Message

From: Graham, Cheryl [Graham.Cheryl@epa.gov]
Sent: 4/10/2017 5:23:40 PM
To: OGC Immediate Office All [OGC_Immediate_Office_All@epa.gov]
CC: Jones, Gail-R [Jones.Gail-R@epa.gov]
Subject: 4/10/17 ARLO reg review agenda
Attachments: 17-04-10 agenda.docx

Cheryl R. Graham
OGC/ARLO
(202) 564-5473

Message

From: Fotouhi, David [fotouhi.david@epa.gov]
Sent: 4/28/2017 3:28:49 PM
To: Schwab, Justin [schwab.justin@epa.gov]
CC: Wilcox, Jahan [wilcox.jahan@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]
Subject: Re: Reporter seeking comment on executive orders and agency vacancies

Looks good to me.

Sent from my iPhone

On Apr 28, 2017, at 11:26 AM, Schwab, Justin <schwab.justin@epa.gov> wrote:

I am okay with this but looping in David for his take

From: Wilcox, Jahan
Sent: Friday, April 28, 2017 11:25 AM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: FW: Reporter seeking comment on executive orders and agency vacancies

Attorney Client/DP Ex. 5

From: Keith Goldberg [mailto:keith.goldberg@law360.com]
Sent: Friday, April 28, 2017 11:12 AM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: Re: Reporter seeking comment on executive orders and agency vacancies

Thanks, Jahan.

Wanted to see if the EPA wanted to comment on the D.C. Circuit placing the Clean Power Plan litigation on hold. If you could get back to me ASAP, I'd appreciate it.

On Thu, Apr 27, 2017 at 2:23 PM, Wilcox, Jahan <wilcox.jahan@epa.gov> wrote:

Keith –

It was good talking with you. Below is our statement and research bullets.

EPA Statement ...

"EPA was the poster child for regulatory overreach in the Obama Administration. Since being sworn in, Administrator Pruitt and his team have spearheaded over 22 significant regulatory reform actions, putting him at the forefront of President Trump's vision to rollback regulations, save American jobs and promote economic growth. We're not worried about our ability to give power back to the state, and protect health and the environment in a way that doesn't impede economic growth because we've already made great strides." – EPA spokesman, Jahan Wilcox

RESEARCH BULLETS …

GEARING UP FOR DAY 100: Energy and environmental issues offer perhaps the most concrete accomplishments for President Donald Trump to point to as he nears the 100-day mark of his presidency. He's signed four energy-related resolutions wiping out Obama-era rules, put in place Cabinet officials dedicated to rolling back other regulations and unleashed a steady stream of executive orders and photo ops designed to reach his promise of U.S. energy independence. But whether any of this turns into a lasting legacy for Trump largely depends on what happens from here. His Cabinet lacks the political staff to follow up on his efforts undo rules like EPA's Clean Power Plan and Waters of the U.S., and there will be years of litigation over every move undoing regulations on the books. And his actions appear to have awoken scores of citizens opposed to his environmental deregulatory agenda (see below). More to come on this front as we near the actual date later this week. (Politico's Morning Energy, 04/24/17)

An executive order was issued to rescind WOTUS. "President Trump and EPA Administrator Scott Pruitt issued an executive order to rescind or revise the 2015 Clean Water Rule: Definition of 'Waters of the United States.'" (Press Release, 02/28/17)

An executive order was issued to rescind the so-called Clean Power Plan. "Today, at the Environmental Protection Agency surrounded by American energy workers, public employees and members of Congress, President Donald Trump signed the Energy Independence Executive Order to protect thousands of jobs and strengthen energy security, while also ensuring that our policies provide clean air and clean water for all of our citizens." (Press Release, 03/28/17)

The EPA will resume cleanup at the East Chicago Superfund site. "The U.S. Environmental Protection Agency (EPA) is preparing to resume cleanup work in zones 2 and 3 of the USS Lead Superfund site in East Chicago in April. EPA has reached an agreement with several potentially responsible parties to fund part of this work valued at an estimated $16 million -- in addition to the $26 million already secured for work under a 2014 consent decree." (Press Release, 03/20/17)

EPA Administrator Scott Pruitt toured lead-contaminated areas in East Chicago. "During Pruitt's visit, his first to a Superfund site since being appointed administrator, he toured the Calumet neighborhood, met with local, state and federal officials, and talked with residents and community members about how the lead and arsenic contamination has affected their lives. 'The reason I'm here is that it's important that we restore confidence to people here in this community that we're going to get it right,' Pruitt said. The EPA's objective is to come in and make sure people's health is protected, and that their land and health are secure in the long run, Pruitt said. 'We're committed to doing that,' Pruitt said." (Chicago Tribune, 04/19/17)

The NAACP praised Pruitt for visiting the East Chicago Superfund Site and said they are cautiously optimistic about the EPA's Administrator. "It was the first superfund site EPA Administrator Scott Pruitt has visited -- making a trip there Wednesday -- and the agency said he was the first administrator to visit this particular site. Pruitt visited "to discuss cleanup and hear directly from East Chicago residents affected by contamination in their community," the agency said in a press release. At a press conference, local officials praised Pruitt for visiting the site ... Barbara Bolling-Williams, state president of the Indiana branch of the NAACP, said she is cautiously optimistic following Pruitt's visit." (CNN, 04/19/17)

EPA awarded $100 million to upgrade drinking water in Flint, Michigan. "The U.S. Environmental Protection Agency (EPA) today awarded a $100 million grant to the Michigan Department of Environmental Quality to fund drinking water infrastructure upgrades in Flint, Mich." (Press Release, 03/17/17)

The EPA kicks-off cleanup at the West Oakland Superfund site. "[The EPA] joined local leaders and community members in Oakland to celebrate the installation and start-up of a new groundwater and soil treatment system at the AMCO Chemical Superfund Site." (Press Release, 03/18/17)

EPA committed additional funds surround the Gold King Mine release, bringing the total to $29 million. "The U.S. Environmental Protection Agency (EPA) has provided over $90,000 in additional reimbursements to five entities in Colorado and Utah for their costs incurred responding to the August 5, 2015, Gold King Mine release." (Press Release, 03/16/17)

EPA to reexamine emission standards for cars and light duty trucks. "'These standards are costly for automakers and the American people,' said EPA Administrator Scott Pruitt. 'We will work with our partners at DOT to take a fresh look to determine if this approach is realistic. This thorough review will help ensure that this national program is good for consumers and good for the environment.'" (Press Release, 03/15/17)

EPA Administrator seeks additional time to review RMP Rule. "Administrator Scott Pruitt signed a proposed rule this week to further delay the effective date of EPA's Risk Management Program (RMP) Amendments to allow EPA time to complete the process for reconsidering the RMP Amendments issued on January 17, 2017." (Press Release, 03/31/17)

EPA extended the comment period on the Hard Rock Mining proposed rule that could cost businesses $171 million annually. "The Environmental Protection Agency today issued a 120-day extension of the comment period related to proposed financial responsibility requirements for the hard rock mining industry. The Agency has received dozens of requests to extend the comment period. EPA estimates predict the implementation of these requirements would cost American businesses up to $171 million a year." (Press Release, 02/24/17)

From: Keith Goldberg [mailto:keith.goldberg@law360.com]
Sent: Thursday, April 27, 2017 11:29 AM
To: Press <Press@epa.gov>
Subject: Reporter seeking comment on executive orders and agency vacancies

I'm working on a story taking a look at the executive orders issued by President Trump directing the EPA to review and potentially revise rules including the Clean Power Plan and the methane rule. I'd like to know how concerned the agency is about its ability to carry out the orders - and in a timely fashion - with still so many agency vacancies - deputy administrator, office of air and radiation administrator, etc. - and no permanent candidates having been nominated yet.

If you could get back to me ASAP, I'd appreciate it.

--

Best,

Keith Goldberg
Senior Reporter, Energy

LAW360
A LexisNexis® Company

Legal News & Data
111 West 19th Street
5th Floor
New York, NY 10011
Phone: (646) 783-7187
Mobile: (646) 450-3346

E-mail: keith.goldberg@law360.com

@kdgscribe

@Energy Law360

--
Best,

Keith Goldberg

Senior Reporter, Energy

LAW360

A LexisNexis® Company

Legal News & Data
111 West 19th Street
5th Floor
New York, NY 10011
Phone: (646) 783-7187
Mobile: (646) 450-3346
E-mail: keith.goldberg@law360.com

@kdgscribe

@Energy Law360

Message

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 4/21/2017 6:01:17 PM
To: Minoli, Kevin [Minoli.Kevin@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: Attorney Client / Ex. 5
Attachments:

Flag: Flag for follow up

Kevin, David, and Justin,

Attorney Client / Ex. 5

Thanks,

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

-----Original Appointment-----
From: Minoli, Kevin
Sent: Thursday, April 20, 2017 1:05 PM
To: Minoli, Kevin; Neugeboren, Steven; Schwab, Justin; Fotouhi, David; Wehling, Carrie; Kupchan, Simma
Subject: Attorney Client / Ex. 5
When: Friday, April 21, 2017 1:00 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 4000

Message

From: Fotouhi, David [fotouhi.david@epa.gov]
Sent: 4/6/2017 1:16:09 PM
To: Greenwalt, Sarah [greenwalt.sarah@epa.gov]
CC: Brown, Byron [brown.byron@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]
Subject: RE: Follow up on discussion regarding the RCRA lawsuit against dairy operations

Hi, Sarah.

Attorney Client / Ex. 5

Thanks,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Brown, Byron
Sent: Thursday, April 6, 2017 5:28 AM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Subject: Re: Follow up on discussion regarding the RCRA lawsuit against dairy operations

Attorney Client / Ex. 5

Sent from my iPhone

On Apr 5, 2017, at 11:07 PM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:

Before I begin my research into this...are you guys familiar with this and/or has someone already started looking into this?

Sent from my iPhone

Begin forwarded message:

From: Personal Email / Ex. 6
Date: April 5, 2017 at 3:23:41 PM EDT
To: Greenwalt.Sarah@epa.gov
Subject: Re: Follow up on discussion regarding the RCRA lawsuit against dairy operations

Good Afternoon Sarah! I wanted to follow up on the discussion we had with you and Administrator Pruitt on the WOTUS rule and a number of other environmental issues a couple of weeks ago. I was representing dairy producers at the meeting which also included Don Parish of AFBF, Scott Yager of NCBA, Michael Formica of NPPC and Ethan Mathews of NCGA. I am also a member of President Trump's Ag Advisory Team. I mentioned a lawsuit brought against a number of dairy farms in the Yakima Valley in Washington State under the Resource Conservation Recovery Act for over application of manure on cropland. It is a significant issue since as you know the RCRA law was passed in the 1970's to cover the disposal of solid waste in landfills and was never intended to cover manure application on cropland. In short this issue started when EPA contacted a number of dairy operations in the Yakima Valley to test ground water on their dairy operations for nitrate levels. Although EPA's sampling techniques were flawed this initial effort on their part escalated into a lawsuit from environmental organizations against the dairy operations. After incurring huge legal fees the dairy farmers decided to settle the case out of court. I have included a time line of the major events in the process as provided to me by the Washington State Dairy Federation. It is enclosed in the attached file.

I would ask if we could work with someone at EPA to follow up on this. The current RCRA regulations need to be clarified on this matter since animal manure is not a solid waste. I very much appreciate your review of this issue and any direction you can give me! Thank you! Bob Gray--Northeast Dairy Farmer Cooperatives

Bob Gray
6354 Alderman Drive
Alexandria, Virginia 22315
Office phone 703-751-8022
cell Personal Phone / Ex. 6

<NoteonYakimaforAdministrator3-2017.docx>

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 2/22/2017 6:43:05 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17 [Actadmmccabe.catherine17@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schnare, David [schnare.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: RE: Administrator Pruitt Clips 2/22/17

Below: AP, Reuters, E&E News, InsideEPA, Fox News, MSNBC, The Guardian, Washington Times, The Verge, Bloomberg, Bloomberg BNA, Washington Post, Wall Street Journal, New York Times, Mother Jones, Bloomberg BNA, Politico Pro, E&E News (3), The Hill, AP (2/21), InsideClimate News (2/21), Mother Jones (2/21), Morning Consult (2/21)

AP
http://bigstory.ap.org/article/f8872035a41c4e7ba21201d3cebfdfc4/emails-epas-pruitt-cozy-fossil-fuel-industry
Emails: EPA's Pruitt cozy with fossil fuel industry
By Michael Biesecker 2/22/17, 1:16PM

WASHINGTON (AP) — While serving as Oklahoma's attorney general, new Environmental Protection Agency chief Scott Pruitt was in frequent contact with fossil fuel companies and special interest groups working to undermine federal efforts to curb planet-warming carbon emissions.

This was shown by emails released under court order late Tuesday after an Oklahoma judge ruled that Pruitt had been illegally withholding his official correspondence from the public for the last two years.

The Republican-dominated Senate voted to confirm President Donald Trump's pick to lead EPA on Friday in a largely party-line vote. Democrats had sought to delay the vote until Pruitt's emails were released.

The more than 7,000 emails show Pruitt and his staff coordinating strategy with conservative groups funded by oil and gas companies and executives, including billionaire brothers David and Charles Koch.

WASHINGTON (AP) — While serving as Oklahoma's attorney general, new Environmental Protection Agency chief Scott Pruitt was in frequent contact with fossil fuel companies and special interest groups working to undermine federal efforts to curb planet-warming carbon emissions.

This was shown by emails released under court order late Tuesday after an Oklahoma judge ruled that Pruitt had been illegally withholding his official correspondence from the public for the last two years.

The Republican-dominated Senate voted to confirm President Donald Trump's pick to lead EPA on Friday in a largely party-line vote. Democrats had sought to delay the vote until Pruitt's emails were released.

The more than 7,000 emails show Pruitt and his staff coordinating strategy with conservative groups funded by oil and gas companies and executives, including billionaire brothers David and Charles Koch.

Reuters
http://www.reuters.com/article/usa-trump-pruitt-idUSL1N1G716V
Oklahoma releases emails between new EPA head and energy firms
By Timothy Gardner 2/22/17, 12:42PM

Emails released by the Oklahoma attorney general's office show a cozy relationship between energy companies and Scott Pruitt, who was the state's top prosecutor before being sworn in last week as the new chief U.S. environmental regulator, a media watchdog group said on Wednesday.

The Center for Media and Democracy has sought the release of emails between energy companies and Pruitt for the past two years, saying they show energy companies drafted language that Pruitt's attorney general office then used in suing the U.S. Environmental Protection Agency, the office he now heads, over regulations on energy operations.

The center had sued Pruitt on Feb. 7, ahead of the Senate vote to confirm his nomination by President Donald Trump, to release the records detailing his communications with energy companies.

The attorney general's office released more than 7,500 pages of emails late on Tuesday, holding back an unknown number of documents it called exempted or privileged. Oklahoma Judge Aletia Timmons is reviewing those documents, but there is no set time for when or if they would be released.

Among the documents released were communications between Devon Energy and Pruitt's office that suggest the company gave the Oklahoma officials language on limits on methane emissions at oil and gas operations. Pruitt's office then used this language in suing the EPA over the regulations, the documents suggest. (bit.ly/2JFEvmC)

The EPA and Devon did not immediately respond to requests for comment.

Nick Surgey, a research director at the Center for Media and Democracy, called the document release a "major breakthrough" that revealed a close and friendly relationship between Pruitt's office and the oil and gas industry, with frequent meetings, calls, and dinners.

The center said before the release of the emails that Pruitt's office had violated Oklahoma's Open Records Act by delaying their issuance.

Critics of Pruitt's nomination to head the EPA were concerned over his record on the environment - he sued the agency more than a dozen times on behalf of his oil-producing state and has doubted the science of climate change - and Democrats in the Senate held an all night debate last week trying to stop his confirmation vote until the emails were released. He was confirmed on Friday with two Democrats from energy-producing states voting for him.

A spokesman at the Oklahoma attorney general's office would not say how many documents were sent to the judge for review or how it decided which ones to fully release. The office went "above and beyond" what is required under the Open Records Act by producing records that would typically be considered ones outside the law's scope, the office said in a release.

E&E News
http://www.eenews.net/greenwire/2017/02/22/stories/1060050420
Emails show Pruitt's ties to fossil fuel industry
By Kevin Bogardus 2/22/17

Emails released today from U.S. EPA Administrator Scott Pruitt's time as Oklahoma attorney general show he and his office had a familiar if not symbiotic relationship with fossil fuel companies.

Under a court order, the Oklahoma attorney general's office began turning over 7,564 pages of emails and other records last night to the Center for Media and Democracy (CMD). The liberal-leaning watchdog group had sued Pruitt for failing to respond to its open records requests, including one ignored for more than two years.

The Senate confirmed Pruitt as EPA chief in a contentious 52-46 vote Friday. He addressed agency staffers for the first time as EPA chief yesterday.

Senate Democrats pushed to extend debate on his nomination until the emails were released, to no avail. CMD filed its open records lawsuit in part so senators could have reviewed the records before voting on Pruitt's nomination to lead EPA.

"There are hundreds of emails between the AG's office, Devon Energy Corp., and other polluters that senators should have been permitted to review prior to their vote to assess Pruitt's ties to the fossil fuel industry," Arn Pearson, CMD's general counsel, said in a statement.

Yesterday, a spokesman for the Oklahoma attorney general's office said it went "above and beyond" what is required under the law, providing thousands of additional documents in response to the litigation.

"This broad disclosure should provide affirmation that, despite politically motivated allegations, the Office of Attorney General remains fully committed to the letter and spirit of the Open Records Act," said Lincoln Ferguson, the Oklahoma attorney general spokesman.

Pruitt's record as a vocal EPA critic that sued the agency over several of its regulations has long been under scrutiny, including in a December 2014 *New York Times* story that used several documents from Pruitt's office. Many of the same companies that were shown to have been in touch with Pruitt as Oklahoma attorney general will now be regulated by EPA with Pruitt as the agency's chief.

At his confirmation hearing last month, Pruitt said he was representing his constituents when his office took action against EPA at the urging of fossil fuel companies.

"The efforts that I took as attorney general were representing the interests of the state of Oklahoma," Pruitt said.

Emails released today show Pruitt and his staff at the attorney general's office were in close contact with energy interests.

In 2013, Pruitt's office worked with Devon Energy, an Oklahoma-based oil and gas producer, to rally other attorneys general against the Bureau of Land Management's proposed rules on hydraulic fracturing.

Devon executives reviewed a draft of an unsigned letter from the Oklahoma attorney general's office, which was intended for other states' lawyers to sign. The letter included similar arguments to Devon's written comments and included some passages that were identical.

"I think that this letter will make a strong statement and a real difference," wrote Brent Rockwood, Devon public policy director, in an email to Deputy Solicitor General Clayton Eubanks. "Do you think that we will get any Democrats to sign the letter? Also, when you finalize the document and send it out, can I please get a copy for my records?"

EPA was also targeted by Pruitt's office.

In September 2013, mining industry lawyer Peter Glaser reached out to the Oklahoma deputy solicitor general about the state's lawsuit against regional haze requirements. At the time, Glaser was representing Arizona in a challenge to EPA's authority to impose federal implementation plans to reduce regional haze pollution.

Two months earlier, in a blow to Pruitt, the 10th U.S. Circuit Court of Appeals ruled that EPA acted reasonably when it disapproved a state haze plan on the grounds that it did not do enough to cut sulfur dioxide emissions. That dispute started in March 2011, two months into Pruitt's tenure as Oklahoma's attorney general (*Greenwire*, Feb. 14).

Glaser suggested a brief he had filed on Arizona's behalf "could be a fruitful argument to make" in Oklahoma's effort to appeal the ruling.

Eubanks commended the brief, saying he had received a copy "from someone recently."

"Very well written, we definitely used it to try and focus our arguments on the standard of review issue in our Petition for Rehearing En Banc," Eubanks wrote.

He added, "Amicus support is welcomed and we appreciate the support, especially given the broad impact the panels incorrect decision will have nationwide."

The litigation sputtered to an end in 2014 when the U.S. Supreme Court declined to take Pruitt's appeal.

Pruitt also worked closely with the American Fuel & Petrochemical Manufacturers to oppose an EPA proposal to increase the renewable fuel standard.

The Oklahoma attorney general filed an amicus brief with the high court opposing the proposal in March 2013.

But over the summer months of 2013, his office continued to coordinate with AFPM. The group's lobbyists frequently offered legal strategy to the Oklahoma attorney general's office.

In a July 12, 2013, email, AFPM general counsel Richard Moskowitz informed Eubanks that his group and the American Petroleum Institute planned to file a waiver later that month.

"We think it would be most effective for Oklahoma to file a separate waiver petition that emphasizes 'severe environmental harm,' as this argument is more credible coming from a State with primary responsibility for achieving and maintaining attainment with the NAAQS [National Ambient Air Quality Standards]," Moskowitz said.

A couple of months later, an AFPM vice president, Sarah Magruder Lyle, reached out to Melissa Houston, Pruitt's chief of staff.

"Hey lady," she wrote, before continuing, "I have some language for you on the RFS waiver letter, but was hoping we could chat before I sent it to you so I can give you a little context."

In November 2013, EPA announced it was lowering the RFS standard for the first time in its history.

Pruitt's office put out a press release praising the decision.

"The evidence is clear that the current ethanol fuel mandate is unworkable," Pruitt said. "The decision by the EPA to lower that standard is good news for Oklahoma consumers."

Obama admin's 'nasty tactics'

Pruitt's office also sought to build relationships with conservative-leaning think tanks and activist groups.

In July 2013, Aaron Cooper moved from the office of Oklahoma Gov. Mary Fallin (R) to the attorney general's office. He told colleagues that in addition to press-related duties, he would work on "public affairs outreach and strategic communications strategy."

Soon after joining, Cooper reached out to Matt Ball of Americans for Prosperity to "talk about how the AG's office and AFP can work together." And in August, he inquired with Ball about a speaking slot at AFP's national convention.

Cooper worked closely with Ball. The two traded articles to post on social media and made plans to meet for coffee. In planning for the national meeting, Cooper and Ball worked out what Pruitt would discuss in a panel discussion with Sen. James Lankford (R-Okla.).

Ball said he would look to Pruitt to focus on the "heavy hand of federal govt infringing on states rights by mandating how much Oklahomans pay for electricity."

Ball added that an official from the Competitive Enterprise Institute would talk about costs of federal regional haze regulations, so Pruitt could highlight his opposition to EPA's "sue-and-settle" practices with environmental groups.

"That way you guys don't have to deliver those messages and can focus on what the AG does best, opposing the Obama administration and its nasty tactics on the environment," Ball said.

In a follow-up email about the event in August, Ball said "this is an excellent opportunity for the AG to discuss the role of attorneys general as a last line of defense for states rights against overly intrusive federal regulation of which EPA environmental is only one example."

Cooper also worked with the Oklahoma Council of Public Affairs, which bills itself as a local version of the Heritage Foundation.

In August 2013, Cooper asked staff there for "some contacts at Heritage to whom I can send updates like this?" Attached was a press release about Pruitt's efforts to fight President Obama's national health care law.

Today's email release may be the first of many for Pruitt. Because of CMD's lawsuit, more records should be forthcoming from his time as Oklahoma attorney general.

On Feb. 27, the attorney general's office has been ordered to deliver records in response to five open records requests by CMD, according to the group. Further, CMD will ask the court to review records that have been redacted while the judge is also reviewing an unknown number of documents that could be released as well.

Click here, here, here and here to read the emails released to CMD.

InsideEPA
https://insideepa.com/daily-news/automakers-formally-launch-bid-reopen-epa-vehicle-ghg-standards
Automakers Formally Launch Bid To Reopen EPA Vehicle GHG Standards
By Doug Obey 2/22/17

Automakers are formally urging EPA Administrator Scott Pruitt to withdraw the agency's decision to retain its light-duty vehicle greenhouse gas (GHG) standards for model years (MY) 2022-2025, arguing that the agency has ample authority to scrap the determination and “resume” a joint mid-term review of the standards with the Department of Transportation (DOT).

The request is not unexpected, given prior harsh critiques from automakers of EPA's Jan. 13 decision to retain the vehicle standards in the closing days of the Obama administration.

But the recent request offers another sign that continuing uncertainty will persist around EPA's vehicle GHG program -- with Pruitt already indicating prior to his Senate confirmation that he planned to review the Obama EPA determination. That raises the prospect of a clash between the agency and California regulators, who have vowed to push forward with aggressive vehicle GHG programs.

"The Final Determination is the product of egregious procedural and substantive defects and EPA should withdraw it," the Alliance of Automobile Manufacturers writes in a Feb. 21 letter to Pruitt that summarizes an array of auto industry objections to the Obama EPA decision to keep the standards in place.

The letter focuses largely on industry's request to resume the mid-term review of the MY 2022-2025 GHG standards, and it does not have a specific request regarding the rule's stringency. However, it also floats a range of arguments that could eventually serve to weaken the standards.

The group Global Automakers also sent Pruitt a similar letter seeking to reopen the decision.

The pleas are the industry's latest response to the Obama EPA's determination, which came pursuant to a promised mid-term review of those standards. Industry critics say the move significantly accelerated the mid-term review process, which was expected to conclude in mid 2018.

Vehicle Standards

Multiple observers have interpreted the last-minute decision, first proposed just after the November election, as an attempt to make it more difficult for the Trump EPA to weaken the standards. EPA stated in its final decision that its technical analysis does not support making the current GHG standards less stringent and could have supported a decision to tighten them.

The alliance letter also highlights procedural arguments that it should be a relatively simple matter for EPA to reverse course. And it comes as some EPA critics are separately sharpening their attack on the agency's 2009 waiver authorizing California's vehicle GHG program -- a program that now significantly complicates any EPA effort to weaken its light-duty vehicle GHG standard.

The alliance argues that the final determination is a rule -- not an adjudication as EPA claims -- making the decision subject to a regulatory freeze now in place for last-minute Obama administration rules.

"[A] wealth of precedents confirmed that the Final Determination is a rule, and all rules not yet published in the *Federal Register* are subject to the regulatory freeze," the alliance says.

The alliance then offers alternative rationales for a quick EPA reversal "on its own initiative," whether or not EPA under Pruitt continues to argue that its determination is not a formal rule.

"If it is a rule, it is clearly a nonfinal one, because it has not been published in the *Federal Register*," the alliance says, citing a 1996 case -- *Kennecott Utah Copper Corp. v. U.S. Department of Interior* -- in the U.S. Court Of Appeals for the

District of Columbia Circuit as a basis to withdraw the final determination without a formal notice-and-comment rulemaking.

"Even if EPA continues to endorse the view that the Final Determination is an adjudication, however, EPA has brought inherent power to reconsider its decision 'within the period for taking an appeal,'" the alliance claims, citing other court precedents, including a 1984 D.C. Circuit decision in *American Methyl Corp. v. EPA.*

'Abrogated' Commitment

The rest of the letter outlines an array of alleged procedural and substantive flaws in EPA's determination that should justify a prompt withdrawal of the decision, largely summarizing persistent industry criticism of the decision.

"EPA has abrogated its commitment to a robust midterm evaluation," the alliance says, reprising claims that the move scrapped prior EPA and DOT commitments to propose a decision on the determination prior to mid 2017 of the earliest.

"The industry took the agencies at their word, commissioning complex studies critical to assessing the MY2022-2025 standards and the process used by EPA in its analysis, that we had expected to add to the administrative record for the Midterm Evaluation in 2017," the alliance says.

The industry group also faults the agency for rejecting its request to extend the comment period on its proposed determination, and contends that EPA's "unilateral announcement of its Final Determination" amounts to "failure to harmonize its greenhouse gas emissions standards" with DOT's fuel economy standards. Due to earlier statutory restrictions, DOT has not yet issued fuel economy limits for MY 2022-2025.

The alliance also reopens an array of technical and cost arguments against EPA's decision to retain the standards, including claims the vehicle standards will require more use of electrification then EPA has assumed; that there are "substantial discrepancies" between EPA and DOT's technology and cost assumptions related to the MY 2022-2025 standards; and that EPA improperly failed to conduct analysis of consumer acceptance of compliance technologies.

The letter is one of the first formal requests to Pruitt to reconsider Obama-era GHG policies, but it is also significant harbinger of future analysis the auto industry is poised to release regarding the vehicle GHG standards.

"[A]nalysis commissioned according to EPA's original timetable is ongoing and the Alliance expects that new information relevant to the Final Determination's underlying assumptions and resulting analysis will soon emerge. EPA's rushed timetable, coupled with its about-face on the timing of the Midterm Evaluation prevented consideration of this information," the letter says. -- *Doug Obey* (dobey@iwpnews.com)

Fox News

http://www.foxnews.com/politics/2017/02/22/emails-reveal-epa-chief-pruitts-work-with-oil-gas-companies.html

Emails reveal EPA chief Pruitt's work with oil, gas companies

By Barnini Chakraborty 2/22/17

EPA Administrator Scott Pruitt worked closely with major oil and gas producers, electric utilities and political groups to roll back numerous environmental regulations during his time as Oklahoma's attorney general, new records reveal.

An Oklahoma judge ordered the release of thousands of emails between Pruitt and fossil fuel companies like Koch Industries and Devon Energy last week -- after he and the state AG's office were accused of ignoring multiple records requests.

The group that sought the emails, the Center for Media and Democracy, pointed to the messages to accuse Pruitt of being too close to the industries he'll now regulate.

“The newly released emails reveal a close and friendly relationship between Scott Pruitt’s office and the fossil fuel industry,” Nick Surgey, research director at CMD, said in a statement Wednesday.

The emails were released days after Pruitt was narrowly confirmed by the Senate to lead the EPA. Pruitt was an outspoken critic of the agency's policies during the Obama administration, and the emails shed light on how he fought against its regulations.

One email showed that American Fuel & Petrochemical Manufacturers coordinated opposition in 2013 to both the Renewable Fuel Standard Program and ozone limits with Pruitt’s office.

CMD said the group provided Pruitt with "template language" for an Oklahoma petition, under the assumption that the argument "is more credible coming from a State."

Pruitt filed opposition to both the RFS and ozone limits in 2013.

Other emails highlight the apparently close relationship Pruitt had with Devon Energy. The company helped Pruitt draft language in a letter he sent to the EPA about the limiting of methane from oil and gas fracking, according to CMD.

Devon also helped organize a meeting between Pruitt, coal industry lawyer Paul Seby and Leonard Leo of the Federalist Society to create a “clearinghouse” that would “assist AGs in addressing federalism issues.”

In another email dated August 2013, Matt Ball, an executive at Americans for Prosperity, sent Pruitt an email thanking him and his “respective bosses and all they are doing to push back against President Obama’s EPA and its axis with liberal environmental groups to increase energy costs for Oklahomans and American families across the states.”

Pruitt was confirmed to head up the EPA after a lengthy floor debate in the Senate. Democrats blasted him for vowing to roll back Obama-era environmental regulations and took issue with past comments he made where he challenged the science behind climate change.

Republicans, fed up with overregulation, argued Pruitt was the right candidate to scale back the size and reach of the EPA.

Pruitt delivered his first remarks to EPA employees on Tuesday, urging them to "avoid" regulatory "abuses" and balance economic and environmental needs.

“We as an agency and we as a nation can be both pro-energy and jobs and we can be pro-environment, and we don’t have to choose between the two,” Pruitt said.

It was on the eve of his confirmation that Pruitt was ordered by the judge to turn over more than 2,000 documents. Democrats used the development to push for a delay in the vote, but did not succeed.

Senate Majority Leader Mitch McConnell slammed efforts to postpone the vote as another delay tactic by Democrats that was “unprecedented, harmful and pointless.”

Arn Pearson, general counsel for CMD accused the AG's office of trying to "evade public scrutiny" by releasing the emails Tuesday night.

Calls to the EPA and Devon Energy for comment were not immediately returned.

MSNBC
http://www.msnbc.com/rachel-maddow-show/new-emails-shed-light-epa-chiefs-industry-ties
New emails shed light on EPA chief's industry ties
By Steve Benen 2/22/17, 12:49PM

Donald Trump chose so many top administration officials who were hostile to their agencies' core mission that the nominations almost seemed sarcastic. The president chose Betsy DeVos to lead the Department of Education despite her opposition to public schools; he chose Andy Puzder to lead the Department of Labor despite his opposition to workers; and Trump chose Scott Pruitt to lead the EPA despite his overt hostility towards environmental safeguards.

Pruitt, who clashed with the EPA during his tenure as attorney general of Oklahoma, spoke to the agency's employees yesterday, and by some measures, the new administrator's remarks were not well received.

Rachel Maddow reports on the confirmation of Scott Pruitt to head the EPA despite the best efforts of environmentalists, but notes that in just a few days, thousands of pages of Pruitt e-mails will be release on a judge's order that could complicate...

But while Pruitt settles into his new office, we're not yet done scrutinizing the work he did before he reached the EPA. The *New York Times* reported this morning:

During his tenure as attorney general of Oklahoma, Scott Pruitt, now the Environmental Protection Agency administrator, closely coordinated with major oil and gas producers, electric utilities and political groups with ties to the libertarian billionaire brothers Charles G. and David H. Koch to roll back environmental regulations, according to over 6,000 pages of emails made public on Wednesday.

The publication of the correspondence comes just days after Mr. Pruitt was sworn in to run the E.P.A., which is charged with reining in pollution and regulating public health.

If you missed Rachel's coverage of this last week, it's a doozy of a story. Pruitt, in effect, was illegally hiding official emails that documented his cooperation with the oil and gas industries – the industries he'll ostensibly help oversee as the head of the EPA. The Center for Media and Democracy filed suit to obtain the emails Pruitt wanted to hide, and last week, a judge ordered their release.

This, of course, unfolded *before* the Senate confirmation vote, which led Democrats to make an obvious request: members should wait a few days to review the documents before deciding whether to give Pruitt the job. Republican

leaders refused – saying it made more sense to vote on the nomination with less information about Pruitt's professional background, instead of more.

Asked why he couldn't wait for senators to have a more complete picture, Senate Majority Leader Mitch McConnell (R-Ky.), doing his best imitation of Bartleby the Scrivener, said, "Because I choose not to."

But Senate Republicans rushing Pruitt through the confirmation process and into the EPA didn't make the underlying controversy go away. The vote simply punted the controversy into this week, putting the mess on Pruitt's desk during his first week on the job.

And while it'll take a while to review this first batch of documents, the early takeaway was predictable: as Oklahoma's A.G., Pruitt had a hand-in-glove alliance with the industries he's now supposed to regulate, while combating the environmental agency he's now expected to lead.

"Thank you to your respective bosses and all they are doing to push back against President Obama's EPA and its axis with liberal environmental groups to increase energy costs for Oklahomans and American families across the states," said one email sent to Mr. Pruitt and an Oklahoma congressman in August 2013 by Matt Ball, an executive at Americans for Prosperity. That nonprofit group is funded in part by the Kochs, the Kansas business executives who spent much of the last decade combating federal regulations, particularly in the energy sector. "You both work for true champions of freedom and liberty!" the note said.

As attorney general of Oklahoma, Mr. Pruitt took part in 14 lawsuits against major E.P.A. environmental rules, often in coordination with energy companies such as Devon Energy, an Oklahoma oil and gas producer, and American Electric Power, an Ohio-based electric utility. The emails show that his office corresponded with those companies in efforts to weaken federal environmental regulations – the same rules he will now oversee.

A total of 52 senators voted to put Pruitt in charge of the EPA anyway. Given a choice to delay the vote a week until after members could review these emails, Senate Republicans refused.

A Center for Media and Democracy spokesperson said in a written statement, "The newly released emails reveal a close and friendly relationship between Scott Pruitt's office and the fossil fuel industry, with frequent meetings, calls, dinners, and other events."

Note, this isn't the end of the story: the next round of emails is scheduled to be released on Monday.

The Guardian
https://www.theguardian.com/environment/2017/feb/22/scott-pruitt-emails-oklahoma-fossil-fuels-koch-brothers?CMP=share_btn_tw

New EPA head Scott Pruitt's emails reveal close ties with fossil fuel interests

By Oliver Milman and Dominic Rushe 2/22/17

The close relationship between Scott Pruitt, the new administrator of the Environmental Protection Agency, and fossil fuel interests including the billionaire Koch brothers has been highlighted in more than 7,500 emails and other records released by the Oklahoma attorney general's office on Wednesday.

The documents show that Pruitt, while Oklahoma attorney general, acted in close concert with oil and gas companies to challenge environmental regulations, even putting his letterhead to a complaint filed by one firm, Devon Energy. This practice was first revealed in 2014, but it now appears that it occurred more than once.

The emails also show that American Fuel and Petrochemical Manufacturers, an oil and gas lobby group, provided Pruitt's office with template language to oppose ozone limits and the renewable fuel standard program in 2013. AFPM encouraged Oklahoma to challenge the rules, noting: "This argument is more credible coming from a state." Later that year, Pruitt did file opposition to both of these regulations.

The letters also show the cosy relationship between Pruitt and the American Legislative Exchange Council (Alec), the influential US lobbying network of Republican politicians and big businesses, and other lobby groups sponsored by the Koch brothers, the billionaire energy investors who have spent decades fighting against environmental regulation.

Alec has consistently challenged the science on climate change and fought against tougher environmental regulation. Companies including Google, Ford and Enterprise Rent-a-Car have quit Alec in protest of its climate change activities.

The emails contain correspondence between Pruitt's executive assistant and Amy Anderson, Alec director and Oklahoma membership contact, about Pruitt's appearance at a May 2013 Alec board meeting in Oklahoma City.

That meeting attracted more protesters than attendees, with 600 firefighters, teachers, environmentalists and church leaders carrying signs reading "ALEC is Not OK" and chanting: "Backroom deals are Alec's game / Sweetheart deals for corporate gain."

Pruitt addressed a workshop entitled "Embracing American Energy Opportunities: From Wellheads to Pipelines".

The emails state that Pruitt spoke "on state primacy in oil and gas regulation and the EPA's sue & settle modus operandi". The lunch meeting was sponsored by Koch Industries, a major Alec sponsor.

Pruitt was congratulated for his work on pushing back against the EPA by another Koch-backed pressure group.

"Thank you to your respective bosses and all they are doing to push back against President Obama's EPA and its axis with liberal environmental groups to increase energy costs for Oklahomans and American families across the states," said one email sent to Pruitt and an Oklahoma congressman in August 2013 by Matt Ball, an executive at Americans for Prosperity, a nonprofit group also funded in part by the Kochs. "You both work for true champions of freedom and liberty!" the note said.

Last week, an Oklahoma judge ordered that emails from a January 2015 open records request be released by Tuesday. A further batch of emails is due to be turned over next week. The Center for Media and Democracy, which has made nine separate open records requests for Pruitt's emails, said it will attempt to obtain all of the sought-after communications without exceptions.

Pruitt was confirmed as EPA administrator on Friday. Democrats had sought to delay the Senate vote until the emails were released but were unsuccessful.

"The emails show a very cosy relationship between Pruitt's office and particularly Devon Energy, as well as other coal, oil and gas companies," said Nick Surgey, research director at the Center for Media and Democracy.

"Pruitt is the world's top environmental regulator now and these emails raise serious conflict of interest concerns. He has very close ties to fossil fuel firms and has shown himself to be generally opposed to the rules the EPA has to protect the environment."

Washington Times
http://www.washingtontimes.com/news/2017/feb/22/emails-close-relationship-pruitt-energy-industry/?utm_source=RSS_Feed&utm_medium=RSS
Emails show 'close and friendly' relationship between Pruitt, energy industry: Watchdog group
By Ben Wolfgang 2/22/17

Newly installed EPA administrator Scott Pruitt cultivated a "close and friendly" relationship with oil-and-gas companies during his tenure as Oklahoma attorney general, a watchdog group charged Wednesday, pointing to documents showing Mr. Pruitt's office worked hand-in-hand with fossil-fuel companies in the fight against Obama-era energy regulations.

More than 7,000 pages of emails from the Oklahoma attorney general's office were made public Wednesday morning following a judge's order last week. Democrats and other critics of Mr. Pruitt argue the messages prove that the EPA chief frequently colluded with oil-and-gas firms while Oklahoma's attorney general, raising questions about whether he's fit for his new role.

While the messages do not appear to contain any smoking guns that could imperil Mr. Pruitt's future, they do contain frequent communication between the Oklahoma attorney general's office and energy companies, energy industry lobbying groups, and powerful conservative organizations such as Americans for Prosperity.

In one 2013 back-and-forth, Mr. Pruitt's office seems to work closely with the American Fuel & Petrochemical Manufacturers (AFPM) in an attempt to sink the federal Renewable Fuel Standard, a set of regulations requiring ethanol and other biofuels to be blended with the nation's gasoline supply.
The AFPM provided Mr. Pruitt's office with draft language it could use to challenge the standard in court.

"This argument is more credible coming from a state," an AFPM official said in an email.

Other messages show close coordination between Mr. Pruitt's office and Devon Energy, an Oklahoma-based energy company. The two sides spoke frequently as they worked on a strategy to oppose federal regulations on fracking.

Mr. Pruitt later sent a letter to the EPA opposing the rules, using language largely written by Devon Energy. The emails show that draft letters were sent back and forth between Devon Energy and the attorney general's office, with Devon Energy leaders making changes and suggestions.

The watchdog group Center for Media and Democracy, who sued to get the emails, said the disclosures prove once again the close ties between Mr. Pruitt and the fossil-fuels industry. Senate Democrats tried to delay Mr. Pruitt's confirmation vote last week until after the emails were released, but their efforts failed.

"There is no valid legal justification for the emails we received last night not being released prior to Pruitt's confirmation vote other than to evade public scrutiny," said Arn Pearson, general counsel for the Center for Media and Democracy. "There are hundreds of emails between the AG's office, Devon Energy, and other polluters that senators should have been permitted to review prior to their vote to assess Pruitt's ties to the fossil fuel industry."

In testimony before the Senate last month, Mr. Pruitt defended his close working relationship with Devon Energy and other oil-and-gas companies, saying it was his duty to fight on behalf of Oklahoma industries against burdensome federal regulations.

"That was an effort that was protecting the state's interest," he said last month. "It was particular to an industry ... There was concern expressed by that industry."

In its own statement Tuesday night, the Oklahoma attorney general's office said it was complying with the judge's order even though the push for the emails was driven by partisan politics.

"The office went above and beyond what is required under the Open Records Act and produced thousands of additional documents that, but for the court's order, would typically be considered records outside the scope of the act," Lincoln Ferguson, press secretary for the attorney general's office, said in a statement. "This broad disclosure should provide affirmation that, despite politically motivated allegations, the office of attorney general remains fully committed to the letter and spirit of the Open Records Act."

The EPA did not offer comment Wednesday in response to the email release.

Thousands of additional email records are being reviewed by a federal judge and could be released soon.

The Verge
http://www.theverge.com/2017/2/22/14697816/epa-administrator-scott-pruitt-emails-fossil-fuel-industry
New EPA head is awfully friendly with the industry he should regulate, emails show
By Alessandra Potenza 2/22/17, 11:58AM

The new administrator of the Environmental Protection Agency, Scott Pruitt, closely worked with major oil and gas companies, electric utilities, and political groups to undo environmental regulations, according to more than 7,000 pages of emails made public today. Pruitt now leads the government agency responsible for protecting the environment and regulating pollution.

Pruitt was ordered to release the emails by an Oklahoma judge, in response to a lawsuit by the Center for Media and Democracy. Democrats had urged the Senate Republican majority leader Mitch McConnell of Kentucky to delay Pruitt's confirmation hearing until after the emails were released, but with no success. Pruitt was confirmed as head of the EPA just five days ago.

"The newly released emails reveal a close and friendly relationship between Scott Pruitt's office and the fossil fuel industry, with frequent meetings, calls, dinners, and other events," Nick Surgey, research director at the Center for Media and Democracy, said in a statement. "And our work doesn't stop here – we will keep fighting until all of the public records involving Pruitt's dealings with energy corporations are released." More emails from the Oklahoma Attorney General office are expected to be released on February 27th.

Pruitt has been one of the most contentious of President Donald Trump's nominees. As Oklahoma's attorney general, he made a name for himself for bringing more than a dozen lawsuits against the EPA, meant to roll back major environmental rules. In these lawsuits, he often worked in coordination with several fossil fuel and electric utility companies, such as Devon Energy and American Electric Power. As EPA administrator, he will now be responsible for enforcing those environmental regulations he tried to undo and regulate the companies he worked with.

"Thank you to your respective bosses and all they are doing to push back against President Obama's EPA and its axis with liberal environmental groups to increase energy costs for Oklahomans and American families across the states," said one 2013 email sent to Pruitt by Matt Ball, an executive at the nonprofit group Americans for Prosperity, according to *The New York Times*. That nonprofit has ties with Charles and David Koch, the billionaire brothers who've worked to undo federal regulations in the energy sector for years.

Yesterday, during his first speech to the EPA, Pruitt told around 100 EPA employees that the agency will be "pro-energy and jobs and pro-environment." He also said he wants to give much authority for environmental protection back to the states. In his first interview as the head of the EPA with *The Wall Street Journal*, Pruitt said he expects to roll back the

Clean Power Plan, Obama's landmark environmental policy to reduce greenhouse gas emissions and meet the goals set under the Paris Agreement.

Pruitt has already received strong opposition from several EPA employees now under his control. One current EPA staffer, who requested anonymity, told *Mother Jones* about the fear felt at the agency. The EPA official also vowed resistance. "Despite the long odds we face, we will never stop working to protect every person's right to have a healthy place to live, work, and play," the employee told *Mother Jones*. "And if the new administrator casts me out of the job I love, I will not stop working toward the principles that have always animated my life. This is who I am, and that will never change. I stand in solidarity with brothers and sisters that work to protect human rights, human health, and the environment here in the US and all over the world. The struggle continues."

Today's emails likely won't cause Pruitt many problems, however, according to the *New York Times*. In fact, the emails confirm what was already revealed by emails and documents disclosed to the *Times* in 2014. At that time, the newspaper published a story about Pruitt's connection with energy companies, in its fight against Obama's regulation.

Bloomberg
https://www.bloomberg.com/news/articles/2017-02-22/e-mails-reveal-epa-chief-s-coordination-with-energy-industry?cmpid=socialflow-twitter-business&utm_content=business&utm_campaign=socialflow-organic&utm_source=twitter&utm_medium=social
E-Mails Reveal EPA Chief's Coordination With Energy Industry
By Jeniffer A Dlouhy 2/22/17

Newly installed EPA Administrator Scott Pruitt closely coordinated with major oil and gas companies, refiners and groups linked to the billionaire Koch brothers to combat environmental regulations during his time as Oklahoma attorney general, according to thousands of pages of e-mails released Wednesday.

The documents, released under court order to the Center for Media and Democracy, a nonprofit watchdog, follow a pitched battle over whether Pruitt should lead the Environmental Protection Agency, culminating in a narrow 52-46 vote Friday to confirm him.

The documents show Pruitt collaborated with the top U.S. refining trade group to mount an attack on annual biofuel quotas in 2013. According to an analysis by the center, the American Fuel and Petrochemical Manufacturers group provided Pruitt with drafted sample language for an Oklahoma petition.

An Oklahoma judge ordered the release of the e-mails on Feb. 16 to the Center for Media and Democracy, which had been seeking the documents since January 2015. Pruitt was narrowly confirmed by the Senate on Friday and sworn in to lead the EPA, the same agency he repeatedly sued while Oklahoma attorney general.

In a July 13, 2013 e-mail, AFPM asks Pruitt to file a petition with the EPA challenging biofuel quotas. "We think it would be most effective for Oklahoma to file a separate waiver petition that emphasizes 'severe environmental harm,' as this argument is more credible coming from a state," an AFPM representative told Pruitt.

A total of 7,564 pages were released by the Center on Wednesday.

"Despite repeated attempts by Pruitt and the Oklahoma AG's office to stonewall CMD and the public, we've won a major breakthrough in obtaining access to public records that shine a light on Pruitt's emails with polluters and their proxies," said Nick Surgey, research director for the Center.

The Oklahoma Attorney General's office said it has gone beyond the requirements of the Open Records Act.

"This broad disclosure should provide affirmation that, despite politically motivated allegations, the Office of the Attorney General remains fully committed to the letter and spirit of the Open Records Act," the office said in a statement.

Some of the e-mails illustrate Pruitt's administration's contact with the Oklahoma Council of Public Affairs, a self-described think tank conducting research and analysis of public issues in the state "from a perspective of limited government, individual liberty and a free-market economy."

In 2013, Pruitt's staff solicited then-OCPA President Michael Carnuccio's participation in a "short social media video to highlight his leadership in the Affordable Care Act lawsuit." Carnuccio agreed to make himself available, according to a Dec. 3, 2013 message from one of his staffers.

Bloomberg BNA
https://www.bna.com/pruitt-prioritizes-sluggish-n57982084174/
Pruitt Prioritizes Sluggish Superfund Program
2/22/17

Scott Pruitt has said that, if confirmed by the Senate as administrator of the Environmental Protection Agency, he would take on a superfund program struggling to clean up toxic sites efficiently without enough state or federal funding.

The former head of the EPA office that oversees superfund, Mathy Stanislaus, said superfund appropriations have declined over the past four or five budget cycles, creating a backlog of sites awaiting funding.

The cleanup process has slowed as funding declines.

When all cleanup remedies have been installed on a superfund site, the EPA deems it "construction complete." According to a 2007 investigation by the Center for Public Integrity, the average yearly number of "construction complete" sites at that time was 42.

In fiscal year 2016, there were 11 "construction complete" sites, the agency said.

Pruitt's Priorities

In response to senators' questions about environmental cleanup, Pruitt said multiple times that he would make superfund "a priority" if he becomes EPA administrator.

"If confirmed, I would expect to prioritize the cleanup of contaminated land," he said in written responses to questions from Sen. Cory Booker (D-N.J.), Sen. Kirsten Gillibrand (D-N.Y.) and Sen. Jeff Merkley (D-Ore.).

Booker met with Pruitt before the Oklahoma attorney general's Jan. 18 U.S. Senate Environment and Public Works Committee hearing.

"Mr. Pruitt said he would advocate for funding for superfund cleanups in the administration's large infrastructure package. If Mr. Pruitt is confirmed, Sen. Booker will hold him accountable to this commitment," a spokesperson for Booker's office said in an e-mail.

Booker was concerned about the Passaic River Superfund Site in his home city, Newark, N.J. The EPA announced a plan in 2016 to remove 3.5 million cubic yards of sediment from the river, according to Booker.

The senator asked Pruitt to commit to carrying out the EPA's plan for that site efficiently. Pruitt responded that he wasn't familiar with the site but would seek input from those interested before taking action.

Stronger State Roles

Pruitt indicated at the Senate committee hearing that he would be more deferential to state governments if he becomes head of the EPA. That might be bad news for states facing cleanup challenges at superfund sites, Stanislaus said.

"Superfund takes on the most egregious sites that states need federal assistance on, and the fact is that there's been a decline in state budgets to handle these kind of sites, so you just can't delegate that wholly to states," Stanislaus said.

Neither the states nor the EPA have enough money to assess and clean up sites, so every site is dealt with "sub-optimally," Stanislaus said.

"The ultimate achievement of a cleaned-up site, and the potential economic benefits of a cleaned-up site, are delayed," he said.

While he headed the EPA's Office of Land and Emergency Management from 2009-2017, Stanislaus said states increasingly looked to the EPA for financial help and expertise with National Priorities List sites and immediate risk sites.

"The federal government is a backstop," he said.

Peter deFur, president of the consulting firm Environmental Stewardship Concepts, said states just aren't equipped to take on more superfund responsibilities because many don't have their own superfund laws.

"There are no implementing regulations, no expertise, no people who know the program. The state would have to develop all that and then apply to EPA for delegated status, as in air, water and waste permit programs," he said. "States don't have the system to implement superfund because they don't want it."

Running Dry

DeFur said he has been watching the declining pace of cleanup as funding decreases.

In the late 1990s, funding ran out from a tax on the petroleum and chemical industries. "Orphan" superfund sites, or those where a responsible party hadn't been identified to pay for cleanup, were deeply affected.

"The orphan sites' pace of cleanup just plummeted," deFur said.

Work slows down at sites where cleanups are being conducted by responsible parties because EPA funds and staff time are limited, he said. Less thorough removal options, such as capping buried contamination instead of unearthing it, may be chosen because they are cheaper.

Since the superfund program's operating resources are drawn from congressional appropriations, the operation of the program also changed, he said.

If Pruitt cuts back on EPA staff, leaving an increased workload for remaining employees, deFur said that will be bad news for the program. Myron Ebell, who led Trump's EPA transition team before returning to his job at the Competitive Enterprise Institute, said this week the overall number of EPA employees should be reduced from the current 15,000 to 5,000, though Ebell made clear he wasn't speaking on behalf of the Trump administration.

"It's gonna be a mess," deFur said.

According to a Government Accountability Office report, federal appropriations for superfund have declined from about $2 billion in 1999.

In fiscal year 2016, Congress provided superfund nearly $1.1 billion. The agency is under a continuing resolution in fiscal year 2017.

The EPA said the balance of the hazardous substance superfund trust fund was $188 million as of the end of 2016.

Washington Post
https://www.washingtonpost.com/news/energy-environment/wp/2017/02/22/oklahoma-attorney-generals-office-releases-7500-pages-of-emails-between-scott-pruitt-and-fossil-fuel-industry/?utm_term=.a2eec9c649d6

Oklahoma attorney general's office releases thousands of pages of emails between Scott Pruitt and fossil-fuel industry

By Brady Dennis and Steven Mufson 2/22/17

Oklahoma has turned over thousands of pages of emails between former attorney general Scott Pruitt's office and the energy industry, meeting a deadline set by a judge who ordered the documents' release following more than two years of effort by an advocacy organization.

The Center for Media and Democracy, which went to court to compel the state to release the emails under public records laws, said Wednesday that they offer more details about the close ties that Pruitt, now administrator of the Environmental Protection Agency, has long had with the oil and gas industry. (The emails can be viewed here.)

"The newly released emails reveal a close and friendly relationship between Scott Pruitt's office and the fossil fuel industry, with frequent meetings, calls, dinners and other events," Nick Surgey, the center's research director, said in a statement.

Specifically, the organization noted an effort by one lobbying group to coordinate opposition in 2013 to a federal program requiring that transportation fuel sold in the United States contain a certain amount of renewable fuels. Its rationale was that arguments against the measure would be "more credible coming from a state."

Some of the emails show a close relationship with Devon Energy, a major oil and gas exploration and production company based in Oklahoma City. Much of the correspondence revolves around arranging speaking engagements, obtaining contact information for people at the Office of Management and Budget, and coordinating letter-writing efforts.

At one point, Pruitt's then-chief of staff, Melissa Houston, wrote in a Jan. 9, 2013, email to William Whitsitt, Devon's vice president for public affairs, "You are so amazingly helpful!!! Thank you so much!!!"

In another email chain on March 21, 2013, Whitsitt writes to Pruitt's office offering a draft of a letter that state attorneys general might sign and send to the then-acting EPA administrator regarding limits on methane emissions. Devon, which has substantial shale gas and shale oil drilling operations, would have been affected by the rule.

