised Comey's "guts" in October for reopening the probe into her email server. He joked openly with Comey at the White House two days after the inauguration.

Trump, one White House official said, believed Comey was too soft on Clinton — not too unfair, as Rosenstein's letter Tuesday indicated.

At FBI headquarters, one senior official said the bureau was essentially in lockdown, not answering calls flooding in and referring all questions to the Justice Department. "I got nothing for you. Sorry," said the official. "We were caught totally off guard. But we are not commenting in any kind of way, and referring calls to DOJ."

Comey had flown on an FBI plane to Los Angeles for a "diversity and recruiting" event. Trump's director of Oval Office operations, longtime security aide Keith Schiller, hand-delivered the dismissal letter to FBI headquarters.

By Tuesday evening, the shock that had spread throughout the ranks of current and former FBI officials was mixed with a growing sense of anger among the many Comey loyalists, and demands for answers as to why the director had been fired — and why now.

"We just have no idea why this happened. No idea," said one recently retired top FBI official who worked closely with Comey on many high-profile investigations. "No one knew this was coming. Everyone is just shocked that this happened."

There was no immediate front-runner for the vacancy, one White House official said. "If there's a

list, I haven't seen it," said one senior White House official.

While shock dominated much of the FBI and the White House, the mood at Roger Stone's house in Florida was one of elation. Several Stone allies and friends said Stone, a Trump associate who has been frequently mentioned in the investigation, encouraged the president to fire Comey in conversations in recent weeks.

On Twitter, Stone signaled praise for the move by posting an image of Trump from "The Apprentice" saying, "You're fired."

Stone declined to comment Tuesday night but said he was enjoying a fine cigar.

On Wednesday, Trump tweeted: "Have not spoken to Roger in a long time - had nothing to do with my decision."

Josh Meyer, Tara Palmeri and Annie Karni contributed to this report.

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California takes center stage in battle for House majority Back

By Alex Isenstadt and Gabriel Debenedetti | 05/09/2017 06:59 PM EDT

California has emerged as the epicenter of the already-intense battle for the House in 2018, as both parties rush resources and manpower to a state that could determine the chamber's balance of power.

With 18 months still to go until the election, Democrats and Republicans are mapping out TV advertising plans across the state, setting up headquarters, digging into polling, and hiring operatives. The showdown has swiftly drawn in Hollywood players, major donors and grass-roots activists.

California is home to seven vulnerable Republican incumbents in districts where Hillary Clinton beat Donald Trump — more than a quarter of the seats Democrats need to flip. And there are early indications that the landscape taking shape will benefit Democrats: a turbocharged liberal movement galvanized by the House GOP-led Obamacare rollback, shifting demographics that have moderated California's last remaining conservative bastions, and rising discontent with the president.

"This struggle [in California] is the priority, no question," said Tom Steyer, the billionaire San Francisco environmentalist whose NextGen Climate group started running digital ads against the vulnerable Republicans after their votes for the House health care bill last week. "If you look at

the numbers, the vulnerability of these Republican Congress people is disproportionately here."

The maneuvering is playing out in public — with both sides spending hundreds of thousands of dollars to advertise in the state's expensive media markets — and behind the scenes. The Democratic Congressional Campaign Committee for the first time has moved its entire Western regional political office from Washington, D.C., to Irvine, California.

The department will house at least eight full-time staffers and be overseen by Kyle Layman, a veteran Democratic operative and former Capitol Hill chief of staff. The decision to open the office in Southern California, which will give the DCCC proximity to a handful of competitive contests, was made by the group's new executive director, Dan Sena.

Democrats this week began airing drive-time radio ads in Southern California aimed at a handful of House Republicans who backed the health care bill. The purchase, coming at such an early stage of the election cycle, reflects the high political stakes in California.

Republicans are mobilizing, too. Hoping to buttress the party's incumbents and blunt the Democratic offensive, Congressional Leadership Fund, a group closely associated with House Speaker Paul Ryan, has opened four field offices across the state. The organization has also begun work on a data project to gauge public opinion. And, like Democrats, Republicans are airing ads: Since January, its sister organization, American Action Network, has run commercials boosting nine California Republicans.

This week, the group shifted its focus to inoculating Republicans on the health care bill, launching an ad blitz geared toward generating support for the legislation. Every California Republican voted for the bill.

"I think if Democrats are going to win the majority, they'd have to win seats in California — they'd need to in order to make the math work," said Republican Carl DeMaio, a former San Diego city councilman who ran for Congress in 2014. But, he added: "There's no complacency here among Republicans who are being targeted."

Democrats are seeking out prized recruits with intriguing, outsider pedigrees. One is Josh Butner, a former Navy SEAL who has begun attacking his Republican opponent, Rep. Duncan Hunter, over an investigation into alleged campaign finance violations.

"People feel it's part of a systemic problem in the way Washington works," Butner said of the allegations against Hunter.

Party officials have also been in contact with Hans Keirstead, a biologist who in 2014 sold his stem-cell research firm for more than $120 million. Keirstead, whose work was once featured on "60 Minutes," is seen as a possible challenger to veteran GOP Rep. Dana Rohrabacher, who has come under scrutiny for his ties to Russia.

As unrest simmers over the GOP's attempted Obamacare rollback, Democrats have also been in touch with another political newcomer with a medical background: Mai-Khanh Tran, a Wall

Street analyst-turned-pediatrician. Tran, who plans to highlight her background as a refugee who worked her way through Harvard as a janitor, is expected to run against GOP Rep. Ed Royce, the powerful longtime chairman of the House Foreign Affairs Committee.

In going after entrenched figures like Rohrabacher and Royce, Democrats are re-engineering a strategy they last used with success in 2006. During that midterm election, then-Rep. Rahm Emanuel oversaw an offensive he described as "thinning the herd" — dislodging established Republican members of Congress who had grown complacent after coasting to reelection for years.

Emanuel sought out formidable challengers in many of the right-leaning districts. And with the help of a favorable political environment that year, some of them won.

This time, Democrats are also targeting newer, less established California Republicans, such as Reps. Mimi Walters and Steve Knight, as well as some lawmakers who represent more marginal districts, like Reps. David Valadao, Jeff Denham and Darrell Issa.

The Democratic focus on California is in part driven by the fact that seven of the state's Republicans reside in districts that Clinton won, and all of them took a major risk in voting for a GOP health care bill that lacks broad public support. A number of Democratic strategists took note when Issa and Walters were spotted near the front of the GOP celebration at the White House Rose Garden after the bill's passage last week, and have saved footage of them with Trump for future ads.

The push is also motivated by what Democrats see as a changing political landscape in the state. Many of the targeted districts are becoming younger, more diverse — and less conservative.

While Republicans have long been able to count on areas like Orange County, that region — filled with wealthier, highly educated voters who have been hostile Trump — may be less friendly in 2018.

"It's the natural evolution of where the Democrats go to pick up seats," said Ben Tulchin, a San Francisco-based Democratic pollster who worked for Bernie Sanders in 2016. "If you look at the middle of the country at the rural, exurban working-class districts where we didn't do very well, there's only so many Democrats you can squeeze out of those districts. But go to California and there's a higher number of younger voters, Latino voters. And you can go in, register and engage."

Dave Min, a law professor who is trying to unseat Walters, said the changing nature of the conservative district, combined with what he described as anger over the health care vote, had given him hope. His district, like the one Tran is running for, has attracted Asian-Americans in recent years.

"There's a lot of energy," he said.

The party's onslaught has drawn the interest of Hollywood donors. In the past, some have been

reluctant to open their wallets for congressional races. But the desire to rein in Trump in the White House with a Democratic House has caused someto reconsider.

Donna Bojarsky, a Democratic strategist who has advised the likes of former Los Angeles Mayor Tom Bradley and actor and political activist Richard Dreyfuss, said the rise in activism is palpable. "People are impassioned now," she said.

If anything, some Democrats are worried that enthusiasm may be running too high at this early stage of the election cycle. With so many Democrats crowding into races, Democrats run the risk of crowded primaries that drain resources and undermine the goal of unseating GOP incumbents.

One concerning development for the party: Multiple Democrats already are challenging Issa and Walters.

"It isn't necessarily an organized effort," said Democrat Fabian Núñez, a former speaker of the state Assembly. Whether the party can work in unison, he said, is the "real question."

Correction: The original version of this story misstated which conservative organization is setting up offices to boost California House Republicans. It is Congressional Leadership Fund, not American Action Network.

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Ricky Waddell named White House deputy national security adviser Back

By Tara Palmeri | 05/10/2017 10:08 AM EDT

Army Reserve Major General Ricky Waddell has been named deputy national security adviser, taking on a role that will soon be vacated by K.T. McFarland, two National Security Council officials told POLITICO.

Waddell will be second in command to National Security Adviser H.R. McMaster, the sources said. Waddell, who became commander of the 76th Operational Response Command infantry in 2015, is the latest NSC hire by McMaster after former adviser Michael Flynn was pushed out.

Prior to leading the ORC, Waddell was deputy commander for mobilization and reserve affairs.

Dina Powell, deputy national security adviser for strategy, and Waddell will both report directly to McMaster. Waddell will run day-to-day operations and meetings and Powell will oversee long-term strategy and manage senior inter-agency relationships, an NSC official said. They will each lead deputies committee meetings, depending on the topic.

POLITICO previously reported that White House Chief of Staff Reince Priebus earlier this month tried to keep McMaster from hiring Waddell as his deputy.

McFarland is slated to depart later this year for Singapore, where she will be the U.S. ambassador. She has not been formally nominated for that post yet, a spokesperson for the Senate Committee on Foreign Relations said. Until then, she will stay on to help Waddell transition into the new role.

An NSC spokesperson declined to comment.

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bowman, Liz
Sent: Tue 5/9/2017 2:54:00 PM
Subject: RE: For approval: Paris Statements

Awesome, thank you!

From: Gunasekara, Mandy
Sent: Tuesday, May 9, 2017 10:54 AM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: Re: For approval: Paris Statements

Ex. 5 - Deliberative Process

Thank you

Sent from my iPhone

On May 9, 2017, at 10:47 AM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Hi Mandy – I am pretty sure I sent you these, but just want to follow-up and make sure.

Ex. 5 - Deliberative Process

Liz Bowman

U.S. Environmental Protection Agency (EPA)

Deputy Associate Administrator for Public Affairs

Office: 202-564-3293

<2017-04-27 Draft Paris Responses.docx>

To: Myron Ebell[Myron.Ebell@cei.org]
From: Myron Ebell
Sent: Wed 5/31/2017 10:06:19 PM
Subject: Cooler Heads Coalition next meeting and action alert on Paris Climate Treaty

The Cooler Heads Coalition will hold its June strategy meeting on Monday, 12th June, beginning at 3 PM at CEI, 1310 L Street, N. W., Seventh Floor. Note the time: 3 PM.

Please e-mail me with agenda items and questions. With any luck, President Trump will have announced his decision on Paris by then and we can move on to other issues.

Axios reported this morning that they had multiple confirmations from inside the administration that the President had decided to cancel the Paris Climate Treaty. That may be true, but until the decision is announced, I think we need to keep pushing. In addition, I think we need to keep advocating for the best ways to pull out.

ACTION ITEM #1

Please let the White House know through public and private communications that you support the President in keeping his campaign promise to cancel Paris. He and the White House staff need to be reminded constantly until a decision is announced that the conservative movement is united against Paris.

Global warming alarmists are so desperate to keep the U. S. in Paris that they have concocted the concession that of course the U. S. can withdraw its NDC and submit a less ambitious one. This is directly contrary to the language in Article 4 (https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_a and it was also contradicted by Todd Stern in a talk at the Brookings Institution the week after COP-21 concluded in December 2015 (start at

5:58 at https://www.brookings.edu/events/unpacking-the-paris-climate-conference-a-conversation-with-todd-stern/).

Why are alarmists so desperate to keep the U. S. in Paris? Because they hope that President Trump will eventually follow the same policy as President George W. Bush—ignore the problem and it will go away. After eight years, President George W. Bush went away, and the problem popped back up immediately at COP-15 in Copenhagen in December 2009. If Trump does not withdraw, then his presidency will be merely another delay in the long march to climate nirvana. Keep in mind that the Paris treaty is perpetual and requires new NDCs to be submitted every five years.

ACTION ITEM #2

Please urge the President to cancel Paris either by sending the treaty to the Senate for its advice and consent or by withdrawing from the underlying UN Framework Convention on Climate Change. To withdraw by the third route—by following the procedures specified in the treaty—gives legitimacy to President Obama's illegitimate joining of the treaty by executive fiat, which is a terrible precedent. Moreover, it means that a future president can rejoin Paris by executive fiat.

Here's a tweet from CAGW that sums up both action items: https://twitter.com/GovWaste/status/869941555448164353. President Trump's Twitter handle is @realDonaldTrump.

The Greenwire story pasted below deserves wide circulation. Gina McCarthy and Todd Stern should be the kiss of death for Paris. These are the people President Trump was running against when he said he wanted to drain the Swamp.

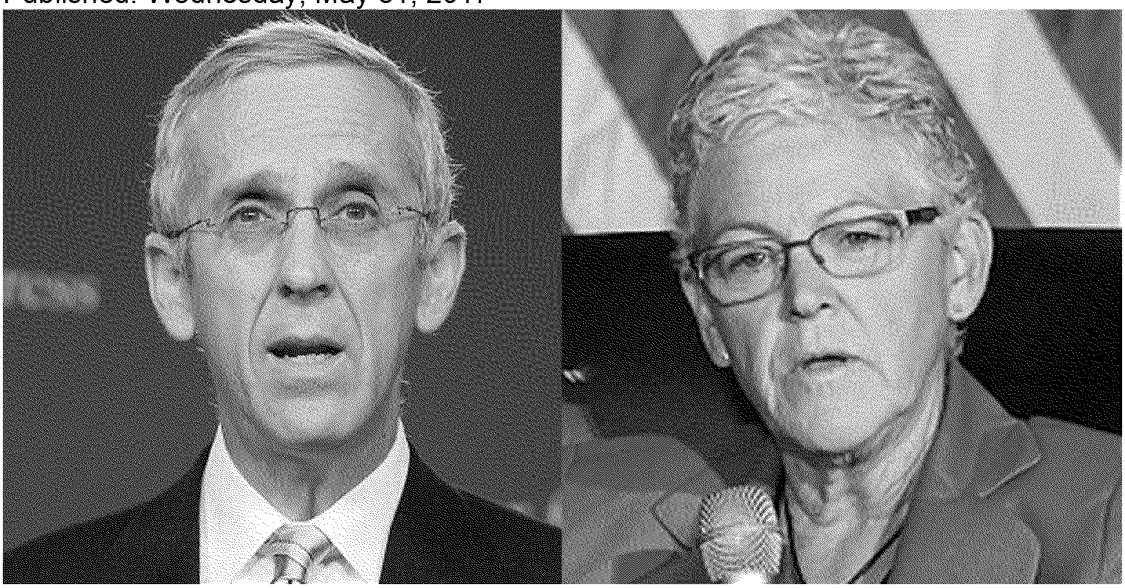
Greenwire

PARIS AGREEMENT

Todd Stern, Gina McCarthy make final pleas

Hannah Hess, E&E News reporter

Published: Wednesday, May 31, 2017



(Left to right) Former U.S. Special Envoy for Climate Change Todd Stern and former U.S. EPA Administrator Gina McCarthy separately warned President Trump against pulling the United States out of the Paris Agreement. Center for American Progress/Flickr(Stern) and Interior Department (McCarthy)

The Trump administration's withdrawal from Paris would be read as a kind of "drop dead" to the rest of the world, Todd Stern, the former U.S. special envoy for climate change, warned today.

In a piece for *The Atlantic*, Stern predicts "bitterness, anger, and disgust would be the wages" if Trump chooses to join Syria and Nicaragua on the sidelines of the international climate agreement.

Stern's last-ditch attempt to influence the decision — which President Trump could announce as early as today — notes that an exit would "fly in the face of business

leaders," including major oil and gas CEOs, who have urged Trump not to defect.

Stern wrote Trump "seems prepared to follow his own misguided calculus and, in the coming days, could render a decision that is indefensible," and offered his take on why and what should happen next.

The nearly 200 other countries that are part of the accord will work to build it into a regime that will enable the globe to meet the climate challenge, Stern predicted. He will encourage them to do so in a manner that would pave the way for re-entry by a future White House.

Blue states, such as California and Washington, and New England will examine whether there is still more they can do on climate, he added. Many more states, including red areas like Iowa, are charging ahead in development of wind and solar energy. Stern is also looking to U.S. cities to step up and work with the U.N. Framework Convention on Climate Change, the parent body for the Paris accord.

Stern urged businesses and investors not to "bet on a go-slow, 'Trump' phase," but to "keep their eyes on the prize and not get distracted by the ideological wars of Washington."

Stern, who was the State Department's top climate diplomat under President Obama, also encouraged political engagement and activism.

"If America leaves the Paris Agreement, the Trump administration will have thrown down the gauntlet. And we will need to take up the challenge," he concluded.

McCarthy: 'Lean in' on climate

Former U.S. EPA Administrator Gina McCarthy also weighed in today. Writing in *Foreign Policy*, McCarthy described the U.S. track record of expanding the economy while cutting greenhouse gas emissions.

McCarthy noted that although climate diplomacy may be "less relevant under this administration's regressive brand of scorched-earth leadership," no one person can stop the trend toward a lower-carbon economy.

"The train to our clean-energy future has left the station," McCarthy wrote, echoing her final sentiments at the helm of the agency (*E&E News PM*, Nov. 21, 2016).

McCarthy, now a fellow at Harvard University, argued the United States must "lean into climate action, not away from it."

https://www.eenews.net/greenwire/2017/05/31/stories/1060055361

Myron Ebell

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E-mail: Myron.Ebell@cei.org

Stop continental drift!

To: Myron Ebell[Myron.Ebell@cei.org]
From: Myron Ebell
Sent: Mon 5/8/2017 4:09:32 PM
Subject: Cooler Heads Coalition alert: corrected version on Paris letter and related items
Joint letter from 42 groups to President Trump on Paris Climate Treaty, 8 May 2017.pdf

Please use this corrected version of the joint letter. I carelessly left off the Capital Research Center and Steve Allen in the version sent around earlier.

Also note two quite different fantasies about Paris that came out today:

217 institutional investors sent a letter to G7 leaders supporting the Paris Climate Treaty: http://investorsonclimatechange.org/200-global-investors-managing-15-trillion-assets-urge-g7-stand-paris-agreement-drive-swift-implementation/

The Wall Street Journal today published an op-ed by Rep. Kevin Cramer (R-ND) on why the U. S. should stay in Paris: https://www.wsj.com/articles/remake-the-paris-deal-to-promote-americas-energy-interests-1494187641

Myron Ebell

Director, Center for Energy and Environment

Competitive Enterprise Institute

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Stop continental drift!

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bowman, Liz
Sent: Thur 5/4/2017 3:53:22 PM
Subject: FW: Washington Post: In the Trump White House, the momentum has turned against the Paris climate agreement, 5/4/17

From: McGonagle, Kevin
Sent: Thursday, May 4, 2017 9:26 AM
To: AO OPA OMR CLIPS <AO_OPA_OMR_CLIPS@epa.gov>
Subject: Washington Post: In the Trump White House, the momentum has turned against the Paris climate agreement, 5/4/17

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/05/02/in-the-trump-white-house-the-momentum-has-turned-against-the-paris-climate-agreement/?utm_term=.223019fcc690

In the Trump White House, the momentum has turned against the Paris climate agreement

By Juliet Eilperin 5/3/17 3:00 PM

Foes of the Paris climate agreement have gained the upper hand in the ongoing debate at the White House over whether the United States should pull out of the historic pact, although President Trump has yet to make a final decision, according to participants in the discussions and those briefed on the deliberations.

Senior administration officials have met twice since Thursday to discuss whether the United States should abandon the U.N. accord struck in December 2015, under which the Obama administration pledged to cut U.S. greenhouse gas emissions 26 percent to 28 percent below 2005 levels by 2025.

The president's aides remain divided over the international and domestic legal implications of remaining party to the agreement, which has provided a critical political opening for those pushing for an exit. At this point officials are considering whether the United States should stay in the agreement but renegotiate it in some form, or opt out entirely. Even if Trump decides to abandon the agreement — which is not a treaty, and therefore did not undergo Senate ratification — it may take three years for the United States to formally withdraw from it.

On Thursday several Cabinet members — including Environmental Protection Agency Administrator Scott Pruitt, who's called for exiting the accord; Energy Secretary Rick Perry, who wants it renegotiated; and Secretary of State Rex Tillerson, who advocates remaining a party to it — met with top White House advisers, including Trump's daughter Ivanka Trump and her husband, Jared Kushner, and Chief of Staff Reince Priebus. Both Ivanka Trump and Kushner advocate remaining part of the U.N. Framework Convention on Climate Change, even though the president has repeatedly criticized the global warming deal.

During that meeting, according to several people who spoke on the condition of anonymity to discuss internal deliberations, White House counsel Don McGahn informed participants that the United States could not remain in the agreement and lower the level of carbon cuts it would make by 2025.

The Trump administration is working to unravel many Obama-era policies underpinning that pledge, and the economic consulting firm Rhodium Group has estimated that the elimination of those policies would mean the United States would cut its emissions by 14 percent by 2025 compared with 21 percent if they remained in place.

This interpretation represented a change from the White House counsel's earlier analysis and is at odds with the State Department's view of the agreement.

Susan Biniaz, who served as the State Department's lead climate lawyer from 1989 until earlier this year, said in an interview Tuesday that the agreement reached by nearly 200 nations in Paris allows for countries to alter their commitments in either direction.

"The Paris agreement provides for contributions to be nationally determined and it encourages countries, if they decide to change their targets, to make them more ambitious," Biniaz said. "But it doesn't legally prohibit them from changing them in another direction."

Ivanka Trump urged White House staff secretary Rob Porter to convene a second meeting Monday with lawyers from both the White House and the State Department. That session addressed the question of America's obligations under the 2015 deal as well as whether remaining in the agreement would make it more difficult for the administration to legally defend the changes it was making to the federal government's existing climate policies, but it did not reach a final decision. Pruitt, who is spearheading the effort to rewrite several Obama-era rules aimed at curbing greenhouse gas emissions, has argued that exiting the agreement will make it easier to fend off the numerous legal lawsuits he will face in the months ahead.

However an internal Sierra Club memo dated May 1, written by John Coequyt, who heads the group's federal and international climate campaigns, concludes that even if environmentalists sue to challenge the administration's lowering climate targets or withdrawal from the Paris accord, "it would be extremely difficult to prevail on the merits of either argument."

Writing to Steve Herz, the senior attorney for the Sierra Club's international climate program, Coequyt wrote that the group will still be able to sue over the administration's push to rewrite

current climate regulations, "the question will be whether the administration is properly exercising its domestic regulatory authority. The Paris agreement, and its enforceability in U.S. courts, will have no bearing on this issue."

At a rally with supporters on Saturday, Trump said he would make a "big decision" on Paris within the next two weeks and vowed to end "a broken system of global plunder at American expense."

Administration advisers on both sides of the political spectrum, however, emphasized that the president himself would decide what path to pursue when it came to the climate agreement.

"In the end, President Trump will make the final decision, regardless of where the staff conversations end up," Thomas J. Pyle, who heads the conservative Institute for Energy Research and led the Trump transition team for the Energy Department, said in an email. "The environmental lobby is going to cause litigation problems on nearly every aspect of President Trump's energy and environmental agenda whether or not the administration stays in the Paris agreement. Staying in Paris only gives them another target to shoot at."

But Paul Bledsoe, who served as a White House climate adviser under Bill Clinton and is now a lecturer at American University's Center for Environmental Policy, warned that the administration might face serious pushback from abroad if Trump seeks to withdraw from the agreement.

"The Trump team seems oblivious to the fact that climate protection is now viewed by leading allies and nations around the world as a key measure of moral and diplomatic standing," Bledsoe said in an email. "The U.S. would be risking pariah status on the international stage by withdrawing from Paris, and even a fig leaf approach of technically staying in the agreement while ignoring most of its provisions would be better than pulling out altogether."

Even as private deliberations continued this week, groups on both sides of the debate lobbied the president publicly. The governors of California, Colorado, Connecticut, Delaware, Hawaii, Minnesota, New York, Oregon, Pennsylvania, Rhode Island, Virginia and Washington state, all Democrats, sent a letter to Trump on Wednesday saying they "stand ready as state leaders to continue to support the achievement of the existing" U.S. international climate commitment "and if possible to go further, faster."

Meanwhile the libertarian Competitive Enterprise Institute published a paper laying out the legal and economic case for exiting the agreement, stating, "Failure to withdraw from the agreement would entrench a constitutionally damaging precedent, set President Trump's domestic and foreign policies in conflict, and ensure decades of diplomatic blowback."

Kevin McGonagle

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Jackson, Ryan
Sent: Wed 5/3/2017 6:01:36 PM
Subject: Emailing - Sierra Club Memo on Paris Agreement.pdf
Sierra Club Memo on Paris Agreement.pdf

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Harlow, David[harlow.david@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]
From: Millett, John
Sent: Tue 11/14/2017 12:00:48 PM
Subject: Fwd: Morning Energy, presented by Chevron: U.S. coal pitch draws immediate blowback in Bonn — Hurricane hearings swarm the Hill — Rehearing sought in Atlantic Coast pipeline approval — Keystone decision coming Nov. 20

Sent from my iPhone

Begin forwarded message:

From: "POLITICO Pro Energy" <politicoemail@politicopro.com>
Date: November 14, 2017 at 5:40:52 AM EST
To: <Millett.john@epa.gov>
Subject: Morning Energy, presented by Chevron: U.S. coal pitch draws immediate blowback in Bonn — Hurricane hearings swarm the Hill — Rehearing sought in Atlantic Coast pipeline approval — Keystone decision coming Nov. 20
Reply-To: "POLITICO subscriptions" <reply-fe8113717c6d027a72-630326_HTML-637925989-1376319-0@politicoemail.com>

By Anthony Adragna | 11/14/2017 05:40 AM EDT

With help from Alex Guillén, Steven Overly, Sara Stefanini and Darius Dixon

ADMINISTRATION'S FOSSIL FUELS PITCH FALLS FLAT: The Trump administration made few friends with its promotion of fossil fuels and nuclear energy on the sidelines of an international climate change conference Monday, POLITICO's Emily Holden and Kalina Oroschakoff report from Bonn, Germany. Protesters interrupted the only public event planned by the Trump administration, a panel of White House aides and industry officials arguing that fossil fuels would be around for decades but could be made more efficient to address climate-related concerns. "This panel is only controversial if we choose to bury our heads in the sand and ignore the realities of the global energy system," White House energy aide George David Banks said.

Some diplomats were dismayed that the U.S. would appear in Bonn to try to bolster American coal sales. "There's no such thing as clean fossil fuels. ... We can't move to the future like that," Tuaoi Uepa, a delegate from the Marshall Islands, said, describing the event as "ridiculous." Former New York Mayor Michael Bloomberg was blunter: "Promoting coal at a climate summit is like promoting tobacco at a cancer summit."

Trump's political appointees also appear to be getting the cold-shoulder from the official State Department negotiating team, Bloomberg Environment reports . The formal COP23 talks are focused on technical issues around implementing the 2015 Paris

agreement, and the career diplomats representing the U.S. in those seem primarily focused on nitty-gritty technical priorities such as preventing developing countries from dodging strict transparency requirements. Bloomberg reports the political appointees are being housed in a hotel an hour away from the conference, rather than downtown with the rest of the delegation, and have been frozen out of bilateral meetings with countries including China and Fiji. "They don't want us here," one political appointee told the news service.

Allies rally on the Hill: A whole bunch of Senate and House Democrats, joined by League of Conservation Voters, the Center for American Progress, MoveOn.org, 350.org and others, hold a rally at 11:30 a.m. in the Senate swamp to tout their support for climate action even absent action from the Trump administration.

WELCOME TO TUESDAY! I'm your host Anthony Adragna, and DOE's Marty Dannenfelser was first up to identify Milwaukee mayor Tom Barrett as the former congressman who now runs the biggest city in his state. For today: Which state has the greatest amount of federally-owned land within its borders? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter @AnthonyAdragna, @Morning_Energy, and @POLITICOPro.

HURRICANE HEARINGS HIT THE HILL: Three separate panels today convene to take a close look at the federal government's response to the hurricanes that ravaged the U.S. earlier this year. Arguably the highest-profile is the Senate Energy and Natural Resources, which features the governors of Puerto Rico and the U.S. Virgin Islands, as well as the controversial head of Puerto Rico's utility Ricardo Ramos. Ranking member Maria Cantwell vowed ahead of the session to probe the "inadequate" federal response to the hurricanes and look for especially tough questions to go to Ramos, who inked the now-cancelled $300 million contract with Whitefish Energy for grid restoration work. If you go, the hearing kicks off at 9:30 a.m. in Dirksen 366.

A House Energy and Commerce subcommittee takes the broader view and looks at the response to environmental concerns in Texas, the Gulf Coast, Florida, Puerto Rico and the Virgin Islands. Witnesses include regional EPA officials, state environmental regulators and local groups. ME expects Superfund sites to be a major focus of the sessions. The hearing kicks off at 10 a.m. in Rayburn 2123.

Several hours later, the House Natural Resources Committee holds its own session with Puerto Rico Gov. Ricardo Rosselló and Virgin Islands Gov. Kenneth Mapp. They'll be focused on how to properly oversee how the billions in federal aid is being spent. After receiving an initial batch of documents, the committee has "grave concerns" about the ability of the island's utility to negotiate contracts "without significant independent oversight," according to a memo . "Confidence in the utility's ability to manage contracts and time-sensitive disaster related infrastructure work is long gone," Chairman Rob Bishop said in a statement. The hearing is also especially timely as Rosselló sent a request for $94 billion in disaster relief to Congress and a federal judge denied a bid to have an outsider oversee the utility on Monday. If you go, the session gavels in at 2 p.m. in Longworth 1324.

Rosselló defends decision on mutual aid: Saying he thought it was a more expedient solution, Rosselló said he rejected requesting aid from other states to repair the electrical grid in favor of seeking assistance from the Army Corps of Engineers as well as the FEMA-funded Whitefish contract, Pro Budget and Appropriations Brief's Sarah Ferris and Pro Financial Services' Colin Wilhelm report. "Of course, as we know, that didn't happen," the governor added.

CONSULTANT DISPUTES REPORT ON GRID: Alison Silverstein, a veteran energy consultant, emails to say a Forbes article mentioned in Monday's ME mischaracterized her role in preparing Perry's electric grid study. "In fact, DOE staff told me (properly) to look at regulations and I did so," she said. "But DOE staff did not try tell me what to conclude in that inquiry."

SUIT FILED FOR OBAMA-ERA PARIS RECORDS: The Competitive Enterprise Institute filed a lawsuit Monday seeking records during the Obama administration from two State Department aides — Trigg Talley and Alexandra Costello — related to the decision not to classify the Paris climate agreement as a treaty, which would have required Senate ratification. Talley is part of this year's State Department delegation to Bonn. Link to the lawsuit here.

HEATED CLIMATE IN ALABAMA: Several ME faithful have asked so here's what Republican Roy Moore and Democrat Doug Jones have said about climate change. Jones has an entire section of his website devoted to the environment where he says "the consequences of our unchecked use of fossil fuels for our planet and our health have been clear for decades" and voices opposition to Trump's withdrawal from the Paris climate accord. Moore's website says "coal mining and oil drilling should be encouraged, subject only to reasonable regulations" and denied the scientific consensus on climate change back in 2009, writing in an op-ed "not only do scientists disagree on 'global warming,' but there is little hard evidence that carbon emissions cause changes to the global climate."

Meanwhile, former House Energy and Commerce Chairman Fred Upton called on Moore to leave the race amid new allegations of inappropriate sexual contact with minors. "These are real life stories with real life consequences — not a soap opera. Heartbreaking. Past time to pull the plug on Roy Moore," he tweeted.

DECISION TIME: The Nebraska Public Service Commission announced it would decide Nov. 20 at 10 a.m. whether to approve the Keystone XL pipeline's route through the state, Pro's Ben Lefebvre reports. A favorable ruling could be the last regulatory hurdle facing the controversial pipeline, though legal appeals are likely.

Decision time, part 2: Trump now has 60 days to decide whether to slap imports of solar cells and panels with tariffs or other restrictions after the International Trade Commission formally sent its recommendations to the White House on Monday, Pro Trade's Doug Palmer reports.

ANOTHER INTERIOR PICK NAMED: Trump has selected Timothy Petty, a Sen. Jim

Risch staffer and former Interior Department official during the George W. Bush administration, to be the agency's assistant secretary on water and science, Pro's Esther Whieldon reports.

** **A message from Chevron:** Advanced technology is helping us find safer ways to deliver energy. We're piloting a program that uses drones to monitor tanks and pipelines. Watch the video: http://politi.co/2yPsOFP **

REHEARING SOUGHT ON ATLANTIC COAST PIPELINE: A coalition of environmental and community groups, represented by the Southern Environmental Law Center, asked FERC in a Monday petition for a rehearing over its approval last month of the Atlantic Coast pipeline.

STEYER AIDES PITCHED ON OIL LAWSUITS: An environmental attorney briefed two aides to environmentalist Tom Steyer on early plans to file lawsuits on behalf of cities and states against the oil industry, the Daily Mail reports, citing a nine-page confidential memo. Both San Francisco and Oakland filed lawsuits in September asking major oil companies to fund infrastructure projects they say are necessary due to the impacts of climate change. Steyer told POLITICO in September 2016 he was not involved in the push.

EPW TAKES UP SMALL AIR BILLS: The Senate Environment and Public Works Committee will consider a slate of highly targeted air pollution bills at a hearing today, so anyone hoping for action on remote Alaskan generators or other specialized issues can get excited. The bills are: S. 203 (115), which bars EPA from regulating emissions from vehicles used in racing competitions; S. 839 (115) , which would delay implementation of the brick MACT (which coincidentally last week was argued in front of the D.C. Circuit); S. 1934 (115), which targets emissions regulations on remote diesel power engines in Alaska; and S. 1857 (115), which would delay emissions compliance deadlines for residential wood heaters and similar devices. Some, like the brick bill, cleared the House in previous congresses without going anywhere. The hearing starts at 10 a.m. in Dirksen 406.

Dept. of Good Timing: The House Energy and Commerce Committee's environment panel on Wednesday will mark up House versions of three of those Senate bills, on the brick MACT, wood heaters and racing vehicles, among others. That vote will be Wednesday at 10 a.m. in Rayburn 2123.

WITH A LITTLE HELP FROM MY FRIENDS: Energy Secretary Rick Perry convenes the North American Energy Ministerial in Houston at 2:45 p.m. with Mexican Secretary of Energy P. Joaquin Coldwell and Canadian Minister of Natural Resources Jim Carr. They'll hold a press conference following their meeting.

GENE GREEN STEPS ASIDE: Texas Democratic Rep. Gene Green, who took a more moderate streak on oil and gas issues than much of the rest of his caucus, announced he would not seek reelection in 2018, POLITICO's Heather Caygle reports. The long-time House Energy and Commerce Committee member has significant energy interests in his district that nevertheless is overwhelmingly Democratic.

OFFICIAL: ADMINISTRATION 'STILL WORKING' ON CLIMATE: Michael Kratsios, the White House's deputy chief technology officer, told the Internet Association's conference on Monday the Office of Science and Technology Policy would continue to work on climate change issues. "We will continue to do that work and play our part along the 13 or so agencies," he said, adding he personally acknowledged the scientific consensus that human activity drives the problem. "What we're focused on is creating the next great technologies for the energy sector to be created in the US."

ON AUTOPILOT: Sean Cunningham, the head of the Energy Department's policy office, held firm to agency talking points Monday when he defended Energy Secretary Rick Perry's controversial grid resilience plan at a National Association of Regulatory Utility Commissioners gathering in Baltimore: Coal and nuclear plants "came to the rescue" during the 2014 "polar vortex"; the grid is a "paramount national security issue"; and that "both of these resources need to be revived, not reviled," he said. When state commissioners asked about cost estimates, Cunningham countered with a response about the potential cost of not rescuing economically struggling plants. And when asked about whether the grid plan should be narrowed to a particular set of plants necessary for resilience, Cunningham basically said the proposal was narrowly written.

The press didn't have any better luck. When reporters gathered around him, one asked why DOE officials like to reference the polar vortex. "Please just read the text of the NOPR and the accompanying letter [covers] all this," Cunningham said before taking off.

CLIMATE LAB TO CLOSE: A U.S. Geological Survey science center in Virginia that studies climate change east of the Mississippi River will close due to an expected 71 percent cut to its funding for fiscal 2018, Pro's Esther Whieldon reports, citing a letter to a union representative for federal employees at the center. But an Interior spokeswoman tells ME: "While the office will technically close in order to save on administrative overhead expenses, the work done by scientists will continue at USGS."

AVIATION BIOFUELS CUTS COMING? The International Civil Aviation Organization's governing body intends to drastically scale back sustainability requirements for aviation biofuels, Pro's Eric Wolff reports. The body intends to cut 10 of 12 sustainability provisions intended to guide the production of biofuel that carriers could buy to produce carbon offsets, though a final decision won't come until next year.

GREENS WANT MORE CPP HEARINGS: The Natural Resources Defense Council sent a letter to Pruitt requesting additional hearings on the agency's proposed repeal of the Clean Power Plan "in the nation's capital and in a range of communities" affected by climate change and power plant pollution. There's currently just one hearing scheduled for Nov. 28 in Charleston, W.Va.

REPORT: MINORITY COMMUNITIES BEAR BRUNT OF AIR POLLUTION: The National Association for the Advancement of Colored People, Clean Air Task Force and the National Medical Association are out with a report finding low-income and minority

communities are "disproportionately" affected by air pollution from oil and gas development. The groups and Rep. Al Green will discuss the report at a National Press Club event at 9:30 a.m.

LIGHTER CLICK: HBO's John Oliver will air a commercial about clean coal on "Fox & Friends" this week in the Washington area. But you can watch it already beginning around 21:50 of this clip.

QUICK HITS

— Interior Decorator: Zinke's Push To Redesign Flags And Accessorize With Dead Animals. Huffington Post.

— These Climate Skeptics Have The Trump Administration's Ear. Here's Their Wishlist. Buzzfeed.

— Thousands of scientists issue bleak 'second notice' to humanity. Washington Post.

— After Trump shrinks Bears Ears, it will still be larger than Zion and Bryce combined, says Interior secretary. Salt Lake Tribune.

— OPEC Defends Oil Policy Ahead of Crucial Meeting. Wall Street Journal.

— America's 'Renaissance' to Gains for Renewables: Global Energy Trends. New York Times.

— From the Everglades to Kilimanjaro, climate change is destroying world wonders. The Guardian.

— The GE-Baker Hughes Romance May Be Ending After a 4-Month Run. Bloomberg.

HAPPENING TODAY

9:30 a.m. — "Hurricane Recovery Efforts in Puerto Rico and the U.S. Virgin Islands," Senate Energy and Natural Resources Committee, Dirksen 366

9:30 a.m. — The NAACP, Clean Air Task Force and National Medical Association hold briefing to unveil report on impacts of oil and gas development on African-American communities, National Press Club, 529 14th St NW

10:00 a.m. — "Response and Recovery to Environmental Concerns from the 2017 Hurricane Season," House Energy and Commerce Environment Subcommittee, Rayburn 2123

10:00 a.m. — "Legislative Hearing on S. 1857, S. 203, S. 839 and S. 1934," Senate Environment and Public Works Clean Air and Nuclear Safety Subcommittee, Dirksen 406

11:30 a.m. — SEEC, Center for American Progress, the League of Conservation Voters, and more hold press conference touting commitment to Paris accord, Senate swamp

2:00 p.m. — "The Need for Transparent Financial Accountability in Territories' Disaster Recovery Efforts," House Natural Resources Committee, Longworth 1324

2:00 p.m. — "Sustaining U.S. Leadership Against Nuclear Terrorism and Proliferation," Hudson Institute, 1201 Pennsylvania Avenue NW, Suite 400

2:00 p.m. — Experts hold briefing on the implications of waiving environmental laws in the Arctic Refuge, RSVP: Gwen@AlaskaWild.org

4:00 p.m. — "Status and Prospects for U.S. Nuclear Power," John Hopkins SAIS, Room 806, 1619 Massachusetts Avenue NW

THAT'S ALL FOR ME!

** **A message from Chevron:** Advanced technology is helping us find better and safer ways to deliver energy to America. We're piloting a program that uses drones, HD imaging, and thermal mapping capabilities to monitor Chevron wells, tanks, and miles of pipeline. Watch the video: http://politi.co/2yPsOFP **

To view online:
https://www.politicopro.com/newsletters/morning-energy/2017/11/us-coal-pitch-draws-immediate-blowback-in-bonn-025532

Stories from POLITICO Pro

White House coal pitch sparks climate outcry in Bonn Back

By Emily Holden and Kalina Oroschakoff | 11/13/2017 01:54 PM EDT

BONN, Germany — The Trump administration's effort to pitch coal at the international climate change meeting backfired on Monday, drawing heckling and booing at White House officials and energy industry representatives at a U.S. event.

The White House-sponsored panel discussion — held on the sidelines of the annual international climate change conference — was designed to promote more efficient use of coal and natural gas as well as nuclear power, but the event quickly turned into an outpouring of anger at the U.S. for pushing for energy sources blamed for boosting the Earth's temperatures.

"Clean coal is bull----," one person yelled. "Liars, you are a bunch of liars," another bellowed from the back of the room. About 100 people stood and broke into song after remarks by a White House energy aide, accusing the U.S. speakers of greed that's "killing

across the world for that coal money," sung to the tune of "God Bless the USA."

After the event — the only public gathering planned by the White House — some world diplomats were dismayed that the U.S. would then appear in Bonn to try to bolster American coal sales.

Tuaoi Uepa, a delegate from the Marshall Islands, called the event "ridiculous."

"There's no such thing as clean fossil fuels. ... We can't move to the future like that," Uepa said.

But some others were resigned to President Donald Trump's plans to exit the Paris climate agreement struck in 2015 to curb greenhouse gas emissions and the new public push to bolster the market for U.S. coal abroad.

Jochen Flasbarth, secretary of state at the German environment ministry, said Germany was moving toward renewable energy and away from nuclear power, while also trying to speed its a shift from coal. "So, that's very clearly not the German path," he said of the U.S. policy. "But the Americans wanted to present this here. They can certainly do this. That's also found protest, but that's also OK. I think that's part of a conference."

At the event, White House energy aide George David Banks argued that solar and wind were not yet able to supplant fossil fuels in the developing world, and that coal and natural gas will be needed to lift people out of poverty.

"This panel is only controversial if we choose to bury our heads in the sand and ignore the realities of the global energy system," he said.

Barry Worthington, executive director of the United States Energy Association, a group consisting of government agencies and business, said that the U.S. would finance cleaner-burning coal plants for developing nations, but neither he nor Banks offered details.

Activists and journalists grilled Banks and the panelists — Amos Hochstein, senior vice president of the liquefied natural gas company Tellurian; Holly Krutka, vice president of coal generation and emissions technologies at Peabody Energy; and Lenka Kollar, director of business strategy at the nuclear company NuScale Power — about whether they supported the president's call to withdraw from the Paris climate pledge.

One reporter from a Chinese news outlet pushed Banks on Trump's tweet from before he became president that climate change was a "hoax" created by the Chinese.

Banks defended the president's statement, saying it was taken out of context and that Trump meant that forced climate action in the U.S. would hurt the economy and manufacturing jobs.

Trump's stance on climate change and fossil fuels has put the U.S. delegation in an

uncomfortable spot in Bonn, where advocates are urging countries to ramp up their goals made under the Paris deal because emissions reductions are not yet on track to avoid some of the worst effects of climate change.

Fijian Prime Minister Frank Bainimarama, president of the meeting, called the COP23 summit, said on Sunday that coal is the dirtiest fossil fuel and indisputably bad for the climate.

"I really don't want to get into an argument with the United States of America, but we all know what coal does and we all know the effects of coal mining and of coal," Bainimarama told reporters. "There is really no need to talk about coal because we all know what coal does with regard to climate change."

Meanwhile, a group of U.S. state governors were pushing the message that much of the U.S. still intended try to meet the goals laid out by former President Barack Obama in the Paris deal.

"Not one single nation has decided to slow down one mile per hour because Donald Trump has surrendered," Gov. Jay Inslee (D-Wash.) told reporters shortly before the event. "Every single nation we have talked to, if anything, is more energized, as is the state of Washington, to defeat climate denial."

Inslee called the administration's panel discussion a "side show" and a "blip."

Peabody Energy's Krutka told the audience that technologies to significantly reduce carbon emissions from coal and natural gas would be vital to achieving the goals of the Paris agreement.

"Nations around the world continue to use coal," Krutka said. "We cannot ignore their emissions or we cannot meet international climate goals." And she said technology to capture carbon emissions from power plants is "dramatically underfunded."

Despite the high-profile event, the White House has been silent about that technology, and White House press aides did not respond to a request for comment. The Department of Energy has continued to issue research grants to capture coal emissions, but the White House also proposed halving the funding for the agency's fossil office, which handles carbon-capture research.

The administration has supported investments in highly efficient coal plants, with Treasury in July changing its guidance to U.S. representatives on boards of multilateral development banks like the World Bank.

Eric Wolff contributed to this report.

To view online click here.

Back

Puerto Rico seeks $94B in disaster aid Back

By Sarah Ferris and Colin Wilhelm | 11/13/2017 11:49 AM EDT

Puerto Rico is seeking $94 billion in immediate emergency money to fund hurricane recovery, the U.S. territory's governor told reporters Monday morning.

Gov. Ricardo Rosselló said he plans to send the request to the White House later Monday afternoon, asking for money for more than a dozen agencies.

Rep. Jenniffer González (R-Puerto Rico), the commonwealth's nonvoting delegate, said the eye-popping funding request would be distributed across multiple supplemental appropriations bills.

"I do understand that that money is going to be split in many supplementals, I don't think it's going to be just one bill," González said. "At least that's the way they did it in Katrina and they did it in the rest of the states."

Gonzalez said she anticipates two supplementals to be considered by Congress before the end of the year.

About $30 billion of Rosselló's request would go directly to the Federal Emergency Management Agency's disaster relief fund, which has been depleted by the string of hurricanes and wildfires that came in quick succession over the last few months.

About $46 billion would fund Community Development Block Grants, which would help rebuild hundreds of thousands of homes.

Rosselló is also seeking $17.9 billion in other federal grants from the likes of the departments of Transportation, and Health and Human Services.

"The task ahead is as daunting as it is urgent, and recovery cannot be accomplished unless Puerto Rico receives substantial federal assistance," the governor wrote in a nine-page request to the White House.

The Trump administration is expected to release its third supplemental funding request to Congress this week. Lawmakers have already approved more than $52 billion in disaster aid following the trio of deadly hurricanes this year.

Rosselló also addressed his dispute with the federal board that Congress created last year to oversee Puerto Rico's fiscal recovery.

A federal judge in San Juan overseeing Puerto Rico's debt restructuring proceedings

Monday ruled in favor of a government challenge to the board's installment of a de facto emergency manager for the island's electric utility, according to media reports. A formal order from the judge is expected later this week.

The board installed Noel Zamot as chief revitalization officer following questions surrounding the award of a multimillion-dollar, no-bid contract for electrical repairs to Whitefish Energy, a Montana-based company with two full-time employees. That contract has since been canceled, though Whitefish says its subcontractors will continue work on the beleaguered energy grid through the end of the month.

The installment of the officer, which the board justified as the commonwealth's trustee in ongoing debt proceedings, is part of its larger struggle with the governor. That conflict also includes the board's recent request for explicit oversight power over additional federal funds flowing to the island.

Rosselló said the board was overreaching.

"I just don't think it should attribute to itself more powers than it already has," he said, while also distancing himself from the decision of the utility, known as PREPA, to contract with Whitefish.

Rosselló also defended his decision not to request mutual aid for electrical repairs from other states, such as Florida and New York, in the days immediately following the hurricane hits, leaning instead on Whitefish, which subcontracts to local workers, and the U.S. Army Corps of Engineers.

In the days following Hurricane Maria's landfall, he said Puerto Rico was offered several alternatives instead of requesting aid from other states to repair the electrical grid, a common practice in emergency response. He said due to the territory's fiscal constraints, as well as what he thought would be a more expedient solution, he opted for assistance from the Army Corps of Engineers as well as the FEMA-funded Whitefish contract.

"Of course, as we know, that didn't happen," the governor added, so he then requested mutual aid from those states.

As he left Monday's press conference Rosselló and his representatives declined to respond to questions about a $1.5 billion, no-interest loan proposed by one of the larger investor groups in Puerto Rico's bonds.

Rosselló will appear before the House Natural Resources Committee on Tuesday for a hearing about the recovery of Puerto Rico and the U.S. Virgin Islands from their respective hurricane-related disasters titled, "The Need for Transparent Financial Accountability in Territories' Disaster Recovery Efforts."

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Woman accuses Moore of assaulting her when she was 16 Back

By Gabriel Debenedetti | 11/13/2017 03:40 PM EDT

NEW YORK — An Alabama woman said Senate candidate Roy Moore sexually assaulted her when she was 16 years old in 1977, becoming the fifth woman to go on record to accuse Moore of misconduct with them when they were young.

Appearing with attorney Gloria Allred at a news conference here on Monday, Beverly Young Nelson recounted how Moore, now 70, assaulted her when she was a waitress at a restaurant that the then-district attorney of Etowah County frequented.

Fighting through tears, Nelson recounted how one night, Moore forced himself on her in his car behind the restaurant in Gadsden.

After she screamed at him to stop, she said, "Instead of stopping, he began squeezing my neck, attempting to force my head onto his crotch. I continued to struggle."

"I thought he was going to rape me," Nelson said.

"At some point he gave up," she continued. "And he then looked at me, and he told me, he said, 'You're just a child, and I am the district attorney of Etowah County, and if you tell anyone about this, no one will ever believe you."

Nelson said her neck was "black and blue and purple" for the following days. "I did not tell anyone about what would happen — I was scared," she said. "I felt that if I told anyone, Mr. Moore would do something to me or my family."

Allred, who said Nelson approached her, called for the Senate Judiciary Committee to subpoena Moore and hold a hearing with him within the next two weeks. She said Nelson would volunteer to testify.

After Nelson gave her statement, Allred presented Nelson's high school yearbook from 1977, carrying a note from Moore, which is signed, "Roy Moore, D.A." She was 15 years old at the time. Allred said she had spoken with Nelson's sister, mother, and husband, who all said they knew about the alleged assault.

The Washington Post, in a story published last week, identified four other women who said Moore pursued them as teenagers.

Noting that she supported Donald Trump in the election, Nelson said her accusation has nothing to do with politics. She said she would not have come forward had the other four women not done so. They have not been in touch with Nelson, Allred said.

"This has nothing to do with Republicans or Democrats," Nelson said. "This has everything to do with Mr. Moore's assault when I was a teenager."

Ahead of the news conference, Moore's campaign chairman Bill Armistead responded: "Gloria Allred is a sensationalist leading a witch hunt, and she is only around to create a spectacle. Allred was the attorney who claims credit for giving us *Roe v. Wade,* which has resulted in the murder of tens of millions of unborn babies."

"We've said this before and we'll say it again: Judge Moore is an innocent man and has never had any sexual misconduct with anyone. This is a witch hunt against a man who has had an impeccable career for over 30 years and has always been known as a man of high character," Armistead continued in the statement circulated by the campaign. "Let it be understood: The truth will come forward, we will pursue all legal options against these false claims and Judge Moore will be vindicated."

The news conference, held at New York's Palace Hotel, came just hours after Republican Senate Majority Leader Mitch McConnell called on Moore to exit the race, saying he believes the women who have launched the allegations. Moore promptly fired back on Twitter: "The person who should step aside is @SenateMajLdr Mitch McConnell."

Later Monday, the head of the Senate Republican campaign arm said Moore should be expelled from Congress if he wins the election.

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Nebraska to rule on Keystone XL route next week Back

By Ben Lefebvre | 11/13/2017 05:35 PM EDT

The Nebraska Public Service Commission will decide Nov. 20 whether to approve the Keystone XL pipeline's route through the state, the regulatory body announced today.

The five-member commission will vote on whether Keystone XL developer TransCanada can build a section of the 1,200-mile pipeline along its proposed route, use an alternative route or go back to the drawing board. A favorable ruling could be the last regulatory hurdle facing the controversial pipeline, although anti-KXL activists likely would appeal and eventually challenge any approval in court.

Enough customers signed 20-year contracts to ship up to 500,000 barrels of crude from the Canadian oil sands in Alberta via the pipeline to the U.S. Midwest to make the project profitable, TransCanada said last week. The interest came despite market winds blowing away from West Canadian oil sands, with ConocoPhillips and others leaving the region to

concentrate on U.S. oil shale development.

