Message

From: OGCLibrary [OGCLibrary@epa.gov]
Sent: 9/25/2019 4:08:20 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson, Lea [anderson.lea@epa.gov]; Anderson, Steve [Anderson.Steve@epa.gov]; Aranda, Amber [aranda.amber@epa.gov]; Averback, Jonathan [Averback.Jonathan@epa.gov]; Belser, Evan [Belser.Evan@epa.gov]; Bianco, Karen [Bianco.Karen@epa.gov]; Branning, Amy [Branning.Amy@epa.gov]; Bunker, Byron [bunker.byron@epa.gov]; Chapman, Apple [Chapman.Apple@epa.gov]; Cozad, David [Cozad.David@epa.gov]; Davis, Julian [davis.julian@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]; Doster, Brian [Doster.Brian@epa.gov]; Dubey, Susmita [dubey.susmita@epa.gov]; Froikin, Sara [Froikin.Sara@epa.gov]; Graham, Cheryl [Graham.Cheryl@epa.gov]; Hoffman, Howard [hoffman.howard@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; Igoe, Sheila [Igoe.Sheila@epa.gov]; Jordan, Scott [Jordan.Scott@epa.gov]; Kaplan, Robert [kaplan.robert@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Klepp, Robert [Klepp.Robert@epa.gov]; Lee, Michael [lee.michaelg@epa.gov]; Lovett, Lauren [Lovett.Lauren@epa.gov]; Mackey, Cyndy [Mackey.Cyndy@epa.gov]; Manners, Mary [manners.mary@epa.gov]; Marks, Matthew [Marks.Matthew@epa.gov]; McConkey, Diane [Mcconkey.Diane@epa.gov]; Morgan, Jeanette [Morgan.Jeanette@epa.gov]; Muller, Sheldon [Muller.Sheldon@epa.gov]; Nguyen, Quoc [Nguyen.Quoc@epa.gov]; Adair, Jocelyn [Adair.Jocelyn@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Pastorkovich, Anne-Marie [Pastorkovich.Anne-Marie@epa.gov]; Rodman, Sonja [Rodman.Sonja@epa.gov]; Schaaf, Eric [Schaaf.Eric@epa.gov]; Senn, John [Senn.John@epa.gov]; Smith, Kristi [Smith.Kristi@epa.gov]; Snyder, Doug [Snyder.Doug@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Stahle, Susan [Stahle.Susan@epa.gov]; Starfield, Lawrence [Starfield.Lawrence@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]; Thrift, Mike [thrift.mike@epa.gov]; Tierney, Jan [tierney.jan@epa.gov]; Ting, Kaytrue [Ting.Kaytrue@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Versace, Paul [Versace.Paul@epa.gov]; Werner, Jacqueline [Werner.Jacqueline@epa.gov]; Wilcox, Geoffrey [wilcox.geoffrey@epa.gov]; Williams, Melina [Williams.Melina@epa.gov]; Williamson, Timothy [Williamson.Tim@epa.gov]; Zenick, Elliott [Zenick.Elliott@epa.gov]; Blake, Wendy [Blake.Wendy@epa.gov]; Schramm, Daniel [Schramm.Daniel@epa.gov]; Vergeront, Julie [Vergeront.Julie@epa.gov]; Tozzi, Lauren [Tozzi.Lauren@epa.gov]; Pilchen, Zach [Pilchen.Zach@epa.gov]; Skinner-Thompson, Jonathan [Skinner-Thompson.Jonathan@epa.gov]; Vijayan, Abi [Vijayan.Abi@epa.gov]; Caballero, Kathryn [Caballero.Kathryn@epa.gov]; Thompson, Christopher [Thompson.Christopher@epa.gov]; Williams, Christopher [Williams.Christopher@epa.gov]; Michaels, Lauren [Michaels.Lauren@epa.gov]; Nguyen, DucH [Nguyen.DucH@epa.gov]; Jordan, Deborah [Jordan.Deborah@epa.gov]; Charlton, Tom [Charlton.Tom@epa.gov]; Kulschinsky, Edward [Kulschinsky.Edward@epa.gov]; Portmess, Jessica [Portmess.Jessica@epa.gov]; Kryman, Matthew [Kryman.Matthew@epa.gov]; Greenglass, Nora [Greenglass.Nora@epa.gov]; Spina, Providence [Spina.Providence@epa.gov]; Palmer, Karen [Palmer.Karen@epa.gov]; Seidman, Emily [seidman.emily@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; OGC NFO FEAT [OGC_NFO_FEAT@epa.gov]; Hindin, David [Hindin.David@epa.gov]; Sullivan, Tim [Sullivan.Tim@epa.gov]; Carrillo, Andrea [Carrillo.Andrea@epa.gov]; Krallman, John [krallman.john@epa.gov]; Mastro, Donna [Mastro.Donna@epa.gov]; Kane, Eleanor [kane.eleanor@epa.gov]; Ng, Brian [Ng.Brian@epa.gov]; Li, Ryland (Shengzhi) [Li.Ryland@epa.gov]; Kodish, Jeff [Kodish.Jeff@epa.gov]; Dugan, Brett [Dugan.Brett@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Buchsbaum, Seth [buchsbaum.seth@epa.gov]; Iddings, Brianna [Iddings.Brianna@epa.gov]; Knapp, Kristien [Knapp.Kristien@epa.gov]; Nelson, Karen [nelson.karen@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Shepherdson, Melanie [Shepherdson.Melanie@epa.gov]; Stachowiak, Robert [Stachowiak.Robert@epa.gov]; Voyles, Travis [Voyles.Travis@epa.gov]; Meisenbach, Caitlin [Meisenbach.Caitlin@epa.gov]; Oeler, Lawrence [Oeler.Lawrence@epa.gov]; Steinberg, Kayla [steinberg.kayla@epa.gov]; Payne, James [payne.james@epa.gov]
Subject: Air & Radiation Law News for September 25, 2019

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Highlights

LEADING THE NEWS

Trump Takes Fight With California to Its Smog-Choked Skies (2)

By Jennifer A. Dlouhy

The Trump administration is escalating its fight against California by taking aim at its air pollution problem—a move the state's governor called a "brazen political stunt."

