Message

From: POLITICO Pro Energy [politicoemail@politicopro.com]
Sent: 4/3/2018 9:41:22 AM
To: Grantham, Nancy [Grantham.Nancy@epa.gov]
Subject: Morning Energy: Pruitt tries to stay focused — Administration sues California on public lands — Energy Transfer Partners hacked, still delivering

By Kelsey Tamborrino | 04/03/2018 05:39 AM EDT

With help from Ben Lefebvre, Alex Guillén and Annie Snider

ADDING FUEL TO THE FIRE: Soon after first entering the White House, President Donald Trump ordered EPA to reopen its review of fuel efficiency requirements at the urging of automakers. And now embattled EPA Administrator Scott Pruitt is making good on that request, announcing his decision Monday to revise the Obama-era standards — but Pruitt's steady trickle of scandals is a lingering concern for the White House, POLITICO's Eliana Johnson, Alex Guillén and Andrew Restuccia report.

Chief of staff John Kelly once considered the firing of Pruitt in the coming months as part of a wave of ousters that took down other agency heads, a senior administration official told POLITICO. Instead, the official said, Kelly decided to wait for the release of a forthcoming EPA inspector general's report on Pruitt's travels, which senior aides expect would be damning.

Still, multiple people close to the president argue that Pruitt is one of Trump's most effective Cabinet members in making policy, despite headlines about his pricey travel expenses or his $50-a-night lodging. And the work on car and truck rules is a case in point. Pruitt criticized the Obama administration as he took aim at its legacy, and EPA's announcement of the planned revision will likely lead to cheers in states like Michigan and Ohio while enraging liberals in California, one of Trump's favorite targets.

Pruitt stopped short of announcing plans Monday to revoke the state's waiver to enforce more stringent auto emissions standards, but indicated he will pressure the state to fall in line behind federal rules. California Attorney General Xavier Becerra said the state was ready to sue EPA if it revoked the waiver.

Hot Doc: Read EPA's 38-page determination here.

ABOUT THE ANNOUNCEMENT: EPA apparently called off plans for a big public rollout at a Northern Virginia car dealership today. "My understanding is that the administrator wanted a dealership as the backdrop, and that's changed. I don't know where the announcement will be made or when they're going to, in fact, make it. It is what it is," Geoffrey Pohanka, president of Pohanka Automotive Group, told ME Monday night. E&E had reported earlier that morning that Pruitt had planned to announce the car rule revisions at Pohanka Chevrolet in Chantilly, Va., though EPA never commented on whether such plans were in place, and environmentalists had planned protests at the dealership. Pohanka said he was not disappointed at the change in plans. "I don't care where it's made or when it's made, but I think this is the right decision for the economy, for the environment and for the consumer," he said.

A spokesman for the National Automobile Dealers Association told ME that Pruitt will meet privately this morning with automakers, dealers and representatives of industry trade groups to talk about his decision. But it's not clear who is attending the closed-door meeting. The NADA spokesman declined to share any further details, and EPA did not return multiple requests from POLITICO to attend on Monday.

IN OTHER PRUITT NEWS: At least three members of Congress had fundraisers at the lobbyist-owned townhouse during the same time period Pruitt was living there, The Daily Beast reports, based on a review of fundraiser invitations. The Washington Post reported Monday night that aides to Pruitt last year considered leasing a private jet on a month-to-month basis to accommodate his travel needs, citing current and former agency officials. And the New York Times points out that EPA endorsed an expansion of the Alberta Clipper pipeline while Pruitt was staying at the apartment linked to a lobbying firm for the company, though everyone involved says the administrator's living arrangement was not a factor.

— **Democratic House Energy and Commerce leaders** also sent a letter Monday to Pruitt, asking whether his December trip to Morocco to promote U.S. liquefied natural gas was connected to the living arrangement, among other questions. Read more here.

GOOD TUESDAY MORNING! I'm your host Kelsey Tamborrino. Lou Hrkman from Rep. David McKinley's office was the first to correctly guess James Shield — the first and only senator to serve from three states: Illinois, Minnesota and Missouri. For today: Only one current member of Congress attended Villanova. Who is it? Send your tips, energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter @kelseytam, @Morning_Energy and @POLITICOPro.

POLITICO Space is our new, free weekly briefing on the policies and personalities shaping the second space age in Washington and beyond. **Sign up today to start receiving the newsletter right at launch on** April 6**.** *Presented by Boeing.*

GOING BACK TO CALI: The Trump administration sued California on Monday to block a new state law that limits transfers of federal lands. The suit, which was filed in a Sacramento federal court, contends that the state law is unconstitutional because it interferes with Congress' right to control the sale of federal property, POLITICO's Josh Gerstein reports.

What's it mean? For one, the suit is just the latest action for the Trump administration targeting the Golden State. A DOJ official told Josh he and his colleagues aren't singling out California, but instead are responding to an unprecedented series of legal provocations from the state. Becerra, meanwhile, vowed to defend the California law, and said the state will continue its aggressive legal campaign against Trump policies. "Our public lands should not be on the auction block to the highest bidder," Becerra said in a statement. "We're prepared, as always, to do what it takes to protect our people, our resources and our values."