"Attached is a potential first-cut draft of a letter a (bipartisan if possible?) group of AGs might send to the acting EPA administrator and some others in the Administration in response to the NE states' notice of intent to sue for more E&P emission regulation," Whitsitt wrote. "It would be a shot across the bow, warning EPA not to not go down a negotiated-rulemaking or wink-at-a sue-and-settle tee-up process."

He also offered strategic advice. "If sent, I'd suggest that it be made public, at least to the Hill and to policy community publications," he wrote. "It seems to me this would also be a logical outgrowth of the fossil energy AGs meeting and could be powerful with a number of signers. It is also the kind of thing that in the future could be run through the clearinghouse we discussed. Please let me know what you and General Pruitt think, or if we can help further."

Pruitt's close ties to Devon Energy were first highlighted in 2014 by the New York Times, which reported that a letter ostensibly written by the attorney general alleging that the EPA overestimated air pollution from natural gas drilling was actually written by the company's attorneys. "That's actually called representative government in my view of the world," Pruitt later said of the letter.

The emails' release comes just days after Pruitt was confirmed as the EPA's new leader. Senate Democrats and environmental groups made a last-minute push to delay his confirmation vote last week, contending that lawmakers —

and the public — ought to be able to review his correspondence with industry officials before putting him in charge of safeguarding the nation's environment. Republicans forged ahead anyway, and Pruitt was confirmed by a 52-to-46 vote.

In a statement Tuesday, the Oklahoma attorney general's office said it "went above and beyond what is required under the Open Records Act and produced thousands of additional documents that, but for the Court's order, would typically be considered records" outside the scope of the act. "This broad disclosure should provide affirmation that, despite politically motivated allegations, the Office of the Attorney General remains fully committed to the letter and spirit of the Open Records Act," spokesman Lincoln Ferguson said.

The attorney general's office withheld some documents as exempted or privileged and has asked Judge Aletia Haynes Timmons to review whether they should be released, according to the Center for Media and Democracy. Timmons also ordered Pruitt's former office to hand over records related to five outstanding records requests by early next week.

After unsuccessfully seeking the release of Pruitt's correspondence with fossil-fuel representatives under public records laws, the center filed suit over his refusal to turn over the documents and requested the expedited hearing that led to Timmons's order on Thursday. In her ruling, the judge said there had been "an abject failure to provide prompt and reasonable access to documents requested."

Pruitt sued the EPA more than a dozen times during the Obama administration, challenging the agency's authority to regulate toxic mercury pollution, smog, carbon emissions from power plants and the quality of wetlands and other waters. During his tenure in Oklahoma, he dismantled a specialized environmental protection unit that had existed under his Democratic predecessor and established a "federalism unit" to combat what he called "unwarranted regulation and systematic overreach" by Washington.

These moves earned him widespread opposition from environmental activists but praise from fellow Republicans and industry representatives, who saw him as a friend to businesses and a staunch opponent of federal regulations they called unnecessary and burdensome.

On Tuesday, Pruitt addressed EPA employees for the first time as their new boss. He spoke of stepping back from the aggressive regulations of recent years and said there needn't be a contradiction between environmental protection and energy production or job creation.

"We as an agency and we as a nation can be both pro-energy and jobs and pro-environment," he said. "We don't have to choose between the two."

Wall Street Journal
https://www.wsj.com/articles/auto-makers-ask-epas-pruitt-to-reverse-fuel-economy-emissions-decision-1487738674
Auto Makers Ask EPAs Pruitt to Reverse Fuel-Economy, Emissions Decision
By Mike Spector 2/22/17, 10:51AM

Auto makers asked the Environmental Protection Agency to undo the Obama administration's decision to lock in future stringent fuel-economy and emissions standards, as the companies seek to take advantage of President Donald Trump's pledge to roll back regulations.

In separate letters sent Tuesday to new EPA Administrator Scott Pruitt, two Washington lobbying groups representing car companies urged the agency to withdraw its "final determination" that future emissions standards remain intact.

The letters, coming on the heels of Mr. Pruitt's Senate confirmation Friday and on his first day greeting EPA staff, signaled the auto industry's resolve to get future mileage and emissions standards relaxed. Ford Motor Co. Chief Executive Mark Fields used a recent White House breakfast with other industry leaders to directly lobby Mr. Trump for relief.

An EPA spokeswoman said the agency was reviewing industry correspondence and declined further comment. Mr. Pruitt, without detailing potential changes, on Tuesday told EPA staff that regulations "ought to make things regular" and companies "we regulate ought to know what they can expect from us." In November, a Trump adviser said the incoming administration would conduct a comprehensive review of regulations, including car emissions and fuel economy rules.

A week before Mr. Trump took office in January, the EPA decided to keep targets that called for auto makers to sell vehicles averaging 54.5 miles a gallon, or roughly 40 mpg in real-world driving, by 2025. The decision capped a review that wasn't expected to be completed until April 2018.

Auto makers contend the targets would be difficult to meet because lower gasoline prices are sending consumers flocking to less-efficient and higher-emitting pickup trucks and sport utilities. When the targets were codified in 2012, prices at the gas pump had soared to record highs.

The electric plug-in cars and hybrids that auto makers contend are needed to meet the standards currently represent a sliver of U.S. sales.

The EPA's decision should be subject to a recent Trump administration regulatory freeze, and the agency should then resume reviewing the standards, according to a letter to Mr. Pruitt from Mitch Bainwol, head of the Alliance of Automobile Manufacturers, a group representing a dozen car companies including Ford, General Motors Co. and Toyota Motor Corp.

For auto makers, the final determination made before Mr. Trump's inauguration "may be the single most important decision the EPA has made in recent history," Mr. Bainwol wrote in the letter, reviewed by The Wall Street Journal. He went on to allege the previous review was "infected" by various shortcomings, including failing to await industry studies and giving companies and the public only 24 days in December to comment on the agency's proposed determination.

In addition, Mr. Bainwol raised concerns that environmental regulators didn't coordinate the decision with the National Highway Traffic Safety Administration, another agency that sets fuel-economy rules. Complying with the current standards would cost the automotive industry $200 billion even under optimistic EPA estimates, Mr. Bainwol said, and potentially threaten more than a million jobs.

"An action of this magnitude requires a thoughtful and collaborative decision-making process" but the EPA in January "opted for political expediency instead, and jammed through" the final determination, wrote John Bozzella, head of the Association of Global Automakers, another Washington lobbying group representing foreign car makers with U.S. operations.

A decision by the EPA to reopen the midterm review of the emissions standards would likely face challenges from environmental groups long critical of auto makers' efforts to market cleaner cars and trucks.

The midterm review called for the EPA to decide whether to relax, toughen or leave unchanged future emissions targets. Auto makers agreed to the lofty targets in 2011 knowing a viability assessment loomed well before the toughest standards would be enforced.

The EPA released a draft technical report last year predicting car companies would only achieve 50.8 mpg, or about 36 mpg in real-world driving, in 2025 amid current market conditions. But the agency said auto makers have a range of technologies at their disposal to reach more ambitious targets at affordable costs, such as gasoline direct-injection and stop-and-go features.

"EPA has already engaged in an extensive, thorough and lengthy process to evaluate the best technical evidence and found no basis to weaken the standards," said Roland Hwang, director of the energy and transportation program at the Natural Resources Defense Council, adding that relaxing standards could hurt Americans depending on clean-car

technology jobs. "Revisiting the final determination opens up what should be a science-based decision to political meddling."

New York Times
https://www.nytimes.com/2017/02/22/us/politics/scott-pruitt-environmental-protection-agency.html
The Pruitt Emails: E.P.A. Chief Was Arm in Arm With Industry
By Coral Davenport and Eric Lipton 2/22/17, 10:18AM

WASHINGTON — During his tenure as attorney general of Oklahoma, Scott Pruitt, now the Environmental Protection Agency administrator, closely coordinated with major oil and gas producers, electric utilities and political groups with ties to the libertarian billionaire brothers Charles and David Koch to roll back environmental regulations, according to over 6,000 pages of emails made public on Wednesday.

The publication of the correspondence comes just days after Mr. Pruitt was sworn in to run the E.P.A., which is charged with reining in pollution and regulating public health.

"Thank you to your respective bosses and all they are doing to push back against President Obama's EPA and its axis with liberal environmental groups to increase energy costs for Oklahomans and American families across the states," said one email sent to Mr. Pruitt and an Oklahoma congressman in August 2013 by Matt Ball, an executive at Americans for Prosperity. That nonprofit group is funded in part by Charles and David Koch, the Kansas business executives who spent much of the last decade combating federal regulations, particularly in the energy sector. "You both work for true champions of freedom and liberty!" the note said.

Mr. Pruitt has been among the most contentious of President Trump's cabinet nominees. Environmental groups, Democrats in Congress and even current E.P.A. employees have protested his ties to energy companies, his efforts to block and weaken major environmental rules, and his skepticism of the central mission of the federal agency he now leads.

An Oklahoma judge ordered the release of the emails in response to a lawsuit by the Center for Media and Democracy, a liberal watchdog group. Many of the emails are copies of documents previously provided in 2014 to The New York Times, which examined Mr. Pruitt's interaction with energy industry players that his office also helps regulate.

The companies provided him draft letters to send to federal regulators in an attempt to block federal regulations intended to regulate greenhouse gas emissions from oil and gas wells, ozone air pollution, and chemicals used in fracking, the email correspondence shows.

They held secret meetings to discuss more comprehensive ways to combat the Obama administration's environmental agenda, and the companies and organizations they funded repeatedly praised Mr. Pruitt and his staff for the assistance he provided in their campaign.

The correspondence points to the tension emerging as Mr. Pruitt is now charged with regulating many of the same companies with which he coordinated closely in his previous position. As attorney general of Oklahoma, Mr. Pruitt took part in 14 lawsuits against major E.P.A. environmental rules, often in coordination with energy companies such as Devon Energy, an Oklahoma oil and gas producer, and American Electric Power, an Ohio-based electric utility.

The emails show that his office corresponded with those companies in efforts to weaken federal environmental regulations — the same rules he will now oversee.

"Please find attached a short white paper with some talking points that you might find useful to cut and paste when encouraging States to file comments on the SSM rule," wrote Roderick Hastie, a lawyer at Hunton & Williams, a law firm that represents major utilities, including Southern Company, urging Mr. Pruitt's office to file comments on a proposed E.P.A. rule related to so-called Startup, Shutdown, & Malfunction Emissions.

The most frequent correspondence was with Devon Energy, which has aggressively challenged rules proposed by the E.P.A. and the Department of Interior's Bureau of Land Management, which controls drilling on federal lands — widespread in the west. In the 2014 election cycle, Devon was one of the top contributors to the Republican Attorneys General Association, which Mr. Pruitt led for two years during that period.

In a March 2013 letter to Mr. Pruitt's office, William Whitsitt, then an executive vice president of Devon, referred to a letter his company had drafted for Mr. Pruitt to deliver, on Oklahoma state stationery, to Obama administration officials. Mr. Pruitt, meeting with White House officials, made the case that the rule, which would rein in planet-warming methane emissions, would be harmful to his state's economy. His argument was taken directly from Mr. Whitsitt's draft language.

"To follow up on my conversations with Attorney General Pruitt and you, I believe that a meeting — or perhaps more efficient, a conference call — with OIRA (the OMB Office of Information and Regulatory Analysis) on the BLM rule should be requested right away," Mr. Whitsitt wrote. "The attached draft letter (or something like it that Scott is comfortable talking from and sending to the acting director to whom the letter is addressed) could be the basis for the meeting or call."

The letter referred to the section of the White House Office of Management and Budget that coordinates regulations throughout the government.

Senate Democrats last week unsuccessfully urged their colleagues to delay a vote on Mr. Pruitt's confirmation until the emails were released.

The emails do not appear to include any request for his intervention explicitly in exchange for campaign contributions, although Mr. Pruitt was separately working as a member of the Republican Attorneys General Association to raise money from many of the same companies.

Despite the large volume of correspondence between Mr. Pruitt's office and the industry players, the emails are unlikely to cause Mr. Pruitt significant new problems. They do expand on email exchanges or topics that previously had been disclosed.

The Oklahoma Attorney General's office has withheld some documents, asking the judge to determine if they can be exempted from the order requiring their release. There are also other pending open-records requests, from the Center for Media and Democracy, The Times and other news organizations.

Mother Jones
http://www.motherjones.com/environment/2017/02/donald-trump-scott-pruitt-epa-employee-resist
"We Will Never Stop': An EPA Employee Blasts the Trump Administration
By Eric Holthaus 2/22/17, 11:00AM

As we embark on month two of Donald Trump's presidency, it's hard to imagine a group of federal employees facing more uncertainty than the staff of the Environmental Protection Agency. Industry ally and new EPA Administrator Scott Pruitt can be viewed only as an agent of profound change, and he's already faced intense opposition from Senate Democrats and from the staff he inherits.

In recent days, both *Bloomberg* and the *Washington Post* have reported that the first moves Trump and Pruitt will make in their overhaul of US environmental policy will be to roll back parts of Barack Obama's climate legacy and the "Waters of the US" rule—a thorn in the side of farmers and ranchers. This comes as no surprise—both of these policies were identified at the top of the administration's "America First Energy Plan" agenda the moment the White House website switched over on inauguration day.

After his hostile nomination process, Pruitt made an appeal to civility Tuesday in his first address to EPA staff. "We as an agency and we as a nation can be both pro-energy and jobs and pro-environment," he said. "We don't have to choose

between the two." That message may ring a bit hollow to the agency's staff, however—coming from a person who has dedicated his career to dismantling environmental safeguards. We appear to be entering an era in which environmental protection will officially be seen as an impediment to the will of industry. For EPA staffers who have devoted their lives and careers to preserving the planet, this is a heartbreaking development.

Shortly after the inauguration, a career EPA employee contacted me through a secure chat program and began to express profound concern over the threat now posed to their life's work. What follows is a heartfelt essay that this official—who requested anonymity out of fear of retribution by the administration—wrote shortly after Pruitt's confirmation last week:

I am a proud employee of the EPA. My colleagues and I are passionate about protecting the health of the American people—and the natural environment we share—from harmful pollution, chemicals, and pesticides. Many of us fear that the American people believe politicians when they say our agency is full of "lazy bureaucrats." The reality is we all got into this work because we believe that it is our duty to protect people and the planet we live on for future generations. EPA is a public health agency, and we come to work every day focused on how we can better serve the American people and enable everyone, regardless of income, race, or any other factor, to enjoy equal protection and access to a healthy environment so everyone can prosper and enjoy the opportunities this country has to offer.

We are not against industry or economic prosperity; we want to work toward a society that cherishes people, the planet, and the economy—all at the same time.

When the EPA was established in 1970, by a Republican administration, the idea of a healthy environment was not a partisan issue. But since then, we have moved into an era where politicians and corporations started working to convince the American public that protecting their water, land, and air from harmful pollution was not in the people's best interests and that our economy can't be prosperous if our environment and public health is protected at the same time; this is a lie. What is true is that polluters don't want to be held accountable for their actions. But when will our leaders see that people matter as well? The attitude that powerful polluters should be able to operate unchecked, no matter how many people are hurt, is the same all over the world.

What type of nation are we when we allow our leaders to sign into law a rule that makes it EASIER for mining companies to pollute local waterways? These same politicians will try to convince their voters that making it easier to pollute local streams is somehow good for them. Communities in West Virginia, Indiana, and Alabama with sky-high rates of cancer due to industry pollution shouldn't be presented with the false choice of accepting even more poison in their local environment or having a job. No one should be told that they have to put up with cancer-causing poison in their water, air, and land. It's shameful, and it's wrong.

We at EPA believe that everyone should be able to breathe clean air, drink clean water, have healthy food, AND ALSO have a growing economy. Those that want to weaken EPA will say, "Well, the states can do it themselves." EPA has always worked closely with states and respects jurisdictional power, but rivers and air don't stop at state borders, and every American—no matter where they live—deserves to have a basic standard of protection.

You have to ask yourself: Who benefits when the EPA is weakened? Who benefits when our staff is laid off, cast aside, and when the agency is prevented from pursuing its mission of protecting public health and the environment? Who benefits when the agency can't consistently enforce environmental laws that are meant to protect the public? The beneficiaries are not the people. Environmental protection is not a partisan issue. Science is not partisan. We all share this earth and its resources on which we all depend to survive. The amount of money you have should not determine if you get to live a healthy life, free from pollution. The politicization of this issue is manipulation by those who are already powerful. We, EPA professionals, have dedicated our lives to this work because we care about people more than we care about money or even being recognized for what we do.

2015 was the deadliest year on record for people working to defend and protect the environment. Let that sink in. One hundred and eighty-five human beings were killed around the world (more than three for every week of 2015) because they dedicated their lives to protecting human health from pollution and preserving the beautiful planet we all cherish. The same year, the Environmental Protection Agency welcomed Berta Cáceres, along with the other winners of the Goldman Environmental Prize, to honor them for being global leaders in defense of human rights and environmental protection. Less than one year later, Ms. Caceres would be murdered in her home in Honduras because she was brave enough to challenge mining and dam-building corporations. She defended human rights and the environment, and her life was taken because of it.

Here in the US, those of us who work to protect the environment and human health from corporate pollution are lucky enough that we do not live under the specter of murder. We are, however, acutely aware that the forces behind these heinous crimes against environmental activists abroad are the same forces that are working against us in the US today. And make no mistake: These forces are poised to grow even stronger.

If it is discovered in the next few weeks that the EPA Administrator does in fact have even closer ties to polluting corporate interests than we feared, what will the public do? Will the capture of EPA by corporate interests be swept up in all the other horrifying news of the day or week? Or will the public finally decide that it is not acceptable to allow EPA, the only agency with a mission dedicated to protecting the environment, to be systematically dismantled, allowing those

at the top to further concentrate wealth and power among themselves? Despite the long odds we face, we will never stop working to protect every person's right to have a healthy place to live, work, and play. And if the new administrator casts me out of the job I love, I will not stop working toward the principles that have always animated my life. This is who I am, and that will never change. I stand in solidarity with brothers and sisters that work to protect human rights, human health, and the environment here in the US and all over the world. The struggle continues.

Bloomberg BNA
http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=105973923&vname=dennotallissues&wsn=498738000&searchid=29411995&doctypeid=2&type=date&mode=doc&split=0&scm=1245&pg=0
White House Vetting Pruitt Choices for EPA Leadership: Adviser
By Brian Dabbs 2/22/17

The White House is collaborating with newly minted EPA administrator Scott Pruitt to vet candidates for the agency's leadership team, but the speed of confirmations is largely up to a Senate already dogged by intransigence, a top White House adviser said Feb. 21.

"Those decisions are made by the secretary, and in this case the administrator, and the president, and they make them jointly from what I've seen," Don Benton, a senior White House adviser on the agency, told reporters after Pruitt's inaugural speech to EPA staff.

"The president understands that when he puts an executive in charge of something they need to be able to bring the people in that they need to get the job done," Benton, a Republican state senator from Washington, said.

Pruitt took the reins of the Environmental Protection Agency Feb. 17 following a contentious and drawn-out confirmation process. Acting deputies and assistant administrators currently fill the ranks of the highest levels of the agency, led by Acting Deputy EPA Administrator Mike Flynn. Democrats in the Senate are continuing to stall nominees amid an unprecedented pushback on the newly elected president's Cabinet.

President Donald Trump reportedly rejected Secretary of State Rex Tillerson's pick for deputy, Elliott Abrams, in recent days, but Benton dismissed the prospect of a leadership selection row at the EPA.

Processing Names

"I don't expect we'll have any trouble," he told reporters. "We're ready to go. Scott has in mind the people that he needs to help him, and we've already begun to process some of those names through the White House."

Various news accounts have mentioned Donald van der Vaart, former secretary of North Carolina's Department of Environmental Quality, and Andrew Wheeler, a former aide to Sen. Jim Inhofe (R-Okla.), as potential Pruitt deputies.

A spokesman for the Senate Environment and Public Works Committee, the panel tasked with processing the EPA staff, said he couldn't immediately respond to a Bloomberg BNA request for comment. Lisa Jackson, the first EPA administrator under former President Barack Obama, didn't land a Senate-confirmed deputy administrator, Bob Perciasepe, until December of the president's first year in office.

The Senate confirmed Jackson three days after Obama's inauguration in 2009 while Pruitt has had to wait a month.

Benton lauded the Pruitt speech, saying the new administrator rightly stressed the need to balance environmental safeguards and industry growth. Pruitt focused on cooperative federalism and reining in EPA overreach.

"Process matters, and we should respect that and focus upon that, and try to avoid, not try to avoid but do avoid, abuses that occur sometimes," Pruitt told a crowd of several dozen EPA employees. "I believe we as an agency and we as a nation can be both pro-energy and jobs and pro-environment, that we don't have to choose between the two."

As attorney general for Oklahoma, Pruitt sued the EPA over a range of regulations, including challenges to the Clean Water Rule, Clean Power Plan, ozone air quality standards, mercury standards for power plants and methane limits for the oil and natural gas industry.

Politico Pro
https://www.politicopro.com/energy/whiteboard/2017/02/group-releases-7-500-pages-of-pruitt-emails-084006
Group releases 7,500 pages of Pruitt emails
By Alex Guillen 2/22/17, 9:52AM

1. The watchdog group Center for Media and Democracy today released more than 7,500 pages of emails from the Oklahoma attorney general's office during Scott Pruitt's tenure.
CMD says the batch of emails includes communications showing cooperation between Pruitt's office and American Fuel & Petrochemical Manufacturers on the Renewable Fuel Standard and the ozone standard, as well as further connections with Devon Energy, a relationship that was first reported by The New York Times in 2014.

A state judge last week said Pruitt had wrongly delayed releasing the emails, which were requested by CMD more than two years ago. Mike Hunter, who replaced Pruitt as attorney general on Monday, complied with the order to release the emails to CMD by yesterday. He is also required to turn over by Monday more emails connected to a half-dozen more CMD requests made over the past two years.

E&E News
http://www.eenews.net/energywire/2017/02/22/stories/1060050390
Emails hang over Pruitt message to EPA staff
By Joel Kirkland and Mike Lee 2/22/17

Staff from the Oklahoma attorney general's office began turning over thousands of documents related to U.S. EPA Administrator Scott Pruitt's contacts with oil, gas and coal groups during his tenure as the state's top lawyer.

Last night, by court order, the Center for Media and Democracy received a disc with 7,500 pages of emails and public documents that it has been requesting from Pruitt's office for two years.

The liberal-leaning watchdog requested the information two years ago and sued to gain access to the records in part to force a response before the Senate confirmed Pruitt to EPA's top job. Oklahoma District Judge Aletia Haynes Timmons on Thursday ordered the attorney general's office to release the documents. The Republican-led Senate confirmed Pruitt on Friday after Democrats held the Senate floor all night in the hope of bringing public pressure to bear against Pruitt's nomination (*Energywire*, Feb. 17).

Pruitt served as Oklahoma's attorney general from 2011 until this month and developed a reputation as a champion of the fossil fuel industry. *The New York Times* reported in 2014 that Pruitt used language from oil and gas companies in letters and legal briefs challenging the Obama administration's environmental regulations.

Before becoming President Trump's EPA administrator, Pruitt organized efforts by attorneys general and oil, gas and coal companies aiming to stop Obama-era rules. Some of their lawsuits against EPA failed to overturn regulations, but Pruitt and other Republican attorney generals won a Supreme Court stay on President Obama's signature rule for addressing greenhouse gas emissions from existing power plants, the Clean Power Plan.

The pursuit of the records overshadowed Pruitt's first days in office and highlighted his work promoting the energy industry and individual states' prerogatives in enforcing environmental laws. In his first public remarks to the EPA staff,

Pruitt suggested those themes would be part of the Trump administration's approach to regulating greenhouse gases, air quality and water quality.

"Regulators exist to give certainty to those they regulate," he said in remarks to EPA's 15,000 employees nationwide. "Those that we regulate ought to know what's expected of them so they can plan and allocate resources to comply."

Without explicitly denouncing Obama's approach to regulating energy companies, Pruitt indicated a broad shift away from Obama's use of the federal agency to force reductions in auto, oil field and power plant emissions.

"Federalism matters," Pruitt said. "I seek to ensure that we engender the trust of those at the state level, that those at the state level see us as partners in this very important mission we have as an agency, and not adversaries."

Clean Power Plan

Pruitt's comments came on the heels of reports that Trump plans to issue an executive order this week to start the process of rescinding the Clean Power Plan. The CPP, which is on hold until federal courts rule on pending litigation, is the agency's signature climate regulation targeting carbon emissions from power plants.

Critics of the rule accused EPA of misinterpreting the Clean Air Act and running roughshod over states that rely on coal for electricity. Its supporters say EPA's finding that carbon dioxide is a pollutant compels the agency to act in the public interest, and they say state-led plans were the centerpiece of the regulation.

To back out of the Clean Power Plan, Pruitt's starting point is at the U.S. Court of Appeals for the District of Columbia Circuit, where litigation is pending. He could request the court pause before ruling on legal challenges against the carbon rule, according to analysts, alerting the court of EPA's intentions to rewrite the regulation.

Anything he does is expected to trigger a reaction from states that support the rule.

In late December, 14 attorneys general, including from New York, California, Virginia, Oregon and Illinois, signed a letter to then-President-elect Trump urging him to continue defending the Clean Power Plan.

"The Clean Power Plan builds on successful strategies that states, local governments and the power sector have used to cost effectively cut greenhouse gas emissions from power plants, while at the same time creating jobs and growing our economies," the letter stated.

But the letter also responded to a push by states primarily in the South and Midwest to get Trump to unravel the Clean Power Plan.

"If the challengers are so confident in their oft-repeated claim that the Clean Power Plan is 'unlawful,' why not let the court decide the claims that they themselves brought?" said the attorneys general, led by New York Attorney General Eric Schneiderman (D).

A spokesman for the Sierra Club said to expect a "proportionate response" to an executive order directing EPA to dismantle the carbon regulation — from environmental groups, public health advocates and states in the Northeast and West supporting the federal effort to combat climate change.

E&E News
http://www.eenews.net/climatewire/2017/02/22/stories/1060050392
Staff wary but ready to work with Pruitt amid new email dump
By Emily Holden, Niina Heikkinen and Hannah Hess

Newly appointed U.S. EPA Administrator Scott Pruitt yesterday tried to extend an olive branch to worried staffers hours before consenting to a judge's order and releasing more than 7,000 pages of emails with energy firms.

By late yesterday evening, advocates with the Wisconsin-based Center for Media and Democracy were combing through the email correspondence between Pruitt and his top staff in the Oklahoma attorney general's office and coal, oil and natural gas companies. The group intends to publish the emails online by 9:30 am today.

In an emailed statement, a spokesman for the Oklahoma attorney general's office said the office had gone "above and beyond" the requirements of Oklahoma's open records law.

"This broad disclosure should provide affirmation that, despite politically motivated allegations, the Office of Attorney General remains fully committed to the letter and spirit of the Open Records Act," spokesman Lincoln Ferguson said.

The Center for Media and Democracy had pursued the documents for two years. Last week, Oklahoma County District Judge Aletia Haynes Timmons ruled that Pruitt had failed to follow the state's open records laws, and required him to produce emails relating to one of the outstanding requests by close of business yesterday.

Senate Democrats and environmental groups had demanded the emails' release prior to Pruitt's confirmation last week but failed to convince Republicans. Yet any hint of an email scandal was absent from Pruitt's first public address yesterday to employees at EPA headquarters in Washington, D.C.

Holding up an EPA cap, Pruitt told employees he wants to help them do their work and argued for "civility" in a "toxic" political environment.

"I seek to be a good listener," Pruitt said, commending career staffers for their dedication and contending that media reports about him might not paint a fair picture.

But Pruitt's tone pivoted sharply from EPA's core message in recent years. Where former EPA chief Gina McCarthy focused most of her speeches on the agency's work to improve public health, Pruitt instead highlighted the importance of abiding by congressional intent and providing regulatory certainty to businesses.

"Regulations ought to make things regular," Pruitt said. "Regulators exist to give certainty to those that they regulate. Those that we regulate ought to know what's expected of them so they can plan and allocate resources to comply."

Pruitt said EPA should avoid "abuses that occur sometimes" in the regulatory process. He called out the agency practices of regulating through guidance rather than an official rulemaking, or writing rules in response to litigation from environmental groups.

"We need to be open and transparent and objective in how we do rulemaking and make sure we follow the letter of the law as we do so," he said.

Employees taking a wait-and-see approach

Pruitt plans to work to roll back many of the Obama administration's signature environmental achievements, including a rule to reduce greenhouse gas emissions from power plants. An executive order on that rule, called the Clean Power Plan, could come as early as this week, although more binding efforts to undo it will take longer and face lawsuits (*Climatewire*, Feb. 21).

The new administrator wants to narrow the scope of EPA's work, and employees have voiced concerns about staffing and budget cuts and reorganizations that might prevent them from fulfilling their obligation to protect the environment.

EPA staffers filing out of their Washington headquarters yesterday said they were still concerned but would wait to see how their new boss worked.

One EPA employee said he would "give him a chance."

"I don't like to prejudge anybody," he said.

That employee added that he thought Pruitt's speech was "kind of vanilla." He said that while it makes sense that Pruitt would emphasize a need to adhere to the law, he added, "Let's hope we stick to that."

Another employee said he saw the potential for a positive working relationship with the new administrator.

"He thinks that you can still save the environment yet have economic growth, which sounds good. I think he's a personable guy; I kind of like him. I look forward to working with him," said one EPA employee in the Office of Water.

Jeff Holmstead, a former assistant administrator at EPA under George W. Bush, said Pruitt "certainly understands he's coming in with some controversy."

"I think this is the first step of his effort to reach out and make sure people understand who he is and know he's open to addressing their concerns," Holmstead said, adding Pruitt "didn't pull any punches" or make promises that he couldn't keep about EPA's budget, which the president and Congress will ultimately decide. Many agency staffers will be waiting to see the budget, Holmstead said.

Greens blast speech

Bill Becker, executive director of the National Association of Clean Air Agencies, said Pruitt's case for ensuring that the agency abides by the law, adheres to process and works closely with states "sounds awfully similar to previous administrations &mdash and I say that really as a compliment."

But a national environmental program for cutting pollution won't succeed at the state and local level without a strong and effective EPA, he warned. The possibility of significant cuts to EPA's budget or slashing the agency's 15,000-person staff to about 5,000 employees, as transition team chief Myron Ebell has suggested, threatens that (*Greenwire*, Jan. 26).

If Pruitt's first acts are to rescind regulatory programs on which many states relied without seeking a substitute, Becker said, it might cause a rocky start.

"We welcome delegation of authority, but not without financial and regulatory help, and not without the important backstop of EPA," Becker said.

Becker concluded, "These are laudable principles. No one can argue about any of those principles. No one should argue about any of those principles. But it's how they are carried out that matters."

Environmentalists quickly condemned Pruitt for not focusing his speech more on environmental and public health issues.

"My immediate reaction was that in his first address to EPA, he didn't talk about environmental protection at all. It was completely absent of any mention of protecting clean water, air and land. No mention of climate change, which is obviously a critical challenge of our time," said Nick Conger, press secretary for the Natural Resources Defense Fund and former communications adviser to the EPA administrator's office during the Obama administration.

Conger noted that Pruitt also did not focus on regional engagement and did not take questions from staff members, something his former boss, McCarthy, used to do during each of her all-hands meetings as EPA administrator.

"I'm just very struck that it seems his focus is on protecting industry and economic impacts, market impacts, at the exclusion, almost, if not entirely at the exclusion, of public health protection. That's what EPA is there to do, protect public health," he said.

'Hell to pay' if climate regs repealed?

Catherine McCabe, who was acting administrator until Pruitt's confirmation, touted her new boss's work to achieve a water rights settlement among the state of Oklahoma, cities and tribal nations.

Pruitt instead spoke about his vision for making regulations simpler for industry.

While he didn't mention the Clean Power Plan directly, he said he believes the agency can be "both pro-energy and jobs and pro-environment."

"We don't have to choose between the two," he said.

Industry groups challenging EPA's regulation of carbon dioxide under the Clean Air Act seem wary of going too far in contesting climate rules.

A senior official at the U.S. Chamber of Commerce's Institute for 21st Century Energy recently said there would be "hell to pay" if the Trump administration tries to repeal EPA's 2009 endangerment finding.

"And if you are going to go out there and say, 'We're going to pull this back,' I mean there is going to be hell to pay, not just from those people out there who are protesting those plants," Senior Vice President for Policy Christopher Guith said last month at an event in Kentucky, according to a transcript published by the Energy and Policy Institute, a watchdog organization backing renewables.

"There's going to be hell to pay from, you know, soccer moms and soccer dads all throughout the country. People who probably voted for Donald Trump," Guith said.

Matt Letourneau, a spokesman for the institute, said Guith's answer "was based on a political analysis of the situation," not an official policy position.

E&E News
http://www.eenews.net/climatewire/2017/02/22/stories/1060050394
Automakers ask Pruitt to revisit Obama's emissions rules
By Camille von Kaenel 2/22/17

Automakers have asked new U.S. EPA Administrator Scott Pruitt to reverse an Obama-era decision to lock in vehicle emissions standards through 2025.

The Alliance of Automobile Manufacturers wants EPA to reopen an official review of fuel economy rules, which it says were rushed during the final days of the Obama administration to cement the former president's climate legacy.

EPA had until April 2018 to decide whether to tighten, loosen or simply maintain the emissions standards. Instead, it finalized its decision on Jan. 13 — days before President Trump's inauguration.

The auto industry group's president and CEO, Mitch Bainwol, asked Pruitt to withdraw that decision yesterday in a letter, calling it "the product of egregious procedural and substantive defects" and "riddled with indefensible assumptions, inadequate analysis and a failure to engage with contrary evidence."

EPA's decision to keep the standards unchanged followed a technical report in the summer that found that automakers could continue to meet and exceed the standards with available or impending technologies, though Americans' changing preferences for bigger vehicles would slightly mitigate the overall greenhouse gas benefits of the program.

Bainwol wrote that he is not asking for a different final decision "at this time" but wants more time for the agency to consider additional studies the trade lobby is conducting on the feasibility of the standards. The decision was not published in the *Federal Register* because it was not a new rule and so is not subject to a regulatory freeze.

Automakers agreed to the standards in 2012 on the condition of the midterm review. The emissions standards would bring average fleetwide fuel economy to 50.8 mpg in 2025. The letter by the trade lobby follows a similar request by automaker CEOs directly to President Trump to soften, if not eliminate, the rules.

Bainwol also said he is concerned about discrepancies between the agencies that set the rules: EPA and the National Highway Traffic Safety Administration. NHTSA, which must issue a separate rule for the 2022-25 standards, has not yet completed its midterm review. Before Trump took office, it agreed to consider long-standing requests by automakers to tweak the standards.

Environmental and national security advocates have warned that any change to the fuel economy standards would have to surmount legal challenges and could create greater uncertainty for automakers.

The Hill
http://thehill.com/policy/energy-environment/320590-group-releases-emails-from-new-epa-chief
Group releases emails from new EPA chief
By Devin Henry 2/22/17 9:36 AM EST

An open-government group has released a batch of emails from Environmental Protection Agency Administrator Scott Pruitt's tenure as Oklahoma attorney general.

The Center for Media and Democracy (CMD) released nearly 1,500 pages of emails on Wednesday morning, one day after Pruitt's former office turned them over to a state court in Oklahoma. The group said it received 7,564 pages of emails from Pruitt's office overall.

The court had ordered Pruitt's office to release the documents last week after CMD sued, seeking a response to an Open Records Act data request it had sent years earlier.

That court order came days before the Senate voted to confirm Pruitt to his post at the EPA.

Senate Democrats — all but two of whom voted against Pruitt's nomination — insisted the vote be delayed until after the emails were released. Pruitt said the emails could show close ties between his office and the Oklahoma fossil fuel industry, a sector that he defended during his tenure as the state's attorney general.

Pruitt was sworn in as EPA administrator on Friday and he addressed the agency for the first time on Tuesday.

AP
http://hosted.ap.org/dynamic/stories/U/US_OPEN_RECORDS_LAWSUIT_PRUITT?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT
EPA head's emails with energy companies to be released
By Tim Talley 2/21/17

OKLAHOMA CITY (AP) -- The Oklahoma attorney general's office said Tuesday it is complying with a judge's order to surrender documents related to new Environmental Protection Agency leader Scott Pruitt's communications with energy companies while he served as the state's attorney general.

The office had until 5 p.m. Tuesday to comply with District Judge Aletia Haynes Timmons's order to turn over emails and other documents to the Wisconsin-based Center for Media and Democracy, which requested the documents more than two years ago under Oklahoma's Open Records Act.

A spokesman for the office, Lincoln Ferguson, said it turned over records related to the January 2015 request to the watchdog agency and that other records were turned over to the judge to determine if they are privileged and not subject to release under the law.

"The office went above and beyond what is required under the Open Records Act and produced thousands of additional documents that, but for the court's order, would typically be considered records outside the scope of the act," Ferguson said in an emailed statement.

"This broad disclosure should provide affirmation that, despite politically motivated allegations, the office of attorney general remains fully committed to the letter and spirit of the Open Records Act," Ferguson said.

An attorney for the advocacy group, Bob Nelon, said he received an email from the attorney general's office at 4:14 p.m. Tuesday indicating that it planned to comply with the judge's order and make the documents available.

Nelon said the records were provided electronically and that an initial review indicated one computer disk contained 7,564 pages, although it was not immediately clear how many documents they represent.

The attorney general's office had previously identified more than 3,000 emails that it said pertained to the group's January 2015 request.

Nelon said the records will be transmitted to the Center for Media and Democracy, which plans to make them publicly available on its website.

Timmons has also ordered the attorney general to comply with other open-records requests by the group in 2015 and 2016.

The judge handed down her ruling on Thursday in connection with a lawsuit the group filed that accused the attorney general's office of failing to provide "prompt and reasonable access" to the documents, as required by the Open Records Act.

Pruitt resigned his post as Oklahoma attorney general on Friday, the day he was sworn in as President Donald Trump's EPA administrator.

Among other things, the January 2015 request sought information about Pruitt's communications, private meetings and relationships with fossil fuel companies as the state's attorney general, companies he will help regulate as EPA administrator.

Nelon said later requests were more narrowly tailored and that the advocacy group has no idea how many documents are involved.

As Oklahoma's attorney general, Pruitt repeatedly sued the EPA and criticized what he has characterized as the EPA's "activist agenda." He has been a reliable booster of the fossil fuel industry and has said his support for legal positions advocated by oil and gas companies was in the best interest of Oklahoma, which is economically dependent on the fossil fuel industry.

In his first meeting with the EPA's staff Tuesday, Pruitt said he believes the nation can be "pro-energy and jobs, and pro-environment."

"I think our nation has done better than any nation in the world at making sure that we do the job of protecting our natural resources, and protecting our environment, while also respecting economic growth," Pruitt said.

Inside Climate News
https://insideclimatenews.org/news/21022017/pruitt-enters-epa-conciliatory-words-staff-braces-divisive-action
Pruitt Enters EPA with Conciliatory Words, but Staff Braces for Steep Cuts
By Marianne Lavelle 2/21/17

Scott Pruitt, who spent the past six years as the Environmental Protection Agency's courtroom antagonist, took the helm of the agency Tuesday with a pledge to listen to agency staff and tackle tough problems cooperatively.

"We ought to be able to get together and wrestle through some difficult issues in a civil manner," said Pruitt in an address to EPA employees, who are bracing for deep budget cuts and a retreat from the goal of addressing climate change.

Pruitt didn't talk about policy specifics. Instead, he laid out a vision for an EPA that could avoid litigation in the future by limiting the agency's ambitions under the mandates that Congress gave it and sticking to "process."

But environmental advocates already were preparing a vigorous legal defense of regulations they fear could be undone. They maintain the rules were subject to a rigorous public comment and debate, as well as court review.

With the Trump White House expected as soon as this week to issue executive orders to roll back the Clean Power Plan, Presient Obama's signature climate initiative, and other EPA regulations, David Doniger, climate programs director of the Natural Resources Defense Council, responded on Twitter:

Pruitt's address to the agency came on the first full federal workday since his contentious confirmation process ended Friday with a largely partisan 52-46 vote of approval.

"This environment that we live in today is a very toxic environment," Pruitt said. "We have jerseys that we put on, and that is something that I think is damaging to the overall objective of finding the results and answers."

But Pruitt, the former Oklahoma attorney general, is likely to continue to be dogged by the same issues that have been raised since his nomination by Trump in December. On the same day as his official welcome at EPA, about 2,000 of his emails with fossil fuel companies and organizations were to be released in Oklahoma after years of delay.

Pruitt suggested that EPA staff may have gotten an incomplete picture of him from reading news reports. "I look forward to sharing the rest of the story with you," he said. "I seek to listen, learn and lead with you, to address these issues that we face as a nation."

While stressing civility and cooperation, Pruitt returned to the arguments he made against the EPA both in court and before the Senate.

"Process matters," said Pruitt. "Regulations are to make things regular, to give certainty to those who are regulated, so they know what's expected of them and can allocate resources so that they can comply.

"The process we engage in is very important. It sends a message that we take seriously our role of taking comment and offering a response, and in making informed decisions on how it's going to impact those in the marketplace to achieve the ends we have in statute," he said. "We should avoid abuses...like engaging in regulation through litigation, consent decrees that bypass the Administrative Procedure Act."

Pruitt's view echoes the complaints of industry lobbyists who have decried EPA's settlement of a number of lawsuits brought by environmental groups during the Obama administration. Under these agreements, the EPA finalized

regulations to control mercury from power plants, address air quality issues due to ozone, clean up the Chesapeake Bay and regulate greenhouse gases.

Critics say the consent agreements are a kind of collusion between the EPA and environmentalists. Environmental groups, however, argue that their litigation followed years of effort and wrangling with the agency. (The Government Accountability Office found little impact on EPA policy due to the deadlines imposed by consent decree.) In 2014, the U.S. Supreme Court rejected an effort by Pruitt and other litigants to overturn a settlement with several states and environmental groups under which the EPA agreed to regulate greenhouse gases.

"EPA already has SO MUCH PROCESS," Jack Lienke of the Institute for Policy Integrity at the New York University School of Law, said on Twitter. "Clean Power Plan was in the works for > FOUR YEARS before finalization."

In his remarks on Tuesday, Pruitt also reprised the argument he often made in more than 14 lawsuits against the EPA—that it had overreached its legal authority. "The rule of law: the only authority any agency has is given to it by Congress," Pruitt said. "Sometimes that authority is broadly stated, and other times Congress is very restrictive, and it's been very specific about what they agency can and can't do.

"We need to respect that. When we do that, here's what happens: We avoid litigation, and we reach better outcomes."

But the Supreme Court, in its landmark Massachusetts v. EPA decision, ruled that, "Because greenhouse gases fit well within the Act's capacious definition of 'air pollutant,' EPA has statutory authority to regulate emission of such gases."

The court said that "EPA can avoid promulgating regulations only if it determines that greenhouse gases do not contribute to climate change or if it provides some reasonable explanation as to why it cannot or will not exercise its discretion to determine whether they do. It has refused to do so, offering instead a laundry list of reasons not to regulate."

And courts have rejected Pruitt's argument that EPA exceeded its authority in other cases, such as the Obama administration's cross-border pollution and mercury pollution regulations for power plants.

Other legal challenges, however, have yet to be decided, including a case now pending in a federal appeals court on the Clean Power Plan. The Supreme Court has issued a stay on putting the rule into effect.

Pruitt did not mention climate change, but said, "We as a nation can be pro-energy and jobs and pro-environment."

Environmental advocates quickly took issue with the picture of the agency painted by Pruitt. Lienke tweeted that statistics show EPA has been balancing economic growth and environmental protection all along. He cited a 68 percent reduction in the most common air pollutants from 1970 and 2013, as GDP tripled and the U.S. population grew by 54 percent.

Although all EPA staff were invited to attend, there was only room for about 100 in the high-ceilinged ceremonial room next to the administrator's office, the Rachel L. Carson Great Hall; the agency's 15,000 employees could watch remotely. The crowd in the room included some of the agency's first political appointees, including the transition leader, former Washington State Sen. Don Benton.

Benton said after the speech he thought that Pruitt had struck "a perfect balance" in his speech. "He's very much in partnership mode," he said.

Brett Hartl, government affairs director of the Center for Biological Diversity, said he thought that although Pruitt's comments about the rule of law and process "sound good," his record indicates he will be taking the agency in a dramatically different direction. "His agenda is straightforward. He wants to undercut the agency," said Hartl. "He's going to be the guy who cuts their staff and their budget, and makes employees do useless things so they can't do enforcement."

Mother Jones
http://www.motherjones.com/environment/2017/02/pruitt-speech-epa
"Condescending and Hypocritical': An EPA Staffer Blasts Scott Pruitt's First Speech
By Rebecca Leber 2/22/17, 4:43PM

Scott Pruitt may have wanted to ease Environmental Protections Agency staffers' concerns about him Tuesday, but his first remarks as head of the agency hardly mentioned environmental protection at all.

With Donald Trump's EPA transition staff sitting nearby, Pruitt delivered an 11-minute speech, in which he declared, "We as an agency and we as a nation can be both pro-energy and jobs and pro-environment." He also quoted famed conservationist John Muir: "Everyone needs beauty as well as bread, places to pray in and play in." Pruitt did lament the "toxic environment" in the country, but it was a reference to the political climate—part of a call for a more civil discourse.

The former Oklahoma attorney general never dwelled on the specifics of his or the White House's agenda for the EPA in the short address, which featured introductory remarks by recent acting administrator Catherine McCabe. Neither McCabe nor Pruitt mentioned the elephant in the room: the EPA's regulations on climate change and Pruitt's role in suing the agency for its climate work.

"I know it's very difficult to capture in one speech the vision and direction of an agency," Pruitt said, while outlining a few of his core guiding principles for the new EPA. He said he wants to limit the scope of the agency's regulatory work and ensure stability for industry. "Regulations ought to make things regular," Pruitt said. "Regulators exist to give certainty to those they regulate…Process matters and we should respect that and focus on that, and try to avoid, do avoid, abuses that occur sometimes."

Pruitt mentioned the need to follow "rule of law" and respect states' roles in enforcing environmental standards. "Congress has provided a very robust, important role of the states," Pruitt said. (Environmentalists, of course, are quick to point out that states are not always eager or financially equipped to protect air, water, or the climate on their own.)

If Pruitt's address was meant to soothe staffers' concerns about their incoming administrator, they may have come up short.

"Pruitt's talk [was] as bad as expected," said a current career EPA staffer of over 20 years, who requested anonymity, following the speech. "Not one word about public health. And talking about the rule of law as if we didn't do EVERYTHING with the realization that it WILL end up in court. It was condescending and hypocritical."

Some former EPA officials shared that view. "Trump's team spent the entire campaign and the last few months railing against EPA's existence, its staff, and its purpose," Liz Purchia, an Obama-era communications staffer at the agency, said in an email. "Accomplishing agency priorities was no easy task when the administrator had staff's back and politicals and careers agreed the majority of the time, so let's see how well Trump's EPA does getting staff to follow them when they feel disrespected. These are professionals with years of experience, who have been made to feel like their leader doesn't trust their judgment. The American people are relying on them to defend the agency, protect its environmental statutes and stand up to Trump's team to ensure they uphold science and the law."

Going by the EPA's press releases over the weekend, the agency now views industry and conservatives as its real constituency. No public health groups, environmentalists, or scientists appeared on the laundry list of "stakeholder" congratulations circulated by the EPA after Pruitt was sworn in.

Outside the EPA on Tuesday, an administration official echoed Pruitt's pledge that he will listen to career staff. "He's a very good listener," Don Benton, a White House senior adviser, told reporters after the address. "I don't expect him to be making any quick decisions."

Benton didn't answer specifics on the timing of the presidential actions, saying that the matter is between Pruitt and Trump. But a slow transition based on input from current EPA staff isn't what news reports—nor Pruitt's own words—have suggested. Various news outlets have reported that the White House intends to roll out a series of presidential actions targeting the EPA as early as this week.

Pruitt didn't provide much clarity Tuesday on what comes first. But in an interview with a conservative *Wall Street Journal* columnist last week, Pruitt appeared to reverse himself on one key issue. At his confirmation hearing in January, he said that the EPA's official finding that climate change poses a health danger and is therefore subject to the Clean Air Act "needs to be enforced and respected." But according to the *Journal*, Pruitt now wants to conduct a "very careful review" of whether the agency can do anything at all about global warming. His remarks Tuesday appear to have done little to persuade his critics that such a review would be based on sound science.

Morning Consult
https://morningconsult.com/2017/02/21/no-mention-climate-pruitts-address-epa-employees/
No Mention of Climate in Pruitt's Address to EPA Employees
By Jack Fitzpatrick 2/21/17

Environmental Protection Agency Administrator Scott Pruitt did not mention climate change or specific regulations in his first address to employees on Tuesday, instead emphasizing the agency's limitations and the need to provide more certainty for the energy industry.

Pruitt also did not mention air pollution or water pollution, key portions of the agency's mission, during the 11-minute address, and did not take questions. The speech could signal how Pruitt is focused more on avoiding government overreach rather than propagating new regulations.

"Regulators exist to give certainty to those that they regulate," he said, adding that he wants the agency to "avoid abuses that occur sometimes." That includes "using the guidance process to do rulemaking."

Pruitt may have been referring to a controversial guidance from the White House Council on Environmental Quality, which asks agencies conducting environmental reviews to consider how any infrastructure project would affect climate change. The guidance was technically voluntary, but critics said it was practically mandatory even though it didn't go through the full rulemaking process.

Pruitt's process-oriented speech differed in tone from the approach of his predecessor, Gina McCarthy, who emphasized the need for strong protections from pollution.

While serving as Oklahoma attorney general, Pruitt was involved in 13 lawsuits against the EPA, including high-profile cases over regulations on greenhouse gases and mercury pollution. He also took criticism from Democrats during his confirmation hearing for his close ties to the fossil fuel industry.

League of Conservation Voters Senior Vice President Tiernan Sittenfeld said in an emailed statement that Pruitt's speech "did nothing to address our grave concerns about him."

Pruitt said he hopes to avoid "regulation through litigation," referring to issuing contentious rules that attract lawsuits and ultimately leave a judge to decide details of what the agency can do, rather than agreeing on details with stakeholders.

Every regulation "needs to be tethered to statute," Pruitt said, adding that he believes Congress has been "very prescriptive" in its laws for the agency.

"The only authority that any agency has in the executive branch is the authority given to it by Congress," he said.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: Campau, Anthony P. EOP/OMB [Anthony.P.Campau@omb.eop.gov]
Sent: 4/19/2017 10:23:54 AM
To: Dravis, Samantha [dravis.samantha@epa.gov]
CC: Catanzaro, Michael J. EOP/WHO [Michael.J.Catanzaro@who.eop.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; McGartland, Al [McGartland.Al@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Nickerson, William [Nickerson.William@epa.gov]; Inge, Carolyn [Inge.Carolyn@epa.gov]; Kime, Robin [Kime.Robin@epa.gov]; Irving, Verna [Irving.Verna@epa.gov]
Subject: Re: WOTUS and CPP Call - Personal Phone / Ex. 6 Conf. Ext. Personal Phone / Ex. 6 Code: Personal Phone / Ex. 6

Let us know if there's a window to discuss follow up on a couple of the questions from yesterday. We're thinking sometime before 1:00 p.m. today if possible.

Thanks, team.

Sent from my iPhone

> On Apr 18, 2017, at 2:34 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:
>
> Hi
>
> Will you please add this from Samantha's calendar and open the phone line from the conference room? Thanks
>
>
> Topic: WOTUS and CPP Call - Personal Phone / Ex. 6 Conf. Ext. Personal Phone / Ex. 6 Code: Personal Phone / Ex. 6
> Date: Today
> Time: 3:30 – 4:15 p.m.
> Location: 3500 WJCN
> Required: Michael.J.Catanzaro@who.eop.gov<mailto:Michael.J.Catanzaro@who.eop.gov>; Anthony.P.Campau@omb.eop.gov<mailto:Anthony.P.Campau@omb.eop.gov>; Bolen, Brittany bolen.brittany@epa.gov<mailto:bolen.brittany@epa.gov>; Schwab, Justin <schwab.justin@epa.gov<mailto:schwab.justin@epa.gov>>; McGartland, Al <McGartland.Al@epa.gov<mailto:McGartland.Al@epa.gov>>; Greenwalt, Sarah <greenwalt.sarah@epa.gov<mailto:greenwalt.sarah@epa.gov>>; Fotouhi, David <fotouhi.david@epa.gov<mailto:fotouhi.david@epa.gov>>; Nickerson, William <Nickerson.William@epa.gov<mailto:Nickerson.William@epa.gov>>
> CC: Kime, Robin <Kime.Robin@epa.gov<mailto:Kime.Robin@epa.gov>>; Inge, Carolyn <Inge.Carolyn@epa.gov<mailto:Inge.Carolyn@epa.gov>>; Irving, Verna <Irving.Verna@epa.gov<mailto:Irving.Verna@epa.gov>>
>
>
> <meeting.ics>

Message

From: Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Sent: 4/6/2017 3:07:28 AM
To: Fotouhi, David [fotouhi.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Brown, Byron [brown.byron@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]
Subject: Fwd: Follow up on discussion regarding the RCRA lawsuit against dairy operations
Attachments: NoteonYakimaforAdministrator3-2017.docx; ATT00001.htm

Before I begin my research into this...are you guys familiar with this and/or has someone already started looking into this?

Sent from my iPhone

Begin forwarded message:

From: Personal Email / Ex. 6
Date: April 5, 2017 at 3:23:41 PM EDT
To: Greenwalt.Sarah@epa.gov
Subject: Re: Follow up on discussion regarding the RCRA lawsuit against dairy operations

Good Afternoon Sarah! I wanted to follow up on the discussion we had with you and Administrator Pruitt on the WOTUS rule and a number of other environmental issues a couple of weeks ago. I was representing dairy producers at the meeting which also included Don Parish of AFBF, Scott Yager of NCBA, Michael Formica of NPPC and Ethan Mathews of NCGA. I am also a member of President Trump's Ag Advisory Team. I mentioned a lawsuit brought against a number of dairy farms in the Yakima Valley in Washington State under the Resource Conservation Recovery Act for over application of manure on cropland. It is a significant issue since as you know the RCRA law was passed in the 1970's to cover the disposal of solid waste in landfills and was never intended to cover manure application on cropland. In short this issue started when EPA contacted a number of dairy operations in the Yakima Valley to test ground water on their dairy operations for nitrate levels. Although EPA's sampling techniques were flawed this initial effort on their part escalated into a lawsuit from environmental organizations against the dairy operations. After incurring huge legal fees the dairy farmers decided to settle the case out of court. I have included a time line of the major events in the process as provided to me by the Washington State Dairy Federation. It is enclosed in the attached file.

I would ask if we could work with someone at EPA to follow up on this. The current RCRA regulations need to be clarified on this matter since animal manure is not a solid waste. I very much appreciate your review of this issue and any direction you can give me! Thank you! Bob Gray--Northeast Dairy Farmer Cooperatives

Bob Gray
6354 Alderman Drive
Alexandria, Virginia 22315
Office phone 703-751-8022
cell Personal Phone / Ex. 6

February 20, 2017

To: Scott Pruitt, U.S. EPA Administrator

From: Washington State Dairy Federation

Dan Wood, Executive Director

Jay Gordon, Policy Director

Re: Briefing on EPA actions in Yakima Valley.