EPA on Track for Bigger Budget as Senate Funding Bill Moves

By Dean Scott

A Senate appropriations panel agreed to increase the EPA's budget to just over $9 billion, but it gave a popular conservation program significantly less funding than what's called for by the program's Republican and Democratic supporters.

U.S. Brings First Fiat Diesel Charges, Indicting Engineer (2)

By Tom Schoenberg

The U.S. brought its first criminal charges related to allegations of diesel-emissions cheating at Fiat Chrysler Automobiles NV, extending a scandal that has roiled the global auto industry.

Despite Climate Push, Oil May Still Be Needed for Decades

By Stephen Cunningham

While global leaders meet in New York to discuss solutions to climate change, the U.S. government has offered a sober assessment of the world's ability to wean itself off fossil fuels.

CLIMATE

Climate Change Puts Billions of Dollars at Risk, BlackRock Warns

By Stephen Lee

Big investors know precious little about how climate change will hurt their bottom lines, and it's putting billions of dollars at risk, an executive at one of the world's biggest asset managers said Sept. 24.

U.S. Chamber to Re-Examine Climate Policy That Cost It Members

By Jennifer A. Dlouhy

A decade after companies fled the Chamber of Commerce over its reluctance to combat climate change, the nation's biggest business lobbying group is taking a fresh look at the issue.

Greta Thunberg Is Right, World Leaders Say, We Are Failing on Climate

By Will Wade and Saijel Kishan

World leaders and chief executives of global corporations gathered at a United Nations summit on Monday to say that a 16-year-old climate activist from Sweden is right: They are failing.

Investors Aren't Ready for Climate Policy Shifts, UN Group Says

By Eric Roston

Historically, the pace of global policy change has been glacial. The next few years may see a torrent of changes, and investors are likely unprepared.

U.N. Aviation Body Could Move to Supplant EU Over Climate Action

By James Munson

A United Nations aviation body could derail an expansion of Europe's climate change plan for airplanes during a meeting of 193 countries in Montreal, attendees said.

Next Climate Moonshot May Be Plan to Suck Carbon From the Sky

By David R. Baker

The battle against climate change, so far, has focused on cutting carbon emissions into the atmosphere.

ENERGY AND NATURAL RESOURCES

Oversight Failures Led to Gas Pipeline Explosions, NTSB Finds

By Sylvia Carignan

Overpressurized natural gas pipelines and a lack of oversight led to the deadly explosions in Massachusetts' Merrimack Valley, the National Transportation Safety Board determined Sept. 24.

IRS Took Promised Tax Credits Back, Biofuel-Based Companies Say

By Aysha Bagchi

Two Florida biofuel-based companies acted in reliance on an IRS determination that they qualified for alternative fuel tax credits only for the agency to take them back, according to a Sept. 23 complaint filed in the Middle District of Florida.

Wind Farm Project Approval Considered Golden Eagle Risks

By Porter Wells

A challenge to the federal government's approval of the second phase of wind turbine construction outside of San Diego didn't pass muster at the Ninth Circuit.

CAPITOL HILL

House Democrats, GAO Want Higher Oil, Gas Fee on Public Land (1)

By Bobby Magill

House Democrats, the Government Accountability Office, and a Colorado state official called for higher fees and stricter regulations on oil and gas companies drilling on federal lands during a House Natural Resources subcommittee hearing Sept. 24.

AIR, WATER, AND WASTE

VW Leaders Charged, Daimler Fined in Diesel-Scandal Reckoning

By Karin Matussek and Christoph Rauwald

Germany's embattled car industry suffered a one-two blow after prosecutors charged Volkswagen AG's two top executives with market manipulation in the four-year-old diesel scandal and Daimler AG was fined in a separate probe for rigging vehicles.

EPA Labels Seven Areas as 'Serious' Ozone Violators

By Stephen Joyce

The Environmental Protection Agency downgraded seven U.S. areas to "serious" ozone nonattainment from "moderate," determining that the areas have a deteriorating ability to meet a federal ozone standard.

INSIGHT

INSIGHT: Banks Need to Lead the Fight Against Climate Change

Banks and financial institutions, working in unison and utilizing data- and science-driven insights, have the resources to lead on the issue of climate change, according to ING CEO Ralph Hamers. He says that banks can make the difference by rewarding their clients' sustainable and future-proof decisions and pushing back on the unsustainable and environmentally damaging ones.

FROM THE STATES

Whistleblower Photos Help Shut Polluting Minnesota Plant

By Stephen Joyce

Minnesota Attorney General Keith Ellison (D) used a court order and a whistleblower's mobile phone photos to shut down a metals recycling facility for deficiencies in reporting.

New York to Join Global Regulators' Green Banking Push

By Evan Weinberger

New York state is taking the lead among U.S. regulators on assessing the risks that climate change poses to the financial system.

New York Gas Supplier 'Working With' Cuomo on Stalled Pipeline (1)

By Christopher Martin

A major supplier of natural gas to New Yorkers said it's trying to work with Andrew Cuomo's administration to advance a stalled pipeline project and end a moratorium affecting about 20,000 customers.

Seattle to Tax and Regulate Home Heating Oil Out of Existence

By Paul Shukovsky

The Seattle City Council voted unanimously Sept. 23 to phase out the use of home heating oil in the city, a major step in the goal of cutting greenhouse gas emissions from residential buildings by 32 percent from 2008 levels by 2030.

AROUND THE GLOBE

Court Blocks Alberta's Move to Cut Off Oil Flow to B.C.

By Robert Tuttle

Alberta's efforts to punish neighboring British Columbia for opposing a major crude pipeline expansion are on hold, at least for now.

Europe Seeks to Bring Its Laggards on Climate Policy Into Line

By Ewa Krukowska

The European Union is working to bring member states that are lagging on climate and energy targets into line, stepping up pressure for more action to reduce pollution.

After Dumping Vale, Church of England Says Miner Has 'Way to Go'

By Isis Almeida and Sabrina Valle

The Church of England has dumped Vale SA, and it doesn't look like the Brazilian miner will make it back into the good books any time soon.

Brazil to Push Forward Mining on Indigenous Land Amid Opposition

By Sabrina Valle and Luiza Ferraz

The Brazilian government is pushing ahead with a controversial bill that allows mining activity on indigenous lands, and it won't give local communities any veto power, a cabinet member said.