Environmental groups are also targeting Keystone XL in court, having filed a lawsuit claiming the State Department did not perform due diligence before approving a cross-border permit for the pipeline.

WHAT'S NEXT: Commissioners will vote on the ruling at 10 a.m. Monday.

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Keystone XL fight shifts to Nebraska Back

By Ben Lefebvre | 03/23/2017 04:50 PM EDT

With the State Department set to grant a long-sought permit to build the Keystone XL, pipeline politics are about to go local.

The State Department is expected to issue its permit by Monday, leaving a relatively obscure, five-member state commission in Nebraska as the last regulatory hurdle that pipeline developer TransCanada needs to clear to start building the 1,200-mile line that will deliver Canadian heavy crude to U.S. Gulf Coast refiners.

TransCanada has asked the Nebraska Public Service Commission to approve the pipeline's route through the state. Now the commission — consisting of four elected Republicans and one Democrat — along with the state Legislature are feeling the full weight of the White House's decision to back the Keystone XL pipeline, said Gavin Geis, executive director for good governance watchdog Common Cause Nebraska.

"If the review happens now, it will get ugly," Geis said. "It is a big deal, and it will be big deal. There's already more partisan infighting than we normally see here."

Calgary-based TransCanada asked the commission in February to approve the route the pipeline will take through the state, beginning a process that could end with the NPSC in September accepting, rejecting or suggesting an alternate route.

TransCanada had tried, and failed, to have the state approve a route when it first attempted to build Keystone XL a few years ago, and the company spent more than a million dollars lobbying the state government before the Obama administration quashed the project in 2015.

But the NSPC is engulfed in its own local politics, and the Commission whose docket is mostly focused on petitions for local telephone service rate hikes may be ill-suited to judge a project of this size, sources in the state said. The NPSC didn't even have regulations

governing oil pipeline siting until 2011, when TransCanada first came calling about Keystone XL.

Now the commission is gathering information and testimony about how the 1,200-mile pipeline and the 830,000 barrels a day of oil it can carry past state cornfields and waterways will affect local landowners — some of whom are planning legal challenges to keep the pipeline off their property.

None of the NPSC commissioners replied to calls for comment. But they're already getting an earful from TransCanada lobbyists, environmental advocates and their own state politicians, said commission spokesperson Deb Collins.

"Commissioners are well aware of the passion and conviction surrounding the application," Collins said.

The commission also got a nudge earlier this month when 33 of Nebraska's 49 state senators — the state's sole legislative body — sent a letter to the commission "respectfully urg(ing) the members of the Public Service Commission to approve the route outlined in TransCanada's recent permit application."

"It's going to bring construction jobs, it's going to bring tax revenue. It's just money that comes in," said Nebraska Republican Party Executive Director Kenny Zoeller.

And the tax revenue isn't the only money Keystone XL is again generating.

TransCanada is also paying Omaha-based lobbying firm Heartland Strategy Group $5,000 a month to discuss "pipeline construction and management," according to a January 2017 filing with the Nebraska Accountability and Disclosure Commission.

While far less than the $579,000 it spent in Nebraska in 2011 alone, it represented a re-opening of the taps that some in Nebraska had expected to remain closed, Geis said.

TransCanada's U.S.-based subsidiaries have separately donated $23,000 to Nebraska state political campaigns since September 2014, according to disclosure forms. Nearly $10,000 of that was a June 2015 donation to the Nebraska Republican Party.

While TransCanada spends, Keystone opponents are also lining up for a battle at the NPSC.

In the short-term, Bold Alliance's Nebraska chapter has been recruiting local landowners to register as "intervenors" to give official testimony at NSPC hearings as to why Keystone XL may hurt their legal rights or interests.

Jane Kleeb, president of the group's parent Bold Alliance and chair of the Nebraska Democratic Party, said Keystone XL opponents are prepping for possible challengers to run against NPSC Chairman Tim Schram and member Frank Landis Jr., both Republicans who are up for reelection in 2018.

"Landis is the big target for Bold, his is the district where we have many supporters," Kleeb said. "Our focus is protecting the water and property rights of farmers and ranchers."

Climate advocacy group 350.org has also applied for intervenor status, and may use its national mailing list to help "turn out people in droves to the NPSC hearings," according to Sara Shor, manager for its Keep It In The Ground campaign.

"We proved Keystone XL wasn't in the national interest, and we think it's the same for the public interest in Nebraska. We're setting out to prove that at the state level," Shor said.

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ITC formally gives Trump solar recommendations, starting 60-day clock Back

By Doug Palmer | 11/13/2017 05:19 PM EDT

The U.S. International Trade Commission today formally gave President Donald Trump its recommendations for restricting imports of solar cells and panels, a move that triggers a 60-day clock for Trump to decide what to do, an agency spokeswoman told POLITICO.

ITC commissioners held a public meeting on Oct. 31 that announced their recommendations to impose restrictions. But the "Section 201" import relief statute that provided the basis for the case also requires them to deliver their recommendations to Trump in a confidential report that explains their reasoning.

Three members of the ITC have recommended Trump establish both quotas and tariffs on imported solar cells and panels, while a fourth member called for only a quota. It is ultimately up to Trump to decide what to do.

Over the weekend in Manila, Trump told reporters that he planned to make a major trade announcement on Wednesday when he returned from his five-nation, 12-day Asian trip. However, it would be an extraordinarily short turnaround time if Trump was ready to make a decision in the solar case.

A White House spokeswoman today did not respond to a request asking for additional information on what Trump could announce.

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Trump to nominate Risch staffer to head up water, science at Interior Back

By Esther Whieldon | 11/13/2017 05:43 PM EDT

President Donald Trump intends to nominate Timothy Petty, a Sen. Jim Risch (R-Idaho) staffer and former Interior Department official, to be the agency's assistant secretary on water and science, the White House announced today.

Petty heads up water, natural resources, environment and several other issues in Risch's office and previously served as acting assistant secretary and deputy assistant secretary for water and science during the George W. Bush administration.

Petty also worked for former Sens. Connie Mack of Florida and Rick Santorum of Pennsylvania and he spent time in California and Indiana as a geologist and hydrogeologist.

WHAT'S NEXT: Trump will next send the nomination paperwork to the Senate.

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Divided FERC approves Atlantic Coast, Mountain Valley pipeline projects Back

By Darius Dixon | 10/13/2017 08:00 PM EDT

FERC gave a green light to the contentious Atlantic Coast natural gas pipeline project tonight, with Commissioner Cheryl LaFleur as a dissenting vote.

FERC voted 2-1 on approvals for both Atlantic Coast as well as a the Mountain Valley Pipeline Project.

"Given the environmental impacts and possible superior alternatives, approving these two pipeline projects on this record is not a decision I can support," LaFleur wrote in a 5-page dissent attached to both orders, saying that "I cannot conclude that either of these projects as proposed is in the public interest."

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Gene Green to retire Back

By Heather Caygle | 11/13/2017 06:37 PM EDT

Texas Democratic Rep. Gene Green won't seek reelection next year after serving more than two decades in Congress.

Green, who represents the Houston area, was first elected in 1992 and is a longtime member of the House Energy and Commerce Committee. Green said he was confident he would have won reelection in 2018 but wanted to spend more time with his family after 46 years in public office, including 20 years in the Texas legislature.

"I think that it is time for me to be more involved in the lives of our children and grandchildren," Green said in a statement. "I have had to miss so many of their activities and after 26 years in Congress it is time to devote more time to my most important job of being a husband, father and grandfather."

Green's district, which is more than three-quarters Hispanic, is overwhelmingly Democratic. Green won his last election with more than 70 percent of the vote.

More than a dozen House members, mostly Republicans, have announced they won't run for reelection or will seek higher office next year.

Green also joins a wave of Texas delegation departures, including Republican Reps. Sam Johnson, Jeb Hensarling, Lamar Smith and Ted Poe and Democratic Rep. Beto O'Rourke , who is challenging GOP Sen. Ted Cruz.

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Interior plans to close USGS Eastern climate change office Back

By Esther Whieldon | 11/13/2017 04:01 PM EDT

The Interior Department is closing down a U.S. Geological Survey science center in Virginia that studies climate change east of the Mississippi River, according to a letter obtained today by POLITICO.

Interior plans to shut down the USGS Eastern Geographic Science Center in Reston, Va., due to an expected 71 percent cut to its funding for fiscal 2018, following several years of declining budgets, according to a Nov. 8 letter to a union representative for federal employees at the center. The center also studies how hydraulic fracturing in the Marcellus Shale region of Pennsylvania changes the landscape and the center compiles data used in Chesapeake Bay ecosystem restoration.

"Future appropriated budgets are not anticipated to improve," writes Interior Human Resources Specialist Yansi Hernandez in a letter to David Donato of the American Federation of Government Employees Local 3403. "For this reason, it is management's

intention to close the science center."

The union can request to negotiate the decision, and Interior managers will try to reassign affected employees or offer early retirement packages "before considering any adverse action," Hernandez writes.

The Trump administration earlier this year proposed to cut USGS climate research and eliminate half the agency's regional climate adaptation science centers. President Donald Trump has called climate change a hoax and directed his administration to unwind numerous Obama-era climate policies at Interior and other agencies.

In a statement, Interior Department spokeswoman Heather Swift said the Eastern Geographic Science Center "is a small center based in Reston, Virginia, that has been undergoing a number of cost-savings measures over the past several years. While the office will technically close in order to save on administrative overhead expenses, the work done by scientists will continue at USGS."

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International aviation body eyes cuts to sustainability requirements for biofuels Back

By Eric Wolff | 11/13/2017 05:35 PM EDT

An international standards-setting group is planning to dramatically cut back on the sustainability requirements for aviation biofuels, sources tell POLITICO.

The International Civil Aviation Organization's governing body, which is meeting privately in Montreal through this week, likely will drop 10 of 12 sustainability provisions intended to guide the production of biofuel that carriers could buy to produce carbon offsets, according to sources familiar with the discussion. The ICAO Council will not make a final decision until it meets again next year, after further studying the issue, the sources said.

Brazil was the lead proponent of dropping the sustainability provisions, and the idea won support from other developing nations that want to be able to produce biofuels at lower cost, the sources said.

The council intends to preserve a provision requiring that biofuels produce at least 10 percent fewer lifecycle greenhouse gas emissions than traditional jet fuel and to maintain a ban on feedstocks from land that was a forest or wetlands before 2009. The carbon losses of plowing under those types of land, called carbon stock, are far worse than could be made up with biofuels.

It is expected to drop requirements related to preserving air and water quality, protecting

labor rights and protecting endangered species, among others.

ICAO last year agreed to create a carbon offset market to allow carriers alternative means of curbing emissions. The biofuels provisions were to define which biofuels could be used as offsets in that market.

WHAT'S NEXT: The ICAO Council will make a final decision at its next meeting in 2018.

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Push to remain in Paris climate deal hits legal snags

By Andrew Restuccia and Eric Wolff

05/02/2017 07:55 PM EDT

President Donald Trump's top White House lawyer is raising concerns about the legal ramifications of the U.S. remaining in the Paris climate change agreement, sources familiar with the discussions told POLITICO, a development that could bode ill for the campaign by several top administration advisers to remain in the landmark accord.

White House counsel Don McGahn raised the concerns during a pair of closed-door meetings over the last week, the sources said, although they added that he has not yet made a formal recommendation to the president and his stance isn't set in stone. Trump has said he plans to make a decision in the coming weeks, in what has become a symbolic debate about how far he will push his “America First” agenda despite potential blowback from U.S. allies.

Trump’s team remains divided over the Paris deal, even after a Thursday meeting of Cabinet secretaries and other advisers and a Monday meeting of administration lawyers. Trump officials could not reach consensus at either meeting, sources said.

The 2015 agreement, which won the backing of 195 nations, achieved a major policy goal of former President Barack Obama by getting countries around the world to make non-binding pledges to rein in their greenhouse gas emissions. Making the agreement legally binding could have required Obama to submit the deal to an extremely unlikely ratification in the Senate.

Chief White House strategist Steve Bannon and EPA Administrator Scott Pruitt support withdrawing, while other advisers, including Ivanka Trump and Secretary of State Rex Tillerson, are said to support remaining.

Opponents of the Paris agreement have made a two-pronged legal case for withdrawing. The first, which Pruitt has raised in recent weeks, argues that staying in the Paris deal creates a legal opening for climate advocates to use the courts to challenge Trump's efforts to undo Obama's climate regulations for power plants. The second suggests that the terms of the Paris agreement don't allow any country to reduce its emissions targets.

McGahn, sources said, raised both of those arguments during the Thursday meeting, and on Monday reiterated the concern that Paris could be cited in court challenges to Trump's efforts to kill Obama's climate rules. McGahn's comments shocked State Department lawyers, who strongly reject both of those contentions, the sources said.

McGahn did not respond to requests for comment. A White House spokesman disputed POLITICO's characterization of McGahn's comments at the meeting, but did not specify what was inaccurate.

Hard-line conservatives are pressuring Trump to withdraw, noting that he promised to "cancel" the agreement during the campaign.

Pruitt first floated the idea of legal risk to the Obama administration's carbon rule for power plants in April. Several outside groups have published memos in recent weeks pushing back on Pruitt's contention. Daniel Bodansky, an Arizona State University law professor who served as a State Department climate coordinator at the end of the Clinton administration, said that under common legal doctrine, a court would be unlikely to take the Paris deal into account on a challenge to a domestic policy.

Meanwhile, as news of the administration's internal debate about the Paris deal spreads, environmental groups and supporters of the agreement have taken the unusual step of publicly defending the United States' right to weaken its climate target. The Paris agreement was written to be non-binding, they argue. And while its intent was to enable countries to create more stringent carbon reductions, there's nothing in it to prevent backsliding.

The Sierra Club, which might otherwise be expected to challenge U.S. action to lower its commitments under Paris, indicated in a recent internal memo obtained by POLITICO that it likely wouldn't win a court challenge.

"[I]t would be extremely difficult to prevail on the merits" if the group tried to sue the administration to prevent it from weakening its domestic climate change pledge or quickly withdrawing from the deal, the memo says.

In interviews with POLITICO, international diplomats said it was ridiculous to argue that countries can't weaken their domestic climate plans, noting that the deal was specifically

written to provide flexibility to countries at the request of the United States. Obama administration officials objected to efforts to insert legally binding language requiring countries to increase their ambition over time, officials familiar with the issue said.

Instead, the text says a country "may at any time adjust its existing nationally determined contribution with a view to enhancing its level of ambition." In the parlance of international negotiations, "may" suggests that countries have a choice. "Shall," on the other hand, suggests a legal obligation.

European officials have had limited direct conversations with the White House over the Paris deal. But they have quietly tried to make the case that the benefits of remaining far outweigh the risks.

The officials, along with U.S. defenders of the Paris deal, worry that the international blowback of withdrawing is not getting enough attention from the White House.

"Legally and economically, the United States would be much more vulnerable outside of Paris than in," one European official told POLITICO. "Being outside a major multilateral environmental agreement like the Paris agreement leaves a country more vulnerable to trade-related measures from countries that are inside the agreement."

The official added that there would be a "very, very sharp expression of disappointment" from Europe if the United States pulls out, adding that there would be political and diplomatic fallout that would be felt at the upcoming G-7 and G-20 meetings and for many years to come.

"The U.S will once again by isolated and struggling against the pull of where the rest of the major economies want to move," the official said.

The administration could end up facing the kind of fierce criticism that President George W. Bush saw when he refused to back the Kyoto Protocol, even though the U.S. signed the agreement in 1998 when Bill Clinton was president.

Trump "will piss off every single country in the world" if he withdraws, said an international official who was closely involved in the negotiation over the text of the Paris deal. "It will haunt the administration in every aspect of its international diplomacy."

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By Anthony Adragna | 11/13/2017 05:45 AM EDT

With help from Emily Holden

LAISSEZ LES BONN TEMPS ROULER? Government officials and industry executives will urge developing countries to pursue "cleaner" fossil fuel and nuclear power in a presentation today in Bonn, Germany, Pro's Emily Holden reports . At tonight's event George David Banks, special assistant to President Donald Trump on energy and environment, will make introductory remarks, while Francis Brooke, an aide to Vice President Mike Pence, moderates a discussion with executives from the liquefied natural gas company Tellurian, the coal company Peabody Energy and the nuclear power company NuScale. Barry Worthington, director of the U.S. Energy Association who will participate in the discussion alongside industry executives, told Climate Home News that striking fossil fuel trade deals was a major goal of the presentation.

Not on the agenda? Paris. Diplomats entering the second week of the COP23 climate negotiations won't be getting any hints from the U.S. delegation about how to convince Trump to stay in an international deal to slash greenhouse gas emissions. A White House official briefing reporters last week said climate mitigation is a "lesser priority" than energy security and economic development, "but it's still a priority" for the White House. "The president has left the door open, the president has said multiple times that he's willing to reconsider our engagement in the Paris agreement if we can find a fairer deal that works for American businesses, taxpayers, consumers, so yeah it's up to the president," the official told reporters.

Out of the shadows: A host of prominent Democratic officials, including five senators, stressed over the weekend that the U.S remained committed to action on climate change despite Trump's stance on issue, POLITICO California's David Siders and Emily report. "I want to make it clear: The federal government is not just the president of the United States," Sen. Ben Cardin, ranking

member on the Foreign Relations Committee, told activists on Saturday. The senators met with delegations from India, Japan, the European Union, Mexico, Indonesia and Canada to assuage concerns about U.S. inaction. They also participated in side events including one decrying efforts to weaken automobile CAFE standards.

Governors tout actions too: Four Democratic governors — Virginia's Terry McAuliffe, California's Jerry Brown, Washington's Jay Inslee and Oregon's Kate Brown — plan to highlight their climate ambitions in a panel this morning with Christiana Figueres, former executive secretary of the UNFCCC. And that comes after Jerry Brown and former New York mayor Michael Bloomberg, released a report touting the role of U.S. states and cities in addressing climate change that nonetheless acknowledged non-federal efforts won't be sufficient to meet the 26 to 28 percent emissions reductions below 2005 levels that the U.S. promised by 2030.

Steyer stays focused (on impeachment): Tom Steyer, the billionaire Democratic donor, on Sunday morning made his case for impeaching Trump to Democrats in Bonn, asking them to "confront the liars and deniers," David also reports. The governors seemed unimpressed, and Steyer acknowledged himself that congressional Republicans, not voters, would have to back his impeachment campaign for it to work.

IT'S ANOTHER MONDAY! I'm your host Anthony Adragna, and NRDC's Ed Chen was first up to identify the L.A. County board of supervisors as the body with two former congresswomen (Janice Hahn and Hilda Solis). For today: Rahm Emanuel is the most famous former congressman-turned-mayor but there's another former member that now runs the largest city in their state. Who is it? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter @AnthonyAdragna, @Morning_Energy and @POLITICOPro.

NERC CHIEF ON LEAVE AFTER ARREST: Gerry Cauley is on a leave of absence from the North American Electric Reliability Corporation "until further notice" following his arrest on a domestic violence charge. The Atlanta Journal-Constitution reports Cauley has been charged with a misdemeanor, battery/family violence. Charles Berardesco has been named interim CEO.

EYEBROWS RAISED BY PERRY ROUNDTABLE: Energy Secretary Rick Perry headlines an intimate gathering today on behalf of the pro-Trump outside group America First Policies in a growing trend of giving donors access to Cabinet officials that many worry is an ethical gray area, POLITICO's Maggie Severns reports. Perry won't solicit donations but America First officials plan to ask for contributions after he departs. He's allowed to take part in events for the group's nonprofit policy arm, which is legally separate from the super PAC even though the same officers run both groups.

But campaign finance reform advocates say the arrangement takes advantage of a loophole. "This is all part of the very close coordination we're seeing between the campaign itself and what's supposedly an outside group," said Craig Holman, the government affairs lobbyist at the good-government group Public Citizen.

INSIDE LOOK AT PRESSURE ON PERRY'S GRID STUDY: Alison Silverstein, the veteran energy consultant who authored Perry's electric grid study, resisted pressure from the

agency to blame regulations for the struggles of coal and nuclear plants, Forbes reports . After being hit for not faulting regulations in the first draft, Silverstein said she asked officials to provide data to back up their assertion: "I said, 'Bring me the data. I've been in the building three or four weeks now, you guys are the ones who own the issue. Prove to me, bring me all of your research on how regulation has killed these.' 'Well, we don't have any.' 'Then how am I supposed to do this?'"

ACTIVISTS WILL BE PROSECUTED: The Justice Department said Friday it would aggressively prosecute activists who damage pipelines or "critical energy infrastructure in violation of federal law," Reuters reports. That comes after more than 80 House members sought information on what DOJ planned to do about an increase in protest activities around pipelines in a late October letter.

ON TAP IN CONGRESS — DISASTER AID REQUEST EXPECTED: The latest disaster relief request is expected to arrive on Capitol Hill sometime this week and is likely to top $50 billion, Pro Budget and Appropriations Brief reports. Like the two previous requests, it won't be broken down state-by-state. But the governors of Puerto Rico and the U.S. Virgin Islands will be town to push for recovery funds and the Texas congressional delegation hopes to meet with OMB Director Mick Mulvaney to make their case for their full $61 billion request.

Speaking of which, Puerto Rico Gov. Ricardo Rosselló and Del. Jenniffer González hold a press conference at 11 a.m. today at the Hall of States to make their case.

And you're out: Abner Gómez resigned his post as head of Puerto Rico's emergency management department on Friday and Lt. Gen. Jeffrey Buchanan, who led the Trump administration's military response to the hurricanes, will be reassigned off the island this week, CNN reports.

And remember Whitefish? While senior linemen from Florida working on grid restoration work on behalf of Whitefish Energy earned $63 an hour working in Puerto Rico, the tiny Montana-based company billed the island's utility $319 an hour for linemen, the New York Times reports. Experts said those charges were well above normal, even for emergency work, though a spokesman for the company defended the charges, saying "simply looking at the rate differential does not take into account Whitefish's overhead costs," included in the rate.

Status check: More than 7 weeks after Hurricane Maria hit, more than 52 percent of the island remains in the dark and more than 10 percent of residents still lack drinking water, according to government figures.

MINE SAFETY PICK COULD GET VOTE: Senate Majority Leader Mitch McConnell filed cloture last week on David Zatezalo's selection to be the administration's mine safety chief, teeing up a final confirmation vote as soon as this week. He chaired the coal company Rhino Resources when it received pattern of violation notices in 2010 and 2011, but said during his confirmation hearing he wouldn't have a problem working with career staff at MSHA that issued those notices.

FLOOD INSURANCE READY TO ROLL! House Republicans are ready to try again with a revised version H.R. 2874 (115) of their flood insurance reauthorization and the Rules Committee meets today at 5 p.m. That comes even as coastal lawmakers continued to raise concerns with the proposal. Pro Financial Services' Zachary Warmbrodt with more here.

FORMER EPA ATTORNEYS BASH PRUITT ORDER: Fifty-seven former EPA career attorneys today sent a letter to Administrator Scott Pruitt "to correct the many mistakes of law and fact" concerning his October directive boosting the role of industry in settlement negotiations. "It is EPA's failure to comply with legal requirements that is the problem, not the people who sue EPA, the courts that hear the suits, or the EPA and DOJ staff who faithfully negotiate settlements that provide EPA longer and more flexible schedules than it would receive if there were no settlement," they wrote. The former agency attorneys urge Pruitt to revise the directive to promote "fair, transparent, and efficient settlement of well-founded suits against the agency."

NORTH CAROLINA OFFICIAL ALSO ON LEAVE: Donald van der Vaart, a recent appointee to EPA's Scientific Advisory Board and top North Carolina environmental regulator during the prior Republican governor's term, has been placed on "investigatory leave," The News & Observer reports. Van der Vaart's selection to the advisory board generated significant controversy and prompted the new head of the state's Department of Environmental Quality to say he didn't represent North Carolina on the EPA board. His deputy John Evans was also placed on "investigatory leave" for unspecified reasons. Both men demoted themselves to be shielded from termination under the new incoming Democratic administration.

WHY BROWN'S A CLIMATE WARRIOR: David Siders' entire profile of Brown is worth your time but of particular interest to ME readers is why termed-out governor has devoted so much energy to climate change. "I find a lot of what is included in politics doesn't count that much, at least for my salvation or my peace of mind or my interest in life," Brown said. The climate, he went on, "is fundamental. It's not like dietary requirements. It's not like a tax measure, or a school curriculum, or many of the issues, even a crime bill. It goes to the essence of being alive, living things. Whether it's humans or fauna, flora, the basis of life is embedded in this chemical structure, biological structure. And it's threatened."

But not good enough for some: Environmental activists interrupted Brown's speech in Bonn Saturday, shouting his refusal to ban fracking in California was a major blemish on his record. But the long-time governor shot back, according to The Sacramento Bee, "I agree with you, 'in the ground. Let's put you in the ground so we can get on with the show here."

** **A message from Chevron:** When an endangered butterfly was found near a Chevron refinery, we protected the habitat and still plant the only thing they eat—buckwheat. Watch the video: http://politi.co/2yQ8q7z **

MAIL CALL! SAVE TANGIER! Virginia Sens. Tim Kaine and Mark Warner asked Trump in a letter to follow through on his pledge to protect Tangier Island, thought likely to become uninhabitable within 50 years due to rising seas. "We can debate the causes for why this is happening, but regardless, the effects are clear. It is urgent that we address those effects," they

wrote.

FOR YOUR RADAR: Delaware Gov. John Carney and Rep. Donald Norcross headline a rally today at the Delaware City Refining Company at 10 a.m. urging Trump to fix the Renewable Fuel Standard to protect East Coast refining jobs.

HIGH PRICE TO PAY? Food and Water Watch and Greenaction for Health and Environmental Justice are out with a report arguing pollution trading programs are "undermining successful environmental laws like the Clean Air Act and the Clean Water Act" by allowing industries to pay to pollute and that they inflict the brunt of the damage on low-income and minority communities. Read it here.

QUICK HITS

— $300 Billion War Beneath the Street: Fighting to Replace America's Water Pipes. New York Times.

— California Westlands water settlement in limbo. High Country News.

— Can Carbon-Dioxide Removal Save the World? New Yorker.

— Schwarzenegger calls on climate activists to change methods. AP.

— Lessons From Hurricane Harvey: Houston's Struggle Is America's Tale. New York Times.

— Canada, U.K. team up in push to end coal-power use. The Globe and Mail.

HAPPENING THIS WEEK

MONDAY

2:00 p.m. — The Environmental and Energy Study Institute hosts briefing to examine how high-octane, low-carbon fuel can enable CAFE compliance, Dirksen 106

2:00 p.m. — "Approaches for International Collaboration and Financing for CCUS Pilot Projects," U.S. Energy Association, 1300 Pennsylvania Ave NW, Suite 550

5:00 p.m. — The House Rules Committee holds hearing on H.R. 2874 (115), the National Flood Insurance Program reauthorization bill, H-313

TUESDAY

9:30 a.m. — "Hurricane Recovery Efforts in Puerto Rico and the U.S. Virgin Islands," Senate Energy and Natural Resources Committee, Dirksen 366

9:30 a.m. — The NAACP, Clean Air Task Force and National Medical Association hold briefing

to unveil report on impacts of oil and gas development on African-American communities, National Press Club, 529 14th St NW

10:00 a.m. — "Response and Recovery to Environmental Concerns from the 2017 Hurricane Season," House Energy and Commerce Environment Subcommittee, Rayburn 2123

10:00 a.m. — "Legislative Hearing on S. 1857, S. 203, S. 839 and S. 1934," Senate Environment and Public Works Clean Air and Nuclear Safety Subcommittee, Dirksen 406

11:30 a.m. — SEEC, Center for American Progress, the League of Conservation Voters, and more hold press conference touting commitment to Paris accord, Senate swamp

2:00 p.m. — "The Need for Transparent Financial Accountability in Territories' Disaster Recovery Efforts," House Natural Resources Committee, Longworth 1324

2:00 p.m. — "Sustaining U.S. Leadership Against Nuclear Terrorism and Proliferation," Hudson Institute, 1201 Pennsylvania Avenue NW, Suite 400

4:00 p.m. — "Status and Prospects for U.S. Nuclear Power," John Hopkins SAIS, Room 806, 1619 Massachusetts Avenue NW

WEDNESDAY

8:00 a.m. — Roll Call Live's "Energy Decoded," Newseum, 555 Pennsylvania Ave NW, 8th Floor Knight Conference Center

9:00 a.m. — Business Meeting to consider Reconciliation Legislation, Senate Energy and Natural Resources Committee, Dirksen 366

10:00 a.m. — "Legislative Hearing on Bills to Empower Indian Tribes, Promote Self-Determination," House Natural Resources Indian, Insular and Alaska Native Affairs Subcommittee, Longworth 1324

10:00 a.m. — House Science Committee markup of several bills, Rayburn 2318

10:00 a.m. — "Promoting American Leadership in Reducing Air Emissions Through Innovation," Senate Environment and Public Works Committee, Dirksen 406

10:00 a.m. — The Information Technology and Innovation Foundation holds a panel discussion on "ARPA-E: A Catalyst of Clean Energy Innovation," 1101 K Street NW, Suite 610A

10:30 a.m. — "Legislative Hearing on National Park, Fish and Wildlife Service Bills," House Natural Resources Federal Lands Subcommittee, Longworth 1334

12:30 p.m. — "Coming Clean: Improving Transparency and Accountability to End Pollution's Chokehold on Development," World Resources Institute, 10 G Street NE, Suite 800

2:00 p.m. — "Nord Stream and European Energy Security," Jamestown Foundation, Choate Conference Room, Carnegie Endowment for International Peace, 1779 Massachusetts Avenue, NW

6:00 p.m. — Press briefing on Marine Mammal Protection Act featuring Actress Miranda Cosgrove, Rayburn 2045

THURSDAY

8:30 a.m. — Progressive Policy Institute and Common Good host a Capitol Hill forum on "Rebuilding America: What Are We Waiting For?" The Reserve Officers Association Building, Symposium Center, 4th Floor, 1 Constitution Ave NE

10:00 a.m. — "Successful Pre-Salt Auctions put Brazil's Oil & Gas Sector on Promising Path," Wilson Center, One Woodrow Wilson Plaza, 1300 Pennsylvania Ave. NW

12:00 p.m. — "Beyond Batteries: Grid-interactive Efficient Buildings," Alliance to Save Energy, Rayburn 2045

FRIDAY

11:15 a.m. — EPA Administrator Scott Pruitt addresses The Federalist Society's National Lawyer Convention, 1127 Connecticut Avenue, NW

THAT'S ALL FOR ME!

** **A message from Chevron:** This is a story about DOERS, butterflies, and buckwheat. In '75, the endangered El Segundo Blue butterfly was found near a Chevron refinery. We protected the habitat and planted the only thing they eat—buckwheat. We're still planting and keeping an eye on our littlest neighbor. Watch the video: http://politi.co/2yQ8q7z **

To view online:
https://www.politicopro.com/newsletters/morning-energy/2017/11/trump-team-not-pitching-paris-renegotiation-in-bonn-025509

Stories from POLITICO Pro

U.S. climate delegation won't outline conditions to stick with Paris deal Back

By Emily Holden and David Siders | 11/12/2017 03:33 PM EDT

BONN, Germany—The Trump administration does not plan to give international diplomats any clues about how they could convince the U.S. to stay in a global agreement to fight climate change but will use meetings this week as an opportunity to promote U.S. coal, gas and nuclear companies, according to a White House official.

The centerpiece of the White House presence at the climate talks in Bonn, Germany, will be a Monday evening presentation where government officials and industry executives will urge developing countries to pursue "cleaner" fossil fuel and nuclear power — a pitch that could be meant to widen the market for American energy exports.

The White House source said State Department diplomats and Trump aides would not engage on remaining in the 2015 Paris agreement, which Trump has said he would exit unless he got terms more favorable to U.S. businesses.

"We're not going to address that issue," the official said on an embargoed call with reporters on Thursday. "The president has left the door open, the president has said multiple times that he's willing to reconsider our engagement in the Paris agreement if we can find a fairer deal that works for American businesses, taxpayers, consumers, so yeah it's up to the president."

Trump has never repudiated his view that man-made climate change is a hoax, although the White House has since said he "believes the climate is changing" without elaborating on the cause. But the lack of engagement from his negotiating team suggests he has little interest in reaching a better deal to limit global greenhouse gas emissions.

The U.S. panel is not expected to discuss ways to reach the Paris agreement goals of reducing greenhouse gas emissions enough to avoid a 2 degrees Celsius rise above pre-industrial levels, which scientists say would be a dangerous tipping point.

"The president believes that we can reduce our emissions while growing our economy," the White House official said.

Climate activists were mulling protest actions ahead of the Monday night forum, while fearing the event would only further cast a shadow over the United States' role in the conference.

"It's what you expect when we have fossil fuel billionaires running our government," said Garrett Blad, executive director of the SustainUS, a youth advocacy group. "I think it's irresponsible and dangerous, and I think the American people know that and are on our side."

Former Vice President Al Gore said he expected the forum would do little to alter dynamics of the conference.

"I think that people will see it for what it is," he said in an interview. "The president has surrounded himself with some of the most notorious climate deniers, and people who come to these meeting know who these characters are, and I think they see it for what it is."

The White House official said he didn't expect other countries to ask what kind of deal the president is looking for, adding that the United Nations conference "is really not the place for that to happen," and that the conversation would be more likely to occur between world leaders. Trump returns Tuesday from a 12-day trip to Asia, which included meetings with Chinese President Xi Jinping and other heads of state. He did not mention climate change once while

abroad.

The Trump administration is rolling back President Barack Obama's climate efforts and also trying to boost coal-fired power--a major driver of rising temperatures that are making seas swell and extreme weather intensify.

Despite Trump's stance, a delegation of career officials from the State Department is on site at the United Nations conference to represent U.S. interests as countries negotiate how they will achieve and verify their commitments to curb emissions.

In the discussion Monday, George David Banks, special assistant to President Trump on energy and environment, will make introductory remarks. Francis Brooke, an aide to Vice President Mike Pence, will moderate the talk among executives from the liquefied natural gas company Tellurian, the coal company Peabody Energy and the nuclear power company NuScale, as well as Barry Worthington, director of the U.S. Energy Association.

The panel will outline ways U.S. could encourage developing countries to build "cleaner, more efficient," fossil fuel plants to mitigate climate change, the White House source told reporters last week.

Worthington told Climate Home News that striking fossil fuel trade deals was a major objective of the discussion.

"The flavor du jour is LNG but we're also exporting crude oil and derivative products and continue to export a sizeable volume of coal," he told the outlet.

The White House source said climate mitigation is a "lesser priority" than energy security and economic development, "but it's still a priority."

Without U.S. involvement, "the Chinese will build the coal plants and use inefficient technology," the official said.

"Quite frankly, if we don't bring it up and want to engage people on it, it's just not going to happen," he said. "It's burying your head in the sand if you don't have a conversation, just simply because of the facts, again because of the role coal is going to play in the energy mix...because of the role that natural gas is going to play."

The official cited International Energy Agency projections that natural gas demand will grow 50 percent and coal demand will increase by 2040, especially in South and Southeast Asia. And he pointed to reports that at least 1,600 coal plants are planned or under construction in 62 countries, according to the environmental group Urgewald. Chinese companies are reportedly planning many of them, but the Chinese government in January canceled plans for 103 plants.

As part of the Paris agreement, China pledged to begin shrinking total emissions by 2030. Trump has said it's unfair that China would be able to keep increasing its carbon output in the meantime, although the U.S. over time has contributed more greenhouse gases to the atmosphere than any

other nation and China's economy was slower to begin growing.

The White House official did not explain how the U.S. would seek to push of more efficient coal plants abroad, but he said the conversation in Bonn Monday would cover "high efficiency, low emissions coal, but then also the more advanced technologies that either improve efficiency, or the carbon capture and utilization pieces."

Trump on his trip to Asia last week unveiled a slate of deals with China, but none were to promote more efficient coal-fired power plants. One is for sales and rentals of Caterpillar mining equipment to China's largest coal mining company and another is a joint venture between a U.S. industrial gases company and state-owned Chinese firm to build a coal-to-syngas facility, according to Bloomberg. Trump's travels focused far more on promoting the export of U.S. liquefied natural gas.

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Top Democrats stage anti-Trump revolt at Bonn climate summit Back

By David Siders and Emily Holden | 11/12/2017 10:56 AM EDT

BONN, Germany — A handful of Democratic governors and scores of other lawmakers and mayors are mounting an insurgency at the United Nations climate conference here, orchestrating a highly choreographed campaign to persuade world leaders that President Donald Trump doesn't speak for the United States on climate change.

Several Democratic U.S. senators began meeting last week with officials from other countries, seeking to minimize Trump's withdrawal from the Paris climate agreement. Meanwhile, the governors of California, Virginia, Oregon and Washington — along with mayors from throughout the nation — were expected to touch off a blitz of public appearances at the conference as the meeting enters its final week.

"We are still in!" Sen. Ben Cardin of Maryland told cheering activists Saturday at a pavilion set up just outside the official meeting zone, a de facto headquarters for the opposition. "I want to make it clear: The federal government is not just the president of the United States."

The Democrats' diplomacy — part lobbying, part public relations — comes amid widespread international concern about Trump's decision to pull the United States out of the Paris accord. War-torn Syria announced last week that it would join the agreement, leaving the United States — if it goes through with its withdrawal — as the only country in the world outside of the pact.

On Saturday, Democratic politicians, climate activists and like-minded business interests sought to present the United States as a country divorced from its president. Speakers repeated the

slogan, "We are still in," a message splayed across an electronic ticker and on buttons at the unofficial U.S. pavilion. The pavilion's estimated $235,000 cost was being covered by a coalition including former New York Mayor Michael Bloomberg and the billionaire environmentalist Tom Steyer.

Steyer, who is spending millions of dollars on a national television ad campaign calling for Trump's impeachment, was expected to outline his case for Trump's ouster in a speech here Sunday.

While pavilion organizers plied guests with big-name speakers and free beer and wine, a subtler campaign was unfolding inside the conference halls. Starting late last week, a small delegation of U.S. senators, including Cardin, Brian Schatz (D-Hawaii), Ed Markey (D-Mass.) and Sheldon Whitehouse (D-R.I.) — began meeting with officials from other countries in an effort to assuage nerves about Trump. Schatz said he and other lawmakers met with delegations from India and Japan and were planning to meet with representatives of the European Union, Mexico, Indonesia and Canada.

The senators argued Trump could not quickly undo eight years of Obama-era climate policies or significantly affect state-level efforts to reduce greenhouse gas emissions.

"I think that there's an understanding of the American system of government, which is sometimes cumbersome and slow, and frustratingly so, but in this instance it works in favor of climate action," said Schatz. "Whatever the president's rhetoric, he can't prevent us from moving forward on clean energy."

Following a meeting with Mexican officials, Markey said Saturday, "Obviously, I think it's important for them to understand that there are 30 states that have renewable electricity standards, that the fuel economy standards are still the federal law, that the appliance efficiency standards are still federal law."

Democrats trying to thwart attacks on climate action have on their side bureaucracy, the courts and a narrowly divided Congress that often gets stuck in legislative stalemates. Although Republicans control Congress and the White House, they need 60 votes to proceed to most legislation.

The Trump administration is moving to undo President Barack Obama's climate standards — including carbon limits for the roughly one-third of emissions that come from the power sector. Those regulatory rollbacks could take years and will have to stand up to legal review, but in the meantime, the federal government will not move forward to curb greenhouse gases.

Markey promised that Democrats will fight to maintain fuel economy standards and will block any effort to cut back wind and solar tax credits. He told a crowd on Saturday that Trump has "assembled a Cabinet of Big Oil all-stars" but that, "On our side, we have 100 years of science and nearly 100 percent of the scientists in the planet. And inside the United States, we have city after city, state after state, standing up to take action."

Diplomats are paying close attention to American representatives pledging to keep fighting climate change, said Jens Mattias Clausen, a Copenhagen-based climate change adviser for Greenpeace who is attending the talks.

The most important thing those representatives can do is "show the rest of the world that even if the Trump administration refuses to face reality here and continues with this very isolationist style that the rest of the U.S. is actually ready to step up and help with the commitments that they have," Clausen said. In terms of specific numbers they can offer, "the more concrete it gets ... the better," he added.

California Democratic Gov. Jerry Brown and Bloomberg are leading a group called America's Pledge, which aims to release more specific reduction commitments from states and localities next year. On Saturday, they released a report asserting the combined economic power of every state and city that has committed to the Paris agreement would outmatch every country except for China and the U.S.

Yet even their own report acknowledged, as previous studies have, that non-federal efforts to reduce greenhouse gas emissions are not sufficient to meet the United States' commitments under the Paris agreement given Trump's stated policies. And local and state climate efforts are fraught with their own, internal disagreements about how aggressively subnational governments should pursue climate policies on their own. On Saturday, Brown had a speech interrupted for an extended period by activists protesting California's cap-and-trade program and its permissiveness on hydraulic fracturing.

"You have a positive message insofar as what individual states and individuals are doing" about climate change, Mairead McGuinness, a member of the European Parliament, told Brown at a forum last week.

However, she said, "Sometimes when we make a step forward, there are forces that ask us to step back by half."

McGuinness added, "One of the comments we hear from EU citizens is that, why should we act when others are not?"

For all of the Democrats' efforts, Trump looms large over the conference, and the power of the White House is not lost on the international community. Trump, who has called climate change a hoax, is publicly promoting coal production. He has said he is withdrawing from the Paris agreement because it puts the United States at a "big economic disadvantage."

Last week's elections in the United States provided a rare, positive talking point for Democrats trying to combat Trump's message in Bonn. The Democrats' sweep in the off-year contests, they said, presaged a return to Democratic power in Washington and re-engagement in climate talks abroad.

"Tuesday's election marked that Trump is alone and isolated," said Garrett Blad, executive director of SustainUS, a youth advocacy group. "It's going to be our job back home — 2018 is

going to be a huge year with the elections — to make sure that states ... are moving forward with the most aggressive action that we can."

When Bloomberg mentioned Saturday that the official U.S. delegation to the conference under Trump was preparing to host a controversial panel on Monday on the use of fossil fuels, the crowd booed.

"The Trump administration did send a delegation here to Bonn, and it might be the first climate conference where — this is not a joke, folks — coal is being promoted as an example of sustainability," Bloomberg said.

He added, "It will also likely be the last. The world is moving on, and so is the United States."

Former Vice President Al Gore, a major draw for climate activists at the conference, told POLITICO in an interview Saturday that commitments made by states, cities and businesses all "adds up to a very impressive reduction in U.S. emissions."

He added, "I mean, [Trump] can prohibit EPA employees from talking to the public, and he can remove the word 'climate' from all the government websites. But he can't stop the technological and business revolution that's gaining speed around the world and especially in the U.S."

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Sara Stefanini contributed to this report.

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McAuliffe, top Democrats dismiss impeachment talk Back

By David Siders | 11/12/2017 11:19 AM EDT

BONN, Germany — Virginia Gov. Terry McAuliffe said Sunday he does not support impeaching President Donald Trump, after Democratic billionaire Tom Steyer pressed the case for impeachment at the United Nations climate conference here.

"Let [special counsel Robert] Mueller, and let the people who are doing the process, go through and do what they're doing," McAuliffe said after a breakfast speech by Steyer, a supporter of the Virginia Democrat. "You don't prejudge investigations."

Steyer, who is spending millions of dollars running television ads in the United States calling for Trump's impeachment, told a small crowd Sunday that "lack of action is a choice."

But Steyer's message did not appear to resonate with top Democratic politicians in Germany for the climate talks. Oregon Gov. Kate Brown, who also attended the breakfast, said she has no position on impeachment, which she said is "something that Congress is going to deal with." California Gov. Jerry Brown was also dismissive.

"Do you want me to start an impeachment movement by saying, 'Yes, I agree with Steyer. Let's go.' What will that do?" Jerry Brown told reporters on Saturday night. "That would be counterproductive. It would undermine all that we're trying to do."

Former California GOP Gov. Arnold Schwarzenegger, a vocal critic of Trump, declined to answer questions about impeachment Sunday.

Steyer, who is considering running for U.S. Senate in California, spoke in a pavilion set up by United States climate advocates and financed by a coalition including Steyer and former New York Mayor Michael Bloomberg.

McAuliffe, a potential presidential contender who described Steyer as a friend, said, "He paid for the breakfast. He's entitled to clearly say what he wants."

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Pro-Trump group courts donors with Cabinet access Back

By Maggie Severns | 11/10/2017 03:22 PM EDT

Energy Secretary Rick Perry will headline an intimate gathering of high-powered business executives in Texas next week for the pro-Trump outside group America First Policies, the first in a series of "roundtable discussions" giving donors face time with top Trump officials.

The Houston event featuring Perry, detailed in an invitation sent to a Republican donor and obtained by POLITICO, will include roughly 30 people and cover topics from energy policy to the Trump administration's broader agenda, America First spokeswoman Erin Montgomery said. Perry will not solicit donations from the attendees at the Monday event, which would be a violation of federal law — but America First officials plan to ask for contributions after Perry leaves the room.

The event highlights the cozy and growing ties between officials in President Donald Trump's administration and outside allies spending millions of dollars pushing administration policies this year. America First is brandishing its relationships with government officials to establish itself as the White House's preferred outside ally, among a mass of pro-Trump groups that have popped up this year.

In addition to holding more roundtable events, America First Policies recently held conference calls featuring White House Legislative Affairs Director Marc Short, House Majority Leader Kevin McCarthy and Rep. Erik Paulsen, all key players on tax reform. America First leaders also huddled with White House officials recently.

America First Policies and its affiliated super PAC, America First Action, plan to raise and spend $100 million supporting Trump's agenda in the next year. Super PACs are not permitted to coordinate with candidates and there are strict rules governing Cabinet officials' political activities. But there is a loophole: Perry and others can participate in events put on by America First's nonprofit policy arm, which is legally separate from the super PAC even though the same officers run both groups.

"As long as the super PAC and the 501(c)(4) each stays in its own lane they can both operate under the same umbrella," said Brett Kappel, a campaign finance lawyer and partner at Akerman LLP.

But campaign finance reform advocates said the arrangement crosses an ethical line.

"This is all part of the very close coordination we're seeing between the campaign itself and what's supposedly an outside group," said Craig Holman, the government affairs lobbyist at the good-government group Public Citizen. The activities constitute "coordination in anyone's definition except for the Federal Election Commission's," he said.

Perry is an ideal ambassador for America First Policies in Texas, where the former governor has deep ties to the energy industry and donors who fueled his state campaigns as well as two presidential bids.

An Energy Department spokesperson did not return a request for comment. Perry was in France this week meeting with energy leaders from other countries. He is slated to attend a similar meeting in Texas on Monday, prior to the America First event, with leaders from Canada and Mexico.

America First was silent for much of this year and went through multiple staff shakeups, but has recently been working to restore its original position as the central group backing Trump's agenda.

But it has competition. Future45, which supported Trump during the 2016 elections with funding from casino billionaire Sheldon Adelson and the Ricketts family, announced a project that will spend in the tens of millions of dollars promoting tax reform earlier this month. Great America

PAC, which is affiliated with former White House strategist Steve Bannon, began endorsing 2018 candidates in recent days.

Great America PAC's support for Roy Moore broke from Trump's support for Sen. Luther Strange in Alabama. America First plans to stay closely aligned with Trump and Trump's agenda, which Texas businessman Roy Bailey said could be a differentiator.

"We're not second-guessing anything; we're totally confident in [Trump's] ability to lead this nation and we're supporting him and the vice president," said Bailey, who is involved with America First.

That message has intrigued Texas-based energy executive Dan Eberhart, who said he hasn't yet made a donation to America First but is "interested in what they have to say."

"A lot of people who supported Republicans in 2016 are frustrated with the way things have turned out," Eberhart said. "If the Republican establishment won't support the president's agenda, we need alternatives who will."

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Perry's grid study: 4 things that may have legs Back

By Darius Dixon | 08/24/2017 06:56 PM EDT

The Energy Department's study of the electric grid arrived late Wednesday, but it's not yet clear whether Secretary Rick Perry's efforts to help support nuclear and coal-fired power plants will have legs.

The 187-page report called for DOE to focus mostly on R&D and coordinating efforts to prepare for disasters, and left the heavy lifting for other agencies, such as FERC, EPA, the National Science Foundation and the Nuclear Regulatory Commission.

Among the recommendations are for FERC to "expedite" its work to reformulate how electricity markets pay power generators, and for EPA to revisit its New Source Review permitting program that requires plants to tighten emissions controls when they upgrade their plants — both issues that have proven difficult for the two agencies.

"If these recommendations, as a suite, are something that the administration really wants to do, someone in the White House is going to have to quarterback that," said Greg Gershuny, who served as chief of staff in DOE's Energy Policy and Systems Analysis office during the Obama administration and worked on the Quadrennial Energy Review.

"In the next four or five weeks, as Congress gets back, we'll see if these things are going to move," he said. "How engaged Perry is and how many times a week he's going to the Hill and talking to other agency heads is going to tell us a lot about how serious they are about this."

DOE, which did not submit the report for OMB review before its release, is now taking public comments on the study. Here's a breakdown of the issues.

Wholesale electricity markets: The new report calls on FERC to speed its work with states, grid operators and market players to "improve" how power producers are paid in the wholesale markets under the agency's jurisdiction. FERC had been grappling with the issue under its "price formation" initiative over the past three years, rolling out proposals and new rules to try to adapt to the increasing complexity of the electric grid — and to make sure power generators are fairly compensated.

However, grid operator PJM has argued regulators were thinking too small, and it released a trio of working papers earlier this year highlighting FERC's initiative while quickly noting that "fundamental" price formation issues hadn't been addressed. DOE suggested that FERC consider "fuel-neutral" markets to pay for essential grid reliability services.

So far, FERC seems sympathetic.

Soon after President Donald Trump gave him the gavel this month, FERC Chairman Neil Chatterjee stressed that generators, including coal and nuclear plants, "need to be properly compensated to recognize the value they provide." FERC has broad authority to alter market pricing rules, but that can be a slow process, and can have vastly different impacts in different states and regions — and draw sharp political pushback.

ClearView Energy Partners analysts warned against dismissing opposition to market rules that raise electricity prices on consumers.

"FERC-led initiatives can often create strange bedfellows, strong alliances and more opposition than state-led proposals," a ClearView report issued Thursday said. "We are reluctant to assume this all goes as quickly as the change advocates hope."

DOE's study also argued that "negative offers should be mitigated to the broadest extent possible," a reference to the fact that renewables like wind power can still make money even if power prices go negative because they can rely on a federal production tax credit.

Grid reliability R&D: The new report says that DOE should "focus R&D efforts to enhance utility, grid operator, and consumer efforts to enhance system reliability and resilience." That view stands in contrast to the Trump administration's first budget proposal, which suggested cutting DOE's electricity office by 42 percent from current levels, to $120 million.

Nevertheless, Perry has said he wants his agency to focus on "early-stage" research, with the intention of transitioning that work to the private sector as quickly as possible.

DOE's study says more research should be done on technology that will it make it easier for grid operators to integrate increasing amounts of renewable power, facilitate technical coordination with Canada and Mexico, and increase "targeted" R&D to boost the efficiency of coal-fired power plants.

Infrastructure development: The new push calls on the federal government to "accelerate and reduce costs for the licensing, relicensing, and permitting of grid infrastructure" — including power plants and transmission — which could easily involve a half-dozen federal agencies.

DOE, the study says, "should review regulatory burdens for siting and permitting for generation and gas and electricity transmission infrastructure and should take actions to accelerate the process and reduce costs."

The Obama administration sought to quicken the electric transmission permitting process in 2013 with a memo to the chiefs at the departments of Agriculture, Commerce, Defense, Energy and Interior, which resulted in a final rule last year. Several members of Congress have also pressed the issue in legislation, including in the 2015 highway bill that included directives to more than a dozen agencies to join a new permitting council tasked with speeding up the federal process for large infrastructure projects.

DOE also recommends that the NRC "ensure the safety of existing and new nuclear facilities without unnecessarily adding to the operating costs and economic uncertainty of nuclear energy" and, without much explanation, "[r]evisit nuclear safety rules under a risk-based approach."

The report doesn't target specific NRC regulations, but does discuss the agency's license renewal process and the expenses associated with equipment upgrades, which may make it a prime target for cost reductions.

Breaking down barriers for coal power: The study recommends that policymakers "encourage EPA to allow coal-fired power plants to improve efficiency and reliability without triggering new regulatory approvals and associated costs." That's a reference to the New Source Review permitting program, which was created under the 1977 Clean Air Act amendments to prevent coal plants and other major emitters from making equipment changes or upgrades that would increase their emissions.

Reforming the program has been an industry priority for decades, with companies arguing that power plants have held back on making upgrades that would increase their efficiency because of concerns that they would have to go through the NSR permitting process. A collection of unions earlier this summer, for example, called for NSR reform as part of any replacement rule for the Clean Power Plan.

