Message

From: Maier, Brent [Maier.Brent@epa.gov]
Sent: 9/26/2019 2:22:32 PM
To: PerezSullivan, Margot [PerezSullivan.Margot@epa.gov]; Calvino, Maria Soledad [Calvino.Maria@epa.gov]; Adamic, Denise [Adamic.Denise@epa.gov]; DIAZ, ALEJANDRO [Diaz.Alejandro@epa.gov]
CC: Amato, Paul [Amato.Paul@epa.gov]; Harris-Bishop, Rusty [Harris-Bishop.Rusty@epa.gov]; Hood, Timonie [Hood.Timonie@epa.gov]; Stollman, Scott [Stollman.Scott@epa.gov]; Anderson, Julie [Anderson.Julie@epa.gov]; Nazmi, Niloufar [Nazmi.Niloufar@epa.gov]; Christenson, Kara [Christenson.Kara@epa.gov]; LEONIDO-JOHN, STEVEN [Leonido-John.Steven@epa.gov]; Glenn, William [Glenn.William@epa.gov]; Gill, Sonam [Gill.Sonam@epa.gov]
Subject: EPA tells California it is 'failing to meet its obligations' to protect the environment -- Washington Post

See e-mail and article below shared by OCIR's Jack Bowles in the Washington Post. I would expect our office will be receiving calls about this today.

Brent Maier
Congressional Liaison
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St. (OPA-3)
San Francisco, CA 94105
Ph: 415.947.4256

From: Bowles, Jack <Bowles.Jack@epa.gov>
Sent: Thursday, September 26, 2019 6:25 AM
To: Maier, Brent <Maier.Brent@epa.gov>; Glenn, William <Glenn.William@epa.gov>
Subject: FW: EPA tells California it is 'failing to meet its obligations' to protect the environment -- Washington Post

Good Morning,

News you can use.

Best,
Jack

From: Grantham, Nancy <Grantham.Nancy@epa.gov>
Sent: Thursday, September 26, 2019 8:32 AM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Bowles, Jack <Bowles.Jack@epa.gov>; Borum, Denis <Borum.Denis@epa.gov>
Subject: FW: EPA tells California it is 'failing to meet its obligations' to protect the environment -- Washington Post

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From: Grantham, Nancy <Grantham.Nancy@epa.gov>
Sent: Thursday, September 26, 2019 8:30 AM
To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Block, Molly <block.molly@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; McFaul, Jessica <mcfaul.jessica@epa.gov>; Woods, Andrea <Woods.Andrea@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: EPA tells California it is 'failing to meet its obligations' to protect the environment -- Washington Post

Climate and Environment

EPA tells California it is 'failing to meet its obligations' to protect the environment

Traffic moves across the Richmond-San Rafael Bridge on Sept. 17 in Mill Valley, Calif. (Justin Sullivan/Getty Images)

By Juliet Eilperin ,

September 26 at 8:00 AM

Trump officials will notify California Gov. Gavin Newsom (D) on Thursday that the state is "failing to meet its obligations" to protect the environment, just days after the president mocked its biggest cities for their "tremendous pollution."

The unusual move by the Environmental Protection Agency ratchets up the Trump administration's ongoing battle against the nation's largest state, a multi-pronged assault that Newsom has described as "weaponizing" the federal government. The fight extends from immigration to environmental policy and involves agencies ranging from the Justice Department to the Department of Homeland Security and EPA.

In an oversight letter, EPA Administrator Andrew Wheeler cites multiple instances of California failing to meet federal water-quality standards, attributing this in part to the state's homelessness problem.

"The agency is aware of the growing homelessness crisis developing in major California cities, including Los Angeles and San Francisco, and the impact of this crisis on the environment," wrote Wheeler, who gave Newsom 30 days to respond. "Based upon data and reports, the agency is concerned that California's implementation of federal environmental laws is failing to meet its obligations required under delegated federal programs."

In recent weeks, Newsom and other top California officials have denounced Trump for targeting the state on several fronts. In the past month alone, the administration has moved to revoke the state's long-standing right to limit air pollution from cars, began investigating an agreement with four automakers for possible antitrust violations and threatened to withhold federal highway funds if California does not do more to clean up its air.

California has emerged as one of the Democrats' most potent counterweights to the White House in the Trump era, advancing liberal priorities on everything from climate change to abortion rights. Its attorney general, Xavier Becerra, has sued the administration 62 times in federal court, blocking policies such as the White House plan to end protections for young immigrants who were brought to the United States illegally by their parents.

President Trump talks with then-Gov.-elect Gavin Newsom, left, on Nov. 17, 2018, as California Gov. Jerry Brown listens during a visit to a neighborhood impacted by the wildfires in Paradise. (Evan Vucci/AP)

Speaking to reporters Tuesday in New York City, Newsom said California is promoting a shift to clean energy that threatens Trump's embrace of fossil fuels. In response, Trump and his deputies have started to retaliate, he said, by probing the state's deal with automakers to build cleaner cars and taking away its right to curb tailpipe emissions.

"That paradigm is now challenged by an EPA that's been weaponized by the Trump administration," Newsom said, adding that his state and others are still pressing ahead. "They're losing; states are winning."

EPA officials said the notice to California reflects the agency's broad policy priorities, rather than an attempt to single out the state. But while California has significant amounts of air and water pollution, so do other states.

Last year, the EPA estimated that 3,508 community water systems were out of compliance with health-based standards. In its oversight letter, the agency cited 202 water systems in California that have recently reported drinking water problems. The state has 82 areas that don't meet air standards for six pollutants, and most of its plans to clean them up are still not approved by the EPA. But about three dozen other states also had counties that did not meet those national benchmarks.