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Inside EPA's **Environmental Policy Alert,** 09/25/2019
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Latest News

Wheeler Pledge To Block California Highway Funds Draws State Concern

State officials are expressing surprise at EPA Administrator Andrew Wheeler's unprecedented threat to withhold California's highway funds and concern that the agency may try to apply similar approaches to numerous other states with air quality problems.

Senate Appropriators Seek FY20 EPA Funding Boost, Limit Riders

Senate appropriators are advancing an EPA fiscal year 2020 spending bill that would boost funding for the agency by $161 million over current spending levels, a first step toward reaching a conference with House lawmakers on the measure, though the Senate bill provides EPA with $500 million less than the House version.

California Plan To Extend Gas Plants' OTC Deadline Sparks Criticism

Environmental and ratepayer groups are raising concerns about the potential pollution and climate impacts of California energy regulators' grid-reliability plan to allow several natural gas-fired power plants that use once-through-cooling (OTC) systems to operate for three years longer than the current 2020 retirement deadline for such plants.

After California Threat, EPA To 'Speak Closely' With Other States Over SIPs

EPA is vowing to "speak closely" with states over their delayed plans for attainment federal air quality standards, says a top agency official, following the Trump administration's threat to withhold federal highway funding from California unless the state acts quickly to submit "approvable" air quality plans to EPA.

EPA Methane NSPS Plan Spurs Debate On 'Significant' GHG Contribution

EPA has formally published its proposal to scuttle methane controls for new oil and gas facilities and block limits on existing sources, kicking off a two-month public comment period that could feature a prominent debate on defining whether this sector or other industries pose a "significant" danger in terms of greenhouse gas pollution.

Daily Feed

Enforcement deputy to leave EPA

Patrick Traylor, the political deputy in EPA's enforcement office, is one of a growing number of Trump administration appointees to leave the agency in the past few months.

Ewire: EPA extends California strife to NAAQS plans

In today's Ewire: Amid EPA and California's heated battle over auto greenhouse gas rules, the agency threatens to yank the state's highway funds over air quality nonattainment.

Environment Next

Election 2020

Presidential Profiles: Bernie Sanders

Sen. Bernie Sanders (I-VT) is floating what appears to be the most aggressive climate change plan of the contenders for the 2020 Democratic presidential nomination, vowing to spend more than $16 trillion over 10 years to transform the U.S. electricity system to 100 percent renewables for electricity and transportation by 2030 and have "full decarbonization" by 2050.

Duke Energy draws scrutiny over carbon neutrality goal

Duke Energy's declaration that it plans to achieve complete carbon neutrality by 2050 is drawing skepticism from environmentalists who have long targeted the company as a bad environmental actor, signaling the scrutiny that could fall on firms that promise to voluntarily make major reductions in their environmental footprints.

GREENWIRE
AN E&E NEWS PUBLICATION

AIR POLLUTION

Trump EPA threatens Calif. highway funding

Maxine Joselow, E&E News reporter Published: Tuesday, September 24, 2019

EPA Administrator Andrew Wheeler is threatening to revoke federal highway funds for California over Clean Air Act compliance disputes. Ken Lund/Flickr

The Trump EPA is threatening to sanction California because of its lack of compliance with federal clean air standards, the latest salvo in its multipronged attack on the Golden State over climate change.

In a letter released yesterday to the California Air Resources Board, EPA Administrator Andrew Wheeler threatened to revoke federal highway funds in retaliation for the state's halting compliance with the Clean Air Act.

The EPA chief wrote that the state had the "worst air quality in the United States" and had "failed to carry out its most basic tasks" under the bedrock environmental law.

The Clean Air Act requires states to submit state implementation plans — commonly known as SIPs — outlining their efforts to comply with federal ambient air quality standards for ozone, particulate matter and four other criteria pollutants.

But according to Wheeler, EPA faces a severe backlog of SIPs and California is largely to blame.

"The state of California represents a disproportionate share of the national list of backlogged SIPs, including roughly one-third of EPA's overall SIP backlog," the EPA chief wrote. "California's total portion of the SIP backlog is more than 130 SIPs, with many dating back decades."

Wheeler gave California air regulators until Oct. 10 to withdraw their "incomplete" SIPs and submit new plans covering 82 municipalities facing noncompliance.

If the regulators fail to meet that deadline, Wheeler wrote, the state could be penalized with federal highway funding cuts or New Source Review permitting sanctions. The Trump EPA could also impose its own federal implementation plan.

EPA's move is the latest in a string of attacks on the Golden State over its efforts to reduce air pollution and combat climate change.

President Trump last week threatened to hit California with an environmental violation over its homeless population. The president claimed, without evidence, that homeless people in San Francisco were discarding used needles in storm sewers and contributing to "tremendous pollution" in the ocean.

"It's a terrible situation — that's in Los Angeles and in San Francisco," Trump told reporters aboard Air Force One. "We're going to be giving San Francisco, they're in total violation, we're going to be giving them a notice very soon."

Also last week, Trump announced his intent to revoke California's Clean Air Act waiver for greenhouse gases, which allows the state to set tougher vehicle emissions standards than the federal government (*Greenwire*, Sept. 18).

At a news conference at EPA headquarters, Wheeler and Transportation Secretary Elaine Chao defended the waiver revocation as a return to "one national program" for fuel efficiency (*Greenwire*, Sept. 19).

"We embrace federalism and the role of states. But federalism does not mean that one state can dictate standards for the entire country," Wheeler said.

Critics, however, contend that Trump harbors a personal grudge against California, a liberal bastion that has opposed his administration on issues including immigration, health care and the environment.

"Trump has married his administration-wide hostility to the environment to his personal vendetta against California," Dan Becker, executive director of the Safe Climate Campaign, said in a statement.

Critics also note a certain irony in EPA's move: For decades, California has relied heavily on the Clean Air Act waiver to comply with federal ambient air quality standards.

Indeed, the waiver has allowed California to promulgate a zero-emission vehicle program that has slashed emissions from transportation, which accounted for 41% of statewide emissions in 2017.

"Just as the Trump administration is taking yet another political pot shot at California, it's also trying to undercut the zero-emission vehicle program there, which is one crucial way the state is trying to cut down on soot and smog," David Pettit, a senior attorney at the Natural Resources Defense Council, said in a statement.