But multiple Bush administration attempts to weaken permitting requirements show that NSR reform is much easier said than done. A 2002 rule was partly struck down by the D.C. Circuit Court of Appeals, which said several new exemptions were not allowed under the Clean Air Act. Another 2003 rule introducing another major exemption was completely tossed out by the D.C. Circuit. A third NSR rulemaking , issued in the final days of Bush's presidency, dealt with how

sources report emissions changes. Environmentalists sued, and the rule remains under reconsideration at EPA to this day.

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MSHA nominee: 'I was not proud' of violations notice Back

By Ian Kullgren | 10/04/2017 05:55 PM EDT

President Donald Trump's nominee for assistant secretary of Labor for Mine Safety & Health told a Senate committee today that his coal company ignored safety conditions at one of its mines.

David Zatezalo was chairman of Rhino Resources when it received pattern of violation notices in 2010 and 2011, the Charleston Gazette-Mail previously reported. The company was later fined when a wall collapsed, killing a worker.

When questioned by Sen. Tim Kaine (D-Va.) about the notice, Zatezalo blamed the mine manager.

"The management of that particular group and that particular site was not doing what they should have been doing," Zatezalo said. "I was not proud of the fact that we got designated as a [potential pattern of violations] mine. I did not try to lawyer up and stop anything from happening."

"I replaced that management," he added, "because I wasn't too happy with their performance and hadn't been for sometime."

Zatezalo appeared before the Senate HELP Committee for a confirmation hearing with Cheryl Stanton and Peter Robb, Trump's nominees for Wage and Hour Division administrator and NLRB general counsel, respectively. Few senators showed up to the hearing, though, and Patty Murray (D-Wash.) complained that the Senate's busy schedule didn't leave enough time to probe as deeply as she would have liked.

Zatezalo assured Kaine that he wouldn't have a problem working with career staff at MSHA who issued the notice to his company.

"They did what they were supposed to do," he said.

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Coastal lawmakers push back on House flood insurance proposals Back

By Zachary Warmbrodt | 11/08/2017 03:59 PM EDT

A bipartisan group of coastal lawmakers is pushing for major changes to the National Flood Insurance Program reauthorization bill that's awaiting a floor vote.

Republicans and Democrats representing the Atlantic and Gulf coasts have filed several amendments, which have been released by the House Rules Committee.

Some of the amendments would attempt to further shield policyholders from flood insurance premium increases, following concessions won by House Majority Whip Steve Scalise (R-La.) that reduced proposed penalties for properties that repeatedly flood.

One amendment by Reps. Frank LoBiondo (R-N.J.) and Peter King (R-N.Y.) would strike three sections of the bill, H.R. 2874, including a prohibition on coverage for buildings valued above $1 million. Their amendment would also lower the bill's proposed cap on annual premium increases to $5,000 from $10,000.

"While discussions continue with the committee, Congressman LoBiondo feels the flood insurance bill is not at a point it needs to be to earn his vote and those of other coastal legislators," LoBiondo chief of staff Jason Galanes said. "He drafted the amendment to address those outstanding concerns."

LoBiondo and King were two of 26 House Republicans who wrote to House leadership this summer warning that they would not support an earlier iteration of the House Financial Services Committee package in part because they said it would make flood insurance unaffordable for their constituents.

Another lawmaker who signed on to that letter, Rep. Garret Graves (R-La.), has offered four amendments, including one that would restrict FEMA from raising insurance rates if a property was at a higher risk of flooding because of actions undertaken by the federal government.

Rep. Dan Donovan (R-N.Y.), who was part of the group fighting the bill this summer, has offered an amendment that would freeze insurance premiums in areas where flood maps are being redrawn.

Other coastal Republicans who signed the July letter were trying to put their stamp on the final bill.

Rep. Leonard Lance (R-N.J.) raised concerns about the bill this week, a spokesman said. Rep. Clay Higgins (R-La.) is part of the negotiations, his spokesman said.

Rep. Steven Palazzo (R-Miss.) is pushing for changes addressing several concerns with the bill, including increasing surcharges, how premium rates will be determined for coastal versus inland locations and the lack of provisions that address the NFIP's debt, a spokeswoman said.

"He will continue to push for a program that protects South Mississippians, provides flood insurance that is affordable and available, and ensures the long term success of the program," she said.

House aides said the Financial Services Committee was preparing to rewrite a section of the bill laying out annual assessments that FEMA charges policyholders to fill a reserve fund.

The new provision would require FEMA to impose a 16 percent assessment on insurance premiums, up from the flood program's current rate of 15 percent.

Aides said the change was being made to address member confusion and issues raised by the CBO.

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House Rules reschedules hearing on flood insurance bill Back

By Zachary Warmbrodt | 11/10/2017 04:51 PM EDT

The House Rules Committee will hold a hearing Monday on the National Flood Insurance Program reauthorization bill, as Republicans try to move ahead with a floor vote.

The Rules Committee will resume consideration of the bill, H.R. 2874 (115), after postponing a Tuesday hearing on the legislation. At the time, the committee said it delayed the meeting after the CBO flagged a scoring issue.

In the interim, House Financial Services Chairman Jeb Hensarling (R-Texas) decided to revise a section of the bill that would impose assessments on premiums to fill a reserve fund, drop a prohibition of coverage for homes worth more than $1 million and delay the implementation of an exemption for commercial properties subject to mandatory coverage requirements.

This week, a group of coastal lawmakers continued to raise concerns with the bill and offered several amendments.

WHAT'S NEXT: The Rules Committee hearing on the bill will be at 5 p.m. on Monday.

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SAB appointee doesn't represent North Carolina, state says Back

By Alex Guillén | 11/08/2017 10:16 AM EDT

Donald van der Vaart, the former head of North Carolina's Department of Environmental Quality, will not represent the agency or the state in his recent appointment to EPA's Science Advisory Board, the DEQ told a local television station.

Van der Vaart, a Republican who was considered for a top EPA appointment, demoted himself at DEQ to a non-political position that cannot be removed at will following last fall's gubernatorial win by Democrat Roy Cooper.

But his position on SAB will not come with Cooper's blessing, according to DEQ.

"DEQ does not support his participation on the EPA's SAB," the agency told local TV station WRAL. DEQ will not participate as a representative of the DEQ or North Carolina, the agency added.

Neither van der Vaart nor EPA immediately returned requests for comment this morning.

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Jerry Brown, President of the Independent Republic of California Back

By David Siders | 11/11/2017 07:06 AM EDT

VATICAN CITY—On his way to the United Nations climate talks in Bonn, Germany, this week, Jerry Brown stopped over at the Vatican, where a doleful group of climate scientists, politicians and public health officials had convened to discuss calamities that might befall a warming world. The prospects were so dire—floods and fires, but also forced migration, famine and war—that some of the participants acknowledged difficulty staving off despair.

California's doomsayer governor did not express much optimism either. Seated between an economist and an Argentine bishop at the Pontifical Academy of Sciences, Brown leaned into his microphone and said, "It is despairing. Ending the world, ending all mammalian life. This is bad stuff."

"There's nothing that I see out there that gives me any ground for optimism," he went on. Still, he

promised action: "I'm extremely excited about doing something about it."

Even though President Donald Trump has abandoned the Paris climate agreement and called climate change a "hoax," and even though he is proceeding to scrap the Obama-era Clean Power Plan and promoting the production of coal, Brown insisted to his audience at the Vatican that these policies do not reflect the true sensibilities of the United States.

"This is not just a top-down structure that we have in the United States," the governor said. The small crowd burst into applause when he added, "Over time, given the commitments that we're seeing in this room today, and what we're seeing around the world, the Trump factor is very small, very small indeed."

In the raw balance of power between a governor and a president, Brown has almost no standing abroad. What he does have is a platform, and a proposition: Crusading across Europe in his Fitbit and his dark, boxy suit, Brown advances California and its policies almost as an alternative to the United States—and his waning governorship, after a lifetime in politics, as a quixotic rejection of the provincial limits of the American governor. In the growing chasm between Trump's Washington and California—principally on climate change, but also taxes, health care, gun control and immigration—Brown is functioning as the head of something closer to a country than a state.

In his final term, Brown has lobbied other states and regions to reduce their greenhouse gas emissions, while augmenting California's already expansive suite of climate change programs. But Trump's election—and the specter of Brown's own retirement—have lately set the governor on a tear. In a rush of climate diplomacy this year, Brown traveled to China to meet with President Xi Jinping, then to Russia to participate in an international economic forum. This past week saw him address lawmakers in Brussels and Stuttgart, Germany, and he was preparing for roundtable meetings with scientists in Oslo before arriving in Bonn for a climate conference, where Brown will serve as special adviser for states and regions. And he is preparing for California to host an international climate summit of its own next year in San Francisco.

In one sense, Brown's fixation on climate change would seem unremarkable, the predictable conclusion of a career steeped in the ecological and environmental movements of the 1960s and 1970s. The 1969 Santa Barbara oil spill, early Earth Day rallies and the Stockholm conference on the environment weighed heavily on the public consciousness when Brown was starting out in politics, and observers of a certain age will still recall him mystifying audiences with pronouncements about "planetary realism" and the "spaceship Earth." He was still talking about the need for a fundamental shift in lifestyle when he said at the Vatican that confronting climate change will require "a transformation of the relationship of human beings to all the mysterious network of things."

"It's not just a light rinse," Brown said. "We need a total, I might say, brainwashing. We need to wash our brains out and see a very different kind of world."

But in his climate diplomacy today, Brown is performing a more urgent, final act. For nearly all his public life—from secretary of state to governor, to mayor of Oakland and state attorney

general before becoming governor once again, at age 72—Brown's near-constant state was to run for public office. Now, for the first time, he is not. Term limits will chase Brown from the state Capitol in January 2019, and today he calls climate change his "campaign," dismissing the idea that after running unsuccessfully for president three times, he might try again in 2020. "I've thought because people like you ask me," he said in an interview before leaving for Europe. "But no, I'm not running."

Now, Brown's future rests on a family ranch in Northern California, where he is nearly finished building a remote, off-the-grid home. These days, he talks more about rattlesnakes and wild boar than the presidential election, and he has turned his focus from electoral politics to more existential concerns.

"I find a lot of what is included in politics doesn't count that much, at least for my salvation or my peace of mind or my interest in life," Brown said. The climate, he went on, "is fundamental. It's not like dietary requirements. It's not like a tax measure, or a school curriculum, or many of the issues, even a crime bill. It goes to the essence of being alive, living things. Whether it's humans or fauna, flora, the basis of life is embedded in this chemical structure, biological structure. And it's threatened."

Sitting in the back of a Ford Crown Victoria on a tarmac at Los Angeles International Airport, Brown added, "This, to me, seems worthwhile."

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Brown often borrows from the writer Carey McWilliams' description of California as "the great exception," a colossus that McWilliams said, "always occupied, in relation to other regions, much the same relation that America has occupied toward Europe: it is the great catch-all, the vortex at the continent's end into which elements of America's diverse population have been drawn, whirled around."

Trump's election nearly spun that vortex off its axis. In a state where Democrats had already battered Republicans to near-irrelevance, voters last year installed Democratic super-majorities in both houses of the state Legislature. They approved higher taxes and stricter gun controls, legalized marijuana and made certain felons eligible for early parole. They handed Trump the most lopsided loss a Republican presidential nominee has suffered in California in 80 years. Then they slumped in front of their TV sets as the rest of America went the other way.

The morning after the election, the leaders of the state Senate and assembly issued a joint statement in which they said they "woke up feeling like strangers in a foreign land." Brown had joked before the election that if Trump were to become president, "We'd have to build a wall around California to defend ourselves from the rest of this country."

Now, the state Legislature and a large share of Brown's constituents expected him to hoist it up—to assert California's sovereignty in the Trump state. As Trump started dismantling his predecessor's climate policies, Brown helped organize an alliance of 14 states and the island of Puerto Rico, pledging to meet their share of the U.S. commitment to the Paris climate accord. He

redoubled his efforts outside of the United States, expanding on a joint project with the German state of Baden-Württemberg: recruiting nearly 200 mostly subnational governments to sign a nonbinding pact to limit global temperature rise to below 2 degrees Celsius, the threshold beyond which many scientists predict environmental catastrophe. On top of that, Brown negotiated legislation extending California's signature cap-and-trade program for an additional 10 years, then signed an agreement with leaders of Ontario and Quebec to integrate their cap-and-trade systems with California's.

Trump's election shook Brown and his home state in other ways, too: California relied on billions of dollars in federal health care funding that Trump threatened to undo, and the president's hard line on immigration sowed fear among California's large population of undocumented immigrants. When the Trump administration started conducting immigration sweeps in Los Angeles, protesters strung "No I.C.E" signs from freeway overpasses, and Brown—who had signed legislation granting undocumented immigrants driver's licenses and access to college financial aid—negotiated state legislation curbing local law enforcement officials' ability to cooperate with federal immigration agents.

By this fall, California's feuding with Washington had grown so routine that it barely registered as news when, during the span of seven hours one day last month, state Attorney General Xavier Becerra announced four separate lawsuits against the Trump administration on issues ranging from health care and education to immigration and oil extraction on public and tribal lands.

Before Trump's election, Brown existed largely at the margins outside California. When he returned to office in 2011, a fellow Democrat held the White House, and no one had to look West for an expression of leftist causes. In that context, Brown presented as a moderate, taking criticism from environmentalists for his permissiveness of hydraulic fracturing, while others dismissed as insignificant the nonbinding climate agreements he pursued.

But then Trump, less than a month in office, told a national TV audience, "California is in many ways out of control." Former White House chief strategist Steve Bannon, addressing California Republicans shortly after Brown signed legislation expanding protections for undocumented immigrants, said that if California kept this up, it would eventually "try to secede from the union." The governor factored so heavily in the specter of a civil war that House Majority Leader Kevin McCarthy, himself a Californian, slipped in a speech last month in which he rebuked one "President Brown."

The nation's most populous state was cleaving from Washington, and Brown was its marshaling force.

"Trump is leaving many vacuums, and I think Jerry Brown has long imagined himself as a kind of global player," says Orville Schell, who wrote a biography of Brown in 1978 and remains in contact with him. "He does see California, as the sixth-largest economy of the world, as capable of playing more of a nation-state-like role."

Brown "sort of accidentally has had the world thrust in his lap through the climate issue, which he passionately believes in," Schell adds. "The opportunity has presented itself, the inclination is

there, and he's sort of ratcheting the state up to rush into that breach that Washington is leaving."

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In the role of a statesman, Brown so far has been met with doting audiences in Europe. When he arrived in Stuttgart for meetings this week, local officials sent a seven-car motorcade to the airport to deliver him to his hotel with lights flashing, an unheard-of accommodation back home. And when Brown spoke in Brussels on Tuesday, before the hemicycle of the European Parliament, the body's president, Antonio Tajani, said the governor's presence gave Europeans "some comfort" in the era of Trump. Muhterem Aras, president of the parliament of Baden-Württemberg, told Brown through an interpreter, "You and your work are needed more than ever." She cast Brown as a warrior "facing a mighty lobby as an adversary."

Yet in the polished, grip-and-grin world of diplomacy, Brown can also seem out of place. He has sprinted through his trip on a borrowed charter plane with his tiny entourage—a handful of aides, a small protective detail and his wife and adviser, Anne Gust Brown, straightening his collar. He maintains an exasperatingly loose schedule, suffers posing for photographs and sometimes wanders on stage.

Before he strode into the Vatican headquarters of the Pontifical Academy of Sciences, a 16th century summer residence for Pope Pius IV, Brown darted for a table of coffee and cookies that waiters were starting to clear away.

"You had to eat, didn't you, love?" his wife asked her husband, who has a sixth sense for free food.

Throughout his trip, Brown has also carried copies of two articles he wrote about the threat of nuclear proliferation, his principal concern other than climate change. The first, "Nuclear Addiction: A Response," was written in 1984 for a now-defunct Jesuit publication. The second is Brown's review in the *New York Review of Books* last year of former defense secretary William Perry's *My Journey at the Nuclear Brink*. Leaving a meeting one night in Rome with Arturo Sosa, the superior general of the Jesuits, Brown squinted over his hawk-like nose and said that while "going around enlisting allies ... I bring my two little articles and I pass them around."

Depending on his audience and mood, Brown vacillates between optimism and dread for the future. Signing a government guestbook in Brussels this week, he quoted Virgil: "Ad astra per aspera"—to the stars through difficulties. Later, when the elevator taking Brown from a meeting went up instead of down, he first complained, half-joking—"Mistake!"—and then said, "That can happen with missile launches, too."

As frequently as Brown is asked about Trump, Brown has mentioned the president only sparingly on his European tour. Although he has called Trump the "null hypothesis" for climate change, a politician who by "making his case of denial so preposterous, helps the other side," he insists the problem of climate change is bigger than one leader, and has acknowledged he is trying to make "lemonade out of a lemon."

A year ago, it appeared that Brown might not be able even to do that. Two nights before the election, he was eating chips and salsa at an airport bar in Durango, Colorado, where he had spent the day campaigning for Hillary Clinton. If Trump took the White House, he said in an interview, it would be "game over" for climate change. "Game over," he said again.

Asked about it recently, on the tarmac in Los Angeles, Brown said, "I say a lot of things while waiting for a drink in bars across America."

"We're fighting," he added. "The game is over in Washington for the moment ... But not in the world."

Later, at the Vatican, he put it this way: "You should despair, but that won't help. So be optimistic, and do whatever you can."

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Brown said he has met Trump once, when he was mayor of Oakland in the 2000s and considered bringing a casino to the city. The two flew together in Trump's plane to Oakland from Palm Springs. The governor recalled being impressed with a Renoir that Trump had hung on a wall in the plane. "I don't know whether it was real or not," Brown said last year. "But I thought it was. I thought it was a hell of a statement."

Brown, more than many politicians, could appreciate the populist appeal that swept Trump into the White House—and that Brown sought to capture in his own three presidential campaigns. In 1976, he called for an "era of limits," then campaigned against the North American Free Trade Agreement and the influence of corporate money in politics in his 1992 campaign. He refused campaign contributions greater than $100 and, in rhetoric reminiscent of Trump's "drain the swamp," criticized "the basic fact of unchecked power and privilege."

Pat Caddell, the veteran pollster and political analyst who gave advice to Brown in 1992 and Trump in 2016, says, "Brown was way ahead of his time, really ... I think if Jerry had run in '16, he could have won the Democratic nomination."

Today, Brown's mind is elsewhere. He deflects questions about his legacy, arguing, "Everything we're doing can be framed as either a model for everybody else or building my legacy that I'm going to be reviewing in my dotage." Yet the issues that consume him—climate change and nuclear proliferation—are legacy concerns of humankind.

"Human civilization is on the chopping block," Brown told an auditorium full of lawmakers and students this week in Stuttgart, his voice rising almost to a yell. "We have to wake up the world. We have to wake up Europe, wake up America, wake up the whole world to realize that we have a common destiny."

While climate change has afforded Brown a degree of notoriety outside California, he believes that history is not kind to governors and a politician's relevance quickly fades. "It's just a matter of time before your irrelevance engulfs your total being," he said in Los Angeles, chuckling. "I'm

pretty focused on today."

He is at least thinking a little about the near future. Dna Hoover, who is building the Browns' ranch house, said Anne Gust Brown called recently to ask about stucco samples and a generator, and the couple ran a herd of goats through the property, where the Browns have planted olive trees, to chew down grass to prevent fire. "He's ready," Hoover says. "He's really so connected with that place and is ready to get up there full-time."

Brown has even discussed the possibility of creating some kind of meeting space on the ranch. Before he was to arrive in Bonn on Saturday, he left his aides behind and swung south to Bremen, Germany, to visit with Silja Samerski, who had once helped him organize a salon he called the "Oakland Table," attracting intellectuals such as the late social critic Ivan Illich. "We're going to talk about unfinished issues from the Oakland Table," Brown said of his visit with Samerski. "The good life, and how are we supposed to lead it. What are we doing? So, that's getting ready for the Colusa Institute," he explained, laughing a bit. Colusa is the name of the county where he is building his ranch.

Brown is also contemplating writing when he leaves office, something he tried, but largely gave up, after his first two terms as governor. His work at the time, he says, "didn't rise to the quality that met my standards."

Decades later, Brown says, "I have much more to say."

At an event held alongside the Democratic National Convention last year, Brown had compared his retirement to that of a Roman statesman, "a fellow named *Cincinnatus* who saved the Republic, and then he went back to the plow."

Reminded of that comparison recently, Brown smiled and said, "I like to be on my plow." But he added, "Maybe I'll be sending out pronouncements from the plow."

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_____
Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

> On Jul 17, 2017, at 8:38 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:
>
> I was too late submitting my proposed changes to the QFRs (which was earlier today). I apologize for that, b

Ex. 5 - Deliberative Process

>
> Lowey Q3: To date, have you still not asked the President what his beliefs are regarding climate change?
>

Ex. 5 - Deliberative Process

> Lowey Q4: You were in Italy this week for the G7 Meeting on the Environment. What has been the response from our international partners about President Trump's decision to withdraw from the Paris Agreement?
>

Ex. 5 - Deliberative Process

>
> Lowey Q5 (Q4a): Who will fill the void of U.S. leadership on climate issues?
>

Ex. 5 - Deliberative Process

>
>
> American Energy Jobs (OAR)
>
> Pulling out of the Paris Agreement prioritizes jobs in the fossil fuel industry over renewable energy jobs. There are more than 678,000 jobs in renewable energy, more than the 515,000 jobs in oil/petroleum.
>
> Lowey Q5: All jobs matter, so why are you arguing that protecting renewable energy jobs is bad for America?
>

Ex. 5 - Deliberative Process

>

Ex. 5 - Deliberative Process

>
> Mandy M. Gunasekara
> Senior Policy Advisor for Office of Air and Radiation
> Office of the Administrator
> US Environmental Protection Agency
>
> <HAC QFRs with RESPONSES FOR HOLLY_ MMG 3.docx>

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Harlow, David[harlow.david@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]
From: Millett, John
Sent: Tue 11/7/2017 12:44:48 PM
Subject: Fwd: Morning Energy, presented by ExxonMobil: What to expect on Election Day 2017 — Advocates want quieter U.S. at Bonn talks — ALEC plans endangerment finding challenge

2 of 2 —

Sent from my iPhone

Begin forwarded message:

From: "POLITICO Pro Energy" <politicoemail@politicopro.com>
Date: November 7, 2017 at 5:43:47 AM EST
To: <Millett.john@epa.gov>
Subject: Morning Energy, presented by ExxonMobil: What to expect on Election Day 2017 — Advocates want quieter U.S. at Bonn talks — ALEC plans endangerment finding challenge
Reply-To: "POLITICO subscriptions" <reply-fe8813717d620d7575-630326_HTML-637925989-1376319-0@politicoemail.com>

By Anthony Adragna | 11/07/2017 05:42 AM EDT

With help from Alex Guillén, Sara Stefanini and Emily Holden

IT'S ELECTION DAY — 5 RACES TO WATCH: Voters around the country head to the polls today, and while energy and environmental issues haven't dominated most contests, the results have major policy implications. Here's five contests to keep an eye on as polls close:

1. **Virginia governor's race:** Today's marquee race pits Democratic Lt. Gov. Ralph Northam against the GOP's Ed Gillespie. Polls are tight, and Gillespie has tried to make Northam's squishy position on the Atlantic Coast pipeline an issue in the race. A Gillespie victory would likely spell the end to the commonwealth's regulatory efforts to curb carbon emissions and lead Virginia to withdraw from a state coalition committed to upholding Paris accord goals. The League of Conservation Voters has poured more than $4 million into races around Virginia.

2. **New Jersey's governor's race:** Democrat Phil Murphy leads Republican Lt. Gov. Kim Guadagno in public polling by wide margins, but both candidates have pledged to rejoin the Regional Greenhouse Gas Initiative. Murphy's gone further and released a plan to transition the state to 100 percent renewable energy by 2050. He's earned endorsements from the Sierra Club and League of Conservation Voters.

3. **Washington state's 45th Senate district:** What would normally be a sleepy election in the Seattle suburbs will instead determine which party controls the Washington state Senate and may determine whether Gov. Jay Inslee can enact his aggressive policies addressing climate change. "We intend to make a full-scale effort in the next session of the Legislature if we win," he told The New York Times. Millions have been spent on the contest, including six-figure contributions from oil companies like Andeavor and Phillips 66.

4. **Port of Vancouver (Wash.) commissioner:** The results of this contest are seen as a major signal about the fate of a proposed oil-to-rail port in the Pacific Northwest. Backers of the proposed $210 million terminal have donated large sums to Kris Greene, while environmental advocates have lined up behind his opponent Don Orange. The Columbian reported last Thursday that $370,000 of the $410,189 Greene received in cash contributions came from oil companies with stakes in the project, while Orange received $290,000 from Washington Conservation Voters.

5. **Flint, Mich. recall election:** Two years after being elected to tackle the devastating drinking water crisis in her city, Karen Weaver faces a recall election today that could cut her term in half. She faces 17 other candidates in the winner-takes-all contest. "The official reason is the trash-hauling contract, but the real reason, I think, is the water," said Paul Rozycki, a retired political science professor, told The Associated Press.

WELCOME TO TUESDAY! I'm your host Anthony Adragna, and the American Lung Association's Paul Billings was first up to identify Sen. Mike Enzi as the former shoe store owner. For today: Which senator once served as president of the nation's only state-owned bank? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter @AnthonyAdragna, @Morning_Energy, and @POLITICOPro.

BE VERY QUIET! Advocates for climate action are frankly hoping the U.S. stays quiet during the Bonn climate summit and doesn't do anything to derail negotiations, POLITICO's Emily Holden and David Siders report . "The benchmark for success in Bonn is you arrive, you make progress on some mechanical items, and nobody leaves in a complete huff," said David Victor, professor of international relations at the University of California. "People are going to be watching very closely what the U.S. delegation does — whether they're constructive, whether they're silent, whether they're mean." But hopes for a quieter U.S. presence doesn't mean Trump's decision to pull out of the deal won't have consequences. Keya Chatterjee, executive director of the U.S. Climate Action Network, called Trump's move to withdraw a "geopolitical disaster," that would make it difficult for him to negotiate with word leaders on other matters.

Have a look: POLITICO's timeline on 25 years of progress and setbacks fighting climate change.

'Urgency' seen on the ground: That was the buzzword on the first day of COP23 climate summit in Bonn, where negotiators from 197 countries are hunkered down for the next two weeks to work on the rules to help meet the Paris agreement's goals. "The need for urgency is obvious. Our world is in distress from extreme weather events caused by climate change,"

Fiji's Prime Minister Frank Bainimarama said during the opening ceremony, where his small island country took the summit presidency.

Look at China: "China, because of its size and its weight in the world economy, is always a very important player in international affairs and this is of course no exception," Patricia Espinosa, head of U.N. Climate Change, told reporters. "What we are seeing ... is 100 percent commitment by China to fulfill its obligations in its agreement." China is leading in innovation, public policies on the low-carbon transition and other areas and "mainstreaming" climate change into "integral planning," she added.

UNF and how many C's? Forget the U.N. Framework Convention on Climate Change, the Bonn-based climate secretariat has a new name: U.N. Climate Change. So no more of that "UNF and as many C's as you can add," said spokesman Nick Nuttall.

CLEAR AND PRESENT ENDANGER: The American Legislative Exchange Council—whose members are conservative state lawmakers—plans to vote on a model resolution calling on EPA Administrator Scott Pruitt to fight a science-based legal finding that requires the agency to regulate greenhouse gas emissions that cause climate change. "Research has shown that recent changes in temperatures, sea level rise, and the frequency of extreme weather events are far from unusual in the historic and geophysical record," the resolution says, contradicting mainstream science. If legislators approve the language at a meeting in December, they could propose it in state capitols around the country.

LOBBYISTS DESCEND ON TAX BILL: There's little time to weigh in, so trade groups are pushing hard this week to secure changes to legislation H.R. 1 (115) they fear would harm their industries, POLITICO's Theodore Meyer reports. Among them is the American Institute of Architects, which is leaning on Ways and Means members Tom Reed and Dave Reichert to avoid cuts to tax credits for historic preservation and energy efficiency. Another trade group unhappy with the bill is the American Wind Energy Association. That comes as panel leaders offered a host of changes to the package as the multi-day markup began Monday.

DOURSON IN TROUBLE? Even as the Senate prepares to vote on Trump's pick to run EPA's air office later this week, his choice to run the chemicals office may be in trouble as two North Carolina Republican senators aren't ready to support him, according to Bloomberg BNA. A spokeswoman for Sen. Richard Burr told ME he's "evaluating Mr. Dourson's record and will make a determination based on the best interests of North Carolinians." Just three defections would kill the nomination in the closely-divided Senate.

HOLDING OFF: Though it said 85 percent of counties in the country meet its 2015 ozone standard, EPA declined to specify Monday whether the rest do not, staving off requirements to act for now, Pro's Alex Guillén reports. The agency would only say that it will tackle the remaining areas "in a separate future action." Any areas that don't meet 2015 standard of 70 parts per billion — which Pruitt said he's reviewing — will have to take action to reduce smog-forming emissions.

PUERTO RICO HEARING FIZZLES: What looked to be an interesting session on Puerto Rico's recovery from a devastating hurricane appears to have fizzled with Ricardo Ramos, the head of the island's utility, reportedly bowing out of testifying and San Mayor Carmen Yulin Cruz also declining to appear. Witnesses with the island's oversight board are still due to appear before the House Natural Resources Committee beginning at 10 a.m. in Longworth 1324.

After that, a subcommittee hears from witnesses at 2 p.m. on a discussion draft of legislation overhauling both onshore and offshore energy policy. And the full committee gives opening statements at 5 p.m. ahead of a markup of an energy bill pushed by Majority Whip Steve Scalise and Chairman Rob Bishop (as well as a bunch of other bills).

E&C SUBPANEL LOOKS AT TWO BILLS: The Energy and Commerce Energy Subcommittee looks at a discussion draft of legislation that would alter the popular Energy Star program to make DOE the lead oversight agency and make actions under the program subject to public notice and comment requirements. The subpanel will also take up a bill, H.R. 3477 (115) , delaying new efficiency compliance standards for ceiling fan light kits to Jan. 21, 2020. Witnesses from Association of Home Appliance Manufacturers, the Consumer Technology Association, Air Conditioning Heating and Refrigeration Institute, the Alliance to Save Energy and Cree testify at the hearing.

** **Presented by ExxonMobil:** We're collaborating with FuelCell Energy on a novel idea to use fuel cells to capture carbon at natural gas power plants, and in the process reduce emissions and increase electrical output. This technology could be a game changer in addressing the world's growing need for energy, while also reducing the impact on the environment. Learn more. **

ATLANTIC SUNRISE PIPELINE ON ICE: A three-judge panel of the D.C. Circuit temporarily halted construction on Williams' Atlantic Sunrise natural gas pipeline on Monday while it mulls a request for a full stay of the project, Pro's Darius Dixon reports. Environmental and community groups first sued FERC in March, alleging the agency did not conduct a thorough enough climate study before approving the project.

STEYER SLAMS FOX NEWS PULLING HIS AD: Calling it "baseless and unethical," billionaire environmentalist Tom Steyer slammed Fox News for pulling an ad calling for the impeachment of Trump, POLITICO's Cristiano Lima reports. Fox News cited concerns over the response from their viewership in moving to cancel the ads last week. "Due to the strong negative reaction to their ad by our viewers, we could not in good conscience take their money," Fox News co-president Jack Abernethy said in a statement.

GREENS PURSUE NOVEL NEW SUIT AGAINST TRUMP CLIMATE ACTIONS: A Philadelphia-based environmental group has sued the Trump administration seeking to reverse various climate-related regulatory rollbacks, including the Clean Power Plan repeal and withdrawal from the Paris agreement. The Clean Air Council argues in its lawsuit that the rollbacks amount to a violation of all Americans' constitutional right of due process because any action that contributes further to climate change endangers "the lives and

welfare of United States citizens." The administration "is relying on junk science to wage a war on facts," underscoring "reckless and deliberate indifference," the suit continues. If this sounds familiar, it's because a group of kids and climate scientist James Hansen are pursuing a similarly broad constitutional challenge to the federal government on climate change in an Oregon court. That case is on hold while the 9th Circuit mulls whether it can move toward a trial.

PERRY IN PARIS: Energy Secretary Rick Perry's in Paris this week for the International Energy Agency's ministerial meeting. He'll meet with energy counterparts from around the world, as well as French Prime Minister Édouard Philippe with whom he'll discuss "issues of importance to our bilateral energy relationship," according to an agency spokeswoman.

WATT'S THAT? A new coalition, Working for Advanced Transmission Technology (WATT), is launching today at an event at the Idaho National Lab with the goal of upgrading the nation's transmission network. They'll be working to deploy technologies to deliver more power to customers through existing grids.

TAKE A GLANCE! KICKING IT INTO NEXT GEAR: The Energy Storage Association released a white paper Monday outlining what it says is an approach to reach 35 gigawatts of new energy storage systems installed in the U.S. by 2025.

UPDATE AVAILABLE? A study released by the Analysis Group, sponsored by the Natural Resources Defense Council, urges FERC to update its process for evaluating natural gas pipelines. Among their suggestions: Increasing scrutiny of the energy needs of the region rather than the project itself and considering non-pipeline alternatives to pipeline construction.

PROGRESS UP IN FLAMES? More active wildfire seasons are undercutting progress at improving air quality through emissions reductions from sources like power plants and vehicles in the Sacramento Valley and the San Joaquin Valley, according to a study released today by Climate Central. "We found that while the air is getting cleaner overall in recent years, it's getting dirtier during the fire season — a season that research has shown is growing longer in the western United States," it concludes.

NEEDS IMPROVEMENT: The majority of the 30 states and Puerto Rico surveyed by the Surfrider Foundation are performing at moderate to poor levels in addressing coastal erosion, sea level rise and extreme weather events, according to a report out today. Every single Gulf state scored a D or F in the annual report, except Texas which received a C. Link here.

MOVERS, SHAKERS: Lindi von Mutius has joined the Sierra Club as chief of staff. She comes from the Environmental Defense Fund where she was director of program management.

Chris Tucker becomes FTI Consulting's global head of energy & natural resources. He succeeds Brian Kennedy, who becomes head of Americas for its strategic communications

group.

QUICK HITS

— Oil Hits Two-Year High Amid Crackdown in Saudi Arabia. Wall Street Journal.

— Paul McCartney: Trump not believing in climate change is 'madness'. The Hill.

— Chef José Andrés And The Trump Administration Are Fighting Over Puerto Rico. BuzzFeed.

— North Dakota officials: Optimism builds over $1 billion water pipeline to serve Red River Valley, central ND. Bismarck Tribune.

— Secretary Zinke says he's committed to rebuilding Sperry Chalet. Great Falls Tribune.

— Trump's E.P.A. Pledges to Clean Up NYC's 'Most Radioactive Site' - But Funding Is in Question. WNYC.

HAPPENING TODAY

10:00 a.m. — House Energy and Commerce Committee hearing on energy bills, House Energy and Commerce Energy Subcommittee, Rayburn 2123

10:00 a.m. — "Examining Challenges in Puerto Rico's Recovery and the Role of the Financial Oversight and Management Board," House Natural Resources Committee, Longworth 1324

2:00 p.m. — "Legislative Hearing on Discussion Draft Legislation to Overhaul Federal Lands Energy Policy," House Natural Resources Energy and Mineral Resources Subcommittee, Longworth 1324

2:30 p.m. — Center for American Progress and NRDC host telepresser discuss threat to public health and conflicts of interest of Trump nominees, RSVP: Sam@BlueEngineMedia.com

5:00 p.m. — "Re-energizing Nuclear Security," The Stimson Center, 1211 Connecticut Ave, NW, 8th Floor

THAT'S ALL FOR ME!

****Presented by ExxonMobil:** Energy is fundamental to modern life and drives economic prosperity - in small communities across America and around the world. We need a range of solutions to meet growing energy demand while reducing emissions to address the risk of climate change. Visit the Energy Factor to learn more about some of the bold ideas and next-generation technologies we're working on to meet this challenge: EnergyFactor.com **

To view online:
https://www.politicopro.com/tipsheets/morning-energy/2017/11/what-to-expect-on-election-day-2017-025414

Stories from POLITICO Pro

Climate advocates hoping for 'quiet' U.S. in global talks Back

By Emily Holden and David Siders | 11/07/2017 05:03 AM EDT

President Donald Trump's quest to put "America first" in international affairs will undergo a major stress test this week and next as U.S. officials meet with climate change negotiators from around the world.

Despite planning to pull out of a historic deal to slow man-made global warming, which Trump dismisses as a hoax, the State Department will send a small delegation of career diplomats to a conference that began Monday in Bonn, Germany, to discuss how countries will show they are fulfilling their pledges. The U.S. and Syria are the only countries on Earth not participating in the 2015 Paris agreement, and climate advocates are watching closely for signs that Trump's stance might derail decades of slowly building progress toward a global effort to try to stall increasing emissions that are already exacerbating droughts, wildfires, sea-level rise and flooding.

"We're expecting, and I guess frankly kind of hoping, the U.S. is quite quiet," said Jake Schmidt, director of the Natural Resources Defense Council's international program.

POLITICO Timeline: 25 years of progress and setbacks fighting climate change.

Outside of the official negotiating process, White House aides will be joined by industry executives to promote coal, natural gas and nuclear power. But EPA chief Scott Pruitt, who has questioned climate science is reversing U.S. anti-carbon rules, will not attend the meetings, allaying concerns that he might try to distract from states, cities and businesses aiming to take up the U.S. climate banner in place of the White House.

"It is undeniable that fossil fuels will be used for the foreseeable future, and it is in everyone's interest that they be efficient and clean," White House spokesman Raj Shah said in a statement, comparing the plan to the Trump administration's promotion of fossil fuels at this year's G-20 summit. "Through innovation, the United States continues to be a global leader in cutting carbon emissions."

The talks in Bonn are mostly technical and normally would not draw much attention, but they have taken on outsized significance with Trump putting other nations on edge about the United States' future in climate negotiations and what it will mean for the deal's overall success.

"The benchmark for success in Bonn is you arrive, you make progress on some mechanical items, and nobody leaves in a complete huff," said David Victor, professor of international relations at the University of California, San Diego, and author of the book "Global Warming Gridlock." "People are going to be watching very closely what the U.S. delegation does — whether they're constructive, whether they're silent, whether they're mean."

Fiji's chief negotiator, Nazhat Shameem Khan, said the U.S. had been constructive leading up to the meetings, and she is confident the U.S. won't be "disruptive or unhelpful."

The U.S. has added more planet-warming carbon dioxide to the atmosphere than any other nation, so its promises to curb emissions were key to the Paris agreement. But Trump said the deal was unfair because the U.S. pledged to cut its carbon output at least 26 percent by 2025 compared to 2005 levels, while rapidly growing economies like China and India would be able to keep increasing their emissions for several more years/decades before agreeing to level off. So far, China, India and other big emitters have shown no signs of backing down from their commitments.

Keya Chatterjee, executive director of the U.S. Climate Action Network, called Trump's move to withdraw a "geopolitical disaster," that would make it difficult for him to negotiate with word leaders on other matters.

But Chrissy Harbin, vice president for external affairs for the conservative group Americans for Prosperity, which applauded his decision earlier this year, said Trump's position "doesn't seem to be one of isolationism."

"Instead his position on international energy policy is finding an agreement that doesn't give U.S. interests and American families the short end of the stick," she said, noting the country's trillions of dollars of wealth in fossil fuels.

The international community has been discussing climate change since at least 1992. America's support for climate action has wavered many times before, including under the George W. Bush administration and when a cap-and-trade billed failed to clear Congress in 2010. U.S. courts say the law requires efforts to curb emissions from the federal government, but Pruitt has taken an ax to Obama-era climate regulations.

In the run-up to the conference in Bonn, an alliance of governors of 14 states and Puerto Rico have been making a pre-emptory case that the Paris agreement will live on in wide swaths of America. The governors, 12 Democrats and two Republicans, pledged to meet their states' share of the United States' commitment to reducing greenhouse gas emissions in Paris. Other groups that include cities and businesses are making efforts to quantify what they can contribute.

California Gov. Jerry Brown, one of the alliance's leaders, said he will treat Bonn as "an active checking-in" with other states and local governments from around the world.

"We're just trying to make it work," said Brown, who was appointed by the leader of this year's talks as a special adviser for states and regions to the conference in Bonn. "The problem is not Trump or myself. It's ... how is the world going to be for your kids, how is it going to be for you — and even me, depending upon how long I'm still around."

On Saturday, Brown will join former New York Mayor Michael Bloomberg, now a U.N. special envoy for cities and climate change, to present a report showing the steps U.S. states, cities and businesses are taking to shrink their carbon footprints. At a summit Brown plans to host in San Francisco next year, they hope to translate those steps into a more detailed pledge quantifying how far emissions would fall despite the lack of federal policy.

Todd Stern, who was a leading architect of the Obama administration's international climate strategy said the federal government "checking out" will cause "tons of damage," but state leaders could help fill the void.

"If you have nothing more than a bunch of state and local people taking the megaphone and yelling about Trump, I think that that's got some utility, but limited," he said. "To the extent that people around the world can see, wow, so there's this group of 15 governors and they represent 36 percent of our population and 41 percent of our GDP and 25 percent of our emissions, and they're all cranking — they're doing real policy ... that's a good thing."

Meanwhile, the Trump administration's rollback of climate rules and promotion of fossil fuel development could cause U.S. emissions reductions to stall, according to a report from the analysis firm Rhodium Group. Green states "could do a lot more and that would certainly be helpful to meeting U.S. goals," said John Larsen, an author of the research and director at Rhodium Group. "But there's still a large chunk of emissions outside those states that matters."

The Paris deal alone is not enough to keep temperatures from reaching a dangerous threshold of 3.6 degrees Fahrenheit (2 degrees Celsius) above pre-industrial levels, and negotiators hoped to build on it in the next few years.

Worldwide, the gap between planned and needed carbon dioxide emissions reductions remains "alarmingly high," the United Nations said in a paper last week.

The longer countries wait to reach peak emissions, the harder it will be to avoid dangerous temperatures, according to a new report from the World Resources Institute. Unless global emissions are in decline by 2020, slowing climate change will take "unprecedented rates of decarbonization and reliance on unproven technologies at scale," the report said.

"Progress is being made, but it simply is not happening at the pace desired," said Andrew Steer, president and CEO of the World Resources Institute. "In a way, this COP is more important than most people think. It's terribly important to go to Bonn and really step up the level of ambition."

Sara Stefanini contributed to this report.

To view online click here.

Back

The long road to an international climate deal Back

By Emily Holden | 11/07/2017 05:02 AM EDT

It's been 25 years since the landmark U.N. summit that set the world on a path to climate agreements in Kyoto and Paris. And more than a decade has passed since the Supreme Court first ruled that the EPA can regulate greenhouse gas emissions. The Trump administration is withdrawing from the Paris Agreement and revoking Obama-era rules to limit those emissions from power plants, reversing decades of momentum behind policies to address the causes of climate change.

Let's take a look:

To view online click here.

Back

Tax lobbyists sprint to win changes to House bill Back

By Theodoric Meyer | 11/06/2017 07:13 PM EDT

House Republicans kept their tax bill under wraps for as long as possible to hold back a deluge of lobbyists. After trade groups spent the weekend poring over the details, the flood is on.

The release of Republicans' long-awaited tax bill has sent trade groups representing everything from architects to universities scrambling to secure changes to legislation they fear would harm their industries.

With the House Ways and Means Committee marking up the bill this week and Republicans determined to move it through the House by Thanksgiving, lobbyists are rushing to make their cases before it's too late.

"We're treating every day like it could be the decisive day," said Bob Chlopak, a lobbyist representing Americans Against Double Taxation, a coalition fighting to preserve deductions for state and local taxes.

Since the bill's details were unveiled on Thursday, lobbyists have dug into the text, as their corporate clients plugged the numbers into economic models to figure out how it will affect

them. Trade associations in Washington have sent emails to their members across the country and held conferences calls to try to figure out the best way to convince the Ways and Means Committee to spare deductions and tax credits they view as essential to their industries.

Now, many of the groups are settling on strategies for spurring their members to act or identifying members of Congress they will pressure to amend the proposal. Lobbyists see this week as crucial to influencing the House — even as they try to anticipate the course of the tax bill in the Senate, which is set to unveil its own legislation this week.

"You basically have this week" to sway the House, said Jerry Howard, the chief executive of the National Association of Home Builders.

"Realistically, the timeframe in the House is narrow, which is why we're beginning in earnest on the Senate side," Howard added.

House Republicans' proposed tax changes range from the well-known to the relatively obscure. The National Association of Realtors and the National Association of Home Builders, for instance, have spent months pressing lawmakers not to reduce the home mortgage-interest deduction. The home builders endorsed an initial draft of House Republicans' proposal last month, only to pull their support after House Speaker Paul Ryan nixed a tentative deal the home builders had struck Ways and Means Committee Chairman Kevin Brady.

The House bill unveiled last week would limit the deduction on new home purchases to mortgages of $500,000, instead of $1 million under current law, and eliminate it for new purchases of second homes.

The details of the House bill came as the Realtors — one of the top lobbying spenders in Washington — gathered at a national conference in Chicago this weekend, giving the group a chance to galvanize members.

"They're all prepared to go back to their states and their communities and make sure their members of Congress know where we stand," said Jamie Gregory, a top lobbyist for the National Association of Realtors.

Realtors across the country have sent more than 114,000 emails to their members of Congress, Gregory said, and they'll decide "within the next two days" where to deploy staff. The group is eyeing sending people to congressional districts with high rates of homeownership that also have high property taxes, making the suburbs of cities like New York, Philadelphia and Chicago likely targets.

The American Institute of Architects, meanwhile, is homing in on ways to save tax credits that have gotten much less attention.

The group sent out an email blast to its members on Thursday identifying three threats in

the bill: a change to the tax rate paid by so-called "pass-through" entities that would reduce taxes for many businesses but not architecture firms, and cuts to tax credits for historic preservation and energy efficiency. The architects are appealing to two Republican members of the Ways and Means Committee — Rep. Tom Reed (R-N.Y.), who has supported the historic preservation credit in the past, and Dave Reichert (R-Wash.), who has backed the energy efficiency one — for help.

"We'll be leaning on those folks to really bring the concerns up in the committee," said Ian McTiernan, a lobbyist for the American Institute of Architects.

Other trade groups unhappy with the bill include the American Wind Energy Association and the American Association of Universities.

The Ways and Means Committee began marking up the bill on Monday but did not make speedy progress. Republicans unveiled an amendment on Monday evening that would narrow a proposal to begin taxing private universities' endowments, which had infuriated colleges, and made several other changes.

Trade associations and coalitions also are running online ads and waging campaigns on social media, trying to rouse support to preserve favored tax breaks.

"Our advice to clients for the past several months was to make sure you had a contingency campaign plan in place and a message that can be boiled down to 140 characters," said Ken Spain, a founding partner of CGCN's strategic communications practice and a former House GOP staffer.

Brady has been preparing to tackle a tax overhaul for years, and he's ready for the onslaught of lobbyists looking to preserve their clients' favored provisions, said Lori Harju, a former senior adviser to Brady who's now a lobbyist at Brownstein Hyatt Farber Schreck.

"Brady always said every industry must give something" in order to bring down the overall corporate tax rate, Harju said. "But you don't want to crush an industry, either."

Lobbyists looking to make their case this week should show up with an alternative proposal, Harju said. "Is there a way you think it can be fixed to make it less painful for you?" she said she counsels clients.

"Don't underestimate Kevin Brady," she added. "He is not going to let this die."

Brian Faler contributed to this report.

To view online click here.

Back

House tax writers eye changes to reform bill as committee work gets underway Back

By Bernie Becker and Aaron Lorenzo | 11/06/2017 01:03 PM EDT

The House's top tax writer made some modest changes to his tax reform legislation Monday, but more are likely coming to mollify some powerful interests that have objected to various details of the plan

Among the changes that are being weighed: raising a cap on the mortgage interest deduction that was included in the original bill.

The amendments by House Ways and Means Chairman Kevin Brady came as the committee kicked off four days of meetings to formally draft the legislation, with lawmakers on a mad dash to meet their self-imposed goal of passing a bill in the House by Thanksgiving.

The debate was heated at times, with Democrats repeatedly charging the legislation was a giveaway to the wealthy.

"You are desperately looking for something to pass, and it's the blind leading the blind," said Rep. Sander Levin of Michigan, the top Democrat on the committee. "This is a total disgrace."

The tweaks Brady made to the legislation included requiring taxpayers to hold investments for a longer period of time if they want to take advantage of a low tax rate for "carried interest," a perk that has been hotly debated for years. Another change would exempt more private colleges from a proposed new tax on their endowment earnings.

In a statement, Brady said: "I will also note that this is not the last effort to continue to make further improvements on the base bill. As we work to deliver more and targeted relief to small businesses, working with organizations — like [the National Federation of Independent Business] and others — and working to address unintended consequences of certain insurance provisions."

Rank-and-file Republicans largely praised the tax bill when it was released last week. But lobbyists and some GOP lawmakers had complaints about, among other things, the bill's treatment of housing and some proposed business provisions. Both remain possible targets for changes.

Republicans are considering allowing home owners to deduct interest on mortgages up to $750,000, according to one K Street source. The House GOP bill currently would allow a deduction on mortgages up to $500,000 — half of what's allowed under current law. The Washington Post first reported that the committee was considering the $750,000 figure.

Brady also has been considering changes to his bill's treatment of tax rates for businesses that pay taxes through their owners' returns, commonly known as pass-throughs.

The NFIB, a powerful small business lobby, said last week that it couldn't support the House GOP bill in its current form because it didn't help enough companies. House Republicans have proposed a special 25 percent pass-through rate that NFIB says wouldn't offer any assistance to as much as 90 percent of its members.

Other advocates for the pass-through industry say that proposed rules to keep that 25 percent rate from being abused would actually add up to a tax increase for many businesses.

The adjustments Brady made Monday covered numerous provisions, including tweaks to a proposed corporate excise tax to combat corporate tax dodges, the Earned Income Tax Credit and the treatment of "self-created musical compositions and copyrights in musical works as capital assets."

His amendment also would require investors to hold assets for at least three years to take advantage of a the carried interest tax rate, instead of the current one-year requirement. Carried interest allows investors to pay a lower tax rate on some income than they would normally have to; it has been a source of controversy for years, with critics saying it gives the wealthy an unwarranted tax break.

The amendment was silent on repealing the Obamacare individual mandate.

Republicans are awaiting an updated CBO analysis on repealing the mandate as part of tax reform. Some rank-and-file members — and President Donald Trump — want to ax the mandate as part of the tax bill but GOP leaders are skeptical such a bill can get through the Senate.

Michael Stratford contributed to this report.

To view online click here.

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EPA ozone designations stop short of demanding action Back

By Alex Guillén | 11/06/2017 05:34 PM EDT

EPA says that 85 percent of U.S. counties meet the 2015 ozone standard, but the agency stopped short of saying the remainder do not meet the standard, staving off for now any requirements to act.

The designations are the next big — albeit partial — step toward implementing the 2015 standard of 70 parts per billion, which Administrator Scott Pruitt has said he is reviewing. EPA missed an Oct. 1 deadline to designate which areas comply with the standard after an aborted attempt over the summer to delay the process by another year.

EPA says only that it will tackle the remaining areas "in a separate future action." Any area determined not to meet the standard will have to take action to reduce smog-forming emissions, a prospect Republican critics of the 2015 standard argue would prove costly for businesses.

Several Democratic attorneys general said they will sue EPA soon to force the agency to act, a threat that could still apply to the remaining 15 percent of counties not yet designated.

It was not immediately clear how many people live in the potential non-attainment areas, but ozone pollution often collects in populated urban areas and in the so-called tailpipe states in the Northeast.

Click here for a prepublication copy of the final designation rule and related documents.

WHAT'S NEXT: It is unclear when EPA will act on the remaining areas. Democratic attorneys general may sue as early as December.

To view online click here.

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Appeals court temporarily halts Atlantic Sunrise pipeline Back

By Darius Dixon | 11/06/2017 05:17 PM EDT

A federal appeals court agreed this afternoon to temporarily halt the construction of Williams' Atlantic Sunrise natural gas pipeline while judges weigh whether to grant a full stay on the project.

"The purpose of this administrative stay is to give the court sufficient opportunity to consider the emergency motion for stay and should not be construed in any way as a ruling on the merits of that motion," a three-judge panel of the D.C. Circuit Court of Appeals states in a per curiam order.

Environmental and community groups sued FERC in March, saying the agency did not conduct a thorough enough climate study before it approved the $2.6 billion pipeline project, which would stretch across several states between Pennsylvania and South Carolina. But the lawsuit is still in its early stages, and those agency critics asked the court to grant an emergency stay until the resolution of the case, *Allegheny Defense Project, et al v. FERC*, 17-1098.

FERC has argued that "[e]njoining the Commission-issued certificate and halting the Project would seriously jeopardize the availability of additional capacity needed to transport natural gas to southeastern and Mid-Atlantic markets."