Dear Administrator Pruitt,

This is a brief review of the actions of Region 10 EPA staff since the spring of 2010 in Washington State, especially the Yakima Valley. We believe Region 10 had help and support for these efforts from staff at Headquarters. We do not know who was involved in DC, but we have had conversations with former HQ EPA staff that confirm this was coordinated by the region with help or encouragement by HQ staff.

To arrive at the conclusion, we are asking EPA to:

a. Stop the intimidation and work to rebuild a professional trusted relationship, based on quality service. (There are a few good folks inside region 10 that have not quit, but those EPA folks who want a professional, respectful relationship, have been clearly sidelined by the "more aggressive" divisions and folks who seem to just want to broaden authority by use of litigation and intimidation regardless if based on biased perspectives and science or not.

b. Help find ways to stop the financial and emotional devastation of three farms in our state by Region 10 staff. In 2013 and 2014, EPA staff negotiated a consent decree with three farms that is so onerous, so bureaucratic (and so unproductive) that we are very concerned these three farms may be forced to go out of business. The Region 10 staff that oversee this consent decree seemed to be using every bureaucratic tool they can find to drive up the costs to these farms. These farmers report they are spending $30k- 60 k per month, on farm spent 106,000 dollars this January. Each farm is struggling to comply with the innumerable administrative requirements to satisfy Region 10 staff.

c. We are asking EPA to repost the Yakima science public reviews on the EPA region 10 website and then asking for a review of the science that was the basis of the

Administrative Order on Consent on four Yakima Dairy farms. The "science" that EPA used as the basis of the allegations in 2012 against these farms was so poorly done, so incomplete and erroneous that it makes a mockery science and of several internal and external federal policy guides for quality science. The narrative below will elaborate on these allegations, but to paraphrase one reviewer of the EPA science: "The science is so poorly done that it should be retracted." That reviewer was the US Department of Agriculture NRCS team. (Note: This was done a week ago and the reviews of the science are now found at ftp://ftp.epa.gov/reg10ftp/sites/yakima/EPA_2013_Report/)

The short summation of what EPA region 10 has accomplished is this:

- They lied to the families in Yakima about how "EPA would protect the families" once the families signed the Consent Decree.
- They destroyed the hopes and dreams of one Yakima family by forcing them out of business and are financially destroying the other three farms.
- They have badly damaged their credibility amongst farmers, scientists and agencies across the west.
- They produced "science" so bad that Federal, State, local and Tribal agencies lambasted their science report. Public and private scientists were also stunned at how bad their science was. (see "archived" EPA report comments in link above to Region 10 website)
- They failed to follow their own peer review policies. One USDA external peer reviewer asked to have his name removed from their "science" report (Region 10 gave him an incomplete report to review, it was missing 30-40 pages. See email in Link above from David Tarkleton).
- When their science was lambasted, and 4 months after releasing their "science" report, region 10 hired a consultant to "fix their science".
- Ignored clear laws in the Safe Drinking Water Act by dismissing WA. State response to SDWA and instead pursued this emergency action under section 1431 of the SDWA, we believe in violation of the "three provision test" in emergency section of 1431. (Region 10 response in November 2012, was "*Well then take us to the 9th circuit court if you think we are wrong.*")
- Violated FOIA procedures. The same Region 10 staff that was a subject of December 2012 FOIA requests was the FOIA officer in charge of replying to our request for her email correspondence.
- Intimidated Yakima and other WA. Farmers. EPA started the Yakima science process in late March 2010 by sending science teams to farms and asking to be let on or promising "they would get a search warrant". In the Fall of 2013, Region 10 sent "criminal investigation unit" officer to dairy farm with a pistol on his hip, his EPA business card declared that he was a "*Glock Certified Armorer*".

Long version and documentation of these situations.

March 2010 – EPA sent "science team" out to 11 Yakima Dairy farms, to "help with science" of the groundwater nitrate concerns in the Yakima Basin of Eastern Washington. Producers reported in phone call that they "asked for permission to enter farms, or they – EPA - could **get a search warrant**." (Personal Cons. with farmers by Jay Gordon; confirmation conversation with Tom Eaton, Washington Operations officer, EPA. April 2010.)

March-June 2010, EPA staff "investigated" 11 dairy farms, several other crop farms WWTP's in Yakima by taking soil tests and well testing. Soil tests used were the wrong type of tests and producers reported that EPA asked only to test freshly manure applied fields (strong indications that EPA scientist introduced biased, incorrect testing at this point.) (Pers. Com. To Jay Gordon from Yakima farmers and professional Agronomists that witnessed EPA "Science Team" in field)

November 2011 – Yakima county and Washington State Department of Ecology ***form groundwater management area to address nitrates in groundwater***. Relevant to the question of if the state or local authorities are taking "actions to address public health" or not and therefore opening up EPA to take action under the emergency authority of the Safe Drinking water act section 1431.

January 2012 – EPA releases Relation Between Nitrate in Water Wells and Potential Sources in the Lower Yakima Valley Report (PDF) to 2-3 external peer reviewers –

- we believe this was an inadequate number for "highly influential science" required under EPA' own guidance - https://www.epa.gov/sites/production/files/2015-10/documents/epa_peer_review_handbook_4th_edition_october_2015.pdf
- The document was incomplete, it was missing 30-40 pages including the introduction and conclusions. – See email statement by ARS researcher David Tarkelton, in the comments submitted as part of public comments to EPA in fall of 2012 link above.)

April 2012 – EPA region 6 Administrator explains EPA attitude toward enforcement "alot like the roman army" - https://www.youtube.com/watch?v=ze3GB_b7Nuo

September 2012 – EPA invites five farms (four families) to come to Seattle to show them the science and present them with 45+/- page draft Administrative Order on Consent (AOC, aka Consent Decree). First 16-17 pages are identical to consent decree that was presented to a hog farm in 2000 - https://www.epa.gov/sites/production/files/2014-03/documents/barefoot_farm.PDF

(This is when we first wondered if expanding the scope of SDWA Section 1431 was the real goal of EPA or if it was to let us "peasants" know what life was like under the Roman army.)

September 2012 – EPA asked to present their "science report" to farmers in Yakima, initial reviews show science was very flawed. Industry, agencies and farmers ask EPA for public comment period on report; EPA agreed, only after Congressional pressure. Comment period opened October through late November 2012. Approximately 35 public agencies, private individuals and organizations provided comment, comments are overwhelmingly negative about the quality of science and conclusions. Comments were posted on EPA Region 10 website (Link above)

October 2012 – NOI under RCRA filed - Environmental organizations file notice of intent to sue under Resource Conservation and Recovery Act (RCRA) based on information from EPA "science report". http://www.centerforfoodsafety.org/press-releases/3697/groups-win-landmark-victory-against-industrial-dairies#

November 2012 – EPA asked why they are taking this action under section 1431, sec. D. Since local actions were and had been taking place and State and county was not consulted. (see three part test in 1431 of SDWA https://www.epw.senate.gov/sdwa.pdf

Thanksgiving weekend 2012 – EPA consultants leave well drilling rigs parked in front of Haak Family dairy farm over the long weekend. Tom Eaton, WA. Operations officer for EPA, replies that EPA hired the well drillers to bore new test wells to ***"fix the science."*** . Haak family has a terrible Thanksgiving family dinner "surrounded by EPA equipment." (Pers. Comm.- Tom Eaton and Marlene Haak w/ Jay Gordon)

November 2012 -Region 10 EPA Agricultural liaison quits; National Agriculture EPA Liasion to Administrator also quits shortly thereafter. Both inform us later the Yakima situation and "enforcement first" attitude was part of the reason.

December 2012 – EPA Region 10 Administrator McLerran and National EPA HQ asks USDA NRCS to ***retract the NRCS comments*** telling EPA their science was so bad it should be retracted. USDA stands by their assessment of EPA science.

December/January 2012 – Lawyers for Families make FOI request for communication between Region 10 EPA staffer Jennifer McDonald and Charlie Tebbutt, plaintiff in RCRA case. Documents are not forthcoming, in January, dairy lawyers notice that Jennifer McDonald is the FOIA officer.

March 2013 – Administrative Order on Consent (AOC) signed by four of five farms. https://www3.epa.gov/region10/pdf/sites/yakimagw/consent_order_yakima_valley_dairies_march2013.pdf

- EPA regional administrator and staff promise the AOC will "***protect the families***". EPA promises the AOC "***Wraps them in a protective blanket***", "***These are innovative farmers that EPA wants to work with…***" Statements by Dennis McLerran to families and in meetings in January/February 2013.
- Haak Family decides to sell their cows and get out of business. Settles with EPA and Charlie Tebbutt Law offices on the RCRA suit. Haak cows sold May 2013.

March 2013 - RCRA Case filed against Five farms - Community Association for Restoration of Environment (CARE), Center for Food Safety (CFS), Charlie Tebbutt Law offices file RCRA suit.

March 2013 to date – Farmers report continual difficulties satisfying EPA staff. EPA staff request frequent edits, revisions, additional information. Families spend tens of thousands per month to file reports, make changes, edits, etc. Costs to date are millions of dollars for each farm. (Pers comm. From four dairy farms)

November 2013 EPA sends Criminal Investigation Unit officer out to Whatcom Dairy to "investigate" an accidental manure spill that had occurred two months before and that had been clean up for two months. EPA Officer was packing a pistol and his EPA business card had "Glock Certified Armorer" in the bottom. Farmer was a bit threatened and not impressed.

May 2014 – EPA asked to provide witness to federal court hearing to testify during penalty phase of Federal hearing on the RCRA claim and that EPA is satisfied the of terms of the AOC are being met and are sufficient to meet both SDWA and RCRA.

Region 10 Administrator McLerran response is, if EPA is forced to provide a witness that EPA will testify that families have met all conditions of AOC "*Better and faster than expected, but that EPA staff will also have to testify that* ***some reports have been turned in late, causing some staff to wonder if the families are hiding something****.*" (Statement of Dennis McClerran to Adam Dolsen on May 3rd or 4th 2014).

May 2014 – Four families agree to settle RCRA case rather than face judge without EPA statement of satisfaction on AOC work. Settlement is revisions to EPA SDWA AOC with other terms and conditions added by Plaintiffs to the original EPA AOC. Administered by EPA Region 10 Staff.

March 2013 to date. – EPA staff continues to be difficult and expensive to deal with.

Fall 2016 – one dairy farm installs double synthetic liner in one lagoon. Costs are incredibly high, (million $'s +/-) benefit is highly questionable, EPA staff very difficult and very expensive to deal with. All dairies are now trying to find a way to implement AOC without going broke.

Today – The individual farmers and our industry really would like EPA to once again deal with us as professionals and that we can trust to use facts and respect. Before the spring of 2010 that was the relationship that we had. There are a few good folks still at EPA, glad to tell you who we respect…but the prevailing attitude has been that compliance comes much like the Romans did.

Estimate cost: three remaining farms have spent about 12 million dollars so far and one family farm was destroyed.

Jay Gordon 360-951-8419

Dan Wood 360-870-6018

Message

From: Grantham, Nancy [Grantham.Nancy@epa.gov]
Sent: 1/24/2017 12:07:21 PM
To: Benton, Donald [benton.donald@epa.gov]; Schnare, David [schnare.david@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]
CC: Grantham, Nancy [Grantham.Nancy@epa.gov]
Subject: FW: EPA Daily News Briefing for Tuesday, January 24, 2017
Attachments: epaNewsBriefing170124.doc

Good morning,

Sending you the morning clips. You should start receiving these directly today; please note that often the first direct send ends up in your junk email box, so please check there as well.

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Personal Phone / Ex. 6 **(mobile)**

From: Bulletin Intelligence [mailto:epa@bulletinintelligence.com]
Sent: Tuesday, January 24, 2017 6:58 AM
To: epa@BulletinIntelligence.com
Subject: EPA Daily News Briefing for Tuesday, January 24, 2017

Mobile version and searchable archives available at **epa.bulletinintelligence.com**.

TO: ADMINISTRATOR AND SENIOR EXECUTIVES

DATE: TUESDAY, JANUARY 24, 2017 7:00 AM EST

TODAY'S TABLE OF CONTENTS

ADMINISTRATOR

- Former Gov. Schwarzenegger "Rips" Into Pruitt On Twitter Over Auto Emissions. (HUFFPOST, LAT)
- WSJ: Pruitt's First Action Should Be To Pebble Mine Veto. (WSJ)
- Sierra Club Digital Ad Targets Pruitt. (GWIRE)
- Additional Reading.
  - EPA Valero Energy Was Dismissed From Pruitt's Double-Dipping Case. (EEPUB)

AIR

- Local TV Coverage: Dry Cleaner Chemical Contamination. (WTENTV, WXXATV)
- Additional Reading.
  - EPA Addresses Air Quality Concerns In Ballston Spa. (WRGBTV)
  - 2 Louisville-Area Power Plants Cut Toxic Air Pollution. (AP)

BROWNFIELDS/SUPERFUND/OTHER CLEANUPS

- Bird Deaths At Superfund Toxic Pit Spark Concerns About Future Consequences. (AP)
- Local TV Coverage: Uranium Mine Cleaning. (KOATTV)

BUDGET

- Trump Transition Team Plans Major Budget Cuts For EPA. (HILL, WASHEX, NYINTEL)
  - EPA Transition Team Confirms Freeze On Grant Program. (HILL, WP)
  - New Members Of Trump EPA Drawn Heavily From Energy Industry Lobby. (REU, EEPUB)

CLIMATE CHANGE

- CDC Cancels Climate Change Conference To Avoid Conflict With Incoming Administration. (AP)

ENFORCEMENT

- US Judge Approves VW Emissions Scandal Settlement. (REU)
- Local TV Coverage: Refinery Fined In Washington State. (KATUTV)

INTERNATIONAL

- Additional Reading.
  - Paris Rolls Out Color-code Stickers For Cars To Curb Pollution. (REU)

OTHER NEWS

- Lehr Says Time Has Come To End EPA. (BREITBART)
- Senate Committee Postpones Votes On Perry, Zinke. (HILL, REU, NBCNEWS, WASHEX)
  - Watchdog Group Director Says Perry Avoided "Oops" Moment During Hearing. (EECLMTWR, BLOOMBNA)
  - SAEN: Perry Did "Reasonably Well" At Confirmation Hearing. (SAEXPNWS)
  - Smitherman Resigns Partnership From Vinson & Elkins Law Firm. (FUELFIX)
  - Chapin Criticizes Trump For "Going After" Intellectual "Elites." (USNEWS)
- Additional Reading.
  - Obama's EPA Chief Keeps Twitter Handle. (WASHEX)
  - SOURCE: Career EPA Staffers Will Undermine Trump, Leak To The Press. (CALLER)

PESTICIDES

- Additional Reading.
  - DDT In Spotlight As Trump Team Takes EPA Helm. (GWIRE)

RULES/REGULATIONS/POLICY

- Energy Institute's Guith Quoted On Potential Rollback Of Methane Regulations. (WASHEX)

ADMINISTRATOR

Former Gov. Schwarzenegger "Rips" Into Pruitt On Twitter Over Auto Emissions.

The Huffington Post (1/23) reports that former California Gov. Arnold Schwarzenegger "ripped" into President Trump's pick to lead the EPA, Scott Pruitt, in a series of tweets on Monday. "My Republican colleague here is all about states' rights – except the right to clean air & save lives from pollution," tweeted Schwarzenegger, after Pruitt suggested that California may no longer be allowed to set its own stricter emission rules for cars and trucks under his agency. The Los Angeles Times (1/23, Halper) reports Schwarzenegger's comments "echo the allegation of Democrats that

Pruitt favors expanding the rights of states to forge their own path on environmental regulation – but only when states want less of it."

WSJ: Pruitt's First Action Should Be To Pebble Mine Veto.

An editorial in the Wall Street Journal (1/23) calls on EPA Administrator-designate Scott Pruitt to revoke the Pebble Mine veto as one of his first actions in his new office. The Journal claims that the veto was justified by phony science, and is a violation of state's rights. Revoking the veto would signal to developers that the Trump administration will ensure a fair review of new projects, and according to the Journal, that may be the key to unlocking billions in new investments and creating thousands of new jobs.

Sierra Club Digital Ad Targets Pruitt.

Greenwire (1/24, Bowlin) reports on a new digital ad from the Sierra Club accusing Scott Pruitt of "failing to protect Oklahomans from coal ash."

Additional Reading.

- ***EPA Valero Energy Was Dismissed From Pruitt's Double-Dipping Case.*** E&E Publishing. (1/23) (1/23)

AIR

Local TV Coverage: Dry Cleaner Chemical Contamination.

WTEN-TV Albany, NY (1/23, 6:08 p.m. EST) reported, "Tonight, EPA officials will meet with concerned people in Ballston Spa and answer their questions about potential air contamination in their neighborhood. ...This past August, different kinds of chemicals were found in the area of Rickett's Dry Cleaning. And tonight, the EPA will be answering people's concerns as to how bad these chemicals are. The EPA says they need to test for vapor intrusion in about 50 nearby homes and businesses. The concern now is that the chemicals got into the ground water. Homes in the area get their water from the village, and not from wells, but we're told chemical vapors could be seeping into foundations. We do know members with the EPA will be back out here next month to test individual homes and businesses. The meeting is expected to start in about an hour here at Elks Lodge."

WXXA-TV Albany, NY (1/23, 10:06 p.m. EST) featured EPA official Don Graham, who reported, "It's hard to draw a cause and effect if somebody suffering any kind of ill effects whether or not this was the problem. And like I mentioned earlier, a lot of these compounds are typically in people's homes anyway based on what they may be bringing into homes themselves. The EPA is expected to sample the 60 homes the 13 and 20 of next month. The results will not be available until about a month later."

Additional Reading.

- ***EPA Addresses Air Quality Concerns In Ballston Spa.*** WRGB-TV. Albany, NY (1/23).
- ***2 Louisville-Area Power Plants Cut Toxic Air Pollution.*** AP. (1/23)

BROWNFIELDS/SUPERFUND/OTHER CLEANUPS

Bird Deaths At Superfund Toxic Pit Spark Concerns About Future Consequences.

The AP (1/23) reports on the nearly 3,000 snow geese that landed in "a 50 billion-gallon toxic stew in a former copper mine that is part of the nation's largest Superfund site" outside of Butte, Montana. According to nearby residents, the snow geese deaths "were a wake-up call that raises broader questions about the site." In 2023, the water level at the pit is expected to hit the critical level of 5,410 feet, above which point "water from the pit and flooded mines under the city could escape into Silver Bow Creek." Another fifty feet higher, "the pit and mine water would enter the city's groundwater." The EPA negotiated a solution with the owners of the mine and nearby mines that "relies on a water treatment plant built near the pit in 2000," however, "community activists worry the treatment-plant option is being favored because it's the cheapest technology, not the best."

Local TV Coverage: Uranium Mine Cleaning.

KOAT-TV Albuquerque, NM (1/23, 8:07 p.m. EST) reported, "The Environmental Protection Agency is working to clean up 94 abandoned uranium mines around the country, including dozens on the Navajo Nation. According to the Daily Times, the US, Navajo Nation and a mining company reached a 600 million dollar settlement last week to clean up the mines. Navajo Nation President Russell Begaye says he appreciates the effort to clean up uranium contamination that's affected the tribe for decades. No word when the work will begin."

BUDGET

Trump Transition Team Plans Major Budget Cuts For EPA.

The Hill (1/23, Cama) reports that Trump administration's EPA transition team "is planning major budget cuts, as well as regulatory and scientific overhauls at the agency." Head of the transition team Myron Ebell reportedly authored the "Action Plan," which "identifies more than $800 million in planned budget cuts, including to state and tribal assistance grants, climate programs and environmental programs and management." In addition, the document "says the EPA should not fund scientific research, should make all science used for regulatory decisions public and should overhaul its scientific advisory board." Many of the actionable plans on the plan would require approval from Congress, which is notable because some of the EPA's programs, like state and tribal assistance grants, "enjoy strong bipartisan support."

The Washington Examiner (1/23) reports that the plan highlighted a number of programs that would be stopped, such as greenhouse gas regulations for coal and natural gas power plants, vehicle fuel efficiency standards, and the Waters of the U.S. Rule. In addition, the document recommended issuing "an executive order barring EPA from overruling federal/state

regulatory/permit decisions unless in clear violation of established law." The Daily Intelligencer (NY) (1/23, Kilgore) provides additional coverage.

EPA Transition Team Confirms Freeze On Grant Program. The Hill (1/23, Master) reports that on Monday night, head of the EPA transition team Myron Ebell confirmed that the agency has frozen its grant program, which provide funding for "among other things – cleanup of toxic sites, air quality monitoring, water quality testing." According to a Huffington Post report, EPA staff have been told not to discuss the order. Ebell explained, "This may be a little wider than some previous administrations, but it's very similar to what others have done." The Washington Post (1/23, Dennis, Eilperin) says the move could impact "everything from state-led climate research to localized efforts to improve air and water quality to environmental justice projects aimed at helping poor communities."

New Members Of Trump EPA Drawn Heavily From Energy Industry Lobby. Reuters (1/23, Volcovici, Gardner) reports that the Trump administration recently named 10 new members to its EPA team, many of whom come from "the energy industry lobby and pro-drilling think tanks." The team's make-up "has reinforced expectations that Trump will follow through on his promise to slash U.S. environmental regulation as a way to promote drilling and mining." E&E Publishing (1/23) reports in more detail on some of the members of Trump's EPA "beachhead team."

CLIMATE CHANGE

CDC Cancels Climate Change Conference To Avoid Conflict With Incoming Administration.

The AP (1/23, Stobbe) reports that the Center for Disease Control has canceled a conference planned for next month on climate change and health, "but isn't saying why publicly." A co-sponsor claims that the CDC "was worried how the conference would be viewed by the Trump administration." He clarified that the Trump administration "did not ask or order that the meeting be canceled," instead, the decision to cancel was a "strategic retreat," according to Dr. Georges Benjamin, executive director of the American Public Health Association.

ENFORCEMENT

US Judge Approves VW Emissions Scandal Settlement.

Reuters (1/23) reports US District Judge Charles Breyer has given "final approval to Volkswagen AG's (VOWG_p. DE) settlement worth up to $1.21 billion with 652 U.S. dealers over its diesel emissions scandal." Under the settlement, VW dealers will each receive an average of $1.85 million over 18 months. Additionally, VW pledged to continue "making volume-based incentive payments to dealers, and will allow them to defer capital improvements for two years."

Local TV Coverage: Refinery Fined In Washington State.

KATU-TV Portland, OR (1/23, 9:37 p.m. EST) reported, "The Tesoro Refinery in Washington has been hit with a fine for violating the Clean Air Act. It's a Texas-based company with a poor environmental and safety record. This is video from a 2010 explosion at the Mount Redoubt Vernon, Washington, plants. The EPA says the facility failed two inspections in 2011 that

could have led to dangerous chemical leaks. While Tesoro is disputing the findings, the company has agreed to pay a $325,000 fine."

INTERNATIONAL

Additional Reading.

- ***Paris Rolls Out Color-code Stickers For Cars To Curb Pollution.*** Reuters. (1/23, Libert)

OTHER NEWS

Lehr Says Time Has Come To End EPA.

In a commentary for Breitbart (1/23), Jay H. Lehr, Ph.D., science director of The Heartland Institute, writes that during the "Republican National Convention last summer, the GOP approved a platform that stated: 'We propose to shift responsibility for environmental regulation from the federal bureaucracy to the states and to transform the EPA [Environmental Protection Agency] into an independent bipartisan commission, similar to the Nuclear Regulatory Commission, with structural safeguards against politicized science.'" The platform also says "We will likewise forbid the EPA to regulate carbon dioxide, something never envisioned when Congress passed the Clean Air Act." Lehr added, "Trump and the GOP are saying, finally, what millions of people have been thinking for a long time: EPA has become the cause of, not the solution to, the nation's major environmental problems. It's time to end EPA."

Senate Committee Postpones Votes On Perry, Zinke.

The Hill (1/23, Henry) reports Senate Energy and Natural Resources Committee has postponed a vote, which was scheduled for Tuesday morning, on two of President Trump's cabinet nominees, former Texas governor Rick Perry to head the Energy Department and Rep. Ryan Zinkie to be the next Interior Secretary. On Monday evening, the committee said that the hearing will be delayed "until further notice." Perry and Zinke "have not been considered especially controversial nominees." Reuters (1/23) reports "the panel gave no reason for the delay." NBC News (1/24) also provides coverage of the postponement on its website.

The Washington Examiner (1/23) reports both "nominees are less controversial than Trump's pick to lead the Environmental Protection Agency, Oklahoma Attorney General Scott Pruitt, who is being considered by the Environment and Public Works Committee." The three men "are the key Cabinet officials who would drive Trump's energy and environment agenda." A separate article by The Hill (1/23, Cama, Henry) reports that if the nominations are approved by the committee, "they'll move to the floor for a final confirmation vote."

Watchdog Group Director Says Perry Avoided "Oops" Moment During Hearing. ClimateWire (1/23) reports Perry's performance during the hearing "has earned him praise for style and criticism on substance" and that he "avoided saying anything controversial in his bid to lead" DOE. Director of Texans for Public Justice Craig McDonald said, "I thought he didn't have any 'oops' moments at all." McDonald added, "I thought he was pretty cautious. ... I think his positions are more extreme than he characterized them [Thursday]. What it's going to be going forward, I don't know. What we do know about him is he's a good politician."

In an article about the new Senate cybersecurity panel, Bloomberg BNA (1/23, Stoller) reports many Cabinet nominees "have been tackling cybersecurity questions in their confirmation hearings." Perry "said at his hearing for Energy secretary Jan. 19 that he will take responsibility for the Energy Department's cybersecurity concerns."

SAEN: Perry Did "Reasonably Well" At Confirmation Hearing. In an editorial the San Antonio Express-News (1/23) writes that during his confirmation hearing the former Texas governor "performed reasonably well." The piece goes on to say that it was important that Perry "disavowed a controversial questionnaire President Donald J. Trump's transition team had given to the Energy Department" and he highlighted that "the questionnaire preceded his selection to the post." He stated, "I didn't approve it. I don't approve of it. I don't need that information. I don't want that information. ... I have a history of working with people to deal with the challenges that face us." The Express News concludes, "It's the last point that could be Perry's greatest strength overseeing what he now understands is a vital and significant agency."

Smitherman Resigns Partnership From Vinson & Elkins Law Firm. Fuel Fix (TX) (1/23) reports Barry Smitherman, former chairman of the Railroad Commission of Texas and the Public Utility Commission of Texas, has "resigned his partnership at Vinson & Elkins on Friday." Smitherman left the firm to "pursue other career opportunities and interests," the firm said in a statement. Last month, "Smitherman wrote an opinion piece in the Dallas Morning News about why former Texas Governor Rick Perry is a great pick to be the next U.S. secretary of energy." Smitherman "pointed to Perry's work in creating a competitive electricity market for consumers, spurred the development of wind power and supported the domestic oil and gas industry with extra resources, especially as fracking greatly enhanced production."

Chapin Criticizes Trump For "Going After" Intellectual "Elites." In a piece highly critical of Trump for "going after" on intellectual "elites" and his Cabinet choices, Laura Chapin, a Democratic communications strategist, writes for U.S. News & World Report (1/23, Chapin) that "in his elevation of ignorance and dismissal of 'elites,' Trump is nominating cronies, contributors and fools to some of the most important jobs in Washington." Among the Energy Department's "priorities" are "ensuring the integrity and safety of the country's nuclear weapons." President Obama's most recent energy secretary, Ernest Moniz, "is a nuclear physicist." Stephen Chu, who came before Moniz, "won the Nobel Prize." Perry, Trump's nominee for the post, received "a D in meat science at Texas A&M and blanked on the name of the agency itself at a Republican debate." Chapin contends "these people have no idea what they're doing or have the slightest competence at running a federal agency" but they are "loyal" to Trump and "that's all that matters."

Additional Reading.

- ***Obama's EPA Chief Keeps Twitter Handle.*** Washington Examiner. (1/24, Emery)
- ***SOURCE: Career EPA Staffers Will Undermine Trump, Leak To The Press.*** Daily Caller. (1/23, Bastasch)

PESTICIDES

Additional Reading.

- ***DDT In Spotlight As Trump Team Takes EPA Helm.*** Greenwire (1/23)

RULES/REGULATIONS/POLICY

Energy Institute's Guith Quoted On Potential Rollback Of Methane Regulations.

The Washington Examiner (1/23) reports that Congress "needs to move quickly" if it intends to use the Congressional Review Act to halt new methane emission and coal mining rules "before the 60-day deadline for doing so is up." The article says that Republicans already missed an opportunity "to strike down one layer of methane rules" that were issued by the Environmental Protection Agency regarding leaks from oil wells and pipelines because they "only just realized that the 60-

day window had passed." However, Institute for 21st Century Energy vice president Christopher Guith explained that it is "not too late" to dismiss the Bureau of Land Management's "methane venting and flaring rule, which will likely get CRA'd."

Copyright 2017 by Bulletin Intelligence LLC Reproduction or redistribution without permission prohibited. Content is drawn from thousands of newspapers, national magazines, national and local television programs, radio broadcasts, social-media platforms and additional forms of open-source data. Sources for Bulletin Intelligence audience-size estimates include Scarborough, GfK MRI, comScore, Nielsen, and the Audit Bureau of Circulation. Services that include Twitter data are governed by Twitters' terms of use. Services that include Factiva content are governed by Factiva's terms of use. The EPA Daily News Briefing is published five days a week by Bulletin Intelligence, which creates custom briefings for government and corporate leaders. We can be found on the Web at BulletinIntelligence.com, or called at (703) 483-6100.

EPA Daily News Briefing

Bulletin INTELLIGENCE

Online version available at epa.bulletinintelligence.com

TO: **ADMINISTRATOR AND SENIOR EXECUTIVES**

DATE: **TUESDAY, JANUARY 24, 2017 7:00 AM EST**

TODAY'S EDITION

Administrator

Former Gov. Schwarzenegger "Rips" Into Pruitt On Twitter Over Auto Emissions. (HUFFPOST, LAT) ... 1

WSJ: Pruitt's First Action Should Be To Pebble Mine Veto. (WSJ) ... 2

Sierra Club Digital Ad Targets Pruitt. (GWIRE) ... 2

Additional Reading ... 2

EPA Valero Energy Was Dismissed From Pruitt's Double-Dipping Case. (EEPUB) ... 2

Air

Local TV Coverage: Dry Cleaner Chemical Contamination. (WTENTV, WXXATV) ... 2

Additional Reading ... 2

EPA Addresses Air Quality Concerns In Ballston Spa. (WRGBTV) ... 2

2 Louisville-Area Power Plants Cut Toxic Air Pollution. (AP) ... 2

Brownfields/Superfund/Other Cleanups

Bird Deaths At Superfund Toxic Pit Spark Concerns About Future Consequences. (AP) ... 2

Local TV Coverage: Uranium Mine Cleaning. (KOATTV) ... 2

Budget

Trump Transition Team Plans Major Budget Cuts For EPA. (HILL, WASHEX, NYINTEL) ... 2

EPA Transition Team Confirms Freeze On Grant Program. (HILL, WP) ... 3

New Members Of Trump EPA Drawn Heavily From Energy Industry Lobby. (REU, EEPUB) ... 3

Climate Change

CDC Cancels Climate Change Conference To Avoid Conflict With Incoming Administration. (AP) ... 3

Enforcement

US Judge Approves VW Emissions Scandal Settlement. (REU) ... 3

Local TV Coverage: Refinery Fined In Washington State. (KATUTV) ... 3

International

Additional Reading ... 3

Paris Rolls Out Color-code Stickers For Cars To Curb Pollution. (REU) ... 3

Other News

Lehr Says Time Has Come To End EPA. (BREITBART) ... 3

Senate Committee Postpones Votes On Perry, Zinke. (HILL, REU, NBCNEWS, WASHEX) ... 3

Watchdog Group Director Says Perry Avoided "Oops" Moment During Hearing. (EECLMTWR, BLOOMBNA) ... 4

SAEN: Perry Did "Reasonably Well" At Confirmation Hearing. (SAEXPNWS) ... 4

Smitherman Resigns Partnership From Vinson & Elkins Law Firm. (FUELFIX) ... 4

Chapin Criticizes Trump For "Going After" Intellectual "Elites." (USNEWS) ... 4

Additional Reading ... 4

Obama's EPA Chief Keeps Twitter Handle. (WASHEX) ... 4

SOURCE: Career EPA Staffers Will Undermine Trump, Leak To The Press. (CALLER) ... 4

Pesticides

Additional Reading ... 4

DDT In Spotlight As Trump Team Takes EPA Helm. (GWIRE) ... 4

Rules/Regulations/Policy

Energy Institute's Guith Quoted On Potential Rollback Of Methane Regulations. (WASHEX) ... 4

ADMINISTRATOR:

Former Gov. Schwarzenegger "Rips" Into Pruitt On Twitter Over Auto Emissions. The Huffington Post (1/23) reports that former California Gov. Arnold Schwarzenegger "ripped" into President Trump's pick to lead the EPA, Scott Pruitt, in a series of tweets on Monday. "My Republican colleague here is all about states' rights – except the right to clean air & save lives from pollution," tweeted Schwarzenegger, after Pruitt suggested that California may no longer be allowed to set its own stricter emission rules for cars and trucks under his agency. The Los Angeles Times (1/23, Halper) reports Schwarzenegger's comments "echo the allegation of Democrats that Pruitt

favors expanding the rights of states to forge their own path on environmental regulation – but only when states want less of it."

WSJ: Pruitt's First Action Should Be To Pebble Mine Veto. An editorial in the Wall Street Journal (1/23) calls on EPA Administrator-designate Scott Pruitt to revoke the Pebble Mine veto as one of his first actions in his new office. The Journal claims that the veto was justified by phony science, and is a violation of state's rights. Revoking the veto would signal to developers that the Trump administration will ensure a fair review of new projects, and according to the Journal, that may be the key to unlocking billions in new investments and creating thousands of new jobs.

Sierra Club Digital Ad Targets Pruitt. Greenwire (1/24, Bowlin) reports on a new digital ad from the Sierra Club accusing Scott Pruitt of "failing to protect Oklahomans from coal ash."

Additional Reading.

- ***EPA Valero Energy Was Dismissed From Pruitt's Double-Dipping Case.*** E&E Publishing. (1/23) (1/23)

AIR:

Local TV Coverage: Dry Cleaner Chemical Contamination. WTEN-TV Albany, NY (1/23, 6:08 p.m. EST) reported, "Tonight, EPA officials will meet with concerned people in Ballston Spa and answer their questions about potential air contamination in their neighborhood. ...This past August, different kinds of chemicals were found in the area of Rickett's Dry Cleaning. And tonight, the EPA will be answering people's concerns as to how bad these chemicals are. The EPA says they need to test for vapor intrusion in about 50 nearby homes and businesses. The concern now is that the chemicals got into the ground water. Homes in the area get their water from the village, and not from wells, but we're told chemical vapors could be seeping into foundations. We do know members with the EPA will be back out here next month to test individual homes and businesses. The meeting is expected to start in about an hour here at Elks Lodge."

WXXA-TV Albany, NY (1/23, 10:06 p.m. EST) featured EPA official Don Graham, who reported, "It's hard to draw a cause and effect if somebody suffering any kind of ill effects whether or not this was the problem. And like I mentioned earlier, a lot of these compounds are typically in people's homes anyway based on what they may be bringing into homes themselves. The EPA is expected to sample the 60 homes the 13 and 20 of next month. The results will not be available until about a month later."

Additional Reading.

- ***EPA Addresses Air Quality Concerns In Ballston Spa.*** WRGB-TV. Albany, NY (1/23).
- ***2 Louisville-Area Power Plants Cut Toxic Air Pollution.*** AP. (1/23)

BROWNFIELDS/SUPERFUND/OTHER CLEANUPS:

Bird Deaths At Superfund Toxic Pit Spark Concerns About Future Consequences. The AP (1/23) reports on the nearly 3,000 snow geese that landed in "a 50 billion-gallon toxic stew in a former copper mine that is part of the nation's largest Superfund site" outside of Butte, Montana. According to nearby residents, the snow geese deaths "were a wake-up call that raises broader questions about the site." In 2023, the water level at the pit is expected to hit the critical level of 5,410 feet, above which point "water from the pit and flooded mines under the city could escape into Silver Bow Creek." Another fifty feet higher, "the pit and mine water would enter the city's groundwater." The EPA negotiated a solution with the owners of the mine and nearby mines that "relies on a water treatment plant built near the pit in 2000," however, "community activists worry the treatment-plant option is being favored because it's the cheapest technology, not the best."

Local TV Coverage: Uranium Mine Cleaning. KOAT-TV Albuquerque, NM (1/23, 8:07 p.m. EST) reported, "The Environmental Protection Agency is working to clean up 94 abandoned uranium mines around the country, including dozens on the Navajo Nation. According to the Daily Times, the US, Navajo Nation and a mining company reached a 600 million dollar settlement last week to clean up the mines. Navajo Nation President Russell Begaye says he appreciates the effort to clean up uranium contamination that's affected the tribe for decades. No word when the work will begin."

BUDGET:

Trump Transition Team Plans Major Budget Cuts For EPA. The Hill (1/23, Cama) reports that Trump administration's EPA transition team "is planning major budget cuts, as well as regulatory and scientific overhauls at the agency." Head of the transition team Myron Ebell reportedly authored the "Action Plan," which "identifies more than $800 million in planned budget cuts, including to state and tribal assistance grants, climate programs and environmental programs and management." In addition, the document "says the EPA should not fund scientific research, should make all science used for regulatory decisions public and should overhaul its scientific advisory board." Many of the

ED_002401_00002296-00002

actionable plans on the plan would require approval from Congress, which is notable because some of the EPA's programs, like state and tribal assistance grants, "enjoy strong bipartisan support."

The Washington Examiner (1/23) reports that the plan highlighted a number of programs that would be stopped, such as greenhouse gas regulations for coal and natural gas power plants, vehicle fuel efficiency standards, and the Waters of the U.S. Rule. In addition, the document recommended issuing "an executive order barring EPA from overruling federal/state regulatory/permit decisions unless in clear violation of established law." The Daily Intelligencer (NY) (1/23, Kilgore) provides additional coverage.

EPA Transition Team Confirms Freeze On Grant Program. The Hill (1/23, Master) reports that on Monday night, head of the EPA transition team Myron Ebell confirmed that the agency has frozen its grant program, which provide funding for "among other things – cleanup of toxic sites, air quality monitoring, water quality testing." According to a Huffington Post report, EPA staff have been told not to discuss the order. Ebell explained, "This may be a little wider than some previous administrations, but it's very similar to what others have done." The Washington Post (1/23, Dennis, Eilperin) says the move could impact "everything from state-led climate research to localized efforts to improve air and water quality to environmental justice projects aimed at helping poor communities."

New Members Of Trump EPA Drawn Heavily From Energy Industry Lobby. Reuters (1/23, Volcovici, Gardner) reports that the Trump administration recently named 10 new members to its EPA team, many of whom come from "the energy industry lobby and pro-drilling think tanks." The team's make-up "has reinforced expectations that Trump will follow through on his promise to slash U.S. environmental regulation as a way to promote drilling and mining." E&E Publishing (1/23) reports in more detail on some of the members of Trump's EPA "beachhead team."

CLIMATE CHANGE:

CDC Cancels Climate Change Conference To Avoid Conflict With Incoming Administration. The AP (1/23, Stobbe) reports that the Center for Disease Control has canceled a conference planned for next month on climate change and health, "but isn't saying why publicly." A co-sponsor claims that the CDC "was worried how the conference would be viewed by the Trump administration." He clarified that the Trump administration "did not ask or order that the meeting be canceled," instead, the decision to cancel was a "strategic retreat," according to Dr. Georges Benjamin, executive director of the American Public Health Association.

ENFORCEMENT:

US Judge Approves VW Emissions Scandal Settlement. Reuters (1/23) reports US District Judge Charles Breyer has given "final approval to Volkswagen AG's (VOWG_p. DE) settlement worth up to $1.21 billion with 652 U.S. dealers over its diesel emissions scandal." Under the settlement, VW dealers will each receive an average of $1.85 million over 18 months. Additionally, VW pledged to continue "making volume-based incentive payments to dealers, and will allow them to defer capital improvements for two years."

Local TV Coverage: Refinery Fined In Washington State. KATU-TV Portland, OR (1/23, 9:37 p.m. EST) reported, "The Tesoro Refinery in Washington has been hit with a fine for violating the Clean Air Act. It's a Texas-based company with a poor environmental and safety record. This is video from a 2010 explosion at the Mount Redoubt Vernon, Washington, plants. The EPA says the facility failed two inspections in 2011 that could have led to dangerous chemical leaks. While Tesoro is disputing the findings, the company has agreed to pay a $325,000 fine."

INTERNATIONAL:

Additional Reading.

- ***Paris Rolls Out Color-code Stickers For Cars To Curb Pollution.*** Reuters. (1/23, Libert)

OTHER NEWS:

Lehr Says Time Has Come To End EPA. In a commentary for Breitbart (1/23), Jay H. Lehr, Ph.D., science director of The Heartland Institute, writes that during the "Republican National Convention last summer, the GOP approved a platform that stated: 'We propose to shift responsibility for environmental regulation from the federal bureaucracy to the states and to transform the EPA [Environmental Protection Agency] into an independent bipartisan commission, similar to the Nuclear Regulatory Commission, with structural safeguards against politicized science.'" The platform also says "We will likewise forbid the EPA to regulate carbon dioxide, something never envisioned when Congress passed the Clean Air Act." Lehr added, "Trump and the GOP are saying, finally, what millions of people have been thinking for a long time: EPA has become the cause of, not the solution to, the nation's major environmental problems. It's time to end EPA."

Senate Committee Postpones Votes On Perry, Zinke. The Hill (1/23, Henry) reports Senate Energy and Natural Resources Committee has postponed a vote, which

ED_002401_00002296-00003

was scheduled for Tuesday morning, on two of President Trump's cabinet nominees, former Texas governor Rick Perry to head the Energy Department and Rep. Ryan Zinkie to be the next Interior Secretary. On Monday evening, the committee said that the hearing will be delayed "until further notice." Perry and Zinke "have not been considered especially controversial nominees." Reuters (1/23) reports "the panel gave no reason for the delay." NBC News (1/24) also provides coverage of the postponement on its website.

The Washington Examiner (1/23) reports both "nominees are less controversial than Trump's pick to lead the Environmental Protection Agency, Oklahoma Attorney General Scott Pruitt, who is being considered by the Environment and Public Works Committee." The three men "are the key Cabinet officials who would drive Trump's energy and environment agenda." A separate article by The Hill (1/23, Cama, Henry) reports that if the nominations are approved by the committee, "they'll move to the floor for a final confirmation vote."

Watchdog Group Director Says Perry Avoided "Oops" Moment During Hearing. ClimateWire (1/23) reports Perry's performance during the hearing "has earned him praise for style and criticism on substance" and that he "avoided saying anything controversial in his bid to lead" DOE. Director of Texans for Public Justice Craig McDonald said, "I thought he didn't have any 'oops' moments at all." McDonald added, "I thought he was pretty cautious. ... I think his positions are more extreme than he characterized them [Thursday]. What it's going to be going forward, I don't know. What we do know about him is he's a good politician."

In an article about the new Senate cybersecurity panel, Bloomberg BNA (1/23, Stoller) reports many Cabinet nominees "have been tackling cybersecurity questions in their confirmation hearings." Perry "said at his hearing for Energy secretary Jan. 19 that he will take responsibility for the Energy Department's cybersecurity concerns."

SAEN: Perry Did "Reasonably Well" At Confirmation Hearing. In an editorial the San Antonio Express-News (1/23) writes that during his confirmation hearing the former Texas governor "performed reasonably well." The piece goes on to say that it was important that Perry "disavowed a controversial questionnaire President Donald J. Trump's transition team had given to the Energy Department" and he highlighted that "the questionnaire preceded his selection to the post." He stated, "I didn't approve it. I don't approve of it. I don't need that information. I don't want that information. ... I have a history of working with people to deal with the challenges that face us." The Express News concludes, "It's the last point that could be Perry's greatest strength overseeing what he now understands is a vital and significant agency."

Smitherman Resigns Partnership From Vinson & Elkins Law Firm. Fuel Fix (TX) (1/23) reports Barry Smitherman, former chairman of the Railroad Commission of Texas and the Public Utility Commission of Texas, has "resigned his partnership at Vinson & Elkins on Friday." Smitherman left the firm to "pursue other career opportunities and interests," the firm said in a statement. Last month, "Smitherman wrote an opinion piece in the Dallas Morning News about why former Texas Governor Rick Perry is a great pick to be the next U.S. secretary of energy." Smitherman "pointed to Perry's work in creating a competitive electricity market for consumers, spurred the development of wind power and supported the domestic oil and gas industry with extra resources, especially as fracking greatly enhanced production."

Chapin Criticizes Trump For "Going After" Intellectual "Elites." In a piece highly critical of Trump for "going after" on intellectual "elites" and his Cabinet choices, Laura Chapin, a Democratic communications strategist, writes for U.S. News & World Report (1/23, Chapin) that "in his elevation of ignorance and dismissal of 'elites,' Trump is nominating cronies, contributors and fools to some of the most important jobs in Washington." Among the Energy Department's "priorities" are "ensuring the integrity and safety of the country's nuclear weapons." President Obama's most recent energy secretary, Ernest Moniz, "is a nuclear physicist." Stephen Chu, who came before Moniz, "won the Nobel Prize." Perry, Trump's nominee for the post, received "a D in meat science at Texas A&M and blanked on the name of the agency itself at a Republican debate." Chapin contends "these people have no idea what they're doing or have the slightest competence at running a federal agency" but they are "loyal" to Trump and "that's all that matters."

Additional Reading.

- ***Obama's EPA Chief Keeps Twitter Handle.*** Washington Examiner. (1/24, Emery)
- ***SOURCE: Career EPA Staffers Will Undermine Trump, Leak To The Press.*** Daily Caller. (1/23, Bastasch)

PESTICIDES:

Additional Reading.

- ***DDT In Spotlight As Trump Team Takes EPA Helm.*** Greenwire (1/23)

RULES/REGULATIONS/POLICY:

Energy Institute's Guith Quoted On Potential Rollback Of Methane Regulations. The Washington Examiner (1/23) reports that Congress "needs to move quickly" if it intends to use the Congressional Review Act to halt new methane emission and coal mining rules "before the 60-day deadline for doing so is up." The article says that Republicans already missed an opportunity "to

strike down one layer of methane rules" that were issued by the Environmental Protection Agency regarding leaks from oil wells and pipelines because they "only just realized that the 60-day window had passed." However, Institute for 21st Century Energy vice president Christopher Guith explained that it is "not too late" to dismiss the Bureau of Land Management's "methane venting and flaring rule, which will likely get CRA'd."

Copyright 2017 by Bulletin Intelligence LLC Reproduction or redistribution without permission prohibited. Content is drawn from thousands of newspapers, national magazines, national and local television programs, radio broadcasts, social-media platforms and additional forms of open-source data. Sources for Bulletin Intelligence audience-size estimates include Scarborough, GfK MRI, comScore, Nielsen, and the Audit Bureau of Circulation. Services that include Twitter data are governed by Twitters' terms of use. Services that include Factiva content are governed by Factiva's terms of use. The EPA Daily News Briefing is published five days a week by Bulletin Intelligence, which creates custom briefings for government and corporate leaders. We can be found on the Web at BulletinIntelligence.com, or called at (703) 483-6100.

Message

From: Trudeau, Shaun [Trudeau.Shaun@epa.gov]
Sent: 4/13/2017 8:45:18 PM
To: Schwab, Justin [schwab.justin@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]
Subject: FW: Weekly Report--Two Week Deadlines Doc...
Attachments: Weekly Report 4-13-17.docx

Flag: Flag for follow up

Hi David and Justin,

Attached is the new two-week deadline document. If you could please review the material and let me know Monday morning if there are any topics you would like either a one-page briefing paper or a short briefing on, I would greatly appreciate it.

Have a great night,
Shaun

Shaun R. Trudeau
Attorney-Advisor
Operational Special Assistant to the Principal Deputy
Office of General Counsel
U.S. Environmental Protection Agency
Office: 202.564.5127

Message

From: Bulletin Intelligence [epa@bulletinintelligence.com]
Sent: 1/24/2017 11:57:37 AM
To: epa@BulletinIntelligence.com
Subject: EPA Daily News Briefing for Tuesday, January 24, 2017
Attachments: epaNewsBriefing170124.doc

Mobile version and searchable archives available at epa.bulletinintelligence.com.

EPA Daily News Briefing

Bulletin INTELLIGENCE

TO: ADMINISTRATOR AND SENIOR EXECUTIVES

DATE: TUESDAY, JANUARY 24, 2017 7:00 AM EST

TODAY'S TABLE OF CONTENTS

ADMINISTRATOR
- Former Gov. Schwarzenegger "Rips" Into Pruitt On Twitter Over Auto Emissions. (HUFFPOST, LAT)
- WSJ: Pruitt's First Action Should Be To Pebble Mine Veto. (WSJ)
- Sierra Club Digital Ad Targets Pruitt. (GWIRE)
- Additional Reading.
  - EPA Valero Energy Was Dismissed From Pruitt's Double-Dipping Case. (EEPUB)

AIR
- Local TV Coverage: Dry Cleaner Chemical Contamination. (WTENTV, WXXATV)
- Additional Reading.
  - EPA Addresses Air Quality Concerns In Ballston Spa. (WRGBTV)
  - 2 Louisville-Area Power Plants Cut Toxic Air Pollution. (AP)

BROWNFIELDS/SUPERFUND/OTHER CLEANUPS
- Bird Deaths At Superfund Toxic Pit Spark Concerns About Future Consequences. (AP)
- Local TV Coverage: Uranium Mine Cleaning. (KOATTV)

BUDGET
- Trump Transition Team Plans Major Budget Cuts For EPA. (HILL, WASHEX, NYINTEL)
  - EPA Transition Team Confirms Freeze On Grant Program. (HILL, WP)
  - New Members Of Trump EPA Drawn Heavily From Energy Industry Lobby. (REU, EEPUB)

CLIMATE CHANGE
- CDC Cancels Climate Change Conference To Avoid Conflict With Incoming Administration. (AP)

ENFORCEMENT
- US Judge Approves VW Emissions Scandal Settlement. (REU)
- Local TV Coverage: Refinery Fined In Washington State. (KATUTV)

INTERNATIONAL

• Additional Reading.
  - Paris Rolls Out Color-code Stickers For Cars To Curb Pollution. (REU)

OTHER NEWS

• Lehr Says Time Has Come To End EPA. (BREITBART)
• Senate Committee Postpones Votes On Perry, Zinke. (HILL, REU, NBCNEWS, WASHEX)
  - Watchdog Group Director Says Perry Avoided "Oops" Moment During Hearing. (EECLMTWR, BLOOMBNA)
  - SAEN: Perry Did "Reasonably Well" At Confirmation Hearing. (SAEXPNWS)
  - Smitherman Resigns Partnership From Vinson & Elkins Law Firm. (FUELFIX)
  - Chapin Criticizes Trump For "Going After" Intellectual "Elites." (USNEWS)
• Additional Reading.
  - Obama's EPA Chief Keeps Twitter Handle. (WASHEX)
  - SOURCE: Career EPA Staffers Will Undermine Trump, Leak To The Press. (CALLER)

PESTICIDES

• Additional Reading.
  - DDT In Spotlight As Trump Team Takes EPA Helm. (GWIRE)

RULES/REGULATIONS/POLICY

• Energy Institute's Guith Quoted On Potential Rollback Of Methane Regulations. (WASHEX)

ADMINISTRATOR

Former Gov. Schwarzenegger "Rips" Into Pruitt On Twitter Over Auto Emissions.

The Huffington Post (1/23) reports that former California Gov. Arnold Schwarzenegger "ripped" into President Trump's pick to lead the EPA, Scott Pruitt, in a series of tweets on Monday. "My Republican colleague here is all about states' rights – except the right to clean air & save lives from pollution," tweeted Schwarzenegger, after Pruitt suggested that California may no longer be allowed to set its own stricter emission rules for cars and trucks under his agency. The Los Angeles Times (1/23, Halper) reports Schwarzenegger's comments "echo the allegation of Democrats that Pruitt favors expanding the rights of states to forge their own path on environmental regulation – but only when states want less of it."

WSJ: Pruitt's First Action Should Be To Pebble Mine Veto.

An editorial in the Wall Street Journal (1/23) calls on EPA Administrator-designate Scott Pruitt to revoke the Pebble Mine veto as one of his first actions in his new office. The Journal claims that the veto was justified by phony science, and is a violation of state's rights. Revoking the veto would signal to developers that the Trump administration will ensure a fair review of new projects, and according to the Journal, that may be the key to unlocking billions in new investments and creating thousands of new jobs.

Sierra Club Digital Ad Targets Pruitt.

Greenwire (1/24, Bowlin) reports on a new digital ad from the Sierra Club accusing Scott Pruitt of "failing to protect Oklahomans from coal ash."

Additional Reading.

- ***EPA Valero Energy Was Dismissed From Pruitt's Double-Dipping Case.*** E&E Publishing. (1/23) (1/23)

AIR

Local TV Coverage: Dry Cleaner Chemical Contamination.

WTEN-TV Albany, NY (1/23, 6:08 p.m. EST) reported, "Tonight, EPA officials will meet with concerned people in Ballston Spa and answer their questions about potential air contamination in their neighborhood. ...This past August, different kinds of chemicals were found in the area of Rickett's Dry Cleaning. And tonight, the EPA will be answering people's concerns as to how bad these chemicals are. The EPA says they need to test for vapor intrusion in about 50 nearby homes and businesses. The concern now is that the chemicals got into the ground water. Homes in the area get their water from the village, and not from wells, but we're told chemical vapors could be seeping into foundations. We do know members with the EPA will be back out here next month to test individual homes and businesses. The meeting is expected to start in about an hour here at Elks Lodge."

WXXA-TV Albany, NY (1/23, 10:06 p.m. EST) featured EPA official Don Graham, who reported, "It's hard to draw a cause and effect if somebody suffering any kind of ill effects whether or not this was the problem. And like I mentioned earlier, a lot of these compounds are typically in people's homes anyway based on what they may be bringing into homes themselves. The EPA is expected to sample the 60 homes the 13 and 20 of next month. The results will not be available until about a month later."

Additional Reading.

- ***EPA Addresses Air Quality Concerns In Ballston Spa.*** WRGB-TV. Albany, NY (1/23).
- ***2 Louisville-Area Power Plants Cut Toxic Air Pollution.*** AP. (1/23)

BROWNFIELDS/SUPERFUND/OTHER CLEANUPS

Bird Deaths At Superfund Toxic Pit Spark Concerns About Future Consequences.

The AP (1/23) reports on the nearly 3,000 snow geese that landed in "a 50 billion-gallon toxic stew in a former copper mine that is part of the nation's largest Superfund site" outside of Butte, Montana. According to nearby residents, the snow geese deaths "were a wake-up call that raises broader questions about the site." In 2023, the water level at the pit is expected to hit the critical level of 5,410 feet, above which point "water from the pit and flooded mines under the city could escape into Silver Bow Creek." Another fifty feet higher, "the pit and mine water would enter the city's groundwater." The EPA negotiated a solution with the owners of the mine and nearby mines that "relies on a water treatment plant built near the pit in 2000," however, "community activists worry the treatment-plant option is being favored because it's the cheapest technology, not the best."