"If the EPA is serious about wanting to help California's air quality, it should drop its attack on this important initiative to cut pollution," Pettit said.

On a call with reporters this morning, a senior EPA official pushed back on the notion that today's action fit into a pattern of hostility toward California.

"That's not the correct perspective here," the official said, adding, "This is related to California's continued inability to carry out basic tasks under the Clean Air Act."

In response to a question from E&E News, the official said the action had nothing to do with Trump's comments last week about the state's homeless population.

"Yesterday's letter is unrelated to anything on the water front," the person said. "It's just related to California's state implementation plans under the Clean Air Act."

The official declined to say whether EPA would pursue a separate violation against San Francisco over its alleged water pollution problem.

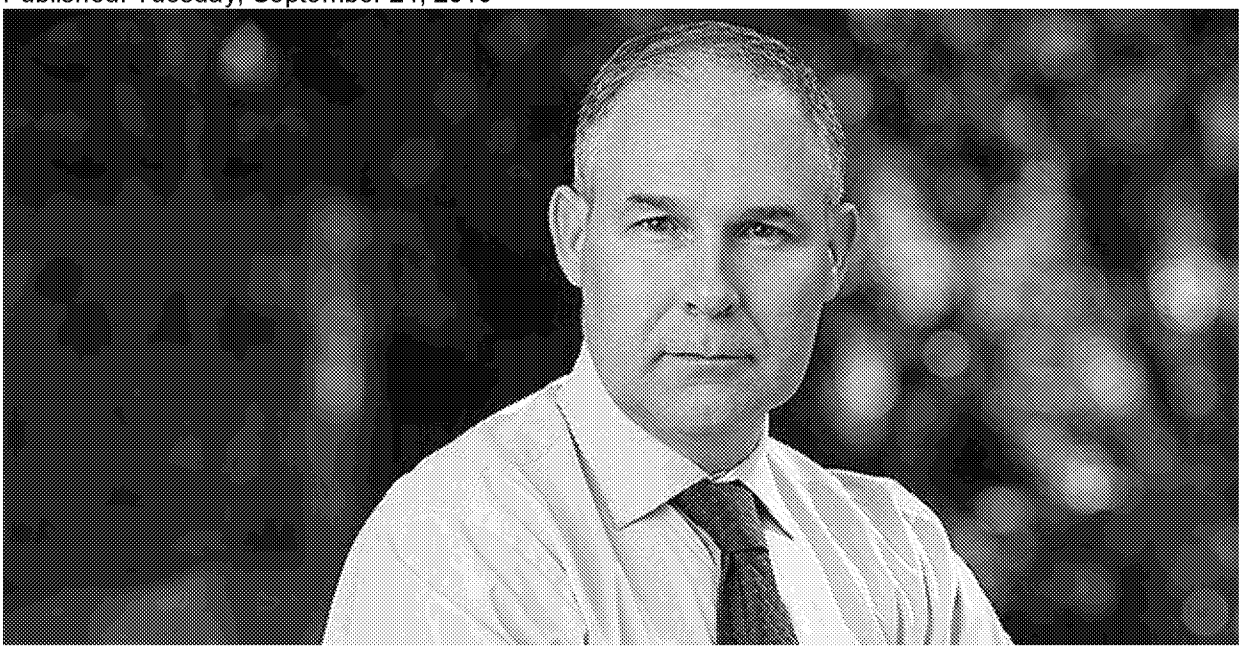
The White House didn't immediately respond to a request for comment.

EPA

GAO still waiting on Pruitt phone booth report

Kevin Bogardus, E&E News reporter

Published: Tuesday, September 24, 2019



Former U.S. EPA Administrator Scott Pruitt. Scott Pruitt/Facebook

More than a year after a congressional watchdog scolded EPA over former Administrator Scott Pruitt's secure phone booth, the agency still has not filed a report on the spending hiccup.

The Government Accountability Office said in a letter yesterday to Congress that EPA had not filed the report required under statute explaining the agency's actions regarding the soundproof booth. In April last year, GAO concluded that EPA had violated appropriations law by not giving advance notice to lawmakers about the roughly $43,000 expense to install the privacy booth in the administrator's office. That spending surpassed a $5,000 spending cap on office redecoration for political appointees and should have triggered notification of Capitol Hill.

"By law, agencies must immediately report Antideficiency Act violations to the President and to Congress, while transmitting a copy of the report to the Comptroller General," said the letter, which was signed by Thomas Armstrong,

GAO's general counsel. "This reporting requirement protects Congress's power of the purse while promoting sound funds control throughout government."

GAO added that its records show EPA has not submitted the report.

"Our letter does not absolve the agency of its failure to report," said the letter, which was also copied to EPA General Counsel Matthew Leopold, Deputy EPA Inspector General Charles Sheehan and Mark Paoletta, general counsel at the Office of Management and Budget.

"We send you this information because the reporting of ADA violations is critical to congressional oversight of executive use of public money and central to Congress's constitutional power of the purse."

Asked why EPA had not filed the report yet, EPA spokesman Michael Abboud said the agency found Pruitt's phone booth was not in violation of appropriations law.

"EPA career ethics counsel found that the secure phone line was not in violation of Section 710 and that it was needed to handle sensitive agency business," Abboud said.

He referred E&E News to a letter sent to the congressional watchdog in March last year by Kevin Minoli, EPA's then principal deputy general counsel.

EPA said in the letter that Pruitt's phone booth was "an expense necessary" so the administrator could conduct agency business. In addition, the agency argued the privacy booth was not "an aesthetic improvement" contemplated by appropriations law but was akin to other office equipment, such as a computer or copier.

Rep. Betty McCollum (D-Minn.), the top House appropriator overseeing EPA, said the agency must submit the report.

"This president and his administration clearly think they are above the law. EPA's failure to report its Antideficiency Act violation to Congress is just another example of this pattern," McCollum said in a statement shared with E&E News.

"In this case, EPA must stop breaking the law and submit this report immediately. As an appropriator, I have the responsibility to hold them accountable for their actions, including through adjustments to the Administrator's budget. This administration must understand there are consequences for blindly falling into step with Mr. Trump's pattern of lawlessness."

Pruitt resigned from EPA in July 2018 under a crush of ethics allegations.

GAO has cleared the former EPA administrator in other spending matters.