WHAT'S NEXT: The D.C. Circuit panel must still decide whether to issue the full emergency stay but the timing of its next step is unclear.

To view online click here.

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Steyer claims breach of contract after Fox News pulls his Trump impeachment ads
Back

By Cristiano Lima | 11/06/2017 02:43 PM EDT

Billionaire political donor and activist Tom Steyer has accused Fox News of breaching its contract to air ads on the network calling for President Donald Trump's impeachment, according to a letter sent to the network by Steyer's legal team.

Brad Deutsch, a lawyer for the California philanthropist and prominent Democratic booster, called Fox News' decision to pull the 60-second TV spot that began airing in October "baseless and unethical" in a memo addressed to Fox News co-president Jack Abernethy on Nov. 3.

Deutsch wrote that the network had "unconditionally" agreed on Oct. 27 to air the ads another week and that the move to pull them signaled "a profound failure of journalistic integrity, a suppression of constitutionally protected speech, and likely a consequence of inexcusable political pressure."

Fox News cited concerns over the response from their viewership in moving to cancel the ads last week.

"Due to the strong negative reaction to their ad by our viewers, we could not in good conscience take their money," Abernethy said in a statement provided to POLITICO.

The spot, part of an ad buy of more than $10 million by Steyer calling for the president's impeachment, slammed Trump for bringing the U.S. "to the brink of nuclear war" with North Korea and for potentially "obstructing justice" by firing former FBI Director James Comey in May as he conducted a federal probe into potential ties between the Trump campaign and Russian operatives.

Trump personally pushed back against the impeachment call from the California billionaire on Twitter on Oct. 27.

"Wacky & totally unhinged Tom Steyer, who has been fighting me and my Make America Great Again agenda from beginning, never wins elections!" Trump tweeted, shortly after the ad had aired on "Fox & Friends," which the president frequently watches.

The timing of Trump's tweet, which came just prior to the ad's cancellation, did not go unchallenged by Steyer's legal team.

"It is no coincidence that the Cancellation of the Advertisement, in the second week of its run, came on the heels of a tweet from President Trump, criticizing the spot and Mr. Steyer personally," Deutsch wrote in his letter to Fox.

Steyer directly rebuked the cancellation in a statement released Friday.

"Millions of Americans have raised their voices in opposition to Donald Trump," Steyer said. "If Fox News is siding with Trump and trying to silence us, they must be afraid of what we have to say. It shows no respect for democracy."

Congressional Democratic leaders have resisted joining Steyer in calls to impeach Trump. Asked about Steyer's ad and whether Democrats would prioritize impeachment proceedings if they were to retake a majority in Congress, House Minority Leader Nancy Pelosi on Sunday said, "It's not someplace that I think we should go."

To view online click here.

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Yes, very	Somewhat	Neutral	Not really	Not at all

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From: Millett, John
Sent: Mon 11/6/2017 12:47:34 PM
Subject: Fwd: Morning Energy, presented by ExxonMobil: What to watch for as Bonn climate talks kick off — Next step toward WOTUS unwind arrives — Trump pushes Aramco for U.S. listing

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Begin forwarded message:

From: "POLITICO Pro Energy" <politicoemail@politicopro.com>
Date: November 6, 2017 at 5:41:50 AM EST
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Subject: Morning Energy, presented by ExxonMobil: What to watch for as Bonn climate talks kick off — Next step toward WOTUS unwind arrives — Trump pushes Aramco for U.S. listing
Reply-To: "POLITICO subscriptions" <reply-fe9613717d60017d75-630326_HTML-637925989-1376319-0@politicoemail.com>

By Anthony Adragna | 11/06/2017 05:40 AM EDT

With help from Eric Wolff and Kalina Oroschakoff

BONN JOUR! Starting today, international negotiators gather in Bonn for the COP23 — the first U.N. climate summit to be chaired by a small island nation, Fiji. It's also the first meeting after President Donald Trump announced his intention to pull the U.S. out of the landmark Paris accord in June. Let's take a quick look at what to expect between now and the conference's end on Nov. 17:

—**The U.S. question:** An open question remains how much the U.S. decision to withdraw from the Paris accord will be a distraction to the nitty gritty work of filling out the details of the 2015 pact. The Trump administration opted to send longtime diplomat Thomas Shannon as the delegation's lead in Bonn rather than a cabinet member, suggesting a low-key role on the sidelines. But U.S. officials are expected to tout the benefits of nuclear energy and fossil fuels in combating emissions, according to the New York Times . Meanwhile, a high-profile delegation of U.S. governors, mayors, private sector leaders and others are traveling the conference as a signal that much of the country remains committed to aggressive climate action.

—**Loss and damage:** Fiji, backed by other vulnerable island countries, is keen to focus attention on the loss and damage already linked to climate change (think, hurricanes, floods and rising sea levels). Many island nations are raising pressure on negotiators, especially from wealthy nations, to tackle loss and damage issues such as funding, risk preparedness,

weather forecasting and new insurance proposals. This, compounded by a number of high-profile weather events this year, will make it one of the more challenging discussions at the summit, according to Camilla Born from the environmental think tank E3G.

—**Working out the rules:** Another challenge will be to advance work on rules to make sure countries meet the Paris agreement's goals ahead of next year's COP24 — when parties said they would sign off on the rulebook underpinning the deal. A thorny discussion here will be around setting a common and transparent monitoring and reporting system that ensures emissions reductions can be compared across countries. It's a sensitive issue with emerging economies such as China, long wary of letting outsiders glance their domestic books, but a priority for the EU, which wants to make sure everyone pulls their weight. The battle could therefore be over whether it will be a bifurcated system, setting different guidelines for developed and developing countries, or universal.

—**Assessing progress:** Negotiators will also have to work out how the first stock-take of national progress toward achieving climate pledges will play out next year. The idea behind the 2018 meeting is to pave the way for countries to increase their emissions reduction targets in 2020, when parties are for the first time required to communicate renewed (and ideally strengthened) commitments, as set out under the Paris deal. The outgoing Moroccan COP22 presidency and the incoming Fijian presidency have published a joint document outlining their vision for the meeting.

—**Who's coming?** According to the UNFCCC, close to 20 world leaders, including French President Emmanuel Macron and German Chancellor Angela Merkel, are slated to attend. Also expected to participate: Arnold Schwarzenegger, UN Secretary-General António Guterres, Paris Mayor Anne Hidalgo, California Governor Jerry Brown, UN Special Envoy Michael Bloomberg and several U.S. lawmakers, including Sens. Sheldon Whitehouse and Brian Schatz . EPA Administrator Scott Pruitt won't attend, though other agency staff will.

ICYMI: POLITICO Europe's Kalina Oroschakoff and Pro's Emily Holden's seven people to watch during the summit here.

WELCOME TO MONDAY! I'm your host Anthony Adragna, and Hunton & Williams' Joe Stanko was first to identify Laika as the first dog in space 60 years ago. For today: Which current senator is a former shoe store owner? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter @AnthonyAdragna, @Morning_Energy and @POLITICOPro.

NEXT STEP IN WOTUS UNWIND: EPA and the Army Corps of Engineers sent a proposed rule delaying the effective date of of the Waters of the U.S. Rule to the White House for review, a move designed to give the administration more time to design its own version, Pro's Eric Wolff reports . An agency spokeswoman said the action would "amend the effective date associated with the 2015 Clean Water Rule to give the agencies time to consider the two-step process proposing to rescind and revise the 2015 rule." The new proposed rule is separate from any rule intended to replace WOTUS. The agency declined to say when the new effective date would be or if it would make any other tweaks to the

regulation.

DEMOCRATS TALK DISASTER RELIEF PRIORITIES: Thirty members of the Senate Democratic caucus sent a letter Friday to OMB Director Mick Mulvaney outlining their priorities for a third disaster supplemental spending package expected to be requested by the administration later this month. "We can invest in technology, conservation and infrastructure that will mitigate further damage and make our communities more resilient," they wrote. Particular requests include "specific legislative language" concerning electric grid reconstruction in Puerto Rico and the U.S. Virgin Islands, as well as "further investments" in NOAA's weather infrastructure and forecasting capabilities.

High-profile visitors: House Transportation Chairman Bill Shuster and Ranking Member Peter DeFazio, Senate Energy Chairman Lisa Murkowski and Senate EPW Ranking Member Tom Carper were among those lawmakers visiting Puerto Rico this weekend, according to local media. Also along: Sen. Kamala Harris, Sen. Bill Cassidy, Sen. Al Franken and Rep. Garret Graves.

Let's reschedule: House Homeland Security ranking member Bennie Thompson wrote to Chairman Michael McCaul asking for the panel to reschedule a hearing on hurricane response and recovery that was suddenly shelved last week. Link to letter here.

QUITE THE PUBLIC PITCH: Tweeting at 2:49 a.m. in Hawaii, Trump asked Saudi Arabia to list shares of its biggest oil company on the New York Stock Exchange. "Would very much appreciate Saudi Arabia doing their IPO of Aramco with the New York Stock Exchange. Important to the United States!" he wrote . That comes as Saudi Arabia moves toward an offering of shares of its state-run oil company — the world's largest energy company — on international markets. He later told reporters aboard Air Force One: "They're not looking at it, but I want them to strongly consider the New York Stock Exchange or NASDAQ, or frankly anybody else located in this country, but those are the big two... I just spoke to the king a little while ago, and they will consider it."

ANOTHER INVESTIGATION ARRIVES: GAO agreed last week to probe whether Pruitt's appearance in an August video from National Cattlemen's Beef Association violated laws "on the use of appropriated funds for lobbying and publicity or propaganda purposes and the Antideficiency Act," Pro's Alex Guillén reports. House Democrats asked GAO to begin the investigation.

TEAM ETHANOL FIRES BACK: If Trump watches the ads on Fox & Friends, then he's getting an earful on the Renewable Fuels Standard these days. Starting today and through the Nov. 20, Fuels America, an umbrella group of ethanol producers and trade associations, will be running an ad reminding Trump of his promises to farmers and accusing oil refiners of demanding a taxpayer funded bailout. The refiners had the inverse ad up during Fox & Friends last week.

Ticking clock: EPA's final RFS rule went to the White House for review last week, and Pruitt has promised to release it by the statutory Nov. 30 deadline.

** **Presented by ExxonMobil:** We're collaborating with FuelCell Energy on a novel idea to use fuel cells to capture carbon at natural gas power plants, and in the process reduce emissions and increase electrical output. This technology could be a game changer in addressing the world's growing need for energy, while also reducing the impact on the environment. Learn more. **

HIT THE FLOOR! House lawmakers this week are expected to vote on the Hydropower Policy Modernization Act H.R. 3043 (115), which aims to speed the regulatory approval process for hydropower projects. And they're also expected to consider compromise legislation H.R. 2874 (115) overhauling the National Flood Insurance Program to impose new penalties on homeowners with repeat flooding, though with softer consequences than originally floated.

MEGA HOUSE ENERGY PACKAGE GETS MARKUP: The House Natural Resources Committee is expected Wednesday to mark up a broad new energy package H.R. 4239 (115) on Wednesday after its introduction on Friday, Pro's Ben Lefebvre reports . Among other provisions, the SECURE American Energy Act would would roll back Obama-era offshore drilling rules, create an offshore oil and gas revenue program for East Coast drilling and give more oil and gas permitting power to the states.

CLIMATE REPORT AT ODDS WITH TRUMP STANCE: Even as the White House stuck with its line the climate "has changed and is always changing," scientists from the 13 agencies who worked on the National Climate Assessment that concluded human activity is driving climate change said they saw no effort from the administration to meddle in their work, Pro's Emily Holden reports.

In response, Paul Bledsoe, who helped release the first national climate assessment while at the Clinton White House in 2000, emails his take: "The White House clearly judged that the firestorm over delaying or suppressing the report release, especially ahead of the Bonn climate talks, would be greater than from the findings themselves."

NEW TACTIC IN CLIMATE FIGHT: Speaking at the Vatican over the weekend, California Gov. Jerry Brown asked the Catholic Church to throw its weight behind his efforts to undermine Trump's climate rollbacks abroad, POLITICO California's David Siders reports. Brown urged religious establishments to help "awaken the world" to efforts to reduce greenhouse gas emissions and described the president's rejection of mainstream climate science as a "lie within a lie."

PRINCE OF WYOMING? Blackwater founder Erik Prince tells NBC News he's still "mulling" a challenge to Wyoming Sen. John Barrasso . "They have been in the wilderness for eight years, saying oh, if only we had a Republican president and now they have one," he said. "[They're] kind of out of excuses." One fact of note: Barrasso has received just 5.5 percent of his total $2.4 million haul of itemized individual contributions since the start of 2013 from Wyoming. There's no public polling on how the theoretical Barrasso v. Prince matchup would go.

MAIL CALL! TIME OUT! Two top Energy and Commerce Committee Democrats — Frank Pallone and Bobby Rush — sent a letter asking that a hearing slated for Tuesday on two bills making significant changes to the Energy Star programs and efficiency standards for ceiling fans be postponed until witnesses from EPA and DOE are available. "These bills would make substantial changes to the popular Energy Star Program and efficiency standards for ceiling fans, and should not be rushed through the Committee process without adequate input from the agencies tasked with executing these potential changes," they wrote to Chairman Greg Walden and Energy Subcommittee Chairman Fred Upton.

DEMOCRATS TO PRUITT: WITHDRAW SCIENCE ADVISER POLICY: Six senior House Democrats on the Science and Energy and Commerce committees asked Pruitt to withdraw his "biased, harmful" policy barring scientists who receive agency grants from serving on scientific advisory panels. "We advise you to follow [Federal Advisory Committee Act] regulations and policy in selecting qualified individuals to serve on EPA's science advisory committees just as previous administrations led by both parties have done. Anything less is a great disservice to the public interest," they wrote.

CALIFORNIA TALLIES WILDFIRE NEEDS: Golden State bigwigs, including Brown, Sens. Dianne Feinstein and Kamala Harris and 39 California House members, sent a letter to Trump Friday asking for $7.4 billion in federal funds to help the state recover from devastating wildfires. Letter link here.

MORE TIME NEEDED: A bicameral group of 81 Democrats, led by Sens. Maria Cantwell and Tom Udall and Reps. Jared Polis and Raúl Grijalva, asked Interior Secretary Ryan Zinke in a letter released Friday to extend the public comment period on its proposed repeal of BLM's methane waste rule from 30 to 90 days and to offer public hearings in the Western U.S. "The American people deserve to get a proper return on this natural gas resource, and any attempt to roll back this rule would represent a giveaway to industry polluters," they wrote.

THIS TIME IT'S PERSONAL: In light of U.S. Forest Service recommendations to potentially allow new uranium mining near the Grand Canyon, House Natural Resources Ranking Member Raúl Grijalva wrote Chairman Rob Bishop a letter to ask for a hearing on his bill H.R. 360 (115) to create a national monument in the area. Grijalva separately asked Agriculture Secretary Sonny Perdue for his rationale behind the recommendation and whether the public would have the opportunity to comment.

NEW PHASE OF KEYSTONE FIGHT: Volunteers with Bold Nebraska went door-to-door in the five Nebraska Public Service Commissioners home districts to raise concerns about the use of eminent domain and environmental concerns surrounding the Keystone XL pipeline. The Nebraska regulators expect to make a final decision on the pipeline permit by the end of the year.

ADS URGE NO DRILLING IN ANWR: The League of Conservation voters is targeting Republican Reps. Bruce Poliquin and Darrell Issa with ads (sample here) urging them not to

support opening ANWR to drilling. It's part of an ongoing $200,000 campaign.

NO REAL RUSH ON METHANE: EPA is now all-but-certain not to take any final action on the Obama-era 2016 methane regulation targeting emissions rule for new oil and gas wells until the next year, Pro's Alex Guillén reports in Energy Regulation Watch. That comes as the agency issued a notice last week floated the idea (offered by the American Petroleum Institute) to implement longer phase-in periods for key requirements of the rule rather than seeking an outright stay.

MOVER, SHAKER: Katie Waldman leaves her post as press secretary for Montana Sen. Steve Daines this Thursday for a "new opportunity."

QUICK HITS

— Donald Trump accused of obstructing satellite research into climate change. The Guardian.

— To make coal plants in southern Illinois competitive, Dynegy seeks lawmakers' help. St. Louis Post-Dispatch.

— In the Country Where Coal Is King, a Battle With the EU Looms. Bloomberg.

— Contractor wasted millions on unnecessary supplies for S.C.'s failed nuclear reactors. Post and Courier.

— Ohio city refuses to give up fight against gas pipeline. AP.

— Wyoming's quiet governor faces a brash Interior Secretary, with a bird in the balance. Casper Star-Tribune.

HAPPENING THIS WEEK

MONDAY

9:00 a.m. — "The New Eurasia Energy Landscape," German Marshall Fund, 1744 R Street NW

12:00 p.m. — House Ways and Means markup of GOP tax overhaul bill, 1100 Longworth

5:00 p.m. — House of Representatives Committee on Rules meeting on Hydropower Policy Modernization Act of 2017, H-313

TUESDAY

10:00 a.m. — House Energy and Commerce Committee hearing on energy bills, House Energy and Commerce Energy Subcommittee, Rayburn 2123

10:00 a.m. — "Examining Challenges in Puerto Rico's Recovery and the Role of the Financial Oversight and Management Board," House Natural Resources Committee, Longworth 1324

2:00 p.m. — "Legislative Hearing on Discussion Draft Legislation to Overhaul Federal Lands Energy Policy," House Natural Resources Energy and Mineral Resources Subcommittee, Longworth 1324

5:00 p.m. — "Re-energizing Nuclear Security," The Stimson Center, 1211 Connecticut Ave, NW, 8th Floor

WEDNESDAY

9:45 a.m. — Senate Commerce Committee holds vote on the Bridenstine nomination and others, Dirksen 106

10:00 a.m. — The House Science Committee's Energy Subcommittee and Environment Subcommittee hold a joint hearing on "Geoengineering: Innovation, Research, and Technology," Rayburn 2318

10:00 a.m. — Markup on Offshore-Onshore Energy Bill, 8 Additional Measures, House Natural Resources Committee, 1324 Longworth

10:00 a.m. — Senate Environment and Public Works Committee holds hearing on White and Wheeler nominations, Dirken 406

THURSDAY

9:15 a.m. — "Heavy-Duty Innovation: Energy, Automation & Tech in the Trucking Sector," Securing America's Future Energy, The Loft at 600 F, 600 F Street Northwest

9:30 a.m. — ITC hearing on countervailing and anti-dumping duty investigations into Argentine and Indonesian biodiesel, 500 E St., SW

9:30 a.m. — "What Lessons Can Be Learned from Power Africa?" Center for Strategic and International Studies, 1616 Rhode Island Avenue, NW

10:15 a.m. — "H.R.___, Farm Regulatory Certainty Act," House Energy and Commerce Environment Subcommittee, Rayburn 2322

11:00 a.m. — FERC Chairman Neil Chatterjee holds discussion with Platts reporters and other credentialed press, S&P Global Platts Washington office, 1200 G St., NW, Ste. 1000

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To view online:
https://www.politicopro.com/tipsheets/morning-energy/2017/11/what-to-watch-for-as-bonn-climate-talks-kick-off-025389

Stories from POLITICO Pro

State Dept's Shannon to lead U.S. delegation to climate talks Back

By Andrew Restuccia | 10/06/2017 07:18 PM EDT

Thomas Shannon, the State Department's undersecretary for political affairs, will lead the U.S. delegation to a major international climate change summit next month in Bonn, Germany, according to an administration official.

The news comes amid swirling rumors that Environmental Protection Agency Administrator Scott Pruitt was angling to lead the delegation, a move that would have made a skeptic of established climate science the face of the United States at the talks.

In previous years, the State Department's climate envoy led the U.S. delegation to the annual gathering. But the Trump administration has declined to fill that position.

The Bonn negotiations are aimed at implementing the 2015 Paris climate change agreement, from which President Donald Trump has said he intends to withdraw.

Neither the White House nor the State Department responded to requests for comment.

To view online click here.

Back

EPA, Army Corps seek delay to WOTUS start date Back

By Eric Wolff | 11/03/2017 05:48 PM EDT

The EPA and the Army Corps of Engineers sent to the White House a proposed rule on Friday delaying the effective date of of the Waters of the United States regulation to give the administration more time to craft a new version of rule, according to an agency spokeswoman.

EPA declined to specify the new effective date for the regulation, also called the Clean Water Rule. Nor would it say if the proposed rule would make other changes. The notice will appear on the OMB's website this morning.

"In order to provide regulatory certainty, EPA and the Department of the Army have sent a proposed rule to the Office of Management and Budget for interagency review that would amend the effective date associated with the 2015 Clean Water Rule to give the agencies time to consider the two-step process proposing to rescind and revise the 2015 rule," the spokeswoman said.

In June, EPA proposed a repeal of the rule, which aimed to clarify which waters fall under federal jurisdiction. The comment period closed in September with 190,000 comments filed.

The proposed rule is separate from any rule intended to replace WOTUS.

"The agency is also in the process of holding listening sessions with states, tribes and stakeholders as we work to develop a proposed step 2 rule that would revise the definition of 'waters of the United States,'" the spokeswoman said.

The current rule was stayed by the 6th Circuit in some states last year.

WHAT'S NEXT: OMB will send the proposed rule back to EPA for release and publication in the Federal Register.

To view online click here.

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Trump urges Saudi Arabia to list state oil company on N.Y. stock exchange Back

By POLITICO Staff | 11/04/2017 09:58 AM EDT

President Donald Trump on Saturday urged Saudi Arabia to list shares of its biggest oil company on the New York Stock Exchange.

"Would very much appreciate Saudi Arabia doing their IPO of Aramco with the New York Stock Exchange. Important to the United States!" Trump tweeted shortly before he was due to leave Hawaii on the first leg of a 13-day trip to Asia.

Saudi Arabia is preparing to sell shares of its state-run oil company — the world's largest energy company — on international markets.

Saudi Prince Mohammed has said the initial public offering of about $100 billion could value the company at some $2 trillion, according to Reuters.

In an on-the-record meeting with reporters aboard Air Force One later Saturday, Trump clarified: "Aramco is going public. It will be perhaps the biggest going public ever. It's the Saudi Arabian oil company and it will be just about the biggest ever.

"And I want them to consider, because right now they're not looking at it, because of litigation, risk and other risk, which is very sad, they're not looking at it, but I want them to strongly consider the New York Stock Exchange or NASDAQ, or frankly anybody else located in this country, but those are the big two

"I just spoke to the King a little while ago, and they will consider it."

The Trump administration has been working hard to strengthen ties with Saudi Arabia.

Trump in August described his relationship with King Salman of Saudi Arabia as "very great," calling him "a friend of mine."

Trump's son-in-law and senior adviser Jared Kushner made an unannounced visit to Saudi Arabia at the end of October — his third trip to the country this year. He was accompanied by deputy national security adviser Dina Powell and Middle East envoy Jason Greenblatt.

Kushner is tasked with leading the administration's efforts to achieve peace in the Middle East. The White House would not say who Kushner met with on his visit.

In August, Trump offered to personally mediate a dispute between Saudi Arabia, Qatar and other Arab countries centered around alleged support of terrorism.

"I was telling the emir before that if I can help between UAE and Saudi Arabia ... if I can help mediate between Qatar and, in particular, the UAE and Saudi Arabia, I would be willing to do so," he said at the time.

Trump visited Saudi Arabia with a large White House entourage in May, committing the United States to a deeper alliance with the "sacred land."

As a presidential candidate, Trump had previously accused the Muslim-majority kingdom of complicity in the World Trade Center attacks of Sept. 11, 2001.

To view online click here.

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GAO to review Pruitt appearance in beef group's anti-WOTUS video Back

By Alex Guillén | 11/03/2017 06:22 PM EDT

The Government Accountability Office will investigate EPA Administrator Scott Pruitt's

appearance in an industry group's video calling for public comments in favor of repealing the Waters of the U.S. rule, according to a letter released today by House Democrats.

Rep. Peter DeFazio (D-Ore.) asked GAO to investigate whether Pruitt's actions violated laws "on the use of appropriated funds for lobbying and publicity or propaganda purposes and the Antideficiency Act," according to the letter, dated. Oct. 31.

The video was posted on Aug. 16 by the National Cattlemen's Beef Association, a major critic of the Obama-era WOTUS regulation. It includes an interview in which Pruitt discusses his criticisms of the rule, along with text urging viewers to submit pre-written comments via the NCBA's website.

The video quickly drew criticisms from environmental groups. EPA at the time said Pruitt sought "engagement with all stakeholders, especially those who felt their voices were ignored by the previous Administration."

GAO previously dinged the Obama-era EPA in 2015 when it concluded the agency's use of a "Thunderclap" social media campaign promoting the WOTUS rule amounted to "covert propaganda."

WHAT'S NEXT: GAO's letter does not specify how long the inquiry will take.

To view online click here.

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House Natural Resources Committee unveils new energy bill Back

By Ben Lefebvre | 11/03/2017 03:34 PM EDT

House lawmakers today unveiled a new energy bill that would roll back Obama-era offshore drilling rules, create an offshore oil and gas revenue program for East Coast drilling and give more oil and gas permitting power to the states.

Majority Whip Steve Scalise (R-La.) introduced the bill, with House Natural Resource Committee Chairman Rep. Rob Bishop (R-Utah) and Texas Democratic Reps. Henry Cuellar and Vicente Gonzalez. The bill is expected to move through the committee next week and hit the House floor "in the near future," committee spokesman Parish Braden said.

Among the bill's provisions is a directive to create an offshore oil and gas revenue program for states along the Atlantic coast and Alaska, where the Interior Department is exploring opening more of the waters for offshore oil drilling.

The bill would also require Congress to approve any future removals of offshore acres from lease sales or establishment of new marine sanctuaries, an apparent response to the Obama

administration's last-minute removal of some Alaska and Atlantic waters from development.

Onshore, the bill would also allow states to oversee drilling plans on federal land within their borders.

The bill calls on Interior to hold a lease sale for wind power projects off the California coast within one year of the bill's passage. Interior would also conduct feasibility studies for wind lease sales off the coasts of Hawaii, Puerto Rico, the U.S. Virgin Islands and Guam, with results due in six months and possible sales within a year of the bill's passing.

WHAT'S NEXT: The House Natural Resources Committee expects to take up the bill next week.

To view online click here.

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New U.S. climate report at odds with Trump policy Back

By Emily Holden | 11/03/2017 05:10 PM EDT

A sweeping new U.S. government report concludes that humans have pushed global temperatures to the highest level seen by modern civilization, defying the Trump administration's pronouncements that climate change is a hoax or based on unsettled science.

The report, produced by 13 agencies as part of the congressionally required National Climate Assessment, reinforced years of research that shows human activity was the main reason temperatures have soared in the past century — and they are likely to keep climbing, boosting sea levels and threatening environmental disasters.

The report contradicts President Donald Trump's rejection of climate science, his plan to withdraw the U.S. from a global pact to fight climate change and his moves to unwind a slate of policies put in place under former President Barack Obama to reduce greenhouse gas emissions.

"Foremost, we conclude based on extensive evidence, that it is extremely likely that human activities are the dominant causes of global warming," said David Fahey, one of the lead authors. "For the warming over the last century, there is no convincing alternative explanation for the warming observed."

However, the White House stuck to its stance that climate "has changed and is always changing," and it pointed to portions of the report about the uncertainty around the Earth's sensitivity to greenhouse gas emissions.

White House spokesman Raj Shah said in a statement that the Trump administration "supports rigorous scientific analysis and debate," and the U.S. will continue to promote access to "affordable and reliable energy needed to grow economically," support technology and infrastructure that reduce emissions and "enable us to address future risks, including climate related risks."

Fahey, a scientist at the National Oceanic and Atmospheric Administration, told reporters on a conference call that he saw no attempt to influence the report by the Trump administration.

"I'm quite confident to say there's been no political interference in the scientific messages of this report," Fahey said.

Virginia Burkett, an Interior Department climate scientist and chair of the subcommittee on Global Change Research, emphasized that the report steered clear of recommending any policies to deal with climate change, saying it was limited to "strictly the science."

EPA Administrator Scott Pruitt, who said he did not believe that man-made emissions were the main cause of climate change and has moved to eliminate Obama's rules curbing carbon dioxide pollution from power plants, did not comment on the report.

The report was reviewed by scientists at the National Academies, released for public comment and screened by federal agencies under both the Obama and Trump administrations.

Juanita Constible, a special projects director at the Natural Resources Defense Council, said in a blog post the report confirms what many other previous studies had shown.

"It's essential that our federal leaders in Congress and the Executive Branch take seriously the dire conclusions from the painstaking and authoritative work in the [the report] — and more importantly, to urgently act on the findings," Constible wrote.

Bob Kopp, a climate scientist at Rutgers University and a report contributor, said the findings "reaffirmed that climate change is real, that humans are the dominant cause of warming, and that it is having an effect in the U.S. And those effects will grow more severe as long as we continue to emit carbon dioxide into the atmosphere."

Sea levels are expected to rise one to four feet by the end of the century and could swell by up to eight feet if emissions of greenhouse gases continue to rise, the Climate Science Special Report says.

Episodes of heavy rainfall are becoming more frequent and intense, and heat waves will become more common. Kopp said the report also shows the U.S. can expect more compounded extreme weather events, like the multiple hurricanes and wildfires that occurred this summer.

Annual global average temperatures are expected to rise by 2.5 degrees Fahrenheit by 2050. And although the growth in global carbon dioxide emissions is slowing, that trend is moving too slowly to keep temperatures below a dangerous tipping point of 3.6 degrees, or 2.0 degrees Celsius, above pre-industrial levels that would see more devastating impacts, the scientists found.

The report is the most comprehensive study since the last National Climate Assessment was published three years ago and the Intergovernmental Panel on Climate Change published its physical science report four years ago, Kopp said.

The U.S. Global Change Research Program, which coordinates the assessment, also released a draft of a second volume, which examines impacts on public health and the environment, and a draft of a report on changes in carbon levels.

The report about how climate change impacts Americans, which will undergo public comment, notes that "Americans are responding to rapid changes affecting their everyday lives and livelihoods," because of climate change.

Reservoir managers in the Colorado River Basin are adjusting to lower water levels, cities along the Gulf and Atlantic Coasts are seeing more flooding and storm surge from rising seas and heavier rains. Farms in the Midwest are adopting new crop management strategies, and communities in the western U.S. face more wildfires, it notes.

Some risks are already unavoidable while others could be reversed if greenhouse gas emissions decline, according to the report.

"Climate change puts many things Americans care about at risk, both now and in the future, and risks will intensify without action," the report says.

Eric Wolff contributed to this report.

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Jerry Brown's holy war on Donald Trump Back

By David Siders | 11/05/2017 07:12 AM EDT

VATICAN CITY — California has opened a new front in its war on Donald Trump — the Vatican, where Gov. Jerry Brown on Saturday sought to enlist the Catholic Church in his effort to undermine the president's climate policies abroad.

Brown, addressing a somber gathering of scientists, politicians and religious leaders here, rebuked Trump's rejection of mainstream climate science as a "lie within a lie," urging

religious establishments to help "awaken the world" to efforts to reduce greenhouse gas emissions.

The conspicuous repudiation of the president, in this center of Christendom on the eve of this week's international climate talks in Bonn, Germany, served to underscore Brown's role as one of the most prominent figures in the anti-Trump resistance. But it also highlighted California's deep antipathy toward the president on a global stage, allying the nation's most populous state with the international community against the backdrop of simmering tension between the White House and Pope Francis on climate change.

The pope, who did not appear at the conference, implicitly criticized the president in October for withdrawing from the Paris climate agreement, a decision that weighed heavily over the gathering.

Brown wasn't the only Californian emphasizing the American divide over global warming — or the state's determination to blaze its own trail on the issue. Rallying the same audience the previous day, California Democratic state Senate leader Kevin de León cast California's leaders — and not, explicitly, Washington's — as the "faithful stewards of God's creation."

Daniel Kammen, the University of California, Berkeley, professor who resigned noisily from his role as science envoy to the State Department in August, called Trump's election America's "existential crisis" and encouraged efforts to impeach him. And California Democratic Congressman Scott Peters said the relatively large proportion of U.S. Congress members who are Catholic is "one reason why Pope Francis' commitment to making environmental stewardship a priority of his papacy has such a potential to affect American climate policy."

The meeting, hosted by the Pontifical Academy of Sciences, preceded two weeks of climate talks in Bonn, where Brown and leaders of other Democratic states will seek to persuade the world's nations that wide swaths of the United States remain committed to the Paris agreement. Trump's withdrawal from the pact has cast a cloud over the upcoming gathering in Germany.

Still, California's Democratic governor minimized the significance of Trump's withdrawal from the accord, saying the decision helped focus public attention on the issue.

In comparison to worldwide efforts to address climate change, Brown said, "The Trump factor is very small, very small indeed."

Instead, Brown called for a fundamental transformation of people's way of life.

"It's not just a light rinse," Brown said. "We need a total, I might say brainwashing. We need to wash our brains out and see a very different kind of world."

Yet the Catholic Church's ability to move American public opinion on climate change remains in doubt. For one thing, relations between Trump and the spiritual leader of

America's more than 50 million Catholics remain cool after Pope Francis criticized Trump on issues ranging from climate change to immigration to refugee resettlement.

"The state of relations between the pope and Trump is not good and has never been good," longtime Vatican analyst Iacopo Scaramuzzi said in an email. "They are openly at odds on almost every point, from personal style of life to issues as climate change or migrations, from attitude towards China, Iran or Cuba to the concept of 'people' and 'populism.'"

While the pope's encyclical on the environment served as an inspiration for negotiations in Paris two years ago, many climate activists hoped lobbying by a popular religious figure might also nudge public opinion on climate among conservatives in the United States. There is little evidence that has happened.

Following the encyclical's release and the pope's 2015 U.S. tour, researchers at the Yale Project on Climate Change Communication found a short-term increase in the number of Americans who said climate change was a "moral," "social justice" or "poverty" issue. Soon after, however, they found public opinion returned to pre-encyclical levels.

"It was him coming to the Untied States, where he got 24-7, wall-to-wall coverage .... we saw a significant impact on public opinion," said Anthony Leiserowitz, director of the Yale Project on Climate Change Communication. "We also found that six months later, that effect had faded away."

Bob Inglis, a former Republican congressman whose progressive views on climate change contributed to his defeat in a South Carolina primary in 2010, said of the pope's encyclical, "I do acknowledge that it hasn't exactly — it hasn't yet turned into the barn burner that I had hoped that it might have been."

For conservatives, Francis may be an imperfect messenger, controversial for his relatively progressive views not only on climate, but on marriage and immigration. The pope and Trump traded jabs during the presidential campaign last year about Trump's proposal to build a wall along the U.S.-Mexico border, and Trump announced his withdrawal from the Paris climate agreement just days after a visit in which the pope handed him a copy of his encyclical, Laudato Si.

"I've got a Catholic friend in Congress who will go nameless, who told me that, and he was only halfway joking, that he thinks this pope is the anti-Christ," Inglis said. "There's a contingent of American Catholics who really think that the pope has left the reservation."

Inglis said he is optimistic for the long-term effect of the pope's advocacy on climate change, as the issue is taught in local parishes and other religious organizations. Climate activist Bill McKibben said the Catholic Church is "one of those bureaucracies through which things work their way kind of slowly," and he said its effects will likely percolate for years.

But Francis is also suffering in America from a problem that he shares with Trump: a

declining base. Though about 1 in 5 American adults are still affiliated with the Catholic Church, their numbers are in decline. A survey last month from the Pew Research Center found a majority of U.S. adults do not think it is necessary to believe in God to be moral. And regardless of religious affiliation, climate change has failed in recent elections to register a top level of concern for most voters.

Jim Nicholson, the former secretary of Veterans Affairs and Republican National Committee chairman who served as ambassador to the Holy See under George W. Bush, said Trump's relationship with the Vatican "got off to a ragged start" but has improved steadily and is now "pretty good." He cited Trump's nomination of Callista Gingrich, the wife of former House Speaker Newt Gingrich, to be ambassador to the Holy See.

"There are obvious differences on some subjects, like climate and immigration and the death penalty, always. But there's an awful lot of alignment in values — religious freedom and trafficking and life," he said.

Trump has said he is withdrawing from the Paris agreement because it puts the United States "at a very, very big economic disadvantage." But he heartened many religious leaders with his appointment of Neil Gorsuch to the U.S. Supreme Court and his opposition to funding for nongovernment organizations that perform abortions.

For many religious voters, said Mitch Hescox, president of the Evangelical Environmental Network, matters such as abortion and Supreme Court nominations carry more weight at the ballot box than climate change.

"The problem is that [climate change] is not on the radar screen of the reasons they vote yet at this point in time," Hescox said. "That's my job, is to help them to see why it is as important as being pro-life. Our No. 1 message is that climate change is a pro-life issue."

Climate experts stewed throughout the Vatican meeting over global climate projections they described as "horrific," "terrifying" and "depressing."

Brown, who left the Vatican for an 80-minute meeting with Arturo Sosa, the superior general of the Jesuits, said Saturday night that he is "going around enlisting allies" in the battle over climate change.

"What it all comes down to is we've got to act sooner, and we have to act more decisively, and that's not happening," Brown said. "There's real horror in store for us if we don't take action."

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RE: Facts from Paris Exit Speech

We Will Keep our Seat at the Table: The United States is a party to the 1992 Senate ratified treaty entitled the United Nations Convention on Climate Change (UNFCCC).[1]

Countries commitments (Nationally Determined Contributions or NDCs) are inherently mismatched[2]: Of the top 4 GHG emitters – China, India, Russia and the United States – the US is the only country that made a commitment to actually reduce emissions. The rest of the countries "commitments" are nothing more than a continuation of the status quo:

- China (the world's top emitter) commits to continue to increase emissions for the next 13 years (to 2030) while absorbing the jobs and investments regulatory costs carbon mandates send overseas.[3]
- India makes its commitments contingent on receiving $2.5 trillion from the developed world.[4]
- Russia commits to reduce net GHG 25 to 30% by 2030, but conveniently uses1990 as its base line, which allows the country to actually increase emissions (700 to 900 tons) in 2030.[5]
- United States committed to reducing GHG 26 to 28% by 2025[6] primarily relying on the Clean Power Plan, which would have:
    - cost $292 billion over 10 years (compliance only)[7]
    - resulted in double digit electricity price increases in 41 states,[8] and
    - sent 125,000 American jobs overseas.[9]

Lost U.S. Jobs and Competiveness: A recent report[10] assessing the overall impact of higher energy costs found over the next decade, United States involvement in the Paris Agreement would result in:

- An aggregate U.S. gross domestic product (GDP) loss of over $2.5 trillion.
- An overall annual average shortfall of nearly 400,000 American jobs, including an average manufacturing shortfall of over 200,000 jobs; and
- A total income loss of more than $30,000 for a family of four.

[1] UNFCCC, Status of Ratification of Convention, United States of America, Ratified (June 15, 1992) available at: http://unfccc.int/essential_background/convention/status_of_ratification/items/2631.php

[2] Stephen Eule on behalf of US Chamber of Commerce Testimony before the US Senate Environment and Public Works Committee (November 18, 2015) available at: https://www.epw.senate.gov/public/_cache/files/3f20f502-aca6-433e-afc5-22b57d9d051f/eule-testimony.pdf

[3] Enhanced Actions on Climate Change: China's Intended Nationally Determined Contributions (June 30, 2015) available at: http://www4.unfccc.int/Submissions/INDC/Published%20Documents/China/1/China's%20INDC%20-%20on%2030%20June%202015.pdf

[4] India's Intended Nationally Determined Contribution: Working Towards Climate Justice (October 1, 2015) available at: http://www4.unfccc.int/Submissions/INDC/Published%20Documents/India/1/INDIA%20INDC%20TO%20UNFCCC.pdf

[5] Russian Submission (April 1, 2015) available at: http://www4.unfccc.int/submissions/indc/Submission%20Pages/submissions.aspx

[6] United States INDC (March 31, 2015) available at: http://www4.unfccc.int/Submissions/INDC/Published%20Documents/United%20States%20of%20America/1/U.S.%20Cover%20Note%20INDC%20and%20Accompanying%20Information.pdf

[7] ACCCE, The Truth About the Clean Power Plan (November 7, 2015), available at: http://www.americaspower.org/nera/

[8] Id.

[9] American Action Forum, EPA's Greenhouse Gas Regulation Expects Coal Generation to Decline 48 Percent, (August 4, 2015) available at: https://www.americanactionforum.org/research/epas-greenhouse-gas-regulation-expects-coal-generation-to-decline-48-percen/

[10] Heritage Foundation, "To Save American Jobs, Leave the Paris Agreement Now," March 20, 2017, available at: http://www.heritage.org/jobs-and-labor/commentary/save-american-jobs-leave-the-paris-agreement-now

RE: Facts from Paris Exit Speech

The Paris Agreement has no meaningful impact on the climate:

- According to expert testimony, the Massachusetts Institute of Technology's Joint Program on the Science and Policy of Global Change reports that temperatures by 2100 would rise 3.9°C without INDCs and 3.7°C with them – a difference of 0.2 degrees Celsius. [11]
- Another report found that if all climate policies by the US, China, the EU and the rest of the world, implemented from the early 2000s to 2030 and sustained through the century would reduce global temperature rise about 0.17°C in 2100.[12]

Obama Paris Commitment bans new coal in U.S. while Other Countries continue to build:

- Obama's EPA put in place a regulation that required the use of non-existent technology on any new coal plants resulting in a de facto ban in the United States.[13]
- According to a 2015 report, 2,440 new coal plants are planned for construction.
    - China has 368 coal plants under construction and plans for over 800 more.[14]
- The Agreement allows India to double coal production by 2020,[15] while letting it get away with vastly underestimating the amount of pollution its new plants will produce

U.S. to front-load costs: The Green Climate Fund (GCF) is the key funding mechanism of the Paris Climate Agreement. The beneficiaries are small, developing nations. The fund is slated to grow to $100 billion by 2020.

- The Green Climate Fund currently has $10.13 billion contributed from 43 governments.[16]
- Obama Administration unlawfully committed $3 billion to the Green Climate Fund, which is approximately 30% of the initial funding.[17]
- Organisation for Economic Co-operation and Development (OECD) estimates that by 2020 $67 billion will be raised from public financing (private funding is expected to make up the rest).[18]
- China, India and Russia will contribute $0. [19]
    - India made its commitments contingent on receiving $2.5 trillion from the developed

[11] Oren Cass Testimony before the US Senate Environment and Public Works Committee (November 18, 2015) *see* page 3, footnote 11, available at: https://www.epw.senate.gov/public/_cache/files/6658e59c-1098-4820-8360-3d61a34985bf/cass-testimony.pdf
[12] Lomborg, Global Policy: Impact of Current Climate Proposals (November 9, 2015) available at: http://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12295/full
[13] US House Energy and Commerce Committee, Energy and Commerce Members Press EPA on Plans To End Affordable Coal-Fired Electricity (May 17, 2012) available at: https://energycommerce.house.gov/news-center/press-releases/energy-and-commerce-members-press-epa-plans-end-affordable-coal-fired
[14] Climate Action Tracker, The Coal Gap: planned coal-fired power plants inconsistent with 2˚C and threaten achievement of INDCs (December 1, 2015) available at: http://climateactiontracker.org/assets/publications/briefing_papers/CAT_Coal_Gap_Briefing_COP21.pdf
[15] Reuters, India says Paris climate deal won't affect plans to double coal output (December 14, 2015) available at: http://www.reuters.com/article/us-climatechange-summit-india-coal-idUSKBN0TX15F20151214
[16] Green Climate Fund, "Contributors," available at: http://www.greenclimate.fund/partners/contributors/resources-mobilized.
[17] *Id.*
[18] OECD "2020 Projections of Climate Finance Towards the USD 100 Billion Goal" (2016) available at: https://www.oecd.org/environment/cc/Projecting%20Climate%20Change%202020%20WEB.pdf
[19] Green Climate Fund, "Contributors," available at: http://www.greenclimate.fund/partners/contributors/resources-mobilized.

RE: Facts from Paris Exit Speech

world.[20]

High Energy Costs Harm Americans: Lower-income families are more vulnerable to energy costs as energy represents a larger portion of their household budgets.[21] A 2011 survey of low-income households for the National Energy Assistance Directors Association reported these responses to high energy bills:

- 24% went without food for at least one day
- 37% went without medical or dental care.
- 34% did not fill a prescription or took less than the full dose.
- 19% had someone become sick because their home was too cold.

US Best in the World at a Strong Economy and Healthy Environment:

- The U.S. has far exceeded international trends in air quality, with some of the lowest levels of average annual fine particulate matter and the largest reduction in carbon dioxide emissions in the world over the last decade.[22]
- From 2000 to 2014, per capita energy-related carbon dioxide emissions were down 18.1 percent on average nationally.[23]

[20] India's Intended Nationally Determined Contribution: Working Towards Climate Justice (October 1, 2015), *see* page 31, available at http://www4.unfccc.int/submissions/INDC/Published%20Documents/India/1/INDIA%20INDC%20TO%20UNFCCC.pdf
[21] Trisko, ACCCE: Energy Cost Impacts on American Families (2016) available at: http://www.americaspower.org/wp-content/uploads/2015/09/download-our-new-report.pdf
[22] AAPCA, Greatest Story Seldom Told (2017) available at: http://www.csg.org/aapca_site/news/GreatestStoryRelease.aspx
[23] *Id.*

RECOMMENDATIONS TO THE TRUMP TRANSITION TEAM INVESTIGATING ACTIONS TO TAKE AT THE ENVIRONMENTAL PROTECTION AGENCY (EPA)

A Report of The Right Climate Stuff Research Team

www.therightclimatestuff.com

Harold H. Doiron, Chairman

November 30, 2016

Houston, Texas

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Abstract

The TRCS goal is to determine the extent to which burning fossil fuels can cause harmful global warming. To determine if this is the root cause of the slight amount of observed global warming, we did a simple bounding analysis based on the physics of interaction of currently increasing atmospheric CO2 with heat radiating from the sun and the earth. In accordance with "The Scientific Method," we compared our results with the best available global temperature data measured since the beginning of widespread use of fossil fuels. Our analysis fits the measured Global Mean Surface Temperature (GMST) data for the past century and a half very well and we predict that CO2 emissions will continue to have no significant effect on global warming. In our report, our validated model predicts at most, only 1 deg C additional warming above current levels by 2100. This is in clear contrast to the poor, unvalidated models used for justification by the EPA to start unilateral CO2 emission controls that have a serious potential for wrecking the US economy without having any effect at all on climate.

The power and uniqueness of our approach is that the measured data reflects the results of the actions and interactions of the numerous climate forcing functions which have confounded attempts to solve this complex problem by use of computerized climate models for the last 37 years. We believe our analysis has the same quality of accuracy as many of the analyses we performed for manned space flights during the Apollo program.

TRCS Motto

"In God we trust, all others bring data"

It doesn't matter how beautiful your theory is, it doesn't matter how smart you are. If it doesn't agree with experiment, it's wrong.
Richard Feynman 1918-1988

RECOMMENDATIONS TO THE TRUMP TRANSITION TEAM INVESTIGATING ACTIONS TO TAKE AT THE ENVIRONMENTAL PROTECTION AGENCY (EPA)

Harold H Doiron

Chairman, The Right Climate Stuff Research Team

November 30, 2016

SUMMARY OF RECOMMENDATIONS

It is imperative that the scientific and threat risk arguments used to justify the EPA's CO2 Endangerment Finding and Social Cost of carbon (SCC) values, be reviewed by a scientific panel composed of members from broad scientific backgrounds and experience, and without conflicts of interest. Our research team of retired NASA Apollo Program veterans has such a broad base of scientific expertise and experience, without conflicts of interest, as we have reached our conclusions from an unfunded, all-volunteer, independent and objective study of these issues as documented in various reports and climate conference presentations posted on our website: www.TheRightClimateStuff.com

We recommend:

- NASA's Independent Program Assessment Office (IPAO) as a model federal government office experienced in vetting and selecting a broad spectrum of qualified review team members without conflicts of interest.
- Using NASA-STD-7009 as a guideline for model validation and configuration control requirements for models used for design or operational decisions involving human safety. The unilateral GHG emissions regulations the EPA has decreed and proposed have potentially far greater consequences for our nation than loss of manned spacecraft crewmembers, as devastating as that has been in past.
- Establishing a moratorium on CO2 emissions regulations for the next 5 years to allow for more focused research and independent scientific reviews to remove excessive uncertainty from current un-validated models used to compute SCC. Our independent assessment with validated models and CO2 emission scenarios constrained by actual data presented herein, proves we do not have a rapidly developing climate problem requiring swift corrective action in the face of very large uncertainty regarding whether a climate problem exists, or not.
- EPA use proven, disciplined processes successfully employed within other US government agencies, such as NASA and the US military, for defining and specifying problems and proving their root cause, before deciding through a rational decision process, the optimal approach for mitigating the specifically

defined problem. Despite irrational claims to the contrary, we do not have a global climate problem defined by GMST variations outside of the very stable normal variations of the last 10,000 years that had nothing to do with atmospheric CO2 variations. There is not one specific location on earth with a current climate deviation outside of normal variations of the last 10,000 years.

- Problems to be mitigated should be defined in terms of data indicating deviations outside of normal limits and should be specified in terms of What? Where? When? and How Much? are the deviations occurring. Only then will there be enough data available to determine true root cause(s) to guide optimal mitigation strategies.
- If a specific climate problem is identified and specified, evaluate a broader range of mitigation options than CO2 emissions regulations, as a possible solution option with lower cost and higher probability of success. For example, if sea level rise is a specific threat to a specific region, evaluate the cost, schedule and probable success of building a sea wall to mitigate the threat, as opposed to the probable cost and success of enforcing world-wide GHG emissions controls. SCC cannot be used intelligently as a universal metric for deciding mitigation options for more specifically defined problems than a vaguely proposed "global climate problem".
- Using the HadCRUT4 surface temperature anomaly database as the best available proxy for long-term Global Mean Surface Temperature (GMST) change for climate model validation, as it is the only thermometer record dating back as far as 1850. Also, for years since 1978 when better spatial global temperature coverage from satellites has been available, the HadCRUT4 data are in better agreement with NASA's UAH-LT and NOAA's RSS satellite temperature measurements than other available long term databases such as NASA's GISTEMP surface temperature database that begins in 1880.
- Forecasts of future GMST increase with rising atmospheric Greenhouse Gas (GHG) concentrations depend on two key variables:
    - GMST sensitivity to atmospheric GHG concentrations, typically discussed in climate science publications in terms of "climate sensitivity" metrics such as Equilibrium Climate Sensitivity (ECS) and Transient Climate Response (TCR). Neither of these two metrics can be verified with actual data as their official definitions depend on un-validated climate model simulations. We recommend a new metric for GMST forecasting that can be verified with available data, Transient Climate Sensitivity (TCS), similar in definition and value to TCR, but with much less uncertainty than the speculative ECS metric.
    - A forecast of atmospheric GHG and aerosol concentrations for the future

- Results of validated models, where these key forecasting variables are constrained by available data, are required for public policy decisions devoid of excessive speculation.

- We recommend:
  - The TRCS Climate Model presented herein as a validated climate model utilizing the data-derived TCS metric, as a model suitable for forecasting GMST change as a function of atmospheric CO2 concentration. TCS in this model is estimated to be 1.2C and is close to TCR values published in other recent peer reviewed published literature where the TCR estimates are based on actual climate data. However, our TRCS Climate Model uses an even less uncertain metric, TCS(1+β) = 1.8C for forecasting, where β is the somewhat uncertain historical fraction of CO2 radiative forcing contributed by the history of other atmospheric GHG and aerosol concentrations, that is by far the largest factor contributing to uncertainty in recent publications for TCR.
  - The TRCS RCP6.0 "Business As Usual" atmospheric GHG and aerosol concentration forecast presented herein as a world-wide fossil fuel reserves data-constrained baseline forecast, if world-wide GHG emissions controls are not implemented. The recent IPCC AR5 Report also published a similar RCP6.0 scenario that assumed only modest world-wide CO2 emission controls would ever be implemented. In contrast, our RCP6.0 emissions scenario assumes a market-driven transition to alternate fuels will be required as currently known world-wide reserves of fossil fuels are consumed.
- With respect to the recommended scientific review of the current Social Cost of Carbon (SCC) calculation methodology, we recommend for review the following specific issues identified from our independent, objective assessment of the SCC Monte Carlo calculation process:
  - Choice of ECS instead of the much less uncertain TCR metric that is much better suited for 300 year forecasts of GMST. ECS is a climate sensitivity metric based on highly speculative GMST temperature rise occurring more than 1000 years after atmospheric CO2 levels are suddenly doubled and artificially held at the doubled value. The TCR metric defines GMST rise from a doubling of CO2 concentration at a slowly rising 1 percent per year rate that takes 70 years for the doubling to occur. Our proposed TCS metric would be an even better choice, as it is verifiable with actual data and is defined by the actual slow, but variable

rise rate of CO2 concentration in our atmosphere, that will take about 230 years to double its 1850 value.