Local TV Coverage: Uranium Mine Cleaning.

KOAT-TV Albuquerque, NM (1/23, 8:07 p.m. EST) reported, "The Environmental Protection Agency is working to clean up 94 abandoned uranium mines around the country, including dozens on the Navajo Nation. According to the Daily Times, the US, Navajo Nation and a mining company reached a 600 million dollar settlement last week to clean up the mines. Navajo Nation President Russell Begaye says he appreciates the effort to clean up uranium contamination that's affected the tribe for decades. No word when the work will begin."

BUDGET

Trump Transition Team Plans Major Budget Cuts For EPA.

The Hill (1/23, Cama) reports that Trump administration's EPA transition team "is planning major budget cuts, as well as regulatory and scientific overhauls at the agency." Head of the transition team Myron Ebell reportedly authored the "Action Plan," which "identifies more than $800 million in planned budget cuts, including to state and tribal assistance grants, climate programs and environmental programs and management." In addition, the document "says the EPA should not fund scientific research, should make all science used for regulatory decisions public and should overhaul its scientific advisory board." Many of the actionable plans on the plan would require approval from Congress, which is notable because some of the EPA's programs, like state and tribal assistance grants, "enjoy strong bipartisan support."

The Washington Examiner (1/23) reports that the plan highlighted a number of programs that would be stopped, such as greenhouse gas regulations for coal and natural gas power plants, vehicle fuel efficiency standards, and the Waters of the U.S. Rule. In addition, the document recommended issuing "an executive order barring EPA from overruling federal/state regulatory/permit decisions unless in clear violation of established law." The Daily Intelligencer (NY) (1/23, Kilgore) provides additional coverage.

EPA Transition Team Confirms Freeze On Grant Program. The Hill (1/23, Master) reports that on Monday night, head of the EPA transition team Myron Ebell confirmed that the agency has frozen its grant program, which provide funding for "among other things – cleanup of toxic sites, air quality monitoring, water quality testing." According to a Huffington Post report, EPA staff have been told not to discuss the order. Ebell explained, "This may be a little wider than some previous administrations, but it's very similar to what others have done." The Washington Post (1/23, Dennis, Eilperin) says the move could impact "everything from state-led climate research to localized efforts to improve air and water quality to environmental justice projects aimed at helping poor communities."

New Members Of Trump EPA Drawn Heavily From Energy Industry Lobby. Reuters (1/23, Volcovici, Gardner) reports that the Trump administration recently named 10 new members to its EPA team, many of whom come from "the energy industry lobby and pro-drilling think tanks." The team's make-up "has reinforced expectations that Trump will follow through on his promise to slash U.S. environmental regulation as a way to promote drilling and mining." E&E Publishing (1/23) reports in more detail on some of the members of Trump's EPA "beachhead team."

CLIMATE CHANGE

CDC Cancels Climate Change Conference To Avoid Conflict With Incoming Administration.

The AP (1/23, Stobbe) reports that the Center for Disease Control has canceled a conference planned for next month on climate change and health, "but isn't saying why publicly." A co-sponsor claims that the CDC "was worried how the conference would be viewed by the Trump administration." He clarified that the Trump administration "did not ask or order that the meeting be canceled," instead, the decision to cancel was a "strategic retreat," according to Dr. Georges Benjamin, executive director of the American Public Health Association.

ENFORCEMENT

US Judge Approves VW Emissions Scandal Settlement.

Reuters (1/23) reports US District Judge Charles Breyer has given "final approval to Volkswagen AG's (VOWG_p. DE) settlement worth up to $1.21 billion with 652 U.S. dealers over its diesel emissions scandal." Under the settlement, VW dealers will each receive an average of $1.85 million over 18 months. Additionally, VW pledged to continue "making volume-based incentive payments to dealers, and will allow them to defer capital improvements for two years."

Local TV Coverage: Refinery Fined In Washington State.

KATU-TV Portland, OR (1/23, 9:37 p.m. EST) reported, "The Tesoro Refinery in Washington has been hit with a fine for violating the Clean Air Act. It's a Texas-based company with a poor environmental and safety record. This is video from a 2010 explosion at the Mount Redoubt Vernon, Washington, plants. The EPA says the facility failed two inspections in 2011 that could have led to dangerous chemical leaks. While Tesoro is disputing the findings, the company has agreed to pay a $325,000 fine."

INTERNATIONAL

Additional Reading.

- ***Paris Rolls Out Color-code Stickers For Cars To Curb Pollution.*** Reuters. (1/23, Libert)

OTHER NEWS

Lehr Says Time Has Come To End EPA.

In a commentary for Breitbart (1/23), Jay H. Lehr, Ph.D., science director of The Heartland Institute, writes that during the "Republican National Convention last summer, the GOP approved a platform that stated: 'We propose to shift responsibility for environmental regulation from the federal bureaucracy to the states and to transform the EPA [Environmental Protection Agency] into an independent bipartisan commission, similar to the Nuclear Regulatory Commission, with structural safeguards against politicized science.'" The platform also says "We will likewise forbid the EPA to regulate carbon dioxide, something never envisioned when Congress passed the Clean Air Act." Lehr added, "Trump and the GOP are saying, finally, what millions of people have been thinking for a long time: EPA has become the cause of, not the solution to, the nation's major environmental problems. It's time to end EPA."

Senate Committee Postpones Votes On Perry, Zinke.

The Hill (1/23, Henry) reports Senate Energy and Natural Resources Committee has postponed a vote, which was scheduled for Tuesday morning, on two of President Trump's cabinet nominees, former Texas governor Rick Perry to head the Energy Department and Rep. Ryan Zinkie to be the next Interior Secretary. On Monday evening, the committee said that the hearing will be delayed "until further notice." Perry and Zinke "have not been considered especially controversial nominees." Reuters (1/23) reports "the panel gave no reason for the delay." NBC News (1/24) also provides coverage of the postponement on its website.

The Washington Examiner (1/23) reports both "nominees are less controversial than Trump's pick to lead the Environmental Protection Agency, Oklahoma Attorney General Scott Pruitt, who is being considered by the Environment and Public Works Committee." The three men "are the key Cabinet officials who would drive Trump's energy and environment agenda." A separate article by The Hill (1/23, Cama, Henry) reports that if the nominations are approved by the committee, "they'll move to the floor for a final confirmation vote."

Watchdog Group Director Says Perry Avoided "Oops" Moment During Hearing. ClimateWire (1/23) reports Perry's performance during the hearing "has earned him praise for style and criticism on substance" and that he "avoided saying anything controversial in his bid to lead" DOE. Director of Texans for Public Justice Craig McDonald said, "I thought he didn't have any 'oops' moments at all." McDonald added, "I thought he was pretty cautious. ... I think his positions are more extreme than he characterized them [Thursday]. What it's going to be going forward, I don't know. What we do know about him is he's a good politician."

In an article about the new Senate cybersecurity panel, Bloomberg BNA (1/23, Stoller) reports many Cabinet nominees "have been tackling cybersecurity questions in their confirmation hearings." Perry "said at his hearing for Energy secretary Jan. 19 that he will take responsibility for the Energy Department's cybersecurity concerns."

SAEN: Perry Did "Reasonably Well" At Confirmation Hearing. In an editorial the San Antonio Express-News (1/23) writes that during his confirmation hearing the former Texas governor "performed reasonably well." The piece goes on to say that it was important that Perry "disavowed a controversial questionnaire President Donald J. Trump's transition team had given to the Energy Department" and he highlighted that "the questionnaire preceded his selection to the post." He stated, "I didn't approve it. I don't approve of it. I don't need that information. I don't want that information. ... I have a history of working with people to deal with the challenges that face us." The Express News concludes, "It's the last point that could be Perry's greatest strength overseeing what he now understands is a vital and significant agency."

Smitherman Resigns Partnership From Vinson & Elkins Law Firm. Fuel Fix (TX) (1/23) reports Barry Smitherman, former chairman of the Railroad Commission of Texas and the Public Utility Commission of Texas, has "resigned his partnership at Vinson & Elkins on Friday." Smitherman left the firm to "pursue other career opportunities and interests," the firm said in a statement. Last month, "Smitherman wrote an opinion piece in the Dallas Morning News about why former Texas Governor Rick Perry is a great pick to be the next U.S. secretary of energy." Smitherman "pointed to Perry's work in creating a competitive electricity market for consumers, spurred the development of wind power and supported the domestic oil and gas industry with extra resources, especially as fracking greatly enhanced production."

Chapin Criticizes Trump For "Going After" Intellectual "Elites." In a piece highly critical of Trump for "going after" on intellectual "elites" and his Cabinet choices, Laura Chapin, a Democratic communications strategist, writes for U.S. News & World Report (1/23, Chapin) that "in his elevation of ignorance and dismissal of 'elites,' Trump is nominating cronies, contributors and fools to some of the most important jobs in Washington." Among the Energy Department's "priorities" are "ensuring the integrity and safety of the country's nuclear weapons." President Obama's most recent energy secretary, Ernest Moniz, "is a nuclear physicist." Stephen Chu, who came before Moniz, "won the Nobel Prize." Perry, Trump's nominee for the post, received "a D in meat science at Texas A&M and blanked on the name of the agency itself at a Republican debate." Chapin contends "these people have no idea what they're doing or have the slightest competence at running a federal agency" but they are "loyal" to Trump and "that's all that matters."

Additional Reading.

- ***Obama's EPA Chief Keeps Twitter Handle.*** Washington Examiner. (1/24, Emery)
- ***SOURCE: Career EPA Staffers Will Undermine Trump, Leak To The Press.*** Daily Caller. (1/23, Bastasch)

PESTICIDES

Additional Reading.

- ***DDT In Spotlight As Trump Team Takes EPA Helm.*** Greenwire (1/23)

RULES/REGULATIONS/POLICY

Energy Institute's Guith Quoted On Potential Rollback Of Methane Regulations.

The Washington Examiner (1/23) reports that Congress "needs to move quickly" if it intends to use the Congressional Review Act to halt new methane emission and coal mining rules "before the 60-day deadline for doing so is up." The article says that Republicans already missed an opportunity "to strike down one layer of methane rules" that were issued by the Environmental Protection Agency regarding leaks from oil wells and pipelines because they "only just realized that the 60-day window had passed." However, Institute for 21st Century Energy vice president Christopher Guith explained that it is "not too late" to dismiss the Bureau of Land Management's "methane venting and flaring rule, which will likely get CRA'd."

Copyright 2017 by Bulletin Intelligence LLC Reproduction or redistribution without permission prohibited. Content is drawn from thousands of newspapers, national magazines, national and local television programs, radio broadcasts, social-media platforms and additional forms of open-source data. Sources for Bulletin Intelligence audience-size estimates include Scarborough, GfK MRI, comScore, Nielsen, and the Audit Bureau of Circulation. Services that include Twitter data are governed by Twitters' terms of use. Services that include Factiva content are governed by Factiva's terms of use. The EPA Daily News Briefing is published five days a week by Bulletin Intelligence, which creates custom briefings for government and corporate leaders. We can be found on the Web at BulletinIntelligence.com, or called at (703) 483-6100.

Message

From: Integrity.gov [notifications@integrity.gov]
Sent: 2/6/2017 6:26:34 PM
To: Schwab, Justin [schwab.justin@epa.gov]
Subject: Integrity.gov: Report Returned

Flag: Flag for follow up

Daniel Fort has requested that you amend your 2017 New Entrant Report filed 2/6/2017. Access the report by logging into Integrity at https://integrity.gov.
To view comments/requests for additional information, scroll through your report to find the entries that have a check mark beside them. Click on the "+" button to open the dialogue box below that entry to see the information you need to provide. After you have completed making your changes, be sure to hit the "submit" button at the end of the report! Otherwise, your changes will be not be sent back to us.

If you have any questions concerning filling out the report, send a note to ethics@epa.gov and we will respond as soon as we can. You should hear from us within two business days after you send the email.

For additional guidance about filling out the OGE-278 annual and OGE-278-T periodic financial disclosure form, see: https://www2.oge.gov/Web/278eGuide.nsf

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 2/22/2017 5:16:27 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17 [Actadmmccabe.catherine17@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schnare, David [schnare.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: RE: Administrator Pruitt Clips 2/22/17

Below: Bloomberg, Bloomberg BNA, Washington Post, Wall Street Journal, New York Times, Mother Jones, Bloomberg BNA, Politico Pro, E&E News (3), The Hill, AP (2/21), InsideClimate News (2/21), Mother Jones (2/21), Morning Consult (2/21)

Bloomberg
https://www.bloomberg.com/news/articles/2017-02-22/e-mails-reveal-epa-chief-s-coordination-with-energy-industry?cmpid=socialflow-twitter-business&utm_content=business&utm_campaign=socialflow-organic&utm_source=twitter&utm_medium=social
E-Mails Reveal EPA Chief's Coordination With Energy Industry
By Jeniffer A Dlouhy 2/22/17

Newly installed EPA Administrator Scott Pruitt closely coordinated with major oil and gas companies, refiners and groups linked to the billionaire Koch brothers to combat environmental regulations during his time as Oklahoma attorney general, according to thousands of pages of e-mails released Wednesday.

The documents, released under court order to the Center for Media and Democracy, a nonprofit watchdog, follow a pitched battle over whether Pruitt should lead the Environmental Protection Agency, culminating in a narrow 52-46 vote Friday to confirm him.

The documents show Pruitt collaborated with the top U.S. refining trade group to mount an attack on annual biofuel quotas in 2013. According to an analysis by the center, the American Fuel and Petrochemical Manufacturers group provided Pruitt with drafted sample language for an Oklahoma petition.

An Oklahoma judge ordered the release of the e-mails on Feb. 16 to the Center for Media and Democracy, which had been seeking the documents since January 2015. Pruitt was narrowly confirmed by the Senate on Friday and sworn in to lead the EPA, the same agency he repeatedly sued while Oklahoma attorney general.

In a July 13, 2013 e-mail, AFPM asks Pruitt to file a petition with the EPA challenging biofuel quotas. "We think it would be most effective for Oklahoma to file a separate waiver petition that emphasizes 'severe environmental harm,' as this argument is more credible coming from a state," an AFPM representative told Pruitt.

A total of 7,564 pages were released by the Center on Wednesday.

"Despite repeated attempts by Pruitt and the Oklahoma AG's office to stonewall CMD and the public, we've won a major breakthrough in obtaining access to public records that shine a light on Pruitt's emails with polluters and their proxies," said Nick Surgey, research director for the Center.

The Oklahoma Attorney General's office said it has gone beyond the requirements of the Open Records Act.

"This broad disclosure should provide affirmation that, despite politically motivated allegations, the Office of the Attorney General remains fully committed to the letter and spirit of the Open Records Act," the office said in a statement.

Some of the e-mails illustrate Pruitt's administration's contact with the Oklahoma Council of Public Affairs, a self-described think tank conducting research and analysis of public issues in the state "from a perspective of limited government, individual liberty and a free-market economy."

In 2013, Pruitt's staff solicited then-OCPA President Michael Carnuccio's participation in a "short social media video to highlight his leadership in the Affordable Care Act lawsuit." Carnuccio agreed to make himself available, according to a Dec. 3, 2013 message from one of his staffers.

Bloomberg BNA
https://www.bna.com/pruitt-prioritizes-sluggish-n57982084174/
Pruitt Prioritizes Sluggish Superfund Program
2/22/17

Scott Pruitt has said that, if confirmed by the Senate as administrator of the Environmental Protection Agency, he would take on a superfund program struggling to clean up toxic sites efficiently without enough state or federal funding.

The former head of the EPA office that oversees superfund, Mathy Stanislaus, said superfund appropriations have declined over the past four or five budget cycles, creating a backlog of sites awaiting funding.

The cleanup process has slowed as funding declines.

When all cleanup remedies have been installed on a superfund site, the EPA deems it "construction complete." According to a 2007 investigation by the Center for Public Integrity, the average yearly number of "construction complete" sites at that time was 42.

In fiscal year 2016, there were 11 "construction complete" sites, the agency said.

Pruitt's Priorities

In response to senators' questions about environmental cleanup, Pruitt said multiple times that he would make superfund "a priority" if he becomes EPA administrator.

"If confirmed, I would expect to prioritize the cleanup of contaminated land," he said in written responses to questions from Sen. Cory Booker (D-N.J.), Sen. Kirsten Gillibrand (D-N.Y.) and Sen. Jeff Merkley (D-Ore.).

Booker met with Pruitt before the Oklahoma attorney general's Jan. 18 U.S. Senate Environment and Public Works Committee hearing.

"Mr. Pruitt said he would advocate for funding for superfund cleanups in the administration's large infrastructure package. If Mr. Pruitt is confirmed, Sen. Booker will hold him accountable to this commitment," a spokesperson for Booker's office said in an e-mail.

Booker was concerned about the Passaic River Superfund Site in his home city, Newark, N.J. The EPA announced a plan in 2016 to remove 3.5 million cubic yards of sediment from the river, according to Booker.

The senator asked Pruitt to commit to carrying out the EPA's plan for that site efficiently. Pruitt responded that he wasn't familiar with the site but would seek input from those interested before taking action.

Stronger State Roles

Pruitt indicated at the Senate committee hearing that he would be more deferential to state governments if he becomes head of the EPA. That might be bad news for states facing cleanup challenges at superfund sites, Stanislaus said.

"Superfund takes on the most egregious sites that states need federal assistance on, and the fact is that there's been a decline in state budgets to handle these kind of sites, so you just can't delegate that wholly to states," Stanislaus said.

Neither the states nor the EPA have enough money to assess and clean up sites, so every site is dealt with "sub-optimally," Stanislaus said.

"The ultimate achievement of a cleaned-up site, and the potential economic benefits of a cleaned-up site, are delayed," he said.

While he headed the EPA's Office of Land and Emergency Management from 2009-2017, Stanislaus said states increasingly looked to the EPA for financial help and expertise with National Priorities List sites and immediate risk sites.

"The federal government is a backstop," he said.

Peter deFur, president of the consulting firm Environmental Stewardship Concepts, said states just aren't equipped to take on more superfund responsibilities because many don't have their own superfund laws.

"There are no implementing regulations, no expertise, no people who know the program. The state would have to develop all that and then apply to EPA for delegated status, as in air, water and waste permit programs," he said. "States don't have the system to implement superfund because they don't want it."

Running Dry

DeFur said he has been watching the declining pace of cleanup as funding decreases.

In the late 1990s, funding ran out from a tax on the petroleum and chemical industries. "Orphan" superfund sites, or those where a responsible party hadn't been identified to pay for cleanup, were deeply affected.

"The orphan sites' pace of cleanup just plummeted," deFur said.

Work slows down at sites where cleanups are being conducted by responsible parties because EPA funds and staff time are limited, he said. Less thorough removal options, such as capping buried contamination instead of unearthing it, may be chosen because they are cheaper.

Since the superfund program's operating resources are drawn from congressional appropriations, the operation of the program also changed, he said.

If Pruitt cuts back on EPA staff, leaving an increased workload for remaining employees, deFur said that will be bad news for the program. Myron Ebell, who led Trump's EPA transition team before returning to his job at the Competitive Enterprise Institute, said this week the overall number of EPA employees should be reduced from the current 15,000 to 5,000, though Ebell made clear he wasn't speaking on behalf of the Trump administration.

"It's gonna be a mess," deFur said.

According to a Government Accountability Office report, federal appropriations for superfund have declined from about $2 billion in 1999.

In fiscal year 2016, Congress provided superfund nearly $1.1 billion. The agency is under a continuing resolution in fiscal year 2017.

The EPA said the balance of the hazardous substance superfund trust fund was $188 million as of the end of 2016.

Washington Post
https://www.washingtonpost.com/news/energy-environment/wp/2017/02/22/oklahoma-attorney-generals-office-releases-7500-pages-of-emails-between-scott-pruitt-and-fossil-fuel-industry/?utm_term=.a2eec9c649d6
Oklahoma attorney general's office releases thousands of pages of emails between Scott Pruitt and fossil-fuel industry
By Brady Dennis and Steven Mufson 2/22/17

Oklahoma has turned over thousands of pages of emails between former attorney general Scott Pruitt's office and the energy industry, meeting a deadline set by a judge who ordered the documents' release following more than two years of effort by an advocacy organization.

The Center for Media and Democracy, which went to court to compel the state to release the emails under public records laws, said Wednesday that they offer more details about the close ties that Pruitt, now administrator of the Environmental Protection Agency, has long had with the oil and gas industry. (The emails can be viewed here.)

"The newly released emails reveal a close and friendly relationship between Scott Pruitt's office and the fossil fuel industry, with frequent meetings, calls, dinners and other events," Nick Surgey, the center's research director, said in a statement.

Specifically, the organization noted an effort by one lobbying group to coordinate opposition in 2013 to a federal program requiring that transportation fuel sold in the United States contain a certain amount of renewable fuels. Its rationale was that arguments against the measure would be "more credible coming from a state."

Some of the emails show a close relationship with Devon Energy, a major oil and gas exploration and production company based in Oklahoma City. Much of the correspondence revolves around arranging speaking engagements, obtaining contact information for people at the Office of Management and Budget, and coordinating letter-writing efforts.

At one point, Pruitt's then-chief of staff, Melissa Houston, wrote in a Jan. 9, 2013, email to William Whitsitt, Devon's vice president for public affairs, "You are so amazingly helpful!!! Thank you so much!!!"

In another email chain on March 21, 2013, Whitsitt writes to Pruitt's office offering a draft of a letter that state attorneys general might sign and send to the then-acting EPA administrator regarding limits on methane emissions. Devon, which has substantial shale gas and shale oil drilling operations, would have been affected by the rule.

"Attached is a potential first-cut draft of a letter a (bipartisan if possible?) group of AGs might send to the acting EPA administrator and some others in the Administration in response to the NE states' notice of intent to sue for more E&P emission regulation," Whitsitt wrote. "It would be a shot across the bow, warning EPA not to not go down a negotiated-rulemaking or wink-at-a sue-and-settle tee-up process."

He also offered strategic advice. "If sent, I'd suggest that it be made public, at least to the Hill and to policy community publications," he wrote. "It seems to me this would also be a logical outgrowth of the fossil energy AGs meeting and could be powerful with a number of signers. It is also the kind of thing that in the future could be run through the clearinghouse we discussed. Please let me know what you and General Pruitt think, or if we can help further."

Pruitt's close ties to Devon Energy were first highlighted in 2014 by the New York Times, which reported that a letter ostensibly written by the attorney general alleging that the EPA overestimated air pollution from natural gas drilling was actually written by the company's attorneys. "That's actually called representative government in my view of the world," Pruitt later said of the letter.

The emails' release comes just days after Pruitt was confirmed as the EPA's new leader. Senate Democrats and environmental groups made a last-minute push to delay his confirmation vote last week, contending that lawmakers — and the public — ought to be able to review his correspondence with industry officials before putting him in charge of safeguarding the nation's environment. Republicans forged ahead anyway, and Pruitt was confirmed by a 52-to-46 vote.

In a statement Tuesday, the Oklahoma attorney general's office said it "went above and beyond what is required under the Open Records Act and produced thousands of additional documents that, but for the Court's order, would typically be considered records" outside the scope of the act. "This broad disclosure should provide affirmation that, despite politically motivated allegations, the Office of the Attorney General remains fully committed to the letter and spirit of the Open Records Act," spokesman Lincoln Ferguson said.

The attorney general's office withheld some documents as exempted or privileged and has asked Judge Aletia Haynes Timmons to review whether they should be released, according to the Center for Media and Democracy. Timmons also ordered Pruitt's former office to hand over records related to five outstanding records requests by early next week.

After unsuccessfully seeking the release of Pruitt's correspondence with fossil-fuel representatives under public records laws, the center filed suit over his refusal to turn over the documents and requested the expedited hearing that led to Timmons's order on Thursday. In her ruling, the judge said there had been "an abject failure to provide prompt and reasonable access to documents requested."

Pruitt sued the EPA more than a dozen times during the Obama administration, challenging the agency's authority to regulate toxic mercury pollution, smog, carbon emissions from power plants and the quality of wetlands and other waters. During his tenure in Oklahoma, he dismantled a specialized environmental protection unit that had existed under his Democratic predecessor and established a "federalism unit" to combat what he called "unwarranted regulation and systematic overreach" by Washington.

These moves earned him widespread opposition from environmental activists but praise from fellow Republicans and industry representatives, who saw him as a friend to businesses and a staunch opponent of federal regulations they called unnecessary and burdensome.

On Tuesday, Pruitt addressed EPA employees for the first time as their new boss. He spoke of stepping back from the aggressive regulations of recent years and said there needn't be a contradiction between environmental protection and energy production or job creation.

"We as an agency and we as a nation can be both pro-energy and jobs and pro-environment," he said. "We don't have to choose between the two."

Wall Street Journal
https://www.wsj.com/articles/auto-makers-ask-epas-pruitt-to-reverse-fuel-economy-emissions-decision-1487738674
Auto Makers Ask EPAs Pruitt to Reverse Fuel-Economy, Emissions Decision
By Mike Spector 2/22/17, 10:51AM

Auto makers asked the Environmental Protection Agency to undo the Obama administration's decision to lock in future stringent fuel-economy and emissions standards, as the companies seek to take advantage of President Donald Trump's pledge to roll back regulations.

In separate letters sent Tuesday to new EPA Administrator Scott Pruitt, two Washington lobbying groups representing car companies urged the agency to withdraw its "final determination" that future emissions standards remain intact.

The letters, coming on the heels of Mr. Pruitt's Senate confirmation Friday and on his first day greeting EPA staff, signaled the auto industry's resolve to get future mileage and emissions standards relaxed. Ford Motor Co. Chief Executive Mark Fields used a recent White House breakfast with other industry leaders to directly lobby Mr. Trump for relief.

An EPA spokeswoman said the agency was reviewing industry correspondence and declined further comment. Mr. Pruitt, without detailing potential changes, on Tuesday told EPA staff that regulations "ought to make things regular" and companies "we regulate ought to know what they can expect from us." In November, a Trump adviser said the incoming administration would conduct a comprehensive review of regulations, including car emissions and fuel economy rules.

A week before Mr. Trump took office in January, the EPA decided to keep targets that called for auto makers to sell vehicles averaging 54.5 miles a gallon, or roughly 40 mpg in real-world driving, by 2025. The decision capped a review that wasn't expected to be completed until April 2018.

Auto makers contend the targets would be difficult to meet because lower gasoline prices are sending consumers flocking to less-efficient and higher-emitting pickup trucks and sport utilities. When the targets were codified in 2012, prices at the gas pump had soared to record highs.

The electric plug-in cars and hybrids that auto makers contend are needed to meet the standards currently represent a sliver of U.S. sales.

The EPA's decision should be subject to a recent Trump administration regulatory freeze, and the agency should then resume reviewing the standards, according to a letter to Mr. Pruitt from Mitch Bainwol, head of the Alliance of Automobile Manufacturers, a group representing a dozen car companies including Ford, General Motors Co. and Toyota Motor Corp.

For auto makers, the final determination made before Mr. Trump's inauguration "may be the single most important decision the EPA has made in recent history," Mr. Bainwol wrote in the letter, reviewed by The Wall Street Journal. He went on to allege the previous review was "infected" by various shortcomings, including failing to await industry studies and giving companies and the public only 24 days in December to comment on the agency's proposed determination.

In addition, Mr. Bainwol raised concerns that environmental regulators didn't coordinate the decision with the National Highway Traffic Safety Administration, another agency that sets fuel-economy rules. Complying with the current standards would cost the automotive industry $200 billion even under optimistic EPA estimates, Mr. Bainwol said, and potentially threaten more than a million jobs.

"An action of this magnitude requires a thoughtful and collaborative decision-making process" but the EPA in January "opted for political expediency instead, and jammed through" the final determination, wrote John Bozzella, head of the Association of Global Automakers, another Washington lobbying group representing foreign car makers with U.S. operations.

A decision by the EPA to reopen the midterm review of the emissions standards would likely face challenges from environmental groups long critical of auto makers' efforts to market cleaner cars and trucks.

The midterm review called for the EPA to decide whether to relax, toughen or leave unchanged future emissions targets. Auto makers agreed to the lofty targets in 2011 knowing a viability assessment loomed well before the toughest standards would be enforced.

The EPA released a draft technical report last year predicting car companies would only achieve 50.8 mpg, or about 36 mpg in real-world driving, in 2025 amid current market conditions. But the agency said auto makers have a range of technologies at their disposal to reach more ambitious targets at affordable costs, such as gasoline direct-injection and stop-and-go features.

"EPA has already engaged in an extensive, thorough and lengthy process to evaluate the best technical evidence and found no basis to weaken the standards," said Roland Hwang, director of the energy and transportation program at the Natural Resources Defense Council, adding that relaxing standards could hurt Americans depending on clean-car technology jobs. "Revisiting the final determination opens up what should be a science-based decision to political meddling."

New York Times
https://www.nytimes.com/2017/02/22/us/politics/scott-pruitt-environmental-protection-agency.html
The Pruitt Emails: E.P.A. Chief Was Arm in Arm With Industry
By Coral Davenport and Eric Lipton 2/22/17, 10:18AM

WASHINGTON — During his tenure as attorney general of Oklahoma, Scott Pruitt, now the Environmental Protection Agency administrator, closely coordinated with major oil and gas producers, electric utilities and political groups with ties to the libertarian billionaire brothers Charles and David Koch to roll back environmental regulations, according to over 6,000 pages of emails made public on Wednesday.

The publication of the correspondence comes just days after Mr. Pruitt was sworn in to run the E.P.A., which is charged with reining in pollution and regulating public health.

"Thank you to your respective bosses and all they are doing to push back against President Obama's EPA and its axis with liberal environmental groups to increase energy costs for Oklahomans and American families across the states," said one email sent to Mr. Pruitt and an Oklahoma congressman in August 2013 by Matt Ball, an executive at Americans for Prosperity. That nonprofit group is funded in part by Charles and David Koch, the Kansas business executives who spent much of the last decade combating federal regulations, particularly in the energy sector. "You both work for true champions of freedom and liberty!" the note said.

Mr. Pruitt has been among the most contentious of President Trump's cabinet nominees. Environmental groups, Democrats in Congress and even current E.P.A. employees have protested his ties to energy companies, his efforts to block and weaken major environmental rules, and his skepticism of the central mission of the federal agency he now leads.

An Oklahoma judge ordered the release of the emails in response to a lawsuit by the Center for Media and Democracy, a liberal watchdog group. Many of the emails are copies of documents previously provided in 2014 to The New York Times, which examined Mr. Pruitt's interaction with energy industry players that his office also helps regulate.

The companies provided him draft letters to send to federal regulators in an attempt to block federal regulations intended to regulate greenhouse gas emissions from oil and gas wells, ozone air pollution, and chemicals used in fracking, the email correspondence shows.

They held secret meetings to discuss more comprehensive ways to combat the Obama administration's environmental agenda, and the companies and organizations they funded repeatedly praised Mr. Pruitt and his staff for the assistance he provided in their campaign.

The correspondence points to the tension emerging as Mr. Pruitt is now charged with regulating many of the same companies with which he coordinated closely in his previous position. As attorney general of Oklahoma, Mr. Pruitt took part in 14 lawsuits against major E.P.A. environmental rules, often in coordination with energy companies such as Devon Energy, an Oklahoma oil and gas producer, and American Electric Power, an Ohio-based electric utility.

The emails show that his office corresponded with those companies in efforts to weaken federal environmental regulations — the same rules he will now oversee.

"Please find attached a short white paper with some talking points that you might find useful to cut and paste when encouraging States to file comments on the SSM rule," wrote Roderick Hastie, a lawyer at Hunton & Williams, a law firm

that represents major utilities, including Southern Company, urging Mr. Pruitt's office to file comments on a proposed E.P.A. rule related to so-called Startup, Shutdown, & Malfunction Emissions.

The most frequent correspondence was with Devon Energy, which has aggressively challenged rules proposed by the E.P.A. and the Department of Interior's Bureau of Land Management, which controls drilling on federal lands — widespread in the west. In the 2014 election cycle, Devon was one of the top contributors to the Republican Attorneys General Association, which Mr. Pruitt led for two years during that period.

In a March 2013 letter to Mr. Pruitt's office, William Whitsitt, then an executive vice president of Devon, referred to a letter his company had drafted for Mr. Pruitt to deliver, on Oklahoma state stationery, to Obama administration officials. Mr. Pruitt, meeting with White House officials, made the case that the rule, which would rein in planet-warming methane emissions, would be harmful to his state's economy. His argument was taken directly from Mr. Whitsitt's draft language.

"To follow up on my conversations with Attorney General Pruitt and you, I believe that a meeting — or perhaps more efficient, a conference call — with OIRA (the OMB Office of Information and Regulatory Analysis) on the BLM rule should be requested right away," Mr. Whitsitt wrote. "The attached draft letter (or something like it that Scott is comfortable talking from and sending to the acting director to whom the letter is addressed) could be the basis for the meeting or call."

The letter referred to the section of the White House Office of Management and Budget that coordinates regulations throughout the government.

Senate Democrats last week unsuccessfully urged their colleagues to delay a vote on Mr. Pruitt's confirmation until the emails were released.

The emails do not appear to include any request for his intervention explicitly in exchange for campaign contributions, although Mr. Pruitt was separately working as a member of the Republican Attorneys General Association to raise money from many of the same companies.

Despite the large volume of correspondence between Mr. Pruitt's office and the industry players, the emails are unlikely to cause Mr. Pruitt significant new problems. They do expand on email exchanges or topics that previously had been disclosed.

The Oklahoma Attorney General's office has withheld some documents, asking the judge to determine if they can be exempted from the order requiring their release. There are also other pending open-records requests, from the Center for Media and Democracy, The Times and other news organizations.

Mother Jones
http://www.motherjones.com/environment/2017/02/donald-trump-scott-pruitt-epa-employee-resist
"We Will Never Stop': An EPA Employee Blasts the Trump Administration
By Eric Holthaus 2/22/17, 11:00AM

As we embark on month two of Donald Trump's presidency, it's hard to imagine a group of federal employees facing more uncertainty than the staff of the Environmental Protection Agency. Industry ally and new EPA Administrator Scott Pruitt can be viewed only as an agent of profound change, and he's already faced intense opposition from Senate Democrats and from the staff he inherits.

In recent days, both *Bloomberg* and the *Washington Post* have reported that the first moves Trump and Pruitt will make in their overhaul of US environmental policy will be to roll back parts of Barack Obama's climate legacy and the "Waters of the US" rule—a thorn in the side of farmers and ranchers. This comes as no surprise—both of these policies were identified at the top of the administration's "America First Energy Plan" agenda the moment the White House website switched over on inauguration day.

After his hostile nomination process, Pruitt made an appeal to civility Tuesday in his first address to EPA staff. "We as an agency and we as a nation can be both pro-energy and jobs and pro-environment," he said. "We don't have to choose between the two." That message may ring a bit hollow to the agency's staff, however—coming from a person who has dedicated his career to dismantling environmental safeguards. We appear to be entering an era in which environmental protection will officially be seen as an impediment to the will of industry. For EPA staffers who have devoted their lives and careers to preserving the planet, this is a heartbreaking development.

Shortly after the inauguration, a career EPA employee contacted me through a secure chat program and began to express profound concern over the threat now posed to their life's work. What follows is a heartfelt essay that this official—who requested anonymity out of fear of retribution by the administration—wrote shortly after Pruitt's confirmation last week:

I am a proud employee of the EPA. My colleagues and I are passionate about protecting the health of the American people—and the natural environment we share—from harmful pollution, chemicals, and pesticides. Many of us fear that the American people believe politicians when they say our agency is full of "lazy bureaucrats." The reality is we all got into this work because we believe that it is our duty to protect people and the planet we live on for future generations. EPA is a public health agency, and we come to work every day focused on how we can better serve the American people and enable everyone, regardless of income, race, or any other factor, to enjoy equal protection and access to a healthy environment so everyone can prosper and enjoy the opportunities this country has to offer.

We are not against industry or economic prosperity; we want to work toward a society that cherishes people, the planet, and the economy—all at the same time.

When the EPA was established in 1970, by a Republican administration, the idea of a healthy environment was not a partisan issue. But since then, we have moved into an era where politicians and corporations started working to convince the American public that protecting their water, land, and air from harmful pollution was not in the people's best interests and that our economy can't be prosperous if our environment and public health is protected at the same time; this is a lie. What is true is that polluters don't want to be held accountable for their actions. But when will our leaders see that people matter as well? The attitude that powerful polluters should be able to operate unchecked, no matter how many people are hurt, is the same all over the world.

What type of nation are we when we allow our leaders to sign into law a rule that makes it EASIER for mining companies to pollute local waterways? These same politicians will try to convince their voters that making it easier to pollute local streams is somehow good for them. Communities in West Virginia, Indiana, and Alabama with sky-high rates of cancer due to industry pollution shouldn't be presented with the false choice of accepting even more poison in their local environment or having a job. No one should be told that they have to put up with cancer-causing poison in their water, air, and land. It's shameful, and it's wrong.

We at EPA believe that everyone should be able to breathe clean air, drink clean water, have healthy food, AND ALSO have a growing economy. Those that want to weaken EPA will say, "Well, the states can do it themselves." EPA has always worked closely with states and respects jurisdictional power, but rivers and air don't stop at state borders, and every American—no matter where they live—deserves to have a basic standard of protection.

You have to ask yourself: Who benefits when the EPA is weakened? Who benefits when our staff is laid off, cast aside, and when the agency is prevented from pursuing its mission of protecting public health and the environment? Who benefits when the agency can't consistently enforce environmental laws that are meant to protect the public? The beneficiaries are not the people. Environmental protection is not a partisan issue. Science is not partisan. We all share this earth and its resources on which we all depend to survive. The amount of money you have should not determine if you get to live a healthy life, free from pollution. The politicization of this issue is manipulation by those who are already powerful. We, EPA professionals, have dedicated our lives to this work because we care about people more than we care about money or even being recognized for what we do.

2015 was the deadliest year on record for people working to defend and protect the environment. Let that sink in. One hundred and eighty-five human beings were killed around the world (more than three for every week of 2015) because they dedicated their lives to protecting human health from pollution and preserving the beautiful planet we all cherish. The same year, the Environmental Protection Agency welcomed Berta Cáceres, along with the other winners of the Goldman Environmental Prize, to honor them for being global leaders in defense of human rights and environmental protection. Less than one year later, Ms. Caceres would be murdered in her home in Honduras because she was brave enough to challenge mining and dam-building corporations. She defended human rights and the environment, and her life was taken because of it.

Here in the US, those of us who work to protect the environment and human health from corporate pollution are lucky enough that we do not live under the specter of murder. We are, however, acutely aware that the forces behind these heinous crimes against environmental activists abroad are the same forces that are working against us in the US today. And make no mistake: These forces are poised to grow even stronger.

If it is discovered in the next few weeks that the EPA Administrator does in fact have even closer ties to polluting corporate interests than we feared, what will the public do? Will the capture of EPA by corporate interests be swept up in all the other horrifying news of the day or week? Or will the public finally decide that it is not acceptable to allow EPA, the only agency with a mission dedicated to protecting the environment, to be systematically dismantled, allowing those

at the top to further concentrate wealth and power among themselves? Despite the long odds we face, we will never stop working to protect every person's right to have a healthy place to live, work, and play. And if the new administrator casts me out of the job I love, I will not stop working toward the principles that have always animated my life. This is who I am, and that will never change. I stand in solidarity with brothers and sisters that work to protect human rights, human health, and the environment here in the US and all over the world. The struggle continues.

Bloomberg BNA
http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=105973923&vname=dennotallissues&wsn=498738000&searchid=29411995&doctypeid=2&type=date&mode=doc&split=0&scm=1245&pg=0
White House Vetting Pruitt Choices for EPA Leadership: Adviser
By Brian Dabbs 2/22/17

The White House is collaborating with newly minted EPA administrator Scott Pruitt to vet candidates for the agency's leadership team, but the speed of confirmations is largely up to a Senate already dogged by intransigence, a top White House adviser said Feb. 21.

"Those decisions are made by the secretary, and in this case the administrator, and the president, and they make them jointly from what I've seen," Don Benton, a senior White House adviser on the agency, told reporters after Pruitt's inaugural speech to EPA staff.

"The president understands that when he puts an executive in charge of something they need to be able to bring the people in that they need to get the job done," Benton, a Republican state senator from Washington, said.

Pruitt took the reins of the Environmental Protection Agency Feb. 17 following a contentious and drawn-out confirmation process. Acting deputies and assistant administrators currently fill the ranks of the highest levels of the agency, led by Acting Deputy EPA Administrator Mike Flynn. Democrats in the Senate are continuing to stall nominees amid an unprecedented pushback on the newly elected president's Cabinet.

President Donald Trump reportedly rejected Secretary of State Rex Tillerson's pick for deputy, Elliott Abrams, in recent days, but Benton dismissed the prospect of a leadership selection row at the EPA.

Processing Names

"I don't expect we'll have any trouble," he told reporters. "We're ready to go. Scott has in mind the people that he needs to help him, and we've already begun to process some of those names through the White House."

Various news accounts have mentioned Donald van der Vaart, former secretary of North Carolina's Department of Environmental Quality, and Andrew Wheeler, a former aide to Sen. Jim Inhofe (R-Okla.), as potential Pruitt deputies.

A spokesman for the Senate Environment and Public Works Committee, the panel tasked with processing the EPA staff, said he couldn't immediately respond to a Bloomberg BNA request for comment. Lisa Jackson, the first EPA administrator under former President Barack Obama, didn't land a Senate-confirmed deputy administrator, Bob Perciasepe, until December of the president's first year in office.

The Senate confirmed Jackson three days after Obama's inauguration in 2009 while Pruitt has had to wait a month.

Benton lauded the Pruitt speech, saying the new administrator rightly stressed the need to balance environmental safeguards and industry growth. Pruitt focused on cooperative federalism and reining in EPA overreach.

"Process matters, and we should respect that and focus upon that, and try to avoid, not try to avoid but do avoid, abuses that occur sometimes," Pruitt told a crowd of several dozen EPA employees. "I believe we as an agency and we as a nation can be both pro-energy and jobs and pro-environment, that we don't have to choose between the two."

As attorney general for Oklahoma, Pruitt sued the EPA over a range of regulations, including challenges to the Clean Water Rule, Clean Power Plan, ozone air quality standards, mercury standards for power plants and methane limits for the oil and natural gas industry.

Politico Pro
https://www.politicopro.com/energy/whiteboard/2017/02/group-releases-7-500-pages-of-pruitt-emails-084006
Group releases 7,500 pages of Pruitt emails
By Alex Guillen 2/22/17, 9:52AM

1. The watchdog group Center for Media and Democracy today released more than 7,500 pages of emails from the Oklahoma attorney general's office during Scott Pruitt's tenure.
CMD says the batch of emails includes communications showing cooperation between Pruitt's office and American Fuel & Petrochemical Manufacturers on the Renewable Fuel Standard and the ozone standard, as well as further connections with Devon Energy, a relationship that was first reported by The New York Times in 2014.

A state judge last week said Pruitt had wrongly delayed releasing the emails, which were requested by CMD more than two years ago. Mike Hunter, who replaced Pruitt as attorney general on Monday, complied with the order to release the emails to CMD by yesterday. He is also required to turn over by Monday more emails connected to a half-dozen more CMD requests made over the past two years.

E&E News
http://www.eenews.net/energywire/2017/02/22/stories/1060050390
Emails hang over Pruitt message to EPA staff
By Joel Kirkland and Mike Lee 2/22/17

Staff from the Oklahoma attorney general's office began turning over thousands of documents related to U.S. EPA Administrator Scott Pruitt's contacts with oil, gas and coal groups during his tenure as the state's top lawyer.

Last night, by court order, the Center for Media and Democracy received a disc with 7,500 pages of emails and public documents that it has been requesting from Pruitt's office for two years.

The liberal-leaning watchdog requested the information two years ago and sued to gain access to the records in part to force a response before the Senate confirmed Pruitt to EPA's top job. Oklahoma District Judge Aletia Haynes Timmons on Thursday ordered the attorney general's office to release the documents. The Republican-led Senate confirmed Pruitt on Friday after Democrats held the Senate floor all night in the hope of bringing public pressure to bear against Pruitt's nomination (*Energywire*, Feb. 17).

Pruitt served as Oklahoma's attorney general from 2011 until this month and developed a reputation as a champion of the fossil fuel industry. *The New York Times* reported in 2014 that Pruitt used language from oil and gas companies in letters and legal briefs challenging the Obama administration's environmental regulations.

Before becoming President Trump's EPA administrator, Pruitt organized efforts by attorneys general and oil, gas and coal companies aiming to stop Obama-era rules. Some of their lawsuits against EPA failed to overturn regulations, but Pruitt and other Republican attorney generals won a Supreme Court stay on President Obama's signature rule for addressing greenhouse gas emissions from existing power plants, the Clean Power Plan.

The pursuit of the records overshadowed Pruitt's first days in office and highlighted his work promoting the energy industry and individual states' prerogatives in enforcing environmental laws. In his first public remarks to the EPA staff,

Pruitt suggested those themes would be part of the Trump administration's approach to regulating greenhouse gases, air quality and water quality.

"Regulators exist to give certainty to those they regulate," he said in remarks to EPA's 15,000 employees nationwide. "Those that we regulate ought to know what's expected of them so they can plan and allocate resources to comply."

Without explicitly denouncing Obama's approach to regulating energy companies, Pruitt indicated a broad shift away from Obama's use of the federal agency to force reductions in auto, oil field and power plant emissions.

"Federalism matters," Pruitt said. "I seek to ensure that we engender the trust of those at the state level, that those at the state level see us as partners in this very important mission we have as an agency, and not adversaries."

Clean Power Plan

Pruitt's comments came on the heels of reports that Trump plans to issue an executive order this week to start the process of rescinding the Clean Power Plan. The CPP, which is on hold until federal courts rule on pending litigation, is the agency's signature climate regulation targeting carbon emissions from power plants.

Critics of the rule accused EPA of misinterpreting the Clean Air Act and running roughshod over states that rely on coal for electricity. Its supporters say EPA's finding that carbon dioxide is a pollutant compels the agency to act in the public interest, and they say state-led plans were the centerpiece of the regulation.

To back out of the Clean Power Plan, Pruitt's starting point is at the U.S. Court of Appeals for the District of Columbia Circuit, where litigation is pending. He could request the court pause before ruling on legal challenges against the carbon rule, according to analysts, alerting the court of EPA's intentions to rewrite the regulation.

Anything he does is expected to trigger a reaction from states that support the rule.

In late December, 14 attorneys general, including from New York, California, Virginia, Oregon and Illinois, signed a letter to then-President-elect Trump urging him to continue defending the Clean Power Plan.

"The Clean Power Plan builds on successful strategies that states, local governments and the power sector have used to cost effectively cut greenhouse gas emissions from power plants, while at the same time creating jobs and growing our economies," the letter stated.

But the letter also responded to a push by states primarily in the South and Midwest to get Trump to unravel the Clean Power Plan.

"If the challengers are so confident in their oft-repeated claim that the Clean Power Plan is 'unlawful,' why not let the court decide the claims that they themselves brought?" said the attorneys general, led by New York Attorney General Eric Schneiderman (D).

A spokesman for the Sierra Club said to expect a "proportionate response" to an executive order directing EPA to dismantle the carbon regulation — from environmental groups, public health advocates and states in the Northeast and West supporting the federal effort to combat climate change.

E&E News
http://www.eenews.net/climatewire/2017/02/22/stories/1060050392
Staff wary but ready to work with Pruitt amid new email dump
By Emily Holden, Niina Heikkinen and Hannah Hess

Newly appointed U.S. EPA Administrator Scott Pruitt yesterday tried to extend an olive branch to worried staffers hours before consenting to a judge's order and releasing more than 7,000 pages of emails with energy firms.

By late yesterday evening, advocates with the Wisconsin-based Center for Media and Democracy were combing through the email correspondence between Pruitt and his top staff in the Oklahoma attorney general's office and coal, oil and natural gas companies. The group intends to publish the emails online by 9:30 am today.

In an emailed statement, a spokesman for the Oklahoma attorney general's office said the office had gone "above and beyond" the requirements of Oklahoma's open records law.

"This broad disclosure should provide affirmation that, despite politically motivated allegations, the Office of Attorney General remains fully committed to the letter and spirit of the Open Records Act," spokesman Lincoln Ferguson said.

The Center for Media and Democracy had pursued the documents for two years. Last week, Oklahoma County District Judge Aletia Haynes Timmons ruled that Pruitt had failed to follow the state's open records laws, and required him to produce emails relating to one of the outstanding requests by close of business yesterday.

Senate Democrats and environmental groups had demanded the emails' release prior to Pruitt's confirmation last week but failed to convince Republicans. Yet any hint of an email scandal was absent from Pruitt's first public address yesterday to employees at EPA headquarters in Washington, D.C.

Holding up an EPA cap, Pruitt told employees he wants to help them do their work and argued for "civility" in a "toxic" political environment.

"I seek to be a good listener," Pruitt said, commending career staffers for their dedication and contending that media reports about him might not paint a fair picture.

But Pruitt's tone pivoted sharply from EPA's core message in recent years. Where former EPA chief Gina McCarthy focused most of her speeches on the agency's work to improve public health, Pruitt instead highlighted the importance of abiding by congressional intent and providing regulatory certainty to businesses.

"Regulations ought to make things regular," Pruitt said. "Regulators exist to give certainty to those that they regulate. Those that we regulate ought to know what's expected of them so they can plan and allocate resources to comply."

Pruitt said EPA should avoid "abuses that occur sometimes" in the regulatory process. He called out the agency practices of regulating through guidance rather than an official rulemaking, or writing rules in response to litigation from environmental groups.

"We need to be open and transparent and objective in how we do rulemaking and make sure we follow the letter of the law as we do so," he said.

Employees taking a wait-and-see approach

Pruitt plans to work to roll back many of the Obama administration's signature environmental achievements, including a rule to reduce greenhouse gas emissions from power plants. An executive order on that rule, called the Clean Power Plan, could come as early as this week, although more binding efforts to undo it will take longer and face lawsuits (*Climatewire*, Feb. 21).

The new administrator wants to narrow the scope of EPA's work, and employees have voiced concerns about staffing and budget cuts and reorganizations that might prevent them from fulfilling their obligation to protect the environment.

EPA staffers filing out of their Washington headquarters yesterday said they were still concerned but would wait to see how their new boss worked.

One EPA employee said he would "give him a chance."

"I don't like to prejudge anybody," he said.

That employee added that he thought Pruitt's speech was "kind of vanilla." He said that while it makes sense that Pruitt would emphasize a need to adhere to the law, he added, "Let's hope we stick to that."

Another employee said he saw the potential for a positive working relationship with the new administrator.

"He thinks that you can still save the environment yet have economic growth, which sounds good. I think he's a personable guy; I kind of like him. I look forward to working with him," said one EPA employee in the Office of Water.

Jeff Holmstead, a former assistant administrator at EPA under George W. Bush, said Pruitt "certainly understands he's coming in with some controversy."

"I think this is the first step of his effort to reach out and make sure people understand who he is and know he's open to addressing their concerns," Holmstead said, adding Pruitt "didn't pull any punches" or make promises that he couldn't keep about EPA's budget, which the president and Congress will ultimately decide. Many agency staffers will be waiting to see the budget, Holmstead said.

Greens blast speech

Bill Becker, executive director of the National Association of Clean Air Agencies, said Pruitt's case for ensuring that the agency abides by the law, adheres to process and works closely with states "sounds awfully similar to previous administrations &mdash and I say that really as a compliment."

But a national environmental program for cutting pollution won't succeed at the state and local level without a strong and effective EPA, he warned. The possibility of significant cuts to EPA's budget or slashing the agency's 15,000-person staff to about 5,000 employees, as transition team chief Myron Ebell has suggested, threatens that (*Greenwire*, Jan. 26).

If Pruitt's first acts are to rescind regulatory programs on which many states relied without seeking a substitute, Becker said, it might cause a rocky start.

"We welcome delegation of authority, but not without financial and regulatory help, and not without the important backstop of EPA," Becker said.

Becker concluded, "These are laudable principles. No one can argue about any of those principles. No one should argue about any of those principles. But it's how they are carried out that matters."

Environmentalists quickly condemned Pruitt for not focusing his speech more on environmental and public health issues.

"My immediate reaction was that in his first address to EPA, he didn't talk about environmental protection at all. It was completely absent of any mention of protecting clean water, air and land. No mention of climate change, which is obviously a critical challenge of our time," said Nick Conger, press secretary for the Natural Resources Defense Fund and former communications adviser to the EPA administrator's office during the Obama administration.

Conger noted that Pruitt also did not focus on regional engagement and did not take questions from staff members, something his former boss, McCarthy, used to do during each of her all-hands meetings as EPA administrator.

"I'm just very struck that it seems his focus is on protecting industry and economic impacts, market impacts, at the exclusion, almost, if not entirely at the exclusion, of public health protection. That's what EPA is there to do, protect public health," he said.

'Hell to pay' if climate regs repealed?

Catherine McCabe, who was acting administrator until Pruitt's confirmation, touted her new boss's work to achieve a water rights settlement among the state of Oklahoma, cities and tribal nations.

Pruitt instead spoke about his vision for making regulations simpler for industry.

While he didn't mention the Clean Power Plan directly, he said he believes the agency can be "both pro-energy and jobs and pro-environment."

"We don't have to choose between the two," he said.

Industry groups challenging EPA's regulation of carbon dioxide under the Clean Air Act seem wary of going too far in contesting climate rules.

A senior official at the U.S. Chamber of Commerce's Institute for 21st Century Energy recently said there would be "hell to pay" if the Trump administration tries to repeal EPA's 2009 endangerment finding.

"And if you are going to go out there and say, 'We're going to pull this back,' I mean there is going to be hell to pay, not just from those people out there who are protesting those plants," Senior Vice President for Policy Christopher Guith said last month at an event in Kentucky, according to a transcript published by the Energy and Policy Institute, a watchdog organization backing renewables.

"There's going to be hell to pay from, you know, soccer moms and soccer dads all throughout the country. People who probably voted for Donald Trump," Guith said.

Matt Letourneau, a spokesman for the institute, said Guith's answer "was based on a political analysis of the situation," not an official policy position.

E&E News
http://www.eenews.net/climatewire/2017/02/22/stories/1060050394
Automakers ask Pruitt to revisit Obama's emissions rules
By Camille von Kaenel 2/22/17

Automakers have asked new U.S. EPA Administrator Scott Pruitt to reverse an Obama-era decision to lock in vehicle emissions standards through 2025.

The Alliance of Automobile Manufacturers wants EPA to reopen an official review of fuel economy rules, which it says were rushed during the final days of the Obama administration to cement the former president's climate legacy.

EPA had until April 2018 to decide whether to tighten, loosen or simply maintain the emissions standards. Instead, it finalized its decision on Jan. 13 — days before President Trump's inauguration.