The watchdog office issued an opinion in August 2018 that Pruitt's appearance in a National Cattlemen's Beef Association video talking up repeal of the controversial Waters of the United States rule didn't violate appropriations law restrictions on using government funds for lobbying and propaganda.

GAO, however, did judge that the Obama-era EPA violated those prohibitions with the agency's social media campaign in support of the Waters of the U.S. rule. EPA officials fiercely pushed back on that opinion (*E&E News PM*, Dec. 14, 2015).

Then-EPA Administrator Gina McCarthy later filed an Antideficiency Act report with the watchdog office disagreeing with its ruling.

"Because no violation has occurred, no disciplinary action has been taken and no further steps are required on the part of the EPA," McCarthy said.

Other agencies during the Trump administration have tangled with GAO.

Earlier this month, the congressional watchdog said the Department of the Interior violated appropriations law when it used entry fees to keep national parks open during the partial government shutdown. Democrats have pressed the department to accept the ruling after Interior officials disagreed with the opinion (*Greenwire*, Sept. 9).

APPROPRIATIONS

Senate unveils Interior-EPA bill, rejects money for BLM move

Kellie Lunney and Kevin Bogardus, E&E News reporters

Published: Tuesday, September 24, 2019

Senate Interior and Environment Appropriations Subcommittee Chairwoman Lisa Murkowski (R-Alaska) and ranking member Tom Udall (D-N.M.) during a markup this morning. Francis Chung/E&E News

Senate appropriators approved by voice vote this morning a $35.8 billion fiscal 2020 spending bill for EPA, the Interior Department and related agencies, with bipartisan consensus and without any new "poison pill riders."

But the bill does seek to limit Interior's ability to relocate hundreds of Bureau of Land Management (BLM) jobs out of Washington, D.C.

That total is slightly less than the $37.3 billion the House approved for those agencies this past summer in a multibill package, H.R. 3055.

Both chambers, however, are unified in rejecting deeps cuts proposed by the White House for several EPA and Interior programs in fiscal 2020.

"We all know this account is not one of the easy ones," said Sen. Lisa Murkowski, who leads the Senate Interior and Environment Appropriations Subcommittee. "We had a few bumps, a few surprises that could have derailed our progress with this."

Still, the legislation the two sides produced represents a "laudable mix of accommodating our colleagues, accommodating the states' interests, federal interests, and working to address the needs of our lands, our waters and our people," the Alaska Republican said.

Ranking member Tom Udall (D-N.M.) added, "We have produced what I think is a fine Interior bill, one that makes key investments in members' priorities on both sides of the aisle."

Udall secured language similar to the House's that would prevent the Bureau of Land Management from conducting new oil and gas leasing within the 10-mile buffer zone around New Mexico's Chaco Culture National Historical Park (*Greenwire*, May 21).

Other subcommittee members held off on offering amendments today but may do so when the full Appropriations panel marks up the Interior-EPA bill Thursday.

"At this point in time, I'm hoping we keep it to a dull roar," Murkowski told reporters after the markup when asked what she anticipated could happen Thursday with amendments to the bill.

Interior reorganization

The legislation would provide no new money for Interior's management overhaul, including a relocation of hundreds of BLM jobs to Western states and a new headquarters in Grand Junction, Colo. The House also did not appropriate any fiscal 2020 funds to the reorganization effort.

"Between this bill and the strong statement from the House to oppose the reorganization, the administration will be well-advised to stop trying to ram these changes through and actually work with Congress on a good-faith basis," said Udall.

The administration had requested $28 million for the reorganization in fiscal 2020. Congress gave Interior $14 million for the project in fiscal 2019, but many Republicans and Democrats have criticized the department for not providing enough detail about the effort.

In response to the Senate markup, an Interior spokesperson released a statement saying "the BLM relocation is moving full speed ahead."

"As previously approved by Congress, we have the means to complete this relocation and establish the new headquarters in Grand Junction, Colorado," said the statement.

"The Department intends to give BLM employees their legally authorized compensation and incentives, but ultimately it is up to Congress to decide if they want to deny these benefits to our employees," it said.

Bill details

EPA would receive about $9 billion in fiscal 2020 from the Senate legislation, while Interior would get $13.7 billion.

EPA's figure is an increase from current funding of $8.8 billion and much more than the $6 billion President Trump proposed for the agency in his fiscal 2020 budget plan. The House would give EPA $9.5 billion.

The agency's state and tribal assistance grants would increase by $116 million under the legislation, including an additional $20 million for handling contamination and remediation of per- and polyfluoroalkyl substances, or PFAS.

Senate appropriators would fund EPA's Clean Water and Drinking Water state revolving funds at close to $2.8 billion.

In addition, $73 million would go to the Water Infrastructure Finance and Innovation Act program, which finances loans for drinking water and wastewater systems around the country.

Senate appropriators' budget number for Interior is close to the $13.8 billion the House provided to the department in its fiscal 2020 bill.

Like the House bill, the Senate version released today would fully fund the payment in lieu of taxes program at $500 million.

Senate appropriators decided to devote $465 million to the popular Land and Water Conservation Fund, less than the $523.9 million in the House bill.

The program is authorized for up to $900 million annually; Democrats and some Republicans have pushed to provide full, mandatory funding for LWCF.

That difference in the amounts allocated to LWCF will no doubt be a sticking point when the two chambers hammer out their differences in conference committee.

"I'm disappointed to see barely, barely half of full funding" in the bill, said Sen. Steve Daines (R-Mont.). "I want to work with you both on a path forward; I look forward to continuing the conversation as we finalize the bill on Thursday."

For the first time, appropriators carved out $6.5 million in the Interior account to help address the growing problem of missing and murdered indigenous women and girls. The money would go toward cold case investigations, equipment, training and background checks.

"We know it's going to take a lot of communication and coordination among law enforcement agencies to get this right," Murkowski said.

The Senate bill would provide $2.25 billion for wildfire suppression activities, made available through the fiscal 2018 wildfire budget adjustment cap.

The "fire fix" in the 2018 legislation would avert "fire borrowing," in which the Forest Service has taken money out of non-fire-related accounts to cover rising wildfire expenses. Overall, the fiscal 2020 Senate legislation would allocate $3.64 billion for fire suppression.