HACKED, BUT STILL FLOWING: Energy Transfer Partners is still delivering natural gas through its Panhandle Eastern pipeline system despite a cyberattack against a scheduling service it uses, a company spokeswoman told ME. Bloomberg first reported the attack as disrupting a third-party digital system Energy Transfer uses to communicate with shippers using the pipeline, which delivers natural gas from Texas, Oklahoma and Kansas to the states as far north as Michigan. "It has not impacted our operations as we are handling all scheduling in house during this time," Energy Transfer spokeswoman Vicki Granado told ME. Energy Services Group, the company that provided the communication service to Energy Transfer, did not respond to phone calls.

WATER-GEN GETS TRUMP AUDIENCE: Water-Gen USA CEO Ed Russo and its president, Rabbi Yehuda Kaploun, met with Trump at Mar-a-Lago last week, Israel Hayom reports, with an accompanying photo. The outlet reports Trump was briefed by the delegation on Water-Gen's technology and discussed ways to implement it. EPA recently signed a research agreement with the Israeli company after Pruitt met with executives from the company last year at the request of GOP mega-donor Sheldon Adelson.

DOJ SETTLES WITH STEEL CO. FOR TOXIC LAKE MICHIGAN SPILL: U.S. Steel is agreeing to pay a $600,000 civil penalty for spilling more than 300 pounds of toxic chromium into a waterway 500 yards from Lake Michigan last year. The April spill from its Indiana plant shut down the drinking water intake for the

town of Ogden, and forced the closure of four local beaches and shuttered Indiana Dunes National Lakeshore, managed by the National Park Service, for a week.

Under the consent decree lodged in federal court Monday , U.S. Steel, whose CEO sat next to Trump in the Cabinet room to talk steel tariffs one month ago, also agreed to make substantial upgrades to its wastewater processing monitoring system and reimburse the federal government for more than $1 million in spill response costs. "This settlement is a prime example of how federal and state counterparts can work hand-in-hand to enforce environmental laws to protect the health of our citizens and the environment," said Jeffry Wood, assistant attorney general for the Justice Department's Environment and Natural Resources Division — despite the fact that EPA only learned of a second, November spill following calls from a reporter, after the company asked Indiana officials for "confidential treatment" of the incident, the Chicago Tribune reported.

Is it enough? Only having gotten their first look at the government's case late Monday, watchdogs weren't ready to weigh in on the fairness of the deal. "We're encouraged regulators are finally doing something, though we can't speak to the adequacy of that action until we have a chance to review the proposed Consent Decree itself," Mark Templeton, director of the University of Chicago Law Clinic, whose students uncovered key violations and brought their own suit on behalf of Lake Michigan surfers.

DOE, CAN YOU SPARE A DIME? FirstEnergy Solutions' bankruptcy will not change its request that DOE bail out some of its coal and nuclear plants, the company said. The utility declared Chapter 11 bankruptcy over the weekend, but the legal proceedings won't impact its emergency action request for DOE to force grid operators in the region to increase payments to the company's coal and nuclear power plants in Ohio and Pennsylvania. "The Chapter 11 filing does not affect the application to Secretary Perry," FES spokesman Thomas Mulligan told ME. "That request still stands." A DOE spokeswoman said the request is "under review."

TALK ABOUT STREAMLINING: The Army Corps of Engineers said Monday it will shave two years off the permitting process for a key project in Louisiana's plan to stem its break-neck rate of wetlands loss. The Corps had originally told the state it would need until October 2022 to review the environmental impact of the Mid-Barataria Bay diversion, but now says it can complete the review by November 2020. Environmental groups and Democratic Gov. John Bel Edwards' administration have pushed the Trump administration to accelerate the project.

ESTY OUT: Rep. Elizabeth Esty said Monday she would not run for reelection after coming under fire for her handling of sexual harassment allegations against her former chief of staff. The Connecticut Democrat is a member of both the House Science and Transportation committees and is a member of the bipartisan Climate Solutions Caucus.

MAIL CALL! WHALE CALL: Florida Sen. Bill Nelson sent a letter to Interior Secretary Ryan Zinke and Commerce Secretary Wilbur Ross Monday, urging federal officials to deny applications for oil and gas testing off Northeast Florida because of threats to endangered right whales. Read it here.

MOVER, SHAKER: Sen. John Hoeven's chief of staff, Ryan Bernstein, is leaving the Hill to join McGuireWoods Consulting as a senior vice president, where he'll lobby on energy and agriculture issues. Cassie Bladow will take over as Hoeven's chief of staff beginning April 9. (h/t POLITICO Influence)

QUICK HITS

— Wipeout: Human role in climate change removed from science report, The Center for Investigative Reporting.

— DOE — sort of — kills "SunShot Initiative," E&E News.

— Lobbying firm tied to Pruitt helped oil companies on environmental regulations, Houston Chronicle.

— Zinke's Interior Department disproportionately reassigned Native American workers, Talking Points Memo.

— Americans tell Interior to take a hike over proposed National Park fee increase, The Washington Post.

HAPPENING TODAY

9:30 a.m. — FERC meeting to discuss issues related to the coordination of Affected Systems raised in the complaint filed by EDF Renewable Energy, Inc., 888 First Street NE

9:30 a.m. — PennWell Corporation holds its Pipeline and Energy Expo conference, Tulsa, Okla.