- SCC dependence on un-validated General Circulation Models (GCMs) as a basis for developing a highly speculative statistical uncertainty distribution for the ECS metric.
- Design of the highly speculative Baker-Roe statistical distribution for ECS that has 20 percent of samples higher than the United Nations (UN) Intergovernmental Panel on Climate Change (IPCC) recommended upper range of 4.5C for ECS and allows statistically sampled values as high as 10C. Arbitrarily deciding 20 percent of ECS samples should be higher than 4.5C, skews statistically "expected SCC" values produced from the Monte Carlo process to be arbitrarily high. This decision effectively offsets much of the relatively certain economic damage that could be attributed to imposing GHG emissions regulations. The technical publications used to justify the ECS statistical distribution are obsolete. Many recent publications since 2010, where ECS and TCR uncertainty ranges are constrained by climate data, provide much lower mean and upper range limits for ECS and TCR than older publications referenced in the SCC TSDs. Any statistical distribution used should be validated by actual analysis of climate data, not the speculation of un-validated GCMs as employed in the current SCC calculation process.
- The model validation concern issue for the critical step in how the various Integrated Assessment Models (IAMs) compute a forecast of 300 years of transient temperature rise from statistically sampled ECS values. The details of this important aspect of the SCC calculation process were not disclosed in the three Technical Support Documents (TSDs) describing the current SCC calculation process. These details are crucially important to the SCC results produced.
- Uniform sampling of the 5 selected emissions scenarios in the Monte Carlo process instead of other possible statistical distributions that would weigh more likely scenarios with higher probability. The statistical treatment of emission scenarios is just as important as statistical samples of ECS values for computing statistically expected values of SCC. Outlier scenarios such as the "MERGE-optimistic" scenario used in the current SCC calculation are not as probable as data-constrained scenarios such as our RCP6.0 scenario. The selection of emission scenarios and their statistical treatment needs careful, independent scientific review
- SCC values are computed in terms of $/Gt of GHG emissions, but GMST warming and damage is computed as a function of atmospheric GHG concentrations. The critically important model validation step for how

each IAM converts emissions to atmospheric GHG concentrations was not disclosed nor discussed in the SCC TSDs. Our independent study identified this as a critical aspect of future atmospheric CO2 concentration and GMST forecasting that needs to be constrained by available data.

- The computed damages and benefits from increasing GHG emissions cannot possibly be a validated aspect of the IAMs, as they all give widely differing results for SCC. Averaging widely varying results from models whose authors claim compute the same SCC metric, cannot provide a safe and reliable approach for serious public policy decisions with potentially severe unintended consequences. This practice can be compared to computing the structural strength of a commercial airplane wing with three different models that give widely varying results and then averaging the results to determine if the wing strength satisfies Federal Aviation Administration (FAA) requirements. Who would feel safe as a passenger on this airplane? By what rationale did the Dept. of Transportation (DoT) representatives to the Interagency Working Group (IWG) that developed the SCC computation process concur with this decision? Did they represent the position of the DoT's FAA that enjoys wide support and high public trust for ensuring safety of airline travel with FAA imposed regulations?
- The SCC TSDs did not provide adequate information on key SCC calculation process variables and statistics vs. time that could be used as "sanity checks" on reasonableness of the SCC values obtained from the process. For example, statistics on GMST vs. time and atmospheric CO2 concentrations vs. time that drive the SCC calculation process were not disclosed. Much of the current SCC damage results from projected sea level rise, but nothing was disclosed in SCC TSDs regarding model output statistics of sea level rise rates and whether they were reasonable within available data. A reasonable sanity check on only the statistics for ECS, computed GMST vs. time, and computed sea level rise aspects of the IAM computations, would be to:
    - Use the median of the IPCC AR5 atmospheric GHG and aerosol concentration history from 1850 through 2015 as the baseline atmospheric GHG history since 1850
    - Start the GMST prediction process in 1850 using the AR5 estimate for the actual past atmospheric GHG history and compare the IAM statistics to GMST and sea level rise trends since 1850.
- Review the issues related to compliance with OMB Circular A-4 guidance on use of domestic vs. global damage and benefits from domestic CO2 emissions

- Review issues related to non-compliance with OMB guidance on use of discount rates for the published SCC values.

1.0 INTRODUCTION

The Right Climate Stuff (TRCS) Research Team is an all-volunteer research group comprised primarily of NASA retiree veterans of Apollo, Skylab, Space Shuttle and International Space Station manned space programs. We have been joined by other experienced research leaders from US industry and universities, in our goal to determine to what extent unrestricted emissions of Greenhouse Gases (GHG) can warm the Earth's surface. We have more than 30 members on our research team. Our conclusions from 4.5 years of independent, unfunded, objective research and independent scientific investigation, are posted on our website, www.TheRightClimateStuff.com, in various reports and video presentations our members have made at international climate conferences and university lectures.

As most of our research team are former Federal Government employees in NASA's manned space programs, we are intimately familiar with how scientific and engineering research and development, and related government decision-making, where human safety was involved, was carried out by responsible and accountable NASA government officials during our careers. We have unique experience in scientific investigations supporting root cause analyses and rational decision-making, to address threats to astronaut safety under limited time constraints, and where poor decisions on complex technical issues with incomplete understanding and large uncertainties, can have severe un-intended consequences, including loss of spacecraft and crews. We believe our research team of highly trained and experienced scientists and engineers, represents a national asset that should be utilized by our nation's leaders to develop more rational responses to the perceived threat from rising atmospheric GHG concentrations.

Although we are not climate scientists per se, our research team has internationally recognized experts in chemistry, physics, geology, geo-physics, engineering, applied mathematics and computer simulation of complex phenomena. We had no difficulty reading, understanding and discussing strength and weaknesses of climate science publications that apply basic knowledge from our competency fields of science to the climate change issue. While the theorized effects of atmospheric GHG concentration are relatively simple to model, we observe that the other natural processes affecting climate change are not well-understood and are questionably accounted for in current General Circulation Models (GCM) that have been the primary modeling tool in climate science. Most of the federally funded climate research has been focused on the GHG concern, while clearly the changing climate is affected by many parameters whose effects are not well-understood nor completely modeled in GCMs. We consider it scientifically foolish to try to control the climate with one minor parameter, GHG

emissions, when so much atmospheric GHG and aerosol concentration variations are due to natural processes and many more important parameters affecting our climate cannot be controlled. In aerospace engineering practice, this ill-advised approach is known as trying to control a system with very poor control authority. It is rarely ever successful.

Our review of the scientific work supporting the Environmental Protection Agency's (EPA) Endangerment Finding and SCC valuation, used to justify the cost/benefit assessment of GHG emissions regulations, finds they are seriously lacking in scientific reasoning consistent with The Scientific Method. As former Federal Government employees with responsibility for scientific and economic assessments for critical decisions involving human safety, we are extremely disturbed by an apparent lack of scientific rigor and integrity in both the EPA Endangerment Finding and SCC calculation methodology. Given the potentially severe impacts to our nation's economy and harm to US citizens from proposed EPA GHG emissions regulations, we believe it is imperative that the scientific and threat risk arguments used to justify the Endangerment Finding and SCC values, be reviewed by a scientific panel composed of members from broad scientific backgrounds and experience, and without conflicts of interest.

It appears to us that the current EPA prefers to let lawsuits against it from companies and states play out in the US court system, to adjudicate the scientific and economic issues involved. The US Congress seems to be under the impression that it has sufficient laws and rules in place to force agencies such as the EPA, to resolve these issues internally using independent, objective peer-review teams. Our research team members have often participated in such independent scientific reviews on either side of many issues NASA regularly submitted to independent "non-advocacy" reviews. Based on that experience it is our opinion that neither the independent peer reviews conducted by the Interagency Working Group (IWG) that developed the SCC computation methodology, nor the EPA have used truly objective independent peer review teams with no conflicts of interest, to review and concur with their scientific conclusions. We recommend NASA's Independent Program Assessment Office (IPAO) as a model federal government office experienced in vetting and selecting a broad spectrum of qualified review team members without conflicts of interest.

https://www.nasa.gov/sites/default/files/files/IPAO_Brochure-508-1_Tagged.pdf

We also recommend such independent review teams be convened to review climate research findings at NASA and NOAA, since the technical publications from federal employees in these agencies are often used by the EPA as scientific justification for its decisions. NASA has informed NASA manned space program retirees who expressed concern about public announcements regarding conclusions of climate research within NASA, that NASA as an agency does not take an official position on climate research published by its employees…….

http://www.huffingtonpost.com/2012/04/11/nasa-global -warming-letter-astronauts_n_1418017.html

We do not believe NASA is managing its climate research nor vetting its technical publications used in EPA decision-making, with the same level of independent, "non-advocacy" assessment scrutiny, used for decisions in its manned and major un-manned space programs. This report will summarize the independent research and conclusions our research team achieved after 4.5 years of independent, objective study as suggested by the official NASA response to our initial NASA retiree letter discussed at the above link.

2.0 INDEPENDENT TRCS CLIMATE MODEL

2.1 Independent TRCS Model Provides Baseline for Critique of SCC

The opinions and recommendations expressed in this report are based in part on results of our own simple TRCS Climate Model, rigorously derived from Conservation of Energy principles and basic radiation heat transfer physics used in our manned space program to compute internal and external touch temperatures of orbiting spacecraft. Like the earth, the transient thermal environments of orbiting spacecraft are determined from incoming radiation heat transfer from the Sun balanced by energy radiated from the spacecraft surface to deep space and heat stored within the spacecraft. The spacecraft surface temperature increases until the radiation to deep space can balance the incoming and stored energy transfer rates. Also, like the earth, we often rotate spacecraft in a "bar-b-que mode" to control internal and external temperatures. We validated our model with 165 years of atmospheric GHG, aerosol and Global Mean Surface Temperature (GMST) data using System Identification methods analogous to methods we use for spacecraft orbit determination.

2.2 TRCS Climate Model and Model Validation

Our very simple model, that conservatively assumes all the observed long-term increase in GMST is caused by rising atmospheric GHG concentrations, is given by the algebraic equation that predicts yearly average GMST, GMST(year) as a function of yearly average CO2 concentration, CO2(year),

$$GMST(year) = GMST(1850) + TCS(1+\beta)LOG[CO2(year)/CO2(1850)]/LOG[2] + 0.021(year-1850)/155 \quad (1)$$

The derivation of this equation is presented in Appendix A. The last term accounts for the warming due to Total Solar Insolation (TSI) increase from 1850 to 2005 and becomes a constant 0.021C for years after 2005. This provides some conservatism in the equation for projections after 2005, as TSI rise ended in about 2005 and is forecast to decrease for the next 200 years or more. For an even simpler equation, this last term can be ignored as it accounts for only 0.021C of the GMST rise since 1850. The model was validated by determining the constant TCS(1+β) that provided a best fit of equation (1) to the HadCRUT4 temperature anomaly data set for which yearly average values

are published for 1850 and subsequent years. The changes in this global earth surface temperature anomaly provides an approximation to the actual GMST change over time.

2.2.1 Transient Climate Sensitivity (TCS) and Transient Climate Response (TCR)

We defined Transient Climate Sensitivity (TCS) in equation (1) to be the GMST increase that will occur due to a doubling of the atmospheric CO2 concentration by the actual concentration rise history from 1850 until the year when CO2(year) is twice its 1850 value. TCS is a verifiable metric and includes effects of all feedbacks on transient GMST response to rising atmospheric CO2 levels. TCS is similar in value and definition to the United Nations (UN) Intergovernmental Panel on Climate Change (IPCC) definition of Transient Climate Response (TCR) discussed in many climate science publications. However, the IPCC defines TCR as the GMST temperature change caused by a hypothetical atmospheric CO2 concentration rise rate of 1 percent per year that can only be computed with climate simulation models and that cannot be directly verified with actual data. While CO2 concentration doubles in about 70 years in the TCR definition, we estimate that it will take about 230 years for atmospheric CO2 to double its 1850 value in the verifiable TCS definition.

Our analysis of the actual CO2 rise rate history and the hypothetical 1 percent per year rise rate used to define TCR, concluded they were both sufficiently slow rise rates that there should be minimal dynamic overshoot in the transient temperature response; and therefore, both TCS and TCR should have the same value. This slow forcing function application argument to the earth's climate system dynamics is analogous to the case of a simple spring-mass-damper dynamic system where a slowly increasing force is applied to the mass to double its original applied force, and the final equilibrium static displacement of the mass is measured to determine the spring constant, K. If the factor of 2 force change is applied at an even slower rate of increase, the negligible dynamic overshoot of the equilibrium displacement counteracted by system damping, is even smaller, and the final static equilibrium displacement of the mass is observed to be the same, and yields the same value for the spring constant, K, where

K = (change in applied force)/(change in mass displacement)

2.2.2 Atmospheric CO2 Concentration Data Used for TRCS Model Validation

We used National Oceanic and Atmospheric Administration (NOAA) published data from East Antarctica Law Dome ice core samples to determine CO2(1850) = 284.7 ppm in equation (1). The ice core data were also used to determine CO2(year) for subsequent years until 1959 when more accurate NOAA Mauna Loa Hawaii atmospheric CO2 concentration measurements began. The 20 overlapping years from 1959 to 1978 where both the ice core and Mauna Loa data are available and are in good agreement, provides confidence in the use of the smoothed ice core CO2 data for the 1850-1958 period. The logarithmic terms in equation (1) model the increasing radiative forcing of the increasing atmospheric CO2 concentration over time. The parameter β is the somewhat uncertain net fraction of CO2 radiative forcing contributed

by aerosols and effects of GHG other than CO2. In general, when data are available, β can be treated as a variable with different yearly average values denoted by β(year). However, in equation (1) we have used β to represent a constant of somewhat uncertain value representing the average radiative forcing effects of GHG and aerosols relative to CO2 over the time it will take CO2 to double its 1850 value. The uncertainty in β however, does not affect the uncertainty in the constant TCS(1+β) determined from GMST data.

Note that equation (1) is scaled such that when CO2(year) doubles its CO2(1850) value, the logarithmic expression evaluates to 1.0 and the total GMST change since 1850 will be equal to TCS(1+β). This states that the total GMST change measured is due to the CO2 concentration doubling (The TCS contribution) plus the net effects of increased concentrations of other GHG and aerosols since 1850.

2.2.3 TCR Uncertainty vs. TCS(1+β) Uncertainty

As discussed in Lewis and Curry (2014), the TCR value (which they tacitly use to mean our definition of TCS) has uncertainty due primarily to the uncertainty in the history of atmospheric aerosol concentration and the large uncertainty regarding warming and cooling effects of atmospheric aerosols. However, TCS(1+β) has much less uncertainty than TCS = TCR, and is due only to the uncertainty in the GMST change since 1850 and uncertainty in CO2(1850) = 284.7 ppm. We don't need to quibble about uncertainty related to whether the Mauna Loa yearly average CO2 concentration is an accurate representation of the global average CO2 concentration, as we can just choose to make the TCS definition in terms of the Mauna Loa published data.

2.2.4 TRCS RCP6.0 "Business As Usual" GHG Emissions Scenario

The green curve in Figure 1.0 is the atmospheric CO2 concentration history from 1850-2015 together with our projection for 2016 to 2100 read from the scale on the right hand vertical axis. Our GHG emissions scenario on which this projection is based has a Representative Concentration Pathway (RCP) rating of RCP6.0, meaning its radiative forcing in 2100 will be 6.0 W/m^2 due to all atmospheric GHG and aerosol concentration increases since 1750.

This RCP6.0 emissions scenario is similar to the IPCC AR5 Report RCP6.0 scenario that assumes some modest world-wide CO2 emissions controls will be implemented later in this century. In contrast, our RCP6.0 "business as usual" scenario with no effective world-wide CO2 emission controls enforced, assumes a gradual market-driven transition to non-CO2 emitting energy sources will be required beginning about 2050, to supply growing world-wide energy demand, as costs to recover these rapidly depleting fossil fuel reserves increase over time. The scenario uses US Energy Information Administration (EIA) data on current world-wide reserves of coal, oil and natural gas, that when recovered and burned, will result in a maximum atmospheric CO2 concentration of 600 ppm in about 2130. The RCP6.0 scenario projects 585 ppm CO2

in 2100 and assumes that other atmospheric GHG and aerosols will continue to contribute their net average historical value of 50 percent of the more accurately known CO2 concentration radiative forcing. The 50 percent historical value, represented by β = 0.5, was determined from analysis of IPCC AR5 Report data on radiative forcing of atmospheric aerosols and GHG other than CO2 during the 1750 to 2010 time period.

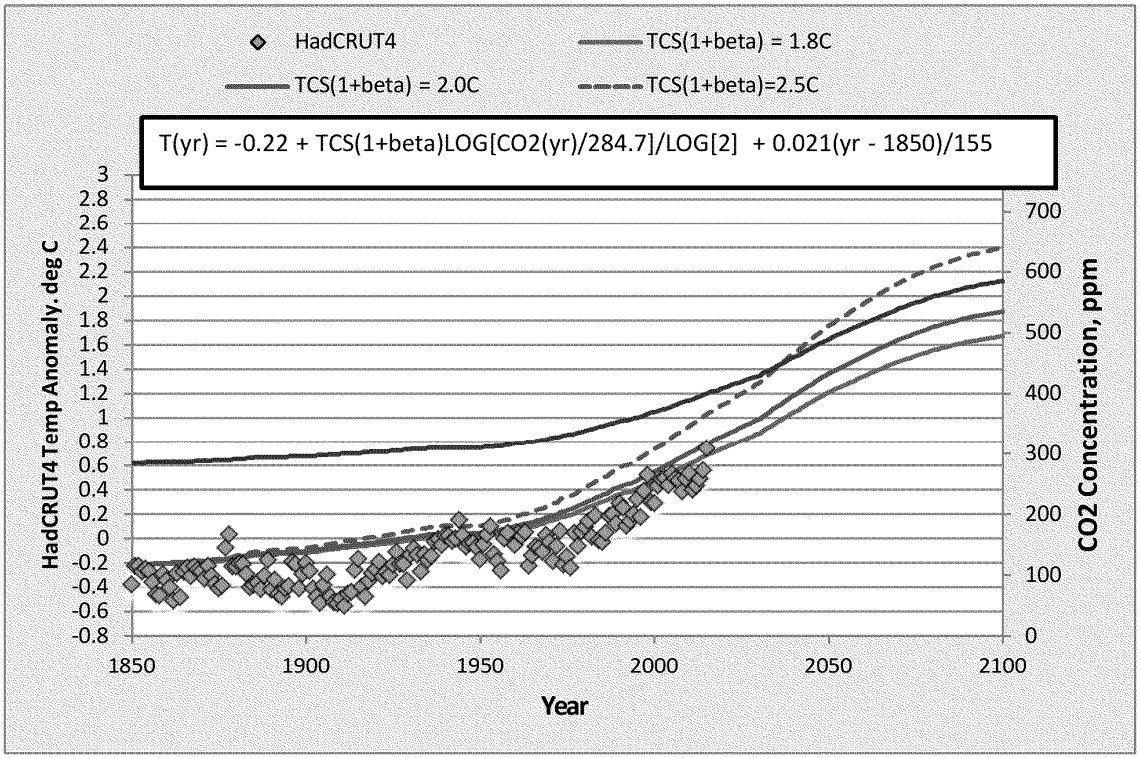

Figure 1.0 TRCS Climate Model results compared to HadCRUT4 temperature anomaly

2.2.5 Determining A Best Data Fit Value for TCS(1+β) = 1.8C

Since CO2 concentration has already increased its 1850 value by more than 40 percent, it is possible to estimate an accurate value for the constant TCS(1+β) by determining its value that provides a best fit of equation (1) to the actual long-term GMST change since 1850. This is demonstrated in Figure 1.0 where "trajectories" of GMST(year) are computed for different values of TCS(1+β) and compared to actual temperature data. We used the HadCRUT4 surface temperature anomaly database as a proxy for GMST temperature, as it is the only thermometer record dating back as far as 1850. Also, for years since 1978 when better spatial global temperature coverage from satellites has been available, the HadCRUT4 data are in better agreement with NASA's UAH-LT and NOAA's RSS satellite temperature measurements than other

available long term databases such as NASA's GISTEMP surface temperature database that begins in 1880.

As observed in Figure 1.0, the HadCRUT4 temperature anomaly for yearly average values has a data scatter of about 0.4 K from min to max over any 5-year period. This data scatter is about half of the long-term temperature increase of about 0.8C from 1850 through 2014. Choice of an appropriate baseline value for the HadCRUT4 temperature anomaly in 1850 can have a significant effect on the value of TCS(1+β) that will cause eq. (1) to provide a best fit to the long-term HadCRUT4 temperature rise trend.

After analysis of the entire HadCRUT4 dataset, it was observed that the maxima of the HadCRUT4 data scatter in the 1850-1900 period, except for the "outlier" data points for 1877 and 1878, provided a sharp baseline from which to measure long-term temperature change. The HadCRUT4 outlier data points for 1877 and 1878 were determined to be associated with a Super El Nino weather event, not due to GHG related temperature rise and were ignored in establishing the baseline. Analysis of HadCRUT4 data points for years with recent Super El Nino events of 1998 and 2015 also exhibited a narrow separation from maxima of HadCRUT4 data points of neighboring years. Therefore, it was reasoned that a fit of equation (1) to the narrow path between maxima of the HadCRUT4 data scatter and HadCRUT4 data points of Super El Nino years would provide the most accurate interpretation of the data set for long-term temperature rise that could be associated with monotonically rising atmospheric GHG concentrations.

The blue curve in Figure 1.0, with TCS(1+β) = 1.8C, provides this type of "best fit" to the data with the initial value for GMST(1850) selected to be -0.22C. This choice for GMST(1850) caused all curves to tightly bound the maxima of the HadCRUT4 data scatter in the 1850 – 1900 time period except for the Super El Nino weather event years of 1877 and 1878. The blue curve continues to "thread the needle" between upper levels of HadCRUT4 data scatter and the outlier data points of Super El Nino years, including the more well-known recent Super El Nino years of 1998 and 2015. Based on the 10 months through October 2016 for HadCRUT4 data, also affected by the most recent Super El Nino event, the HadCRUT4 data point for 2016 will be close to the 2015 value and will also lie close to or below this blue curve.

This blue curve has accurately followed the long-term GMST rise that could be attributed to rising atmospheric GHG concentration over the last 165 years, and in our opinion, provides a high-confidence determination for GMST sensitivity to atmospheric GHG concentration changes. This bounding approach in fitting the data points helps reduce the uncertainty in TCS(1+β) created by the choice of beginning and ending periods for averaging a number of HadCRUT4 yearly data points to determine long term GMST rise (as examined in Lewis and Curry (2014) for different beginning and ending periods) or that would be obtained by a Least-Squared-Error (LSE) fit of all data points that are clearly affected by periodic variations in the HadCRUT4 data. Because of the large data scatter in HadCRUT4 data points, this type of "bounding" data fit is easier to

recognize as an accurate long term fit of the warmest years of HadCRUT4 data. Selection of the constant TCS(1+β) = 1.8C that provides an accurate "best fit" to the HadCRUT4 data provides the validation of the TRCS Climate Model presented in eq. (1). The equation was rigorously derived from first principles and agrees with the available 165 years of data on atmospheric CO2 concentrations and earth surface temperature. Therefore, we claim this is a validated climate model suitable for forecasting GMST change as a function of atmospheric CO2 concentration and the type of model that should be used to support public policy decisions.

The future projection of the blue curve also provides a similar temperature bounding curve for the projected CO2(year) trajectory provided by the green curve in Figure 1.0. The curves with higher values of TCS(1+β) can be detected to provide too much CO2 sensitivity, as they begin to rise above the HadCRUT4 data of the most recent years when atmospheric CO2 concentrations increased to recent higher levels.

This behavior for recent years points out another important observation in Figure 1.0. As atmospheric CO2 concentrations continue to increase over the next 5 to 10 years, the true sensitivity of GMST increase to atmospheric CO2 concentration increase, as measured by metrics such as TCR and TCS(1+β), will become more readily apparent in plots like this, will help remove excessive uncertainty in current peer-reviewed literature estimates for these sensitivity parameters, and will allow scientists to agree on a more reasonable uncertainty range to be used in policy decisions. The excessive uncertainty in CO2 climate sensitivity employed in current SCC calculations has driven the computed statistical SCC "expected values" to unreasonably large values that have much more to do with politically driven speculation than rigorous science.

2.3 Forecasting GMST Change AND SCC with the TRCS Climate Model

The somewhat conservative bound for GHG-driven warming for the remainder of this century, provided by the blue curve of Figure 1.0, projects GMST will not increase more than 1C above recent levels by 2100. Our RCP6.0 emissions scenario on which this projection is based, is constrained by current official US Government EIA data regarding currently estimated world-wide reserves of coal, oil and natural gas. Coal is by far the major driver of CO2 emissions in this scenario and EIA world-wide coal reserves estimates vary by a factor of 3 from low to high estimates. We have used the highest of these estimates to construct the RCP6.0 scenario. However, current trends in Europe have coal mines being closed with less than 20 percent of their reserves included in the high EIA world-wide reserves estimates ever being recovered. Lending even more confidence to realism of this RCP6.0 scenario, are two independent 25 year forecasts for world-wide energy consumption published in 2015 by Exxon Mobil and BP. We converted their similar estimates for growth in fossil fuel consumption over the next 25 years to future yearly increases in atmospheric CO2 concentration and obtained the same 460 ppm CO2 concentration for 2040 predicted by this RCP6.0 scenario. We

believe that energy consumption forecasts by such large energy companies with large capital spending decisions based on these forecasts, are much more likely to be accurate than the speculative emissions scenarios developed by international academics in the peer-reviewed literature that are unconstrained by actual data on world-wide fossil fuel reserves.

The validated TRCS Climate Model and RCP6.0 emissions scenario provide a maximum 1C temperature rise above current levels by 2100. According to the 2010 SCC TSD Figure 1A reproduced here as Figure 2.0, the effects of a 1C temperature increase by 2100 as computed by the current Integrated Assessment Models, is either beneficial or neutral.

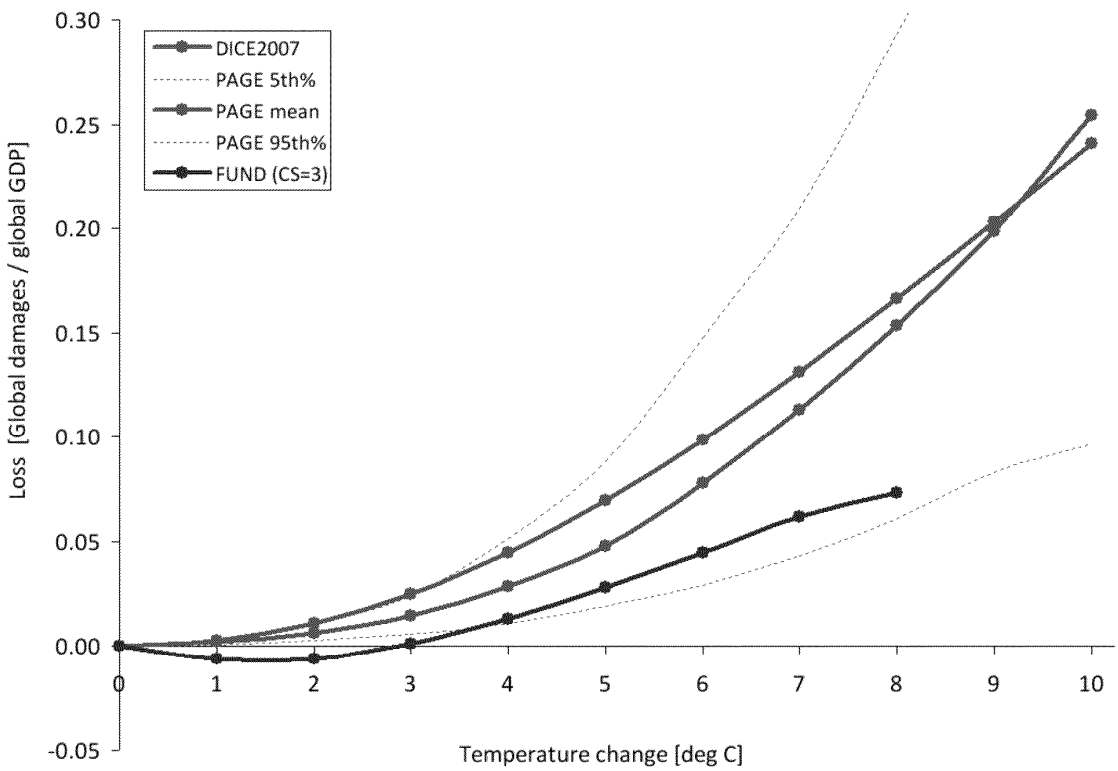

Figure 2.0 Effects of temperature change in 2100 on as computed by IAMs

These results for temperature rise forecast based on the validated TRCS Climate Model and RCP6.0 emissions scenario, constrained by official US Government EIA data, contrast with the much higher and speculative values for SCC the EPA has used to justify its CO2 emissions regulations. These results clearly demonstrate that the SCC calculation process needs an in-depth review and critique by a scientific review board

with members selected from broad fields of science and mathematics and without conflicts of interest.

2.4 ESTIMATING TCS FROM TCS(1+β) = 1.8C

Using TCS(1+β) = 1.8C as determined from Figure 1.0 and an average historical value for β = 0.5 determined from IPCC AR5 Report data, TCS is estimated to be 1.2C and is close to TCR values published in other recent peer reviewed published literature where the TCR estimates are based on actual climate data, not climate simulation models. See for example, Ring et. al. (2012), Otto et. al. (2013) and Lewis and Curry (2014). Even though this TCS estimate has considerable uncertainty because of the uncertainty in β, we only compute it to compare with values published in the peer-reviewed literature. As shown in Figure 1.0, with the assumption that β will continue to hold to its historical value of the last 165 years (whatever that somewhat uncertain value actually is), an accurate GMST projection to 2100 and beyond for any proposed CO2(year) projection can be made using the constant, TCS(1+β) = 1.8C, that does not have the uncertainty attached to β.

Based on the results of Figure 1.0 where a value of TCS(1+β) = 2.0C, only 11.1 percent higher than 1.8C, causes equation (1) to begin to noticeably deviate from actual temperature data, we do not believe use of extremely large uncertainty in earth surface temperature sensitivity to atmospheric GHG concentration, as employed in the Interagency Working Group (IWG) SCC calculations, is scientifically justified. This will be discussed in greater detail in the following section of this report.

While the long-term GMST projections to 2100 and beyond are impossible to make precisely, the key conclusion from a conservative bounding approach employed in our analysis, is that we do not have a rapidly developing climate problem requiring swift corrective action. We have time to study this issue in a more disciplined manner and to develop a true broad-based scientific position with minimal uncertainty, regarding GMST sensitivity to atmospheric GHG concentrations, before trying to take risky and ineffective unilateral GHG emission control actions based on a far-too-incomplete scientific and economic impact understanding of the issue. As mentioned above, the next 5 to 10 years of atmospheric GHG and GMST data should allow the US scientific community to agree on a much-needed reduction in uncertainty regarding GMST sensitivity to atmospheric GHG concentrations for use in public policy decisions regarding GHG emissions.

3.0 SCIENTIFIC CRITIQUE OF THE SCC CALCULATION METHODOLOGY

The current Monte Carlo calculation process for SCC as described by the three Technical Support Documents (TSD) the IWG has published to document the process, is overly complex, highly speculative, and hides from critical review key important variables that could be used to assess the reasonableness of the results. There are numerous serious issues with lack of model validation required for use in public policy decisions for the various models used in the SCC calculation.

3.1 Un-validated Integrated Assessment Models

First, the Integrated Assessment Models (IAMs) used to calculate benefits and damages of CO2 emissions are clearly not validated, as they yield widely differing SCC values for the same assumed GMST vs. time and atmospheric GHG vs. time histories used to drive all IAMs as shown in Figure 2.0. The IWG deals with this issue by averaging the different SCC calculations of the three different IAMs and using the averaged result to guide policy decisions. Averaging widely varying results from models whose authors claim compute the same SCC metric, cannot provide a safe and reliable approach for serious public policy decisions with potentially severe unintended consequences. This practice can be compared to computing the structural strength of a commercial airplane wing with three different models that give widely varying results and then averaging the results to determine if the wing strength satisfies Federal Aviation Administration (FAA) wing strength requirements. Who would feel safe as a passenger on this airplane? By what rationale did the Dept. of Transportation (DoT) representatives to the Interagency Working Group (IWG) that developed the SCC computation process concur with this decision? Did they represent the position of the DoT's FAA that the public trusts for ensuring safety of airline travel with FAA imposed regulations? We have no further comment on the lack of rigor on the benefit and damage calculation aspects of the IAMs and will leave this critique to others who we know have studied these issues in more detail.

3.2 Un-Validated GCMs Used to Calculate ECS Uncertainty

We have major concerns regarding the "front end" assumptions and statistical calculations in the IAMs that compute GMST vs. time for 300 years into the future. In each IAM, the benefits and damages are computed for 10,000 different trajectories of GMST vs. year and GHG emissions vs. year for 300 years into the future. Each of these 10,000 samples of GMST vs. time trajectories are determined from a random sample of key parameters from two different statistical distributions. The first key statistically treated parameter is Equilibrium Climate Sensitivity (ECS) that is a CO2 climate sensitivity metric defined by the UN IPCC as the GMST temperature increase that would eventually occur when a new climate equilibrium is achieved after a sudden doubling of atmospheric CO2 concentration. Not widely advertised to policy decision makers is that the idealized equilibrium state would not be achieved in more than 1000 years after CO2 is doubled. The selection of a statistically treated ECS parameter only

provides an endpoint estimate for total GMST rise more than 1000 years into the future. Because of highly speculative processes modeled in climate simulation models to compute ECS after 1000 years or more of climate simulation, ECS has much more uncertainty than TCR or TCS(1+β) and selection of this metric for the SCC calculation process injects unnecessary uncertainty into the SCC calculation process. The TCR metric is scientifically more appropriate for use in GMST projections in the 300 years horizon.

3.3 Un-validated Model Used to Convert ECS to GMST Vs. Time

The SCC calculation process needs a GMST estimate for each of the next 300 years into the future. The transient temperature increase in the first 300 years after a sudden CO2 doubling, as simulated in GCM ECS simulations, is nothing at all like the transient temperature increase that occurs from the actual slowly rising CO2 concentration. The undisclosed method(s) used in IAMs to compute GMST vs. time from the statistically selected ECS and emission scenarios need to be reviewed in detail to determine their validation status. We propose from a scientific viewpoint, that our validated TRCS Climate Model compared to actual data in Figure 1.0, is much better suited for computing a projection of GMST vs. time for a selected emissions and GHG concentration scenario.

3.4 Speculative ECS Statistical Distribution Used to Compute SCC

The scientific reasoning used by the IWG to establish the ECS statistical distribution it assumed for ECS is highly suspect. This statistical distribution decision started with the UN IPCC publication of its 2007 AR4 Report that gave the uncertainty range for ECS as,

$$2 < ECS < 4.5C$$

This ECS uncertainty range was based on climate simulation results of 18 different un-validated climate simulation models from various international organizations studied for the AR4 Report, and certainly does not represent the best science that US scientists can contribute to this issue. The climate science publications through about 2004 were used to compile this AR4 report and are now more than 10 years old in this rapidly developing field of science. The more recent 2013 IPCC AR5 Report lowered the lower end of this ECS uncertainty range to 1.5C and stated that information from multiple lines of evidence prevented it from reaching any conclusions regarding the mean value of this range. If a mean value for ECS cannot be supported by the current state of climate science, how can one claim scientific validity for the much more detailed statistical distribution for ECS that is a primary driver of the SCC calculation process? The currently computed SCC are no more believable than wild speculation! How can the EPA defend its decision to ignore the potential serious damage to the US economy and

risks to the US electrical power grid on the basis of such frivolous and speculative computations?

The IWG decided to use the highly uncertain ECS metric for public policy decision-making even though the same AR4 Report noted that the much less uncertain TCR metric would be more appropriate to use for near term GMST projections. But, the next decision made by the IWG when the AR5 Report scientists said they couldn't even comment on a reliable mean value for the ECS uncertainty range needs even more scientific probing. The IWG arbitrarily decided that the statistical distribution it would create for sampling ECS values to compute SCC should have values as high as 10C. This ECS distribution published in the 2010 SCC TSD has 20 percent of the ECS values in the 4.5 - 10C range. Justifying this decision as using caution on the high side of potentially high GMST damages was an arbitrary decision with unnecessary speculation that skewed the statistically computed SCC "expected values" to speculatively high values. The 20 percent probability that ECS would be higher than the upper limit of the published IPCC ECS uncertainty range leads to extremely high damage calculations with a small probability of occurrence that results in an overly high and totally speculative statistically "expected value" for SCC. It appears that the IWG's arbitrary assumptions and questionable decisions to use the highly uncertain ECS metric in an arbitrarily biased statistical distribution with little scientific justification, was orchestrated to get the unnecessarily complex Monte Carlo process to compute the high value of expected SCC that would be needed to justify GHG emissions regulations.

3.5 Obsolete GHG Emission Scenarios Used to Compute SCC

In addition to the statistically sampled CO2 climate sensitivity metric, a GHG emissions scenario for the future that allows calculation of atmospheric CO2, other GHG and aerosol concentrations for each year in the future, is required to compute a future GMST temperature time history. In the SCC calculation process, each of 10,000 samples of statistically calculated benefits and damages in the IAMs begin with a 300 year GMST time history computed from statistical sampling from the highly questionable ECS distribution and a statistical distribution for the emissions scenario. Five widely differing emissions scenarios from the Stanford Energy Modeling Forum exercise, EMF-22, were selected for use in SCC calculations. However, since the IWG put no effort into assessing which of these scenarios might be more relevant and likely than others, they decided to make the statistical distribution from which the 5 scenarios would be sampled, a uniform distribution. That is, the SCC calculation process assumed any one of these widely varying scenarios had an equal probability of occurrence. This is tantamount to concluding "we have no idea what might happen" and we will base our policy decisions on this kind of foolish speculation without true scientific investigation and deliberation. This decision can be compared on a scientific basis to the RCP6.0 scenario our research team developed as a data-driven baseline for what we believe is most likely to happen, and what a realistic GMST time history for the remainder of this century should look like.

Making validity assessments even more difficult for this decision by the IWG to use a uniform distribution for the GHG emissions scenarios was lack of information provided on the details of these scenarios. The 2010 TSD only presented GHG emissions vs. year for the 5 selected scenarios and did not present the atmospheric concentrations of GHG vs. year derived from these emissions scenarios that drive the GMST trajectory. Since SCC is defined in terms of emissions and there is lots of science to be dealt with in the methods used to convert emissions to atmospheric GHG concentrations that cause temperature rise, important related scientific issues were not discussed in the SCC TSDs.

The most information supplied on this issue from the 2010 TSD indicated that 4 of the 5 scenarios used had 2100 atmospheric CO2 levels ranging from 612 to 889 ppm. These values compare to our RCP6.0 scenario with 585 ppm CO2 in 2100 and 600 ppm maximum possible by 2130 from burning all currently known fossil fuel reserves on the planet. A key aspect in our development of the RCP6.0 scenario was data analysis that showed since 1980, when accurate data on world-wide fossil fuel production became available, the annual rise in atmospheric CO2 concentration is a consistent and constant 48 percent of CO2 emitted from burning the annual production. We assumed all this production was burned in the year produced and we computed the number of CO2 molecules released into the atmosphere from burning each of the fossil fuel types to determine the 48 percent value in terms of the annual average Mauna LOA CO2 concentration data. This 48 percent value has stayed constant in 5 year averages of the data, even though CO2 emissions in recent years were much greater than in 1980. This 48 percent fraction was assumed to stay constant in our projection of a maximum of 600 ppm atmospheric CO2 concentration when all currently known fossil fuel reserves are consumed. The 5th emissions scenario used in the SCC calculation process, the "550 ppm average" scenario, had much lower emissions than the other 4 scenarios and a 2100 GHG radiative force of only 550 ppm CO2-equivalent for all GHG. However, since 4 of the 5 scenarios used had radiative forcing higher than our data constrained RCP6.0 scenario, and the 5 scenarios were sampled with a uniform probability of occurrence, the expected value computed for SCC would be higher than if our RCP6.0 scenario were used and that is constrained by official US Government EIA published maximum estimated world-wide fossil fuel reserves data.

3.6 Applying "Sanity Checks" to the SCC Calculation Process

The intent of the US Congress that only validated models should be used for public policy decision-making by regulating agencies was egregiously violated when the IWG decided to use its totally "made-up" and highly speculative statistical distribution for ECS together with un-validated GHG emissions scenarios as key drivers of the SCC calculation process. Moreover, the TSDs describing the SCC calculation process never revealed key process output that could be used to assess the validity of the methodology. For example, no output was provided for interim steps of the process that

would reveal GMST vs. time trajectories that could be assessed for reasonableness against actual GMST data.

Also not presented as a "sanity check" on the results, were statistics on atmospheric CO2 and other GHG and aerosol concentrations vs. time that could be compared to actual data trends. Much of the current SCC damage results from projected sea level rise, but nothing was disclosed in SCC TSDs regarding model output statistics of sea level rise rates and whether they were reasonable compared to available data as reviewed by Mörner (2016). A reasonable sanity check on the ECS and sea level rise aspects of the process, would be to:

1. Use the median of the IPCC AR5 atmospheric and aerosol GHG concentration history and radiative forcing from 1850 through 2015 as a test emissions scenario.

2. Start the GMST prediction process in 1850 using the AR5 median estimate for the past atmospheric GHG history compare the IAM output statistics to actual GMST and sea level rise trends since 1850

If there is a high temperature/high damage bias in the current SCC calculation process as suggested based on our independent assessment, it will be evident in this reasonable check that should be made for something as serious as public policy decisions with potentially severe adverse consequences for the entire US population.

3.7 More Research Needed on GHG Emissions Scenarios

The emissions scenario aspect of the current SCC calculations needs a more in-depth scientific review and determination for what should be used in this critical step of the process for determining true cost/benefits of not regulating GHG emissions or specific proposed GHG emissions regulations. Four of the the emissions scenarios used in the current SCC calculation process are "business as usual" scenarios, but all have higher atmospheric CO2 concentrations in 2100 than our RCP6.0 scenario. The only updated emissions scenario published in the 2013 AR5 Report that does not assume some level of world-wide GHG emissions controls will be implemented, has an RCP8.5 rating indicating its radiative forcing will be 8.5/6.0 = 1.42 times our RCP6.0 scenario in 2100. RCP8.5 is similar to the highest emissions scenario, MERGE Optimistic, used in the current SCC calculation. All published information regarding the RCP8.5 scenario indicate it was created to represent a 90th percentile high emissions scenario; it is not constrained in any way by current estimates or discovery trends in world-wide fossil fuel reserves.

We propose our RCP6.0 scenario as a baseline for discussion for the most likely scenario that would represent future atmospheric CO2 level trends if no world-wide CO2 emission controls are enforced. We believe our RCP6.0 scenario could be improved through a study of EIA data that would correlate annual increases in world-wide fossil fuel reserves estimates to annual world-wide fossil fuel production. This study would be used to perform a data-constrained estimate of how EIA estimates of total world-wide

fossil fuel reserves would trend for the future and how much our 600 ppm maximum atmospheric CO2 concentration from burning fossil fuels could be increased.

3.8 Detailed Assessment Needed for Economic Impacts of Clean Power Plan

Given the potentially severe economic impacts to the coal industry and US electrical power generation industry depending on coal fired power plants, it seems prudent that EPA should be required to perform a more in-depth assessment of economic impacts of its proposed Clean Power Plan than can be gleaned from the current highly uncertain, and we believe high-biased, SCC values. The specific economic impact arguments are being developed through lawsuits against the EPA by states and companies affected by the proposed Clean Power Plan regulations, while it appears that the EPA has not performed the serious scientific and economic analyses Congress expects for justifying new regulations.

3.9 Need to Remove Uncertainty from Climate Projections

While the long-term GMST projections to 2100 and beyond are impossible to make precisely, the key conclusion from a conservative bounding approach employed in our analysis, is that we do not have a rapidly developing climate problem requiring swift corrective action. We have time to study this issue in a more disciplined and focused research manner with the goal of developing a true broad-based scientific position with minimal uncertainty, regarding possible GMST rise due to GHG emissions in the future. This broadly based scientific position of the US scientific community is required before our government tries to take risky and ineffective unilateral GHG emission control actions based on a far-too-incomplete scientific and economic impact understanding of the issue.

4.0 NEED FOR VALIDATED MODELS TO SUPPORT PUBLIC POLICY DECISIONS

We believe the key mistake that has been made in climate research funded by the US government so far, is that too many studies with un-validated models have been funded. In our experience with manned space exploration, such extremely complex and un-validated models cannot be believed for any rational public policy decision-making with potentially severe unintended consequences. There is no true scientific information, consistent with The Scientific Method, to be learned from such poorly allocated research funding. We observe that overly complex and un-validated models are being used to estimate important climate change metrics such as TCR and Equilibrium Climate Sensitivity (ECS), when much more accurate metrics, without uncertainty added by un-validated models, can be determined more directly from climate data, as we and several other researchers have done. The data indicate low climate sensitivity to atmospheric CO2. All other un-validated model determinations of climate sensitivity that result in much higher CO2 climate sensitivity uncertainty estimates published by the IPCC, are

worthless speculation and should not be used in decision-making with potentially severe unintended consequences.

A basic flaw in the current Federal government response to the AGW threat is that climate scientists are basing their concerns on complex, un-validated climate simulation model results, rather than using available data in a more scientifically based assessment of the threat. NASA has strict policies documented in NASA-STD-7009 against the use of un-validated models for design or operational decisions regarding human safety. We believe the national assets represented by NASA and the US military regarding decision making for mitigation of threats should be employed by the US government to deal with the AGW concern.

5.0 NEED FOR DISCIPLINED ROOT CAUSE ANALYSIS AND DECISION-MAKING

In dealing with safety related threats in the manned space program, we use disciplined processes to define Problems in terms of parameter deviations outside of normal or safe limits. We analyze and prove root cause(s) of Problems by analyzing the specific data of the Problem definition and specifications in terms of What?, Where?, When? and How Much? these deviations occur, as well as answers to these same questions related to similar situations where deviations don't occur. The entire anthropogenic global warming (AGW) "Problem" the EPA has been trying to mitigate with GHG emissions regulations, is not a Problem for which root cause can currently be determined, within our strict Problem definition, as GMST has not deviated beyond the normal range of the last 10,000 years that had nothing to do with GHG emissions. What we have is a Potential Problem or AGW threat that we should, as a nation formally address, but this threat is developing slowly enough that a more rational government response to the threat would be to focus near term research on removing excessive and unnecessary scientific uncertainty regarding magnitude and timing of the threat.

If disciplined Problem Solving and Decision-Making processes were used at the EPA as they are in other agencies focused on scientific matters, the EPA would need to define environmental Problems in terms of metrics that define deviations in harmful substance concentrations outside of well-established safe limits. They need to demonstrate their knowledge of the science that defines safe limits. Once these limits are established, they need to determine true root cause(s) for the deviations beyond safe limits. The EPA should develop a broad array of options that could be considered to mitigate the defined problem. Imposing new regulations might represent several possible options with varying degrees of effectivity and economic costs, but these may not be the optimal actions for the government to take considering cost, schedule and effectiveness of all options identified and evaluated. The EPA should not take the view that its charter is to impose new regulations. Instead, the EPA should assess environmental concerns, determine root cause of Problems and recommend to our federal government the optimal solution the government should take to resolve the issue.

Our research team has investigated the scientific arguments on either side of the complex climate issues leading to the EPA Endangerment Finding regarding GHG emissions, as well as the scientific work and documentation of the Interagency Working Group (IWG) and the EPA in Technical Support Documents (TSD) describing computation of the Social Cost of Carbon (SCC) metric. The EPA and other regulating agencies use SCC to represent a cost/benefit analysis of specific regulations aimed to reduce GHG emissions. We find the scientific work by the IWG and EPA on these issues to be extremely poor and dangerously inadequate, given the possible severe economic damage to the US economy and US citizens from EPA regulations being justified by the current SCC metric. We have previously expressed our concerns and specific scientific issues regarding the SCC computation assumptions and methodology in Office of Management and Budget (OMB) and EPA official calls for public comment on the SCC issue, and proposed regulations economically justified to Congress with the current SCC values. We have had no response to our serious, legitimate concerns that are summarized once again, in this report. This part of the public comment process intended by Congress to be somewhat of a check on unbridled authority of the EPA seems to be dysfunctional.

We observe that Congress has granted the EPA extremely vast power to create regulations that can have severe negative consequences for US companies and citizens. This power has vastly increased in scope, certainly far beyond what Congress intended with its passage of the Clean Air Act, through activist moves by the Executive and Judicial branches of government, that remain unchecked by the US Congress. The US Congress needs to rectify usurpation of power by the EPA through its implementation of ideological political agendas of the Executive Branch, and through Supreme Court decisions upholding EPA's interpretation of power granted to it by the Clean Air Act. This will require longer term legislative action if Congress disagrees, as we do, with EPA claims upheld by the US Supreme Court, that CO2 is a pollutant in the sense Congress intended to define pollution in the Clean Air Act.

It is scientifically embarrassing to our team of experienced and accomplished Apollo Program scientists and engineers, that our government could officially declare that CO2 is a "pollutant" that needs to be regulated. CO2 is a colorless, odorless, non-toxic, trace gas in our atmosphere, essential to sustain all plant and animal life on this planet. Available data indicate that burning all fossil fuel reserves on the planet could only create an atmospheric CO2 concentration less than 10 percent of previous 7000 ppm naturally occurring levels experienced in our planet's history. At the last glacial maxima about 21,000 years ago, our planet came dangerously close through natural processes that reduce atmospheric CO2 levels, to the 150 ppm critical point where plant life cannot grow. This would have truly represented a climate disaster for our planet. Fortunately, increased atmospheric CO2 levels from natural warming out of the last glacial maximum, and perhaps some additional amount returned to the atmosphere previously sequestered in fossil fuels, has moved us away from the brink of a clear climate disaster due to too little atmospheric CO2 concentration. An optimal level of atmospheric CO2

concentration has not been scientifically established, considering all factors. We allow more than 10 times the current 400 ppm atmospheric concentration of CO2 on our International Space Station with no concerns for astronaut safety.

By upholding the EPA's Endangerment Finding, the Court has agreed that the EPA has authority to regulate CO2 emissions. The US Supreme Court does not have the scientific expertise to understand and adjudicate complex scientific matters. More appropriately, this should be the responsibility of scientific review boards, with membership from a broad spectrum of scientific expertise and experience selected by Congressional oversight to be free of any conflicts of interest. As pointed out in above discussions of this report, the EPA has demonstrated its lack of scientific expertise in the method it selected to compute SCC to justify the cost/benefits of its GHG emissions regulations, and has been scientifically irresponsible in its decisions to regulate this critical chemical compound without due regard for potential unintended consequences.

The scientific arguments used by the EPA to classify CO2 as a pollutant in its famous Endangerment Finding allowed by the US Supreme Court, need to be reviewed by an independent scientific review board composed of a broad range of US scientific, engineering and mathematical expertise, and whose members are carefully vetted for potential conflicts of interest.

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APPENDIX A

DERIVATION OF THE TRCS CLIMATE MODEL

A1.0 ENERGY BALANCE OF THE EARTH CLIMATE SYSTEM

A1.1 Kiehl-Trenberth Energy Transport Diagrams

Figure A-1.0, adapted from Trenberth et. al. (2009), shows a diagram of the power in W/m^2 of the spherical earth surface area entering and leaving the Earth's climate system, and the various heat transport mechanisms of the Earth's surface and atmosphere that affect earth surface temperature. Kiehl and Trenberth introduced such energy flow diagrams in 1997 and have continued to update them as more data have become available.