Interior agencies

The Senate fiscal 2020 Interior-EPA bill would provide funding for the following agencies, according to a summary provided by the majority:

- BLM: $1.39 billion, an increase of $53 million over the fiscal 2019 enacted level.
- National Park Service: $3.36 billion, $133 million more than the fiscal 2019 level.
- Fish and Wildlife Service: $1.63 billion, an increase of $52.7 million above the fiscal 2019 level.
- U.S. Geological Survey: $1.2 billion, a boost of $49 million from fiscal 2019.
- Office of Surface Mining: $257.2 million, an increase of $2 million from the fiscal 2019 level.

UNITED NATIONS

Trump address targets trade, immigration and socialism

Jean Chemnick, E&E News reporter Published: Tuesday, September 24, 2019

President Trump speaks at a ceremony to open the 74th session of the U.N. General Assembly in Manhattan. Valery Sharifulin/ZUMA Press/Newscom

NEW YORK CITY — President Trump used his half-hour at the iconic United Nations podium today to air familiar grievances and trumpet U.S. might — including, briefly, on energy — though he made no mention of climate change despite the week's events.

The president's short visit to U.N. Secretary-General António Guterres' climate summit yesterday was unexpected, but today he didn't touch on global warming or much else that isn't in his usual playbook.

He opened today by touting his economic record as president, claiming credit briefly for the United States' emergence as the world's largest oil and gas producer. Under his leadership, he said, the U.S. is "marshalling our nation's vast energy abundance."

Trump says frequently that his policies spurred the U.S. oil and gas boom, but development expanded by nearly 90% under former President Obama. Experts credit it more to advancements in unconventional production techniques like hydraulic fracturing than to federal policies.

Trump used the world's foremost multilateral forum to dismiss multilateralism, promising to put domestic interests over global ones. He counseled other countries to do the same.

"Wise leaders always put the good of their own people and their own country first," said Trump.

"The future does not belong to globalists; the future belongs to patriots," he added.

Trump has explained his decision to withdraw the U.S. from the Paris Agreement — a globally popular deal with nearly universal membership — by asserting that it's a "bad deal" for America. The pact relies on voluntary national commitments.

Russia formally joined the Paris pact at yesterday's summit.

Some of Trump's remarks seemed to preview likely messages for the 2020 presidential campaign. The Democrats lining up to challenge Trump are embracing policies that have been called socialist, from universal health care to free college. One leading contender, Sen. Bernie Sanders (I-Vt.), self-identifies as a democratic socialist.

But Trump denied that the United States was poised to shift left.

"Today I repeat a message to the world that I have delivered at home: America will never be a socialist country," he said.

Lumping communism and socialism together, he blamed both for 100 million deaths in the 20th century and called socialism "the destroyer of societies."

His remarks were aimed at Venezuela, and UNTV panned repeatedly to the country's young U.N. delegate who appeared deeply engrossed in a book on Venezuelan revolutionary Simón Bolívar.

The president devoted considerable time to his own trade war with China, blaming its 2001 admittance to the World Trade Organization and globalism's "religious pull" with past U.S. presidents for job losses in the United States and elsewhere.

Trump, who has stoked hopes in recent weeks that the U.S. and China might soon reach a deal to end damaging trade tariffs, took an indifferent tone.

"Hopefully we can reach an agreement that will be beneficial for both countries," he said, adding, "I will not accept a bad deal for the American people."

The word "evil" made its second appearance at the U.N. in as many days. Trump said proponents of free immigration promoted policies that are "cruel and evil," including to those who would come to the United States illegally.

Yesterday, Swedish climate advocate Greta Thunberg used the word to describe countries that knowingly failed to act to address warming that threatens her generation.

"If you choose to fail us, I say we will never forgive you. We will not let you get away with this," she said in emotional remarks at the start of the climate summit. "Right here, right now is where we draw the line. The world is waking up, and change is coming whether you like it or not."

Trump didn't arrive yesterday until after Thunberg spoke. But he took to Twitter last night to deride the 16-year-old for the concerns she's expressed.

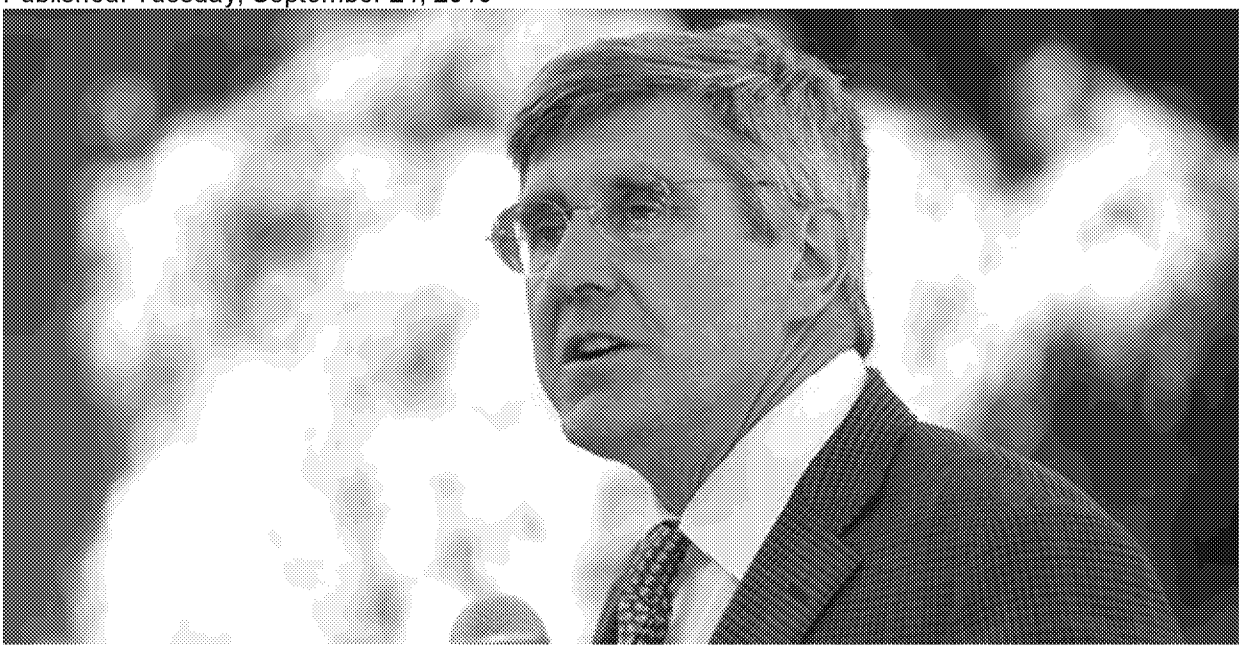
"She seems like a very happy young girl looking forward to a bright and wonderful future," he wrote. "So nice to see!"