11:00 a.m. — The International Trade Commission votes on biodiesel from Argentina and Indonesia, 500 E St. SW

12:00 p.m. — The Electric Power Research Institute news conference on "U.S. National Electrification Assessment," 529 14th Street NW

12:30 p.m. — The Johns Hopkins University Paul H. Nitze School of Advanced International Studies discussion on "The Power of Process: State Capacity and Climate Policy," 1619 Massachusetts Avenue NW

1:00 p.m. — Business Network for Offshore Wind holds International Offshore Wind Partnering Forum, Princeton, N.J.

THAT'S ALL FOR ME!

To view online:
https://www.politicopro.com/newsletters/morning-energy/2018/04/pruitt-tries-to-stay-focused-156802

Stories from POLITICO Pro

White House considered firing Pruitt Back

By Eliana Johnson, Alex Guillén and Andrew Restuccia | 04/02/2018 07:57 PM EDT

White House chief of staff John Kelly has considered the firing of embattled Environmental Protection Agency chief Scott Pruitt in the coming months as part of a wave of ousters of top officials causing headaches for the president, a senior administration official told POLITICO.

Pruitt is still hanging on for now, in part because Kelly wanted to wait for an upcoming EPA inspector general's report into his expensive travels, the senior official said. Another possible reason: Pruitt is doing the job President Donald Trump wants — including an announcement Monday that the agency will reverse the Obama administration's attempt to tighten fuel efficiency standards for cars and trucks.

Multiple people close to the president still argue that Pruitt is one of Trump's most effective Cabinet members in making policy, despite the steady drumbeat of headlines about his lavish travel expenses, high security costs and, most recently, the $50-a-night lodging he secured for several months last year in a lobbyist's Capitol Hill condo.

His supporters say Monday's move on car and truck rules, long expected to land this week, is a case in point: It fulfills Trump's priority of reducing manufacturers' costs and will make life easier for automakers in states like Ohio and Michigan, while enraging liberals from California and other places that rejected the president in 2016.

"Scott Pruitt has proven that he's not afraid to stick his neck out and take on some big issues, and this is another example of that," said Myron Ebell, the energy director at the Competitive Enterprise Institute who ran Trump's EPA transition team. He added: "Now whether that helps him given his bad press on these other things, we'll have to wait and see."

Mike McKenna, an energy lobbyist who worked on the administration's transition team, said he doubts the recent news stories about Pruitt would even register with the White House when compared with his policy efforts, including the move to reverse fuel standards. "I think he's an A student. ... He's always working. He's always focused on the agenda. He's always trying to figure out ways to make the boss look good."

But the senior administration official, speaking anonymously to discuss internal policy deliberations, said Kelly had discussed firing Pruitt even before the latest revelations about his housing arrangements.

The official said Kelly had been waiting for the release of a forthcoming EPA inspector general's report on Pruitt's travels, which senior aides expected would be damning. Pruitt spent at least $163,000 on first-class flights, charter flights and a military jet during his first year at the agency, including stops in Paris and Morocco, POLITICO has reported based on EPA records.

Kelly and other aides were also waiting for IG reports on Housing and Urban Development Secretary Ben Carson and then-Veterans Affairs Secretary David Shulkin, the official said.

POLITICO reported last month that the top aides had been considering announcing ousters of several officials at once, including then-national security adviser H.R. McMaster, until Trump upended those plans by abruptly firing McMaster late last month. The president subsequently showed Shulkin the door last week.

Now, Pruitt is in the position of trying to weather the latest bout of scandal and prove he's more valuable inside the Trump administration than on the outside.

White House aides have privately expressed exasperation with Pruitt in recent weeks over the series of negative stories that dominated headlines, paired with reports, including in POLITICO, that he was interested in replacing the even more embattled Jeff Sessions as attorney general. The issue of Pruitt's apparent big ambitions has roiled some in the White House, who often note that Trump is turned off by underlings who try to hog the spotlight.

Still, a second senior administration official told POLITICO last week that the White House stands behind Pruitt, even if the condo lease "probably does not show the best judgment." The official noted that Pruitt is "focused on enacting the Trump agenda."

Neither Pruitt nor Trump has commented publicly on the EPA leader's newest troubles, although EPA spokesman Jahan Wilcox said in a statement late Monday that "Administrator Pruitt is focused on advancing President Trump's agenda of regulatory certainty and environmental stewardship." As examples, Wilcox cited Pruitt's successful effort to persuade Trump to pull out of the Paris climate agreement, as well as work on repealing Barack Obama's major climate and water regulations and "cleaning up toxic Superfund sites that have been languishing for decades."

But criticism of Pruitt has even come from inside the GOP: Former New Jersey Gov. Chris Christie — who briefly oversaw Trump's post-election transition, and who could be a contender to replace Sessions himself — said Sunday that he did not expect Pruitt to survive.

Democrats and environmental groups are also eager to show Pruitt the door, saying the furor over his lease with the lobbyist exemplifies what's wrong with the EPA chief's policies.

"The national media spotlight on the fact that he quite literally is in the bed of industry lobbyists really exposes the broader pattern that we've seen from Scott Pruitt from the beginning: that he expects favors from polluter lobbyists because he is doing favors for polluter lobbyists," said Jeremy Symons, vice president for political affairs at the Environmental Defense Fund.

Symons also disputed the notion that Pruitt has been a successful EPA leader, noting that courts have dealt multiple setbacks to his deregulatory efforts and Congress has rejected his proposed steep budget cuts.