The auto industry group's president and CEO, Mitch Bainwol, asked Pruitt to withdraw that decision yesterday in a letter, calling it "the product of egregious procedural and substantive defects" and "riddled with indefensible assumptions, inadequate analysis and a failure to engage with contrary evidence."

EPA's decision to keep the standards unchanged followed a technical report in the summer that found that automakers could continue to meet and exceed the standards with available or impending technologies, though Americans' changing preferences for bigger vehicles would slightly mitigate the overall greenhouse gas benefits of the program.

Bainwol wrote that he is not asking for a different final decision "at this time" but wants more time for the agency to consider additional studies the trade lobby is conducting on the feasibility of the standards. The decision was not published in the *Federal Register* because it was not a new rule and so is not subject to a regulatory freeze.

Automakers agreed to the standards in 2012 on the condition of the midterm review. The emissions standards would bring average fleetwide fuel economy to 50.8 mpg in 2025. The letter by the trade lobby follows a similar request by automaker CEOs directly to President Trump to soften, if not eliminate, the rules.

Bainwol also said he is concerned about discrepancies between the agencies that set the rules: EPA and the National Highway Traffic Safety Administration. NHTSA, which must issue a separate rule for the 2022-25 standards, has not yet completed its midterm review. Before Trump took office, it agreed to consider long-standing requests by automakers to tweak the standards.

Environmental and national security advocates have warned that any change to the fuel economy standards would have to surmount legal challenges and could create greater uncertainty for automakers.

The Hill
http://thehill.com/policy/energy-environment/320590-group-releases-emails-from-new-epa-chief
Group releases emails from new EPA chief
By Devin Henry 2/22/17 9:36 AM EST

An open-government group has released a batch of emails from Environmental Protection Agency Administrator Scott Pruitt's tenure as Oklahoma attorney general.

The Center for Media and Democracy (CMD) released nearly 1,500 pages of emails on Wednesday morning, one day after Pruitt's former office turned them over to a state court in Oklahoma. The group said it received 7,564 pages of emails from Pruitt's office overall.

The court had ordered Pruitt's office to release the documents last week after CMD sued, seeking a response to an Open Records Act data request it had sent years earlier.

That court order came days before the Senate voted to confirm Pruitt to his post at the EPA.

Senate Democrats — all but two of whom voted against Pruitt's nomination — insisted the vote be delayed until after the emails were released. Pruitt said the emails could show close ties between his office and the Oklahoma fossil fuel industry, a sector that he defended during his tenure as the state's attorney general.

Pruitt was sworn in as EPA administrator on Friday and he addressed the agency for the first time on Tuesday.

AP
http://hosted.ap.org/dynamic/stories/U/US_OPEN_RECORDS_LAWSUIT_PRUITT?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT
EPA head's emails with energy companies to be released
By Tim Talley 2/21/17

OKLAHOMA CITY (AP) -- The Oklahoma attorney general's office said Tuesday it is complying with a judge's order to surrender documents related to new Environmental Protection Agency leader Scott Pruitt's communications with energy companies while he served as the state's attorney general.

The office had until 5 p.m. Tuesday to comply with District Judge Aletia Haynes Timmons's order to turn over emails and other documents to the Wisconsin-based Center for Media and Democracy, which requested the documents more than two years ago under Oklahoma's Open Records Act.

A spokesman for the office, Lincoln Ferguson, said it turned over records related to the January 2015 request to the watchdog agency and that other records were turned over to the judge to determine if they are privileged and not subject to release under the law.

"The office went above and beyond what is required under the Open Records Act and produced thousands of additional documents that, but for the court's order, would typically be considered records outside the scope of the act," Ferguson said in an emailed statement.

"This broad disclosure should provide affirmation that, despite politically motivated allegations, the office of attorney general remains fully committed to the letter and spirit of the Open Records Act," Ferguson said.

An attorney for the advocacy group, Bob Nelon, said he received an email from the attorney general's office at 4:14 p.m. Tuesday indicating that it planned to comply with the judge's order and make the documents available.

Nelon said the records were provided electronically and that an initial review indicated one computer disk contained 7,564 pages, although it was not immediately clear how many documents they represent.

The attorney general's office had previously identified more than 3,000 emails that it said pertained to the group's January 2015 request.

Nelon said the records will be transmitted to the Center for Media and Democracy, which plans to make them publicly available on its website.

Timmons has also ordered the attorney general to comply with other open-records requests by the group in 2015 and 2016.

The judge handed down her ruling on Thursday in connection with a lawsuit the group filed that accused the attorney general's office of failing to provide "prompt and reasonable access" to the documents, as required by the Open Records Act.

Pruitt resigned his post as Oklahoma attorney general on Friday, the day he was sworn in as President Donald Trump's EPA administrator.

Among other things, the January 2015 request sought information about Pruitt's communications, private meetings and relationships with fossil fuel companies as the state's attorney general, companies he will help regulate as EPA administrator.

Nelon said later requests were more narrowly tailored and that the advocacy group has no idea how many documents are involved.

As Oklahoma's attorney general, Pruitt repeatedly sued the EPA and criticized what he has characterized as the EPA's "activist agenda." He has been a reliable booster of the fossil fuel industry and has said his support for legal positions advocated by oil and gas companies was in the best interest of Oklahoma, which is economically dependent on the fossil fuel industry.

In his first meeting with the EPA's staff Tuesday, Pruitt said he believes the nation can be "pro-energy and jobs, and pro-environment."

"I think our nation has done better than any nation in the world at making sure that we do the job of protecting our natural resources, and protecting our environment, while also respecting economic growth," Pruitt said.

Inside Climate News
https://insideclimatenews.org/news/21022017/pruitt-enters-epa-conciliatory-words-staff-braces-divisive-action
Pruitt Enters EPA with Conciliatory Words, but Staff Braces for Steep Cuts
By Marianne Lavelle 2/21/17

Scott Pruitt, who spent the past six years as the Environmental Protection Agency's courtroom antagonist, took the helm of the agency Tuesday with a pledge to listen to agency staff and tackle tough problems cooperatively.

"We ought to be able to get together and wrestle through some difficult issues in a civil manner," said Pruitt in an address to EPA employees, who are bracing for deep budget cuts and a retreat from the goal of addressing climate change.

Pruitt didn't talk about policy specifics. Instead, he laid out a vision for an EPA that could avoid litigation in the future by limiting the agency's ambitions under the mandates that Congress gave it and sticking to "process."

But environmental advocates already were preparing a vigorous legal defense of regulations they fear could be undone. They maintain the rules were subject to a rigorous public comment and debate, as well as court review.

With the Trump White House expected as soon as this week to issue executive orders to roll back the Clean Power Plan, Presient Obama's signature climate initiative, and other EPA regulations, David Doniger, climate programs director of the Natural Resources Defense Council, responded on Twitter:

Pruitt's address to the agency came on the first full federal workday since his contentious confirmation process ended Friday with a largely partisan 52-46 vote of approval.

"This environment that we live in today is a very toxic environment," Pruitt said. "We have jerseys that we put on, and that is something that I think is damaging to the overall objective of finding the results and answers."

But Pruitt, the former Oklahoma attorney general, is likely to continue to be dogged by the same issues that have been raised since his nomination by Trump in December. On the same day as his official welcome at EPA, about 2,000 of his emails with fossil fuel companies and organizations were to be released in Oklahoma after years of delay.

Pruitt suggested that EPA staff may have gotten an incomplete picture of him from reading news reports. "I look forward to sharing the rest of the story with you," he said. "I seek to listen, learn and lead with you, to address these issues that we face as a nation."

While stressing civility and cooperation, Pruitt returned to the arguments he made against the EPA both in court and before the Senate.

"Process matters," said Pruitt. "Regulations are to make things regular, to give certainty to those who are regulated, so they know what's expected of them and can allocate resources so that they can comply.

"The process we engage in is very important. It sends a message that we take seriously our role of taking comment and offering a response, and in making informed decisions on how it's going to impact those in the marketplace to achieve the ends we have in statute," he said. "We should avoid abuses...like engaging in regulation through litigation, consent decrees that bypass the Administrative Procedure Act."

Pruitt's view echoes the complaints of industry lobbyists who have decried EPA's settlement of a number of lawsuits brought by environmental groups during the Obama administration. Under these agreements, the EPA finalized

regulations to control mercury from power plants, address air quality issues due to ozone, clean up the Chesapeake Bay and regulate greenhouse gases.

Critics say the consent agreements are a kind of collusion between the EPA and environmentalists. Environmental groups, however, argue that their litigation followed years of effort and wrangling with the agency. (The Government Accountability Office found little impact on EPA policy due to the deadlines imposed by consent decree.) In 2014, the U.S. Supreme Court rejected an effort by Pruitt and other litigants to overturn a settlement with several states and environmental groups under which the EPA agreed to regulate greenhouse gases.

"EPA already has SO MUCH PROCESS," Jack Lienke of the Institute for Policy Integrity at the New York University School of Law, said on Twitter. "Clean Power Plan was in the works for > FOUR YEARS before finalization."

In his remarks on Tuesday, Pruitt also reprised the argument he often made in more than 14 lawsuits against the EPA—that it had overreached its legal authority. "The rule of law: the only authority any agency has is given to it by Congress," Pruitt said. "Sometimes that authority is broadly stated, and other times Congress is very restrictive, and it's been very specific about what they agency can and can't do.

"We need to respect that. When we do that, here's what happens: We avoid litigation, and we reach better outcomes."

But the Supreme Court, in its landmark Massachusetts v. EPA decision, ruled that, "Because greenhouse gases fit well within the Act's capacious definition of 'air pollutant,' EPA has statutory authority to regulate emission of such gases."

The court said that "EPA can avoid promulgating regulations only if it determines that greenhouse gases do not contribute to climate change or if it provides some reasonable explanation as to why it cannot or will not exercise its discretion to determine whether they do. It has refused to do so, offering instead a laundry list of reasons not to regulate."

And courts have rejected Pruitt's argument that EPA exceeded its authority in other cases, such as the Obama administration's cross-border pollution and mercury pollution regulations for power plants.

Other legal challenges, however, have yet to be decided, including a case now pending in a federal appeals court on the Clean Power Plan. The Supreme Court has issued a stay on putting the rule into effect.

Pruitt did not mention climate change, but said, "We as a nation can be pro-energy and jobs and pro-environment."

Environmental advocates quickly took issue with the picture of the agency painted by Pruitt. Lienke tweeted that statistics show EPA has been balancing economic growth and environmental protection all along. He cited a 68 percent reduction in the most common air pollutants from 1970 and 2013, as GDP tripled and the U.S. population grew by 54 percent.

Although all EPA staff were invited to attend, there was only room for about 100 in the high-ceilinged ceremonial room next to the administrator's office, the Rachel L. Carson Great Hall; the agency's 15,000 employees could watch remotely. The crowd in the room included some of the agency's first political appointees, including the transition leader, former Washington State Sen. Don Benton.

Benton said after the speech he thought that Pruitt had struck "a perfect balance" in his speech. "He's very much in partnership mode," he said.

Brett Hartl, government affairs director of the Center for Biological Diversity, said he thought that although Pruitt's comments about the rule of law and process "sound good," his record indicates he will be taking the agency in a dramatically different direction. "His agenda is straightforward. He wants to undercut the agency," said Hartl. "He's going to be the guy who cuts their staff and their budget, and makes employees do useless things so they can't do enforcement."

Mother Jones
http://www.motherjones.com/environment/2017/02/pruitt-speech-epa
"Condescending and Hypocritical': An EPA Staffer Blasts Scott Pruitt's First Speech
By Rebecca Leber 2/22/17, 4:43PM

Scott Pruitt may have wanted to ease Environmental Protections Agency staffers' concerns about him Tuesday, but his first remarks as head of the agency hardly mentioned environmental protection at all.

With Donald Trump's EPA transition staff sitting nearby, Pruitt delivered an 11-minute speech, in which he declared, "We as an agency and we as a nation can be both pro-energy and jobs and pro-environment." He also quoted famed conservationist John Muir: "Everyone needs beauty as well as bread, places to pray in and play in." Pruitt did lament the "toxic environment" in the country, but it was a reference to the political climate—part of a call for a more civil discourse.

The former Oklahoma attorney general never dwelled on the specifics of his or the White House's agenda for the EPA in the short address, which featured introductory remarks by recent acting administrator Catherine McCabe. Neither McCabe nor Pruitt mentioned the elephant in the room: the EPA's regulations on climate change and Pruitt's role in suing the agency for its climate work.

"I know it's very difficult to capture in one speech the vision and direction of an agency," Pruitt said, while outlining a few of his core guiding principles for the new EPA. He said he wants to limit the scope of the agency's regulatory work and ensure stability for industry. "Regulations ought to make things regular," Pruitt said. "Regulators exist to give certainty to those they regulate…Process matters and we should respect that and focus on that, and try to avoid, do avoid, abuses that occur sometimes."

Pruitt mentioned the need to follow "rule of law" and respect states' roles in enforcing environmental standards. "Congress has provided a very robust, important role of the states," Pruitt said. (Environmentalists, of course, are quick to point out that states are not always eager or financially equipped to protect air, water, or the climate on their own.)

If Pruitt's address was meant to soothe staffers' concerns about their incoming administrator, they may have come up short.

"Pruitt's talk [was] as bad as expected," said a current career EPA staffer of over 20 years, who requested anonymity, following the speech. "Not one word about public health. And talking about the rule of law as if we didn't do EVERYTHING with the realization that it WILL end up in court. It was condescending and hypocritical."

Some former EPA officials shared that view. "Trump's team spent the entire campaign and the last few months railing against EPA's existence, its staff, and its purpose," Liz Purchia, an Obama-era communications staffer at the agency, said in an email. "Accomplishing agency priorities was no easy task when the administrator had staff's back and politicals and careers agreed the majority of the time, so let's see how well Trump's EPA does getting staff to follow them when they feel disrespected. These are professionals with years of experience, who have been made to feel like their leader doesn't trust their judgment. The American people are relying on them to defend the agency, protect its environmental statutes and stand up to Trump's team to ensure they uphold science and the law."

Going by the EPA's press releases over the weekend, the agency now views industry and conservatives as its real constituency. No public health groups, environmentalists, or scientists appeared on the laundry list of "stakeholder" congratulations circulated by the EPA after Pruitt was sworn in.

Outside the EPA on Tuesday, an administration official echoed Pruitt's pledge that he will listen to career staff. "He's a very good listener," Don Benton, a White House senior adviser, told reporters after the address. "I don't expect him to be making any quick decisions."

Benton didn't answer specifics on the timing of the presidential actions, saying that the matter is between Pruitt and Trump. But a slow transition based on input from current EPA staff isn't what news reports—nor Pruitt's own words—have suggested. Various news outlets have reported that the White House intends to roll out a series of presidential actions targeting the EPA as early as this week.

Pruitt didn't provide much clarity Tuesday on what comes first. But in an interview with a conservative *Wall Street Journal* columnist last week, Pruitt appeared to reverse himself on one key issue. At his confirmation hearing in January, he said that the EPA's official finding that climate change poses a health danger and is therefore subject to the Clean Air Act "needs to be enforced and respected." But according to the *Journal*, Pruitt now wants to conduct a "very careful review" of whether the agency can do anything at all about global warming. His remarks Tuesday appear to have done little to persuade his critics that such a review would be based on sound science.

Morning Consult
https://morningconsult.com/2017/02/21/no-mention-climate-pruitts-address-epa-employees/
No Mention of Climate in Pruitt's Address to EPA Employees
By Jack Fitzpatrick 2/21/17

Environmental Protection Agency Administrator Scott Pruitt did not mention climate change or specific regulations in his first address to employees on Tuesday, instead emphasizing the agency's limitations and the need to provide more certainty for the energy industry.

Pruitt also did not mention air pollution or water pollution, key portions of the agency's mission, during the 11-minute address, and did not take questions. The speech could signal how Pruitt is focused more on avoiding government overreach rather than propagating new regulations.

"Regulators exist to give certainty to those that they regulate," he said, adding that he wants the agency to "avoid abuses that occur sometimes." That includes "using the guidance process to do rulemaking."

Pruitt may have been referring to a controversial guidance from the White House Council on Environmental Quality, which asks agencies conducting environmental reviews to consider how any infrastructure project would affect climate change. The guidance was technically voluntary, but critics said it was practically mandatory even though it didn't go through the full rulemaking process.

Pruitt's process-oriented speech differed in tone from the approach of his predecessor, Gina McCarthy, who emphasized the need for strong protections from pollution.

While serving as Oklahoma attorney general, Pruitt was involved in 13 lawsuits against the EPA, including high-profile cases over regulations on greenhouse gases and mercury pollution. He also took criticism from Democrats during his confirmation hearing for his close ties to the fossil fuel industry.

League of Conservation Voters Senior Vice President Tiernan Sittenfeld said in an emailed statement that Pruitt's speech "did nothing to address our grave concerns about him."

Pruitt said he hopes to avoid "regulation through litigation," referring to issuing contentious rules that attract lawsuits and ultimately leave a judge to decide details of what the agency can do, rather than agreeing on details with stakeholders.

Every regulation "needs to be tethered to statute," Pruitt said, adding that he believes Congress has been "very prescriptive" in its laws for the agency.

"The only authority that any agency has in the executive branch is the authority given to it by Congress," he said.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: Fotouhi, David [fotouhi.david@epa.gov]
Sent: 4/24/2017 7:55:16 PM
To: Brown, Byron [brown.byron@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]
CC: Schwab, Justin [schwab.justin@epa.gov]
Subject: Re: Meeting with Oregon Dairy Farmers Assoc.

Dropping Mandy who has a conflict. Just wanted to touch base again on this to see if anyone would like to join this meeting.

Sent from my iPhone

On Apr 15, 2017, at 5:56 PM, Fotouhi, David <fotouhi.david@epa.gov> wrote:

> Byron, Sarah, Mandy,
>
> A representative of the Oregon Dairy Farmers Association asked me for a meeting to discuss the WOTUS rule and CERCLA and EPCRA reporting for air releases from dairy farms (in light of last week's D.C. Cir. decision). The meeting is set for **Tuesday 4/25 at 1:00 p.m.** If you would like to join me, that would be great. Let me know. Thanks!
>
> Best,
>
> David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

Message

From: Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Sent: 3/20/2017 7:04:50 PM
To: Schwab, Justin [schwab.justin@epa.gov]
Subject: Attorney Client / Ex. 5
Attachments:

Have you talked to Lorie today? Are you free to discuss around 4:15 or so? I want to make sure we are on the same page.

From: Schmidt, Lorie
Sent: Friday, March 17, 2017 7:00 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Brown, Byron <brown.byron@epa.gov>
Subject: Attorney Client / Ex. 5

Ryan

At Sarah G's and Justin's request, I am forwarding you the current drafts of the Federal Register notices initiating the reviews of the Clean Power Plan (including the legal memorandum), the Carbon Pollution Standards for new power plants (aka the 111b or new source rule), and the 2016 oil and gas rule. Attorney Client / Deliberative Ex. 5

Attorney Client / Deliberative Ex. 5

Please let me know if you need anything else on these or have any questions. I will be checking email periodically over the week-end.

Lorie

Lorie Schmidt
Associate General Counsel
Air and Radiation Law Office
Office of General Counsel
US Environmental Protection Agency
(202)564-1681 (office)
Personal Phone / Ex. 6 mobile)

Message

From: Schmidt, Lorie [Schmidt.Lorie@epa.gov]
Sent: 3/27/2017 11:13:31 PM
To: Schwab, Justin [schwab.justin@epa.gov]
Subject: 170326 - Rollout Document
Attachments: 170326 - Rollout Document.docx

Justin, thanks for sharing with me.

There are a number of places where I think Deliberative Process / Attorney-Client / Ex. 5

Deliberative Process / Attorney-Client / Ex. 5

Unfortunately, I am about to be unavailable for the next few hours – I have tickets to a concert tonight.

Happy to talk later tonight or tomorrow morning.

Lorie

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 2/22/2017 4:13:30 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17 [Actadmmccabe.catherine17@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schnare, David [schnare.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: RE: Administrator Pruitt Clips 2/22/17

Below: New York Times, Mother Jones, Bloomberg BNA, Politico Pro, E&E News (3), The Hill, AP (2/21), InsideClimate News (2/21), Mother Jones (2/21), Morning Consult (2/21)

New York Times
https://www.nytimes.com/2017/02/22/us/politics/scott-pruitt-environmental-protection-agency.html
The Pruitt Emails: E.P.A. Chief Was Arm in Arm With Industry
By Coral Davenport and Eric Lipton 2/22/17, 10:18AM

WASHINGTON — During his tenure as attorney general of Oklahoma, Scott Pruitt, now the Environmental Protection Agency administrator, closely coordinated with major oil and gas producers, electric utilities and political groups with ties to the libertarian billionaire brothers Charles and David Koch to roll back environmental regulations, according to over 6,000 pages of emails made public on Wednesday.

The publication of the correspondence comes just days after Mr. Pruitt was sworn in to run the E.P.A., which is charged with reining in pollution and regulating public health.

"Thank you to your respective bosses and all they are doing to push back against President Obama's EPA and its axis with liberal environmental groups to increase energy costs for Oklahomans and American families across the states," said one email sent to Mr. Pruitt and an Oklahoma congressman in August 2013 by Matt Ball, an executive at Americans for Prosperity. That nonprofit group is funded in part by Charles and David Koch, the Kansas business executives who spent much of the last decade combating federal regulations, particularly in the energy sector. "You both work for true champions of freedom and liberty!" the note said.

Mr. Pruitt has been among the most contentious of President Trump's cabinet nominees. Environmental groups, Democrats in Congress and even current E.P.A. employees have protested his ties to energy companies, his efforts to block and weaken major environmental rules, and his skepticism of the central mission of the federal agency he now leads.

An Oklahoma judge ordered the release of the emails in response to a lawsuit by the Center for Media and Democracy, a liberal watchdog group. Many of the emails are copies of documents previously provided in 2014 to The New York Times, which examined Mr. Pruitt's interaction with energy industry players that his office also helps regulate.

The companies provided him draft letters to send to federal regulators in an attempt to block federal regulations intended to regulate greenhouse gas emissions from oil and gas wells, ozone air pollution, and chemicals used in fracking, the email correspondence shows.

They held secret meetings to discuss more comprehensive ways to combat the Obama administration's environmental agenda, and the companies and organizations they funded repeatedly praised Mr. Pruitt and his staff for the assistance he provided in their campaign.

The correspondence points to the tension emerging as Mr. Pruitt is now charged with regulating many of the same companies with which he coordinated closely in his previous position. As attorney general of Oklahoma, Mr. Pruitt took part in 14 lawsuits against major E.P.A. environmental rules, often in coordination with energy companies such as Devon Energy, an Oklahoma oil and gas producer, and American Electric Power, an Ohio-based electric utility.

The emails show that his office corresponded with those companies in efforts to weaken federal environmental regulations — the same rules he will now oversee.

"Please find attached a short white paper with some talking points that you might find useful to cut and paste when encouraging States to file comments on the SSM rule," wrote Roderick Hastie, a lawyer at Hunton & Williams, a law firm that represents major utilities, including Southern Company, urging Mr. Pruitt's office to file comments on a proposed E.P.A. rule related to so-called Startup, Shutdown, & Malfunction Emissions.

The most frequent correspondence was with Devon Energy, which has aggressively challenged rules proposed by the E.P.A. and the Department of Interior's Bureau of Land Management, which controls drilling on federal lands — widespread in the west. In the 2014 election cycle, Devon was one of the top contributors to the Republican Attorneys General Association, which Mr. Pruitt led for two years during that period.

In a March 2013 letter to Mr. Pruitt's office, William Whitsitt, then an executive vice president of Devon, referred to a letter his company had drafted for Mr. Pruitt to deliver, on Oklahoma state stationery, to Obama administration officials. Mr. Pruitt, meeting with White House officials, made the case that the rule, which would rein in planet-warming methane emissions, would be harmful to his state's economy. His argument was taken directly from Mr. Whitsitt's draft language.

"To follow up on my conversations with Attorney General Pruitt and you, I believe that a meeting — or perhaps more efficient, a conference call — with OIRA (the OMB Office of Information and Regulatory Analysis) on the BLM rule should be requested right away," Mr. Whitsitt wrote. "The attached draft letter (or something like it that Scott is comfortable talking from and sending to the acting director to whom the letter is addressed) could be the basis for the meeting or call."

The letter referred to the section of the White House Office of Management and Budget that coordinates regulations throughout the government.

Senate Democrats last week unsuccessfully urged their colleagues to delay a vote on Mr. Pruitt's confirmation until the emails were released.

The emails do not appear to include any request for his intervention explicitly in exchange for campaign contributions, although Mr. Pruitt was separately working as a member of the Republican Attorneys General Association to raise money from many of the same companies.

Despite the large volume of correspondence between Mr. Pruitt's office and the industry players, the emails are unlikely to cause Mr. Pruitt significant new problems. They do expand on email exchanges or topics that previously had been disclosed.

The Oklahoma Attorney General's office has withheld some documents, asking the judge to determine if they can be exempted from the order requiring their release. There are also other pending open-records requests, from the Center for Media and Democracy, The Times and other news organizations.

Mother Jones

http://www.motherjones.com/environment/2017/02/donald-trump-scott-pruitt-epa-employee-resist

"We Will Never Stop': An EPA Employee Blasts the Trump Administration

By Eric Holthaus 2/22/17, 11:00AM

As we embark on month two of Donald Trump's presidency, it's hard to imagine a group of federal employees facing more uncertainty than the staff of the Environmental Protection Agency. Industry ally and new EPA Administrator Scott Pruitt can be viewed only as an agent of profound change, and he's already faced intense opposition from Senate Democrats and from the staff he inherits.

In recent days, both *Bloomberg* and the *Washington Post* have reported that the first moves Trump and Pruitt will make in their overhaul of US environmental policy will be to roll back parts of Barack Obama's climate legacy and the "Waters of the US" rule—a thorn in the side of farmers and ranchers. This comes as no surprise—both of these policies were identified at the top of the administration's "America First Energy Plan" agenda the moment the White House website switched over on inauguration day.

After his hostile nomination process, Pruitt made an appeal to civility Tuesday in his first address to EPA staff. "We as an agency and we as a nation can be both pro-energy and jobs and pro-environment," he said. "We don't have to choose between the two." That message may ring a bit hollow to the agency's staff, however—coming from a person who has dedicated his career to dismantling environmental safeguards. We appear to be entering an era in which environmental protection will officially be seen as an impediment to the will of industry. For EPA staffers who have devoted their lives and careers to preserving the planet, this is a heartbreaking development.

Shortly after the inauguration, a career EPA employee contacted me through a secure chat program and began to express profound concern over the threat now posed to their life's work. What follows is a heartfelt essay that this official—who requested anonymity out of fear of retribution by the administration—wrote shortly after Pruitt's confirmation last week:

I am a proud employee of the EPA. My colleagues and I are passionate about protecting the health of the American people—and the natural environment we share—from harmful pollution, chemicals, and pesticides. Many of us fear that the American people believe politicians when they say our agency is full of "lazy bureaucrats." The reality is we all got into this work because we believe that it is our duty to protect people and the planet we live on for future generations. EPA is a public health agency, and we come to work every day focused on how we can better serve the American people and enable everyone, regardless of income, race, or any other factor, to enjoy equal protection and access to a healthy environment so everyone can prosper and enjoy the opportunities this country has to offer.

We are not against industry or economic prosperity; we want to work toward a society that cherishes people, the planet, and the economy—all at the same time.

When the EPA was established in 1970, by a Republican administration, the idea of a healthy environment was not a partisan issue. But since then, we have moved into an era where politicians and corporations started working to convince the American public that protecting their water, land, and air from harmful pollution was not in the people's best interests and that our economy can't be prosperous if our environment and public health is protected at the same time; this is a lie. What is true is that polluters don't want to be held accountable for their actions. But when will our leaders

see that people matter as well? The attitude that powerful polluters should be able to operate unchecked, no matter how many people are hurt, is the same all over the world.

What type of nation are we when we allow our leaders to sign into law a rule that makes it EASIER for mining companies to pollute local waterways? These same politicians will try to convince their voters that making it easier to pollute local streams is somehow good for them. Communities in West Virginia, Indiana, and Alabama with sky-high rates of cancer due to industry pollution shouldn't be presented with the false choice of accepting even more poison in their local environment or having a job. No one should be told that they have to put up with cancer-causing poison in their water, air, and land. It's shameful, and it's wrong.

We at EPA believe that everyone should be able to breathe clean air, drink clean water, have healthy food, AND ALSO have a growing economy. Those that want to weaken EPA will say, "Well, the states can do it themselves." EPA has always worked closely with states and respects jurisdictional power, but rivers and air don't stop at state borders, and every American—no matter where they live—deserves to have a basic standard of protection.

You have to ask yourself: Who benefits when the EPA is weakened? Who benefits when our staff is laid off, cast aside, and when the agency is prevented from pursuing its mission of protecting public health and the environment? Who benefits when the agency can't consistently enforce environmental laws that are meant to protect the public? The beneficiaries are not the people. Environmental protection is not a partisan issue. Science is not partisan. We all share this earth and its resources on which we all depend to survive. The amount of money you have should not determine if you get to live a healthy life, free from pollution. The politicization of this issue is manipulation by those who are already powerful. We, EPA professionals, have dedicated our lives to this work because we care about people more than we care about money or even being recognized for what we do.

2015 was the deadliest year on record for people working to defend and protect the environment. Let that sink in. One hundred and eighty-five human beings were killed around the world (more than three for every week of 2015) because they dedicated their lives to protecting human health from pollution and preserving the beautiful planet we all cherish. The same year, the Environmental Protection Agency welcomed Berta Cáceres, along with the other winners of the Goldman Environmental Prize, to honor them for being global leaders in defense of human rights and environmental protection. Less than one year later, Ms. Caceres would be murdered in her home in Honduras because she was brave enough to challenge mining and dam-building corporations. She defended human rights and the environment, and her life was taken because of it.

Here in the US, those of us who work to protect the environment and human health from corporate pollution are lucky enough that we do not live under the specter of murder. We are, however, acutely aware that the forces behind these heinous crimes against environmental activists abroad are the same forces that are working against us in the US today. And make no mistake: These forces are poised to grow even stronger.

If it is discovered in the next few weeks that the EPA Administrator does in fact have even closer ties to polluting corporate interests than we feared, what will the public do? Will the capture of EPA by corporate interests be swept up in all the other horrifying news of the day or week? Or will the public finally decide that it is not acceptable to allow EPA, the only agency with a mission dedicated to protecting the environment, to be systematically dismantled, allowing those at the top to further concentrate wealth and power among themselves? Despite the long odds we face, we will never stop working to protect every person's right to have a healthy place to live, work, and play. And if the new administrator casts me out of the job I love, I will not stop working toward the principles that have always animated my life. This is who I am, and that will never change. I stand in solidarity with brothers and sisters that work to protect human rights, human health, and the environment here in the US and all over the world. The struggle continues.

Bloomberg BNA
http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=105973923&vname=dennotallissues&wsn=498738000&searchid=29411995&doctypeid=2&type=date&mode=doc&split=0&scm=1245&pg=0
White House Vetting Pruitt Choices for EPA Leadership: Adviser
By Brian Dabbs 2/22/17

The White House is collaborating with newly minted EPA administrator Scott Pruitt to vet candidates for the agency's leadership team, but the speed of confirmations is largely up to a Senate already dogged by intransigence, a top White House adviser said Feb. 21.

"Those decisions are made by the secretary, and in this case the administrator, and the president, and they make them jointly from what I've seen," Don Benton, a senior White House adviser on the agency, told reporters after Pruitt's inaugural speech to EPA staff.

"The president understands that when he puts an executive in charge of something they need to be able to bring the people in that they need to get the job done," Benton, a Republican state senator from Washington, said.

Pruitt took the reins of the Environmental Protection Agency Feb. 17 following a contentious and drawn-out confirmation process. Acting deputies and assistant administrators currently fill the ranks of the highest levels of the agency, led by Acting Deputy EPA Administrator Mike Flynn. Democrats in the Senate are continuing to stall nominees amid an unprecedented pushback on the newly elected president's Cabinet.

President Donald Trump reportedly rejected Secretary of State Rex Tillerson's pick for deputy, Elliott Abrams, in recent days, but Benton dismissed the prospect of a leadership selection row at the EPA.

Processing Names

"I don't expect we'll have any trouble," he told reporters. "We're ready to go. Scott has in mind the people that he needs to help him, and we've already begun to process some of those names through the White House."

Various news accounts have mentioned Donald van der Vaart, former secretary of North Carolina's Department of Environmental Quality, and Andrew Wheeler, a former aide to Sen. Jim Inhofe (R-Okla.), as potential Pruitt deputies.

A spokesman for the Senate Environment and Public Works Committee, the panel tasked with processing the EPA staff, said he couldn't immediately respond to a Bloomberg BNA request for comment. Lisa Jackson, the first EPA administrator under former President Barack Obama, didn't land a Senate-confirmed deputy administrator, Bob Perciasepe, until December of the president's first year in office.

The Senate confirmed Jackson three days after Obama's inauguration in 2009 while Pruitt has had to wait a month.

Benton lauded the Pruitt speech, saying the new administrator rightly stressed the need to balance environmental safeguards and industry growth. Pruitt focused on cooperative federalism and reining in EPA overreach.

"Process matters, and we should respect that and focus upon that, and try to avoid, not try to avoid but do avoid, abuses that occur sometimes," Pruitt told a crowd of several dozen EPA employees. "I believe we as an agency and we as a nation can be both pro-energy and jobs and pro-environment, that we don't have to choose between the two."

As attorney general for Oklahoma, Pruitt sued the EPA over a range of regulations, including challenges to the Clean Water Rule, Clean Power Plan, ozone air quality standards, mercury standards for power plants and methane limits for the oil and natural gas industry.

Politico Pro
https://www.politicopro.com/energy/whiteboard/2017/02/group-releases-7-500-pages-of-pruitt-emails-084006
Group releases 7,500 pages of Pruitt emails
By Alex Guillen 2/22/17, 9:52AM

1. The watchdog group Center for Media and Democracy today released more than 7,500 pages of emails from the Oklahoma attorney general's office during Scott Pruitt's tenure.
CMD says the batch of emails includes communications showing cooperation between Pruitt's office and American Fuel & Petrochemical Manufacturers on the Renewable Fuel Standard and the ozone standard, as well as further connections with Devon Energy, a relationship that was first reported by The New York Times in 2014.

A state judge last week said Pruitt had wrongly delayed releasing the emails, which were requested by CMD more than two years ago. Mike Hunter, who replaced Pruitt as attorney general on Monday, complied with the order to release the emails to CMD by yesterday. He is also required to turn over by Monday more emails connected to a half-dozen more CMD requests made over the past two years.

E&E News
http://www.eenews.net/energywire/2017/02/22/stories/1060050390
Emails hang over Pruitt message to EPA staff
By Joel Kirkland and Mike Lee 2/22/17

Staff from the Oklahoma attorney general's office began turning over thousands of documents related to U.S. EPA Administrator Scott Pruitt's contacts with oil, gas and coal groups during his tenure as the state's top lawyer.

Last night, by court order, the Center for Media and Democracy received a disc with 7,500 pages of emails and public documents that it has been requesting from Pruitt's office for two years.

The liberal-leaning watchdog requested the information two years ago and sued to gain access to the records in part to force a response before the Senate confirmed Pruitt to EPA's top job. Oklahoma District Judge Aletia Haynes Timmons

on Thursday ordered the attorney general's office to release the documents. The Republican-led Senate confirmed Pruitt on Friday after Democrats held the Senate floor all night in the hope of bringing public pressure to bear against Pruitt's nomination (*Energywire*, Feb. 17).

Pruitt served as Oklahoma's attorney general from 2011 until this month and developed a reputation as a champion of the fossil fuel industry. *The New York Times* reported in 2014 that Pruitt used language from oil and gas companies in letters and legal briefs challenging the Obama administration's environmental regulations.

Before becoming President Trump's EPA administrator, Pruitt organized efforts by attorneys general and oil, gas and coal companies aiming to stop Obama-era rules. Some of their lawsuits against EPA failed to overturn regulations, but Pruitt and other Republican attorney generals won a Supreme Court stay on President Obama's signature rule for addressing greenhouse gas emissions from existing power plants, the Clean Power Plan.

The pursuit of the records overshadowed Pruitt's first days in office and highlighted his work promoting the energy industry and individual states' prerogatives in enforcing environmental laws. In his first public remarks to the EPA staff, Pruitt suggested those themes would be part of the Trump administration's approach to regulating greenhouse gases, air quality and water quality.

"Regulators exist to give certainty to those they regulate," he said in remarks to EPA's 15,000 employees nationwide. "Those that we regulate ought to know what's expected of them so they can plan and allocate resources to comply."

Without explicitly denouncing Obama's approach to regulating energy companies, Pruitt indicated a broad shift away from Obama's use of the federal agency to force reductions in auto, oil field and power plant emissions.

"Federalism matters," Pruitt said. "I seek to ensure that we engender the trust of those at the state level, that those at the state level see us as partners in this very important mission we have as an agency, and not adversaries."

Clean Power Plan

Pruitt's comments came on the heels of reports that Trump plans to issue an executive order this week to start the process of rescinding the Clean Power Plan. The CPP, which is on hold until federal courts rule on pending litigation, is the agency's signature climate regulation targeting carbon emissions from power plants.

Critics of the rule accused EPA of misinterpreting the Clean Air Act and running roughshod over states that rely on coal for electricity. Its supporters say EPA's finding that carbon dioxide is a pollutant compels the agency to act in the public interest, and they say state-led plans were the centerpiece of the regulation.

To back out of the Clean Power Plan, Pruitt's starting point is at the U.S. Court of Appeals for the District of Columbia Circuit, where litigation is pending. He could request the court pause before ruling on legal challenges against the carbon rule, according to analysts, alerting the court of EPA's intentions to rewrite the regulation.

Anything he does is expected to trigger a reaction from states that support the rule.

In late December, 14 attorneys general, including from New York, California, Virginia, Oregon and Illinois, signed a letter to then-President-elect Trump urging him to continue defending the Clean Power Plan.

"The Clean Power Plan builds on successful strategies that states, local governments and the power sector have used to cost effectively cut greenhouse gas emissions from power plants, while at the same time creating jobs and growing our economies," the letter stated.

But the letter also responded to a push by states primarily in the South and Midwest to get Trump to unravel the Clean Power Plan.

"If the challengers are so confident in their oft-repeated claim that the Clean Power Plan is 'unlawful,' why not let the court decide the claims that they themselves brought?" said the attorneys general, led by New York Attorney General Eric Schneiderman (D).

A spokesman for the Sierra Club said to expect a "proportionate response" to an executive order directing EPA to dismantle the carbon regulation — from environmental groups, public health advocates and states in the Northeast and West supporting the federal effort to combat climate change.

E&E News
http://www.eenews.net/climatewire/2017/02/22/stories/1060050392
Staff wary but ready to work with Pruitt amid new email dump
By Emily Holden, Niina Heikkinen and Hannah Hess

Newly appointed U.S. EPA Administrator Scott Pruitt yesterday tried to extend an olive branch to worried staffers hours before consenting to a judge's order and releasing more than 7,000 pages of emails with energy firms.

By late yesterday evening, advocates with the Wisconsin-based Center for Media and Democracy were combing through the email correspondence between Pruitt and his top staff in the Oklahoma attorney general's office and coal, oil and natural gas companies. The group intends to publish the emails online by 9:30 am today.

In an emailed statement, a spokesman for the Oklahoma attorney general's office said the office had gone "above and beyond" the requirements of Oklahoma's open records law.

"This broad disclosure should provide affirmation that, despite politically motivated allegations, the Office of Attorney General remains fully committed to the letter and spirit of the Open Records Act," spokesman Lincoln Ferguson said.

The Center for Media and Democracy had pursued the documents for two years. Last week, Oklahoma County District Judge Aletia Haynes Timmons ruled that Pruitt had failed to follow the state's open records laws, and required him to produce emails relating to one of the outstanding requests by close of business yesterday.

Senate Democrats and environmental groups had demanded the emails' release prior to Pruitt's confirmation last week but failed to convince Republicans. Yet any hint of an email scandal was absent from Pruitt's first public address yesterday to employees at EPA headquarters in Washington, D.C.

Holding up an EPA cap, Pruitt told employees he wants to help them do their work and argued for "civility" in a "toxic" political environment.

"I seek to be a good listener," Pruitt said, commending career staffers for their dedication and contending that media reports about him might not paint a fair picture.

But Pruitt's tone pivoted sharply from EPA's core message in recent years. Where former EPA chief Gina McCarthy focused most of her speeches on the agency's work to improve public health, Pruitt instead highlighted the importance of abiding by congressional intent and providing regulatory certainty to businesses.

"Regulations ought to make things regular," Pruitt said. "Regulators exist to give certainty to those that they regulate. Those that we regulate ought to know what's expected of them so they can plan and allocate resources to comply."

Pruitt said EPA should avoid "abuses that occur sometimes" in the regulatory process. He called out the agency practices of regulating through guidance rather than an official rulemaking, or writing rules in response to litigation from environmental groups.

"We need to be open and transparent and objective in how we do rulemaking and make sure we follow the letter of the law as we do so," he said.

Employees taking a wait-and-see approach

Pruitt plans to work to roll back many of the Obama administration's signature environmental achievements, including a rule to reduce greenhouse gas emissions from power plants. An executive order on that rule, called the Clean Power Plan, could come as early as this week, although more binding efforts to undo it will take longer and face lawsuits (*Climatewire*, Feb. 21).

The new administrator wants to narrow the scope of EPA's work, and employees have voiced concerns about staffing and budget cuts and reorganizations that might prevent them from fulfilling their obligation to protect the environment.

EPA staffers filing out of their Washington headquarters yesterday said they were still concerned but would wait to see how their new boss worked.

One EPA employee said he would "give him a chance."

"I don't like to prejudge anybody," he said.

That employee added that he thought Pruitt's speech was "kind of vanilla." He said that while it makes sense that Pruitt would emphasize a need to adhere to the law, he added, "Let's hope we stick to that."

Another employee said he saw the potential for a positive working relationship with the new administrator.

"He thinks that you can still save the environment yet have economic growth, which sounds good. I think he's a personable guy; I kind of like him. I look forward to working with him," said one EPA employee in the Office of Water.

Jeff Holmstead, a former assistant administrator at EPA under George W. Bush, said Pruitt "certainly understands he's coming in with some controversy."

"I think this is the first step of his effort to reach out and make sure people understand who he is and know he's open to addressing their concerns," Holmstead said, adding Pruitt "didn't pull any punches" or make promises that he couldn't keep about EPA's budget, which the president and Congress will ultimately decide. Many agency staffers will be waiting to see the budget, Holmstead said.

Greens blast speech

Bill Becker, executive director of the National Association of Clean Air Agencies, said Pruitt's case for ensuring that the agency abides by the law, adheres to process and works closely with states "sounds awfully similar to previous administrations &mdash and I say that really as a compliment."

But a national environmental program for cutting pollution won't succeed at the state and local level without a strong and effective EPA, he warned. The possibility of significant cuts to EPA's budget or slashing the agency's 15,000-person staff to about 5,000 employees, as transition team chief Myron Ebell has suggested, threatens that (*Greenwire*, Jan. 26).

If Pruitt's first acts are to rescind regulatory programs on which many states relied without seeking a substitute, Becker said, it might cause a rocky start.

"We welcome delegation of authority, but not without financial and regulatory help, and not without the important backstop of EPA," Becker said.

Becker concluded, "These are laudable principles. No one can argue about any of those principles. No one should argue about any of those principles. But it's how they are carried out that matters."

Environmentalists quickly condemned Pruitt for not focusing his speech more on environmental and public health issues.

"My immediate reaction was that in his first address to EPA, he didn't talk about environmental protection at all. It was completely absent of any mention of protecting clean water, air and land. No mention of climate change, which is obviously a critical challenge of our time," said Nick Conger, press secretary for the Natural Resources Defense Fund and former communications adviser to the EPA administrator's office during the Obama administration.

Conger noted that Pruitt also did not focus on regional engagement and did not take questions from staff members, something his former boss, McCarthy, used to do during each of her all-hands meetings as EPA administrator.

"I'm just very struck that it seems his focus is on protecting industry and economic impacts, market impacts, at the exclusion, almost, if not entirely at the exclusion, of public health protection. That's what EPA is there to do, protect public health," he said.

'Hell to pay' if climate regs repealed?

Catherine McCabe, who was acting administrator until Pruitt's confirmation, touted her new boss's work to achieve a water rights settlement among the state of Oklahoma, cities and tribal nations.

Pruitt instead spoke about his vision for making regulations simpler for industry.

While he didn't mention the Clean Power Plan directly, he said he believes the agency can be "both pro-energy and jobs and pro-environment."

"We don't have to choose between the two," he said.

Industry groups challenging EPA's regulation of carbon dioxide under the Clean Air Act seem wary of going too far in contesting climate rules.

A senior official at the U.S. Chamber of Commerce's Institute for 21st Century Energy recently said there would be "hell to pay" if the Trump administration tries to repeal EPA's 2009 endangerment finding.

"And if you are going to go out there and say, 'We're going to pull this back,' I mean there is going to be hell to pay, not just from those people out there who are protesting those plants," Senior Vice President for Policy Christopher Guith said last month at an event in Kentucky, according to a transcript published by the Energy and Policy Institute, a watchdog organization backing renewables.

"There's going to be hell to pay from, you know, soccer moms and soccer dads all throughout the country. People who probably voted for Donald Trump," Guith said.

Matt Letourneau, a spokesman for the institute, said Guith's answer "was based on a political analysis of the situation," not an official policy position.

E&E News
http://www.eenews.net/climatewire/2017/02/22/stories/1060050394
Automakers ask Pruitt to revisit Obama's emissions rules
By Camille von Kaenel 2/22/17

Automakers have asked new U.S. EPA Administrator Scott Pruitt to reverse an Obama-era decision to lock in vehicle emissions standards through 2025.

The Alliance of Automobile Manufacturers wants EPA to reopen an official review of fuel economy rules, which it says were rushed during the final days of the Obama administration to cement the former president's climate legacy.

EPA had until April 2018 to decide whether to tighten, loosen or simply maintain the emissions standards. Instead, it finalized its decision on Jan. 13 — days before President Trump's inauguration.

The auto industry group's president and CEO, Mitch Bainwol, asked Pruitt to withdraw that decision yesterday in a letter, calling it "the product of egregious procedural and substantive defects" and "riddled with indefensible assumptions, inadequate analysis and a failure to engage with contrary evidence."

EPA's decision to keep the standards unchanged followed a technical report in the summer that found that automakers could continue to meet and exceed the standards with available or impending technologies, though Americans' changing preferences for bigger vehicles would slightly mitigate the overall greenhouse gas benefits of the program.

Bainwol wrote that he is not asking for a different final decision "at this time" but wants more time for the agency to consider additional studies the trade lobby is conducting on the feasibility of the standards. The decision was not published in the *Federal Register* because it was not a new rule and so is not subject to a regulatory freeze.

Automakers agreed to the standards in 2012 on the condition of the midterm review. The emissions standards would bring average fleetwide fuel economy to 50.8 mpg in 2025. The letter by the trade lobby follows a similar request by automaker CEOs directly to President Trump to soften, if not eliminate, the rules.

Bainwol also said he is concerned about discrepancies between the agencies that set the rules: EPA and the National Highway Traffic Safety Administration. NHTSA, which must issue a separate rule for the 2022-25 standards, has not yet completed its midterm review. Before Trump took office, it agreed to consider long-standing requests by automakers to tweak the standards.

Environmental and national security advocates have warned that any change to the fuel economy standards would have to surmount legal challenges and could create greater uncertainty for automakers.

The Hill
http://thehill.com/policy/energy-environment/320590-group-releases-emails-from-new-epa-chief
Group releases emails from new EPA chief
By Devin Henry 2/22/17 9:36 AM EST

An open-government group has released a batch of emails from Environmental Protection Agency Administrator Scott Pruitt's tenure as Oklahoma attorney general.

The Center for Media and Democracy (CMD) released nearly 1,500 pages of emails on Wednesday morning, one day after Pruitt's former office turned them over to a state court in Oklahoma. The group said it received 7,564 pages of emails from Pruitt's office overall.

The court had ordered Pruitt's office to release the documents last week after CMD sued, seeking a response to an Open Records Act data request it had sent years earlier.

That court order came days before the Senate voted to confirm Pruitt to his post at the EPA.

Senate Democrats — all but two of whom voted against Pruitt's nomination — insisted the vote be delayed until after the emails were released. Pruitt said the emails could show close ties between his office and the Oklahoma fossil fuel industry, a sector that he defended during his tenure as the state's attorney general.

Pruitt was sworn in as EPA administrator on Friday and he addressed the agency for the first time on Tuesday.

AP
http://hosted.ap.org/dynamic/stories/U/US_OPEN_RECORDS_LAWSUIT_PRUITT?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT

EPA head's emails with energy companies to be released

By Tim Talley 2/21/17

OKLAHOMA CITY (AP) -- The Oklahoma attorney general's office said Tuesday it is complying with a judge's order to surrender documents related to new Environmental Protection Agency leader Scott Pruitt's communications with energy companies while he served as the state's attorney general.

The office had until 5 p.m. Tuesday to comply with District Judge Aletia Haynes Timmons's order to turn over emails and other documents to the Wisconsin-based Center for Media and Democracy, which requested the documents more than two years ago under Oklahoma's Open Records Act.

A spokesman for the office, Lincoln Ferguson, said it turned over records related to the January 2015 request to the watchdog agency and that other records were turned over to the judge to determine if they are privileged and not subject to release under the law.

"The office went above and beyond what is required under the Open Records Act and produced thousands of additional documents that, but for the court's order, would typically be considered records outside the scope of the act," Ferguson said in an emailed statement.

"This broad disclosure should provide affirmation that, despite politically motivated allegations, the office of attorney general remains fully committed to the letter and spirit of the Open Records Act," Ferguson said.

An attorney for the advocacy group, Bob Nelon, said he received an email from the attorney general's office at 4:14 p.m. Tuesday indicating that it planned to comply with the judge's order and make the documents available.

Nelon said the records were provided electronically and that an initial review indicated one computer disk contained 7,564 pages, although it was not immediately clear how many documents they represent.

The attorney general's office had previously identified more than 3,000 emails that it said pertained to the group's January 2015 request.

Nelon said the records will be transmitted to the Center for Media and Democracy, which plans to make them publicly available on its website.

Timmons has also ordered the attorney general to comply with other open-records requests by the group in 2015 and 2016.

The judge handed down her ruling on Thursday in connection with a lawsuit the group filed that accused the attorney general's office of failing to provide "prompt and reasonable access" to the documents, as required by the Open Records Act.

Pruitt resigned his post as Oklahoma attorney general on Friday, the day he was sworn in as President Donald Trump's EPA administrator.

Among other things, the January 2015 request sought information about Pruitt's communications, private meetings and relationships with fossil fuel companies as the state's attorney general, companies he will help regulate as EPA administrator.

Nelon said later requests were more narrowly tailored and that the advocacy group has no idea how many documents are involved.

As Oklahoma's attorney general, Pruitt repeatedly sued the EPA and criticized what he has characterized as the EPA's "activist agenda." He has been a reliable booster of the fossil fuel industry and has said his support for legal positions advocated by oil and gas companies was in the best interest of Oklahoma, which is economically dependent on the fossil fuel industry.

In his first meeting with the EPA's staff Tuesday, Pruitt said he believes the nation can be "pro-energy and jobs, and pro-environment."

"I think our nation has done better than any nation in the world at making sure that we do the job of protecting our natural resources, and protecting our environment, while also respecting economic growth," Pruitt said.

Inside Climate News
https://insideclimatenews.org/news/21022017/pruitt-enters-epa-conciliatory-words-staff-braces-divisive-action
Pruitt Enters EPA with Conciliatory Words, but Staff Braces for Steep Cuts
By Marianne Lavelle 2/21/17

Scott Pruitt, who spent the past six years as the Environmental Protection Agency's courtroom antagonist, took the helm of the agency Tuesday with a pledge to listen to agency staff and tackle tough problems cooperatively.

"We ought to be able to get together and wrestle through some difficult issues in a civil manner," said Pruitt in an address to EPA employees, who are bracing for deep budget cuts and a retreat from the goal of addressing climate change.

Pruitt didn't talk about policy specifics. Instead, he laid out a vision for an EPA that could avoid litigation in the future by limiting the agency's ambitions under the mandates that Congress gave it and sticking to "process."

But environmental advocates already were preparing a vigorous legal defense of regulations they fear could be undone. They maintain the rules were subject to a rigorous public comment and debate, as well as court review.

With the Trump White House expected as soon as this week to issue executive orders to roll back the Clean Power Plan, Presient Obama's signature climate initiative, and other EPA regulations, David Doniger, climate programs director of the Natural Resources Defense Council, responded on Twitter:

Pruitt's address to the agency came on the first full federal workday since his contentious confirmation process ended Friday with a largely partisan 52-46 vote of approval.

"This environment that we live in today is a very toxic environment," Pruitt said. "We have jerseys that we put on, and that is something that I think is damaging to the overall objective of finding the results and answers."

But Pruitt, the former Oklahoma attorney general, is likely to continue to be dogged by the same issues that have been raised since his nomination by Trump in December. On the same day as his official welcome at EPA, about 2,000 of his emails with fossil fuel companies and organizations were to be released in Oklahoma after years of delay.

Pruitt suggested that EPA staff may have gotten an incomplete picture of him from reading news reports. "I look forward to sharing the rest of the story with you," he said. "I seek to listen, learn and lead with you, to address these issues that we face as a nation."

While stressing civility and cooperation, Pruitt returned to the arguments he made against the EPA both in court and before the Senate.

"Process matters," said Pruitt. "Regulations are to make things regular, to give certainty to those who are regulated, so they know what's expected of them and can allocate resources so that they can comply.

"The process we engage in is very important. It sends a message that we take seriously our role of taking comment and offering a response, and in making informed decisions on how it's going to impact those in the marketplace to achieve the ends we have in statute," he said. "We should avoid abuses...like engaging in regulation through litigation, consent decrees that bypass the Administrative Procedure Act."

Pruitt's view echoes the complaints of industry lobbyists who have decried EPA's settlement of a number of lawsuits brought by environmental groups during the Obama administration. Under these agreements, the EPA finalized regulations to control mercury from power plants, address air quality issues due to ozone, clean up the Chesapeake Bay and regulate greenhouse gases.

Critics say the consent agreements are a kind of collusion between the EPA and environmentalists. Environmental groups, however, argue that their litigation followed years of effort and wrangling with the agency. (The Government Accountability Office found little impact on EPA policy due to the deadlines imposed by consent decree.) In 2014, the U.S. Supreme Court rejected an effort by Pruitt and other litigants to overturn a settlement with several states and environmental groups under which the EPA agreed to regulate greenhouse gases.

"EPA already has SO MUCH PROCESS," Jack Lienke of the Institute for Policy Integrity at the New York University School of Law, said on Twitter. "Clean Power Plan was in the works for > FOUR YEARS before finalization."

In his remarks on Tuesday, Pruitt also reprised the argument he often made in more than 14 lawsuits against the EPA—that it had overreached its legal authority. "The rule of law: the only authority any agency has is given to it by Congress," Pruitt said. "Sometimes that authority is broadly stated, and other times Congress is very restrictive, and it's been very specific about what they agency can and can't do.