URANIUM

Former Trump economic adviser backs helping mining

Dylan Brown, E&E News reporter

Published: Tuesday, September 24, 2019



Stephen Moore speaking at a fundraiser in Scottsdale, Ariz., in 2016. Gage Skidmore/Wikimedia Commons

President Trump's former economic adviser Stephen Moore urged his old boss to save American uranium mining.

Moore lent his high profile to a bevy of industry talking points on the risks of importing nuclear fuel in a report released yesterday, co-authored with former federal geologist and conservative Cato Institute scholar Ned Mamula.

In a *Washington Times* op-ed alongside Mamula, Moore called on the White House Nuclear Fuel Working Group to reduce uranium imports.

The report and op-ed come just weeks before that working group is due to issue a report Oct. 13.

Trump convened the panel in July after he rejected two mining companies' joint petition for a 25% domestic uranium quota but offered the industry hope by calling for a "fuller analysis of national security considerations with respect to the entire nuclear fuel supply chain" (*Energywire*, July 15).

"We don't know what the best solution is," Moore and Mamula wrote.

In 2018, the U.S. Energy Information Administration reported that 90% of nuclear fuel was imported and, as a result, U.S. uranium production hit its lowest point since 1950 — less than 1.5 million pounds of uranium concentrate and about 450 workers.

Relying on industry statistics, Moore said imports are now 99% of supply — 40% coming from Russia and former Soviet republics Kazakhstan and Uzbekistan.

The American uranium mining industry contends Russian state nuclear corporation Rosatom is purposely flooding the market to undercut it, while China is buying up uranium assets globally.

"This is not a friendly free-market group that America can depend on, especially in an emergency," Moore and Mamula wrote.

They, however, do not support quotas or "trade protectionism," citing the Heritage Foundation, where Moore is a visiting fellow.

The op-ed does not mention that Heritage Foundation energy analyst Katie Tubb has said suggestions that Russia could cut off uranium supplies for political gains were "a hollow Matryoshka doll."

In a *Daily Signal* commentary, Tubb noted U.S. nuclear reactors can generally run about 18 months before refueling and have sizable fuel stockpiles. The Department of Energy has also said it does not need new nuclear weapons material until 2038, or reactor fuel for nuclear-powered craft until 2060.

But Moore and Mamula urged Trump to help not only uranium but all types of mining for "critical minerals" used in military and civilian technologies.

The op-ed cited the Obama-administration's 2012 uranium mining ban around the Grand Canyon and Virginia's statewide uranium ban upheld by the Supreme Court this year (*Greenwire*, June 17). He also noted an environmental group lawsuit to force closures of uranium mines in Colorado that have not produced ore in at least a decade (*Greenwire*, July 30).

Earlier this year, Trump nominated Moore to the Federal Reserve Board and then almost immediately withdrew the nomination amid growing objections among Senate Republicans (*Climatewire*, April 16).

AUTOS

Volkswagen bosses charged in Germany over diesel scandal

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German prosecutors said today they have charged Volkswagen's current CEO and chairman as well as its former CEO with market manipulation in connection with the diesel emissions scandal that erupted in 2015.

CEO Herbert Diess, Chairman Hans Dieter Pötsch and former chief Martin Winterkorn are accused of deliberately informing markets too late about the huge costs to the company that would result from the scandal, prosecutors in the city of Braunschweig said.

That, they said in a statement, meant the executives had improperly influenced the company's share price.

The charges, which Volkswagen rejected, could require Diess to spend significant time on his defense, distracting him at a crucial time for the company, which is trying to move on from the scandal and is recasting its business to focus on new — cleaner — technologies like electric cars.

The prosecutors argued that Winterkorn had been aware of the issue and the potential resulting damage since at least May 2015, Pötsch since June 29 and Diess since July 27. Each of them should have ordered the release of an ad hoc statement for markets at that point, the prosecutors said.

However, the scandal only broke when U.S. authorities went public with it on Sept. 18, 2015.

Winterkorn resigned shortly after the scandal became public. Pötsch was chief financial officer at the time and became chairman of the supervisory board in late 2015. Diess arrived at the company on July 1, 2015, shortly before the scandal broke and was initially the head of its core Volkswagen brand.

Winterkorn was succeeded as CEO by Matthias Möller, who was then replaced by Diess in April 2018.

Volkswagen swiftly rejected the charges, saying it had "meticulously investigated" the matter with the help of internal and external legal experts over nearly four years.

"The result is clear: the allegations are groundless," Hiltrud Dorothea Werner, the board member responsible for integrity and legal affairs, said in a statement. She added that, if the indictment goes to trial, the company is "confident that the allegations will prove to be unfounded."

German prosecutors have also fined Daimler €870 million ($957 million) over the alleged certification of diesel cars whose emissions didn't comply with regulatory requirements.

Prosecutors in Daimler's home city of Stuttgart said today that Daimler was fined over a negligent violation of supervisory duties. Daimler said it had concluded that it was "in the company's best interest" to conclude the proceedings and it wouldn't appeal.

The company said prosecutors' finding that Daimler's alleged failings caused some vehicles to deviate from regulatory requirements from 2008 refers essentially to recall orders by German authorities. It said it is maintaining its objections against those orders "in order to get clarity also for the future." — *Geir Moulson and David Mchugh, Associated Press*

AIR POLLUTION

EPA nixes N.Y. bid to limit other states' emissions

Sean Reilly, E&E News reporter

Published: Tuesday, September 24, 2019

An entrance to the north building of EPA headquarters. Francis Chung/E&E News

This story was updated Sept. 25.

EPA has given a conclusive thumbs-down to New York state's bid for a federal assist in curbing ozone-forming pollution from hundreds of upwind power plants outside its borders.