Newsom, who said Tuesday that the EPA was engaging in "pure retaliation," has made no secret of his opposition to the White House. This spring, he said, "I also see my role as not just the center of the resistance, but a positive alternative to Trump and Trumpism."

Trump, for his part, has routinely criticized California officials for failing to protect their citizens from a range of threats, including wildfires and criminal acts by those in the country illegally.

At times, the president and Newsom have hurled insults at each other via Twitter. Just last week, Trump blasted California's environmental record as he flew back from the state to Washington on Air Force One.

"There's tremendous pollution being put into the ocean because they're going through what's called the storm sewer that's for rainwater. And we have tremendous things that we don't have to discuss pouring into the ocean," he told reporters. "You know, there are needles, there are other things."

"It's a terrible situation that's in Los Angeles and in San Francisco," he added. "And we're going to be giving San Francisco — they're in total violation — we're going to be giving them a notice very soon."

San Francisco officials reject the idea that they have failed to capture objects such as needles because they send sewage and street runoff to the same pipes. This combined discharge is treated at one of the city's sewage treatment plants, where pollutants are captured or treated before being released to the San Francisco Bay or the Pacific Ocean.

"We have our challenges in San Francisco around homelessness," San Francisco Mayor London Breed's communications director, Jeff Cretan, said in response to Trump's comments aboard Air Force One. "But in terms of needles flowing into the bay, it's absolutely ridiculous."

[From plastic straws to discarded syringes, San Francisco's complex problems]

After Trump declared last week that the EPA would put California on notice, officials were unsure what statutes would be used to do so, and there was no specific plan in place, according to two White House officials who spoke on the condition of anonymity to discuss internal deliberations.

Trump regularly brings up California's homelessness problems in meetings, telling aides that the government needs to highlight what he sees as bad, liberal governance — and to step in.

But that fixation does not extend nearly as much to other cities, such as New York. Homelessness in California has been featured on Trump's preferred cable news network, Fox News, with 10 segments in August alone.

Earlier this month, officials from several agencies, including the EPA, traveled to Los Angeles to examine homelessness and visited spots such as skid row. And some administration officials have said they believe homeless people in California are even spreading leprosy, according to current and former White House officials.

But last week, the administration rejected a request from California officials for more federal funds to expand programs aimed at addressing the problem.

[Trump officials tour FAA facility in California to possibly house homeless]

Harmeet K. Dhillon, the national co-chair for Women for Trump, said the president does not hold a particular animus toward the state, even though he could.

"It is a state that has sued him 60 times," said Dhillon, who spent time with Trump during his California visit last week and said she welcomes his attention. "I think the president shows remarkable good humor and grace when California has its hand out for support of fires or whatever the state needs."

"I don't think the president wants to take over these issues," she said of homelessness or environmental issues, but added, "It is appropriate for the federal government to have scrutiny on California."

Tents and tarps erected by homeless people are seen along sidewalks in the skid row area of downtown Los Angeles on June 28. (Patrick T. Fallon/Reuters)

Earlier this week, EPA officials suggested California authorities are doing an inadequate job of curbing air and water pollution and ranked the state toward the bottom in the nation. On Monday, Wheeler notified the California Air Resources Board that it risks losing billions in highway funding if it did not offer updated plans on how it plans to meet federal health-based standards for soot, smog and other pollutants.

Since Trump took office, EPA leaders have emphasized that they hope to improve water quality across the United States, identifying it as a priority in a long-term strategic plan last year. "Many communities need to improve and maintain both drinking water and wastewater infrastructure and develop the capacity to comply with new and existing standards," the agency wrote.

The agency set a goal of reducing the number of community water systems out of compliance from over 3,500 to 2,700 by Sept. 30, 2022.

While the EPA routinely forges consent decrees with state and local governments to address sewer and stormwater issues, it is rare for the agency to send an oversight letter suggesting that state officials are failing to enforce federal pollution standards on a broad scale.

This is the first letter of its kind that the Trump administration has sent out, EPA officials said. They pointed to a similar letter sent to Wisconsin in 2011 under the Obama administration, which identified numerous deficiencies in the way the state managed water pollution problems. That 26-page letter gave the state three months to reply and came after half a dozen meetings and calls with state officials.

San Francisco is one of the few major cities with sewers that combine stormwater and sewage flows that is not operating under a federal consent decree.

Drawing on public databases and press reports — including a NPR report in August that "piles of human feces" are now visible on sidewalks and streets in San Francisco — Wheeler noted that even California's own government has posted studies noting that human waste can increase bacteria levels in water off its beaches.

He detailed a litany of federal water quality violations across the state, saying California "has not acted with a sense of urgency to abate this public health and environmental problems."

The examples include a "years-long practice" of San Francisco routinely discharging more than a billion gallons of combined sewage and stormwater annually into San Francisco Bay and the Pacific Ocean without treating it for biological contaminants.

In addition, the letter says during the most recent reporting quarter, more than 200 water systems across the state reported 665 instances of exceeding health-based levels of arsenic and other regulated contaminants.

"These exceedances call into question the state's ability to protect the public and administer its [Safe Drinking Water Act] programs in a manner consistent with federal requirements," the letter states.

San Francisco is currently spending billions to upgrade its aging infrastructure, including $4.8 billion to improve regional and local water systems that 2.7 million use. It has also launched a 20-year, multibillion-dollar sewer system upgrade.

Nancy Grantham
Principal Deputy Associate Administrator
Environmental Protection Agency
Office of Public Affairs
202-564-6879 (desk)
202-253-7056 (cell)
grantham.nancy@epa.gov