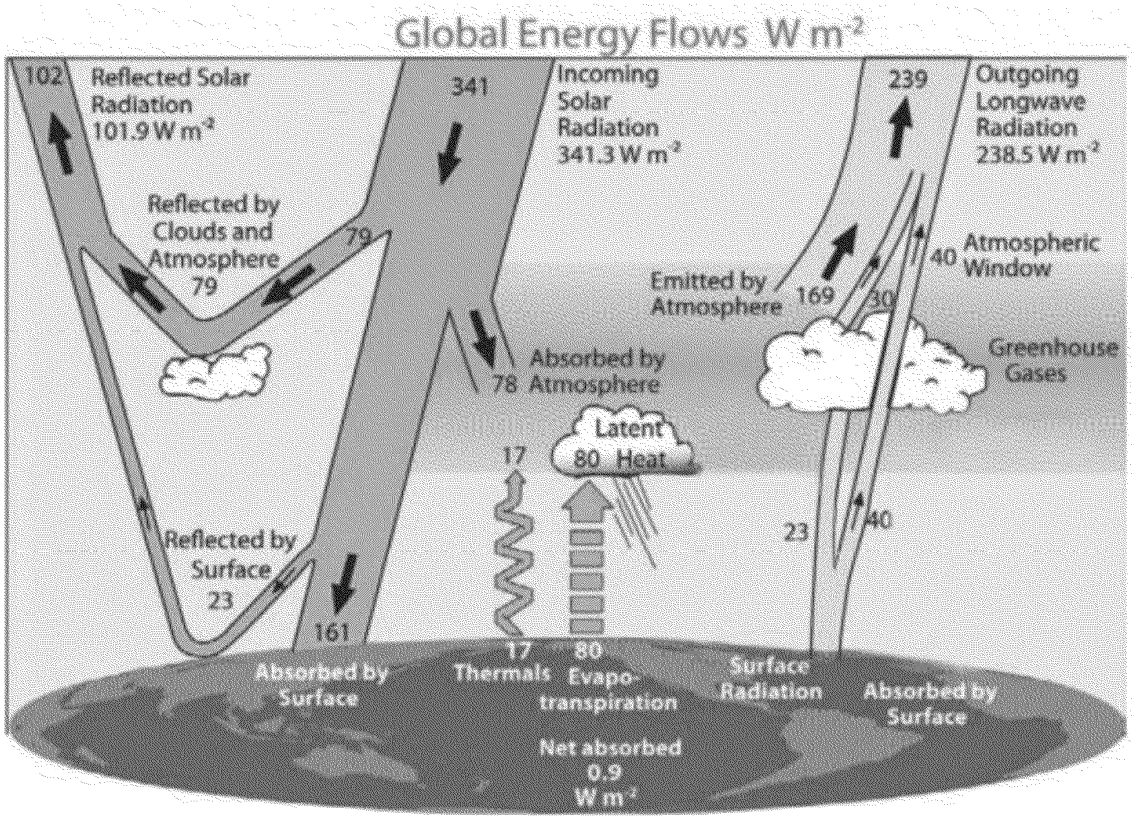

Figure A-1.0 Annual average instantaneous global energy flows

This diagram was updated in Trenberth et. al. (2009) based on satellite measurements for incoming and outgoing radiation at the Top of the Atmosphere (TOA) as explained in

detail in the referenced article. The only modification to this figure originally presented by the authors was to simplify it to show only the net power radiated from the surface and to delete the large 333 W/m^2 radiated in opposing directions between the surface and atmosphere. Although climate scientists prefer to show the energy radiated to the surface by the atmosphere because the atmosphere contains "heat trapping" GHG, this unnecessarily complicates the essential physics of radiation heat transfer leaving the surface and atmosphere and flowing to deep space that needs to be analyzed.

In engineering practice, when two surfaces at different temperature, such as the earth's surface and a cooler surface within the atmosphere, have a radiation exchange, it is common practice to only examine the net energy radiated out beyond the cooler body and to ignore the equal and opposite radiation exchanges between the warmer and cooler body. Also, provided in Fig. A-1.0 are annual average values for continuous rates of energy flow transported by these mechanisms based on measured data. Many diagrams such as Figure A-1.0 appear in climate science literature with only small variations of the numerical values appearing in various technical publications. These energy transport rates are generally accepted by the entire climate science community and for purposes used herein, we will use the values provided in Figure A-1.0

A1.2 Problems with General Circulation Models (GCM) Used in Climate Science

General Circulation Models (GCMs) used for studies in most climate science publications attempt to model in a forward time simulation the variations in all the complex chemistry and physics governing processes in Figure A-1.0 within the oceans, land masses and atmosphere, as well as exchanges between the oceans, land and atmosphere that affect all the energy transport quantities. They attempt to model how increasing concentrations of GHG in the atmosphere will affect these heat transport variables over periods of thousands of years. Many publications in climate science present computed results of these very complex, but un-validated, models that are of questionable scientific value as they don't adhere to principles of The Scientific Method that would require that the model be validated with physical data. From a scientific viewpoint, climate change is an extremely difficult problem to simulate with accuracy and thus far GCMs have not been developed to the point where they can be validated by actual climate data. Fortunately, GCMs are not the only way that science can determine the effects of atmospheric GHG on earth surface temperature changes. This can be accomplished with greater accuracy and certainty, through analysis of available data as will be demonstrated herein.

An obvious problem with the GCM climate simulation approach is revealed in Figure A-1.0 where just one very complex problem to simulate accurately is the approximate 80 W/m^2 of latent heat transported from the surface to colder levels of the atmosphere by water evaporation and condensation cycles. Water covers 71 percent of the earth's surface and water evaporation is a complex phenomenon to simulate accurately, as it is

a function of water temperature, relative humidity of the few inch thickness of air exchanging water vapor with the water surface, relative humidity of higher layers of the atmosphere, surface winds, water surface roughness, water droplets launched into the less humid layers of air by rough seas, etc. A popular simulation attempted by GCMs is to compute the increase in surface temperature caused by a doubling of CO2 concentration in the atmosphere. CO2 molecules constitute only about 0.04 percent of all molecules in our atmosphere, most often expressed as 400 ppmv (parts per million by volume, and also abbreviated by ppm). The basic quantum physics modeled in infrared radiation absorbed and re-radiated by GHG molecules indicates a 3.71 W/m^2 reduction in infrared energy leaving the TOA by doubling atmospheric CO2 concentration, before effects of other possible related climate changes (feedbacks) are considered. The GCMs attempt to compute how radiation heat transfer within the atmosphere out to deep space is affected by the change in atmospheric CO2 concentration, as well as other climate feedbacks that may also affect earth surface temperature due to change in the CO2 trace gas in our atmosphere. But to detect this effect in simulation results on earth surface temperature, an accurate simulation of all other heat transport mechanisms shown in Figure A-1.0 affecting earth surface temperature, plus others within the earth's oceans is required. To the extent that natural processes are not well-understood or cannot be simulated accurately, the effects of doubling CO2 cannot be determined accurately by GCMs.

For example, only a 5 percent simulated error of 4 W/m^2 in how the latent heat transfer of 80 W/m^2 will change during the time the CO2 concentration doubles, would affect computed earth surface temperature as much as the expected change from doubling CO2 concentration. At current rates of CO2 concentration increase in our atmosphere, it will take about 230 years to double the 1850 CO2 concentration. In our experience with such complex models, GCMs cannot be expected to compute so many complex processes with less than 5 percent error in any of these energy transport mechanisms over a 230 year period required to compute our TCS = TCR metric, much less the more than 1000 years required to compute the ECS metric.

The widely varying numerical results from such GCMs are being used in the climate science literature and by the IWG and EPA to be indicative of the uncertainty in the TCR and ECS metrics. This kind of un-scientific uncertainty is being injected into public policy decisions at the EPA with potentially severe adverse consequences for our nation, if the wrong decision is made on either side of the AGW issue. The inability of climate scientists to reduce their factor of 3 uncertainty in the ECS metric in more than 35 years of study, is clear evidence that a new approach, devoid of un-validated GCM influences, is needed for public policy purposes. If only an accurate measure of how Global Mean Surface Temperature (GMST) will change with changes in atmospheric CO2 concentration to compute SCC, as is the case for current SCC calculations, then there are much simpler models with much less uncertainty in computed results that can and should be used for this purpose. Moreover, these simpler models can be validated

by climate data and are well-suited for use in public policy decision-making. We demonstrate the derivation and validation of one such model herein.

A1.3 A Data-Driven Approach for Determining CO2 Climate Sensitivity

We will herein demonstrate the rigorous derivation and validation of a much simpler modeling approach based on well-known Laws of Physics, and constrained by available data, that provides a much more accurate and less uncertain value for the TCS = TCR metric that is best suited for public policy decisions. Other researchers such as Ring et. al. (2012), Otto et. al. (2013), Lewis and Curry (2014) and Lewis (2016) and several others have demonstrated independent, but related data constrained models that can estimate both TCR = TCS and ECS metrics, and have close agreement with our model that determines TCS. Uncertainty in ECS is primarily associated with sparse data available required to determine more precisely variations in the 0.9 W/m^2 value in Figure A-1.0 for surface heat that is transported to the deep ocean and may be expected to be recovered at the surface in 1000 years or more. The transient climate sensitivity metrics of TCS and TCR are not affected by this poorly known value and, we submit, are much better suited than ECS for forecasting GMST in a 300 year horizon, as required in the SCC calculation.

A2.0 USING FIRST PRINCIPLES TO OBTAIN SIMPLE HIGH-CONFIDENCE MODELS

The First Law of Thermodynamics, that is a statement of the Conservation of Energy, requires that the difference between incoming and outgoing energy flows of a system as shown in Figure A-1.0 results in a change in internal energy of the system, as measured by internal temperature of the system. The average annual temperature of the earth's surface, also referred to as GMST, varies very little because of a powerful temperature regulating mechanism resulting from the Stefan-Boltzman n (SB) Law that determines energy radiated from the surface of a body that is a function of the surface absolute temperature raised to the 4th power,

$$\text{(Radiation Heat Transfer)} = Ae\sigma T^4 \quad \text{Watts (W)}$$

$$\text{(Radiation Heat Transfer)}/A = e\sigma T^4 \quad W/m^2$$

where

A = radiation surface area, m^2

e = emissivity constant for specific surface characteristics and coatings

σ = Stefan-Boltzmann Constant = $5.67(10)^{-8}$ $W/m^2/K^4$

T = absolute temperature of the radiating surface, deg Kelvin (K)

This sensitive T^4 relationship provides a strong and smoothly continuous heat transport feedback mechanism for surface temperature control. The maximum local surface radiation heat transport to deep space occurs during daylight hours when local surface temperature is highest, but this heat transport process continues through the night time hours at reduced rates of heat transfer, as the surface temperature cools from outgoing radiation heat transfer, before surface re-heating during the next daylight period.

The climate model developed herein will use these basic Laws of Physics to quantify how yearly average changes in key system parameters are related to GMST change. The basic theory for how atmospheric Greenhouse Gases (GHG) can warm the earth's surface results in a lower rate of energy (power) being radiated to deep space by a given earth surface temperature. In engineering practice, this kind of decrease in radiated energy from a surface is modeled as a decrease in emissivity that can be measured, in lieu of the much more difficult and uncertain task of computing this emissivity decrease from models as GCMs attempt to do.

A2.1 Earth Surface Energy Balance Model

Note in Fig. A-1.0 at the TOA, the energy balance obtained by:

Short wave radiation in - Short wave radiation reflected = long wave radiation leaving

$$341\ W/m^2 - 102\ W/m^2 = 239\ W/m^2$$

This rough calculation ignores a small amount of energy transported from the surface to the cold deep oceans that should be recovered at the surface in some future state of equilibrium of incoming and outgoing radiation and earth surface and atmospheric temperatures.

A closer examination of values presented in Fig. A-1.0 for all energy transport quantities, reveals that currently, a small rate of heat energy ($Q = 0.9\ W/m^2$) is absorbed by the Earth's surface and transported to the deep cold ocean without being radiated back to space.

A 1000 mile arc of the Earth's surface and the top of the Stratosphere 14 miles above the surface are shown approximately to scale in Fig. A-1.1, revealing the very thin layer of the atmosphere that provides a very complex alteration of IR energy radiated from the earth's surface. GCMs spend much of their effort trying to simulate what happens in the

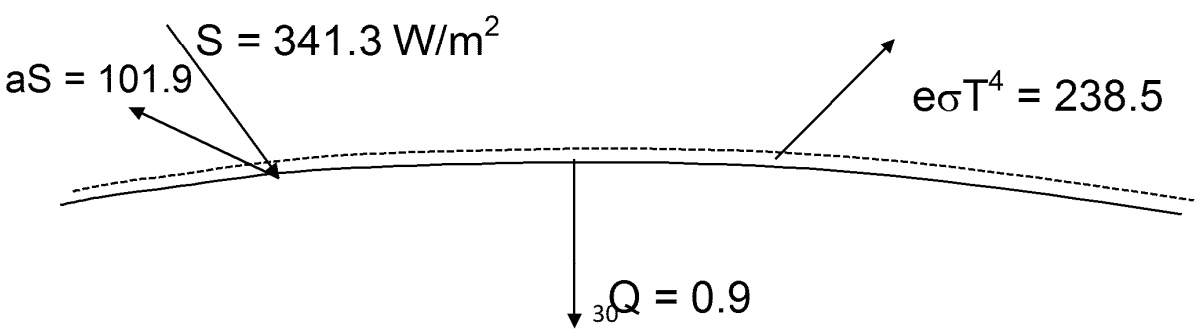

Figure A-1.1 Energy balance of the earth surface and atmosphere to top of Stratosphere

thin atmosphere region between the surface and top of the Stratosphere. But this is totally unnecessary to determine earth surface temperature sensitivity to atmospheric GHG and aerosol concentrations because relatively accurate measurements can be made to determine this sensitivity. Only simple models based on first principles are needed to reduce the data to determine this sensitivity relationship.

Fig. A-1.1 is a simplification of Figure A-1.0 showing only energy flows into and out of a different control volume (climate system) boundary defined by the Earth's surface and the top of the Stratosphere indicated by the dashed line. The GHG in the small thickness of the atmosphere below the top of the Stratosphere affects these energy flows. Once the IR radiated from the surface and absorbed and re-radiated by gases in the relatively thin thickness of atmosphere reaches the top of the Stratosphere, it is radiated out to deep space (238.5 W/m^2 in Fig. A-1.1) without being absorbed by GHG higher in the atmosphere. There is essentially no water vapor above the top of the Troposphere, ranging from 12 miles above the surface in the tropics to only 4.3 miles above the surface at the poles in winter. But there is still enough air density and well-mixed GHG in the Stratosphere to absorb and re-radiate IR trying to escape to deep space. However, there is only about 2 percent of the mass of the atmosphere located above the nominal 22 km (13.7 miles) altitude of the top of the Stratosphere, and the density of GHG molecules above the Stratosphere is too small to absorb and re-radiate significant amounts of IR escaping from the top of the Stratosphere. Therefore, it is the relatively thin thickness of the atmosphere up to 14 miles altitude that affects earth surface emissivity for surface IR energy radiation to deep space.

Drawing this new climate system boundary at the earth's surface changes the power balance equation above so that the rate of energy being absorbed within this climate system only applies to the atmosphere up to the 14 miles altitude. Because the heat storage capacity of the atmosphere is much, much less than the earth and its oceans, any rate of heat storage in the atmosphere can be ignored compared to the nominal 0.9 W/m^2 being stored below the earth's surface. Therefore, for this alternate definition of a climate system, we can assume a balance of heat flow entering and leaving the system defined within boundaries of the earth surface and top of the Stratosphere in Fig. A-1.1. We idealize this part of the atmosphere as a thin coating on the surface that affects the emissivity of the Earth's surface as a function of GHG and aerosol concentrations in the atmosphere. This allows us to write the SB equation for earth surface temperature in the power balance equation as:

$$e(W, C, G)\sigma T^4 = (1 - a)S - Q \qquad \text{(A-1)}$$

where,

emissivity (e) of the earth's surface, including atmospheric effects, is assumed to be a function of atmospheric concentrations of water vapor (W), carbon dioxide (C) and other well-mixed GHG and aerosols (G).

a = effective albedo of earth surface and atmosphere reflecting incoming short wave radiation back to deep space = 101.9/341.3 = 0.2986

σ = the Stefan-Boltzmann constant = $5.67(10)^{-8}$ W/m^2/K^4

T = Global Mean Surface Temperature GMST, deg, K

In the case of water vapor concentration in eq. (A-1), as in most complex climate simulation models, we will assume that the change in atmospheric water vapor concentration, W, is due only to atmospheric warming or cooling caused by changes in C and G. With this assumption, eq. (1) can be written as

$$e(W(C,G), C, G)\sigma T^4 = (1 - a)S - Q \qquad \text{(A-2)}$$

From the measured outgoing average IR = 238.5 W/m^2 and a current value for T = 288K, the current global mean emissivity of the Earth's surface including atmospheric effects can be computed from:

Outgoing long wave IR to deep space = $e\sigma T^4$ = 238.5 W/m^2

$$e = 238.5/[\sigma(288)^4] = 0.611 \qquad \text{(A-3)}$$

A2.2 Changes in The Earth Surface Energy Balance

If we take a total differential of the power balance equation (2), we obtain an equation that describes the relationship between changes in all variables, including GMST change, dT.

$$[(\frac{\partial e(W,C,G)}{\partial C} + \frac{\partial W}{\partial C})dC + (\frac{\partial e(W,C,G)}{\partial G} + \frac{\partial W}{\partial G})dG]\sigma T^4 + 4e(W,C,G)\sigma T^3 dT = (1-a)dS - Sda - dQ$$

$$dT = [1/(4e\sigma T^3)]\{-[(\frac{\partial e(W,C,G)}{\partial C} + \frac{\partial W}{\partial C})dC + (\frac{\partial e(W,C,G)}{\partial G} + \frac{\partial W}{\partial G})dG]\sigma T^4 + (1-a)dS - Sda - dQ\} \qquad \text{(A-4)}$$

$$= \lambda\{-[(\frac{\partial e(W,C,G)}{\partial C} + \frac{\partial W}{\partial C})dC + (\frac{\partial e(W,C,G)}{\partial G} + \frac{\partial W}{\partial G})dG]\sigma T^4 + (1-a)dS - Sda - dQ\} \qquad \text{(A-5)}$$

The terms in { } in eq. (A-5) are called radiative forcing terms in climate science that cause changes in T, denoted by dT, due to independent variations in all variables on the right hand side (RHS) of eq. (A-5). The terms involving changes in W due to changes in C and G are called "water vapor" feedback effects due to changes in C and G.

In most climate science publications, including IPCC Reports, λ, is treated as a constant relating changes in surface temperature due to radiative forcing changes. A value for

λ is typically determined from empirical data relating surface temperature changes to radiative force changes over a certain period of time. Here we recognize from eq. (A-4) that due to consequences of conservation of energy and mathematical manipulation by the rules of differential calculus, λ can be computed from other known quantities as,

$$\lambda = [\ 1/\{4e\sigma T^3\}] = [1/\{(4)(0.611)(5.67)(10)^{-8}(288)^3\}] = 0.302\ K/(W/m^2) \qquad (A\text{-}6)$$

Now, let us examine the partial derivative terms in equation (A-5) and consider their meaning. According to Quantum Mechanics considerations and the ability of GHG to absorb and re-radiate IR emanating from the Earth's surface, increases in atmospheric concentration of C or G should decrease the rate of IR leaving our atmosphere. This is modeled in eq. (A-5) as decreases in emissivity, e, caused by increases in the concentrations represented by C and G. Therefore, the partial derivatives of e multiplying positive GHG concentration changes, dC and dG, have negative values. However. the minus (-) sign in front of these terms from transposing them to the RHS of the equation, and the negative value of the partials, indicate these terms contribute to increases in T (positive radiative forcing) as would also be expected from an increase in T required to offset a decrease in emissivity and maintain a constant heat rejection to deep space.

Note also that the differentials for GHG concentrations in eq. (A-5) multiply the quantity, σT^4, giving these terms radiative force units of W/m^2. With reduced emissivity for the earth's surface, the power flow balance equation requires an increase in earth surface temperature to maintain the necessary balance to continue to radiate to deep space, the energy absorbed from the Sun each day that isn't transported to the deep cold oceans.

It is generally accepted by most climate scientists that doubling CO_2 concentration in the atmosphere, will result in 3.4 to 3.71 W/m^2 radiative forcing without the water vapor and other feedback effects. This range of values has been determined by calculations of how the narrow wave length bands for which IR is absorbed and re-radiated by CO_2 molecules in the atmosphere, are affected by greater concentrations of CO_2. At certain CO_2 concentration levels, all the IR radiated from the surface in certain narrow wave length bands is absorbed and re-radiated. Therefore, further increases in atmospheric CO_2 concentration will not increase absorption of IR radiated from the surface, and the remaining outgoing IR will escape to deep space without further warming of the atmosphere and earth surface.

The overlap of IR absorption bands for water vapor and CO_2 are also considered in computing the IR absorbed in specific common absorption bands by nominal concentrations of water vapor, and considering the additional IR that could be absorbed in the common absorption bands by increases in CO_2 concentration. This "saturation" of IR absorption frequency bands at specific CO_2 concentration levels, results in a radiative forcing function that is logarithmic with respect to increasing concentrations of CO_2.

Using a conservatively high value of 3.71 W/m^2 radiative forcing for a doubling of CO2 concentration, C ppm, the following function for the yearly radiative forcing due to the increasing yearly average value of atmospheric CO_2 concentration, C(year), since 1850 can be written:

$$\left[\frac{\partial}{\partial C(year)}\right] \sigma T^4 = 3.71\{LOG[C(year)/C(1850)]/LOG[2]\} \quad W/m^2 \qquad (A\text{-}7)$$

$$\left[\frac{\partial}{\partial C(year)}\right] \sigma T^4 = 3.71\{LOG[C(year)/284.7]/LOG[2]\} \quad W/m^2 \qquad (A\text{-}8)$$

where 284.7 ppm is the best estimate for atmospheric CO_2 concentration in 1850 determined from East Antarctica Law Dome ice core data published by NOAA. Equation (A-8) shows that when C(year) reaches 569.4 ppm, double the 1850 value of 284.7, then the total radiative force change due to atmospheric CO2 will be

$$3.71\{LOG[569.4/284.7]/LOG[2]\} = 3.71 \ W/m^2 \qquad (A\text{-}9)$$

For continued simplicity, and illustrative purposes, we assume that the radiative forcing due to long-lived and well-mixed GHG, other than CO_2, can be modeled with a function that is proportional to CO_2 radiative forcing, as the concentrations of these GHG have also generally increased with increases in population and industrial activity,

$$\left[\frac{\partial}{\partial G(year)}\right] \sigma T^4 = (\beta)3.71\{LOG[C(year)/284.7]/LOG[2]\} \quad W/m^2 \qquad (A\text{-}10)$$

and where the average value for β since 1850, based on IPCC AR5 GHG and aerosol historical data, is about 0.5. Alternatively, we could model the total radiative forcing of other GHG separately, based on their actual measured concentrations each year, or in terms of an equivalent increased concentration of CO_2 that would compute the radiative force of these other GHG. If sufficient data were available, we could also define $\beta(t)$ as a known function of time.

Now let's examine the terms in eq. (A-5) that model the effects of atmospheric water vapor increase due to the effects of increasing concentrations of C and G. We will model this water vapor feedback effect with a parameter, w, that computes the radiative forcing of increased atmospheric water vapor proportional to the combined radiative forcing of CO_2, other well-mixed GHG, and aerosols,

$$\left[\left(\frac{\partial}{\partial C}\right)dC + \left(\frac{\partial}{\partial G}\right)dG\right] \sigma T^4 = w(1+\beta)(3.71)LOG[C(year)/284.7]/LOG[2] \qquad (A\text{-}11)$$

In addition to water vapor feedbacks, there may be other climate feedbacks affecting earth surface temperature in response to the radiative forcing of CO_2, other well-mixed GHG, and aerosols. We model the radiative force of these feedbacks that may result from the net of albedo changes caused by aerosol concentrations and other factors as a

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fraction, f, of the radiative forcing of CO2, other well-mixed GHG and aerosol concentrations:

Other radiative force feedbacks = f(1+β)(3.71)LOG[C(year)/284.7]/LOG[2] (A-12)

Substituting equations (A-8), (A-9), (A-11) and (A-12) into eq. (A-5) yields

dT(year) = [0.302]{(1+w+f)(1+β)(3.71)LOG[C(year)/284.7]/LOG[2]+(1-a)dS–Sda–dQ}

……(A-13)

All variables in eq. (A-13) are considered to be annual global average values, although for brevity, this notation was dropped for the a, da, S, dS, and dQ variables.

From eq. (A-13) we note that the temperature change due only to the direct doubling of CO_2 concentration with no response of climate feedbacks can be written,

$$dT_{CO2} = [0.302](3.71) = 1.12K$$

This is a well-known value in climate science given as the direct amount of surface warming that will occur for doubling atmospheric CO2 levels, without any of the complex feedback mechanisms modeled in very complex climate simulation models.

Using eq. (A-13), we can write a function describing our definition for Transient Climate Sensitivity (TCS) as the annual GMST change resulting from the doubling of atmospheric CO2 levels by the actual slow yearly increase in atmospheric CO2 levels, including all climate feedbacks:

TCS = [0.302]{(1+w+f)(3.71)} (A-14)

This definition for TCS includes the temperature change due to water vapor and all other feedback effects, as represented in the actual temperature data. Using this definition for TCS we can now write eq. (A-15) describing the relationship between annual average values of the independent variables affecting GMST as,

dT(year) = TCS(1+β)LOG[C(year)/284.7]/LOG[2] + 0.302{(1-a)dS – Sda – dQ } (A-15)

where dT(year) is taken to mean the total GMST change since 1850, since that is the reference year for computing radiative force changes of all atmospheric GHG and aerosols.

The change in solar radiation, dS, arriving at the Earth's orbit increased by about 0.4 W/m^2 from 1850 to 2005. Using a nominally accepted value of (1-a) = 0.7 and computing dS for a Total Solar Irradiance (TSI) increase of 0.4 W/m^2 referenced to the entire surface area of the Earth, as 4 times the circular disc area of the Earth intercepting sunlight:

$$(1-a)dS = (0.7)0.4/4 = 0.07\ W/m^2$$

Assuming a gradual linear increase in TSI over the time period 1850-2005, we can write for the temperature rise due to the (1-a)dS term in eq. (15),

$$0.302\{[1-a]dS(year)\} = 0.302\{0.7(0.1)(year-1850)/(2005-1850)\ K$$

$$= 0.021(year-1850)/(155)\ K$$

Since the forcing terms due to GHG and TSI are monotonically increasing functions (ignoring much smaller TSI oscillations due to the 11 year sunspot cycle) over the period 1850-2005, we can write a monotonically increasing component of dT(year) as,

$$dT_m(year) = TCS(1+\beta)LOG[C(year)/284.7]/LOG[2] + 0.021(year-1850)/(155) \quad \text{(A-16)}$$

$$dT_m(year) = TCS(1+\beta)LOG[C(year)/284.7]/LOG[2] + 0.021, \quad year > 2005 \quad \text{(A-16a)}$$

The solar TSI has fallen since about 2005 and is forecast to continue to fall for the next several hundred years. Therefore, when used to forecast HadCRUT4 temperatures beyond 2005, equation (A-16a) should provide some extra conservatism with respect to temperature rise due only to GHG effects.

Since random and cyclic patterns of temperature variation are observed in the surface temperature datasets with long histories such as HadCRUT4 and GISTEMP, the cyclic behavior in surface temperature must result from the da, dS, and/or dQ terms in eq. (A-15). Some short lived random effects are due to variations in da caused by large volcanic eruptions that seem to occur at random intervals. Therefore, using eqs. (A-16) and (A-16a), the equation for variations in earth surface temperature can be separated into terms providing monotonically increasing and cyclic components as shown in eq. (A-17).

$$dT(year) = dT_m(year) + dT_c(year)$$

$$= TCS(1+\beta)LOG[C(year)/284.7]/LOG[2] + 0.021(year-1850)/(155) + dT_c(year) \quad \text{(A-17)}$$

In Section 2.2.5 of this report, the TCS(1+β) undetermined constant in the $dT_m(year)$ function is evaluated on the basis of the long term GMST rise since 1850 that is approximated by the HadCRUT4 temperature anomaly. The value TCS(1+β) = 1.8C was determined from this parameter identification approach. Analysis of the atmospheric GHG and aerosol concentration increases since 1850 in the IPCC AR5 Report and the radiative force contributed by GHG other than CO2 and aerosols indicated over the period since 1850, β is approximately 0.5. Although TCS(1+β) = 1.8C only has uncertainty due to the long term GMST rise since 1850 and the CO2 concentration in 1850, TCS = 1.2C, has more uncertainty as it is estimated from

$$TCS(1+0.5) = 1.8C$$

However, long term GMST rise due to atmospheric GHG and aerosols can be more accurately forecast with,

$$dT(year) = dT_m(year) = 1.8LOG[C(year)/284.7]/LOG[2] + 0.021 \quad year > 2005$$

$$dT(year) = GMST(year) - GMST(1850)$$

$$GMST(year) - GMST(1850) = 1.8LOG[C(year)/284.7]/LOG[2] + 0.021 \quad year > 2005$$

……(A-18)

THE RIGHT CLIMATE STUFF RESEARCH TEAM

2604 Piney Woods Drive

Pearland, Texas 77581

May 26, 2017

The Honorable Donald J. Trump, President of the United States
The White House
1600 Pennsylvania Ave., N.W.
Washington, D.C. 20500

Dear Mr. President:

The Right Climate Stuff (TRCS) research team is composed primarily of retired NASA scientist and engineer veterans of the USA Apollo Program. We are writing to inform you regarding what we have concluded about the Anthropogenic Global Warming (AGW) alarm that has been spearheaded by the United Nations and its Intergovernmental Panel on Climate Change (IPCC). We, the undersigned, strongly support withdrawal from the UN Framework Convention on Climate Change (UNFCCC) and the 2015 UN Paris Treaty on worldwide controls of CO2 emissions because of the non-scientific conclusions on which these agreements are based.

NASA retirees organized TRCS research team in the Spring of 2012 and developed a website that documents our progress into understanding the AGW issue over the last 5 years. www.TheRightClimateStuff.com We set as our initial goal, *"Determine to what extent un-restricted burning of fossil fuels can cause harmful climate change."* We have concluded that the computer model analyses used in the IPCC reports, estimating global warming increases up to 4.5 degrees C for doubling atmospheric CO2 concentration, are in error because the models do not agree with empirical data as required by the principles of the Scientific Method. Our analysis, based on principles of conservation of energy, uses well-known, measured data and predicts no more than 1.2 degrees C increase in global warming due to burning all currently known world-wide reserves of fossil fuels. Our simple model is validated by the rigor of its derivation and agreement with 167 years of empirical data since 1850. This analysis was completed with the same rigor and attention to detail used in our manned space program, where the lives of astronauts depended on our accuracy.

Signers of this letter have followed the TRCS research team progress and have either participated in or encouraged their efforts. Details of the TRCS research team analysis methods, conclusions and recommendations were submitted to the Trump Transition Team at the Environmental Protection Agency (EPA) in a 39-page report dated Nov. 30, 2017 and entitled, "RECOMMENDATIONS TO THE TRUMP TRANSITION TEAM INVESTIGATING ACTIONS TO TAKE AT THE ENVIRONMENTAL PROTECTION AGENCY (EPA)". We are attaching a copy of this report to this letter for US government experts to consider in contrast to the kind of AGW assessments that have been generated within the US government at NASA, NOAA and the EPA, and by the UN IPCC in its periodic reports.

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While AGW may be a potential problem, it is not the kind of rapidly developing problem where urgent corrective action should be taken with severe negative consequences for the US economy. Scientifically unsupported stampeding towards a political agenda of the UN represented by the UNFCCC and 2015 Paris Treaties, is not the kind of scientific world leadership and rational decision-making that a nation that landed men on the moon, should demonstrate to other nations on this planet.

We recommend the proper course for the USA today, is to show world leadership by withdrawing from both the UNFCCC and UN Paris Treaties, with a statement that the climate science on which these agreements are based, is too immature and uncertain, with potentially severe unintended consequences for all mankind.

Sincerely,

The undersigned members and supporters of The Right Climate Stuff Research Team

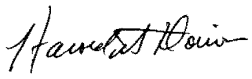
cc: The Honorable Rex Tillerson – Secretary of State, USA

The Honorable Rick Perry, Secretary of Energy, USA

The Honorable Scott Pruitt, Administrator, USA Environmental Protection Agency

ENCLOSURE: The Right Climate Stuff Research Team Report, "RECOMMENDATIONS TO THE TRUMP TRANSITION TEAM INVESTIGATING ACTIONS TO TAKE AT THE ENVIRONMENTAL PROTECTION AGENCY (EPA)". Nov. 2016

SIGNATURES:



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Other signatures on continuation sheet

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G7 2017
TAORMINA

G7 PEOPLE-CENTERED ACTION PLAN ON INNOVATION, SKILLS AND LABOR

PREAMBLE

Innovation and, more specifically, the Next Production Revolution (NPR), are going to bring unprecedented "Big Shifts" to our companies, our labor forces and our societies, as highlighted by the OECD report "The Next Production Revolution: Implication for Government and Business".

In addition to the initiatives that our countries have already undertaken at the national level, we, the Leaders of the G7, recognize the extraordinary opportunity we have today to express a common agreement on a set of main priorities regarding Innovation, Skills and Labor. The relevant specific policies will be elaborated further during our competent Ministers' Meetings.

In conjunction with our Summit Leaders' Communiqué, our goal, today, is to highlight an integrated policy agenda, so as to allow people and firms from all sectors to take full advantage of the benefits of innovation and, in doing so, to magnify our efforts to make innovation a concrete source of prosperity, competitiveness and well-being for all regions of our countries.

G7 2017 TAORMINA

MAIN POLICY PILLARS AND KEY POLICY PRIORITIES

To seize the opportunities and to tackle the challenges of the "Big Shifts" sparked by innovation and the NPR, we have therefore identified three main Policy Pillars, along with a set of Key Policy Priorities, whose specific aspects will be further analyzed during the discussions among our competent Ministries.

PILLAR I – INNOVATION IN PRODUCTION

In this area, we identify **three key policy priorities**: (1) **inclusiveness**; (2) **openness**; and (3) **security**.

Key Policy Priority 1. Foster inclusion of SME in the innovation-driven economy, recognizing their important role in the digital transformation of G7 countries, while paying special attention to start-ups.

Key Policy Priority 2. Promote access to the digital world for people and businesses, and advance towards the development and use of Artificial Intelligence, as essential drivers of inclusive economic growth and progress. Promote and protect the free flow of information, while ensuring privacy and data protection and strengthening digital security.

Key Policy Priority 3. Promote and support both Intellectual Property Rights Protection and risk-informed policies on Cybersecurity that strengthen the digital economy and play a key role in businesses' growth and people's well-being.

PILLAR II – KNOWLEDGE-BASED CAPITAL AND ENABLING INFRASTRUCTURE

In this area, we identify **three key policy priorities**: (1) **human capital formation**; (2) **science, technology and innovation (STI) financing policies and mechanisms**; and (3) **global research infrastructures**.

Key Policy Priority 4. Increase researchers' abilities to address opportunities and challenges brought by the Next Production Revolution, with special attention to under-represented groups.

G7 2017 TAORMINA

Key Policy Priority 5. Reinforce the role of research in producing future knowledge and innovation, by identifying best practices in Science Technology Innovation financing policies and mechanisms.

Key Policy Priority 6. Reinforce synergies among G7 countries through their participation in Global Research Infrastructures and networks of e-Infrastructures, to reap the benefits of Open Science.

Key Policy Priority 7. Foster dialogue among G7 countries on policies that could contribute to the deployment and the interconnection of NPR-enabling quality infrastructures, such as high-speed broadband networks; smart energy grids; smart logistics and mobility platforms. Encourage policies that will enable people, businesses and researchers to access such infrastructure, providing them thus with access to new innovations that can create opportunities in all fields.

PILLAR III - FUTURE OF WORK

In this area, we identify two key policy priorities: (1) **dialogue** and (2) **inclusiveness**.

Key Policy Priority 8. Promote people-driven innovation that boosts both the quantity and quality of jobs.

Key Policy Priority 9. Design sound policies related to the future of work for inclusive and sustainable innovation-driven growth.

***

In accordance with national legislations, we task our Ministers competent for Industry, ICT, Science, Labor and Employment to further elaborate policies in accordance with these Main Policy Pillars, in their respective domains.

Furthermore, with reference to the deployment of Key Policy Pillar 7, as well as the above-mentioned Ministers, we request that specific collaboration be set in place also with the Ministers competent for Environment, Infrastructure and Transportation.

The respective outcomes will constitute separate annexes to this Action Plan and will be added at the end of the "G7 Innovation Week" (Turin, September 25-October 1).

1. We take note of the United States of America's intention to withdraw from the Paris Agreement.

2. The Environment and Climate Ministers of Canada, France, Germany, Italy, Japan and the United Kingdom, and European Commissioners responsible for environment and climate, reaffirm strong commitment to take the lead in the swift and successful implementation of the Paris Agreement which remains the global instrument for effectively and urgently tackling climate change and adapting to its effects. Welcome the continued support that the Paris Agreement has received from other countries, and subnational and non-state actors around the world.

3. The Environment and Climate Ministers of Canada, France, Germany, Italy, Japan, and the United Kingdom and the European Commissioners responsible for environment and climate agree that the Paris agreement is irreversible and its full integrity is key for the security and prosperity of our planet, societies and economies. Our actions will continue to be inspired and guided by the growing, global momentum to tackle climate change and to accelerate the irreversible transition to low-carbon, climate-resilient and resource-efficient economies.

(to be included at end of para 12) We stand ready to continue cooperating with all parties in the implementation of the Paris Agreement

Statements of support for President Trump's decision to pull out of the Paris Accord

Energy

American Coalition for Clean Coal Electricity

"We support President Trump's decision to withdraw from the Paris agreement. The previous administration volunteered to meet one of the most stringent goals of any country in the world, while many other countries do far less to reduce their emissions," said ACCCE President and CEO Paul Bailey. "Meeting President Obama's goal would have led to more regulations, higher energy prices, and dependence on less reliable energy sources."

American Energy Alliance

American Energy Alliance President Thomas Pyle has issued the following statement regarding President Trump's decision to withdraw the United States from the Paris Climate Agreement:

"President Trump has a very clear vision of making this country a champion of energy development and economic progress. Withdrawing from the Paris Agreement reinforces his commitment to that vision and the American Energy Alliance applauds him for doing so.

"The Paris Agreement was a bad deal from the start. It committed the U.S. to unilateral economic disarmament by saddling the economy with unnecessary regulations and would have driven energy costs sky-high for American families. Further, U.S. taxpayers would be on the hook for billions of dollars to subsidize green energy projects around the world."

"By keeping his promise to cancel our involvement, President Trump has taken another positive step toward resetting a generation of failed energy and environmental policies. Withdrawing from the Paris deal signals to the world that America is committed to economic prosperity at home and lifting millions of people out of energy poverty abroad."

Edison Electric Inst.

"EEI's member companies are committed to a healthy environment and to providing the clean energy future and technology options that our customers want and expect. Our industry always has relied on a diverse and domestic energy mix to ensure that electricity remains affordable, reliable, and secure.

"Based on preliminary estimates, our industry's carbon dioxide emissions were nearly 25 percent below 2005 levels by the end of 2016, and we expect that emissions will continue to decline.

"Each year, EEI's member companies are investing more than $100 billion to make the energy grid more dynamic, more resilient, cleaner, and more secure; to diversify the nation's energy mix; and to integrate new technologies that benefit customers." - EEI President Tom Kuhn

Industrial Energy Consumers of America

"The U.S. should never be a party to a global or bilateral agreement that does not provide a level playing field for manufacturing. The manufacturing sector has a significant incentive to reduce energy

consumption and GHG emissions, it is called global competition. Global competition is relentless and requires energy-intensive trade-exposed (EITE) industries to reduce energy consumption to be competitive – or we cease to exist."

"The U.S. manufacturing sector's GHG emissions are already 26 percent below 1973 levels and the industrial sector is the only sector whose GHG emissions are below 1973 levels.1 The U.S. manufacturing sector's GHG intensity is only 22 percent of China's manufacturing sector.

"As EITE manufacturing companies, a level playing field is essential for our ability to invest and create jobs in the U.S. If this does not occur, industrial GHG leakage will shift both GHG emissions and high paying middle-class jobs to other countries, which accomplishes nothing environmentally."
"We welcome the opportunity to work with the Trump Administration and Congress to remove regulatory barriers which impair our ability to reduce GHG emissions, such as new source review (NSR)."

Conservatives

E&E Legal

"The Energy & Environment Legal Institute (E&E Legal) applauds President Trump's decision to abandoned the disastrous Paris Treaty that would have destroyed American jobs and led to skyrocketing energy prices putting those most vulnerable at risk. Europe is the model for these failed 'climate policies,' and President Trump is correct in not allowing the United States to go down the same path. We look forward to working with the President as he implements his America first energy policies, and we will do whatever we can to combat the unprecedented hysteria spewing from global elitists bent on destroying our great nation."

Jenny Beth Martin, President/Co-Founder of Tea Party Patriots

"Tea Party Patriots thanks President Donald Trump for continuing to keep the promises he made during the campaign by announcing the United States will withdraw from the Paris Accord, which is a drag on our economy and a bad deal for American workers. Once again, President Trump has continued to keep his word to the American people both on specific initiatives like the Paris Accord and his broader promise to put our citizens and America first. According to a study by NERA Consulting, the requirements in the Paris Accord agreed to by the Obama Administration could cost our economy almost $3 trillion over the next several decades and have a catastrophic effect on American jobs. We could lose over 6 million industrial jobs, including more than 3 million manufacturing jobs, by 2040 if we insisted on sticking with the terrible deal negotiated by the Obama Administration and signed out of desperation. Thankfully, we have a President in Donald Trump who is dedicated to keeping his promises and putting American workers and America first and we will be much better off as a country thanks to this courageous decision by the president."

David Rivkin, Jr., Washington D.C. appellate and constitutional law attorney

"Paris Accords do not provide a viable solution to the climate change concerns and yet, inflict major damage on American economy. And because United States takes most seriously its international commitments, even when they are non binding, once we have decided that we aren't going to comply with Paris commitments, withdrawing from the Accords is the right thing to do."

James Burling, Vice President for Litigation at the Pacific Legal Foundation

"With the uncertainty surrounding the achievability of the Paris agreement's emission targets, the potential impacts on the domestic economy and jobs, and the related uncertainty as to whether achieving the Paris agreement's targets will actually have a meaningful impact on climate change, it is not surprising that the President chose to pull out of the accord. The President has the prerogative to conduct foreign and domestic affairs within the limits established by the Constitution. The Paris agreement was not a treaty approved by the two-thirds of the Senate and then ratified by former President Obama as required by the Constitution. By withdrawing from the agreement, the President has made a lawful policy choice based on his determination of what is the best interests of the nation."

Ken Blackwell, former domestic policy advisor to the Trump Presidential Transition team, served as State Treasurer and Secretary of State of Ohio and is a current Board Member of the National Taxpayers Union.

"The President's decision today is the fulfillment of another campaign promise to put America's interests first. The Paris climate agreement was a bad deal negotiated by the Obama administration, which would cost American jobs and economic growth, while requiring little of the countries who are causing the most pollution. Through free market innovation, the US is already making great strides in reducing emissions, while providing affordable energy to our citizens. The last thing we need is another meaningless international agreement where the US makes all the sacrifices and carrying the cost of other nations, with little actual impact on the climate."

David McIntosh, President of the Club For Growth

"Today, the Club for Growth applauds President Trump's forthcoming decision to begin the process of withdrawing the United States from the Paris climate agreement. For far too long the Obama Administration allowed foreign governments and alarmist environmentalists to dictate, not only climate change policy, but worse our nation's economic policy. President Trump's decision sends a strong message to the environmentalist movement: no longer will the United States be strong armed by their scare tactics intended to harm our economy and inhibit economic growth. With this announcement, President Trump takes a significant step toward putting American taxpayers and businesses back in the driver's seat. We encourage the President to continue to take actions that will unleash economic growth and create more American jobs and opportunities."

John S. Baker, Jr., Professor Emeritus at Louisiana State University Law Center

"Given the dramatic climate change in American politics, President Trump's decision to drop out of the Paris accord should never have been in doubt. That the decision seemed uncertain only demonstrates the determination of internationalist opinion makers to undermine American political choices."

Jonathan Adler, Johan Verheij Memorial Professor of Law and Director of the Center for Business Law & Regulation at the Case Western Reserve University School of Law

"There is no reason for the United States to remain a party to an agreement with which the US has no intention of implementing. This agreement was never ratified by the Senate, nor would it be. It's high time policy makers moved beyond the fantasy that symbolic international agreements of this sort are a useful way to address our environmental challenges.

Members of Congress

Sen. Mitch McConnell

"I applaud President Trump and his administration for dealing yet another significant blow to the Obama Administration's assault on domestic energy production and jobs. President Obama made commitments in this deal based off a costly power plan that we knew at the time was on shaky legal ground. By withdrawing from this unattainable mandate, President Trump has reiterated his commitment to protecting middle class families across the country and workers throughout coal country from higher energy prices and potential job loss.

"Today's move builds on action Congress took to rebuff then-President Obama's regulatory rampage, which put American jobs at risk. When the previous administration signed America up for this unattainable mandate, we made it clear we would fight this unilateral action any way we could, and this day could not have happened soon enough. President Trump has once again put families and jobs ahead of left-wing ideology and should be commended for his action."

Sen. John Barrasso

"President Trump is keeping his word and getting America out of a bad deal. The Paris climate agreement set unworkable targets that put America at a competitive disadvantage with other countries and would have raised energy costs for working families.

"This pact was signed by former President Obama without Congressional approval. Americans deserve clean air and a healthy economy. It's possible to have both by withdrawing from the Paris climate agreement."

Sen. Shelley Moore Capito

"President Trump's decision to withdraw the United States from the Paris Climate Agreement is the right decision for the American economy and workers in West Virginia and across the country. West Virginians have suffered tremendous economic calamity as a result of the Obama administration's anti-coal agenda, and President Obama should not have unilaterally committed the United States to an international climate agreement without the consent of the Senate.

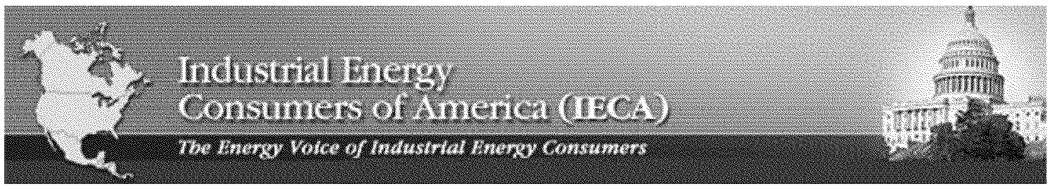
"Together with signing a resolution of disapproval to void the Obama administration's anti-mining stream protection rule, and his decision to reevaluate the EPA's Clean Power Plan and Waters of the United States rules, today's action further demonstrates that President Trump is standing with our West Virginia workers and businesses to keep jobs in our state. Moving forward, it is important that we keep working to advance new technologies that improve the environment as we continue to utilize our coal and natural gas reserves more efficiently."

U.S. Rep. Kevin Cramer

"From the beginning, President Trump was looking for a deal that would benefit our nation, and it's clear he thoughtfully weighed all his options over the past several weeks. The Paris Climate Agreement, in current form, would be terrible for America, and I'm glad we have a President who values Americans more than the interests of the rest of the world."

U.S. Rep. Lamar Smith

"By withdrawing from the Paris climate agreement, President Trump has freed America from a bad deal that would cost billions of dollars but have little significant environmental benefit. Former President Obama bypassed Congress when he agreed to the deal, putting our nation at an economic disadvantage and imposing huge burdens on American families and businesses. President Trump's decision will allow America to move forward with policies based on sound science and smart cost-benefit analyses to ensure Americans don't bear the brunt of the all-pain, no-gain policies of the previous administration."



PRESS RELEASE

FOR IMMEDIATE RELEASE
June 2, 2017

CONTACT: Marnie Satterfield
(202) 223-1420
msatterfield@ieca-us.org

INDUSTRIAL ENERGY CONSUMERS OF AMERICA COMMENTS ON ADMINISTRATION'S PARIS ACCORD DECISION

WASHINGTON, DC – The Industrial Energy Consumers of America's (IECA) President Paul Cicio issued the following statement today after President Trump announced his intention to withdraw from the Paris Climate Accord.

"The U.S. should never be a party to a global or bilateral agreement that does not provide a level playing field for manufacturing. The manufacturing sector has a significant incentive to reduce energy consumption and GHG emissions, it is called global competition. Global competition is relentless and requires energy-intensive trade-exposed (EITE) industries to reduce energy consumption to be competitive – or we cease to exist."

"The U.S. manufacturing sector's GHG emissions are already 26 percent below 1973 levels and the industrial sector is the only sector whose GHG emissions are below 1973 levels.[1] The U.S. manufacturing sector's GHG intensity is only 22 percent of China's manufacturing sector.[2]

"As EITE manufacturing companies, a level playing field is essential for our ability to invest and create jobs in the U.S. If this does not occur, industrial GHG leakage will shift both GHG emissions and high paying middle-class jobs to other countries, which accomplishes nothing environmentally."

"We welcome the opportunity to work with the Trump Administration and Congress to remove regulatory barriers which impair our ability to reduce GHG emissions, such as new source review (NSR)."

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with $1.0 trillion in annual sales, over 2,300 facilities nationwide, and with more than 1.6 million employees worldwide. It is an organization created to promote the interests of manufacturing companies through advocacy and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: chemical, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, building products, automotive, brewing, independent oil refining, and cement.

[1] Inventory of U.S. Greenhouse Gas Emissions and Sinks, Environmental Protection Agency (EPA), https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks.
[2] International Energy Agency, World Bank.

May 3, 2017

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear Mr. President,

We write as Governors of 12 states that are home to 107 million Americans and comprise approximately 38 percent of the nation's GDP, to urge you to keep the United States in the Paris Climate Agreement. Given the progress our states have made in reducing greenhouse gas emissions, we are convinced that the United States' goal of 26-28 percent below 2005 levels is readily achievable. Maintaining the U.S. commitment is essential to protect our residents, and indeed, all Americans from the potentially catastrophic impacts of a changing climate.

We see our climate changing today through rising sea levels, increasing flooding, drought, and decreasing snow cover. These changes are causing forest fires and water shortages, adding to air pollution levels, and accelerating the spread of disease-carrying pests and causing illness and death from extreme weather patterns, amongst other impacts. Our states stand to bear the brunt of these climate change impacts and the economic costs running in the tens of billions of dollars or more.

We stand ready as state leaders to continue to support the achievement of the existing U.S. Nationally Determined Contribution (NDC) to the Paris Agreement—and if possible to go further, faster. The policies we are implementing that support the U.S.'s achievement of its Paris commitment not only cut carbon pollution—they also create jobs, boost competitiveness, and bring clean energy and a cleaner environment to our citizens. These benefits can and should accrue to all Americans.

Collective action to limit emissions world-wide is critical; without collaboration, climate change will cost the world's nations several trillion dollars in damages. Under the Paris Agreement, all the world's major economies are taking action on climate change for the first time, including China and India, which have put forward their own commitments to cut their carbon pollution domestically. If the U.S. does not maintain global climate leadership through national policies to

reduce greenhouse gas emissions and transition to clean energy, China and India will. This would be a huge lost opportunity, putting us at a competitive disadvantage and potentially locking us into technologies and economic pathways that are increasingly obsolete while China and India reap the benefits of low-carbon leadership.

In each of our states, the path forward is clear. Our citizens demand the low-cost, clean-air benefits that a clean energy transition can provide. Our leading U.S. companies recognize the need to address business risks and opportunities through the Paris Agreement, and are wisely investing in low-carbon fuels and technologies to stay on the cutting edge of the global economy. Our track record—reducing carbon pollution while growing jobs and our economies—provides proof that we need not sacrifice opportunity for action. Indeed, we can secure that opportunity only by continuing to lead.

Sincerely,

Governor Edmund G. Brown, Jr.
State of California

Governor John Hickenlooper
State of Colorado

Governor Dannel P. Malloy
State of Connecticut

Governor John Carney
State of Delaware

Governor David Y. Ige
State of Hawaii

Governor Mark Dayton
State of Minnesota

Governor Andrew M. Cuomo
State of New York

Governor Kate Brown
State of Oregon

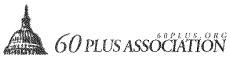
Governor Tom Wolf
Commonwealth of Pennsylvania

Governor Gina Raimondo
State of Rhode Island

Governor Terence R. McAuliffe
Commonwealth of Virginia

Governor Jay Inslee
State of Washington

CC: The Honorable Mitch McConnell, U.S. Senate Majority Leader
The Honorable Chuck Schumer, U.S. Senate Minority Leader
The Honorable Paul Ryan, Speaker of the House of Representatives
The Honorable Nancy Pelosi, Democratic Leader, House of Representatives



May 8, 2017

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Ave., N.W.
Washington, D.C. 20500

Dear Mr. President,

We, the undersigned, write in enthusiastic support of your campaign commitments to withdraw fully from the Paris Climate Treaty and to stop all taxpayer funding of UN global warming programs. We were heartened by the comments you made at your 100-day rally in Harrisburg and agree that the treaty is not in the interest of the American people and the U. S. should therefore not be a party to it.