"Yes, he has started things Trump wanted him to start, but I doubt that he will successfully finish things because he won't be here or because he's going to lose in the court of law," he said.

A similar court battle may await Pruitt's move on the auto emissions standards.

Those requirements, for cars and trucks from model years 2022 to 2025, stemmed from a deal among representatives of the Obama administration, the auto industry and the state of California. The deal called on carmakers to make their vehicles burn less gasoline to reduce carbon dioxide emissions — and at the time, Obama's officials said it would cause new cars and trucks to achieve an average fuel efficiency of 54.5 miles per gallon. (In practice, the figure would have been more like 36 mpg.)

Soon after taking office, Trump ordered EPA to reopen its review of the efficiency requirements at the urging of automakers. Pruitt had faced a Sunday deadline to decide whether to revisit the standards.

EPA's announcement Monday said the standards "are not appropriate and should be revised," leaving it for the agency to decide later what the new requirements should be.

Pruitt also opened the door to possibly ending a Clean Air Act waiver that allows California to set tougher anti-pollution rules than the federal government. "Cooperative federalism doesn't mean that one state can dictate standards for the rest of the country," Pruitt said, without explicitly saying he planned to revoke the waiver.

California officials excoriated Pruitt's announcement.

"This is a politically motivated effort to weaken clean vehicle standards with no documentation, evidence or law to back up that decision," Mary Nichols, who chairs the California Air Resources Board, said in a statement. She added, "This decision takes the U.S. auto industry backward, and we will vigorously defend the existing clean vehicle standards and fight to preserve one national clean vehicle program."

Former Hillary Clinton campaign manager John Podesta speculated Monday that Pruitt may not be in office long enough to see many EPA courtroom battles to their conclusion.

"At some point, it becomes untenable for the administration to keep putting up with this publicity," Podesta told MSNBC. He added: "I think the pressure is mounting on him, and at some point it's going to hit the breaking point."

Emily Holden contributed to this report.

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EPA will revise Obama-era auto standards Back

By Alex Guillén and Emily Holden | 04/02/2018 02:15 PM EDT

EPA will revise auto emissions regulations set by the Obama administration, according to a set of agency talking points reviewed by POLITICO.

"Based on EPA's review and analysis of the comments and information received, and the Agency's own analysis, the Administrator believes that the current GHG emission standards for MY 2022-2025 light-duty vehicles are not appropriate and should be revised," Tate Bennett, associate administrator for public engagement and environmental education, wrote in an email this morning to supportive groups outside the agency.

The changes "will ensure that auto-manufacturers can make cars that consumers both want and can afford," Bennett's email said. "They will also treat all advanced vehicle technologies the same, including the potential natural gas vehicles and the role of high-octane fuels."

The move was widely expected following automakers' request for the Trump administration revisit the rules.

Those opposed to changing the standards, including California regulators and environmentalists who helped create the original rules, say weakening them will cost consumers more in the long run because of higher fuel usage. California is authorized to enforce higher standards inside its borders and in a dozen other states, raising the threat of automakers facing two sets of requirements.

Standards for model year 2022-2025 vehicles were set by a 2012 rule that also directed EPA to conduct a "midterm" review. In the event automakers would not be able to reach those later standards, EPA could revise them.

EPA Administrator Scott Pruitt is expected to formally announce the decision on Tuesday.

WHAT'S NEXT: Pruitt's determination triggers a new round of notice-and-comment rulemaking to revise the standards for 2022-2025 model year cars and light trucks. A proposal describing the changes could come as soon as this summer, but the timeline is still unclear.

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Pruitt: California can't 'dictate' car rules Back

By Alex Guillén | 04/02/2018 02:53 PM EDT

EPA Administrator Scott Pruitt today stopped short of announcing plans to revoke California's waiver to enforce more stringent auto emissions standards, but indicated he will pressure the state to fall in line behind federal rules.

"Cooperative federalism doesn't mean that one state can dictate standards for the rest of the country," Pruitt said in a press release formally announcing his decision to revise rules for model year 2022-2025 vehicles.

"EPA will set a national standard for greenhouse gas emissions that allows auto manufacturers to make cars that people both want and can afford — while still expanding environmental and safety benefits of newer cars," Pruitt continued. "It is in America's best interest to have a national standard, and we look forward to partnering with all states, including California, as we work to finalize that standard."

California regulators have indicated they are unlikely to agree to any changes to the program unless EPA agrees to issue standards continuing to require more efficient vehicles for model years 2026-2030.

Pruitt also took a swipe at the Obama administration, which in its own January 2017 determination said the current rules were achievable.

"The Obama EPA's determination was wrong," Pruitt said. "Obama's EPA cut the midterm evaluation process short with politically charged expediency, made assumptions about the standards that didn't comport with reality and set the standards too high."

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California ready to sue if Pruitt goes after car waiver Back

By Alex Guillén | 04/02/2018 04:13 PM EDT

California Attorney General Xavier Becerra said today he is ready and willing to take EPA to court if the agency tries to revoke the state's special waiver to enforce the existing auto emissions standards, as Administrator Scott Pruitt hinted he may do if the state does not go along.

"We're ready to file suit if needed to protect these critical standards and to fight the Administration's war on our environment," Becerra said in a statement.