"We need to respect that. When we do that, here's what happens: We avoid litigation, and we reach better outcomes."

But the Supreme Court, in its landmark Massachusetts v. EPA decision, ruled that, "Because greenhouse gases fit well within the Act's capacious definition of 'air pollutant,' EPA has statutory authority to regulate emission of such gases."

The court said that "EPA can avoid promulgating regulations only if it determines that greenhouse gases do not contribute to climate change or if it provides some reasonable explanation as to why it cannot or will not exercise its discretion to determine whether they do. It has refused to do so, offering instead a laundry list of reasons not to regulate."

And courts have rejected Pruitt's argument that EPA exceeded its authority in other cases, such as the Obama administration's cross-border pollution and mercury pollution regulations for power plants.

Other legal challenges, however, have yet to be decided, including a case now pending in a federal appeals court on the Clean Power Plan. The Supreme Court has issued a stay on putting the rule into effect.

Pruitt did not mention climate change, but said, "We as a nation can be pro-energy and jobs and pro-environment."

Environmental advocates quickly took issue with the picture of the agency painted by Pruitt. Lienke tweeted that statistics show EPA has been balancing economic growth and environmental protection all along. He cited a 68 percent reduction in the most common air pollutants from 1970 and 2013, as GDP tripled and the U.S. population grew by 54 percent.

Although all EPA staff were invited to attend, there was only room for about 100 in the high-ceilinged ceremonial room next to the administrator's office, the Rachel L. Carson Great Hall; the agency's 15,000 employees could watch remotely. The crowd in the room included some of the agency's first political appointees, including the transition leader, former Washington State Sen. Don Benton.

Benton said after the speech he thought that Pruitt had struck "a perfect balance" in his speech. "He's very much in partnership mode," he said.

Brett Hartl, government affairs director of the Center for Biological Diversity, said he thought that although Pruitt's comments about the rule of law and process "sound good," his record indicates he will be taking the agency in a dramatically different direction. "His agenda is straightforward. He wants to undercut the agency," said Hartl. "He's going to be the guy who cuts their staff and their budget, and makes employees do useless things so they can't do enforcement."

Mother Jones
http://www.motherjones.com/environment/2017/02/pruitt-speech-epa
"Condescending and Hypocritical': An EPA Staffer Blasts Scott Pruitt's First Speech
By Rebecca Leber 2/22/17, 4:43PM

Scott Pruitt may have wanted to ease Environmental Protections Agency staffers' concerns about him Tuesday, but his first remarks as head of the agency hardly mentioned environmental protection at all.

With Donald Trump's EPA transition staff sitting nearby, Pruitt delivered an 11-minute speech, in which he declared, "We as an agency and we as a nation can be both pro-energy and jobs and pro-environment." He also quoted famed conservationist John Muir: "Everyone needs beauty as well as bread, places to pray in and play in." Pruitt did lament the "toxic environment" in the country, but it was a reference to the political climate—part of a call for a more civil discourse.

The former Oklahoma attorney general never dwelled on the specifics of his or the White House's agenda for the EPA in the short address, which featured introductory remarks by recent acting administrator Catherine McCabe. Neither McCabe nor Pruitt mentioned the elephant in the room: the EPA's regulations on climate change and Pruitt's role in suing the agency for its climate work.

"I know it's very difficult to capture in one speech the vision and direction of an agency," Pruitt said, while outlining a few of his core guiding principles for the new EPA. He said he wants to limit the scope of the agency's regulatory work and ensure stability for industry. "Regulations ought to make things regular," Pruitt said. "Regulators exist to give certainty to those they regulate…Process matters and we should respect that and focus on that, and try to avoid, do avoid, abuses that occur sometimes."

Pruitt mentioned the need to follow "rule of law" and respect states' roles in enforcing environmental standards. "Congress has provided a very robust, important role of the states," Pruitt said. (Environmentalists, of course, are quick to point out that states are not always eager or financially equipped to protect air, water, or the climate on their own.)

If Pruitt's address was meant to soothe staffers' concerns about their incoming administrator, they may have come up short.

"Pruitt's talk [was] as bad as expected," said a current career EPA staffer of over 20 years, who requested anonymity, following the speech. "Not one word about public health. And talking about the rule of law as if we didn't do EVERYTHING with the realization that it WILL end up in court. It was condescending and hypocritical."

Some former EPA officials shared that view. "Trump's team spent the entire campaign and the last few months railing against EPA's existence, its staff, and its purpose," Liz Purchia, an Obama-era communications staffer at the agency, said in an email. "Accomplishing agency priorities was no easy task when the administrator had staff's back and politicals and careers agreed the majority of the time, so let's see how well Trump's EPA does getting staff to follow them when they feel disrespected. These are professionals with years of experience, who have been made to feel like their leader doesn't trust their judgment. The American people are relying on them to defend the agency, protect its environmental statutes and stand up to Trump's team to ensure they uphold science and the law."

Going by the EPA's press releases over the weekend, the agency now views industry and conservatives as its real constituency. No public health groups, environmentalists, or scientists appeared on the laundry list of "stakeholder" congratulations circulated by the EPA after Pruitt was sworn in.

Outside the EPA on Tuesday, an administration official echoed Pruitt's pledge that he will listen to career staff. "He's a very good listener," Don Benton, a White House senior adviser, told reporters after the address. "I don't expect him to be making any quick decisions."

Benton didn't answer specifics on the timing of the presidential actions, saying that the matter is between Pruitt and Trump. But a slow transition based on input from current EPA staff isn't what news reports—nor Pruitt's own words—have suggested. Various news outlets have reported that the White House intends to roll out a series of presidential actions targeting the EPA as early as this week.

Pruitt didn't provide much clarity Tuesday on what comes first. But in an interview with a conservative *Wall Street Journal* columnist last week, Pruitt appeared to reverse himself on one key issue. At his confirmation hearing in January, he said that the EPA's official finding that climate change poses a health danger and is therefore subject to the Clean Air Act "needs to be enforced and respected." But according to the *Journal*, Pruitt now wants to conduct a "very careful review" of whether the agency can do anything at all about global warming. His remarks Tuesday appear to have done little to persuade his critics that such a review would be based on sound science.

Morning Consult
https://morningconsult.com/2017/02/21/no-mention-climate-pruitts-address-epa-employees/
No Mention of Climate in Pruitt's Address to EPA Employees
By Jack Fitzpatrick 2/21/17

Environmental Protection Agency Administrator Scott Pruitt did not mention climate change or specific regulations in his first address to employees on Tuesday, instead emphasizing the agency's limitations and the need to provide more certainty for the energy industry.

Pruitt also did not mention air pollution or water pollution, key portions of the agency's mission, during the 11-minute address, and did not take questions. The speech could signal how Pruitt is focused more on avoiding government overreach rather than propagating new regulations.

"Regulators exist to give certainty to those that they regulate," he said, adding that he wants the agency to "avoid abuses that occur sometimes." That includes "using the guidance process to do rulemaking."

Pruitt may have been referring to a controversial guidance from the White House Council on Environmental Quality, which asks agencies conducting environmental reviews to consider how any infrastructure project would affect climate change. The guidance was technically voluntary, but critics said it was practically mandatory even though it didn't go through the full rulemaking process.

Pruitt's process-oriented speech differed in tone from the approach of his predecessor, Gina McCarthy, who emphasized the need for strong protections from pollution.

While serving as Oklahoma attorney general, Pruitt was involved in 13 lawsuits against the EPA, including high-profile cases over regulations on greenhouse gases and mercury pollution. He also took criticism from Democrats during his confirmation hearing for his close ties to the fossil fuel industry.

League of Conservation Voters Senior Vice President Tiernan Sittenfeld said in an emailed statement that Pruitt's speech "did nothing to address our grave concerns about him."

Pruitt said he hopes to avoid "regulation through litigation," referring to issuing contentious rules that attract lawsuits and ultimately leave a judge to decide details of what the agency can do, rather than agreeing on details with stakeholders.

Every regulation "needs to be tethered to statute," Pruitt said, adding that he believes Congress has been "very prescriptive" in its laws for the agency.

"The only authority that any agency has in the executive branch is the authority given to it by Congress," he said.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 2/22/2017 3:12:49 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17 [Actadmmccabe.catherine17@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schnare, David [schnare.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Administrator Pruitt Clips 2/22/17

Below: Bloomberg BNA, Politico Pro, E&E News (3), The Hill, AP (2/21), InsideClimate News (2/21), Mother Jones (2/21), Morning Consult (2/21)

Bloomberg BNA
http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=105973923&vname=dennotallissues&wsn=498738000&searchid=29411995&doctypeid=2&type=date&mode=doc&split=0&scm=1245&pg=0
White House Vetting Pruitt Choices for EPA Leadership: Adviser
By Brian Dabbs 2/22/17

The White House is collaborating with newly minted EPA administrator Scott Pruitt to vet candidates for the agency's leadership team, but the speed of confirmations is largely up to a Senate already dogged by intransigence, a top White House adviser said Feb. 21.

"Those decisions are made by the secretary, and in this case the administrator, and the president, and they make them jointly from what I've seen," Don Benton, a senior White House adviser on the agency, told reporters after Pruitt's inaugural speech to EPA staff.

"The president understands that when he puts an executive in charge of something they need to be able to bring the people in that they need to get the job done," Benton, a Republican state senator from Washington, said.

Pruitt took the reins of the Environmental Protection Agency Feb. 17 following a contentious and drawn-out confirmation process. Acting deputies and assistant administrators currently fill the ranks of the highest levels of the agency, led by Acting Deputy EPA Administrator Mike Flynn. Democrats in the Senate are continuing to stall nominees amid an unprecedented pushback on the newly elected president's Cabinet.

President Donald Trump reportedly rejected Secretary of State Rex Tillerson's pick for deputy, Elliott Abrams, in recent days, but Benton dismissed the prospect of a leadership selection row at the EPA.

Processing Names

"I don't expect we'll have any trouble," he told reporters. "We're ready to go. Scott has in mind the people that he needs to help him, and we've already begun to process some of those names through the White House."

Various news accounts have mentioned Donald van der Vaart, former secretary of North Carolina's Department of Environmental Quality, and Andrew Wheeler, a former aide to Sen. Jim Inhofe (R-Okla.), as potential Pruitt deputies.

A spokesman for the Senate Environment and Public Works Committee, the panel tasked with processing the EPA staff, said he couldn't immediately respond to a Bloomberg BNA request for comment. Lisa Jackson, the first EPA administrator under former President Barack Obama, didn't land a Senate-confirmed deputy administrator, Bob Perciasepe, until December of the president's first year in office.

The Senate confirmed Jackson three days after Obama's inauguration in 2009 while Pruitt has had to wait a month.

Benton lauded the Pruitt speech, saying the new administrator rightly stressed the need to balance environmental safeguards and industry growth. Pruitt focused on cooperative federalism and reining in EPA overreach.

"Process matters, and we should respect that and focus upon that, and try to avoid, not try to avoid but do avoid, abuses that occur sometimes," Pruitt told a crowd of several dozen EPA employees. "I believe we as an agency and we as a nation can be both pro-energy and jobs and pro-environment, that we don't have to choose between the two."

As attorney general for Oklahoma, Pruitt sued the EPA over a range of regulations, including challenges to the Clean Water Rule, Clean Power Plan, ozone air quality standards, mercury standards for power plants and methane limits for the oil and natural gas industry.

Politico Pro
https://www.politicopro.com/energy/whiteboard/2017/02/group-releases-7-500-pages-of-pruitt-emails-084006
Group releases 7,500 pages of Pruitt emails
By Alex Guillen

1. The watchdog group Center for Media and Democracy today released more than 7,500 pages of emails from the Oklahoma attorney general's office during Scott Pruitt's tenure.
CMD says the batch of emails includes communications showing cooperation between Pruitt's office and American Fuel & Petrochemical Manufacturers on the Renewable Fuel Standard and the ozone standard, as well as further connections with Devon Energy, a relationship that was first reported by The New York Times in 2014.

A state judge last week said Pruitt had wrongly delayed releasing the emails, which were requested by CMD more than two years ago. Mike Hunter, who replaced Pruitt as attorney general on Monday, complied with the order to release the emails to CMD by yesterday. He is also required to turn over by Monday more emails connected to a half-dozen more CMD requests made over the past two years.

E&E News
http://www.eenews.net/energywire/2017/02/22/stories/1060050390
Emails hang over Pruitt message to EPA staff
By Joel Kirkland and Mike Lee 2/22/17

Staff from the Oklahoma attorney general's office began turning over thousands of documents related to U.S. EPA Administrator Scott Pruitt's contacts with oil, gas and coal groups during his tenure as the state's top lawyer.

Last night, by court order, the Center for Media and Democracy received a disc with 7,500 pages of emails and public documents that it has been requesting from Pruitt's office for two years.

The liberal-leaning watchdog requested the information two years ago and sued to gain access to the records in part to force a response before the Senate confirmed Pruitt to EPA's top job. Oklahoma District Judge Aletia Haynes Timmons on Thursday ordered the attorney general's office to release the documents. The Republican-led Senate confirmed Pruitt on Friday after Democrats held the Senate floor all night in the hope of bringing public pressure to bear against Pruitt's nomination (*Energywire*, Feb. 17).

Pruitt served as Oklahoma's attorney general from 2011 until this month and developed a reputation as a champion of the fossil fuel industry. *The New York Times* reported in 2014 that Pruitt used language from oil and gas companies in letters and legal briefs challenging the Obama administration's environmental regulations.

Before becoming President Trump's EPA administrator, Pruitt organized efforts by attorneys general and oil, gas and coal companies aiming to stop Obama-era rules. Some of their lawsuits against EPA failed to overturn regulations, but Pruitt and other Republican attorney generals won a Supreme Court stay on President Obama's signature rule for addressing greenhouse gas emissions from existing power plants, the Clean Power Plan.

The pursuit of the records overshadowed Pruitt's first days in office and highlighted his work promoting the energy industry and individual states' prerogatives in enforcing environmental laws. In his first public remarks to the EPA staff, Pruitt suggested those themes would be part of the Trump administration's approach to regulating greenhouse gases, air quality and water quality.

"Regulators exist to give certainty to those they regulate," he said in remarks to EPA's 15,000 employees nationwide. "Those that we regulate ought to know what's expected of them so they can plan and allocate resources to comply."

Without explicitly denouncing Obama's approach to regulating energy companies, Pruitt indicated a broad shift away from Obama's use of the federal agency to force reductions in auto, oil field and power plant emissions.

"Federalism matters," Pruitt said. "I seek to ensure that we engender the trust of those at the state level, that those at the state level see us as partners in this very important mission we have as an agency, and not adversaries."

Clean Power Plan

Pruitt's comments came on the heels of reports that Trump plans to issue an executive order this week to start the process of rescinding the Clean Power Plan. The CPP, which is on hold until federal courts rule on pending litigation, is the agency's signature climate regulation targeting carbon emissions from power plants.

Critics of the rule accused EPA of misinterpreting the Clean Air Act and running roughshod over states that rely on coal for electricity. Its supporters say EPA's finding that carbon dioxide is a pollutant compels the agency to act in the public interest, and they say state-led plans were the centerpiece of the regulation.

To back out of the Clean Power Plan, Pruitt's starting point is at the U.S. Court of Appeals for the District of Columbia Circuit, where litigation is pending. He could request the court pause before ruling on legal challenges against the carbon rule, according to analysts, alerting the court of EPA's intentions to rewrite the regulation.

Anything he does is expected to trigger a reaction from states that support the rule.

In late December, 14 attorneys general, including from New York, California, Virginia, Oregon and Illinois, signed a letter to then-President-elect Trump urging him to continue defending the Clean Power Plan.

"The Clean Power Plan builds on successful strategies that states, local governments and the power sector have used to cost effectively cut greenhouse gas emissions from power plants, while at the same time creating jobs and growing our economies," the letter stated.

But the letter also responded to a push by states primarily in the South and Midwest to get Trump to unravel the Clean Power Plan.

"If the challengers are so confident in their oft-repeated claim that the Clean Power Plan is 'unlawful,' why not let the court decide the claims that they themselves brought?" said the attorneys general, led by New York Attorney General Eric Schneiderman (D).

A spokesman for the Sierra Club said to expect a "proportionate response" to an executive order directing EPA to dismantle the carbon regulation — from environmental groups, public health advocates and states in the Northeast and West supporting the federal effort to combat climate change.

E&E News
http://www.eenews.net/climatewire/2017/02/22/stories/1060050392
Staff wary but ready to work with Pruitt amid new email dump
By Emily Holden, Niina Heikkinen and Hannah Hess

Newly appointed U.S. EPA Administrator Scott Pruitt yesterday tried to extend an olive branch to worried staffers hours before consenting to a judge's order and releasing more than 7,000 pages of emails with energy firms.

By late yesterday evening, advocates with the Wisconsin-based Center for Media and Democracy were combing through the email correspondence between Pruitt and his top staff in the Oklahoma attorney general's office and coal, oil and natural gas companies. The group intends to publish the emails online by 9:30 am today.

In an emailed statement, a spokesman for the Oklahoma attorney general's office said the office had gone "above and beyond" the requirements of Oklahoma's open records law.

"This broad disclosure should provide affirmation that, despite politically motivated allegations, the Office of Attorney General remains fully committed to the letter and spirit of the Open Records Act," spokesman Lincoln Ferguson said.

The Center for Media and Democracy had pursued the documents for two years. Last week, Oklahoma County District Judge Aletia Haynes Timmons ruled that Pruitt had failed to follow the state's open records laws, and required him to produce emails relating to one of the outstanding requests by close of business yesterday.

Senate Democrats and environmental groups had demanded the emails' release prior to Pruitt's confirmation last week but failed to convince Republicans. Yet any hint of an email scandal was absent from Pruitt's first public address yesterday to employees at EPA headquarters in Washington, D.C.

Holding up an EPA cap, Pruitt told employees he wants to help them do their work and argued for "civility" in a "toxic" political environment.

"I seek to be a good listener," Pruitt said, commending career staffers for their dedication and contending that media reports about him might not paint a fair picture.

But Pruitt's tone pivoted sharply from EPA's core message in recent years. Where former EPA chief Gina McCarthy focused most of her speeches on the agency's work to improve public health, Pruitt instead highlighted the importance of abiding by congressional intent and providing regulatory certainty to businesses.

"Regulations ought to make things regular," Pruitt said. "Regulators exist to give certainty to those that they regulate. Those that we regulate ought to know what's expected of them so they can plan and allocate resources to comply."

Pruitt said EPA should avoid "abuses that occur sometimes" in the regulatory process. He called out the agency practices of regulating through guidance rather than an official rulemaking, or writing rules in response to litigation from environmental groups.

"We need to be open and transparent and objective in how we do rulemaking and make sure we follow the letter of the law as we do so," he said.

Employees taking a wait-and-see approach

Pruitt plans to work to roll back many of the Obama administration's signature environmental achievements, including a rule to reduce greenhouse gas emissions from power plants. An executive order on that rule, called the Clean Power Plan, could come as early as this week, although more binding efforts to undo it will take longer and face lawsuits (*Climatewire*, Feb. 21).

The new administrator wants to narrow the scope of EPA's work, and employees have voiced concerns about staffing and budget cuts and reorganizations that might prevent them from fulfilling their obligation to protect the environment.

EPA staffers filing out of their Washington headquarters yesterday said they were still concerned but would wait to see how their new boss worked.

One EPA employee said he would "give him a chance."

"I don't like to prejudge anybody," he said.

That employee added that he thought Pruitt's speech was "kind of vanilla." He said that while it makes sense that Pruitt would emphasize a need to adhere to the law, he added, "Let's hope we stick to that."

Another employee said he saw the potential for a positive working relationship with the new administrator.

"He thinks that you can still save the environment yet have economic growth, which sounds good. I think he's a personable guy; I kind of like him. I look forward to working with him," said one EPA employee in the Office of Water.

Jeff Holmstead, a former assistant administrator at EPA under George W. Bush, said Pruitt "certainly understands he's coming in with some controversy."

"I think this is the first step of his effort to reach out and make sure people understand who he is and know he's open to addressing their concerns," Holmstead said, adding Pruitt "didn't pull any punches" or make promises that he couldn't keep about EPA's budget, which the president and Congress will ultimately decide. Many agency staffers will be waiting to see the budget, Holmstead said.

Greens blast speech

Bill Becker, executive director of the National Association of Clean Air Agencies, said Pruitt's case for ensuring that the agency abides by the law, adheres to process and works closely with states "sounds awfully similar to previous administrations &mdash and I say that really as a compliment."

But a national environmental program for cutting pollution won't succeed at the state and local level without a strong and effective EPA, he warned. The possibility of significant cuts to EPA's budget or slashing the agency's 15,000-person staff to about 5,000 employees, as transition team chief Myron Ebell has suggested, threatens that (*Greenwire*, Jan. 26).

If Pruitt's first acts are to rescind regulatory programs on which many states relied without seeking a substitute, Becker said, it might cause a rocky start.

"We welcome delegation of authority, but not without financial and regulatory help, and not without the important backstop of EPA," Becker said.

Becker concluded, "These are laudable principles. No one can argue about any of those principles. No one should argue about any of those principles. But it's how they are carried out that matters."

Environmentalists quickly condemned Pruitt for not focusing his speech more on environmental and public health issues.

"My immediate reaction was that in his first address to EPA, he didn't talk about environmental protection at all. It was completely absent of any mention of protecting clean water, air and land. No mention of climate change, which is obviously a critical challenge of our time," said Nick Conger, press secretary for the Natural Resources Defense Fund and former communications adviser to the EPA administrator's office during the Obama administration.

Conger noted that Pruitt also did not focus on regional engagement and did not take questions from staff members, something his former boss, McCarthy, used to do during each of her all-hands meetings as EPA administrator.

"I'm just very struck that it seems his focus is on protecting industry and economic impacts, market impacts, at the exclusion, almost, if not entirely at the exclusion, of public health protection. That's what EPA is there to do, protect public health," he said.

'Hell to pay' if climate regs repealed?

Catherine McCabe, who was acting administrator until Pruitt's confirmation, touted her new boss's work to achieve a water rights settlement among the state of Oklahoma, cities and tribal nations.

Pruitt instead spoke about his vision for making regulations simpler for industry.

While he didn't mention the Clean Power Plan directly, he said he believes the agency can be "both pro-energy and jobs and pro-environment."

"We don't have to choose between the two," he said.

Industry groups challenging EPA's regulation of carbon dioxide under the Clean Air Act seem wary of going too far in contesting climate rules.

A senior official at the U.S. Chamber of Commerce's Institute for 21st Century Energy recently said there would be "hell to pay" if the Trump administration tries to repeal EPA's 2009 endangerment finding.

"And if you are going to go out there and say, 'We're going to pull this back,' I mean there is going to be hell to pay, not just from those people out there who are protesting those plants," Senior Vice President for Policy Christopher Guith said last month at an event in Kentucky, according to a transcript published by the Energy and Policy Institute, a watchdog organization backing renewables.

"There's going to be hell to pay from, you know, soccer moms and soccer dads all throughout the country. People who probably voted for Donald Trump," Guith said.

Matt Letourneau, a spokesman for the institute, said Guith's answer "was based on a political analysis of the situation," not an official policy position.

E&E News
http://www.eenews.net/climatewire/2017/02/22/stories/1060050394
Automakers ask Pruitt to revisit Obama's emissions rules
By Camille von Kaenel 2/22/17

Automakers have asked new U.S. EPA Administrator Scott Pruitt to reverse an Obama-era decision to lock in vehicle emissions standards through 2025.

The Alliance of Automobile Manufacturers wants EPA to reopen an official review of fuel economy rules, which it says were rushed during the final days of the Obama administration to cement the former president's climate legacy.

EPA had until April 2018 to decide whether to tighten, loosen or simply maintain the emissions standards. Instead, it finalized its decision on Jan. 13 — days before President Trump's inauguration.

The auto industry group's president and CEO, Mitch Bainwol, asked Pruitt to withdraw that decision yesterday in a letter, calling it "the product of egregious procedural and substantive defects" and "riddled with indefensible assumptions, inadequate analysis and a failure to engage with contrary evidence."

EPA's decision to keep the standards unchanged followed a technical report in the summer that found that automakers could continue to meet and exceed the standards with available or impending technologies, though Americans' changing preferences for bigger vehicles would slightly mitigate the overall greenhouse gas benefits of the program.

Bainwol wrote that he is not asking for a different final decision "at this time" but wants more time for the agency to consider additional studies the trade lobby is conducting on the feasibility of the standards. The decision was not published in the *Federal Register* because it was not a new rule and so is not subject to a regulatory freeze.

Automakers agreed to the standards in 2012 on the condition of the midterm review. The emissions standards would bring average fleetwide fuel economy to 50.8 mpg in 2025. The letter by the trade lobby follows a similar request by automaker CEOs directly to President Trump to soften, if not eliminate, the rules.

Bainwol also said he is concerned about discrepancies between the agencies that set the rules: EPA and the National Highway Traffic Safety Administration. NHTSA, which must issue a separate rule for the 2022-25 standards, has not yet completed its midterm review. Before Trump took office, it agreed to consider long-standing requests by automakers to tweak the standards.

Environmental and national security advocates have warned that any change to the fuel economy standards would have to surmount legal challenges and could create greater uncertainty for automakers.

The Hill
http://thehill.com/policy/energy-environment/320590-group-releases-emails-from-new-epa-chief
Group releases emails from new EPA chief
By Devin Henry 2/22/17 9:36 AM EST

An open-government group has released a batch of emails from Environmental Protection Agency Administrator Scott Pruitt's tenure as Oklahoma attorney general.

The Center for Media and Democracy (CMD) released nearly 1,500 pages of emails on Wednesday morning, one day after Pruitt's former office turned them over to a state court in Oklahoma. The group said it received 7,564 pages of emails from Pruitt's office overall.

The court had ordered Pruitt's office to release the documents last week after CMD sued, seeking a response to an Open Records Act data request it had sent years earlier.

That court order came days before the Senate voted to confirm Pruitt to his post at the EPA.

Senate Democrats — all but two of whom voted against Pruitt's nomination — insisted the vote be delayed until after the emails were released. Pruitt said the emails could show close ties between his office and the Oklahoma fossil fuel industry, a sector that he defended during his tenure as the state's attorney general.

Pruitt was sworn in as EPA administrator on Friday and he addressed the agency for the first time on Tuesday.

AP
http://hosted.ap.org/dynamic/stories/U/US_OPEN_RECORDS_LAWSUIT_PRUITT?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT

EPA head's emails with energy companies to be released
By Tim Talley 2/21/17

OKLAHOMA CITY (AP) -- The Oklahoma attorney general's office said Tuesday it is complying with a judge's order to surrender documents related to new Environmental Protection Agency leader Scott Pruitt's communications with energy companies while he served as the state's attorney general.

The office had until 5 p.m. Tuesday to comply with District Judge Aletia Haynes Timmons's order to turn over emails and other documents to the Wisconsin-based Center for Media and Democracy, which requested the documents more than two years ago under Oklahoma's Open Records Act.

A spokesman for the office, Lincoln Ferguson, said it turned over records related to the January 2015 request to the watchdog agency and that other records were turned over to the judge to determine if they are privileged and not subject to release under the law.

"The office went above and beyond what is required under the Open Records Act and produced thousands of additional documents that, but for the court's order, would typically be considered records outside the scope of the act," Ferguson said in an emailed statement.

"This broad disclosure should provide affirmation that, despite politically motivated allegations, the office of attorney general remains fully committed to the letter and spirit of the Open Records Act," Ferguson said.

An attorney for the advocacy group, Bob Nelon, said he received an email from the attorney general's office at 4:14 p.m. Tuesday indicating that it planned to comply with the judge's order and make the documents available.

Nelon said the records were provided electronically and that an initial review indicated one computer disk contained 7,564 pages, although it was not immediately clear how many documents they represent.

The attorney general's office had previously identified more than 3,000 emails that it said pertained to the group's January 2015 request.

Nelon said the records will be transmitted to the Center for Media and Democracy, which plans to make them publicly available on its website.

Timmons has also ordered the attorney general to comply with other open-records requests by the group in 2015 and 2016.

The judge handed down her ruling on Thursday in connection with a lawsuit the group filed that accused the attorney general's office of failing to provide "prompt and reasonable access" to the documents, as required by the Open Records Act.

Pruitt resigned his post as Oklahoma attorney general on Friday, the day he was sworn in as President Donald Trump's EPA administrator.

Among other things, the January 2015 request sought information about Pruitt's communications, private meetings and relationships with fossil fuel companies as the state's attorney general, companies he will help regulate as EPA administrator.

Nelon said later requests were more narrowly tailored and that the advocacy group has no idea how many documents are involved.

As Oklahoma's attorney general, Pruitt repeatedly sued the EPA and criticized what he has characterized as the EPA's "activist agenda." He has been a reliable booster of the fossil fuel industry and has said his support for legal positions

advocated by oil and gas companies was in the best interest of Oklahoma, which is economically dependent on the fossil fuel industry.

In his first meeting with the EPA's staff Tuesday, Pruitt said he believes the nation can be "pro-energy and jobs, and pro-environment."

"I think our nation has done better than any nation in the world at making sure that we do the job of protecting our natural resources, and protecting our environment, while also respecting economic growth," Pruitt said.

Inside Climate News
https://insideclimatenews.org/news/21022017/pruitt-enters-epa-conciliatory-words-staff-braces-divisive-action
Pruitt Enters EPA with Conciliatory Words, but Staff Braces for Steep Cuts
By Marianne Lavelle 2/21/17

Scott Pruitt, who spent the past six years as the Environmental Protection Agency's courtroom antagonist, took the helm of the agency Tuesday with a pledge to listen to agency staff and tackle tough problems cooperatively.

"We ought to be able to get together and wrestle through some difficult issues in a civil manner," said Pruitt in an address to EPA employees, who are bracing for deep budget cuts and a retreat from the goal of addressing climate change.

Pruitt didn't talk about policy specifics. Instead, he laid out a vision for an EPA that could avoid litigation in the future by limiting the agency's ambitions under the mandates that Congress gave it and sticking to "process."

But environmental advocates already were preparing a vigorous legal defense of regulations they fear could be undone. They maintain the rules were subject to a rigorous public comment and debate, as well as court review.

With the Trump White House expected as soon as this week to issue executive orders to roll back the Clean Power Plan, Presient Obama's signature climate initiative, and other EPA regulations, David Doniger, climate programs director of the Natural Resources Defense Council, responded on Twitter:

Pruitt's address to the agency came on the first full federal workday since his contentious confirmation process ended Friday with a largely partisan 52-46 vote of approval.

"This environment that we live in today is a very toxic environment," Pruitt said. "We have jerseys that we put on, and that is something that I think is damaging to the overall objective of finding the results and answers."

But Pruitt, the former Oklahoma attorney general, is likely to continue to be dogged by the same issues that have been raised since his nomination by Trump in December. On the same day as his official welcome at EPA, about 2,000 of his emails with fossil fuel companies and organizations were to be released in Oklahoma after years of delay.

Pruitt suggested that EPA staff may have gotten an incomplete picture of him from reading news reports. "I look forward to sharing the rest of the story with you," he said. "I seek to listen, learn and lead with you, to address these issues that we face as a nation."

While stressing civility and cooperation, Pruitt returned to the arguments he made against the EPA both in court and before the Senate.

"Process matters," said Pruitt. "Regulations are to make things regular, to give certainty to those who are regulated, so they know what's expected of them and can allocate resources so that they can comply.

"The process we engage in is very important. It sends a message that we take seriously our role of taking comment and offering a response, and in making informed decisions on how it's going to impact those in the marketplace to achieve

the ends we have in statute," he said. "We should avoid abuses...like engaging in regulation through litigation, consent decrees that bypass the Administrative Procedure Act."

Pruitt's view echoes the complaints of industry lobbyists who have decried EPA's settlement of a number of lawsuits brought by environmental groups during the Obama administration. Under these agreements, the EPA finalized regulations to control mercury from power plants, address air quality issues due to ozone, clean up the Chesapeake Bay and regulate greenhouse gases.

Critics say the consent agreements are a kind of collusion between the EPA and environmentalists. Environmental groups, however, argue that their litigation followed years of effort and wrangling with the agency. (The Government Accountability Office found little impact on EPA policy due to the deadlines imposed by consent decree.) In 2014, the U.S. Supreme Court rejected an effort by Pruitt and other litigants to overturn a settlement with several states and environmental groups under which the EPA agreed to regulate greenhouse gases.

"EPA already has SO MUCH PROCESS," Jack Lienke of the Institute for Policy Integrity at the New York University School of Law, said on Twitter. "Clean Power Plan was in the works for > FOUR YEARS before finalization."

In his remarks on Tuesday, Pruitt also reprised the argument he often made in more than 14 lawsuits against the EPA—that it had overreached its legal authority. "The rule of law: the only authority any agency has is given to it by Congress," Pruitt said. "Sometimes that authority is broadly stated, and other times Congress is very restrictive, and it's been very specific about what they agency can and can't do.

"We need to respect that. When we do that, here's what happens: We avoid litigation, and we reach better outcomes."

But the Supreme Court, in its landmark Massachusetts v. EPA decision, ruled that, "Because greenhouse gases fit well within the Act's capacious definition of 'air pollutant,' EPA has statutory authority to regulate emission of such gases."

The court said that "EPA can avoid promulgating regulations only if it determines that greenhouse gases do not contribute to climate change or if it provides some reasonable explanation as to why it cannot or will not exercise its discretion to determine whether they do. It has refused to do so, offering instead a laundry list of reasons not to regulate."

And courts have rejected Pruitt's argument that EPA exceeded its authority in other cases, such as the Obama administration's cross-border pollution and mercury pollution regulations for power plants.

Other legal challenges, however, have yet to be decided, including a case now pending in a federal appeals court on the Clean Power Plan. The Supreme Court has issued a stay on putting the rule into effect.

Pruitt did not mention climate change, but said, "We as a nation can be pro-energy and jobs and pro-environment."

Environmental advocates quickly took issue with the picture of the agency painted by Pruitt. Lienke tweeted that statistics show EPA has been balancing economic growth and environmental protection all along. He cited a 68 percent reduction in the most common air pollutants from 1970 and 2013, as GDP tripled and the U.S. population grew by 54 percent.

Although all EPA staff were invited to attend, there was only room for about 100 in the high-ceilinged ceremonial room next to the administrator's office, the Rachel L. Carson Great Hall; the agency's 15,000 employees could watch remotely. The crowd in the room included some of the agency's first political appointees, including the transition leader, former Washington State Sen. Don Benton.

Benton said after the speech he thought that Pruitt had struck "a perfect balance" in his speech. "He's very much in partnership mode," he said.

Brett Hartl, government affairs director of the Center for Biological Diversity, said he thought that although Pruitt's comments about the rule of law and process "sound good," his record indicates he will be taking the agency in a dramatically different direction. "His agenda is straightforward. He wants to undercut the agency," said Hartl. "He's going to be the guy who cuts their staff and their budget, and makes employees do useless things so they can't do enforcement."

Mother Jones
http://www.motherjones.com/environment/2017/02/pruitt-speech-epa
"Condescending and Hypocritical': An EPA Staffer Blasts Scott Pruitt's First Speech
By Rebecca Leber 2/22/17, 4:43PM

Scott Pruitt may have wanted to ease Environmental Protections Agency staffers' concerns about him Tuesday, but his first remarks as head of the agency hardly mentioned environmental protection at all.

With Donald Trump's EPA transition staff sitting nearby, Pruitt delivered an 11-minute speech, in which he declared, "We as an agency and we as a nation can be both pro-energy and jobs and pro-environment." He also quoted famed conservationist John Muir: "Everyone needs beauty as well as bread, places to pray in and play in." Pruitt did lament the "toxic environment" in the country, but it was a reference to the political climate—part of a call for a more civil discourse.

The former Oklahoma attorney general never dwelled on the specifics of his or the White House's agenda for the EPA in the short address, which featured introductory remarks by recent acting administrator Catherine McCabe. Neither McCabe nor Pruitt mentioned the elephant in the room: the EPA's regulations on climate change and Pruitt's role in suing the agency for its climate work.

"I know it's very difficult to capture in one speech the vision and direction of an agency," Pruitt said, while outlining a few of his core guiding principles for the new EPA. He said he wants to limit the scope of the agency's regulatory work and ensure stability for industry. "Regulations ought to make things regular," Pruitt said. "Regulators exist to give certainty to those they regulate…Process matters and we should respect that and focus on that, and try to avoid, do avoid, abuses that occur sometimes."

Pruitt mentioned the need to follow "rule of law" and respect states' roles in enforcing environmental standards. "Congress has provided a very robust, important role of the states," Pruitt said. (Environmentalists, of course, are quick to point out that states are not always eager or financially equipped to protect air, water, or the climate on their own.)

If Pruitt's address was meant to soothe staffers' concerns about their incoming administrator, they may have come up short.

"Pruitt's talk [was] as bad as expected," said a current career EPA staffer of over 20 years, who requested anonymity, following the speech. "Not one word about public health. And talking about the rule of law as if we didn't do EVERYTHING with the realization that it WILL end up in court. It was condescending and hypocritical."

Some former EPA officials shared that view. "Trump's team spent the entire campaign and the last few months railing against EPA's existence, its staff, and its purpose," Liz Purchia, an Obama-era communications staffer at the agency, said in an email. "Accomplishing agency priorities was no easy task when the administrator had staff's back and politicals and careers agreed the majority of the time, so let's see how well Trump's EPA does getting staff to follow them when they feel disrespected. These are professionals with years of experience, who have been made to feel like their leader doesn't trust their judgment. The American people are relying on them to defend the agency, protect its environmental statutes and stand up to Trump's team to ensure they uphold science and the law."

Going by the EPA's press releases over the weekend, the agency now views industry and conservatives as its real constituency. No public health groups, environmentalists, or scientists appeared on the laundry list of "stakeholder" congratulations circulated by the EPA after Pruitt was sworn in.

Outside the EPA on Tuesday, an administration official echoed Pruitt's pledge that he will listen to career staff. "He's a very good listener," Don Benton, a White House senior adviser, told reporters after the address. "I don't expect him to be making any quick decisions."

Benton didn't answer specifics on the timing of the presidential actions, saying that the matter is between Pruitt and Trump. But a slow transition based on input from current EPA staff isn't what news reports—nor Pruitt's own words—have suggested. Various news outlets have reported that the White House intends to roll out a series of presidential actions targeting the EPA as early as this week.

Pruitt didn't provide much clarity Tuesday on what comes first. But in an interview with a conservative *Wall Street Journal* columnist last week, Pruitt appeared to reverse himself on one key issue. At his confirmation hearing in January, he said that the EPA's official finding that climate change poses a health danger and is therefore subject to the Clean Air Act "needs to be enforced and respected." But according to the *Journal*, Pruitt now wants to conduct a "very careful review" of whether the agency can do anything at all about global warming. His remarks Tuesday appear to have done little to persuade his critics that such a review would be based on sound science.

Morning Consult
https://morningconsult.com/2017/02/21/no-mention-climate-pruitts-address-epa-employees/
No Mention of Climate in Pruitt's Address to EPA Employees
By Jack Fitzpatrick 2/21/17

Environmental Protection Agency Administrator Scott Pruitt did not mention climate change or specific regulations in his first address to employees on Tuesday, instead emphasizing the agency's limitations and the need to provide more certainty for the energy industry.

Pruitt also did not mention air pollution or water pollution, key portions of the agency's mission, during the 11-minute address, and did not take questions. The speech could signal how Pruitt is focused more on avoiding government overreach rather than propagating new regulations.

"Regulators exist to give certainty to those that they regulate," he said, adding that he wants the agency to "avoid abuses that occur sometimes." That includes "using the guidance process to do rulemaking."

Pruitt may have been referring to a controversial guidance from the White House Council on Environmental Quality, which asks agencies conducting environmental reviews to consider how any infrastructure project would affect climate change. The guidance was technically voluntary, but critics said it was practically mandatory even though it didn't go through the full rulemaking process.

Pruitt's process-oriented speech differed in tone from the approach of his predecessor, Gina McCarthy, who emphasized the need for strong protections from pollution.

While serving as Oklahoma attorney general, Pruitt was involved in 13 lawsuits against the EPA, including high-profile cases over regulations on greenhouse gases and mercury pollution. He also took criticism from Democrats during his confirmation hearing for his close ties to the fossil fuel industry.

League of Conservation Voters Senior Vice President Tiernan Sittenfeld said in an emailed statement that Pruitt's speech "did nothing to address our grave concerns about him."

Pruitt said he hopes to avoid "regulation through litigation," referring to issuing contentious rules that attract lawsuits and ultimately leave a judge to decide details of what the agency can do, rather than agreeing on details with stakeholders.

Every regulation "needs to be tethered to statute," Pruitt said, adding that he believes Congress has been "very prescriptive" in its laws for the agency.

"The only authority that any agency has in the executive branch is the authority given to it by Congress," he said.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: Igoe, Sheila [Igoe.Sheila@epa.gov]
Sent: 4/21/2017 4:33:20 PM
To: Schwab, Justin [schwab.justin@epa.gov]
CC: Rodman, Sonja [Rodman.Sonja@epa.gov]
Subject: Attorney Client / Ex. 5
Attachments:

Flag: Flag for follow up

Attorney Client / Ex. 5

Sheila Igoe| US EPA | Office of General Counsel | Air and Radiation Law Office | phone: (202) 564-5513

CONFIDENTIALITY NOTICE: This message may contain deliberative, attorney-client, or otherwise privileged material. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please contact the sender and delete all copies

Message

From: Kattman, Amy [akattman@bakerlaw.com]
Sent: 4/24/2017 5:27:59 PM
To: Schwab, Justin [schwab.justin@epa.gov]
CC: Kattman, Amy [akattman@bakerlaw.com]
Subject: BakerHostetler Alumni Network and Permission Request

Justin,

Congratulations on your new role as Deputy General Counsel at the EPA. We are always proud when someone with ties to BakerHostetler has good news. We would like to include your recent career move with your fellow alumni. The communications may include posting it to our BakerHostetler alumni website, our BakerHostetler LinkedIn Alumni Network and our alumni newsletters.

We plan to include the following information for you in the alumni directory:

Justin J. Schwab
schwab.justin@epa.gov
Deputy General Counsel
EPA

If you have changes or would like to include an address and phone number, please let me know. You may also log in to the website to update your profile. To log in to our website please use the information below:

BakerHostetler Alumni Website: www.bakeralum.com
User Name: Personal Matters / Ex. 6
Password: Personal Matters / Ex. 6

If I don't hear back from you by May 5, 2017, I'll share this news with the alumni and include your profile information in our directory. If you do not wish for us to share this information, please let me know as soon as possible.

Thanks for helping to make BakerHostetler what it is today. We look forward to *Staying connected*.

Best,
Amy

Amy Kattman
Alumni Programs Manager

BakerHostetler
312 Walnut Street | Suite 3200
Cincinnati, OH 45202-4074
T +1.513.929.3487

akattman@bakerlaw.com
bakerlaw.com

This email is intended only for the use of the party to which it is addressed and may contain information that is privileged, confidential, or protected by law. If you are not the intended recipient you are hereby notified that any dissemination, copying or distribution of this email or its contents is strictly prohibited

If you have received this message in error, please notify us immediately by replying to the message and deleting it from your computer.

Any tax advice in this email is for information purposes only. The content of this email is limited to the matters specifically addressed herein and may not contain a full description of all relevant facts or a complete analysis of all relevant issues or authorities.

Internet communications are not assured to be secure or clear of inaccuracies as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. Therefore, we do not accept responsibility for any errors or omissions that are present in this email, or any attachment, that have arisen as a result of e-mail transmission

Message

From: Fotouhi, David [fotouhi.david@epa.gov]
Sent: 4/24/2017 5:21:51 PM
To: Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]
CC: Minoli, Kevin [Minoli.Kevin@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Wendelowski, Karyn [wendelowski.karyn@epa.gov]
Subject: RE: FOLLOWUP - RE: REVISED wotus rule preamble - would like to move it forward by 1:30 today

Also fine with me; thanks!

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Neugeboren, Steven
Sent: Monday, April 24, 2017 11:55 AM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Subject: Re: FOLLOWUP - RE: REVISED wotus rule preamble - would like to move it forward by 1:30 today

Thanks.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel
United States Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington DC. 20460
202-564-5488

On Apr 24, 2017, at 11:51 AM, Schwab, Justin <schwab.justin@epa.gov> wrote:

> Same
>
> Sent from my iPhone
>
> On Apr 24, 2017, at 11:45 AM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:
>
>> Hi Steve- I think what you propose in the second paragraph of your email is fine. I will likely have a few wording suggestions, but they would not be ones I would say should prevent you from sharing the document with Sarah and the Corps. Kevin.
>>
>> Kevin S. Minoli
>> Acting General Counsel
>> Office of General Counsel

US Environmental Protection Agency
Main Office Line: 202-564-8040

On Apr 24, 2017, at 11:30 AM, Neugeboren, Steven <Neugeboren.Steven@epa.gov> wrote:

> **Kevin et al:** Just following up on Simma's email. We understand that Sarah G is asking when she can see the preamble, so we'd like to begin forwarding to OW and discuss with Corps counsel beginning at 1:30 today so we can get it to her asap. We'll assume that's ok with you unless we hear otherwise from you.
>
> If we don't hear from you we would indicate to the others that we you all may have some comments and we will address those as others review as well.
>
> Thanks.
>
> Steven Neugeboren
> Associate General Counsel
> Water Law Office
> Environmental Protection Agency
> 202-564-5488
>
> ---
>
> **From:** Kupchan, Simma
> **Sent:** Monday, April 24, 2017 9:33 AM
> **To:** Minoli, Kevin <Minoli.Kevin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
> **Cc:** Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
> **Subject:** RE: REVISED wotus rule preamble - for Kevin"s book if possible
>
> Hi Kevin, Justin, and David,
>
> We wanted to follow up to see whether you would you like to provide any edits to this document before we circulate to OW and the Corps midday today.
>
> Thanks for your attention.
>
> Simma Kupchan
> Water Law Office
> US EPA Office of General Counsel
> William Jefferson Clinton Building North Room 7426Q
> (p) 202-564-3105
>
> ---
>
> **From:** Neugeboren, Steven
> **Sent:** Friday, April 21, 2017 3:46 PM
> **To:** Kevin Minoli <Minoli.Kevin@epa.gov>; OGC Immediate Office Support <OGCFrontOfficeSupportStaff@epa.gov>; Schwab, Justin

<schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: REVISED wotus rule preamble - for Kevin"s book if possible

For Front Office Support - can you please get this in Kevin's weekend notebook?

Kevin/Justin/David – this cleans up a bit the version that Simma sent you after our meeting.

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

Message

From: Zenick, Elliott [Zenick.Elliott@epa.gov]
Sent: 4/21/2017 1:18:09 PM
To: Schwab, Justin [schwab.justin@epa.gov]
CC: Schmidt, Lorie [Schmidt.Lorie@epa.gov]
Subject: Re: Attorney Client / Ex. 5

Fair point and there is probably no harm in adding the reference for the point we are trying to make.

Ex. 5 - Deliberative Process/Attorney Client

From: Schwab, Justin
Sent: Friday, April 21, 2017 8:50:11 AM
To: Zenick, Elliott
Cc: Schmidt, Lorie
Subject: Attorney Client / Ex. 5

Ex. 5 - Deliberative Process/Attorney Client

Ex. 5 - Deliberative Process/Attorney Client

Sent from my iPhone

On Apr 21, 2017, at 8:44 AM, Zenick, Elliott <Zenick.Elliott@epa.gov> wrote:

Justin, thank you for your comments. Ex. 5 - Deliberative Process/Attorney Client

Ex. 5 - Deliberative Process/Attorney Client

Hope this helps with your continued learning process.

From: Schwab, Justin
Sent: Thursday, April 20, 2017 8:08:10 PM
To: Schmidt, Lorie
Cc: Dunham, Sarah; Tsirigotis, Peter; Page, Steve; Zenick, Elliott; Srinivasan, Gautam
Subject: Attorney Client / Ex. 5

Looks good. Lorie, i have left a copy with hand edits/comments on your chair.

Sent from my iPhone

On Apr 20, 2017, at 1:58 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Thank you!

Sent from my iPhone

On Apr 20, 2017, at 1:38 PM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Justin and Sarah

Ex. 5 - Deliberative Process/Attorney Client

Ex. 5 - Deliberative Process/Attorney Client

Happy to talk if anyone has questions.

Elliott – please chime in if I am missing anything we need to convey at this point.

Lorie

Attorney Client / Ex. 5

Message

From: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Sent: 4/21/2017 1:01:14 PM
To: Fotouhi, David [fotouhi.david@epa.gov]
CC: Levine, MaryEllen [levine.maryellen@epa.gov]; Witt, Richard [Witt.Richard@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]
Subject: RE: FYI - CRR v. EPA materials for your meeting

I have a 145 with Elise so assuming we end on time that will work.

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Fotouhi, David
Sent: Friday, April 21, 2017 8:41 AM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Levine, MaryEllen <levine.maryellen@epa.gov>; Witt, Richard <Witt.Richard@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Subject: RE: FYI - CRR v. EPA materials for your meeting

Thanks, Steve. I'll leave the binder at Gail's desk outside my office.

Happy to discuss today. Would 1:30 work for you (right after our WOTUS meeting)?

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Neugeboren, Steven
Sent: Friday, April 21, 2017 8:35 AM
To: Fotouhi, David <fotouhi.david@epa.gov>
Cc: Levine, MaryEllen <levine.maryellen@epa.gov>; Witt, Richard <Witt.Richard@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Subject: Re: FYI - CRR v. EPA materials for your meeting

David - yes we can do that. I'll have someone pick up the materials. Where will they be?

Would like to touch base today to get a sense of the meeting and what would be most helpful for us to address.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel
United States Environmental Protection Agency
1200 Pennsylvania Ave. NW

Washington DC. 20460
202-564-5488

On Apr 20, 2017, at 7:01 PM, Fotouhi, David <fotouhi.david@epa.gov> wrote:

Thanks for passing these along.

FYI, I received a binder of documents at the meeting today—if you'd like to have one of your team members stop by my office to make a copy of it for your reference, let me know.

Attorney Client / Ex. 5

Attorney Client / Ex. 5 Could we try to set something up for early next week?

Thanks,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Levine, MaryEllen
Sent: Thursday, April 20, 2017 11:35 AM
To: Witt, Richard <Witt.Richard@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: RE: FYI - CRR v. EPA materials for your meeting

I am not sure all letters were attached so here are the letter (I may be wrong, but want David to have everything). Letters 1 and 2 were in 2011; then there was a letter in 2014.

- *Mary Ellen*

Mary Ellen Levine
Assistant General Counsel
Water Law Office, Office of General Counsel
7510 C WJC North
(202) 564-5487

From: Witt, Richard
Sent: Thursday, April 20, 2017 11:28 AM
To: Fotouhi, David <fotouhi.david@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Cc: Levine, MaryEllen <levine.maryellen@epa.gov>
Subject: FYI - CRR v. EPA materials for your meeting

Richard Witt
OGC Water Law Office
564-5496

Message

From: Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Sent: 4/19/2017 10:12:40 PM
To: Bowman, Liz [Bowman.Liz@epa.gov]
CC: Schwab, Justin [schwab.justin@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]
Subject: RE: Media Comment on WOTUS Federalism Meeting

I like it! Just a technical thing, I would say Deliberative Process / Ex. 5

Sarah A. Greenwalt
Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency
Work: 202-564-1722 | Cell: 202-816-1388
Greenwalt.Sarah@epa.gov

From: Bowman, Liz
Sent: Wednesday, April 19, 2017 6:09 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Schwab, Justin <schwab.justin@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Subject: RE: Media Comment on WOTUS Federalism Meeting

How is this?

Deliberative Process / Ex. 5

From: Greenwalt, Sarah
Sent: Wednesday, April 19, 2017 5:58 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Schwab, Justin <schwab.justin@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Subject: Re: Media Comment on WOTUS Federalism Meeting

I think that sounds good!

Deliberative Process / Ex. 5

Sent from my iPhone

On Apr 19, 2017, at 5:52 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Sarah/Justin/Sam – Sorry I had to step out of the WOTUS meeting; we are getting so many media requests on this memo that I needed to get back and manage the requests. Ariel asked for a statement on the meeting and I would just offer something along the lines of the following:

From: Ariel Wittenberg [mailto:awittenberg@eenews.net]
Sent: Wednesday, April 19, 2017 5:32 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Press <Press@epa.gov>
Subject: Comment from stakeholder meeting today--E&E News

Hi Liz,

Just wanted to circle back with you about getting some sort of comment or statement from EPA about the meeting held today with the intergovernmental organizations and the discussions that were held about repealing and replacing WOTUS. I'm writing for a 10 a.m. deadline tomorrow.

Thanks,

Ariel

Ariel Wittenberg
E&E News reporter
awittenberg@eenews.net
202-737-4557
@arielwittenberg

E&E NEWS
122 C Street NW 7th Floor Washington, DC 20001
www.eenews.net | @EENewsUpdates
Energywire, Climatewire, Greenwire, E&E Daily, E&E News PM, E&ETV

Appointment

From: Penman, Crystal [Penman.Crystal@epa.gov]
Sent: 3/30/2017 3:25:22 PM
To: Peck, Gregory [Peck.Gregory@epa.gov]; Loop, Travis [Loop.Travis@epa.gov]; Best-Wong, Benita [Best-Wong.Benita@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Downing, Donna [Downing.Donna@epa.gov]; Kwok, Rose [Kwok.Rose@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Klasen, Matthew [Klasen.Matthew@epa.gov]; Wendelowski, Karyn [wendelowski.karyn@epa.gov]; Kaiser, Sven-Erik [Kaiser.Sven-Erik@epa.gov]; Christensen, Damaris [Christensen.Damaris@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Schnare, David [schnare.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; McDavit, Michael W. [Mcdavit.Michael@epa.gov]; Frithsen, Jeff [Frithsen.Jeff@epa.gov]; Nickerson, William [Nickerson.William@epa.gov]; Stokely, Peter [Stokely.Peter@epa.gov]; Frazer, Brian [Frazer.Brian@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]; Keating, Jim [Keating.Jim@epa.gov]; ian.p.osullivan@usace.army.mil; jennifer.a.moyer@usace.army.mil; David.F.Dale@usace.army.mil; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Bowles, Jack [Bowles.Jack@epa.gov]; Damico, Brian [Damico.Brian@epa.gov]; Breen, Barry [Breen.Barry@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Donald.e.jackson@usace.army.mil
CC: FertikEdgerton, Rachel [FertikEdgerton.Rachel@epa.gov]; Borum, Denis [Borum.Denis@epa.gov]; Orvin, Chris [Orvin.Chris@epa.gov]; Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Cherry, Andrew [Cherry.Andrew@epa.gov]; Lousberg, Macara [Lousberg.Macara@epa.gov]; Theis, Joseph [Theis.Joseph@epa.gov]; Bahk, Benjamin [Bahk.Benjamin@epa.gov]; Pollins, Mark [Pollins.Mark@epa.gov]; Evalenko, Sandy [Evalenko.Sandy@epa.gov]; Lamont, Douglas W SES (US) [douglas.w.lamont2.civ@mail.mil]; Schmauder, Craig R SES (US) [craig.r.schmauder.civ@mail.mil]; Cindy Barger [cindy.s.barger.civ@mail.mil]; McGartland, Al [McGartland.Al@epa.gov]; Penman, Crystal [Penman.Crystal@epa.gov]; Washington, Valerie [Washington.Valerie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Hanson, Andrew [Hanson.Andrew@epa.gov]

Subject: Canceled: WOTUS Call in Conference Line/Code / Ex. 6
Location: 3233 WJCE

Start: 4/13/2017 2:00:00 PM
End: 4/13/2017 2:45:00 PM
Show Time As: Free

Importance: High

Recurrence: Weekly
every Wednesday from 10:00 AM to 10:45 AM

Message

From: Whitt Sessoms [wgs@cox.net]
Sent: 3/30/2017 3:24:13 PM
To: Valentine, Julia [Valentine.Julia@epa.gov]
CC: Pruitt, Scott [Pruitt.Scott@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schnare, David [schnare.david@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Benton, Donald [benton.donald@epa.gov]
Subject: Clean Water Act and Meeting
Attachments: Adm. Pruitt letter.pdf

Hi Julia,

Great talking with you this week and I sincerely appreciate your offer to connect me with the right people within the EPA to set up a meeting. As you may have gathered from our brief phone conversation, I am very excited about President Trumps vision with regards to the EPA and Administrator Pruitt with his vision and position with the agency. I would like to meet with the appropriate member(s) of the Presidents transition team that to the best of my ability have copied on this email. Also, I need to give you a little background on my purpose of the meeting.