Withdrawing from the Paris Climate Treaty is an integral part of your energy agenda. The Obama administration's Nationally Determined Contribution (or NDC) to the Paris Climate Treaty commits the United States to take actions that will reduce greenhouse gas emissions by 17% below 2005 levels by 2020 and by 26% to 28% below 2005 levels by 2025. Paris then requires a more ambitious NDC every five years in perpetuity.

The NDC cites specific policies undertaken by the Obama administration as part of the NDC. These include: the greenhouse gas emissions rules for existing (the "Clean Power" Plan) and new power plants; Corporate Average Fuel Economy (CAFE) standards for vehicles; methane emissions rules for the oil and gas sector and for landfills; and energy efficiency and conservation standards for buildings and appliances.

Environmental pressure groups and several state attorneys general have begun to prepare lawsuits in federal court to block withdrawal of the "Clean Power" Plan and other greenhouse gas rules. One argument that they have already put forward is that these rules cannot be withdrawn because they are part of our international commitment under the Paris Climate Treaty. Failing to withdraw from Paris thus exposes key parts of your deregulatory energy agenda to unnecessary legal risk. The AGs revealed in a recruiting letter that they also plan other lawsuits "ensuring that the promises made in Paris become reality."

Some officials in your administration are relying on recent statements from former Obama administration officials that the U. S. can withdraw its NDC and submit a new NDC that makes far less ambitious commitments to reduce greenhouse gas emissions. The clear language of Article 4 of the Paris Climate Treaty contradicts that claim. Section 11 states: "A Party may at any time adjust

its existing nationally determined contribution ***with a view to enhancing its level of ambition***" (*emphasis added*).

Even if the U. S. were to be cleared by UN officials to submit a less ambitious NDC, this is not the end of the threats posed by the Paris Climate Treaty to your pro-energy agenda and to the economic future of our country. Article 4 requires each party to submit a more ambitious NDC at least every five years in perpetuity. This commitment to reduce fossil fuel use every five years cannot be wished away by those who argue that the U. S. should keep a seat at the negotiating table in order to advocate for fossil fuels.

In urging you to keep your campaign commitment, we recognize that there are several options for you to withdraw the U.S. from Paris. Of the three options listed below, we think the first two are preferable to the third.

First, you could submit the Paris Climate Treaty to the Senate for its advice and consent with a recommendation that the treaty not be ratified. Submitting the treaty to the Senate would return us to and restore the proper constitutional method for treaty-making and require a future administration to go through proper procedures if it were to attempt to rejoin the treaty.

Second, you could withdraw from the underlying UN Framework Convention on Climate Change (UNFCCC). This action would also achieve your commitment to "stop all payments of the United States tax dollars to UN global warming programs," including the Green Climate Fund, which is a part of the UNFCCC.

Third, you could announce your intention to withdraw the U. S. from the Paris Climate Treaty according to the four-year schedule specified in the treaty and continue the process of repealing the regulations that the previous administration submitted as part of its NDC. This option is the least preferable because it runs the risk of legitimizing the Obama administration's false claim that the treaty is merely an executive agreement.

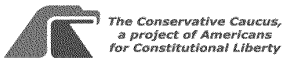
The undersigned organizations believe that withdrawing completely from Paris is a key part of your plan to protect U.S. energy producers and manufacturers from regulatory warfare not just for the next four years but also for decades to come. We will strongly support your decision to keep your campaign commitment to withdraw from the Paris Climate Treaty.

Sincerely,

Myron Ebell, Director, Center for Energy and Environment
Competitive Enterprise Institute

Thomas J. Pyle, President
American Energy Alliance

Joseph Bast, President
The Heartland Institute



FAITH & FREEDOM FOUNDATION

Grover G. Norquist, President
Americans for Tax Reform

Chrissy Harbin, Vice President of External Affairs
Americans for Prosperity

Michael Needham, CEO
Heritage Action for America

Michael Costigan, Senior Advisor, Strategic Outreach
The Heritage Foundation

James L. Martin, Founder and Chairman
60 Plus Association

Craig Rucker, Executive Director
Committee For A Constructive Tomorrow

David Ridenour, President
National Center for Public Policy Research

Thomas Schatz, President
Citizens Against Government Waste

Craig Richardson, President
Energy and Environment Legal Institute

Tom DeWeese, President
American Policy Center

Richard Manning, President
Americans for Limited Government

Phil Kerpen, President
American Commitment

David Williams, President
Taxpayers Protection Alliance

Mario H. Lopez, President
Hispanic Leadership Fund

David Bozell, President
For America

Steven J. Allen, Vice President and Chief Investigative Officer
Capital Research Center

Kenneth Haapala, President
Science and Environmental Policy Project

Craig D. Idso, Chairman
Center for the Study of Carbon Dioxide and Global Change

William Happer, President
The CO2 Coalition

E. Calvin Beisner, Founder and National Spokesman
Cornwall Alliance for the Stewardship of Creation

John Droz, Jr., Founder
Alliance for Wise Energy Decisions

Timothy Lee, Senior Vice President of Legal and Public Affairs
Center for Individual Freedom

Peter J. Thomas, Chairman
Americans for Constitutional Liberty

Ed Martin, President
Eagle Forum Education and Legal Defense Fund

Amy Oliver Cooke, Executive Vice President
Independence Institute (CO)

David T. Stevenson, Director, Center for Energy Competitiveness
Caesar Rodney Institute (DE)

Paul Gessing, President
Rio Grande Foundation

Kory Swanson, President and CEO
John Locke Foundation

Francis De Luca, President
Civitas Institute

Forest Thigpen, President
Mississippi Center for Public Policy

Eldon Alexander, President
Faith and Freedom Foundation

Lynne Roberts, President
Americans United for Freedom

Rich Johns, President
Liberty Tree Alliance

Aileen Milton, President
The Villages Tea Party

Debbie Gunnoe, President
Navarre Patriots

Sam Mullins, Co-Founder
Santa Rosa Tea Party Patriots

Hon. Mike Hill, Founder
Northwest Florida Tea Party

Stephani Scruggs Bowen, COO
Coalition for a Strong America

Alan Moran, Director
Australian Environment Foundation

To: John Coequyt
From: Steve Herz
Date: May 1, 2017
RE: Possibility of suing Trump Administration over revising U.S. NDC Target

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You have asked me to research the question of whether the Sierra Club could sue the administration in a U.S. court to prevent it from weakening the U.S. NDC or from leaving the Paris Agreement outside of the withdrawal provisions. For the reasons discussed below, it would be extremely difficult to prevail on the merits of either argument.

1. It is extremely unlikely that a U.S. court would find that Art. 4.11 creates a private right of action that would allow a suit against the Trump administration challenging the revision of the NDC, or that such a suit could win on the merits.

The Paris Agreement requires each Party to "prepare, communicate and maintain successive nationally determined contributions (NDCs) that it intends to achieve." (Art. 4.2). The NDC submitted by the Obama administration provides that "the United States intends to achieve an economy-wide target of reducing its greenhouse gas emissions by 26%-28% below its 2005 level in 2025 and to make best efforts to reduce its emissions by 28%.

Rep. Kevin Cramer, an adviser on energy issues to the Trump transition team, has recommended that the administration "renegotiate" the Agreement by withdrawing the existing NDC and replacing it with something significantly weaker.

A domestic U.S. court would almost certainly decline to hear a challenge to a downward revision of the NDC based on Article 4.11. A court would likely conclude that because this article of the Paris Agreement is not "self-executing," it would not have automatic effect as domestic law. Even if a court did conclude that this provision of the Agreement was self-executing, it would be unlikely to find that it creates a private right of action redressable by either damages or injunctive relief to a private litigant. Moreover, even if a court did reach the merits, it would likely pay great deference to the State Department's conclusion that Art. 4.11 does not prohibit Parties from decreasing the ambition of their pledges.

Needless to say, the fact that the revision of the NDC may not be justiciable in domestic court does nothing to impede our ability to challenge the Trump administration's efforts to roll back federal regulations to reduce emissions, as described in his recent Executive Order on climate and energy. With regard to each regulation, the question will be whether the administration is

properly exercising its domestic regulatory authority. The Paris Agreement, and its enforceability in U.S. courts, will have no bearing on this issue.

A. A court is unlikely to conclude that the relevant provision of the Paris Agreement is self-executing.

Supreme Court jurisprudence has long distinguished between treaties[1] that automatically take effect as domestic law and those that do not. A particular provision of a treaty is considered to be "self-executing" and thus "equivalent to an act of the legislature," when it "operates of itself without the aid of any legislative provision." *Medellín v. Texas*, 552 U.S. 491 (2008) quoting *Foster v. Neilson*, 2 Pet. 253, 315 (1829), overruled on other grounds, *United States v. Percheman*, 7 Pet. 51 (1833). On the other hand, where "[treaty] stipulations are not self-executing they can only be enforced pursuant to legislation to carry them into effect." *Medellín, id.,* quoting *Whitney v. Robertson*, 124 U. S. 190, 194 (1888).

Self-executing and non-self-executing treaties are primarily distinguished by their intent. A particular provision of a treaty will be considered to be self-executing where it "conveys an intention that it be 'self-executing' and is ratified on these terms." *Medellín, id.,* quoting *Igartúa-De La Rosa v. United States*, 417 F. 3d 145, 150 (CA1 2005) (en banc) (Boudin, C. J.). Where this intent is not present, enforcement of the agreement depends upon the good faith of the Parties in adopting implementing legislation. Failing that, the enforcement becomes the subject of "international negotiations and reclamations . . . ." Courts can provide no redress. *Head Money Cases*, 112 U.S. 580, 598 (1884).

There are no provisions of the Paris Agreement that manifest the intent to create binding domestic law. Indeed, there are at least two reasons to conclude that the intent of the agreement was explicitly not to do so. First, the Agreement includes specific provisions for addressing violations and resolving disputes. It creates a mechanism to advance implementation and promote compliance that is "facilitative in nature" and intended to be "transparent, non-adversarial and non-punitive." (Art. 15). It also adopts the dispute resolution procedures of the Article 14 of Framework Convention, which encourage Parties to settle disputes through negotiation, and makes explicit provisions for judicial resolution, arbitration, and conciliation. (Art. 24). The Supreme Court has suggested that the explicit provision for such international remedies in an agreement is evidence that the agreement is not intended to be self-executing and not meant to be directly enforceable in domestic courts. *Medellín, id.,citing Sanchez-Llamas v. Oregon,* 548 U. S. 331, 347 (2006).

Second, it is evident that the United States did not treat the nationally determined contribution provisions of the Agreement as self-executing. The U.S. submission explains that the planning process to develop the emissions reduction target relied on opportunities to reduce emissions "under existing regulatory authorities" and in an informational section that describes domestic laws, regulations, and measures "relevant to implementation" of the U.S. target, the submission

[1] Of course, for purposes of U.S. law, the Paris Agreement is an executive agreement, not a treaty, although as a matter of international law, it is governed by the Vienna Convention on the Law of Treaties. The particular manner in which the U.S. joins an international agreement under U.S. constitutional law should not determine whether or not it has automatic domestic effect.

identifies the specific regulatory authority for each policy or measure listed. The clear implication is that these provisions are to be implemented according to existing domestic regulatory law. Although Art. 4.2 requires each Party to "pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions" this wording suggests that United States did not believe that Art. 4.2 was intended to provide an independent legal authority for taking the necessary domestic regulatory action to achieve the stated NDC.

B. Even if a court were to conclude that the relevant provision of the Agreement is self-executing, it is unlikely to find that that provision creates a private right of action.

Just because a particular provision of a treaty is considered to be self-executing does not necessarily mean that it creates a right of action for private litigants to enforce it through private lawsuit. In fact, the Supreme Court has observed that "the background presumption is that '[i]nternational agreements, even those directly benefiting private persons, generally do not create private rights or provide for a private cause of action in domestic courts.'" *Medellín*, fn 3, *quoting* 2 Restatement (Third) of Foreign Relations Law of the United States §907, Comment a, p. 395 (1986). Accordingly, many Courts of Appeals have presumed that treaties do not create private causes of action in the absence of express language to the contrary. *Medellín, Id.* (citing numerous cases). There is no express language in the Paris Agreement that could be interpreted to create a private right of action.

C. A court is likely to defer to the conclusion of the State Department that Art. 4.11 allows countries to revise their NDCs downward.

We know that the State Department has taken the position that Art. 4.11 allows Parties to adjust their NDCs downward without necessarily violating the Agreement. The *Medellín* Court observed that it is longstanding practice to afford the government's interpretation of a treaty "great weight", particularly when that view is shared by partner governments to the same treaty. *Citing Sumitomo Shoji America, Inc. v. Avagliano,* 457 U. S. 176, 184–185 (1982); *see also El Al Israel Airlines, Ltd. v. Tsui Yuan Tseng,* 525 U. S. 155, 168 (1999).

In addition, while we have not seen their opinion, we can assume that the State Department relies, at least in part, on its own detailed, insider understanding of the history of the negotiations. We should expect the State Department to be able to tell a compelling story about how its negotiating objectives, the choice and evolution of the "with a view to enhancing its level of ambition" language in Art. 4.11, and the objectives and understanding of other Parties all support its interpretation. The Supreme Court has repeatedly held that the negotiation and drafting history of the treaty and the "postratification understanding" of the Parties can all be used to aid interpretation of its provisions. *Medellín, citing Zicherman v. Korean Air Lines Co.,* 516 U. S. 217, 226 (1996); see also *United States v. Stuart*, 489 U. S. 353, 365–366 (1989); *Choctaw Nation v. United States*, 318 U. S. 423, 431–432 (1943).

A litigant challenging the State Department's interpretation that Art. 4.11 allows it to weaken the existing NDC would find it difficult to overcome both the presumption in favor of the State Department's interpretation and its effective monopoly on explaining the history and evolution of its provisions.

2. The withdrawal provisions of the Paris Agreement do not allow for the U.S. to leave the agreement immediately. If the U.S. were to attempt to withdraw in violation of those provisions, it is unlikely that a domestic court in the United States would intervene. However, such a move is unlikely to be recognized by the United Nations or other Parties, and would be deeply embarrassing and politically costly to the United States.

As noted in Footnote 1 above, the Paris Agreement is an executive agreement under U.S. law, not a treaty that requires Senate ratification, however, for purposes of international law, the Paris Agreement is a treaty governed by customary international law - that customary law, as expressed in the Vienna Convention on the Law of Treaties, provides that there is no general right to unilaterally withdraw from a treaty outside the terms set forth by the treaty. (Art. 42.2).

The Paris Agreement, like most international agreements, sets out clear procedures for withdrawal. A Party may withdraw "at any time after three years from the date on which this Agreement has entered into force" for that Part by submitting written notification to the Depositary (the U.N. Secretary-General). (Art. 28.1) Such withdrawal does not take effect until at least one year after the Depositary has received the notification. (Art. 28.2)
Because the Agreement entered into force on November 4, 2016 with the U.S. as a Party, the U.S. cannot give valid written notice to the Depositary until November 4, 2019, and that withdrawal would not take effect until November 4, 2020, the day after the next Presidential election.

For the reasons set out in the previous section, there is little reason to believe that a domestic U.S. court would hear a challenge to a U.S. withdrawal. However, in the event that the administration took the extraordinary step of trying to leave the Paris Agreement outside of its withdrawal provisions and the requirements of the Vienna Convention, the Depositary might accept the written notification with a notation that the treaty's withdrawal provision had not literally been complied with. Other Parties could affix their own notation disputing the withdrawal, and would likely view the U.S. as continuing to be a Party to the Agreement and would hold the U.S. to its obligations (which, admittedly, are minimal during the 2017-2020 time period). *Goldwater v. Carter*, 444 U.S. 996 (1979), the only Supreme Court decision to address the constitutionality of an executive branch withdrawal from a treaty, would not be on all fours, varying from these facts in three respects, given that *Goldwater* involved President Carter's withdrawal from (1) a bilateral treaty, the mutual defense treaty between the United States and Taiwan, (2) in accordance with its terms, (3) in the context of the President's recognition of the People's Republic of China, a zone in which the President has unusual unilateral constitutional authority.

Under any circumstances, leaving the Paris Agreement would invite significant diplomatic blowback. Trying (and failing) to leave the Agreement in violation of its withdrawal provisions, however, might have additional adverse impacts, insofar as it would undermine U.S. credibility in the full range of its diplomatic engagements.

Moreover, upon assuming office, a new President committed to the Paris Agreement could ignore this "unsigning" as legally meaningless, and resume complying with the Agreement's obligations. There is recent precedent for this in the approach that the Obama administration took

to the previous administration's attempted "unsigning" of the Rome Statute creating the International Criminal Court.[2]

[2] For a detailed discussion of this strategy, see, Harold Hongju Koh, *On American Exceptionalism*, 55 STAN. L.REV. 1479, at 1503-09 (2003); Harold Hongju Koh, *International Criminal Justice 5.0*, 38 Yale J. Int'l L. 525 (2013).

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: EPA Press Office
Sent: Fri 6/16/2017 7:43:19 PM
Subject: EPA's Weekly Round-Up For 06/16/17

The EPA's Weekly Round-Up ...

Between G-7 meetings in Italy, testifying before Congress about President Trump's budget that protects the environment, putting the brakes on Obama's methane rule, responding to 386 of the 416 letters from Congress and cleaning-up brownfield sites across the country, it was a results-driven week at the U.S. Environmental Protection Agency.

NATIONAL NEWS …

Administrator Pruitt was in Italy at the G-7 where he talked about the new priorities of the Trump Administration. "Respective of the importance to engage with longstanding allies and key international partners, we approached the climate discussions head on from a position of strength and clarity. We are resetting the dialogue to say Paris is not the only way forward to making progress. Today's action of reaching consensus makes clear that the Paris Agreement is not the only mechanism by which environmental stewardship can be demonstrated. It also demonstrates our commitment to honest conversations, which are the cornerstone of constructive international dialogue, " said Administrator Scott Pruitt.

Need to Know News **reports that Scott Pruitt testified before the House of Representatives and said that the EPA is focused on the rule of law and cooperative federalism.** "EPA Administrator Scott Pruitt laid out his vision for his agency at a House Appropriations subcommittee hearing on Thursday, saying the EPA will focus on the rule of law and cooperative federalism. He expressed confidence that the EPA can accomplish these goals on a 'trimmed budget.' 'We're reversing an attitude and approach that one can simply reimagine authority under statutes passed by this body,' Pruitt said."

Click Here To Watch The Video

The editorial board at the Wall Street Journal reports that unlike the Obama Administration, EPA Administrator Scott Pruitt is committed to cleaning up Superfunds sites. "One cost of making climate change a religion is that more immediate environmental problems have been ignored—not least by the Environmental Protection Agency. New EPA Administrator Scott Pruitt plans to address that in an underreported effort to clean up toxic waste sites under the so-called Superfund program. In a memo to EPA staff last month, Mr. Pruitt announced a plan to reform the Superfund program created in 1980 and to accelerate the clean up of hazardous waste sites such as old industrial properties or landfills. The effort is long overdue. Superfund has too often become a sinecure for the bureaucracy and a cash cow for lawyers. EPA staff offices can wait years or decades to assess a Superfund site, figure out who's liable for what, consult with the community, decide on a remedy and assign the actual work."

The Hill **reports that the EPA has put the brakes on the Obama Administration's methane rule.** "The Environmental Protection Agency (EPA) has proposed pausing an Obama administration oil

and gas pollution rule for two years while it reconsiders the regulation."

The Washington Free Beacon reports that the EPA has been incredibly responsive to requests from the Senate EPW Committee. "The Environmental Protection Agency has responded to half of a Senate oversight committee's information requests, undermining a top Democrat's claim that he is blocking nominees because the agency has not answered his letters."

The Washington Examiner reports that the EPA has been incredibly responsive to Congress and responded to 386 out of 416 letters sent to the agency. "The Environmental Protection Agency doesn't think the numbers add up on the complaints raised by Democratic Sen. Tom Carper of Delaware over unanswered letters. 'We've responded to 386 of the 416 letters received from Congress, including 11 of the 20 letters received from' Carper, the top Democrat on the Senate Environment and Public Works Committee, said EPA spokesman Jahan Wilcox, citing EPA's latest tally conducted Tuesday."

The EPA released a new web video highlighting that our farmers are true environmentalists. ""Farmers are the true environmentalists…the stewards of the land' – Kim, on an American Agri-Women visit to EPA."

Click Here To Watch The Video

TO THE STATES …

In Michigan, the Detroit News reports that Pruitt said that the closing of regional EPA offices is pure legend. "The administrator of the U.S. Environmental Protection Agency said Thursday that reports that its Great Lakes regional office in Chicago would permanently close are 'pure legend.' 'There is no consideration presently with respect to any regional offices about moving them to one location or another. I'm not sure where that came from,' Administrator Scott Pruitt told a House Appropriations subcommittee."

In Ohio, the Cleveland Plain Dealer reports that Pruitt wants to clean-up the Great Lakes. *"Pruitt told Joyce the EPA will acknowledge priorities that Congress had outlined in past legislation, and will work 'as partners and stakeholders' with states on environmental concerns. 'We recognize the importance of the Great Lakes,' said Pruitt. 'We will work with Congress to ensure that those objectives are attained.'"*

Additionally, the Plain Dealer reports that Pruitt reaffirmed the EPA's commitment to cleaning up the Black River in Lorain. "[Pruitt] assured [Rep. Kaptur] that budget cuts the agency requested would not affect existing contracts for cleanup along the Black River in Lorain."

In New York, the Buffalo News reports that Pruitt and the EPA are making progress at cleaning-up chemicals that are stockpiled at Tonawanda warehouse. "Seven months ago, state and federal authorities seized control of a Town of Tonawanda chemical supplier allegedly stockpiling thousands of tons of chemicals. Tuesday, the scene was safe enough for the U.S. Environmental Protection Agency to offer reporters a safety-vest and hard-hat behind-the-scenes peek of the cleanup."

In Kansas, the High Plains Journal reports that the National Cattlemen's Beef Association and Public Lands Council supports the nomination of Susan Bodine. "The National Cattlemen's Beef Association and the Public Lands Council recently sent a letter to U.S. Sens. John Barrasso (R-WY) and Thomas Carper (D-DE) urging them to support the nomination of Susan Bodine to be the

Environmental Protection Agency's assistant administrator for the Office of Enforcement and Compliance Assurance. … 'Bodine has impeccable credentials with 29 years of environmental law and policy experience garnered from leadership positions in the federal government and private sector,' said NCBA President Craig Uden and PLC President David Eliason in the joint letter."

In Wisconsin, WBAY-TV reports that Pruitt and the EPA are cleaning-up Green Bay. "Green Bay's redevelopment efforts are getting a big boost with a grant from the Environmental Protection Agency."

Click Here To Watch The Video

TWEETS ...

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Nishida, Jane
Sent: Thur 6/15/2017 1:09:04 AM
Subject: Re: Meeting request

No, thanks.

Sent from my iPhone

On Jun 14, 2017, at 8:31 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Yes- it's a bit early. We are still undergoing our internal review process. Do you need anything else? Thank you

Sent from my iPhone

On Jun 14, 2017, at 7:01 PM, Nishida, Jane <Nishida.Jane@epa.gov> wrote:

Mandy,

The French Embassy is requesting a meeting to discuss to next steps post the decision to withdraw from the Paris Agreement. Presume it is too early to discuss next steps and I should respond accordingly.

Jane

From: KREMBEL David [mailto:David.KREMBEL@dgtresor.gouv.fr]
Sent: Wednesday, June 14, 2017 5:19 PM
To: Nishida, Jane <Nishida.Jane@epa.gov>; Phillips, Anna <Phillips.Anna@epa.gov>
Cc: DOUCERAIN Diane (WASHINGTON) (MAEDI) <diane.doucerain@diplomatie.gouv.fr>
Subject: Meeting request

Dear Jane and Anna,

I hope you are well. After the POTUS announcement of June 1st regarding US intention to withdraw from the Paris Agreement, France and other European partners would be interested to talk with you and learn more about the EPA's vision regarding next steps.

Topics we would want to discuss include :

- withdrawal modalities
- meaning and scope of "renegociation"
- US position in the negotiations about implementing the Paris agreement ("rulebook")
- US actions regarding the goal of emissions reduction

Would you be available to meet early next week ? How about next Tuesday (June 20) or Wednesday (June 21) in the morning ?

Many thanks,

David

David Krembel

Counselor for Ecology, Energy, and Climate Change

Embassy of France in the U.S.

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Washington, DC 20007-2179

Tel : +1 (202) 944-6088

Mobile : +1 (202) 280-3439

david.krembel@dgtresor.gouv.fr

To: Moran, John S [redacted]
Cc: Cairncross, Sean S [redacted]; Katsas, Gregory G. [redacted] Ellis, Michael J [redacted] Walter, Marguerite [redacted] Gannon, Curtis E. (OLC)[Curtis.E.Gannon@usdoj.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Peterlin, Margaret JA[PeterlinMJA@state.gov]; Porter, Robert [redacted] Neustaetter, Andrew C[NeustaetterAC@state.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Hook, Brian H[HookBH@state.gov]; Eisenberg, John [redacted]; Mattler, Michael J[MattlerMJ@state.gov]; Youel Page, Kathryn[pageky@state.gov]; Schouten, Schuyler [redacted]
From: Visek, Richard C
Sent: Mon 5/1/2017 1:59:47 PM
Subject: RE: Meeting Regarding Paris Agreement Legal Issues
Paris Agreement C175 Memo of Law - FINAL.PDF
Paris NDCs 4-30-17 630pm.docx

John – Per your request about extant work product, I'm attaching for those who do not already have it the Memo of Law that State prepared for signing the agreement. I'm also attaching in draft an analysis that we've been working on regarding several provisions in the agreement. Specifically, it addresses NDCs and whether they are legally binding and can be adjusted. Regards, Rich

Richard C. Visek

Acting Legal Adviser

Office of the Legal Adviser

U.S. Department of State

(202) 647-8460

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UNCLASSIFIED

From: Moran, John S. EOP/WHO [redacted]
Sent: Friday, April 28, 2017 9:04 PM
To: Lyons, Derek S. EOP/WHO
Cc: Cairncross, Sean S. EOP/WHO; Katsas, Gregory G. EOP/WHO; Ellis, Michael J. EOP/WHO; Walter, Marguerite C. EOP/NSC; Gannon, Curtis E. (OLC); Jackson, Ryan; Peterlin, Margaret JA; Porter, Robert R. EOP/WHO; Visek, Richard C; Neustaetter, Andrew C; Gunasekara.Mandy@epa.gov
Subject: RE: Meeting Regarding Paris Agreement Legal Issues

Here is the attachment.

From: Moran, John S. EOP/WHO
Sent: Friday, April 28, 2017 9:01 PM
To: Lyons, Derek Ex. 6 - Personal Privacy
Cc: Cairncross, Sean Ex. 6 - Personal Privacy >; Katsas, Gregory Ex. 6 - Personal Privacy Ellis, Michael J Ex. 6 - Personal Privacy
< Ex. 6 - Personal Privacy Walter, Marguerite C Ex. 6 - Personal Privacy
< >; Gannon, Curtis E Ex. 6 - Personal Privacy
<Curtis.E.Gannon@usdoj.gov>; Jackson, Ryan <jackson.ryan@epa.gov>;
PeterlinMJA@state.gov; Porter, Robert Ex. 6 - Personal Privacy
VisekRC@state.gov; NeustaetterAC@state.gov; Gunasekara.Mandy@epa.gov
Subject: Re: Meeting Regarding Paris Agreement Legal Issues

Looping in Richard, Andy, and Mandy. Also, attached is a list of the topics we wanted to be sure to cover, which matches up well with what Derek outlined.

Ex. 5 - Deliberative Process

We look forward to seeing everyone on Monday.

John S. Moran

Associate Counsel to the President

Ex. 6 - Personal Privacy (w)

(c)

On Apr 28, 2017, at 8:53 PM, Lyons, Derek **Ex. 6 - Personal Privacy** wrote:

Good evening,

Rob Porter asked me to invite you to a meeting on Monday at 1:30 PM (WH location TBD) to discuss legal issues associated potential Administration responses to the Paris Agreement.

The agenda will cover:

Ex. 5 - Deliberative Process

State and EPA: Could you please pass this invitation on to Andy Neustetter, Richard Visek, and Mandy Gunasekara, as we lack contact information for them.

Derek Lyons
Deputy White House Staff Secretary
202.395.1714

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bennett, Tate
Sent: Thur 4/27/2017 6:22:05 PM
Subject: Cramer

ER READY TO ROLL: Rep. Kevin Cramer's long awaited letter to Trump in support of keeping the U.S. in the Paris climate agreement will be sent today, the North Dakota Republican told reporters last night. The letter is expected to advocate for reducing the U.S. commitment to the agreement, increasing support for emission-reducing technologies for fossil fuels, and stopping payments to the Green Climate Fund. Cramer said he has eight signatories, mostly from the Energy and Commerce Committee, and he hopes to add a few more before dropping the letter in the mail

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Jackson, Ryan
Sent: Wed 4/26/2017 11:42:40 AM
Subject: Fwd: Morning Energy, presented by ExxonMobil: Next phase of nuclear waste debate kicks off — Trump signs monument executive order today — Whitehouse seeks investigation of Pruitt over dinner invite

We need to get some kind of gauge of what business as usual means.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

Begin forwarded message:

From: "POLITICO Pro Energy" <politicoemail@politicopro.com>
Date: April 26, 2017 at 5:49:31 AM EDT
To: <jackson.ryan@epa.gov>
Subject: Morning Energy, presented by ExxonMobil: Next phase of nuclear waste debate kicks off — Trump signs monument executive order today — Whitehouse seeks investigation of Pruitt over dinner invite
Reply-To: "POLITICO subscriptions" <reply-fe8d12757062067870-630326_HTML-786581600-1376319-0@politicoemail.com>

By Anthony Adragna | 04/26/2017 05:45 AM EDT

With help from Darius Dixon, Eric Wolff, Alex Guillén and Annie Snider

SHOWDOWN IN YUCCA-TOWN: Republicans have been beating the drum on the Yucca Mountain nuclear waste project practically since they took the House in the 2010 elections, and now the dog has caught the proverbial truck. Sen. Harry Reid has retired, a Republican is in the White House and backers of the nuclear waste project have real, live (draft) legislative text on trial today, demonstrating that years of House Energy and Commerce Committee hearings and feedback didn't stumble into a black hole. "This discussion draft reflects what we learned through those hearings, oversight activities and related work," Rep. John Shimkus, an E&C subcommittee chair who's been one of Congress' biggest Yucca-vangelists, will say, according to prepared remarks obtained by ME. "However, it is just that: a discussion draft. And today we start of process of taking input from all stakeholders on this draft."

Heller v. Shimkus: The bill, which includes language authorizing interim storage facilities and offers several olive branches to Nevada, is an acknowledgment that the project's situation requires more than simply flipping a hidden switch that might get the program on its feet. Yucca supporters can point to a 45-page document that bears out what Shimkus and

his fellow Republicans have been thinking. But critics also now have a text to attack (ME shudders to think about the nuclear equivalent of Sen. Joe Manchin shooting a hole in the 2010 cap-and-trade bill?). Sen. Dean Heller , who is testifying on the first panel at today's hearing and is one of the few Republicans vulnerable in next year's elections, says the draft bill is "heavy-handed, federal government-only proposal to reinstate Yucca Mountain while making false promises to the residents of Nevada."

The deets: The first panel of today's hearing is stacked with Nevada lawmakers opposed to Yucca, including Heller, who was something of late addition. The second panel includes officials representing state regulators, and the nuclear energy industry, as well as Ward Sproat, who submitted Yucca Mountain's application to regulators in 2008. The hearing starts at 10 a.m. in Rayburn 2123.

MONUMENTAL CHANGE? President Donald Trump will late this morning sign an executive order at the Interior Department headquarters calling on Secretary Ryan Zinke to review the national monument designations made by the past three presidents, Pro's Esther Whieldon reports . Zinke will have 45 days to file an interim recommendations, and 120 days to issue suggestions for legislation to Trump to revoke or slim down the size of any monuments that cover 100,000 acres or more that were created under the Antiquities Act. The monument review will largely focus on two Utah monuments: President Barack Obama's designation last year of Bears Ears National monument and President Bill Clinton's protection of the Grand Staircase-Escalante National Monument back in 1996.

But the order will be noticeably silent on assertions of the scope of Trump's authority to revoke monuments. Zinke stressed his belief that presidents can revise the scope of monument designations, though no president has fully revoked the status for existing monuments entirely. Green groups and tribal advocates say they'll challenge any attempt by the Trump administration to change the footprint or eliminate existing monuments. More from Esther here.

WELCOME TO WEDNESDAY! I'm your host Anthony Adragna, and Van Ness Feldman LLP's R. Scott Nuzum was first to identify St. Louis as the host of America's first Olympics. For today: What former MLB baseball player, nicknamed "Vinegar Bend," went on to serve three terms in Congress? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter @AnthonyAdragna, @Morning_Energy and @POLITICOPro.

New! Day Ahead: POLITICO Pro's comprehensive rundown of the day's congressional schedule, including details on legislation, votes, as well as committee hearings and markups. Day Ahead arrives in your inbox each morning to prepare you for another busy day in Washington. Sign up to receive Day Ahead.

WHITEHOUSE REQUESTS PRUITT PROBE: Sen. Sheldon Whitehouse asked the U.S. Office of Special Counsel in a letter to investigate whether EPA Administrator Scott Pruitt would violate the Hatch Act if he follows through on his plan to headline an Oklahoma Republican Party fundraiser, Pro's Alex Guillén reports. Whitehouse also asked

that OSC instruct Pruitt not to attend the event.

In response, EPA spokesman J.P. Freire told Alex the fundraising flier was a mistake and that Pruitt had sought to avoid a conflict: "We worked with our ethics office to ensure attendance at this event would comply with rules, and this flier unfortunately doesn't reflect those requirements. We are working to fix this and ensure full compliance with the rules." The Oklahoma GOP did not return a request for comment last night.

Scotty don't: This handy Hatch Act guide from EPA's Office of General Counsel has a number of rules for what Pruitt can and can't do at political fundraisers. He can attend them, but cannot solicit contributions, let his name be used as a sponsor or host, or let himself be identified by more than his name on an invitation. If Pruitt is determined to attend, the guide does indicate he can serve drinks or check coats. Serving salmon puffs and bacon-wrapped scallops, however, appears to be a gray area.

TAKING CARBON STOCK: If fully implemented, Trump's policies on climate change mean that by 2025 the U.S. would be pumping 900 more megatons of greenhouse gases into the atmosphere each year — more than the annual emissions from Germany — than under Obama's most ambitious target, Pro's Eric Wolff reports. Through 2030, the cumulative gap between the Trump and Obama policies could exceed 4 billion metric tons of carbon dioxide, based on POLITICO's analysis of estimates from the Democratic-leaning consultant Rhodium Group and the World Resources Institute.

But wait a sec: Pennsylvania State University climate scientist Michael Mann said Obama's policies may be difficult to toss out thanks to the courts and resistant federal staffers. "Bureaucracy can be both a good and bad thing, depending on the circumstances," Mann said in an email. "In this case, I think it may save us. Were Democrats to win back one or both houses of Congress in the mid-terms less than two years away, I think that much of the damage could almost certainly be mitigated."

SHUTDOWN UPDATE: Congress still has much to work through if it hopes to avoid a government shutdown (or a short-term CR) on Friday, but energy and environmental issues don't appear to be the problem. Energy and Water subcommittee Chairman Lamar Alexander told reporters his portion of the spending package was "all done" though declined to comment on whether it included anything for Yucca. And Sen. Lisa Murkowski , who heads the Interior-EPA spending panel, said appropriators were "still working" on her portion of the package but that there were "not really" any controversial riders included in it.

Miners' benefits still a sticking point: Lawmakers are still seeking to fund health care benefits for retired coal miners in the government funding legislation, Pro Employment & Immigration's Marianne LeVine reports. "We want to help our miners," Senate Minority Leader Chuck Schumer said. Senate leadership favors a permanent fix, but the House is pushing for a shorter-term solution. McConnell said Tuesday "it's my hope" a permanent fix makes it into the final package.

That comes as 97 groups, including Earthjustice, the League of Conservation Voters and the Wilderness Society, wrote to congressional leaders Monday urging them to keep the emerging government funding bill free of "anti-environment, anti-science riders."

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PARIS PULLOUT SPLITS SENIOR REPUBLICANS: Like the Trump administration itself, the question of whether to abandon the Paris agreement has split senior Senate Republicans. Senate EPW Chairman John Barrasso reiterated his support for abandoning the deal altogether, while Sen. John Thune voiced openness to sticking with the deal, but trying to negotiate terms. "Maybe that's a good landing place, but I do think that we are not treated fairly relative to the countries in the world who create the most pollution," he told ME.

Murkowski 'agnostic': Murkowski called herself "agnostic" about what to do but also said she'd "suggested that maybe there are other things that we need to be doing and looking at as we're working to reduce our impacts." The comments from lawmakers come as 14 state attorneys general asked Trump to affirm U.S. support for the pact and as the White House rescheduled a meeting of principals for Thursday on what position to take on the deal.

And ME obtained a memo from two Competitive Enterprise Institute officials outlining potential options for Trump to meet his campaign vow to "cancel" the Paris Agreement. "President Trump has three principal options for keeping his campaign promise: withdraw from Paris only, withdraw from the UNFCCC, or seek Senate input," it said.

Miners deny Pruitt pushed: A National Mining Association spokesman strongly denied late Tuesday that Pruitt urged the group to publicly support pulling out of the agreement, despite a source telling POLITICO that he did. The group voted to push the Trump administration to exit the pact one day after the EPA administrator met with the group's leadership.

CRAMER LETTER READY TO ROLL: Rep. Kevin Cramer's long awaited letter to Trump in support of keeping the U.S. in the Paris climate agreement will be sent today, the North Dakota Republican told reporters last night. The letter is expected to advocate for reducing the U.S. commitment to the agreement, increasing support for emission-reducing technologies for fossil fuels, and stopping payments to the Green Climate Fund. Cramer said he has eight signatories, mostly from the Energy and Commerce Committee, and he hopes to add a few more before dropping the letter in the mail.

SENATE'S WOTUS TAKEDOWN: The Senate Environment and Public Works Committee dives deep into the technical details and regulatory process for the Obama administration's controversial water rule this morning, in an effort to help the Trump administration build the case for pulling it back.

The battle lines will be stark: On critics' side will be Michael Josselyn, the dissenting voice on an outside scientific review panel for the regulation, and Misha Tseytlin, Wisconsin's solicitor general. Defending the rule will be Ken Kopocis, the Obama administration's water chief, and Collin O'Mara, president of the National Wildlife Federation. Then there's a big wildcard: Maj. Gen. John Peabody, a retired top Army Corps officer who blasted the Obama rule in internal memos to his political boss, complaining that the Corps was cut out of the process, but also that changes made in the final 2015 rule required a more extensive environmental analysis because they stood to significantly retract federal protections over streams and wetlands.

BARRASSO EYES METHANE VOTE 'NEXT WEEK': Republican aides said they've yet to firmly lock down the requisite vote necessary to nullify a BLM regulation aimed at curbing methane emissions on public lands, but lawmakers are eyeing a vote in the coming days. "I expect to have a vote next week," Barrasso told reporters Tuesday. More than 110 local officials from Colorado, New Mexico, Idaho, Nevada, Wyoming, Utah and the Ute Mountain Tribe urged Congress not ax the regulation using the Congressional Review Act in a letter sent today.

HOEVEN HOPEFUL ON CCS MOVEMENT: It may seem like near-term opportunities to advance energy legislation are scarce, but Sen. John Hoeven told reporters Tuesday he's optimistic the Senate can pass legislation reforming and extending tax incentives for carbon capture and sequestration projects this session. "I think we'll get that passed this year," the North Dakota Republican said. "That's how you make carbon capture commercially viable." He noted Majority Leader Mitch McConnell has co-sponsored similar legislative efforts previously.

PERRY'S (NU)CLEAR THINKING: National security relies on having nuclear energy as a continuing part of the electric grid, and that justifies moves by the federal government that override state authority, Energy Secretary Rick Perry said Tuesday at Bloomberg New Energy Finance Summit in New York City. As Pro's Darius Dixon reports, the former Texas governor also vowed he's perfectly comfortable shepherding the DOE funding cuts sought by Trump. "Thirty billion dollars, and 16,000 employees with 100,000 contractors may cause some people to break out in a cold sweat. It does not do that to me," he said.

UNDERSTANDING TWO-FOR-ONE ORDER: Venable LLP released an FAQ guide to understanding Trump's executive order requiring the elimination of two regulations for every new one issued (with some exemptions). It notes perhaps the "biggest challenge" surrounding the order will be developing the evidentiary record necessary to eliminate existing regulations, which "may require substantial investment in time and money that agencies and relevant stakeholders may not be able or want to undertake."

LAWSUIT FILED OVER RECORDS FOR LIKELY INTERIOR DEPUTY: The Western Values Project filed a lawsuit in federal court Tuesday seeking records related to David Bernhardt's tenure at Interior during the George W. Bush administration. "There shouldn't be any secrets about Mr. Bernhardt if he stands a chance of becoming one of the

most powerful figures at Interior," Chris Saeger, the group's executive director, said in a statement. Bernhardt is thought to be a leading contender for a top agency position, including deputy secretary.

MAIL CALL! SAVE EPA REGION 5! Eight senators and 27 Democratic congressmen sent Pruitt a letter Tuesday urging him not to shutter EPA's Chicago-based regional office. "Region 5 does not duplicate enforcement or regulatory actions, rather Region 5 allows the EPA to better coordinate federal efforts with state and local governments," they wrote. The agency has strongly denied it was considering the option of closing the region. Sen. Rob Portman was the lone Republican to sign the letter.

STEADY BREEZE: Phil Murphy, the front-runner for the Democratic gubernatorial nomination in New Jersey, hopes to build 3,500 megawatts of offshore wind generation by 2030 as part of his energy policy, POLITICO New Jersey's David Giambusso reports. That'd be enough to power roughly 1.5 million homes. The former U.S. Ambassador to Germany and Goldman Sachs executive has previously said he would immediately rejoin the Regional Greenhouse Gas Initiative that Gov. Chris Christie left.

ENERGY PORTAL LAUNCHES: R Street and CRES Forum are today launching a new portal, Energy Done Right, that explores energy and environmental issues from the right-of-center think tank community perspective.

MORE JOIN THE CLIMATE ARK: Freshmen Reps. Mike Gallagher and Salud Carbajal are the latest members of the bipartisan Climate Solutions Caucus.

MOVER, SHAKER: David Goldston leaves NRDC next month after eight years as the environmental group's director of government affairs to become director of the MIT's Washington office, Pro's Alex Guillén reports.

QUICK HITS

— State Department Memo Boosts Case to Stay in Paris Climate Pact. Bloomberg.

— Trump's plan to kill Energy Star could benefit his properties. CNN.

— Can EPA Get the Lead Out Amid Deregulatory Fervor? Bloomberg BNA.

— Most global investors recognize financial risk of climate change, report finds. The Guardian.

— Quake raises new concerns about Atlantic Sunrise pipeline, but builders say safeguards built in. Lancaster Online.

— Valero CEO expects Q2 biofuel costs to be 'a significant headwind'. Reuters.

HAPPENING TODAY

7:30 a.m. — BakerHostetler's 28th Annual Legislative Seminar, Hyatt Regency on Capitol Hill, 400 New Jersey Ave. NW

10:00 a.m. — "A Review of the Technical, Scientific, and Legal Basis of the WOTUS (Waters of the United States) Rule," Senate Environment and Public Works Committee, 406 Dirksen

10:00 a.m. — "H.R., the Nuclear Waste Policy Amendments Act of 2017," House Energy and Commerce Environment Subcommittee, 2123 Rayburn

4:00 p.m. — Reps. Curbelo and Moulton deliver remarks at coastal sustainability briefing being hosted by the bipartisan Climate Solutions Caucus, 421 Cannon

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To view online:
https://www.politicopro.com/tipsheets/morning-energy/2017/04/next-phase-of-nuclear-waste-debate-kicks-off-022531

Stories from POLITICO Pro

Trump to order review of national monuments Back

By Esther Whieldon | 04/25/2017 09:02 PM EDT

President Donald Trump is set to order the review of tens of millions of acres of land and water set aside as national monuments by the past three presidents on Wednesday, a move that environmental groups warn will undermine a crucial conservation tool and open up sensitive areas to fossil fuel development.

The review will be conducted by Interior Secretary Ryan Zinke and will encompass the dozens of monuments created over the past 21 years, although the main focus will be on President Barack Obama's designation last year of Bears Ears National monument, as well as the Grand Staircase-Escalante National Monument protected by President Bill Clinton in 1996. Both of those are in Utah, and the state's lawmakers have pressed to revoke the monument status for the two sites, which are believed to hold fossil fuel resources.

But Zinke sought to quell concerns that the executive order would roll back conservation protections provided by 1906 Antiquities Act, saying the Trump's order "does not strip any

monument ... or loosen any environmental conservation on any land or marine areas."

Yet environmental groups fear the review is a simply a pretense to unwind the federal protections in the future, since both Trump and Zinke have supported growing U.S. fossil fuel output.

The Antiquities Act is "one of our country's kind of bedrock conservation laws," said Daniel Ritzman, Sierra Club western public lands protection campaign director.

Sixteen different presidents have used the law "to protect some of our country's most special places. You know places like the Grand Canyon [National Park] started out out as a national monument," he said. "And it's not just our important landscapes that have been protected, it's also used to protect some unique American cultural sites, especially Native American cultural sites."

Presidents have also used the law to block off areas from fossil-fuel development, such as coal mining at Grand Staircase, but environmental and conservation groups worry those protections will be tossed aside as Trump looks for additional ways to unleash energy development on public lands and waters.

"This administration has made it clear that they're going to do the bidding of the oil and gas industry," said Jennifer Rokala, executive director of the Center for Western Priorities, a Colorado-based conservation group.

The order gives Zinke 45 days to file an interim recommendations, and 120 days to issue suggestions for legislation or for Trump to revoke or slim down the size of any monuments that cover 100,000 acres or more that were created under the Antiquities Act.

The order does not make any assertions as to the scope of Trump's authority to revoke monuments, Zinke said and he reiterated his belief that presidents can revise the scope of monument designations, though that the broader authority to delist monuments remains untested in courts.

While presidents have tweaked the size of their predecessor's monument designations — President Dwight D. Eisenhower, for example, reduced Colorado's Great Sand Dunes National Monument by 25 percent — none have fully revoked the status for existing monuments entirely. Environmental groups and tribal officials say they stand ready to sue over any attempts by Trump to change the footprint or eliminate existing monuments.

Obama used the power under the Antiquities Act to to protect more land than any previous president, from underwater canyons and mountains off Cape Cod to the vast Papahānaumokuākea Marine National Monument in the Pacific Ocean. His aggressive use of the Act drew scathing criticism from Republicans, who complained the White House abused the law to override local opposition and restrict development and usage of the lands.

Groups have already challenged two of Obama's monument designations, including a

lawsuit by fisheries groups over the Northeast Canyons and Seamounts National Marine Monument off the East Coast, but neither of the cases address the scope of a president's authority to revoke a monument.

Meanwhile, the energy industry has been lobbying for access to more public lands — as well revisions to ease the environmental reviews and other permitting processes. The American Petroleum Institute in a January letter to lawmakers urged Congress to revamp the Antiquities Act, arguing the increasing use of the law presents "threats to responsible and balanced use of federal lands offshore and onshore."

"There's absolutely interest in developing oil and natural gas resources on public lands," said Erik Milito, API's director of upstream and industry operations.

"There's highly prospective areas for the industry and we've seen considerable development on state and private lands in the vicinity of public lands, which would demonstrate that there could be far greater opportunities if we had a more streamlined process and more opportunities by eliminating these types of obstacles to development."

Back

Pruitt to headline Oklahoma GOP gala Back

By Alex Guillén | 04/24/2017 10:52 AM EDT

EPA Administrator Scott Pruitt will headline the Oklahoma Republican Party's annual gala next week, according to an event invitation.

"You do not want to miss Pruitt at this year's OKGOP Gala, as he discusses his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!" the invitation says.

It notes that Pruitt in just a few months has already "overseen the rollback of the Waters of the US rule, called for an exit from the Paris Climate Agreement, and championed a return to EPA 'originalism.'"

Pruitt was previously Oklahoma's attorney general. The event takes place on May 5 in Moore, Okla.

Back

Whitehouse alleges Pruitt fundraiser appearance violates Hatch Act Back

By Alex Guillén | 04/25/2017 07:24 PM EDT

Sen. Sheldon Whitehouse (D-R.I.) today alleged that EPA Administrator Scott Pruitt's upcoming headlining appearance at an Oklahoma Republican Party fundraiser violates the

Hatch Act, the law prohibiting federal employees from partaking in many political activities.

Pruitt is slated to appear at the Oklahoma GOP's annual gala fundraiser on May 5, and the invitation promises that Pruitt will discuss "his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!"

In a letter to the U.S. Office of Special Counsel, the independent agency that investigates these matters, Whitehouse argues that "the unmistakable impression one receives from the May 5 invitation is that by purchasing a ticket or agreeing to sponsor the OKGOP Gala, the attendee will have special access to a federal employee discussing official actions already taken, and to be taken in the future. This is clearly impermissible political activity under the Hatch Act."

Whitehouse also asked that OSC instruct Pruitt not to attend the event.

EPA did not immediately return a request for comment.

Cabinet members have occasionally crossed a line on the Hatch Act, including last year, when then-Housing and Urban Development Secretary Julian Castro answered a question about the presidential race during an interview with Yahoo News. OSC in that instance did not recommend a punishment for Castro.

If OSC concludes the Hatch Act was violated by a presidential appointee, the matter is referred directly to the president for possible punishment or sanctions.

Back

EPA: Pruitt fundraiser appearance OK'd, but flier erred Back

By Alex Guillén | 04/25/2017 08:56 PM EDT

EPA says an invitation touting Administrator Scott Pruitt's appearance at a May 5 Oklahoma GOP fundraiser was an error and that Pruitt had worked to avoid a political conflict.

"We take very seriously the rules by which federal officials must participate in public events. We worked with our ethics office to ensure attendance at this event would comply with rules, and this flier unfortunately doesn't reflect those requirements," EPA spokesman J.P. Freire said in an email. "We are working to fix this and ensure full compliance with the rules."

Sen. Sheldon Whitehouse today alleged that the invitation to the Oklahoma GOP's annual gala fundraiser put Pruitt on the wrong side of the Hatch Act, the law limiting political activities by presidential appointees and other government officials.

The Hatch Act does not bar officials like Pruitt from attending political fundraisers, though there are restrictions, including on what Pruitt can say and a prohibition on organizers using a government officials' title to sell tickets. The invite, issued by the state Republican party, uses Pruitt's title and says he will discuss "his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!"

Whitehouse has urged the U.S. Office of Special Counsel to investigate and bar Pruitt from attending the fundraiser.

Back

Trump's already making his mark on climate Back

By Eric Wolff | 04/25/2017 08:57 PM EDT

President Donald Trump's aggressive rollback of the Obama administration's climate policies is already changing the trajectory of the world's efforts on global warming, with some analysts estimating it will mean billions more tons of greenhouse gases entering the atmosphere during the next decade and a half.

It could be one of the most durable legacies of his young presidency — regardless of whether Trump decides to withdraw the U.S. from the Paris climate agreement.

Trump has spent much of his first 100 days in office launching a series of efforts to undo former President Barack Obama's domestic climate policies, seeking to ease pollution limits on power plants, vehicle tailpipes, coal mining, and oil and gas wells. And while Democrats and environmental groups promise fierce resistance, analysts say Trump's efforts could bring an effective halt to U.S. efforts to cut the carbon pollution that scientists blame for warming the planet.

"This is an experiment we can only run once, and then it's too late," said Princeton University climate scientist Michael Oppenheimer. "We were in a lot of trouble with climate change already. This only makes it more risky. It's hard to quantify how much it matters, but it makes attainment of a difficult-to-achieve target more or less impossible."

The United States is the world's second-largest carbon polluter, but its greenhouse gas output has slid sharply in the past decade — a trend driven partly by increases in energy efficiency and a shift from coal to natural gas as a power source. Obama had pledged to continue those reductions in the coming decade to meet U.S. commitments in the 2015 Paris agreement, in which nearly 200 nations made non-binding promises to cut their carbon pollution. Hillary Clinton had promised even steeper reductions.

Trump, in contrast, has vowed to reverse Obama's policies, lift restrictions on the energy industry and "save our wonderful coal miners" — pledges that helped him win fossil fuel-producing swing states like Pennsylvania and Ohio.

And his actions will have a real-world effect, based on POLITICO's analysis of estimates from the Democratic-leaning consultant Rhodium Group and the World Resources Institute. Instead of falling, Rhodium's projection estimated that Trump's policies, if fully implemented, will cause U.S. carbon pollution to continue more or less at current levels. That means that by 2025, according to POLITICO's analysis, the U.S. would be pumping 900 more megatons of greenhouse gases into the atmosphere each year than under Obama's most ambitious target.