EPA in 2009 granted California a waiver under the Clean Air Act to enforce more stringent auto emissions standards through model year 2025 vehicles. The 2012 regulation that created national standards included an agreement with California that any car that met the new standards would be deemed to have met California's as well.

But loosening the national standards would break that agreement, and California could enforce the higher standards within its own border. Another 12 states also follow California's rules, including New York, New Jersey and Pennsylvania. State officials have said they are optimistic California could win in court given its special treatment under the Clean Air Act.

California Air Resources Board Chairwoman Mary Nichols echoed Becerra's sentiment.

"This is a politically motivated effort to weaken clean vehicle standards with no documentation, evidence or law to back up that decision," she said. "This decision takes the U.S. auto industry backward, and we will vigorously defend the existing clean vehicle standards and fight to preserve one national clean vehicle program."

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EPA releases Pruitt's decision to revise car standards Back

By Alex Guillén | 04/02/2018 04:38 PM EDT

EPA has released the 38-page determination from Administrator Scott Pruitt that the model year 2022-2025 standards are too strong and must be revised.

The "current standards are based on outdated information, and ... more recent information suggests that the current standards may be too stringent," according to the pre-publication notice signed by Pruitt today.

Pruitt's determination also formally withdraws the one issued by Gina McCarthy in the final days of the Obama administration.

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Democrats question Pruitt on housing arrangement Back

By Alex Guillén | 04/02/2018 05:06 PM EDT

Three House Democrats today wrote to EPA Administrator Scott Pruitt asking questions about his arrangement renting a room from a lobbyist for $50 a night.

"We are concerned that the unique rental arrangement, in which you only paid rent on the nights you were in town for use of one bedroom in the home, could be a potential conflict of interest," wrote Reps. Frank Pallone (D-N.J.), Diana DeGette (D-Colo.) and Paul Tonko (D-N.Y.).

"As administrator, you have taken a number of actions to benefit industries regulated by EPA, and this news raises the possibility that you may have personally benefited from your relationship with industry," they added.

They included a series of questions about the arrangement, including how Pruitt determined he was paying fair market value, whether Pruitt left personal belongings in the room when staying there, whether anyone else ever stayed at the property and whether ethics official were aware of the situation.

The lawmakers also questioned whether Pruitt's December trip to Morocco to promote U.S. liquefied natural gas was connected to the living arrangement. The owner's husband, Steven Hart, is registered to lobby for LNG exporter Cheniere Energy.

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Trump administration sues California over state law on federal land transfers Back

By Josh Gerstein | 04/02/2018 03:25 PM EDT

The legal war between the Trump administration and the state of California expanded Monday as the Justice Department sued to block a new state law that limits transfers of federal lands.

The suit, filed in federal court in Sacramento on Monday, contends that the state law is unconstitutional because it interferes with Congress' right to control the sale of federal property.

California's Legislature adopted the law last October at the urging of environmentalists concerned that the Trump administration was readying plans to sell off federal land for real estate development, mining or drilling.

The new suit was filed by the Justice Department less than a month after the federal government sued California over three other state laws widely viewed as enacting "sanctuary" policies aimed at blocking aggressive immigration enforcement by the Trump administration.

That suit grabbed headlines, but lawyers for the state and attorneys for the federal government have been battling in court for months over more than two dozen lawsuits California Attorney General Xavier Becerra has brought on issues ranging from the president's so-called travel ban to rollbacks of birth control coverage under Obamacare to efforts to ban transgender people from serving in the military.

Justice Department officials expressed frustration Monday with the tactics California's legislators and Gov. Jerry Brown have used to register their disagreement with Trump policies.

"California has, once again, passed an extreme statute found in no other state to obstruct the federal government, this time by interfering with the conveyance of federal lands," acting Associate Attorney General Jesse Panuccio told reporters. "This is another example of California ignoring federal law. No state legislature can, statute by statute, undermine the rule of law and the U.S. Constitution."

In a statement, Attorney General Jeff Sessions said California officials are not only ignoring the Constitution, but also the very terms under which California became a state in 1850.

"California was admitted to the Union upon the express condition that it would never interfere with the disposal of federal land," Sessions said. "The Justice Department shouldn't have to spend valuable time and resources to file this suit today, but we have a duty to defend the rightful prerogatives of the U.S. military, the Interior Department and other federal agencies."

A Justice Department official said he and his colleagues aren't singling out California but are responding to an unprecedented series of legal provocations from the state.

"To the extent it looks like we're focusing on California, that is really a product of the extreme nature of the laws California is passing in recent days," said the official, who spoke on condition of anonymity. "They are passing laws no other state is passing or has thought to pass and that's because they're unconstitutional."

Justice Department officials said they did not discuss legal concerns about the bill with the state before the suit was filed Monday. They said, however, that state officials are well aware of the legal problems, because the state Legislature's official analysis of the bill issued prior to its passage noted a "strong possibility" that the measure would be found unconstitutional.

Becerra vowed to defend the California law, and he said the state will continue its aggressive legal campaign against Trump policies.

"California didn't become our nation's economic engine and the sixth-largest economy in the world by just sitting back," the California attorney general said in a statement. "Our public lands should not be on the auction block to the highest bidder. We're prepared, as always, to do what it takes to protect our people, our resources, and our values."