First let me disclose to you that I am in the real estate development business in southeast Virginia and northeast North Carolina. I have developed many tracts of land requiring me to deal with wetland issues, beach dune issues, and many other facets of government oversight. I have been active specifically in Virginia Beach Va., Currituck County, N.C., and Dare County, N.C. In addition, relating to the purpose of my meeting request with the abovementioned EPA representatives, I would like for you to know I have served on several regulatory boards and commissions at the pleasure of the Va. Beach City Council and previous Governors of Virginia. In particular, I served on the:

1. Governor's Regulatory Reform Advisory Board

2. Beaches and Waterways Advisory Commission

3. Board on Conservation and Development of Public Beaches

4. Congressional Fishing Advisory Board

5. Virginia Marine Resources Commission

The abovementioned boards and commissions are responsible for:

1. Regulatory policy, rule and code making

2, Approving and crafting the required public hearing process for potential regulations, statutes and rules

3. Enacting and administering action for violations of various laws and statutes

4. Permit granting

5. Working with scientist to assist in crafting proposed legislation and to set standards in determining the success and failure of the program and initiative

6. Hearing violators of regulations and laws and meting the appropriate penalty

Again, relating to the proposed abovementioned meeting, in my business I have and continue to deal and interact with the following federal, state, and local regulatory agencies, government bodies, and authorities:

1.U.S. Environmental Protection Agency

2. Army Corp. of Engineers

3. U.S. Fish and Wildlife Service

4. U.S. State Department

5. National Marine Fisheries

6. North Carolina Department of Environmental Quality

7. Currituck County Planning

8. Dare County Planning

9. North Carolina Department of Transportation

10. Virginia Department of Transportation

11. Virginia Department of Environmental Quality

12. Virginia Institute of Marine Science

13. Virginia Marine Resources Commission

14. City of Virginia Beach Planning, Zoning, and Waterfront Operations

15. County of Mecklenburg Planning and Zoning

16. Surface Transportation Board

17. Economic Development Partnership of North Carolina

18. NCEast Alliance

19. Virginia Beach Economic Development

20. Virginia Port Authority

21. Nature Conservancy

So, as you can see, I have a tremendous amount experience dealing with local, state, and federal environmental, economic development, and other government issues pertaining to land and water bodies. I have to admit, of all of the agencies, departments, boards and commissions I have dealt with and/or served on, the one that appears to exert the greatest non sanctioned overreach enabled by lack of self-governance from within and further perpetuated by executive orders coupled with a systemic lack of public input from major stakeholders on rule, policy, and code making is the U.S. Environmental Protection Agency! By major stakeholders I mean individuals and entities that own significant tracts of land that are severely impacted by new and existing laws, policies, and codes of the Clean Water Act. The EPA has the wetland inventory at its fingertips that should be used as a database of those affected property owners who need to be contacted to give input to new laws and regulations that directly affect the value of their property. Use me as an example. I own and have owned several large parcels that have required me to deal with the ACOE/EPA. Also I have had direct business dealings with Fish and Wildlife to acquire my property with their consulting the EPA and I have not received any request or notification for public input from the EPA pertaining to a new rule, regulation, or law in the last twenty years nor has any notification been in a local newspaper or any other communication that reaches out to stakeholders. Please note my attached letter to Administrator Pruitt along with the attached summary from my environmental engineer substantiating certain issues I mention above.

I need to disclose an interaction I had with the ACOE pertaining to a field visit to a property of mine in Currituck County in North Carolina as it relates to the Clean Water Act and somewhat showcases my frustration. I had the property under contract that required a letter from the ACOE that they did not have jurisdiction over the tract. They were from the Wilmington office and we met on the property several years ago. It was a 40 acre farm that had been cultivated for the last 150 years and located on US 158 in Currituck County NC. The ACOE representatives on site initially stated the whole farm was under their jurisdiction because the drainage ditches drained into a two foot pipe under US 158 which then emptied into Currituck Sound. They stated that the ditches were "navigable" thus were "waters of the U.S." When I asked how the two foot wide ditches were navigable under the Clean Water Act, they stated because they would pass the "canoe test" meaning if you could float a canoe in the water in the ditch, then it was navigable! Of course after engaging several elected officials representing that area they talked sense into the ACOE and in the end I did not need a permit to develop the farmed area and I closed on the property. I also sold several tracts to the Fish and Wildlife and their employee went through with me the same process with regards to them buying our property to expand the Currituck National Wildlife Refuge. With all of my interaction with the ACOE pertaining to Clean Water Act issues, and all of the above-mentioned boards and commissions I have served on and dealt with, I have never been notified or seen a notification in an official or unofficial capacity of an EPA act or proposed code, rule, or any other action.

After exhaustive "schooling" on the Clean Water Act from my own experience and tutoring by my environmental engineers, I have become very concerned with the over reach and inverse condemnation that the Act has become and created over time. Looking at the original intent of the act as being the protection of tidal wetlands, marshes, and bogs, it is now reclassifying many more types of land as wetlands that were not wetlands in the past based and this gross expansion is based on no scientific reason. The best example is "Flatwoods or Winter Wet Woods" defined by the EPA as wet for "extended periods". These woods and forests are traditional woods or forests with traditional vegetation and leaves covering the earth. Sometimes after a rain event, puddling occurs in small areas as it does everywhere that is flat. This commonplace occurrence now creates a "wetland" under the jurisdiction of the EPA/ACOE that was not a wetland previously. Note the following link....
https://books.google.com/books?id=ZBQNDgAAQBAJ&pg=PA422&lpg=PA422&dq=winter+wet+woods&source=bl&ots=PJrZc8QblQ&sig=Rf14ZzT77Lsq7CwSZpg9n3bwBSY&hl=en&sa=X&ved=0ahUKEwj2jbK21frSAhWKxFQKHXidD2IQ6AEIjwEwGQ#v=onepage&q=winter%20wet%20woods&f=false which is a book titled: Wetland Indicators a Guide to Wetland Formation, Identification, Delineation, Classification, and Mapping. Page 428

states: "Complex landscapes pockmarked with small wetlands and small drylands make it practically impossible to separate wetlands from drylands." This in fact categorizes 90% of the land in southeast Virginia and northeast North Carolina. This coupled with the recent inclusion of loblolly pine trees as an indicator of wetlands goes past reasonability. Pines are found all over the entire states of Virginia and North Carolina.....tidewater, piedmont, and mountainous regions To make it even more frustrating, Loblolly pines cannot even physically grow in traditional wetland areas. This further deems non wetland areas as wetlands. . To make this even more interesting, I have an application in at the Norfolk office of the ACOE for a site visit to a property I own in the middle of Virginia Beach on the fringe of the Resort Area District. The city wants to buy this tract and it would be for a use that would generate numerous jobs and be a big help to our resort trade that generates $1.4 billion dollars to the city economy. The city wants a letter from the ACOE stating they do not have jurisdiction over the parcel which is an elevated wooded forest with a stand of 100 year old pines that is dry with simply a leaf matting covering the ground. This is how skittish buyers of any property in the tidewater areas of North Carolina and Virginia have become because of the unpredictability of the EPA and ACOE.

These overreaching rules, laws, and codes which were changed by re-writing the regulations and not amending the original Clean Water Act make a significant part of coastal areas wetlands for no reason at all. So in other words these changes to the Clean Water Act did not even go back to Congress for a vote. This has devastating long-lasting effects on the local economies and creates a significant financial hardship and ruin to hard working families who thought they owned properties as investment that were developable and in many cases were their retirement savings only to be notified upon their wish to sell that the property that it was now a wetland and not developable therefor of little value because the mitigation in most cases cost more than the value of the land.

With all of this being said, I would appreciate the opportunity if you could assist me in setting up a meeting with any of the new incoming transition or landing team members appointed by President Trump that are willing to hear what I have to say that may give them a more accurate picture of the agency they will be running. Again, it was a pleasure speaking with you this week and I sincerely appreciate your offer to help me set up a meeting. As I mentioned, Senator Bill DeSteph would like to attend the meeting and once we have a couple of dates, there are other state and federal elected officials I would like to invite to the meeting. Lastly, I have experience dealing with the State Department too, I would be happy to share some of those stories with Presidents incoming transition team pertaining to that department, a lot of work to be done there too.....talk to you soon!

With Best Regards,

Whitt G. Sessoms, III

Cape Development and Real Estate Co.

524 Winston Salem Ave.

Virginia Beach, Virginia 23451

Cell – 757-477-1469

<<...>>

Cape Development & Real Estate Co.

524 Winston Salem Avenue
Virginia Beach, Virginia 23451
(757) 477-1469
Fax (757) 428-1185

March 4, 2017

Administrator Scott Pruitt
USEPA Headquarters
William Jefferson Clinton South Building
Room 3000
Washington, DC 20004

Dear Administrator Pruitt:

First I would like to congratulate you for being named Administrator of the U.S. Environmental Protection Agency by President Donald Trump. As a Trump supporter, Republican, and businessman, I am proud of his choice for this position

Being in business in Virginia and North Carolina we are extremely hard hit by the additional rules and regulations the Obama administration have arbitrarily implemented pertaining to criteria used for identifying wetlands. These new and overreaching directives, including ones implemented by previous administrations, have rendered prime developable land into undevelopable wetlands or developable at a cost for mitigation that is not economically feasible. This severely stymies business growth and job creation in the Mid-Atlantic region and I suspect in all coastal states. The added consternation with these new regulations is that we have to pay thousands of dollars and wait months if not years for the Army Corp. of Engineers to tell the property owners that their property is now unusable or usable only after investing an additional amount of capital for mitigation that is economically unfeasible. Adding salt to the wound is that the property owners have been paying real estate taxes on the parcels for years as developable property, which was the case prior to the new rules, executive orders, etc. Many of these new rules and regulations occurred without proper public notice and without Congressional approval.

These new directives have moved away from the intent of the Clean Water Act that was envisioned to protect tidal wetlands, marshes, and bogs. Now the Act covers dry, level, elevated woodlands. We currently own a parcel of land in Virginia Beach, Va that we want to develop and the finished product will create substantial jobs and provide a public service. Walking the parcel you would think it is wooded upland and is not and has no wetland components. However with the over regulation from the Obama Administration, portions of this property could possibly be considered wetlands. In other words, this woodland could be in the same category as tidal marsh! This is truly government condemnation of land through over regulation. Mr. Keith Miller is my environmental consultant and I asked him to summarize in more detailed what I am referring to and is attached.

I would be happy, as would Mr. Miller, to meet with any of your staff and brief them on these changed standards to the original Clean Water Act that are killing business. Hopefully once you see the magnitude of this negative government intrusion on property rights and job creation, you will want to roll back these additional changes to the original Clean Water Act. Again, it is a government taking of property and an administrative nightmare with regards to time and expense, not to mentioned lost jobs and business opportunities for the municipalities. Also, I am sure that if these recent directives are reversed, it would save the taxpayers a substantial amount of money that is going to the EPA and Army Corp. of Engineers for the additional staff and expense to oversee and implement these directives.

Again, congratulations on your appointment and I am truly excited you are the new Administrator of the EPA. Please do not hesitate to have any staff person contact me directly for a more in depth analysis of this chronic problem. This letter is to congratulate you on your appointment and to just give you some local insight into how the federal government bureaucracy is smothering business and property owners in this part of the country.

With Best Regards,

Whitt G. Sessoms, III
President

cc: The Honorable Bill DeSteph

Wetlands Discussion Paper December 10, 2016

This is a discussion of the regulatory revisions put into place by the ACOE, EPA and NRCS that have caused significant negative impacts to the economy and land development.

Simply stated, by revising the vegetation categories and the ground water requirements, land that would not meet the test for jurisdictional wetlands (prior to 2009) is now classified as jurisdictional wetlands.

HISTORY

The original Wetlands Delineation Manual was adopted in 1987. In 2009 the " Atlantic and Gulf Coast Supplement " was adopted. By 2011 the Supplement had been fully implemented. The Supplement combined with additional revisions to the National Wetlands Plant List resulted in the following changes to the delineation procedures:

1. The original test for establishing sufficient hydrology to meet the ACOE requirements was that water had to be present within 13 inches (or less) of the surface for a period of 30 consecutive days during the " growing " season (January, February and March).

This requirement has been revised to state that water has to be present within 13 inches of the surface for 14 consecutive days any time during the year.

The results of this revision is that a property is more likely going to meet the Hydrology test.

2. The original Hydrophytic vegetation requirements listed 5 categories of vegetation. Each category carries a numerical value. By adding the total numeric values you " score " each data point area thereby allowing that area to be classified as having met the criteria or not. A score of 20 or more means that the vegetation does not meet the requirements as hydrophytic.

SCORE

1	Obligate Wetlands - vegetation that will only grow in very wet conditions
2	Facultative wetlands - vegetation that will grow in moderately wet conditions
3	Facultative - vegetation that will grow in slightly wet conditions
4	Facultative uplands - vegetation that will grow in moderately dry conditions
5	Uplands - vegetation that will only grow in well drained uplands areas

Changes that were made to the National Wetlands Plant List (originally 2009, revised 2014) moved a number of Vegetative species from the Facultative Uplands category into the Facultative category thereby reducing their score by one point. This resulted in the vegetative analysis of an area becoming more likely to meet the Hydrophytic Vegetation test.

The area has hydrophytic vegetation when more than 50% of considered species are classified as obligate wetlands or facultative wetlands.

SUMMARY

In accordance with the Supplemental Wetlands Delineation Manual a property must meet three requirements to be classified as a jurisdictional wetland. One, the soils must be classified as hydric with a chroma (color) of 2 or less. Two, the property must have ground water (Hydrology) present within 13 inches of the surface for a minimum of 14 days during any calendar year. Three, Hydrophytic vegetation (Wetlands plants) must be present as the dominant species.

Note: Hydric soils are caused by the soils being inundated with ground water for a sufficient time to cause a permanent color change. This occurs as a result of lack of oxygen in the soils (anerobic).

Farmed Wetlands

Starting around 2014 the ACOE began looking at existing farm fields for evidence that surface water is standing for a significant amount of time thereby allowing the ACOE to take jurisdiction over those areas as " wetlands ". The determination is made by comparing field indicators, aerial photographs and satellite infra red images.

Should the owner decide to develop the property they will be required to have a mitigation plan approved (a lengthy and expensive process) and purchase wetlands bank credits prior to development. The mitigation plan preparation and approval can be as long as two years and cost anywhere from several thousand to ten's of thousands of dollars.

In addition to that issue the National Resource Conservation Service (NRCS) and EPA have jurisdiction over prior converted (PC) farm land. These are farm fields that were converted from wetlands to cultivated fields after 1985 under the swamp buster act.

Any change in the current activity, I. E. new cultivating techniques, changes to surface runoff or potential development requires approval from these two federal agencies.

Waters of the United States

In June 2015 the EPA began enforcing a revised rule proposed by the Obama administration in 2014 that greatly expanded their regulatory authority over much of the nation's waterways including but not limited to, rivers, streams, creeks, wetlands, farm ponds and ditches. As usual the regulations are vaguely worded and purposefully confusing

giving the federal agencies free reign as to how they are interpreted and enforced.

The results of these new regulations is that the land owner now must deal with numerous federal agencies, confusing regulations that the agencies themselves don't understand, soaring costs for consultants and the potential for years of negotiating with no guarantee for success.

Message

From: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Sent: 3/14/2017 2:28:12 AM
To: Schwab, Justin [schwab.justin@epa.gov]
CC: Minoli, Kevin [Minoli.Kevin@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]
Subject: Fw: CAAPF Regulations
Attachments: image001.png; ATT00001.htm; Doc 1.Coast Petition for Permission.pdf; ATT00002.htm; Coast Seafoods Oyster Hatchery Letter 7-29-16.pdf; ATT00003.htm

Interesting (and familiar) issue. I am copying Mary Ellen as this falls in her group.

Deliberative Process / Attorney-Client / Ex. 5

Steven Neugeboren
Associate General Counsel
Water Law Office
U.S Environmental Protection Agency
202-564-5488
301-728-7899 (c)

From: Schwab, Justin
Sent: Monday, March 13, 2017 9:11 PM
To: Neugeboren, Steven
Cc: Minoli, Kevin
Subject: Fwd: Deliberative Process / Attorney-Client / Ex. 5

See below - Deliberative Process / Attorney-Client / Ex. 5
Deliberative Process / Attorney-Client / Ex. 5

If this seems worth exploring, we should set up a deal with me, someone from WLO, probably someone from OW as well?, and someone from the company.

Regulation in question:
Concentrated Aquatic Animal Production Facilities (CAAPFs)
(40 C.F.R. § 122.24 App. C).

Best,

Justin

Sent from my iPhone

Begin forwarded message:

From: "Tony Dal Ponte" <TDalPonte@pacseafood.com>
To: "Schwab, Justin" <schwab.justin@epa.gov>
Subject: CAAPF Regulations

Justin,

We are attempting to get in touch with someone at EPA to make sure that the agency is aware of a case now pending in the 9th Circuit Court of Appeals (Case No. 16-35957). The case has broad implications for EPA permitting requirements nationwide. Marie Sanderson suggested that you might be able coordinate a call with the Water Law Office to discuss in more detail.

In short, we find ourselves defending EPA regulations regarding Concentrated Aquatic Animal Production Facilities (CAAPFs) (40 C.F.R. § 122.24 App. C). I included a few quick details below, and attached a copy of the Petition for Permission to Appeal accepted by the 9th Circuit to this message. The petition includes a detailed overview of the case.

An amicus brief from EPA defending its regulation could be extremely helpful to the court. Please let me know if you are available to discuss in more detail.

Best,

Tony

The lawsuit (in a nutshell):

- Plaintiffs challenge EPA regulations governing CAAPFs, which include shellfish hatcheries

- The regulations provide that unless an aquatic production facility meets certain feeding and/or harvest thresholds, it is not a "concentrated" facility and therefore not a "point source" that requires a NPDES permit (*See* EPA Compliance Guide for the Concentrated Aquatic Animal Production Point Source Category, Chapter 3)

- Plaintiffs argue that EPA's regulation contravenes Congressional intent and that a NPDES permit is required notwithstanding the EPA regulations

- Case has implications for oyster hatcheries, remote setting facilities, and other on-shore shellfish operations

- Because a CAAPF is a type of CAFO (concentrated animal feeding operation), Plaintiff's argument could also have much broader implications for EPA permitting

Case history:

- The case was originally filed in federal district court in the Western District of Washington (Case No. 3:16-CV-05068-RBL)

- The lower court denied a motion to dismiss, but the 9th Circuit accepted a petition for interlocutory appeal. Opening briefs are due 3/27.

- An amicus brief from EPA in support of its CAAPF regulations would be extremely helpful to the court

Significance:

- Plaintiffs' argument undermines the existing regulatory regime

- If Plaintiffs are successful, any animal production facility that discharges through a discrete conveyance (ditch, channel, pipe, etc.) will need to obtain a NPDES permit, notwithstanding EPA regulations regarding "concentrated" facilities

- EPA and its state regulatory partners would then need to divert resources to support a new permitting structures for facilities that do not negatively impact water quality

Anthony J. Dal Ponte

Deputy General Counsel

Pacific Seafood Group

16797 SE 130th Ave. | Clackamas, OR 97015

p. 503-905-4298 | c Personal Phone / Ex. 6

Web | Facebook | Twitter | LinkedIn

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

July 29, 2016

Mr. Samuel W. Plauché
811 First Avenue, Suite 630
Seattle, WA 98104

Dear Mr. Plauché:

Thank you for your letter of July 19, 2016 regarding the Coast Seafoods oyster hatchery facility in Quilcene. Your letter asked whether the Department of Ecology's (Ecology) view, communicated in 2013, that Coast's Quilcene shellfish hatchery does not require a National Pollution Discharge Elimination System (NPDES) permit, is still applicable.

After review of current federal NPDES permit rules concerning shellfish hatcheries and available hatchery production and water quality data, Ecology finds there is no compelling reason to require the facility be covered under the NPDES permit program. Our conclusion is based on reasons listed as follows:

- The facility annual production rate and monthly feed used are below the thresholds (20,000 pounds annual production and 5,000 pound of maximum monthly feed) established in 40 CFR Part 122 Appendix C. The Environmental Protection Agency published 40 CFR Part 451 – Effluent Guidelines and New Source Performance standards for Concentrated Aquatic Animal Production Point Source Category on August 23, 2004. Facilities produce less than 100,000 pounds of aquatic animals per year are not subject to the rule, i.e., not subject to the NPDES permit program.

- The report entitled "Quilcene Bay Shellfish Hatchery Discharge Study" dated February 7, 2013 prepared by Dr. Jack Rensel concluded the facility did not discharge enough nitrogen to alter water quality in Quilcene Bay. Ecology surface water monitoring specialist had reviewed the report and concurred with Dr. Rensel's findings that discharge from facility was unlikely to alter the Quilcene Bay water quality.

If you have any questions regarding this letter, please contact Gary Lee of my staff at (360) 407-6291 or by email at gary.lee@ecy.wa.gov.

Sincerely,

Richard Doenges
Southwest Region Manager
Water Quality Program

cc: Gary Lee, Ecology

Case No. _____

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OLYMPIC FOREST COALITION, a Washington non-profit corporation,

Plaintiff/Respondent,

v.

COAST SEAFOODS COMPANY, a Washington corporation,

Defendant/Petitioner.

From an Order of the United States District Court for the
Western District of Washington, Tacoma Division
District Court Case No. 3:16-cv-05068-RBL
Honorable Robert B. Leighton, District Judge

DEFENDANT COAST SEAFOODS COMPANY'S PETITION FOR PERMISSION TO APPEAL

Bruce L. Campbell, P.C. WSBA 19364
Hong N. Huynh WSBA 45044
Joseph Vance, P.C. WSBA 25531
MILLER NASH GRAHAM & DUNN LLP
111 S.W. Fifth Avenue, Suite 3400
Portland, Oregon 97204
Telephone: (503) 224-5858

Attorneys for Defendant/Petitioner

CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1, Coast Seafoods Company discloses that it is a Washington corporation and a wholly owned subsidiary of Pacific Alaska Shellfish, Inc., an Alaska corporation. No publicly held corporation owns 10 percent or more of the stock of Coast Seafoods Company.

DATED: August 17, 2016

MILLER NASH GRAHAM & DUNN LLP

s/ Bruce L. Campbell

BRUCE L. CAMPBELL, P.C.

Of Attorneys for Defendant/Petitioner

CERTIFICATE OF INTERESTED PARTIES

Affected Court Action

The District Court Action from which this petition arises is entitled: *Olympic Forest Coalition v. Coast Seafoods Company*, pending in the United States District Court for the Western District of Washington, Tacoma Division, District Court Case No. 3:16-cv-05068-RBL, the Honorable Ronald B. Leighton, presiding.

Counsel for the Parties

Bruce L. Campbell, P.C. WSBA 19364
bruce.campbell@millernash.com
Hong N. Huynh WSBA 45044
hong.huynh@millernash.com
Joseph Vance, P.C. WSBA 25531
joseph.vance@millernash.com
MILLER NASH GRAHAM & DUNN LLP
111 S.W. Fifth Avenue, Suite 3400
Portland, Oregon 97204
Telephone: (503) 224-5858
Facsimile: (503) 224-0155

Attorneys for Defendant/Petitioner
Coast Seafoods Company

Paul A. Kampmeier WSBA 31560
paul@kampmeierknutsen.com
KAMPMEIER & KNUTSEN PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
Telephone: (206) 223-4088

Brian A. Knutsen WSBA 38806
brian@kampmeierknutsen.com
KAMPMEIER & KNUTSEN PLLC
833 S.E. Main Street, Suite 327, MB #318
Portland, Oregon 97214
Telephone: (503) 841-6515

Attorneys for Plaintiff/Respondent
Olympic Forest Coalition

TABLE OF CONTENTS

Page

INTRODUCTION 1

BACKGROUND 2

I. Statutory and Regulatory Framework 2

II. OFCO's Complaint 4

III. Coast's Motion to Dismiss 7

QUESTION PRESENTED 12

RELIEF SOUGHT 12

REASONS WHY THE COURT SHOULD ALLOW PETITION 12

I. The Order Involves a Controlling Question of Law 13

II. There Are Substantial Grounds for a Difference of Opinion 15

III. An Immediate Appeal Will Materially Advance the Litigation 18

CONCLUSION 20

EXHIBIT A – Order Denying Motion to Dismiss (W.D. Wash. Doc. 21)

EXHIBIT B – Amended Order Granting Defendant's Motion to Certify Order for Interlocutory Appeal and Motion to Stay (W.D. Wash. Doc. 34)

EXHIBIT C – Complaint (W.D. Wash. Doc. 1)

EXHIBIT D – Letter from Richard Doenges, Southwest Region Manager, Water Quality Program, Washington Department of Ecology, to Samuel W. Plauché (July 29, 2016)

TABLE OF AUTHORITIES

Page

Cases

Ass'n to Protect Hammersley, Eld & Totten Inlets v. Taylor Res., Inc.,
299 F.3d 1007 (9th Cir. 2002) 1, 2, 7, 8, 9, 10, 11, 14, 16, 17, 18, 20

Couch v. Telescope Inc.,
611 F.3d 629 (9th Cir. 2010) 15, 16

Envtl. World Watch, Inc. v. Walt Disney Co.,
No. CV 09-04045 DMG, 2014 WL 10979864 (C.D. Cal. Apr. 2, 2014) 14

In re Cement Antitrust Litig.,
673 F.2d 1020 (9th Cir. 1982), *aff'd sub nom. Ariz. v. Ash Grove Cement Co.*, 459 U.S. 1190 (1983) 12-13

League of Wilderness Defenders/Blue Mountain Biodiversity Project v. Forsgren,
309 F.3d 1181 (9th Cir. 2002) 9, 10, 11, 14, 16, 18

Nw. Envtl. Def. Ctr. v. Brown,
640 F.3d 1063 (9th Cir. 2011), *rev'd on other grounds*, 133 S. Ct. 1326 (2013) 9, 10, 11, 14, 16, 18

Reese v. BP Exploration (Alaska) Inc.,
643 F.3d 681 (9th Cir. 2011) 15, 18, 19

Reese v. Malone,
747 F.3d 557 (9th Cir. 2014) 7

Sokaogon Gaming Enter. Corp. v. Tushie-Montgomery Assocs., Inc.,
86 F.3d 656 (7th Cir. 1996) 13

Umatilla Waterquality Protective Ass'n, Inc. v. Smith Frozen Foods, Inc.,
962 F. Supp. 1312 (D. Or. 1997) 14-15

TABLE OF AUTHORITIES
(continued)

Page

Cases *(continued)*

United States v. Woodbury,
263 F.2d 784 (9th Cir. 1959) 13

Wild Fish Conservancy v. Quilcene Nat'l Fish Hatchery,
No. C08-5585BHS, 2009 WL 3380655 (W.D. Wash. Oct. 19,
2009), *vacated after settlement* (Sept. 13, 2010) 8, 16, 17, 18

Statutes, Rules, and Regulations

40 C.F.R. § 122.23 3

40 C.F.R. § 122.23(a) 3

40 C.F.R. § 122.24 3

40 C.F.R. § 122.24(a) 3, 12

40 C.F.R. § 122.24 app. C 4

40 C.F.R. § 122.24(c)(1) 4

40 C.F.R. § 122.24(c)(2) 4, 6

Fed. R. App. P. 5 12

Fed. R. Evid. 201(b)(2) 7

Fed. R. Evid. 201(d) 7

Fed. R. Evid. 1101(a) 7

RCW ch. 90.48 4

28 U.S.C. § 1292(b) 2, 11, 12, 13

33 U.S.C. §§ 1251-1376 (Clean Water Act) 1, 2, 3, 4, 5, 6, 17, 18

TABLE OF AUTHORITIES
(continued)

Page

Statutes, Rules, and Regulations *(continued)*

33 U.S.C. § 1251(a) 2

33 U.S.C. § 1311(a) 2

33 U.S.C. § 1342(c)(1) 4

33 U.S.C. § 1362(6) 2

33 U.S.C. § 1362(12)(A) 2

33 U.S.C. § 1362(14) 3, 8, 9, 11, 14, 17

INTRODUCTION

The district court certified for interlocutory appeal its order denying the motion of defendant Coast Seafoods Company ("Coast") to dismiss the complaint of plaintiff Olympic Forest Coalition ("OFCO"). OFCO alleges that Coast violated the Clean Water Act, 33 U.S.C. §§ 1251-1376 (the "CWA"), by failing to obtain a National Pollution Discharge Elimination System ("NPDES") permit for Coast's oyster hatchery facility in Quilcene, Washington.

In denying Coast's motion to dismiss, the district court reached a result that stands in direct conflict with a ruling of another judge of the Western District of Washington, who had applied *Ass'n to Protect Hammersley, Eld & Totten Inlets v. Taylor Res., Inc.*, 299 F.3d 1007 (9th Cir. 2002) ("*APHETI*"), to hold that a similarly situated fish hatchery did not require an NPDES permit.

Although the district court denied Coast's motion to dismiss, it recognized that its order involved a controlling question of law for which there is substantial ground for a difference of opinion and that resolution of that question would materially advance the litigation. The court identified the question of law as "whether the [CWA] requires an aquatic animal production facility that is not a concentrated facility under 40 C.F.R. § 122.24, but that discharges effluent from a discrete conveyance, to obtain a[n NPDES] permit" (Ex. B at 1) and noted that the

question turns on the interpretation and application of *APHETI* and two other decisions of this Court.

The district court's dismissal order meets all the requirements for interlocutory appeal under 28 U.S.C. § 1292(b). The order involves a controlling question of law that has produced conflicting decisions in the district court and, arguably, in this Court. Not only would an immediate appeal significantly advance the termination of this case, but it would provide the Court with an opportunity to clarify a confusing area of law to the benefit of lower courts, litigants, government agencies, and the animal production industry. Coast therefore requests that the Court accept the district court's certification of its order for interlocutory appeal.

BACKGROUND

I. Statutory and Regulatory Framework.

The CWA was enacted to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a). To help achieve that goal, the CWA prohibits "the discharge of any pollutant"[1] without an NPDES permit that authorizes such a discharge. 33 U.S.C. § 1311(a).

The CWA defines "discharge of a pollutant" as "any addition of any pollutant to navigable waters from any point source." 33 U.S.C. § 1362(12)(A). A

[1] The term "pollutant" is broadly defined to include "biological materials," which arguably encompass the phytoplankton feed given to the shellfish larvae. 33 U.S.C. § 1362(6).

point source, in turn, is "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, *concentrated animal feeding operation*, or vessel or other floating craft, from which pollutants are or may be discharged." 33 U.S.C. § 1362(14) (emphasis added).

The CWA does not define the term "concentrated animal feeding operation" as used in 33 U.S.C. § 1362(14). The EPA, however, has promulgated regulations that govern animal feeding operations and aquatic animal production facilities under the CWA. 40 C.F.R. §§ 122.23, 122.24. Among other things, the regulations contain numeric thresholds that qualify an animal feeding operation as a "concentrated animal feeding operation" ("CAFO") and an aquatic animal production facility as a "concentrated aquatic animal production facility" ("CAAPF"). Consistent with 33 U.S.C. § 1362(14), the EPA's regulations provide that CAFOs and CAAPFs are "point sources, subject to NPDES permitting requirements." 40 C.F.R. § 122.23(a). *See* 40 C.F.R. § 122.24(a) (CAAPFs are "point sources subject to the NPDES permit program.").

With respect to aquatic animal production facilities, the EPA's regulations provide that "[a] hatchery, fish farm, or other facility is a [CAAPF] for purposes of § 122.24 if it contains, grows, or holds," among other things, "[c]old water fish species or other cold water aquatic animals in ponds, raceways, or other

similar structures which discharge at least 30 days per year." 40 C.F.R. § 122.24 app. C. The regulations, however, *exclude* from classification as a CAAPF—and the concomitant requirement to obtain an NPDES permit as a point source—facilities that produce less than 20,000 pounds of aquatic animals per year and that feed less than 5,000 pounds of food during the calendar month of maximum feeding. *Id.*

Even if an aquatic animal production facility does not meet the numeric threshold for designation as a CAAPF, the EPA (or a state agency authorized to administer the NPDES permit program)[2] may nevertheless designate the facility as a CAAPF if the EPA or state agency determines that the facility "is a significant contributor of pollution to waters of the United States." 40 C.F.R. § 122.24(c)(1). The EPA or authorized state agency can make this determination on a case-by-case basis only after it "has conducted on-site inspection of the facility and has determined that the facility should and could be regulated under the permit program." 40 C.F.R. § 122.24(c)(2).

II. OFCO's Complaint.

OFCO commenced a citizen suit against Coast under Section 505 of the CWA. OFCO alleges that Coast owns and operates an oyster hatchery facility

[2] The EPA has authorized the State of Washington to administer the NPDES permit program, which Washington does through its Department of Ecology ("Ecology"). 33 U.S.C. § 1342(c)(1); RCW ch. 90.48. *See also* Complaint ¶ 23 (Ex. C at 8) (alleging that Washington has established a federally approved NPDES program administered by Ecology).

near Quilcene, Washington, that discharges "water and . . . additional materials into Quilcene Bay via pipes, ditches, and channels" in violation of the CWA because Coast does not have an NPDES permit. Complaint ¶ 1 (Ex. C at 1-2). OFCO seeks injunctive and declaratory relief, civil penalties, and attorney fees based on the alleged CWA violation. *Id.*

In its complaint, OFCO details the pertinent provisions of the CWA, as well as its accompanying regulations. Complaint ¶¶ 14-29 (Ex. C at 6-9). OFCO alleges that this statutory and regulatory scheme obligates Coast to obtain an NPDES permit to operate its oyster hatchery because it discharges pollutants from pipes, ditches, and channels, which are "point sources" under the CWA. Complaint ¶¶ 2-3 (Ex. C at 2-3). OFCO asserts that Coast cannot rely on the EPA's CAAPF regulations to exempt Coast from obtaining an NPDES permit because the "EPA does not have the authority to contradict [33 U.S.C. § 1362(14)] and say that [Coast's] pipes, ditches, and channels are non-point sources that do not require a permit." Complaint ¶ 3 (Ex. C at 2).

OFCO alleges, on information and belief, that Coast discharged a variety of materials from its facility into Quilcene Bay. Complaint ¶¶ 31-34 (Ex. C at 10-11). OFCO's complaint describes how Coast engaged an environmental consultant (Rensel Associates Aquatic Sciences) to assess the effluent discharged

from Coast's facility and to prepare a report detailing its findings. Complaint ¶¶ 40-43 (Ex. C at 14-15).

OFCO does not allege that Coast's oyster hatchery exceeded the EPA's production or feeding thresholds that would require Coast to obtain an NPDES permit as a CAAPF. Nor does it allege that the EPA or Ecology determined that Coast is a significant contributor of pollution that "should and could be regulated under the permit program." 40 C.F.R. § 122.24(c)(2). Instead, OFCO suggests that Coast violated the CWA by failing to submit an application for an NPDES permit that Ecology has repeatedly determined is not required under the EPA regulation. *See* Complaint ¶ 45 (Ex. C at 15) ("[Coast] has not applied for or received NPDES permit coverage for discharges of pollutants from the facility. If [Coast] had submitted a complete application for an NPDES permit, EPA or . . . Ecology would have had sufficient information to determine that [Coast] is discharging pollutants from point sources and so requires an NPDES permit.").

Ecology, however, has expressly authorized Coast to operate its facility without an NPDES permit. In response to an inquiry from Coast "whether [Ecology's] view, communicated in 2013, that Coast's Quilcene shellfish hatchery does not require a National Pollution Discharge Elimination System (NPDES) permit[] is still applicable," Ecology stated that "there is no compelling reason to require the facility [to] be covered under the NPDES permit program." Letter from

Richard Doenges, Southwest Region Manager, Water Quality Program, Ecology, to Samuel W. Plauché (July 29, 2016) (Ex. D).[3] Ecology based its conclusion on two factors: (1) the facility's annual production and monthly feed used are below the thresholds set by the EPA and therefore are "not subject to the NPDES permit program"; and (2) the report prepared by Rensel "concluded [that] the facility did not discharge enough nitrogen to alter water quality in Quilcene Bay," and Ecology's surface water monitoring specialist concurred with that conclusion. *Id.*

III. Coast's Motion to Dismiss.

Coast filed a motion to dismiss OFCO's complaint on February 25, 2016. W.D. Wash. Doc. 14. Coast sought dismissal on the ground that OFCO's claims are foreclosed by *APHETI*, 299 F.3d 1007. W.D. Wash. Doc. 14, at 2. In *APHETI*, the Court concluded that a mussel-growing raft was not a "point source" and was not required to obtain an NPDES permit because it was an aquatic animal production facility that did not meet the EPA's minimum threshold for classification as a CAAPF. 299 F.3d at 1018-19. In reaching this conclusion, the Court rejected

[3] Coast requests that the Court take judicial notice of the Ecology letter under Fed. R. Evid. 201(b)(2) because its existence "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." The Court "may take judicial notice at any stage of the proceeding," Fed. R. Evid. 201(d), including on appeal. *See* Fed. R. Evid. 1101(a) (federal rules of evidence apply to proceedings before the United States courts of appeals). The Court can properly consider the Ecology letter in evaluating the sufficiency of OFCO's complaint. *See Reese v. Malone*, 747 F.3d 557, 568-69 (9th Cir. 2014) (court must consider matters of which it can take judicial notice in addressing Fed. R. Civ. P. 12(b)(6) motion to dismiss).

the plaintiff's argument that the mussel raft was a "point source" by being a "discernible, confined and discrete conveyance" or a "vessel or other floating craft" under 33 U.S.C. § 1362(14):

> [W]hatever merit this argument might have in the absence of a regulatory definition of when an aquatic animal feeding operation is a point source, the argument has little persuasive effect when faced with aquatic animal farming that does not involve feeding and that is not within the express and described limits that invoke the [CWA] under the regulation.
>
> . . . In the context of aquatic animal harvesting, the EPA's regulations expressly exclude from the definition of "point source" facilities, like Taylor's, that do not meet certain feeding thresholds. To hold that these facilities are nonetheless "point sources" under the statutory definition would render the EPA's CAAPF criteria superfluous and undermine the agency's interpretation of the [CWA].

299 F.3d at 1018-19. *See also Wild Fish Conservancy v. Quilcene Nat'l Fish Hatchery*, No. C08-5585BHS, 2009 WL 3380655, at *4-6 (W.D. Wash. Oct. 19, 2009), *vacated after settlement* (Sept. 13, 2010) (under *APHETI*, a shellfish hatchery that did not meet EPA's CAAPF requirements was not a "point source" and was not required to obtain an NPDES permit even though it discharged pollutants through pipes).

Coast argued that *APHETI* dictates the resolution of this case based on the facts and the law. It did not matter in *APHETI* that a mussel raft might also be one of the enumerated point source categories—"vessel," "floating craft," or "discrete conveyance." What mattered was that the operation was below the

production and feeding thresholds of the CAAPF regulation. *APHETI*, 299 F.3d at 1019. Coast's Motion to Dismiss (W.D. Wash. Doc. 14) at 6-7.

In response to Coast's motion to dismiss, OFCO argued that *League of Wilderness Defenders/Blue Mountain Biodiversity Project v. Forsgren*, 309 F.3d 1181 (9th Cir. 2002), and *Nw. Envtl. Def. Ctr. v. Brown*, 640 F.3d 1063 (9th Cir. 2011), *rev'd on other grounds*, 133 S. Ct. 1326 (2013), govern the question whether Coast's oyster hatchery can properly be characterized as a point source that is subject to NPDES permitting requirements. OFCO's Response to Coast's Motion to Dismiss (W.D. Wash. Doc. 15) at 2-3, 12-13. In *Forsgren*, the Court concluded that the United States Forest Service could not rely on its reading of an EPA regulation in a manner that altered the plain meaning of 33 U.S.C. § 1362(14). 309 F.3d at 1185-86. The precise issue presented in *Forsgren* was whether the EPA's silvicultural regulations that excluded pest-control activities from the definition of silvicultural point sources allowed the Forest Service to engage in aerial spraying without an NPDES permit. The Court determined that because the definition of "point source" in 33 U.S.C. § 1362(14) "clearly encompasses an aircraft equipped with tanks spraying pesticide from mechanical sprayers directly over covered waters," the Forest Service's practice of spraying pesticides from an aircraft required an NPDES permit: "The Forest Service cannot contravene the will of Congress through its reading of administrative regulations.

'If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.'" 309 F.3d at 1185-86 (quoting *Chevron U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837, 842-43 (1984)).

Like *Forsgren*, *Brown* concluded that the "EPA may not alter the definition of an existing 'point source'" under the CWA. 640 F.3d at 1080. The Court recognized that while "'the EPA has some power to define point source and nonpoint source pollution where there is room for reasonable interpretation of the statutory definition,'" *id.* at 1079 (quoting *Forsgren*, 309 F.3d at 1190), "in cases where Congress has not provided statutory exemptions from the definition of point source, federal courts have invalidated EPA regulations that categorically exempt discharges included in the definition of point source discharge contained in § 502(14)." *Brown*, 640 F.3d at 1086.

OFCO also argued that *APHETI* is inapplicable because the present case involves allegations that Coast discharged through "pipes, ditches, and channels"—which are listed as examples of "discernible, confined and discrete conveyance[s]" under the statutory "point source" definition—but failed to explain why these enumerated point source categories of "pipes, ditches, and channels" are any different from the "vessels" and "other floating crafts" that were considered in *APHETI*. OFCO's Response to Coast's Motion to Dismiss (W.D. Wash. Doc. 15)

at 14. OFCO alternatively argued that "[i]f this Court reads *APHETI* as holding that the CAAPF rule exempts statutory point sources from NPDES permitting, then the decision in this case would impermissibly conflict with *Forsgren* and *Brown*." W.D. Wash. Doc. 15, at 16. However, neither *Forsgren* nor *Brown* concerned the applicability of the concentrated animal feeding operation point source category.

On June 3, 2016, the district court entered an order denying Coast's motion to dismiss ("Order") (Ex. A). The court concluded that 33 U.S.C. § 1362(14) "clearly and unambiguously defines 'any pipe, ditch [or] channel' as a point source" and that under *Forsgren* and *Brown*, the language of the statute controls. Order (Ex. A at 3). The court also concluded that *APHETI* does not stand for the proposition that an aquatic animal feeding operation is a point source only if it meets or exceeds the EPA's thresholds for designation as a CAAPF. *Id.*

Coast later requested that the district court certify the Order for interlocutory appeal under 28 U.S.C. § 1292(b). On August 8, 2016, the court issued an amended order that certified the Order for interlocutory appeal and stayed the proceedings in the event this Court accepts certification (the "Certification Order") (Ex. B). The Certification Order identifies the following controlling question of law presented in the Order: "The question of law presented in the Order is whether the [CWA] requires an aquatic animal production facility that is not a concentrated

facility under 40 C.F.R. § 122.24, but that discharges effluent from a discrete conveyance, to obtain a[n NPDES] permit." Certification Order (Ex. B at 1).

QUESTION PRESENTED

The EPA has promulgated regulations that provide that aquatic animal production facilities that (1) meet certain production or feeding thresholds or (2) are designated as significant contributors of pollution to waters of the United States are "[c]oncentrated aquatic animal production facilities," which "are point sources subject to the NPDES permit program." 40 C.F.R. § 122.24(a). Does the CWA require an aquatic animal production facility that is not a CAAPF but that discharges effluent from a discrete conveyance to obtain an NPDES permit?

RELIEF SOUGHT

In accordance with 28 U.S.C. § 1292(b) and Fed. R. App. P. 5, Coast requests permission to appeal from the Order. On August 8, 2016, the district court entered an amended order certifying the Order for interlocutory appeal, stating that the Order involves a controlling question of law for which there are substantial grounds for a difference of opinion and for which an immediate appeal would advance the termination of the case.

REASONS WHY THE COURT SHOULD ALLOW PETITION

To obtain interlocutory review under 28 U.S.C. § 1292(b), a party must show "(1) that there [is] a controlling question of law, (2) that there [are]

substantial grounds for difference of opinion, and (3) that an immediate appeal may materially advance the ultimate termination of the litigation." *In re Cement Antitrust Litig.*, 673 F.2d 1020, 1026 (9th Cir. 1982), *aff'd sub nom. Ariz. v. Ash Grove Cement Co.*, 459 U.S. 1190 (1983). Because the Order meets all three requirements under Section 1292(b), the Court should accept certification of the Order for interlocutory appeal.

I. The Order Involves a Controlling Question of Law.

"[A]ll that must be shown in order for a question to be 'controlling' is that resolution of the issue on appeal could materially affect the outcome of litigation in the district court." *In re Cement*, 673 F.2d at 1026. The question presented on interlocutory appeal need not be dispositive to be regarded as controlling. *United States v. Woodbury*, 263 F.2d 784, 787 (9th Cir. 1959). *See also Sokaogon Gaming Enter. Corp. v. Tushie-Montgomery Assocs., Inc.*, 86 F.3d 656, 659 (7th Cir. 1996) ("A question of law may be deemed 'controlling' if its resolution is quite likely to affect the further course of the litigation, even if not certain to do so.").

In this case, the question certified for appeal is a pure question of law—namely, do the EPA's CAAPF regulations conclusively determine whether an aquatic animal production facility is a "point source" that is subject to NPDES permitting requirements, or can such a facility otherwise qualify as a point source

under 33 U.S.C. § 1362(14)? The resolution of this question does not require the development of any facts. Instead, the issue turns solely on principles of statutory construction and the applicability of *APHETI*, *Forsgren*, and *Brown* to the facts alleged in the complaint.

Interlocutory appeal from the Order is appropriate because it would materially affect the outcome of the litigation. The legal question imbedded in the Order goes to the heart of OFCO's claims, which are predicated on the assertion that Coast's facility was required to have an NPDES permit because it contains a "point source." If the Court reverses the Order and rules that Coast does not need an NPDES permit as Ecology has determined, the case would effectively be over. Alternatively, if the Court affirms the Order, that ruling would significantly advance the litigation by resolving a core liability issue. *See*, *e.g.*, *Envtl. World Watch, Inc. v. Walt Disney Co.*, No. CV 09-04045 DMG (PLAx), 2014 WL 10979864, at *3 (C.D. Cal. Apr. 2, 2014) (question whether a defendant must obtain an NPDES permit is a controlling one because it could dispose of the plaintiffs' claims); *Umatilla Waterquality Protective Ass'n, Inc. v. Smith Frozen Foods, Inc.*, 962 F. Supp. 1312, 1323 (D. Or. 1997) ("Immediate appeal of this order [involving application of the CWA] may materially advance the termination of this litigation because the parties are likely to appeal this case in any event and guidance from the Ninth Circuit now will greatly help to focus and limit the

plethora of legal issues and factual arguments that the parties will otherwise have to advance in order to present their cases."). Because resolution of the legal issue presented in the Order could materially affect—if not dispose of—the litigation, the issue involves a controlling question of law.

II. There Are Substantial Grounds for a Difference of Opinion.

"A substantial ground for difference of opinion exists where reasonable jurists might disagree on an issue's resolution, not merely where they have already disagreed. Stated another way, when novel legal issues are presented, on which fair-minded jurists might reach contradictory conclusions, a novel issue may be certified for interlocutory appeal without first awaiting development of contradictory precedent." *Reese v. BP Exploration (Alaska) Inc.*, 643 F.3d 681, 688 (9th Cir. 2011). *See also Couch v. Telescope Inc.*, 611 F.3d 629, 633 (9th Cir. 2010) (courts "examine to what extent the controlling law is unclear" to determine whether there is a "substantial ground for difference of opinion").

There are, without question, substantial grounds for a difference of opinion regarding the issue presented in the Order. The Order concludes that Coast's "claim that the [EPA] regulations trump the unambiguous statutory definition, and make a CAAPF a 'point source' *only if* it produces more than 20,000 pounds of animals . . . is not supportable, and it is not the holding of *APHETI*." Order (Ex. A at 3). In contrast, *Wild Fish* concluded that it was indeed the precise

holding of *APHETI*. *See Wild Fish*, 2009 WL 3380655, at *5-6 (applying *APHETI* to hold that aquatic animal production facility is not a "point source" even though it discharges pollutants through a pipe).[4]

Although Coast is not required to show that reasonable jurists have actually disagreed on the resolution of an issue to establish a substantial ground for a difference of opinion, that is the case here. The Order stands in direct conflict with *Wild Fish*—on virtually identical facts, *Wild Fish* ruled that *APHETI* controls, while the Order concluded that *APHETI* is inapposite and that under *Forsgren* and *Brown*, an aquatic animal feeding operation that discharges pollution through pipes, ditches, or channels can be a "point source" even though it is not a CAAPF under EPA regulations.

In response to Coast's motion to certify the Order for interlocutory review, OFCO argued that *Wild Fish* does not satisfy the test articulated in *Couch* because *Wild Fish* is not controlling law and was later vacated. OFCO's Response to Motion for Interlocutory Review (W.D. Wash. Doc. 29) at 5. In advancing this argument, OFCO failed to appreciate the significance of *Wild Fish*. Although

---

[4] *Wild Fish* appears to have read *APHETI* more accurately. *APHETI* expressly rejected the argument that an aquatic animal feeding operation that did not meet the CAAPF thresholds could nonetheless be characterized as a point source if it had facilities that met the general definition of a point source. *See APHETI*, 299 F.3d at 1019 ("To hold that these facilities are nonetheless 'point sources' under the statutory definition would render the EPA's CAAPF criteria superfluous and undermine the agency's interpretation of the [CWA].").

Wild Fish is not controlling law because it is a district court decision and was vacated, it bears directly on "difference of opinion" inquiry because it illustrates that fair-minded jurists can reach opposite conclusions on the issue certified by the district court.

OFCO also contended that the Order does not conflict with *APHETI* (and therefore does not create a substantial ground for a difference of opinion) because the cases are factually distinguishable. OFCO argues that *APHETI* and the Order reached different results because OFCO has alleged that Coast is discharging pollutants from pipes, ditches, and channels, while *APHETI* involved a claim that the defendant was discharging pollutants from mussel rafts. OFCO's Response (W.D. Wash. Doc. 29) at 5. This is simply a distinction without a difference. A mussel raft, as a "vessel" or an "other floating craft," is just as much a "discernible, confined and discrete conveyance" as a pipe, ditch, or channel.

Nevertheless, OFCO suggests that "pipes, ditches, and channels" should be treated differently from "mussel rafts" under the CWA because the former are enumerated examples of "discernible, confined and discrete conveyance[s]" under 33 U.S.C. § 1362(14), while the latter are not. OFCO's Response (W.D. Wash. Doc. 29) at 5. Even assuming that OFCO is correct that a mussel raft cannot fairly be characterized as a "vessel or other floating craft," which are also enumerated under the statute, the enumerated items are not an

exhaustive list of point sources—they are merely examples of point sources. And in any event, *APHETI* did not draw any such distinction in concluding that an aquatic animal feeding operation that did not meet the CAAPF threshold is not a point source.

The disparate conclusions reached in *Wild Fish* and the Order reflect a tension between *APHETI*, on the one hand, and *Forsgren* and *Brown*, on the other. Although *APHETI* can be reconciled with *Forsgren* and *Brown* because *APHETI* addressed the limited situation in which the EPA has exercised its authority to define and regulate a "point source" under the CWA "where there is room for reasonable interpretation of the statutory definition," *Forsgren*, 309 F.3d at 1190 (emphasis omitted), the Order essentially reads *APHETI* out of existence and holds that *Forsgren* and *Brown* apply even when the EPA has promulgated extensive regulations governing aquatic animal production facilities. The Order squarely presents an issue over which there are substantial grounds for a difference of opinion and therefore satisfies the second prong for interlocutory review.

III. An Immediate Appeal Will Materially Advance the Litigation.

"[N]either § 1292(b)'s literal text nor controlling precedent requires that the interlocutory appeal have a final, dispositive effect on the litigation, only that it 'may materially advance' the litigation." *Reese*, 643 F.3d at 688 (quoting 28 U.S.C. § 1292(b)). If reversal of the certified Order "may" eliminate claims

against a party, "[t]hat is sufficient to advance materially the litigation" and to support certification for interlocutory appeal. *Id.*

This case satisfies the final prong for interlocutory appeal. OFCO's claims depend entirely on the assertion that Coast is required to obtain an NPDES permit for its oyster hatchery facility, which is the precise issue certified for appeal. If the Court allows interlocutory review and concludes that the NPDES permitting requirements for an aquatic animal processing facility are governed by EPA regulations, OFCO will have no basis for proceeding against Coast, and the case will come to a close. Although that prospect is itself sufficient to establish that interlocutory review may materially advance the litigation, a ruling affirming the Order would also streamline the proceedings by resolving a significant liability issue, thereby allowing the litigation to proceed more quickly to the remedies phase.

In the district court, OFCO argued that an interlocutory appeal will not materially advance resolution of the case. OFCO offered several considerations that it claimed cut against interlocutory appeal, including that it intends to seek (1) preliminary and permanent injunctive relief, (2) discovery related to the injunctive relief, (3) the imposition of civil penalties, and (4) an award of costs and attorney fees from Coast. OFCO's Response (W.D. Wash. Doc. 29) at 8.

These considerations actually undermine OFCO's position. It would be prejudicial and wasteful to subject Coast to broad-based discovery and

injunctive relief when Coast is fully complying with Ecology's interpretation of EPA regulations as determined by *APHETI* without first allowing the Court to determine whether *APHETI* controls. It would also be unfair to force Coast to face the specter of civil penalties and substantial attorney fees to preserve the question whether *APHETI* governs this dispute, particularly when the issue can be efficiently and definitely resolved through interlocutory appeal.

CONCLUSION

For all the foregoing reasons, Coast requests that the Court accept the district court's certification of its Order for interlocutory appeal.