That extra U.S. carbon would exceed the annual output of Germany, one of the world's top greenhouse gas polluters. That would be enough to increase the world's annual carbon emissions by almost 2 percent, Pennsylvania State University climate scientist Michael Mann said — at a time when climate researchers say the world urgently needs to accelerate its cuts.

Through 2030, the cumulative gap between the Trump and Obama policies could exceed 4 billion metric tons of carbon dioxide, based on Rhodium's estimates.

In other words, Trump's domestic actions on energy would be his real contribution to global climate policy — a fact obscured by the noisy political fight on whether the U.S. should withdraw from Paris . The figures don't even account for the possibility that a U.S. retreat on climate efforts would cause other major polluters, such as China and India, to pull back on their commitments.

"If you're going after the Clean Power Plan and going after everything else and all the other rules, then whether or not you stay in Paris appears to be symbolic from the perspective of U.S. emissions," said Andrew Light, a fellow at the World Resources Institute who worked for the State Department under Obama.

Rhodium based its analysis on a March 28 executive order in which Trump directed his agencies to take the first steps toward reversing some of Obama's most significant climate actions, including regulations on coal miners, oil and gas drillers, and thousands of power plants.

Trump and his appointees have made no secret of their disdain for Obama's attempts to rally the world on climate change, an issue the president has labeled a Chinese-inspired "hoax" that's wiped out American jobs. White House budget director Mick Mulvaney dismissed climate programs last month as "a waste of your money," telling reporters that "we're not spending money on that anymore."

Mulvaney was defending Trump's proposal for a 31-percent budget cut for the Environmental Protection Agency, whose carbon regulations on the power, auto, coal, oil and gas industries had provided the heart of Obama's climate policies.

Among other steps to erase Obama's climate legacy, Trump has ordered the EPA to begin unwinding Obama's 2015 regulations on greenhouse gases from power plants, moved toward easing the agency's vehicle fuel-efficiency requirements and signed off on Congress'

repeal of stream-pollution restrictions that had threatened to hinder some coal mining activity. He is also due to take steps this week toward opening up vast new offshore regions for oil and gas production — a sharp break from the limits Obama imposed late in his second term.

More quietly, the administration has postponed Energy Department efficiency standards for commercial and consumer appliances such as freezers and boilers, withheld grants for research into next-generation energy technologies, and ordered the government to revise a metric called the "social cost of carbon" that seeks to factor the impacts of climate change into regulatory actions. Administration lawyers have also persuaded appellate judges to postpone rulings on several Obama-era rules facing industry challenges, giving Trump's agencies more time to pull them back for reworking.

Rhodium's analysis of the effect of Trump's executive order comes with plenty of caveats: It assumes that cities and states will fail to fill the gap in federal policy, and that a climate advocate will not take over the White House in 2020. It also does not allow for faster-than-expected advances in renewable energy technologies — notably battery storage — that could accelerate the shift to wind and solar power.

But Rhodium also doesn't include other measures that Trump could take, such as reneging on a 2016 treaty to limit the production of potent greenhouse gases known as hydrofluorocarbons. That agreement by itself could forestall 0.5 degrees Celsius in global warming during this century, according to U.N. estimates. The Paris agreement is meant to prevent the rise in average global temperatures from exceeding 2 degrees Celsius above pre-industrial levels.

Rhodium's partners include Trevor Houser, who was a top outside adviser to the Clinton campaign on energy issues.

Climate researchers say the world is so close to a tipping point that any backsliding would be dangerous.

For example, carbon dioxide levels in the Earth's atmosphere have been hovering above 405 parts per million since November, the highest on record, according to the National Oceanic and Atmospheric Administration — significantly higher than the 350-parts-per-million level that some leading climate researchers say the world needs to move back to. The estimated change in emissions allowed by Trump's executive order would add 2 parts per million in the next 20 years, according to a rough estimate by Pieter Tans, chief of the Carbon Cycle Greenhouse Gases Group at the NOAA Earth Science Research Laboratory.

Put another way, those extra emissions alone would move the world 4 percent closer to 450 parts per million — the point at which the world still has a better-than-50-percent chance of stabilizing global temperatures, according to the Organization for Economic Cooperation and Development. Failing to stabilize temperatures would could mean intensifying extreme weather events at "unprecedented levels," the OECD says. It could also move the world to a point where temperature and emissions feedback loops make changes in the world's climate

change irreversible.

"Thus far, we human beings have mostly controlled climate change through emissions of greenhouse gases," Tans said in an email. "Continuing on this path will likely lead to uncontrolled and potentially very large emissions of [carbon dioxide] and [methane] from the melting of permafrost in the Arctic, to name one plausible feedback effect."

Still, some advocates for deep cuts in carbon emissions, such as Mann, hold out hope that Obama's policies will prove difficult to uproot. They're counting on the courts and resistant federal staffers to stall Trump's plans.

"Bureaucracy can be both a good and bad thing, depending on the circumstances," Mann said in an email. "In this case, I think it may save us.

"Were Democrats to win back one or both houses of Congress in the mid-terms less than two years away, I think that much of the damage could almost certainly be mitigated," he added.

Skeptics of Obama's policies argue that the U.S. would absorb most of the pain of the Paris agreement while countries such as China and India — the world's biggest and fourth-biggest carbon polluters, respectively — would get off easy. Both countries are expected to produce more carbon dioxide in 2030 than they did in 2015.

"The Obama administration made really ambitious commitments in Paris with no clear way to get there under current regulations," said Robert Dillon, an energy expert with the American Council for Capital Formation, who contends that Trump's decision to ease off on Obama's carbon rules puts the U.S. on a level playing field.

"Any time you have a concern where you're tying one hand behind your back to compete in the global market, there are legitimate concerns about how the country remains competitive and improves the standard of living for American families," he added.

Meanwhile, Trump's rollback puts pressure on other countries to decide how to respond. The U.S. already butted heads with other G-7 nations this month when Energy Secretary Rick Perry's insistence that the Paris agreement should not be mentioned scuttled a joint communique.

Some foreign leaders are choosing to be optimistic, for now.

"I don't see the world backing off," Swedish Deputy Prime Minister Isabella Lövin told reporters last week in Washington. Instead she expressed concern about the next stage of the Paris agreement, which calls for nations to further cut their greenhouse gases.

"We are concerned that some might point to the U.S. and say, 'We don't have to raise ambitions now if the U.S. is not going to take part of this,'" she said. "And the U.S., of course, has a great responsibility for the historic emissions. That makes it a really bad chase

to the bottom."

Back

Schumer, McConnell: We're trying to find a solution for miners Back

By Marianne LeVine | 04/25/2017 03:26 PM EDT

Senate Minority Leader Chuck Schumer said today that finding a solution to fund health care benefits for retired coal miners remains an "outstanding" issue in funding negotiations.

"We want to help our miners," Schumer said.

Lawmakers are expected to include some provision in this week's appropriation bill to shore up miners' health benefits. Senate leadership favors a permanent solution, but House leadership wants a shorter-term fix.

Senate Majority Leader Mitch McConnell reiterated today that he is "in favor of a permanent fix on miners' health care."

"It's my hope that that will be included in the final package," McConnell said.

Jennifer Scholtes contributed to this report.

Back

Trump advisers' meeting on Paris deal reset for Thursday Back

By Andrew Restuccia and Josh Dawsey | 04/25/2017 03:25 PM EDT

The Trump administration has rescheduled a meeting of senior advisers to hash out internal divisions over the Paris climate change agreement for Thursday, two administration officials told POLITICO.

The meeting could help decide the fate of the United States' involvement in the accord, which won the support of nearly 200 nations in Paris in 2015. Trump's advisers hope to make a recommendation to the president about how he should proceed.

Several of Trump's close advisers and Cabinet secretaries, including Jared Kushner and Secretary of State Rex Tillerson, are said to support staying in the deal. But chief strategist Steve Bannon and EPA Administrator Scott Pruitt strongly oppose the pact and have been privately making the case that the U.S. should withdraw.

While the list of attendees is unclear, Tillerson, Bannon, Kushner, National Economic Council Director Gary Cohn, national security adviser H.R. McMaster and Energy Secretary Rick Perry are expected to be at the meeting.

The meeting had been scheduled to take place last week, but it was postponed because several Trump advisers traveled with the president to Wisconsin.

Trump's advisers and energy industry officials have been engaged in a months-long behind-the-scenes effort to sway the president. Aides who support staying in the deal have argued Trump could still achieve his policy goals, with less international blowback, by weakening Obama's pollution-reduction targets while trying to negotiate greater global support for fossil fuels. They've won the support of several energy companies, including a few major coal producers.

Meanwhile, Republicans in Congress and hard-line conservatives have argued that the president must withdraw altogether, noting that Trump promised during the campaign to cancel the agreement.

Trump is expected to make a final decision by late May, when he'll travel to Italy to participate in a G-7 meeting.

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

Back

Mining group to support pulling out of Paris after meeting with Pruitt Back

By Andrew Restuccia | 04/25/2017 04:07 PM EDT

A coal mining industry group's board of directors voted on Tuesday to press President Donald Trump to withdraw from the Paris climate change agreement — just one day after EPA Administrator Scott Pruitt met with the group's leadership to discuss the accord, two sources told POLITICO.

Pruitt personally attended a meeting of the National Mining Association's executive committee on Monday to lay out his concerns with the Paris accord.

A National Mining Association spokesman strongly denied that Pruitt urged the group to publicly support pulling out of the agreement, despite a source telling POLITICO that he did.

Trump has often aligned himself with coal miners, promising to revive the industry that has suffered sharp job losses over the past decade as the U.S. appetite for the energy source has waned. Just last month, Trump went to the EPA's headquarters with a group of coal miners to sign an executive order rolling back President Barack Obama's regulation curbing carbon emissions from power plants.

Pruitt has emerged in recent weeks as one of the administration's leading critics of the 2015 Paris deal, calling it a "bad deal for America" in a recent interview. An EPA spokesman

confirmed Pruitt attended the NMA meeting, saying that he "discussed the problems with the Paris agreement."

The NMA board's decision is the latest evidence of the split within the coal industry over the Paris deal. Several major coal companies have signaled their openness to the U.S. remaining in the Paris agreement if the White House can negotiate more global support for technology that would reduce the carbon footprint of coal.

But other coal companies, including Murray Energy, which is led by Trump supporter Robert Murray, are vociferously opposed to the accord, which has won the backing of nearly 200 nations.

The NMA vote was 26-5, with some members abstaining, according to one source.

The NMA board's decision to weigh in raises the stakes in the behind-the-scenes standoff within the White House over the international climate accord. Several White House aides, including senior adviser Jared Kushner, are said to be in favor of remaining in the agreement, while chief strategist Steve Bannon supports withdrawing.

White House aides who want to remain in the pact have sought to build support among energy companies in recent weeks. But several Republicans and industry groups have launched a counter-offensive to increase momentum for exiting the agreement. Sen. John Barrasso distributed a document arguing for leaving the Paris agreement at a Tuesday policy lunch with Senate Republicans.

Trump's top advisers are set to meet on Thursday in hopes of making a formal recommendation to President Donald Trump. Trump is expected to decide whether to stick with the accord before the G-7 summit at the end of May.

NMA is still writing its statement urging a Paris withdrawal and it's unclear when it will be sent to the White House, one source said.

This story has been updated to add a statement from the National Mining Association.

Back

Cramer floats conditions to stay in Paris deal Back

By Andrew Restuccia | 03/23/2017 04:30 PM EDT

Republican Rep. Kevin Cramer is circulating a letter that lays out conditions for the United States to stay in the Paris climate change agreement.

The previously unpublished letter to President Donald Trump, which was obtained by POLITICO, urges Trump to abandon former President Barack Obama's pledge to cut U.S. emissions 26-28 percent below 2005 levels by 2025, arguing the target "would cause

irreparable harm to our economy."

Trump's new pledge should showcase "the energy security, consumer, and emission benefits produced by the shale revolution and emphasize the importance of baseload power generation, including highly efficient and low emission coal-fired and nuclear power plants, to grid reliability," Cramer writes.

In addition, Cramer says the U.S. must no longer contribute to the Green Climate Fund, and "use its seat at the Paris table to defend and promote our commercial interests, including our manufacturing and fossil fuel sectors." The U.S. should work with other countries to help commercialize and deploy technologies to reduce emissions from fossil fuels, the letter says.

While it's unclear whether Trump will ultimately stay in the Paris agreement, Cramer's letter echoes the general approach being advocated by some of Trump's aides. But opponents of the agreement in the White House, including chief strategist Steve Bannon, could scuttle any effort to remain in the deal.

Cramer's staff is still in the process of getting signatures on the letter and the text could change before it's officially made public. A Cramer spokesperson did not immediately respond to a request for comment.

Back

Perry voices support for nuclear power, touts budget skills Back

By Darius Dixon | 04/25/2017 03:59 PM EDT

Keeping nuclear power on the electric grid serves a national security interest — and can justify moves by the federal government that override state authority, Energy Secretary Rick Perry said today.

"I was a very strong proponent of the 10th Amendment — thank you very much, we know how to run Texas," the former governor said at the Bloomberg New Energy Finance Summit in New York City, referring to the amendment that lays out federal authority limits. "Shoe is on the other foot — or the boot is on the other foot — now."

Maintaining around-the-clock baseload electricity is necessary for national security, said Perry, who has directed his staff to review federal policies that may be "forcing the premature retirement of baseload power plants."

"It is of our national security to have policies into place dealing with our nuclear energy that may have an effect on our ability to protect this country from a military standpoint," Perry said.

After going decades between building new nuclear power, he said, "the intellectual

capability, the manufacturing capability, has been ... substantially impacted in a negative way."

Perry also said he'd able to manage DOE cuts proposed in last month's "skinny" budget.

"Thirty billion dollars, and 16,000 employees with 100,000 contractors may cause some people to break out in a cold sweat. It does not do that to me," he said, noting prioritizes for cybersecurity and supercomputing.

Back

FWS contender advocated for delisting and hunting grizzlies, wolves Back

By Esther Whieldon and Ben Lefebvre | 04/05/2017 06:48 PM EDT

A top contender to head the Interior's Fish and Wildlife Service advocated for the agency to remove the grey wolf and grizzly bear from the endangered species list and for using hunting to control wildlife populations.

Wyoming Game and Fish Department Director Scott Talbott is believed to be in the running to be nominated as director of the Interior's Fish and Wildlife Service and has garnered backing from Secretary Ryan Zinke, according to sources familiar with the situation.

If appointed FWS director, Talbott would oversee implementation of federal wildlife laws, including the Endangered Species Act, for the major infrastructure and land management projects across Interior's various agencies.

It's not yet clear if Talbott has the support of the White House. Spokeswoman Kelly Love in an email said "We have no personnel announcements to make at this time."

The White House has yet to nominate candidates for any of the top political positions at Interior or its nine bureaus. Zinke, who is himself an avid hunter and fisherman, voiced frustration this week about the slow pace of the vetting and final appointment decisions.

Talbott, a long-time employee of the Wyoming agency and its director since 2011, has argued that states are better suited than the federal government to manage wildlife conservation issues, particularly after a species has returned from the brink of extinction.

"The state clearly has the expertise to move forward with wolf management and grizzly bear management," Talbot said in a 2011 radio show.

"It is a shame that given the incredible accomplishments associated with grizzly bear recovery there has been such uproar over the consideration of a statement to support the use of regulated hunting as a possible management approach for grizzly populations that are recovered and delisted," Talbott said in a Montana newspaper editorial he co-authored in 2012.

Last year, FWS proposed delisting the grizzly bear in the Greater Yellowstone ecosystem given that its population had rebounded from about 136 bears in 1975 to about 700 bears. And the U.S. Court of Appeals for the District of Columbia Circuit in March upheld the agency's 2012 decision to take the grey wolf in Wyoming off the ESA list.

If President Donald Trump does nominate Talbott to lead FWS, it would likely raise the hackles of environmental groups like Defenders of Wildlife that have sued to maintain those ESA listings.

Talbott is not the only potential Interior nominee with a history involving endangered species issues. David Bernhardt, who was a member of Trump's Interior Department transition team and worked at Interior during the George W. Bush Administration, is reportedly high on the list of candidates for the Interior's deputy secretary position.

Bernhardt chairs the natural resources department at the lobby firm Brownstein Hyatt Farber Schreck, where he has represented a variety of energy and infrastructure industries including fossil fuel, wind and water interests, with an emphasis on Endangered Species Act issues.

As deputy secretary, Bernhardt would not only be responsible for managing day-to-day operations across those nine unique bureaus, but also could play a key role in implementing Zinke's initiatives on energy and other issues.

In his prior role as Interior solicitor, Bernhardt in a 2007 memo concluded that if a species is imperiled in a significant portion, but not all, of its range, it should be listed only in that portion. The Obama administration withdrew the opinion three years later and wrote its own version. But the U.S. District Court for the District of Arizona less than a week ago rejected the Obama administration's re-interpretation, leaving the Interior without a policy on the topic.

Talbott did not respond to a request for comment and Bernhardt declined to comment.

Back

Murphy's energy policy includes major commitment to offshore wind Back

By David Giambusso | 04/25/2017 05:26 PM EDT

Phil Murphy, the front-runner for the Democratic gubernatorial nomination, has laid out the beginnings of an energy policy that calls for a significant investment in offshore wind, as energy companies increasingly eye the New Jersey coast to develop the burgeoning industry.

Murphy has already locked up the support of the state's biggest environmental groups, and the contours of his energy policy will be laid out in an upcoming campaign announcement,

which was previewed by POLITICO.

Murphy said he will begin to tackle the state's energy master plan, the guiding blueprint for New Jersey's energy policy, within his first 100 days as governor. Perhaps the most ambitious element will be a commitment to build 3,500 megawatts of offshore wind generation by 2030, or enough to power roughly 1.5 million homes.

"I am prepared to be a governor of action, who turns our state's thinking around, and who sets us on a future course to both do well and do good, and to prove that economic growth and environmental protection are not mutually exclusive," Murphy said in a statement.

Two prominent companies, U.S. Wind and DONG Energy, a Danish company, won leases to develop two wide swaths off the coast of New Jersey for wind generation. As the Trump administration pursues significant rollbacks of federal funding for clean energy, companies are looking to state policymakers for signs of investment in wind and solar.

"Those are welcome words to an industry eager to set into motion the plans needed to kick-start offshore wind projects along the east coast," said Lauren Burm, a spokeswoman for DONG Energy.

Murphy also plans to expand solar, specifically by establishing a community solar program, which would allow low-income, often urban residents, to join together as a purchasing bloc to gain more competitive prices and deploy solar energy in areas that are typically cumbersome to rooftop solar panels.

He also wants to prioritize storage, or the use of large-scale batteries that store renewable power for times of peak demand. The campaign set a goal of deploying 600 megawatts of storage by the end of his first term, and 2,000 megawatts by 2030. The overarching goal is for the state to be powered with 100 percent clean energy by 2050.

The former U.S. Ambassador to Germany and Goldman Sachs executive has previously said he would immediately rejoin the Regional Greenhouse Gas Initiative, a regional cap and trade program Gov. Chris Christie, a Republican, pulled out of when he took office, saying it represented too much of a burden to ratepayers.

Christie's energy policy has focused almost exclusively on keeping costs low. That has meant an expansion of natural gas infrastructure and limits on investment in solar and wind. While solar is still strong in New Jersey, the state has dropped in national rankings for solar installation and energy efficiency.

Murphy's approach seeks to restore New Jersey's prominence as a clean energy leader. He said his programs are also designed to generate economic growth.

"We can base a new and stronger middle class on innovation and clean energy, and ensure all communities take part," he said.

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The campaign calculates the state lost $130 million in carbon auction revenues as a result of leaving RGGI which could have gone to research and investment in clean energy, efficiency and resiliency. Those investments could have generated 1,300 jobs and more than $200 million in economic output, the Murphy campaign said.

Murphy also plans to restore the Office of Climate Change within the Department of Environmental Protection, which Christie shuttered when he took office.

Murphy is not the only Democratic candidate with an aggressive clean energy agenda. Sen. Ray Lesniak, Assemblyman John Wisniewski, and Jim Johnson have all stressed the need to promote clean energy and efficiency in a state that was battered by Hurricane Sandy and stands to suffer some of the worst effects of climate change in decades to come.

"We must listen to the scientific experts who know best how we should respond to the reality of a changing climate," Murphy said. "I will restore basic respect for climate science."

Back

NRDC's Goldston departs for MIT job Back

By Alex Guillén | 04/25/2017 02:49 PM EDT

David Goldston will leave the Natural Resources Defense Council next month after eight years as the environmental group's director of government affairs to become director of the Massachusetts Institute of Technology's Washington office, the school announced today.

Before joining the NRDC in 2009, Goldston was director of the Bipartisan Policy Center's Science and Policy Project. He previously served six years as chief of staff for the House Science Committee under Sherwood Boehlert (R-N.Y.).

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To: Mandy Gunasekara[mandy.gunasekara@gmail.com]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Byers, Dan
Sent: Mon 4/24/2017 3:05:49 PM
Subject: RE: Pruitt's link between carbon rule and Paris deal draws scrutiny

One more:

Clinton could issue 'Clean Power Plan 2.0' -- consultant

A more attractive option for environmentalists would be for Clinton to use the Clean Air Act's international provision to put in place an economywide carbon reduction program. Section 115 allows EPA to compel states to reduce air pollution emissions that contribute to health or welfare problems in other countries -- if those other countries reciprocate with like protections.

Supporters of using the section to impose a carbon dioxide program argue that the Paris climate deal fulfills the reciprocity requirement (***Greenwire***, Jan. 15).

"It is the silver bullet de jour of the enviros, and they are dead serious about this," Bookbinder said. "There is no doubt that the environmental community is pushing this on the Clinton people right now and will lay it down as one of their markers."

From: Byers, Dan
Sent: Monday, April 24, 2017 11:04 AM
To: 'Mandy Gunasekara'; 'Gunasekara.mandy@epa.gov'
Subject: RE: Pruitt's link between carbon rule and Paris deal draws scrutiny

In case you haven't seen:

Center for American Progress: How The Paris Climate Agreement Super-Charges The Clean Air Act

A group of leading law professors who work on climate have published a game-changing new

legal analysis. It finds that the Paris climate agreement unlocks a previously unused Clean Air Act provision that enables broad authority to use market-based mechanisms to reduce carbon pollution nationwide.

This is also good:

https://twitter.com/Chris_C_Horner/status/855041417231695872

From: Mandy Gunasekara [mailto:mandy.gunasekara@gmail.com]
Sent: Tuesday, April 18, 2017 7:23 PM
To: Byers, Dan
Subject: Re: Pruitt's link between carbon rule and Paris deal draws scrutiny

Thank you! So you have it, my EPA contact info is Gunasekara.mandy@epa.gov.

This is great. Not sure where this all ends up but we are doing our best.

Sent from my iPhone

On Apr 18, 2017, at 10:54 AM, Byers, Dan <DByers@USChamber.com> wrote:

Hi Mandy,

I hope is well at EPA. I don't have your work email address yet so sending to the Gmail you shared before leaving EPW. I thought the story below was a little confusing, but to the extent I understand where Administrator Pruitt is coming from, I wanted to share with you this exchange between then-Rep Pompeo and Gina McCarthy in 2013.

In my opinion, McCarthy makes the case that the Administrator is making with the WH, which is that the Obama Administration **explicitly** said the purpose of the Climate Action Plan, NSPS/CPP etc was to "leverage international action" ie get other countries to sign on to Paris.

I've always kept this in my back pocket because I think it was a moment of incidental candor that exposes both Paris and the Climate Action Plan. Video and relevant transcript below.

https://youtu.be/hVRbldAGsag?t=2m

McCarthy: "I think that the President was very clear. What we're attempting to do is put together a comprehensive climate plan across the administration that positions the U.S. for leadership on this issue, and that will prompt and leverage international discussion and action.

Pompeo: "So you're putting regulations in place for the purpose of leadership, and not to impact the indicators that you, the EPA, says are the indicators of climate change. I'm deeply puzzled by that."

Good luck!

Dan

From: POLITICO Pro Energy [mailto:politicoemail@politicopro.com]
Sent: Monday, April 17, 2017 6:37 PM
To: Byers, Dan
Subject: Pruitt's link between carbon rule and Paris deal draws scrutiny

Pruitt's link between carbon rule and Paris deal draws scrutiny

By Eric Wolff and Alex Guillén

04/17/2017 06:26 PM EDT

EPA Administrator Scott Pruitt's effort to pull the U.S. out of the Paris climate pact is part of his strategy to ensure the administration has a clear path to killing the Clean Power Plan — but experts say there is no clear legal link between the two climate change actions.

President Donald Trump's top advisers, including Pruitt, are expected to convene on Tuesday to decide whether to recommend that Trump withdraw from the agreement struck by nearly 200 countries in December 2015. Trump is expected to announce a position on the Paris deal before the G-7 meeting in late May.

While some Trump advisers are pushing to remain in the deal but to weaken the U.S. commitment to reduce carbon emissions, Pruitt has emerged as a force for exiting the Paris agreement, calling it "a bad deal for America" in an interview last week. White House sources have said that, privately, Pruitt has cited another reason for wanting to pull out of Paris: So that it cannot interfere with his effort to halt litigation over the Clean Power Plan and repeal the regulation.

The idea that the Paris agreement and the Obama administration's carbon rule — or the Endangerment Finding underpinning EPA's climate regulation — are legally connected appears to be novel even among conservatives who opposed the international pact.

"Nothing in the Paris Agreement is dependent on either the Endangerment Finding by U.S. EPA or on the Clean Power Plan," wrote Sheila Harvey, Jeff Merrifield, and Meghan Claire Hammond, all attorneys in the energy practice at the law firm Pillsbury Winthrop Shaw Pittman, wrote in a memo published last week.

Scott Segal, who leads the policy division of Bracewell, said in a memo released on April 7 that the Paris agreement "is silent on what mechanisms" countries can use to reduce their emissions, and therefore neither the Clean Power Plan nor the endangerment finding are mandated by the agreement.

"In short, the Paris Agreement imposes no enforceable obligations on the United States that would require particular regulatory outcomes or strategies," he writes.

Pruitt's legal argument surprised legal experts when POLITICO reported it on Friday.

Nick Loris, an energy and environment fellow for the conservative Heritage Foundation, which has called for Trump to pull the U.S. out of Paris, said he hasn't seen anyone else raise that concern. Even environmental groups have not cited a link between the power plant regulation and the Paris deal in their attempts in recent weeks to keep the CPP lawsuit alive, essentially guaranteeing the court won't factor it into their decision.

Some experts said Pruitt's argument appears to have significant flaws.

For starters, the Clean Power Plan was conceived well before the Paris deal was struck, and has a legal justification based on Section 111 of the Clean Air Act, which requires EPA to take action on pollutants not addressed elsewhere in the act — including carbon dioxide.

In addition, the carbon reduction commitments in the Paris deal are not legally binding in large part because international negotiators knew any binding treaty would be blocked in

the Senate by Republicans.

The agreement also falls under the "non-self-executing treaty doctrine," meaning Congress or the president have to take action to put it into effect. Without such action, courts are unlikely to take the deal into account, said Dan Bodansky, law professor and expert in international climate law at Arizona State University's Sandra Day O'Connor School of Law.

Sean Donahue, an attorney who is helping greens to defend the Clean Power Plan, agreed while it was not directly tied to the Paris deal, repealing the carbon rule would affect the U.S. pledge to lower emissions under the Paris framework, he added.

"There's not a formal legal link between Paris and CPP, but the CPP is an important part of the United States' Paris commitment, the emissions reductions," Donahue said. "So if you are going to abandon the CPP, you would need to find those big emissions reductions somewhere else."

Trump made withdrawal from the international agreement to combat climate change one of his campaign promises, but White House aides have been divided on the issue, with chief Trump adviser Steve Bannon and Pruitt at odds with Secretary of State Rex Tillerson and Jared Kushner, who are said to favor remaining in the pact.

Still, Pruitt's position has a few allies. Mike McKenna, a former member of Trump's transition team, released a lengthy statement over the weekend pressing the case for withdrawal.

"Remaining in Paris poses a significant and ongoing legal risk," he said. "The Agreement requires signatories to routinely increase the level of greenhouse gas reductions. There is little doubt that if left in place, the Agreement will be used both in litigation (immediately) and by the next Democratic Administration (at some point) to argue for and justify expanding new and aggressive regulatory regimes."

This isn't the first time that the Paris deal and the Clean Power Plan have been connected.

In December 2015, just as the Paris talks kicked into high gear, the Obama administration urged the court not to freeze the regulation. It included a statement from Todd Stern, then the State Department's climate negotiator, saying the Clean Power Plan was helping the global pact come together by demonstrating America's resolve.

A group of utilities that support the regulation briefly cited the Paris talks in urging the Supreme Court not to stay the rule.

Clinton-era Secretary of State Madeleine Albright later brought up the climate deal in April 2016 when she filed a brief arguing that the rule's "successful implementation will support U.S. efforts to ensure that others follow through on those commitments" made under the Paris deal.

It remains unclear to what extent, if any, the judiciary was persuaded by those arguments. The D.C. Circuit did not explain its decision not to stay the rule, nor did the Supreme Court when it did stay the rule, which has left experts in the dark about precisely what legal justifications the justices relied upon.

To view online:
https://www.politicopro.com/energy/story/2017/04/pruitts-link-between-carbon-rule-and-paris-deal-draws-scrutiny-155368

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Yes, very	Somewhat	Neutral	Not really	Not at all

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This email was sent by: **POLITICO, LLC**
1000 Wilson Blvd. Arlington, VA, 22209, USA

To: Wood, Jeffrey (ENRD)[Jeffrey.Wood@usdoj.gov]
From: Gunasekara, Mandy
Sent: Mon 5/8/2017 7:39:52 PM
Subject: RE: Paris
EPA Response to Paris Pathways.docx

From: Wood, Jeffrey (ENRD) [mailto:Jeffrey.Wood@usdoj.gov]
Sent: Monday, May 8, 2017 12:31 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Paris

Got a few minutes to touch base today? From RJ, I understand that our bosses spoke this weekend…

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Gunasekara, Mandy
Sent: Wed 5/3/2017 1:14:03 AM
Subject: EPA Response to Paris Options
EPA Response to Paris Pathways.docx

See attached. Can you do a quick read through before sending over to Roh et al. Should I send directly to Derek Lyons? Call my cell when you have a sec: **Ex. 6 - Personal Privacy**

To: Bowman, Liz[Bowman.Liz@epa.gov]
From: Gunasekara, Mandy
Sent: Mon 4/24/2017 3:42:04 PM
Subject: paris
Paris agreement bad deal facts_FINAL 2 (002).docx
Additional Points on Paris.docx

Info attached.

To: Willis, Sharnett[Willis.Sharnett@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 4/18/2017 1:14:01 PM
Subject: Fwd: paris
Paris agreement bad deal facts_FINAL 2 (002).docx
ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Date: April 18, 2017 at 9:12:18 AM EDT
To: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Subject: paris

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 4/18/2017 1:12:19 PM
Subject: paris
Paris agreement bad deal facts_FINAL 2 (002).docx

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 7/18/2017 12:38:03 AM
Subject: QFRs
HAC QFRs with RESPONSES FOR HOLLY_ MMG 3.docx

I was too late submitting my proposed changes to the QFRs (which was earlier today). I apologize for that, [redacted]

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Lowey Q3: To date, have you still not asked the President what his beliefs are regarding climate change?

Ex. 5 - Deliberative Process

Lowey Q4: You were in Italy this week for the G7 Meeting on the Environment. What has been the response from our international partners about President Trump's decision to withdraw from the Paris Agreement?

Ex. 5 - Deliberative Process

Lowey Q5 (Q4a): Who will fill the void of U.S. leadership on climate issues?

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

-

American Energy Jobs *(OAR)*

Pulling out of the Paris Agreement prioritizes jobs in the fossil fuel industry over renewable energy jobs. There are more than 678,000 jobs in renewable energy, more than the 515,000 jobs in oil/petroleum.

Lowey Q5: All jobs matter, so why are you arguing that protecting renewable energy jobs is bad for America?

Ex. 5 - Deliberative Process

Lowey Q6: While we are discussing energy jobs, would you like to clarify the statement you made on Meet the Press on June 4 that since the fourth quarter of last year, 50,000 jobs in the coal sector have been added, and almost 7,000 in the month of May alone? Do you still believe those numbers to be accurate?

Ex. 5 - Deliberative Process

Lowey Q7: It's important to get the facts right. According the U.S. Bureau of Labor Statistics, there were 51,000 total jobs as of May in coal mining, and 400 coal mining jobs were added in May.

Ex. 5 - Deliberative Process

Mandy M. Gunasekara

Senior Policy Advisor for Office of Air and Radiation

Office of the Administrator

US Environmental Protection Agency

To: Nishida, Jane[Nishida.Jane@epa.gov]
Cc: Dunham, Sarah[Dunham.Sarah@epa.gov]
From: Gunasekara, Mandy
Sent: Thur 6/15/2017 12:31:53 AM
Subject: Re: Meeting request

Yes- it's a bit early. We are still undergoing our internal review process. Do you need anything else? Thank you

Sent from my iPhone

On Jun 14, 2017, at 7:01 PM, Nishida, Jane <Nishida.Jane@epa.gov> wrote:

Mandy,

The French Embassy is requesting a meeting to discuss to next steps post the decision to withdraw from the Paris Agreement. Presume it is too early to discuss next steps and I should respond accordingly.

Jane

From: KREMBEL David [mailto:David.KREMBEL@dgtresor.gouv.fr]
Sent: Wednesday, June 14, 2017 5:19 PM
To: Nishida, Jane <Nishida.Jane@epa.gov>; Phillips, Anna <Phillips.Anna@epa.gov>
Cc: DOUCERAIN Diane (WASHINGTON) (MAEDI) <diane.doucerain@diplomatie.gouv.fr>
Subject: Meeting request

Dear Jane and Anna,

I hope you are well. After the POTUS announcement of June 1st regarding US intention to withdraw from the Paris Agreement, France and other European partners would be interested to talk with you and learn more about the EPA's vision regarding next steps.

Topics we would want to discuss include :

- withdrawal modalities
- meaning and scope of “renegociation”
- US position in the negotiations about implementing the Paris agreement (“rulebook”)
- US actions regarding the goal of emissions reduction

Would you be available to meet early next week ? How about next Tuesday (June 20) or Wednesday (June 21) in the morning ?

Many thanks,

David

David Krembel

Counselor for Ecology, Energy, and Climate Change

Embassy of France in the U.S.

4101 Reservoir Rd NW

Washington, DC 20007-2179

Tel : +1 (202) 944-6088

Mobile : +1 (202) 280-3439

david.krembel@dgtresor.gouv.fr

To: Surya Gunasekara[surya@mail.house.gov]; mcgrevey1@aol.com[mcgrevey1@aol.com]
From: Gunasekara, Mandy
Sent: Mon 6/12/2017 2:31:33 PM
Subject: Fwd: United States Resets Climate Change Discussion At G7

Sent from my iPhone

Begin forwarded message:

From: "Lincoln Ferguson (EPA)" <ferguson.lincoln@epa.gov>
Date: June 12, 2017 at 3:38:33 PM GMT+2
To: "Gunasekara.Mandy@epa.gov" <Gunasekara.Mandy@epa.gov>
Subject: United States Resets Climate Change Discussion At G7
Reply-To: ferguson.lincoln@epa.gov

United States Resets Climate Change Discussion At G7

U.S. Formally Joins Communiqué, Reaching Consensus On Important Environmental Issues

June 12, 2017

Bologna, Italy – Today, U.S. Environmental Protection Agency Administrator Scott Pruitt announced that the United States stands firm on its decision to withdraw from the Paris Agreement and has reset the conversation about climate change reflective of the new priorities of the Trump Administration and the expectations of the American people.

"Respective of the importance to engage with longstanding allies and key international partners, we approached the climate discussions head on from a position of strength and clarity. We are resetting the dialogue to say Paris is not the only way forward to making progress. Today's action of reaching consensus makes clear that the Paris Agreement is not the only mechanism by which environmental stewardship can be demonstrated. It also demonstrates our commitment to honest conversations, which are the cornerstone of constructive international dialogue, " said Administrator Scott Pruitt.

While a party to the communiqué, the United States did not join the climate change sections, explicitly stating:

We the United States of America continue to demonstrate through action, having reduced our CO_2 footprint as demonstrated by achieving pre-1994 CO_2 levels domestically. The United States will continue to engage with key international partners in a manner that is consistent with our domestic

priorities, preserving both a strong economy and a healthy environment. Accordingly, we the United States do not join those sections of the communiqué on climate and MDBs, reflecting our recent announcement to withdraw and immediately cease implementation of the Paris Agreement and associated financial commitment.

The United States and its G7 counterparts found common ground engaging in robust and constructive dialogue regarding other, equally important environmental issues. The United States joined consensus throughout the communiqué including the sections discussing resource efficiency, marine litter, and environmental policies and jobs.

"The United States will continue to show leadership by offering action-oriented solutions to the world's environmental challenges. We have indicated a willingness to engage on an international stage that stands to greatly benefit from American ingenuity, innovation, and advanced technologies. We have already demonstrated significant progress towards mitigating environmental problems and we will continue to develop these for the benefit of all nations," Administrator Pruitt said.

BACKGROUND ...

G7 Bologna Environment Ministers' Meeting: Communiqué

"We, the G7 Environment Ministers and high representatives, and European Commissioners responsible for environment and climate, met in Bologna on 11-12 June 2017. We were joined by heads and senior officials of International Organizations and by representatives of universities and firms." (G7 Bologna Environment Ministers' Meeting, 06/12/17)

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Washington, D.C. 20004
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.

To: Bowman, Liz[Bowman.Liz@epa.gov]
From: Gunasekara, Mandy
Sent: Fri 6/9/2017 5:25:38 PM
Subject: Religious response

http://cornwallalliance.org/2017/06/cornwall-alliance-celebrates-withdrawal-from-paris-climate-agreement/

Sent from my iPhone

To: Moran, John S. EOP/WHO Ex. 6 - Personal Privacy
Cc: Jackson, Ryan[jackson.ryan@epa.gov]
From: Gunasekara, Mandy
Sent: Thur 6/1/2017 10:47:51 PM
Subject: RE: Follow Up
Draft letter of withdrawal.docx
Canada letter withdrawal 15 Dec 2011.TIF
Canada Note 0663 withdrawal 20 Dec 2011.pdf

See attached.

Thanks for your help with all this!! Today was a great day for America :)

-----Original Message-----
From: Moran, John S. EOP/WHO [mailto: Ex. 6 - Personal Privacy
Sent: Thursday, June 1, 2017 4:54 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Follow Up

Mandy,

No rush, but when you get a chance, could you send over the draft letter to the Depositary that you guys put together? Glad to circle up on that front when convenient for you.

And the Administrator did a fantastic job with his remarks.

Regards,

John S. Moran
Associate Counsel to the President
Ex. 6 - Personal Privacy

To: Bowman, Liz[Bowman.Liz@epa.gov]
From: Gunasekara, Mandy
Sent: Wed 5/31/2017 3:04:41 PM
Subject: Fwd: RE:
PRESIDENT TRUMP - 5.29.17_cites.docx
ATT00001.htm
TRUMP_Paris Facts.docx
ATT00002.htm
Paris Agreement EPA.pdf
ATT00003.htm

Cc: Jackson, Ryan[jackson.ryan@epa.gov]
To: Ex. 6 - Personal Privacy
From: Gunasekara, Mandy
Sent: Tue 5/30/2017 1:28:47 PM
Subject: Fact Sheet and Cited Speech
TRUMP_Paris Facts.docx
ATT00001.htm
PRESIDENT TRUMP - 5.29.17_cites.docx
ATT00002.htm

Ryan asked me to forward you there attached.

Sent from my iPhone

Begin forwarded message:

From: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Date: May 30, 2017 at 7:34:54 AM EDT
T
" Ex. 6 - Personal Privacy
Subject: FW: Fact Sheet and Cited Speech

Ryan asked me to send this to you due to technical problems with email this morning.

Attached is a one pager of cited faces that tracks the speech and a "linked to cites" version of the speech.

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Gunasekara, Mandy
Sent: Tue 5/30/2017 2:46:05 AM
Subject: Fact Sheet and Cited Speech
TRUMP_Paris Facts.docx
PRESIDENT TRUMP - 5.29.17_cites.docx

Attached is the Fact sheet that tracks the speech and a "linked to cites" version of the speech we sent to POTUS (this is primarily for reference purposes in case they reach out asking where we got our info).

See you manana!

To: Bowman, Liz[Bowman.Liz@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Gunasekara, Mandy
Sent: Mon 5/29/2017 11:21:34 PM
Subject: RE: Fact

Ex. 5 - Deliberative Process

We'll need to adjust that for the final version (post the steve miller conversation).

Ex. 5 - Deliberative Process

From: Bowman, Liz
Sent: Monday, May 29, 2017 7:15 PM
To: Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Re: Fact

https://www.americancommitment.org/content/trump-should-keep-his-promise-cancel-obama-climate-deal

Sent from my iPhone

On May 29, 2017, at 6:58 PM, Ferguson, Lincoln <ferguson.lincoln@epa.gov> wrote:

Looping in Liz...

Sent from my iPhone

On May 29, 2017, at 6:57 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

I'm working on citing all of our facts - where does this come from:

Ex. 5 - Deliberative Process

---

[1] Green Climate Fund, "Contributors," available at: http://www.greenclimate.fund/partners/contributors/resources-mobilized.

[2] OECD "2020 Projections of Climate Finance Towards the USD 100 Billion Goal" (2016) available at: https://www.oecd.org/environment/cc/Projecting%20Climate%20Change%202020%20WEB.pdf

[3] Id.

[4] Id.

[5] Id.

Consequences of the "America Second" Approach and the Paris Agreement

- The Paris Agreement is a bad deal for America in two primary ways: *first*, by frontloading costs for the American people to the detriment of our economy and job growth; and *second*, by extracting meaningless commitments from top global emitters.
- The Obama Administration made a promise to reduce U.S. emissions 26 to 28% below 2005 levels by 2025. Industry groups and environmentalists agreed this commitment was "unachievable."[1]

Undermines U.S. Competiveness and Jobs: A recent report[2] assessing the overall impact of higher energy costs found over the next decade, United States involvement in the Paris Agreement would result in:

- An aggregate U.S. gross domestic product (GDP) loss of over $2.5 trillion.
- An overall annual average shortfall of nearly 400,000 American jobs, including an average manufacturing shortfall of over 200,000 jobs; and
- A total income loss of more than $30,000 for a family of four.

Green Climate Fund: The Green Climate Fund (GCF) is the key funding mechanism of the Paris Climate Agreement. The beneficiaries are small, developing nations. The fund is slated to grow to $100 billion by 2020.

- The Green Climate Fund currently has $10.13 billion contributed from 43 governments.[3]
- Obama Administration unlawfully committed $3 billion to the Green Climate Fund, which is approximately 30% of the initial funding.[4]
- Organisation for Economic Co-operation and Development (OECD) estimates that by 2020 $67 billion will be raised from public financing (private funding is expected to make up the rest).
- At current commitment levels, the U.S. would commit $18 to $20 billion.
- China will contribute $0.[5]
- India will contribute $0.[6]
- Russia will contribute $0.[7]
- Days after the Obama Administration unlawfully submitted its initial contribution of $500

[1] US Senate EPW Committee Hearing, "Road to Paris: Examining the President's International Climate Agenda and Implications for Domestic Environmental Policy," July 8, 2015, available at: https://www.epw.senate.gov/public/index.cfm/hearings?ID=99E70038-D5CB-4E63-8695-231AB995D089
[2] Heritage Foundation, "To Save American Jobs, Leave the Paris Agreement Now," March 20, 2017, available at: http://www.heritage.org/jobs-and-labor/commentary/save-american-jobs-leave-the-paris-agreement-now
[3] Green Climate Fund, "Contributors," available at: http://www.greenclimate.fund/partners/contributors/resources-mobilized.
[4] OECD "2020 Projections of Climate Finance Towards the USD 100 Billion Goal" (2016) available at: https://www.oecd.org/environment/cc/Projecting%20Climate%20Change%202020%20WEB.pdf
[5] Id.
[6] Id.
[7] Id.

million, the Green Climate Fund announced it would increase the number of permanent staff by 150% - from 56 to 140 positions.[8]

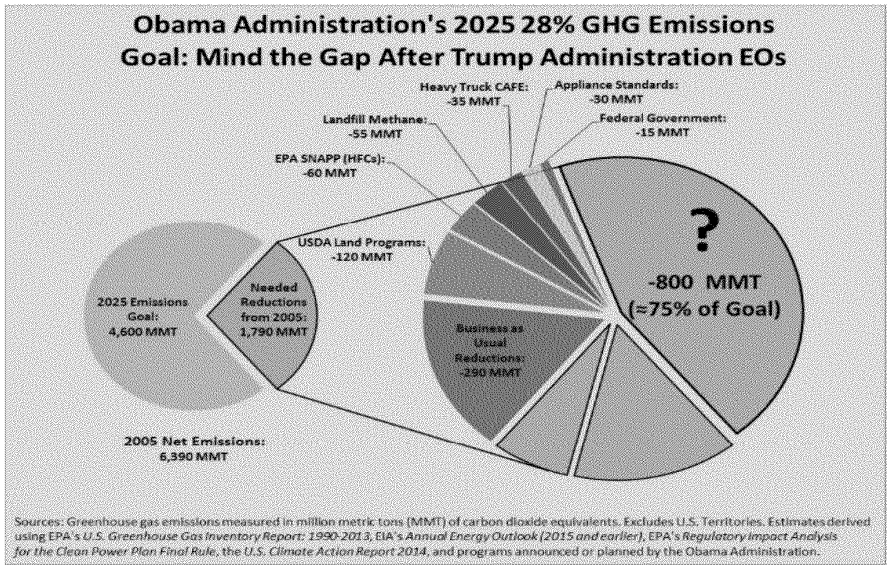
- The second unlawful installment was made on January 17, 2017.

Clean Power Plan and other costly climate regulations: The Obama Administration pledged to reduce US GHGs 26-28%. To satisfy his promise, it developed a host of domestic actions that would raise energy costs, undermine the U.S. economic competitiveness, and impede job growth. The centerpiece was the Clean Power Plan, which was projected to do the following:

- Cost of Compliance: $292 billion over 10 years
- Result in double digit electricity price increases in 40 states.
- Cost over 125,000 American jobs.
- Produce modest environmental benefits undone by a few days of emissions from China.
  - 14 days of dioxide reductions (CO_2) emission from China would offset the CO_2 emissions achieved in 2030 -- the final year of the CPP.

Set-up to Fail: The Obama Administration commitments set the United States up to fail as the 26-28% emission rate reductions by 2025 are not achievable, which environmental groups and industry agree. There was a 40% gap in meeting the emission reduction with the Clean Power Plan. Without the CPP, the methane rule for oil and gas, the gap is over 60%.

- Below highlights the effect of President's Trump Energy Independence Executive Order on the Obama-era commitments.



<u>Not an opportunity to renegotiate or back-slide on current commitments</u>: Paris Agreement parties are required to submit a new commitment every five years starting in 2020 reflective of the "ratcheting up" provision that requires commitments to be more ambitious than the previous submission. There is no provision that allows for reduced commitments.

[8] CNS News, "Days After $500 Million US Contribution, U.N. Green Climate Fund Increases Staff by 150%," March 14, 2016, available at: http://www.cnsnews.com/news/article/patrick-goodenough/.

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[1] US Senate EPW Committee Hearing, "Road to Paris: Examining the President's International Climate Agenda and Implications for Domestic Environmental Policy," July 8, 2015, available at: https://www.epw.senate.gov/public/index.cfm/hearings?ID=99E70038-D5CB-4E63-8695-231AB995D089
[2] Heritage Foundation, "To Save American Jobs, Leave the Paris Agreement Now," March 20, 2017, available at: http://www.heritage.org/jobs-and-labor/commentary/save-american-jobs-leave-the-paris-agreement-now
[3] Green Climate Fund, "Contributors," available at: http://www.greenclimate.fund/partners/contributors/resources-mobilized.
[4] OECD "2020 Projections of Climate Finance Towards the USD 100 Billion Goal" (2016) available at:

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- Cost over 125,000 American jobs.
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    - 14 days of dioxide reductions (CO_2) emission from China would offset the CO_2 emissions achieved in 2030 -- the final year of the CPP.

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- Below highlights the effect of President's Trump Energy Independence Executive Order on the Obama-era commitments.

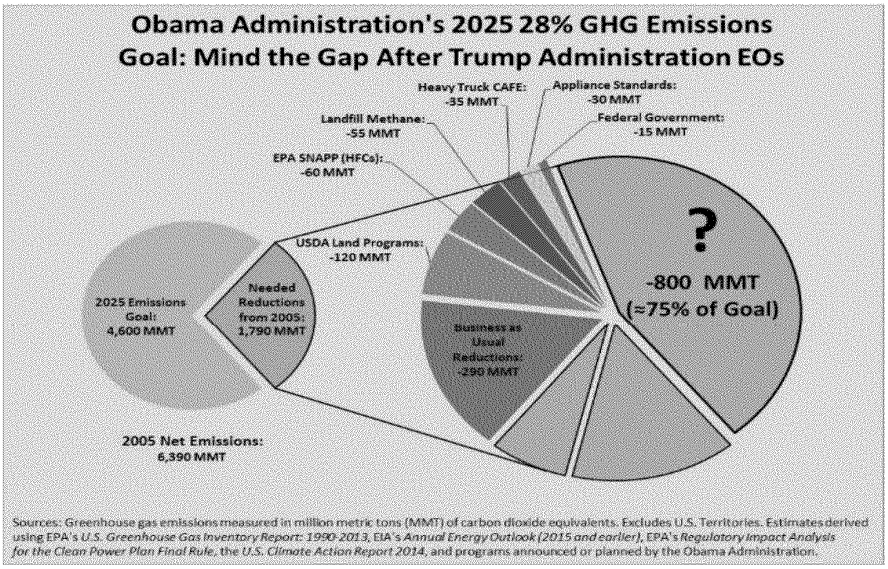
https://www.oecd.org/environment/cc/Projecting%20Climate%20Change%202020%20WEB.pdf

[5] Id.

[6] Id.

[7] Id.

[8] CNS News, "Days After $500 Million US Contribution, U.N. Green Climate Fund Increases Staff by 150%," March 14, 2016, available at: http://www.cnsnews.com/news/article/patrick-goodenough/.



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Minister of Foreign Affairs

Ministre des Affaires étrangères

Ottawa, Canada K1A 0G2

DEC 15 2011

His Excellency Ban Ki-moon
Secretary-General
United Nations
United Nations Plaza
New York NY 10017
U.S.A.

Excellency:

I am writing you in your capacity as Depositary of the Kyoto Protocol to the United Nations Framework Convention on Climate Change, done at Kyoto on December 11, 1997 (the Kyoto Protocol).

By the present letter, in my capacity as Minister of Foreign Affairs of Canada, I declare that the Government of Canada withdraws from the Kyoto Protocol. According to Article 27(2) of the Kyoto Protocol, Canada's withdrawal will take effect upon expiry of one year from the date of receipt of the present notification of withdrawal by the Depositary.

Please accept, Excellency, the assurances of my highest consideration.

John Baird, P.C., M.P.

Canada

The Permanent Mission of Canada to the United Nations

La Mission permanente du Canada auprès des Nations Unies

Note 0663

The Permanent Mission of Canada to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to refer to the Kyoto Protocol to the United Nations Framework Convention on Climate Change, done at Kyoto on December 11, 1997 (the Kyoto Protocol), and to the Secretary General's role as Depositary for the Kyoto Protocol.

On December 15, 2011, the Treaty Section of the Canadian Department of Foreign Affairs communicated electronically with the Treaty Section of the Office of Legal Affairs of the United Nations, transmitting a facsimile of a letter, dated December 15, 2011, addressed to the Secretary-General of the United Nations, in his capacity as Depositary for the Kyoto Protocol, and signed by the Minister of Foreign Affairs of Canada, the Honourable John Baird. That letter served as the instrument communicating the Government of Canada's withdrawal from the Kyoto Protocol. The Treaty Section of the Canadian Department of Foreign Affairs was pleased to receive, on the same day of that communication, a prompt confirmation by the Treaty Section of the Office of Legal Affairs of the United Nations that the facsimile had been received in good order, and that the Secretary-General as Depositary therefore received the instrument in deposit on that date, December 15, 2011. Thus in Accordance with Article 27(2) of the Kyoto Protocol, the date on which the Government of Canada's withdrawal from the Kyoto Protocol will take place is December 15, 2012.

The Permanent Mission of Canada is pleased to attach to this note the original version of the letter from Minister Baird referred to above, for the completeness of the records of the Secretary General in his capacity as Depositary.

The Permanent Mission of Canada to the United Nations avails itself of this opportunity to renew to the Secretary-General the assurances of its highest consideration.

New York, 20 December, 2011