The state law, known as Senate Bill 50, requires that the California State Lands Commission have right of first refusal on many land transfers planned by the federal government. Federal officials say the law has already scuttled or bogged down planned transfers of several federal properties to developers, often under plans that were the subject of extensive negotiation with local officials.

Sen. Ben Allen, a Santa Monica Democrat who authored the bill, defended it Monday as a modest attempt to prevent a mass sale of federal lands at Trump's direction.

"We are simply asking that before any sell-off occurs, the state be given an opportunity to preserve them. This law provides a viable, legitimate mechanism to block an extreme agenda seeking to privatize public outdoor recreational treasures," Allen said in a statement.

In addition to the state, the newly-filed suit names Gov. Brown as a defendant along with the State Lands Commission. A spokesman for the Brown administration stressed Monday that officials are determined to preserve public land for public use.

"While the Administration is evaluating the lawsuit and considering next steps, the Administration's commitment to protecting access to public lands for the use and enjoyment by all Californians is unchanged and unwavering," spokesman H.D. Palmer said.

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Trump's revenge on California: The Census Back

By David Siders | 01/16/2018 06:23 PM EDT

LOS ANGELES — Fear is rising among Democrats over the prospect that President Donald Trump's hard line on immigration — including Monday's proposal for a U.S. Census question on citizenship status — might ultimately cost California a seat in Congress during the upcoming round of reapportionment.

Top Democrats here are increasingly worried the administration's restrictive policies — and the potential inclusion of a question about citizenship on the next U.S. census — could scare whole swaths of California's large immigrant population away from participating in the decennial count, resulting in an undercount that could cost the state billions of dollars in federal funding over the next decade and, perhaps, the loss of one of its 53 seats in the U.S. House of Representatives.

The fears are well-founded: According to the population formula used by Congress to distribute House seats every 10 years, California is currently on the bubble in 2020, on the verge of losing a seat for the first time in its history.

California's Democratic governor, Jerry Brown, in January proposed spending more than $40 million on the state's own census-related outreach efforts to avoid that fate.

"There's a lot of fear" about the census count, Paul Mitchell of Political Data Inc., the voter data firm used by both Republicans and Democrats in California, said in January. "The state is starting to get together resources, because it does have an actual direct impact ... on state revenues if we have a severe undercount."

California Secretary of State Alex Padilla told POLITICO in January the Trump administration's management of the census could have "devastating effects" on his state.

"The citizenship question is just the latest red flag — maybe one of the biggest — but just the latest red flag," Padilla said.

On Tuesday, California Attorney General Xavier Becerra filed a lawsuit against the Trump administration over its decision to add a citizenship question to the Census.

"The census constitutes the backbone for planning how and where our communities will invest taxpayer dollars," Becerra said in a prepared statement. "California simply has too much to lose to allow the Trump Administration to botch this important decennial obligation. What the Trump Administration is requesting is not just alarming, it is an unconstitutional attempt to disrupt an accurate Census count."

Angst about the 2020 census took hold nationally long before the proposal to ask people about their citizenship. The bureau has been hampered by management questions and funding shortages that voting-rights advocates fear could hinder efforts to reach immigrants and other hard-to-count groups.

Those populations are especially prevalent in California, where Democrats and voting-rights advocates warned that Trump's rhetoric on immigration could chill participation.

"It's already a toxic environment coming forward from D.C.," Daniel Zingale, of the nonpartisan advocacy group The California Endowment, said previously. "When you add up all of these things — the abandonment of competent leadership, the proposed citizenship question, the hostile environment toward a state like ours and our diverse population, it is perceived here as a less than act of good faith coming from Washington, D.C."

Zingale added, "I think Californians have never felt less represented in the national capital than we're feeling right now."

According to a study in December by Virginia-based Election Data Services, California could come "very close" to losing a congressional seat following the 2020 census regardless of immigrant participation in the count, a result of the state's flattening population growth.

Arizona, Colorado, Florida, Montana, North Carolina, Oregon and Texas could all gain seats, according to the study, while eight or nine states, including New York, Illinois and West Virginia, could each lose one.

Yet uncertainty about demographic changes and the Trump administration's handling of the census continues to cloud those projections. Kimball Brace, president of Election Data Services, cautioned in a prepared statement that "the change in administration and the lack of a Census Director could have a profound impact on how well the 2020 Census is conducted, and therefore the counts that are available for apportionment."

The prospect of losing a congressional seat is a familiar predicament in Rust Belt states. But it's unheard of in California, which has added 42 House seats since 1920 due to nearly nonstop population growth. In such a solidly blue state, the loss of a seat would have a disproportionate impact on the Democratic Party.

"If millions of non-citizens refuse to participate in the US Census, the Democrats will take [a] massive political beating," Tony Quinn, a political analyst and former Republican legislative aide, wrote in the Fox & Hounds political blog in January. "That's because electoral districts must be drawn based on population. The non-citizen population resides in heavily Democratic areas; if they are not counted, those areas will not have sufficient population to support Democratic congressional and legislative districts, especially in the big cities."

Garry South, a longtime Democratic strategist, accused the White House of "trying to turn [the census] into essentially a gerrymandering process."

Many Republicans who have long called for its inclusion, downplayed concerns about a significant undercount in California or any other state.