In a final rule signed Friday, EPA Administrator Andrew Wheeler said the state had failed to make its case that the plant emissions violated the Clean Air Act's "good neighbor" provisions by undercutting New York's ability to comply with federal ground-level ozone standards.

In the petition filed in March 2018, the state had sought EPA's help in limiting emissions of nitrogen oxides (NOx) from some 350 coal-fired power plants and other sources in nine states as far west as Illinois. NOx is a key contributor to the creation of ozone; in the petition, the state said those releases were making it harder for the New York City metro region to comply with the standards.

That area, home to more than 12 million people, is in nonattainment with both the 2008 ozone limit of 75 parts per billion and the 2015 threshold of 70 ppb. Another county in western New York is also affected by upwind emissions, according to the petition.

"Once again, the U.S. EPA has bowed to interests of polluters at the expense of the American people, in lock step with the Trump administration's pattern of ignoring science to abdicate the EPA's role to protect public health and the environment," Erica Ringewald, a spokeswoman for the New York Department of Environmental Conservation, said in an

email this evening. "The denial ignores DEC's demonstration — using an EPA-approved regulatory model, no less — that nonattainment will persist unless upwind states reduce emissions so that the air coming into the NYC area is cleaner."

EPA's final decision, previously reported by Bloomberg Environment, was expected after the agency had issued a preliminary rebuff in May (*Greenwire*, May 8).

In that initial proposed determination, federal regulators cited the 2016 Cross-State Air Pollution Rule (CSAPR) update, geared to reducing upwind power plant emissions that interfere with downwind states' ability to meet the 2008 ozone standard. Eight of the nine states named in New York's petition are covered by the update, EPA said at the time.

By the agency's forecast, that 2016 rule will help bring the eastern U.S. into compliance with the 2008 ozone standard by 2023. New York "has failed to demonstrate that it is necessary to implement additional, source-specific, unit-level emissions limits at any of the sources named in the petition to ensure reductions are being achieved under the CSAPR update," they said in the preliminary May decision.

But New York now faces a statutory 2021 deadline to come into attainment with the 75 ppb ozone standard. In a ruling earlier this month, a federal appellate court found that the CSAPR update didn't go far enough in reducing upwind emissions because it would allow nonattainment problems to fester past such deadlines.

In the decision, the U.S. Court of Appeals for the District of Columbia Circuit stopped short of vacating that portion of the 2016 rule but made clear that EPA needs to fix it. In their final response to New York's petition signed Friday, agency officials said they had relied on other factors besides the CSAPR update in opting to reject it.

EPA had previously turned down similar good neighbor petitions brought by Maryland and Delaware; both states are challenging those rejections with the D.C. Circuit.

Ozone, a lung irritant that is the main ingredient in smog, is formed by the reaction of nitrogen oxides and volatile organic compounds in sunlight.

AIR POLLUTION

Minn. metal shredder to shut down, admits to altering data

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A scrap metal company that has long been under fire from Minnesota regulators agreed yesterday to permanently shut down its metal shredder in north Minneapolis and admitted that it had submitted falsified records to the state on the performance of its filtration equipment.

The shutdown at 6 p.m. local time yesterday was one of the key parts of a settlement between Northern Metal Recycling and the Minnesota Pollution Control Agency. The company also agreed to pay a $200,000 civil penalty. The agreement also allows the MPCA to add new monitoring and reporting requirements to the permit for the company's new facility in Becker.

"The people of north Minneapolis have been demanding for years that Northern Metals' shredding operation be shut down. Because of the settlement we reached — which is better than what we could have achieved at trial — that's finally happening today, for good," Attorney General Keith Ellison (D) said in a statement.

Northern Metals agreed in 2017 to move its shredding operations out of north Minneapolis to Becker and pay a $1 million civil penalty to the state to resolve concerns that the facility was spreading pollution over the inner-city neighborhood. But the legal fight didn't end there, and the company sought extensions to keep running the shredder in Minneapolis.

MPCA Commissioner Laura Bishop said the settlement, filed in Ramsey County District Court, holds Northern Metals accountable.

The company "broke the public's trust and showed a willful disregard toward its neighbors. These serious violations required a swift and proportional action," Bishop said in a statement.

Northern Metals admitted to altering a log book so it would appear the shredder's filter units were performing properly, in violation of its permit and the earlier settlement. Under the new settlement, the company does not admit that it exceeded its permitted air emissions limits.

The Minnesota Center for Environmental Advocacy and Community Members for Environmental Justice criticized the settlement, saying it allows the company to avoid a public hearing they had sought on whether the filtration system adequately controlled the shredder's emissions of lead, particulates and soot. In a joint statement, they called on the Hennepin County attorney's office to begin a criminal investigation into the falsified records.

Northern Metals issued a short statement saying it was pleased.

"We look forward to starting operations at our state-of-the-art Becker facility, which we believe will set the benchmark for sustainability and environmental protection for the recycling industry in Minnesota and the nation," said Scott Helberg, the company's chief operating officer. — *Steve Karnowski, Associated Press*

LOUISIANA

Governor candidates spar over oil and gas lawsuits

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Just days before the start of early voting, Louisiana Gov. John Bel Edwards' Republican opponents struck at his hallmark achievements yesterday in hopes of keeping the Democratic incumbent from outright victory in an election less than three weeks away.

The Deep South's only Democratic governor continued to defend his record and suggested that U.S. Rep. Ralph Abraham and businessman Eddie Rispone were trying to divide Louisiana residents into the partisan lines of Washington as they seek to force him into a runoff from the Oct. 12 election.

"We're not going to turn back. The people of Louisiana won't stand for it," Edwards said at an event held by the Press Club of Baton Rouge, the second face-to-face debate featuring all three major candidates.

Asked about climate change and Louisiana's increasing coastal land loss, all three candidates said the oil and gas industry could help with the response. But both GOP contenders took a swipe at Edwards for encouraging parish governments to sue oil and gas companies over wetlands damage.

"I've not filed a single lawsuit against them. Congressman Abraham has. He's filed for damage to his property caused by oil and gas interests. That's a fact," Edwards shot back, holding up a copy of Abraham's lawsuit.

Abraham said the lawsuit was resolved without court action. He described it as a dispute with a subcontractor digging a pipeline ditch at his farm who "wouldn't come clean up their mess." — *Melinda Deslatte, Associated Press*

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