Harmeet Dhillon, a San Francisco attorney and member of the Republican National Committee, said earlier this year that "by the time we have to get closer to actually performing [the census] ... this is the type of thing where there's a legion of bureaucrats who are tasked with doing this" and "it gets done somehow."

In a state where Democrats control every statewide office and overwhelming majorities in the Legislature, Dhillon said Democrats can only blame themselves if California loses a House seat. More people would come to California or stay here, she said, if taxes and other regulatory burdens were not so high.

Taking aim at one liberal firebrand, Dhillon said, "My only request is if we end up losing a seat, if it could be taken from Maxine Waters' congressional district."

The results of the 2020 census on California's congressional representation (which could also mean the loss of a vote in the Electoral College) will not be felt until after the next presidential election — an eternity in politics. But California politicians are acutely aware of the significance of the count, having been stung by the census before.

Following the 1990 census, the state's nonpartisan Legislative Analyst's Office estimated that a higher undercount in California than in other states — with difficulty counting non-white people, young people and renters, among others — "likely cost California one seat in the U.S. House of Representatives and at least $2 billion in federal funds during the 1990s."

Ten years later, the state undertook a more aggressive outreach effort of its own. In an effort similar to what California Democrats are contemplating today, the state employed local organizations to promote the census in their communities and financed a multilingual, multimedia advertising campaign.

Now, with uncertainty surrounding the 2020 census and with California "just on the cusp of perhaps losing a seat," said Phil Sparks, co-director of The Census Project, a group that tracks the census, "I think they have a well-founded concern about whether they're going to be fairly and accurately counted."

Arturo Vargas, executive director of the National Association of Latino Elected and Appointed Officials, said California has more at stake in an undercount than other states because "any undercount of Latinos, any undercount of immigrants, is going to hit California harder than Nebraska, or some other state with a low population of Latinos and immigrants."

Vargas, a member of the Census Bureau's National Advisory Committee on Racial, Ethnic and Other Populations, described underrepresentation in the census as a perennial concern.

But he added, "What has complicated the bureau's job for 2020 is that what we're hearing out of Washington today, and have been for the last year ... is that there is greater hostility from the federal government to immigrants."

Heading into the 2020 census with Trump, Vargas said, "That's the premise we're working with."

Editor's note: This story, which first appeared on January 16, has been updated to reflect the Commerce Department's announcement that it would include a question about citizenship status in the 2020 U.S. Census.

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Sheldon Adelson got this company a meeting with Pruitt, now EPA is studying its technology Back

By Alex Guillén | 03/28/2018 05:29 AM EDT

EPA has signed a research agreement with an Israeli company that Administrator Scott Pruitt met with last year at the request of GOP mega-donor Sheldon Adelson.

The agency will study one of the company's products, an "atmospheric water generator," essentially a giant dehumidifier that pulls drinkable water out of the air.

The company, Water-Gen, pitches its technology as useful for remote areas that lack proper water infrastructure. The devices could also be useful following large-scale disasters that disrupt clean water supplies. Water-Gen sent four water generators to Texas and Florida following Hurricanes Harvey and Irma last year.

"EPA believes in facilitating cooperative research efforts that will foster innovative solutions to pressing environmental issues, and looks forward to working with other companies and organizations on technology development efforts," Pruitt said in a statement on Tuesday.

Pruitt met on March 29, 2017, with executives from Water-Gen "as a request of Sheldon Adelson," according to copies of his calendar that were released after activists filed a lawsuit. Adelson's relationship with the company is unclear.

In the meeting was Maxim Pasik, Water-Gen's executive chairman. According to Pasik's biography, he is also involved in a company that invests in oil and gas projects and a company that designs "green vertical walls." Also attending was Yehuda Kaploun, president of Water-Gen's U.S. division.

It is not clear whether the executives specifically pitched an R&D agreement at that meeting.

Pasik also had a followup meeting with Pruitt and other officials May 10, according to the administrator's calendar.

EPA did not respond immediately to questions Tuesday night about the meeting or Adelson's involvement. Late-night emails to an Adelson representative and Water-Gen executives were not immediately returned either.

EPA's Office of Research and Development put out the public call for partners to help study atmospheric water generation in September, months after the Pruitt meeting.

The agency signed the research agreement with Water-Gen in January. It was not immediately clear why the agreement was not announced until two months later.

The agreement involves the company lending one of its generators to EPA for at least three months for study at the agency's Cincinnati laboratory. EPA did not pay the company and is not being paid, the agency said.

Known as a Cooperative Research and Development Agreement, or CRADA, the agreement lets EPA work with the company on testing the generators and studying potential uses in the U.S. Such agreements are not unusual. EPA said it entered into eight similar agreements during fiscal year 2017, and dozens of less complex agreements to share data or materials.

Water-Gen has worked in recent years to boost its U.S. profile.

Alan Dershowitz, the prominent American attorney and a member of Water-Gen's board of directors, pitched the technology at last year's gathering of American Israel Public Affairs Committee, just two days before Pruitt's meeting.

Israeli Prime Minister Benjamin Netanyahu gave the company a nod at this year's AIPAC conference earlier this month, saying the technology "improves on Moses," who is described in two sections of the Torah as producing water from a rock.

The specific device EPA is studying, the GEN-350, is a medium-scale generator that can create 600 liters of clean water, or about 160 gallons, each day. It weighs more than 1,700 pounds and can be transported by truck or SUV to remote locations, according to the company's website.

Water-Gen also makes a smaller version for homes or offices that generates up to eight gallons a day, as well as a large-scale version it pitches for large buildings that can produce over 1,300 gallons daily. All run on electricity.

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FirstEnergy Solutions asks DOE for emergency support for plants Back

By Eric Wolff | 03/29/2018 11:30 AM EDT

Days before a huge bond payment is due, FirstEnergy Solutions is seeking an emergency order from the Department of Energy to keep its power plants operating.

The subsidiary of FirstEnergy Corp. filed a request with DOE today, asking Energy Secretary Rick Perry to direct the grid operator in its region to increase payments to the company's coal and nuclear power plants in Ohio and Pennsylvania. The request comes after federal regulators in January rejected Perry's grid resilience proposal that would have more broadly subsidized coal and nuclear plants in the region. FirstEnergy would have been among the lead beneficiaries of that plan.

The company said it thinks DOE's order should apply to all coal and nuclear plants in the PJM Interconnection, though it acknowledged that it could only formally ask for its own facilities to be covered.

FirstEnergy Solutions has been teetering on the edge of bankruptcy for months. Its plea for emergency aid comes two days before the company has to make a bond payment reported to be around $100 million. Many analysts have expected FES to file for bankruptcy before that payment came due.

DOE spokeswoman Shaylyn Hines said the application "will now go through our standard review process."

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Rep. Esty won't seek reelection after mishandling harassment allegations Back

By Heather Caygle | 04/02/2018 04:54 PM EDT

Rep. Elizabeth Esty (D-Conn.) announced Monday that she will not seek reelection after coming under fire for her handling of sexual harassment allegations against her former chief of staff.

"I have determined that it is in the best interest of my constituents and my family to end my time in Congress at the end of this year and not seek re-election," she said in a Facebook post. "Too many women have been harmed by harassment in the workplace. In the terrible situation in my office, I could have and should have done better."

Esty's announcement follows calls from several prominent Connecticut politicians of both parties demanding she resign after news broke late last week of how she addressed the sexual harassment and abuse allegations launched against a former top staffer.

Esty kept her then-chief of staff Tony Baker on the payroll for three months in 2016, even after she learned of Baker's threats to kill a female staffer he'd once dated, while investigating the allegations.

"You better f-----g reply to me or I will f-----g kill you," Baker said in a voice message, according to a recording obtained by The Washington Post.

The female staffer, Anna Kain, told the Post that in addition to a voicemail recording of Baker's threat to kill her, she also provided "detailed allegations" that Baker had "punched, berated and sexually harassed" her when she worked in Esty's office as a senior adviser in 2014.

Baker left the office in August 2016, but he received a $5,000 severance and a positive letter of recommendation for employment from Esty, according to the Post report.

Several top Democrats in her home state, including the Senate majority leader and president pro tem, had called on her resign.

"Congresswoman Elizabeth Esty's decision not to run for another term is the right one," said Connecticut Gov. Dannel Malloy. "I spoke with the congresswoman multiple times over the weekend and as recently as today, encouraging full transparency with the press and public, and also urging her to do what is in best interest of her constituents and her family. I believe she is now doing that."

Prominent Democrats in Washington had expressed concern with Esty's actions but stopped short of calling on her to step down.

House Minority Leader Nancy Pelosi and Esty spoke by phone Monday, and Pelosi was informed of her decision to retire, according to an aide to the Democratic leader.

Esty previously rebuffed calls to resign and took several steps in recent days to try to contain the controversy.

The Connecticut Democrat sent a letter to her colleagues on Friday, promising to "do better" in the future.

"In the spring of 2016, my then-Chief of Staff made a threat of violence against a former member of my staff," Esty told legislators in a memo obtained by POLITICO. "I was horrified and angry to learn that someone I put my trust into could victimize a member of my staff, someone I respect and care deeply about."

And on Monday, Esty asked the House Ethics Committee for an expedited review of how she handled the charges against Baker.

"It certainly was far from a perfect process — and I would appreciate their advice, counsel and review," Esty said of the Ethics panel in a statement earlier Monday.

"I have apologized for my mistakes in the handling of this matter. I feel terribly for the victim of abuse. In seeking this inquiry, I want to clarify whether there was any wrongdoing on my part."

Esty's handling of the abuse allegations against her top staffer was first reported by the Connecticut Post on Thursday.

With Esty's departure, the seat is not guaranteed to remain in Democratic hands.

Esty won a close, hard-fought race for her first term in Congress but strengthened her hold on Connecticut's 5th District in later elections, winning 53 percent of the vote in 2014 and 58 percent in 2016.

But the Democratic Congressional Campaign Committee put Esty in its program for incumbents in tough seats last year, after Hillary Clinton took 50 percent in the district in the 2016 presidential election.

Another possible complication for Democrats in the northwest Connecticut district is Malloy, who is not running for reelection in 2018 but was less popular than President Donald Trump in a poll taken earlier this year for a labor group.

Republicans have started floating William Petit Jr., a doctor and member of the Connecticut House of Representatives, as a potential candidate for the seat. Petit is the sole survivor of a gruesome home invasion more than 10 years ago in which his wife and two daughters were murdered.

Scott Bland and Alex Isenstadt contributed to this report.

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