DATED: August 17, 2016

MILLER NASH GRAHAM & DUNN LLP

s/ Bruce L. Campbell

BRUCE L. CAMPBELL, P.C.
HONG N. HUYNH

Of Attorneys for Defendant/Petitioner

70114635.6

STATEMENT OF RELATED CASES

There are no pending related appeals.

s/ Bruce L. Campbell
Bruce L. Campbell, P.C.
Of Attorneys for Defendant/Petitioner

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE STYLE REQUIREMENTS

1. This brief complies with the type-volume limitation of Fed. R. App. P. 5(c) because this brief does not exceed 20 pages.

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Times New Roman font type.

s/ Bruce L. Campbell
Bruce L. Campbell, P.C.
Of Attorneys for Defendant/Petitioner

Dated: August 17, 2016

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

OLYMPIC FOREST COALITION, a Washington non-profit corporation, Plaintiff, v. COAST SEAFOODS COMPANY, a Washington corporation, Defendant.	CASE NO. C16-5068RBL ORDER DENYING MOTION TO DISMISS [DKT. 14]

THIS MATTER is before the Court on Defendant Coast Seafoods' Motion to Dismiss [Dkt. #14] under Fed. R. Civ. P. 12(b)(6). The Court has reviewed the Complaint, the materials filed for and against the motion and the Court has heard oral argument. For the following reasons, the Motion to Dismiss is **DENIED**.

To survive a motion to dismiss for failure to state a claim, the complaint must allege "factual content that allows the Court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcraft v. Iqbal*, 556 U.S. 662, 678 (2009). "The Court must decide whether the allegations plausibly suggest an entitlement to relief, such that it is unfair to require the opposing party to be subjected to the expense of discovery and continued

1 litigation." *Eclectic Props. E., LLC v. Marcus & Millichap Co.,* 751 F.3d 990 (9th Cir. 2014).
2 The determination "requires the reviewing Court to draw on its judicial experience and common
3 sense." *Iqbal*, 556 U.S. at 679.
4 The CWA establishes a comprehensive statutory system for controlling water pollution.
5 To that end, it established the National Pollution Discharge Elimination System ("NPDES")
6 permit scheme "for regulating discharges of pollutants into waters of the United States." *Nat'l*
7 *Wildlife Fed'n v. Consumers Power Co.*, 862 F.2d 580, 582 (6th Cir. 1988). Accordingly, "[t]he
8 'discharge of any pollutant' from a 'point source' into navigable waters is unlawful under the
9 [CWA] unless made per the terms of an NPDES permit . . . ." *APHETI*, 299 F.3d at 1015. A
10 point source is "any discernible, confined and discrete conveyance, including but not limited to
11 any pipe, ditch, channel, . . . concentrated animal feeding operation, or vessel or other floating
12 craft. 33 U.S.C. § 1362(14).
13 The United States Court of Appeals for the Ninth Circuit has twice held that courts
14 evaluating whether a particular conveyance is a point source must start with the definition
15 Congress included in the statute. *League of Wilderness Defenders/Blue Mountains Biodiversity*
16 *Project v. Forsgren*, 309 F.3d 1181, 1185-86 (9th Cir. 2002); *Nw. Envtl. Def. Ctr. v. Brown*, 640
17 F.3d 1063, 1070-71, 1079 (9th Cir. 2011), *rev'd on other grounds*, 133 S. Ct. 1326 (2013). If the
18 statutory definition clearly answers the question presented, that is the end of the analysis.
19 *Forsgren*, 309 F.3d at 1185-86; *Brown*, 640 F.3d at 1070-71, 1079. If (and only if) the statutory
20 definition is ambiguous or does not clearly resolve the question presented, a court may look to
21 EPA regulations or other sources of authority to resolve the issue. *APHETI*, 299 F.3d at 1018-
22 19; *see also San Francisco Baykeeper v. Cargill Salt Div.*, 481 F.3d 700 (9th Cir. 2007)
23
24

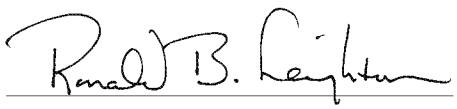
(resolving whether a wetland was a "water of the United States" with reference to EPA regulations because Congress did not define that term).

OFCO has plausibly stated a claim for relief in this case. It alleges Coast Seafoods is discharging pollutants from pipes, ditches, and channels. *See* Complaint [Dkt. #1] at ¶¶ 33, 34 (showing a picture), 41. Because the statute clearly and unambiguously defines "any pipe, ditch [or] channel" as a point source, 33 U.S.C. § 1362(14), the statutory language controls.

The claim that the regulations trump the unambiguous statutory definition, and make a CAAPF a "point source" *only if* it produces more than 20,000 pounds of animals (or feeds 5,000 pounds during the maximum feeding month) is not supportable, and it is not the holding of *APHETI*. In the face of a plausible allegation that Coast Seafoods is discharging pollutants from pipes and ditches, the statutory language compels this Court to deny defendant's motion to dismiss. *Forsgren*, 309 F.3d at 1185-86, 1190; *Brown*, 640 F.3d at 1-070-71, 1079.

IT IS SO ORDERED.

Dated this 3rd day of June, 2016.



Ronald B. Leighton
United States District Judge

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

OLYMPIC FOREST COALITION, a Washington non-profit corporation, Plaintiff, v. COAST SEAFOODS COMPANY, a Washington corporation, Defendant.	Civil Action No. 3:16-cv-05068-RBL AMENDED ORDER GRANTING DEFENDANT'S MOTION TO CERTIFY ORDER FOR INTERLOCUTORY APPEAL AND MOTION TO STAY

THIS MATTER having come before the Court on Defendant's Motion to Certify Order for Interlocutory Appeal and Motion to Stay, and the Court having considered the records and files herein, the Court expressly finds as follows:

1. The Court's order denying defendant Coast Seafoods Company's ("Coast") motion to dismiss, entered June 3, 2016 (Dkt. 21) (the "Order"), involves a controlling question of law as to which there is a substantial ground for difference of opinion.

2. The question of law presented in the Order is whether the Clean Water Act, 33 U.S.C. §§ 1251-1376, requires an aquatic animal production facility that is not a concentrated facility under 40 C.F.R. § 122.24, but that discharges effluent from a discrete conveyance, to obtain a National Pollutant Discharge Elimination System ("NPDES") permit.

MILLER NASH GRAHAM & DUNN LLP
ATTORNEYS AT LAW
T: 503.224.5858 | F: 503.224.0155
3400 U.S. BANCORP TOWER
111 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

This question turns on the applicability and interpretation of *Ass'n to Protect Hammersley, Eld. & Totten Inlets v. Taylor Res., Inc.*, 299 F.3d 1007 (9th Cir. 2002), *League of Wilderness Defenders/Blue Mountain Biodiversity Project v. Forsgren*, 309 F.3d 1181 (9th Cir. 2002), and *Nw. Envtl. Def. Cir. v. Brown*, 640 F.3d 1063 (9th Cir. 2011), *rev'd on other grounds*, 133 S.Ct. 1326 (2013).

3. An immediate appeal from the Order may materially advance the termination of this litigation.

Based on these findings:

IT IS HEREBY ORDERED that Coast Seafoods Company's motion to certify the Order for interlocutory appeal is GRANTED.

IT IS FURTHER ORDERED that, in the event the Ninth Circuit accepts certification, this proceeding is stayed during the pendency of the interlocutory appeal.

DATED this 8th day of August, 2016.

Ronald B. Leighton
United States District Judge

Presented by:

By: *s/ Joseph Vance, P.C.*
Joseph Vance, P.C., WSB No. 25531
Hong N. Huynh, WSB No. 45044
Miller Nash Graham & Dunn LLP
111 S.W. Fifth Avenue, Suite 3400
Portland, Oregon 97204
Telephone: (503) 224-5858
Fax: (503) 224-0155
E-mail: hong.huynh@millernash.com
E-mail: joseph.vance@millernash.com
Attorneys for Defendant Coast Seafoods Company

Paul A. Kampmeier, WSBA #31560
KAMPMEIER & KNUTSEN PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
Telephone: (206) 223-4088 x 4
Email: paul@kampmeierknutsen.com

Brian A. Knutsen, WSBA # 38806
KAMPMEIER & KNUTSEN PLLC
833 S.E. Main Street, No. 318
Portland, Oregon 97214
Telephone: (503) 841-6515
Email: brian@kampmeierknutsen.com

Attorneys for Plaintiff Olympic Forest Coalition

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

OLYMPIC FOREST COALITION, a Washington non-profit corporation, Plaintiff, v. COAST SEAFOODS COMPANY, a Washington corporation, Defendant.	Case No. _____ COMPLAINT

I. INTRODUCTION

1. This action is a citizen suit brought under Section 505 of the Clean Water Act, 33 U.S.C. § 1365. Defendant Coast Seafoods Company owns and operates an oyster hatchery facility in or near Quilcene, Washington. Defendant rears oyster larvae in tanks of water at its facility. During that process, both Defendant and the oyster larvae add materials to the water. Defendant then discharges that water and those additional materials into Quilcene Bay via pipes, ditches, and channels. Plaintiff Olympic Forest Coalition ("OFCO") alleges those discharges are

illegal and in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), because Defendant does not have a National Pollutant Discharge Elimination System ("NPDES") permit authorizing discharges of pollutants from its facility. OFCO seeks declaratory and injunctive relief, the imposition of civil penalties, and an award of costs, including attorneys' and expert witness fees, for Defendant's repeated and ongoing violations of the Clean Water Act.

2. As relevant here, the Clean Water Act ("CWA" or "Act") prohibits "the discharge of any pollutant by any person" unless authorized by an NPDES permit. See 33 U.S.C. §§ 1311(a), 1342. The Act defines the term "discharge of a pollutant" to include "*any* addition of *any* pollutant to navigable waters from *any point source*." See 33 U.S.C. §1362(12) (emphases added). The Act then defines the term "point source" to include "…*any* pipe, ditch [or] channel…from which pollutants are or may be discharged." 33 U.S.C. § 1362(14) (emphasis added). Accordingly, discharges of pollutants from pipes, ditches, and channels at Defendant's facility are prohibited unless authorized by an NPDES permit.

3. Notwithstanding the clarity of those prohibitions, Defendant claims EPA exempted the pipes, ditches, and channels at its facility from the permit requirement by re-defining them as nonpoint sources of pollution. Defendant's reliance on EPA is misplaced, however. Because the CWA itself clearly and unambiguously defines "point source" to include "any pipe, ditch, or channel," 33 U.S.C. § 1362(14), EPA does not have the authority to contradict that proclamation and say that Defendant's pipes, ditches, and channels are non-point sources that do not require a permit. Chevron v. Natural Resources Defense Council, 467 U.S. 837, 842-843 (1984) ("When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

of Congress."). The CWA simply does not allow Defendant to use pipes, ditches, and channels to pollute Quilcene Bay without limit or oversight.

4. Defendant also incorrectly believes that Association to Protect Hammersly, Eld, and Totten Inlets v. Taylor Shellfish, 299 F.3d 1007 (9th Cir. 2002) ("APHETI"), excuses it from NPDES permit requirements. But the facts presented here are materially different from that case. In APHETI, the alleged "point sources" were rafts of mussels living in Puget Sound. Because the Act does not address whether living rafts of mussels are "point sources"—because there is a gap or ambiguity in the statute on that point—the APHETI court deferred to EPA and held that the defendant in that case did not need a permit because it was not discharging from a "point source." Chevron, 467 U.S. at 843 ("… if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute."). Here, however, because Defendant is discharging chlorine and other pollutants from pipes, ditches, and channels—conveyances the CWA clearly and unambiguously defines as "point sources," see 33 U.S.C. § 1362(14)—the text of the statute controls and EPA's contrary view is not entitled to deference. Chevron, at 842-843.

II. JURISDICTION AND VENUE

5. This Court has jurisdiction pursuant to 33 U.S.C. § 1365 (CWA citizen suit provision) and 28 U.S.C. § 1331 (federal question). Defendant is in violation of an "effluent standard or limitation" as defined by Section 505 of the Act, 33 U.S.C. § 1365. The requested relief is proper under 28 U.S.C. §§ 2201 and 2202 and 33 U.S.C. § 1365.

6. OFCO has satisfied the jurisdictional requirements for bringing this suit. Under Section 505(b)(1)(A) of the Act, 33 U.S.C. § 1365(b)(1)(A), by certified letter dated and postmarked October 20, 2015, OFCO notified Defendant and its registered agent of Defendant's alleged violations of the Act and of OFCO's intent to sue for those violations ("Notice Letter").

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

OFCO also notified the Administrator of the EPA, the Administrator of EPA Region 10, and the Director of the Washington Department of Ecology of its intent to sue Defendant by mailing a copy of the Notice Letter to those officials on October 20, 2015. A copy of the Notice Letter is attached to this complaint as Exhibit 1 and the allegations therein are hereby incorporated by reference.

7. More than sixty days have passed since OFCO mailed the Notice Letter and the violations complained of are continuing or reasonably likely to continue to occur. Neither the EPA nor the Washington Department of Ecology has commenced any action constituting diligent prosecution to redress these violations. Defendant is in violation of the Clean Water Act.

8. Venue is appropriate in this District under Section 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations complained of is located in this District, in Jefferson County, Washington.

9. A copy of this Complaint will be served on the Attorney General of the United States, the Administrator of the EPA, and the Administrator of EPA Region 10, as required by 33 U.S.C. § 1365(c)(3) and 40 C.F.R. § 135.4.

III. PARTIES

10. Plaintiff Olympic Forest Coalition is a membership organization suing on behalf of itself and its members. OFCO is a non-profit corporation organized and existing under the laws of the State of Washington. OFCO maintains its principal place of business in Jefferson County, Washington. The mission of OFCO is to protect and conserve the environment and natural resources of the Olympic Peninsula and the Pacific Northwest. Since 2002, the staff, volunteers, and members of OFCO have advocated for cleaner water and air and for the preservation of public lands and wildlife habitat on and around the Olympic Peninsula.

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

11. OFCO and its members have a particular interest in, and derive aesthetic, recreational, and other benefits from, Quilcene Bay, Puget Sound, and the other rivers, creeks, bays, and canals of the Olympic Peninsula, including the aquatic and terrestrial species that use and rely on those waters. OFCO's members use Quilcene Bay, Puget Sound, and other waters and adjacent lands downstream from Defendant's discharges for recreational and other activities, including boating, scientific expeditions, photographing birds and animals, nature watching, hiking, fishing, and aesthetic, spiritual, and recreational enjoyment. Two of OFCO's members moor their sailboat at the marina south of and adjacent to Defendant's facility. These two OFCO members routinely use the area of Quilcene Bay near Defendant's facility for boating, water quality monitoring, bird and wildlife watching, and other activities, all of which are impaired by the alleged discharges and the polluted state of Quilcene Bay. Additionally, many other members of OFCO use Quilcene Bay or Puget Sound near or downstream from Defendant's facility and are also adversely impacted by the alleged discharges of pollutants. OFCO and its members intend to continue all of these activities into the future.

12. OFCO has standing to bring this lawsuit. OFCO and its members are "citizens" as defined by Section 505(g) of the Act, 33 U.S.C. § 1365(g). OFCO has at least one member who is injured by Defendant's discharges of pollutants and violations of the CWA. Recreational, economic, aesthetic, conservation, health, and/or other interests of OFCO and its members have been, are being, and will be adversely affected by Defendant's violations of the Clean Water Act and unauthorized discharges of pollutants to Quilcene Bay and Puget Sound. Plaintiff's and its members' interests in Quilcene Bay, Puget Sound, and the Olympic Peninsula are diminished by their polluted state and by Defendant's illegal discharges of pollutants and other violations of the CWA. The relief sought in this lawsuit can redress the injuries to OFCO's interests.

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

13. Defendant Coast Seafoods Company is a corporation organized and existing under the laws of the State of Washington. Defendant operates an oyster hatchery facility at or near 1601 Linger Longer Road, Quilcene, Washington 98376. Defendant's facility discharges pollutants to Quilcene Bay on Hood Canal, which is part of Puget Sound.

IV. LEGAL BACKGROUND

A. The CWA Prohibits Adding Pollutants from Point Sources to Waters of the U.S.

14. Congress enacted the Clean Water Act to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a).

15. As relevant here, Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits "the discharge of any pollutant by any person" unless such discharge is authorized by an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. §1342.

16. The Act defines the term "discharge of a pollutant" to mean, in part, "any addition of any pollutant to navigable waters from any point source…." 33 U.S.C. § 1362(12).

17. As relevant here, the Act defines the term "point source" to mean, in part, "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. * * *." 33 U.S.C. § 1362(14).

18. As relevant here, the Act defines the term "pollutant" to mean, in part, "dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. * * *." 33 U.S.C. § 1362(6).

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

19. Neither the Act nor its implementing regulations define the term "addition"; however, one court found that "addition" means the introduction of a pollutant into navigable waters from any place outside the particular water body. Catskill Mountains Chapter of Trout Unlimited, Inc. v. City of New York, 273 F.3d 481, 491 (2nd Cir. 2001).

20. The Act's prohibition on discharging pollutants from point sources applies broadly. The Act defines the term "navigable waters" to mean "the waters of the United States, including the territorial seas." 33 U.S.C. § 1362(7). And the Act defines the term "person" to mean "an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body." 33 U.S.C. § 1362(5).

21. The text of the Act does not exempt oyster hatchery facilities from the NPDES permit requirement. Point-source discharges of pollutants from oyster hatchery facilities are illegal unless authorized by an NPDES permit. 33 U.S.C. § 1311(a).

B. The CWA Empowers EPA and Some States to Authorize Discharges of Pollutants by Issuing NPDES Permits.

22. Section 402(a) of the Act authorizes EPA to issue NPDES permits authorizing discharges of pollutants. 33 U.S.C. §1342(a). By contrast, "non-point sources" of pollution do not require NPDES permits. Non-point source pollution is diffuse run-off and other pollution that is not delivered to water bodies via point sources. Instead of requiring NPDES permits, Section 304(f) of the Act, 33 U.S.C. § 1314(f), directs EPA to disseminate information regarding non-point pollution sources, which are generally subject to state management programs developed under Sections 208 and 303(e) of the Act, 33 U.S.C. §§ 1288 and 1313(e). Pollution delivered to waters of the United States from pipes, ditches, and channels is not "non-point source" pollution.

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

23. EPA may delegate administration of the NPDES permit program to states with regulatory programs meeting applicable criteria. 33 U.S.C. § 1342(b); 40 C.F.R. Part 123. The State of Washington has established a federally approved state NPDES program administered by the Washington Department of Ecology. Accordingly, the Washington Department of Ecology may issue NPDES permits authorizing discharges of pollutants.

24. Federal regulations require any person who discharges or proposes to discharge pollutants to waters of the United States to apply for an NPDES permit. 40 C.F.R. § 122.21(a).

25. Compliance with the terms and conditions of an NPDES permit is deemed compliance with the general discharge prohibition in Section 301(a). 33 U.S.C. § 1342(k). Discharging pollutants without the required NPDES permit is grounds for a citizen enforcement action. 33 U.S.C. §§ 1365(a)(1), (f)(1).

C. EPA Regulations Require NPDES Permits for "Any Addition of Any Pollutant to Waters of the United States from Any Point Source" and for "Concentrated Aquatic Animal Production Facilities."

26. EPA adopted regulations implementing the NPDES permit program. The EPA regulation that sets forth the scope of the NPDES permit requirement, 40 C.F.R. § 122.1(b)(1), "…requires permits for the discharge of 'pollutants' from any 'point source' into 'waters of the United States.'" Similarly, EPA regulations define the term "discharge of a pollutant" in part as follows: "Any addition of any 'pollutant' or combination of pollutants to 'waters of the United States' from any 'point source'…." 40 C.F.R. § 122.2.

27. EPA regulations define the term "point source" just as the statute does. See 40 C.F.R. § 122.2 and 33 U.S.C. § 1362(14).

28. In addition, EPA regulations also define as a "point source" some aquatic animal production facilities. 40 C.F.R. § 122.24(a) states: "Concentrated aquatic animal production facilities, as defined in this section, are point sources subject to the NPDES permit program." The

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

regulation then defines the term "concentrated aquatic animal production facility" as "a hatchery, fish farm, or other facility which meets the criteria in appendix C of this part, or which the Director designates under paragraph (c) of this section." 40 C.F.R. § 122.24(b). Appendix C to 40 C.F.R. Part 122 then lists the criteria for determining whether a facility qualifies as a "concentrated aquatic animal production facility" and hence is a "point source" that requires an NPDES permit.

29. EPA regulations do not exempt point-source discharges of pollutants from oyster hatchery facilities from the NPDES permit requirement. EPA regulations list exclusions from the NPDES permit requirement, see 40 C.F.R. § 122.3, but that regulation says nothing whatsoever about oyster hatchery facilities. The EPA regulation defining "concentrated aquatic animal production facilities" also does not exempt any point-source discharge of pollutants from the NPDES permit requirement. That regulation does not include any text affirmatively stating that discharges of pollutants from oyster hatchery facilities that do not meet the criteria in Appendix C to 40 C.F.R. Part 122 are exempt from NPDES permitting. Inferring that the regulation implicitly exempts an oyster hatchery facility that discharges pollutants via pipes, ditches, and channels, but that does not otherwise meet the criteria in Appendix C to 40 C.F.R. Part 122, is impermissible because such an inference brings the regulation into conflict with the Act. Chevron, at 842-843.

V. FACTS

30. Defendant owns and operates an oyster hatchery facility at or near 1601 Linger Longer Road, Quilcene, Washington 98376 (hereinafter the "facility"). Defendant's facility is on land and adjacent to Quilcene Bay, which is part of Hood Canal and Puget Sound. After acquiring the facility, Defendant increased oyster hatchery production significantly. According to

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

Defendant, the facility is now the world's largest shellfish hatchery, capable of producing over 45 billion eyed oyster larvae per year.

31. To grow the food it feeds to oyster larvae at its facility, Defendant adds heat, nutrients, carbon dioxide and oxygen to a solution containing phytoplankton. Defendant then adds the phytoplankton solution to waters in the facility to nourish growing oyster larvae. Additionally, the phytoplankton's natural processes add oxygen to waters in the facility.

32. Defendant adds other materials to the water it uses to grow oyster larvae in the facility. On information and belief, to control pH Defendant adds sodium carbonate or other materials to the water used to grow oyster larvae at the facility. On information and belief, to control microorganisms Defendant adds antibiotics or other materials to the water used to grow oyster larvae at the facility. On information and belief, to facilitate oyster reproduction Defendant adds heat to the water used to grow oyster larvae at the facility. On information and belief, to sterilize or otherwise clean tanks, equipment, or water used to grow phytoplankton, Defendant adds sodium hypochlorite and/or other chlorine-based chemicals to waters in the facility.

33. Defendant periodically adds the water it uses to grow oyster larvae in the facility, as well as the materials Defendant and its oysters add to those waters, to Quilcene Bay. Quilcene Bay, Hood Canal, and Puget Sound are "navigable waters" or "waters of the United States" as defined by the Clean Water Act and its implementing regulations.

34. Defendant uses pipes, ditches, and channels to convey effluent from the facility to Quilcene Bay. The Notice Letter identifies some of the locations of these point sources. See Exhibit 1. Below is a photograph of Defendant's facility that an OFCO member took on September 21, 2012.

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

The point sources at the facility include the many pipes discharging onto the beach and into Quilcene Bay; the man-made and eroded channels discharging onto the beach and into Quilcene Bay; and the facility's seawater intake pipe, which discharges when the facility back-flushes that pipe. Effluent added to Quilcene Bay from pipes, ditches, and channels at the facility is not "non-point source pollution."

35. Effluent from the facility contains pollutants, including but not limited to total suspended solids, nitrogen, phosphorous, ammonia, nitrites, nitrates, Chlorophyll *a*, Phaeophytin *a*, heat, pH, salinity, dissolved oxygen, and chlorine. These and the other materials in the facility's effluent constitute chemical wastes, biological materials, heat, industrial waste, and other "pollutants" as defined by the CWA.

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

36. Two of OFCO's members moor their sailboat at a marina just south of Defendant's facility. These OFCO members regularly access and use their sailboat to boat on Quilcene Bay, Dabob Bay, Hood Canal, and other parts of Puget Sound. While boating these OFCO members regularly sample the water quality in Quilcene Bay and observe and photograph birds and wildlife in the area.

37. OFCO members can see Defendant's facility and discharges of effluent from the facility from Quilcene Bay and from the property immediately south of the facility. These OFCO members have watched Defendant discharge effluent from the facility to Quilcene Bay from pipes, ditches, and channels. These OFCO members have also taken water quality samples where Defendant's facility discharges to Quilcene Bay.

38. Water quality samples from June and July 2014 indicate that Defendant discharged chlorine to Quilcene Bay and Puget Sound on the following days and in at least the following amounts:

Date	Location Sampled[1]	Amount of Free Chlorine (ml/L)	Amount of Total Chlorine (ml/L)	Amount of Total Chlorine (ug/L)
6/25/2014	South Channel	0.01	0.08	80
6/25/2014	North Channel	0.03	0.12	120
6/25/2014	North Channel	0	0.06	60
6/29/2014	Buoy	0	0.03	30
6/29/2014	Buoy	0.01	0.07	70
7/2/2015	South Channel	0.02	0.15	150
7/2/2014	North Channel	0	0.04	40
7/9/2014	South Channel	0	0.04	40

[1] "South Channel" refers to the location where a channel on the beach at the south end of the facility discharges to Quilcene Bay. "North Channel" refers to the location where a channel on the beach at the north end of the facility discharges to Quilcene Bay. "Buoy" refers to the location where a buoy marks the facility's intake pipe in Quilcene Bay.

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

7/9/2014	North Channel	0.04	0.1	100
7/9/2014	Buoy	0.04	0.15	150
7/9/2014	South Channel	0.01	0.08	80
7/9/2014	North Channel	0.04	0.12	120
7/9/2014	Buoy	0.02	0.1	100
7/9/2014	South Channel	0.02	0.1	100
7/9/2014	North Channel	0.02	0.12	120
7/9/2014	Buoy	0.02	0.1	100
7/11/2014	South Channel	0.19	0.29	290
7/11/2014	North Channel	0.05	0.08	80
7/16/2014	South Channel	0.04	0.13	130
7/16/2014	South Channel	0.04	0.12	120
7/16/2014	North Channel	0	0.05	50
7/16/2014	North Channel	0	0.05	50
7/16/2014	North Channel	0.05	0.11	110
7/16/2014	North Channel	0	0.09	90
7/16/2014	Buoy	0	0.09	90
7/16/2014	Buoy	0.01	0.1	100
7/16/2014	Buoy	0	0.08	80
7/17/2014	South Channel	0.02	0.1	100
7/17/2014	South Channel	0.01	0.07	70
7/17/2014	North Channel	0.01	0.09	90
7/17/2014	North Channel	0	0.05	50
7/17/2014	North Channel	0.01	0.08	80
7/17/2014	North Channel	0.01	0.03	30
7/17/2014	Buoy	0.01	0.06	60
7/17/2014	Buoy	0	0.05	50
7/17/2014	Buoy	0	0.08	80

39. After watching Defendant's facility discharge to Quilcene Bay, and after becoming convinced that effluent from the facility is polluted, OFCO members worked for several years to resolve alleged pollution problems at Defendant's facility. OFCO members met with, or attempted to meet with, Defendant to discuss ways to reduce discharges of pollution from Defendant's facility. OFCO members also sought help from the Washington Department of Ecology. These efforts did not result in Defendant obtaining or complying with an NPDES permit.

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

40. In an effort to persuade the Washington Department of Ecology that Defendant's facility was not a significant contributor of pollution to Puget Sound, Defendant hired a consultant—Rensel Associates Aquatic Sciences—to assess the effluent discharged from Defendant's facility. After sampling effluent from the facility, Rensel Associates Aquatic Sciences produced a report dated February 7, 2013 and entitled "Quilcene Bay Shellfish Hatchery Discharge Study" (hereinafter "Rensel Report").

41. The Rensel Report confirms that the facility uses pipes, ditches, and channels to discharge effluent to Quilcene Bay. On page 9 of the Rensel Report it states:

> There are numerous small PVC pipes leading from the hatchery that discharge above the high water mark of the beach and a few that discharge at lower elevations. A schematic layout of Quilcene Shellfish Hatchery and associated facilities near the shore of Quilcene Bay is shown as Figure 4. Most of the discharge pipes are arrayed to flow into two separate small channels that flow down the moderately sloped beach to Quilcene Bay (Fig. 4, sampling locations 1 and 2).

42. The Rensel Report confirms that effluent from the facility contains pollutants, including but not limited to total suspended solids, nitrogen, phosphorous, ammonia, nitrites, nitrates, Chlorophyll *a*, Phaeophytin *a*, heat, pH, salinity, and dissolved oxygen. For a variety of materials, the Rensel Report compared the chemical content of the water drawn into the facility to the chemical content of the effluent leaving the facility. For dissolved inorganic nitrogen, total suspended solids, Chlorophyll a, and Phaeophytin a, the Rensel Report found that the chemical loading in individual samples of effluent from the facility was usually higher than the chemical loading in the water drawn into the facility. For Total Nitrogen, Total Phosphorous, Soluble Reactive Phosphorous, Ammonia Nitrogen, and Nitrate + Nitrite Nitrogen, the Rensel Report found that the chemical loading in the effluent was *always* higher than the chemical loading in the water drawn into the facility. For example, as documented at pages 22-23 of the Rensel Re-

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

port, effluent from the facility contained 68%, 439%, 178%, 178%, 669%, and 549% of the ammonia nitrogen found in the water drawn into the facility. Depending on water pH and temperature, ammonia nitrogen can be highly toxic to fish and other aquatic species.

43. The Rensel Report documents point-source discharges of pollutants from the facility to Quilcene Bay. In preparing the Rensel Report, Rensel Associates Aquatic Sciences did not sample all sources of effluent from the facility. In preparing the Rensel Report, Rensel Associates Aquatic Sciences did not sample for all pollutants that might be in effluent from the facility. In preparing the Rensel Report, Rensel Associates Aquatic Sciences did not test the facility's effluent for chlorine.

44. The discharge of biological materials and other pollutants from the facility is the result of a transformative human process. The quantity, quality, and concentration of the materials in effluent from the facility is significantly different than that which normally occurs in Quilcene Bay or Puget Sound.

45. Defendant has not applied for or received NPDES permit coverage for discharges of pollutants from the facility. If Defendant had submitted a complete application for an NPDES permit, EPA or the Washington Department of Ecology would have had sufficient information to determine that Defendant is discharging pollutants from point sources and so requires an NPDES permit.

46. Defendant's unpermitted discharges of pollutants degrade the environment and the water quality of Quilcene Bay and Puget Sound. Defendant's unpermitted discharges of pollutants foul the water in and around the marina where two of OFCO's members moor their sailboat. Defendant's unpermitted discharges of pollutants also foul the beach adjacent to Defendant's facility and other nearby property, including OFCO's members' sailboat.

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

47. Defendant's unpermitted discharges of pollutants were avoidable had Defendant been diligent in overseeing and controlling operations, maintenance, monitoring, and compliance with the law.

48. Defendant has benefited economically from its unpermitted discharges of pollutants.

49. Any and all additional violations of the Clean Water Act by Defendant that occur or are discovered after those described in the Notice Letter but before a final decision in this action are continuing violations subject to this complaint.

50. Without the imposition of appropriate civil penalties and/or the issuance of an injunction and other relief, Defendant is likely to continue to violate the Clean Water Act to the further injury of Plaintiff, its members, and others.

VI. CAUSE OF ACTION

51. Plaintiff hereby alleges and incorporates by reference all of the preceding paragraphs.

52. Defendant Coast Seafoods Company is a "person" within the meaning of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), and is subject to suit under the Act's citizen suit provision, 33 U.S.C. § 1365.

53. Defendant Coast Seafoods Company has violated and is violating Sections 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), and an "effluent standard or limitation" as that term is defined by Section 505 of the Act, 33 U.S.C. § 1365, by adding pollutants from point sources at its facility to Quilcene Bay and Puget Sound without an NPDES permit. These violations have occurred each and every day the facility has operated since October 20, 2010. These violations are ongoing, are described in the Notice Letter, and are hereby incorporated by reference as if fully set forth herein. See Exhibit 1.

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

VII. RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that the Court grant the following relief:

A. Declare that Defendant has violated and continues to be in violation of the Clean Water Act, as alleged herein;

B. Issue injunctive relief requiring Defendant to comply with the CWA, apply for an NPDES permit authorizing discharges of pollutants from Defendant's Quilcene facility, or to cease making such discharges;

C. Issue injunctive relief requiring Defendant to remediate the environmental damage and ongoing impacts resulting from its illegal discharges of pollutants to Quilcene Bay and Puget Sound;

D. Order Defendant to develop and comply with appropriate quality assurance procedures to ensure future compliance with the Clean Water Act;

E. Order Defendant to provide Plaintiff with copies of all reports and other documents that Defendant submits to EPA or the Washington Department of Ecology regarding discharges of pollutants from Defendant's facility, at the time the reports or documents are submitted to those authorities, for two years after completion of this case;

F. Assess civil penalties against Defendant, as authorized by Section 309(d) of the Act, 33 U.S.C. § 1319(d);

G. Award Plaintiff its litigation expenses, including costs and reasonable attorneys' and expert witness fees, as authorized by Section 505(d) of the Act, 33 U.S.C. § 1365(d); and

H. Award such other relief as this Court deems just and appropriate.

//

//

//

//

Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
(206) 223-4088 x 4

RESPECTFULLY SUBMITTED this 27th day of January, 2016.

s/ Paul A. Kampmeier
Paul A. Kampmeier, WSBA #31560
Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
Tel: (206) 223-4088 x 4
paul@kampmeierknutsen.com

s/Brian A. Knutsen
Brian A. Knutsen, WSBA # 38806
Kampmeier & Knutsen PLLC
833 S.E. Main Street, No. 318
Portland, Oregon 97214
Telephone: (503) 841-6515
Email: brian@kampmeierknutsen.com

Attorneys for Plaintiff Olympic Forest Coalition

EXHIBIT 1

KAMPMEIER & KNUTSEN PLLC

ATTORNEYS AT LAW

PAUL A. KAMPMEIER
Licensed in Washington
206.223.4088 x 4
paul@kampmeierknutsen.com

October 20, 2015

Via Certified Mail - Return Receipt Requested

Managing Agent
Coast Seafoods Company
1601 Linger Longer Road
Quilcene, Washington 98376

Managing Agent
Coast Seafoods Company
P.O. Box 327
Quilcene, Washington 98376

Mr. John A. Petrie, President
Coast Seafoods Company
14711 NE 29th Place, Suite 111
Bellevue, Washington 98007

Re: Notice of Intent to File Suit under the Clean Water Act.

Dear Managing Agent:

This letter provides Coast Seafoods Company (hereinafter "Coast Seafoods") with sixty days' notice of the Olympic Forest Coalition's intent to file a citizen lawsuit against it under Section 505 of the Clean Water Act, 33 U.S.C. §1365, for the Clean Water Act violations alleged in this letter. The Olympic Forest Coalition (hereinafter "OFCO") is a non-profit organization dedicated to protecting the natural environment of the Olympic Peninsula in Washington State. Kampmeier & Knutsen, PLLC represents OFCO in this matter and any response to this notice of intent to sue should be directed to us at the address below.

I. VIOLATIONS OF THE CLEAN WATER ACT.

Congress enacted the Clean Water Act in 1948 to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. §1251(a). In doing so, Congress declared a

national goal of eliminating discharges of pollutants to navigable waters by 1985. To effect that policy, Section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), prohibits discharges of pollutants unless they are in compliance with Section 402 of the Act, 33 U.S.C. 1342. The Clean Water Act defines "discharge of a pollutant" to mean in part "any addition of any pollutant to navigable waters from any point source." 33 U.S.C. § 1362(12). In general, discharges of pollutants are in compliance with Section 402 if: (1) they are authorized by a National Pollutant Discharge Elimination System permit (hereinafter "NPDES permit"); or (2) Congress has exempted, or authorized the U.S. Environmental Protection Agency to exempt, the discharges from the NPDES permit requirement.

A. Discharge Violations.

Coast Seafoods has violated and is violating Sections 301(a) and 402 of the Clean Water Act, 33 U.S.C. §§ 1311(a) and 1342, by discharging pollutants from the Coast Seafoods facility at or near 1601 Linger Longer Road, Quilcene, Washington 98376 (hereinafter the "facility") to Quilcene Bay and Puget Sound without an NPDES permit. These violations have occurred each and every day the facility has operated since October 20, 2010, and are ongoing.

Coast Seafoods uses numerous pipes, ditches, channels and other discernible, confined and discrete conveyances to discharge effluent from its indoor, land-based oyster facilities to the adjacent beach, Quilcene Bay, and Puget Sound. The point sources at the facility include the many pipes discharging onto the beach and into Quilcene Bay; the man-made and eroded channels discharging onto the beach and into Quilcene Bay; and the facility's intake pipe, which discharges when the facility back-flushes that pipe. The February 7, 2013 Quilcene Bay Shellfish Hatchery Discharge Study that Dr. Jack Rensel (of Rensel Associates Aquatic Sciences) produced for Coast Seafoods confirms that the facility uses pipes, ditches, channels and other "point sources" to discharge to those waters.

The Rensel report also demonstrates that effluent from the facility contains pollutants, including but not limited to total suspended solids, nitrogen, phosphorous, ammonia, nitrites, nitrates, Chlorophyll *a*, Phaeophytin *a*, heat, pH, salinity, and dissolved oxygen. As explained and documented in the Rensel report, which is hereby incorporated by reference, Coast Seafoods discharged pollutants, including but not limited to total suspended solids, nitrogen, phosphorous, ammonia, nitrites, nitrates, Chlorophyll *a*, Phaeophytin *a*, heat, pH, salinity, and dissolved oxygen, to Quilcene Bay and Puget Sound from pipes, ditches, channels and other "point sources" at the facility on September 24, 2012 and in the amounts documented in the Rensel report. The Rensel report further demonstrates that pollutants in the facility's effluent differ in quality, quantity and concentration from the seawater drawn into the facility.

Additionally, water quality samples from June and July 2014 indicate that Coast Seafoods discharged chlorine to Quilcene Bay and Puget Sound from pipes, ditches, channels and other "point sources" at the facility on the following days and in at least the following amounts:

Date	Location Sampled[1]	Amount of Free Chlorine (ml/L)	Amount of Total Chlorine (ml/L)	Amount of Total Chlorine (ug/L)
6/25/2014	South Channel	0.01	0.08	80
6/25/2014	North Channel	0.03	0.12	120
6/25/2014	North Channel	0	0.06	60
6/29/2014	Buoy	0	0.03	30
6/29/2014	Buoy	0.01	0.07	70
7/2/2015	South Channel	0.02	0.15	150
7/2/2014	North Channel	0	0.04	40
7/9/2014	South Channel	0	0.04	40
7/9/2014	North Channel	0.04	0.1	100
7/9/2014	Buoy	0.04	0.15	150
7/9/2014	South Channel	0.01	0.08	80
7/9/2014	North Channel	0.04	0.12	120
7/9/2014	Buoy	0.02	0.1	100
7/9/2014	South Channel	0.02	0.1	100
7/9/2014	North Channel	0.02	0.12	120
7/9/2014	Buoy	0.02	0.1	100
7/11/2014	South Channel	0.19	0.29	290
7/11/2014	North Channel	0.05	0.08	80
7/16/2014	South Channel	0.04	0.13	130
7/16/2014	South Channel	0.04	0.12	120
7/16/2014	North Channel	0	0.05	50
7/16/2014	North Channel	0	0.05	50
7/16/2014	North Channel	0.05	0.11	110
7/16/2014	North Channel	0	0.09	90
7/16/2014	Buoy	0	0.09	90
7/16/2014	Buoy	0.01	0.1	100
7/16/2014	Buoy	0	0.08	80
7/17/2014	South Channel	0.02	0.1	100
7/17/2014	South Channel	0.01	0.07	70
7/17/2014	North Channel	0.01	0.09	90

[1] "South Channel" refers to the location where a channel on the beach at the south end of the facility discharges to Quilcene Bay. "North Channel" refers to the location where a channel on the beach at the north end of the facility discharges to Quilcene Bay. "Buoy" refers to the location where a buoy marks the facility's intake pipe in Quilcene Bay.

7/17/2014	North Channel	0	0.05	50
7/17/2014	North Channel	0.01	0.08	80
7/17/2014	North Channel	0.01	0.03	30
7/17/2014	Buoy	0.01	0.06	60
7/17/2014	Buoy	0	0.05	50
7/17/2014	Buoy	0	0.08	80

In addition to chlorine and the pollutants documented by the Rensel report, this notice of intent to sue covers the discharge of any and all pollutants from the facility, including biological wastes, food wastes, chemicals used for oyster rearing or tank cleaning or other purposes, concentrated total suspended solids, antibiotics and drugs and any residue of those materials, and any other pollutants discharged by the facility into Quilcene Bay and Puget Sound over the last five years.

All of these discharges of pollutants from the facility are ongoing, illegal, and in violation of Section 301(a) of the Clean Water Act. The Clean Water Act clearly and unambiguously defines the pipes, ditches, and channels that discharge at the facility as "point sources." See 33 U.S.C. § 1362(14). The Clean Water Act also clearly and unambiguously defines the chemical wastes, biological materials, heat, and industrial waste in Coast Seafoods' effluent as "pollutants." See 33 U.S.C. § 1362(6). Quilcene Bay and Puget Sound are both "navigable waters" and "waters of the United States." And, by discharging its effluent to Quilcene Bay and the beach adjacent to the facility, Coast Seafoods is clearly "adding" pollutants to those waters.

Additionally, discharges of pollutants from the facility are not exempt from the NPDES permit requirement. The Clean Water Act does not exempt discharges of pollutants from oyster hatcheries or similar facilities from the NPDES permit requirement. Nor do EPA rules. If the facility meets the feeding and production thresholds in EPA's Concentrated Aquatic Animal Production Facilities rule, see 40 C.F.R. § 122.24 and Appendix C to 40 C.F.R. Part 122, then discharges of pollutants from the facility are illegal because that rule plainly requires Coast Seafoods to obtain an NPDES permit authorizing the discharges. On the other hand, if the facility does not meet the feeding and production thresholds in EPA's Concentrated Aquatic Animal Production Facilities rule, then the Clean Water Act itself requires discharges of pollutants from the facility to be authorized by an NPDES permit. See 33 U.S.C. §§ 1311(a), 1362(6), (14).

EPA regulations do not—and cannot—exempt discharges of pollutants from the facility from the NPDES permit requirement because EPA regulations cannot contravene the unambiguous definitions and prohibitions in the Clean Water Act. See Northwest Environmental Defense Center v. Brown, 640 F.3d 1063, 1070-71, 1080 (9th Cir. 2011), reversed on other grounds, Decker, et al., v. Northwest Environmental Defense Center, 133 S. Ct. 1326 (2013); Northwest Environmental Advocates v. EPA, 537 F.3d 1006, 1020-23 (9th Cir. 2008); League of Wilderness Defenders v. Forsgren, 309 F.3d 1181, 1183-1185 (9th Cir. 2002); Natural Resources Defense Council v. Costle, 568 F.2d 1369, 1377, 1383 (D.C. Cir. 1977); United States v. Earth Sciences, 599 F.2d 368, 373 (10th Cir. 1978) (holding "[w]e believe it contravenes the intent of [the Clean Water Act] and the structure of the statute to exempt from regulation any activity that emits pollution from an identifiable point."); Trustees for Alaska v. EPA, 749 F.2d 549, 558 (9th Cir. 1984) (adopting the reasoning of the Earth Sciences court); National Cotton Council of America v. EPA, 553 F.3d 927, 933-940 (6th Cir. 2009). Here, because the facility is discharging materials the statute unambiguously defines as "pollutants" from conveyances the statute

unambiguously defines as "point sources," the facility must have an NPDES permit authorizing those discharges. Because the facility does not have such a permit, discharges of pollutants from the facility are illegal and in violation of the Clean Water Act.

Ass'n to Protect Hammersley, Eld, and Totten Inlets v. Taylor Resources, 299 F.3d 1007 (9th Cir. 2002), is not to the contrary. Unlike Hammersly, where the alleged "point source" was a mussel raft not included within the statutory definition of "point source"—where the Act was ambiguous as to whether the mussel raft was a point source of pollution and so deferring to EPA's Concentrated Aquatic Animal Production Facilities rule was appropriate—here the Coast Seafoods facility discharges pollutants from pipes, ditches, and channels that the Clean Water Act unambiguously defines as point sources. See 33 U.S.C. § 1362(14). Neither EPA's rule nor the Hammersly decision allows EPA, the Washington Department of Ecology, or Coast Seafoods to re-define the pipes, ditches, and channels at the facility as nonpoint sources of pollution that do not require an NPDES permit.

Also unlike Hammersly, where the alleged "pollutants" were biological wastes generated and discharged naturally by living creatures residing in the receiving waters—where the Act was ambiguous as to whether the facility was "adding" "pollutants" to the receiving waters—the Coast Seafoods facility is adding materials to Quilcene Bay and Puget Sound that the Clean Water Act unambiguously defines as "pollutants," including chemical wastes, biological materials, heat, and industrial waste. See 33 U.S.C. § 1362(6). Additionally, because Coast Seafoods' oyster hatchery facilities are on land, and because Coast Seafoods adds food, nutrients, chemicals, and other materials to the hatchery tanks and effluent before discharging to Quilcene Bay and Puget Sound, the discharge of biological materials and other pollutants is the result of a transformative human process. To the extent the pollutants in the facility's effluent are solely biological materials—which is very unlikely given the water quality samples discussed above—the quantity, quality, and concentration of those materials is significantly different than those normally occurring in Puget Sound, demonstrating yet again that the facility is discharging pollutants in a manner and to an extent that requires an NPDES permit.

B. Failure to Apply for NPDES Permit Coverage.

Federal regulations require any person who discharges or proposes to discharge pollutants to navigable waters of the United States to apply for an NPDES permit. 40 C.F.R. § 122.21(a). Coast Seafoods has violated and is violating this requirement by failing to apply for an NPDES permit and by failing to do so by the required deadline.

II. PARTY GIVING NOTICE.

The full name and address of the party giving notice is:

Olympic Forest Coalition
P.O. Box 461
Quilcene, Washington 98376

The Olympic Forest Coalition does not have a telephone or telephone number but it can be reached by telephone through counsel Kampmeier & Knutsen PLLC at the telephone numbers below.

III. ATTORNEYS REPRESENTING OFCO.

The attorneys representing OFCO in this matter are:

Paul Kampmeier
Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104
Telephone: (206) 223-4088 extension 4

Brian A. Knutsen
Kampmeier & Knutsen PLLC
833 S.E. Main Street
Mail Box No. 318; Suite 327
Portland, Oregon 97214
Telephone: (503) 841-6515

IV. CONCLUSION.

The violations described and alleged in this notice of intent to sue are ongoing and violate the Clean Water Act. At the conclusion of the 60-day notice period, OFCO intends to file a lawsuit against Coast Seafoods Company under the citizen suit provisions of the Clean Water Act, 33 U.S.C. § 1365. Each of the above-described violations subjects the violator to a penalty of up to $37,500 per day. In addition to civil penalties, OFCO will seek injunctive relief to prevent further violations and such other relief as is permitted by law, including recovery of OFCO's costs, attorneys' fees, and expert witness fees. See 33 U.S.C. §§ 1365(a) and (d).

The above-described violations reflect the information currently available to OFCO. OFCO intends to sue for all violations, including those yet to be uncovered, those committed after the date of this Notice of Intent to Sue, and those occurring at any other properties that are owned or operated by Coast Seafoods and contiguous or adjacent to the facility.

During the 60-day notice period, OFCO will be willing to discuss settlement and effective remedies for the violations described and alleged in this letter. In this regard, it is worth noting that in response to similar litigation, and notwithstanding EPA's Concentrated Aquatic Animal Production Facilities rule, the Quilcene National Fish Hatchery recently entered into a settlement agreement requiring it to apply for and obtain NPDES permit coverage for discharges of pollutants from that facility to the Big Quilcene River. If you would like to review those materials we would be happy to share them with you. In any event, if you wish to pursue settlement discussions in the absence of litigation, we suggest that you initiate discussions within 10 days of receiving this notice so the parties can meet and discuss effective remedies for the violations alleged herein before costs of suit become prohibitive. OFCO does not intend to delay the filing of a complaint if discussions are ongoing when the notice period ends.

Very truly yours,

Kampmeier & Knutsen, PLLC

By: _____
Paul A. Kampmeier
Brian A. Knutsen

cc: Gina McCarthy, Administrator, U.S. Environmental Protection Agency
Dennis McLerran, Region 10 Administrator, U.S. Environmental Protection Agency
Maia Bellon, Director, Washington Department of Ecology
National Registered Agents, Inc., Registered Agent for Coast Seafoods Company

CERTIFICATE OF SERVICE

I, Paul Kampmeier, declare under penalty of perjury of the laws of the United States that I am counsel for the Olympic Forest Coalition and that on October 20, 2015, I caused copies of the foregoing Notice of Intent to Sue Under the Clean Water Act to be served on the following by depositing it with the U.S. Postal Service, postage prepaid, via certified mail, return receipt requested:

Managing Agent
Coast Seafoods Company
1601 Linger Longer Road
Quilcene, Washington 98376

Managing Agent
Coast Seafoods Company
P.O. Box 327
Quilcene, Washington 98376

Mr. John A. Petrie, President
Coast Seafoods Company
14711 NE 29th Place, Suite 111
Bellevue, Washington 98007

Administrator Regina A. McCarthy
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W., Mail Code 1101A
Washington, D.C. 20460

Regional Administrator Dennis J. McLerran
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Mail Code RA-210
Seattle, Washington 98101

Director Maia Bellon
Washington Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

National Registered Agents, Inc.
Registered Agent for Coast Seafoods Company
505 Union Avenue SE, Suite 120
Olympia, Washington 98501

Paul Kampmeier

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6000

July 29, 2016

Mr. Samuel W. Plauché
811 First Avenue, Suite 630
Seattle, WA 98104

Dear Mr. Plauché:

Thank you for your letter of July 19, 2016 regarding the Coast Seafoods oyster hatchery facility in Quilcene. Your letter asked whether the Department of Ecology's (Ecology) view, communicated in 2013, that Coast's Quilcene shellfish hatchery does not require a National Pollution Discharge Elimination System (NPDES) permit, is still applicable.

After review of current federal NPDES permit rules concerning shellfish hatcheries and available hatchery production and water quality data, Ecology finds there is no compelling reason to require the facility be covered under the NPDES permit program. Our conclusion is based on reasons listed as follows:

- The facility annual production rate and monthly feed used are below the thresholds (20,000 pounds annual production and 5,000 pound of maximum monthly feed) established in 40 CFR Part 122 Appendix C. The Environmental Protection Agency published 40 CFR Part 451 – Effluent Guideline and New Source Performance standards for Concentrated Aquatic Animal Production Point Source Category on August 22, 2004. Facilities produce less than 100,000 pounds of aquatic animals per year are not subject to the rule, i.e., not subject to the NPDES permit program.

- The report entitled "Quilcene Bay Shellfish Hatchery Discharge Study" dated February 7, 2013 prepared by Dr. Jack Rensel concluded the facility did not discharge enough nitrogen to alter water quality in Quilcene Bay. Ecology surface water monitoring specialist had reviewed the report and concurred with Dr. Rensel's findings that discharge from facility was unlikely to alter the Quilcene Bay water quality.

If you have any questions regarding this letter, please contact Gary Lee of my staff at (360) 407-6291 or by email at gary.lee@ecy.wa.gov.

Sincerely,

Richard D. Jones
South Fork Region Manager
Water Quality Program

Gary Lee, Ecology

EXHIBIT D - Page 1 of 1

9th Circuit Case Number(s)

****

CERTIFICATE OF SERVICE
When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) .

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format)

****

CERTIFICATE OF SERVICE
When Not All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) August 17, 2016 .

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Mr. Paul A. Kampmeier
Kampmeier & Knutsen PLLC
615 Second Avenue, Suite 360
Seattle, Washington 98104

Mr. Brian A. Knutsen
Kampmeier & Knutsen PLLC
833 S.E. Main Street, Suite 327, MB #318
Portland, Oregon 97214

Signature (use "s/" format) *s/ Bruce L. Campbell*

Office of the Clerk
United States Court of Appeals for the Ninth Circuit
Post Office Box 193939
San Francisco, California 94119-3939
415-355-8000

Molly C. Dwyer
Clerk of Court

August 17, 2016

No.:	16-80106
D.C. No.:	3:16-cv-05068-RBL
Short Title:	Olympic Forest Coalition v. Coast Seafoods Company

---

Dear Appellant/Counsel

This is to acknowledge receipt of your Petition for Permission to Appeal under 1292(b).

All subsequent letters and requests for information regarding this matter will be added to your file to be considered at the same time the cause is brought before the court.

The file number and the title of your case should be shown in the upper right corner of your letter to the clerk's office. All correspondence should be directed to the above address pursuant to Circuit Rule 25-1.

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/24/2017 1:52:28 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Reuters: Trump to set new executive orders on environment, energy this week, 4/24/17

Reuters
http://www.reuters.com/article/us-usa-trump-energy-idUSKBN17P0JC
Trump to set new executive orders on environment, energy this week
By David Shepardson and Valerie Volcovici 4/24/17 5:46 AM

U.S. President Donald Trump this week will sign new executive orders before he completes his first 100 days in office, including two on energy and the environment, which would make it easier for the United States to develop energy on and offshore, a White House official said on Sunday.

"This builds on previous executive actions that have cleared the way for job-creating pipelines, innovations in energy production, and reduced unnecessary burden on energy producers," the official said on condition of anonymity.

On Wednesday, Trump is expected to sign an executive order related to the 1906 Antiquities Act, which enables the president to designate federal areas of land and water as national monuments to protect them from drilling, mining and development, the source said.

On Friday, Trump is expected to sign an order to review areas available for offshore oil and gas exploration, as well as rules governing offshore drilling.

The new measures would build on a number of energy- and environment-related executive orders signed by Trump seeking to gut most of the climate change regulations put in place by predecessor President Barack Obama.

A summary of the forthcoming orders, seen by Reuters, say past administrations "overused" the Antiquities Act, putting more federal areas under protection than necessary.

Obama had used the Antiquities Act more than any other president, his White House said in December, when he designated over 1.6 million acres of land in Utah and Nevada as national monuments, protecting two areas rich in Native American artifacts from mining, oil and gas drilling.

The summary also says previous administrations have been "overly restrictive" of offshore drilling.

Late in Obama's second term, he banned new drilling in federal waters in parts of the Atlantic and Arctic Oceans using a 1950s-era law that environmental groups say would require a drawn out court challenge to reverse.

Interior Secretary Ryan Zinke said during his January confirmation hearing that Trump could “amend” Obama’s monument designations but any move to rescind a designation would immediately be challenged.

Last month, Trump signed an order calling for a review of Obama's Clean Power Plan, and reversed a ban on coal leasing on federal lands.

In addition to the energy-related orders, Trump is also expected this week to sign an order to create an office of accountability in the Veterans Affairs department.

He is also expected to create a rural America interagency task force to recommend policies to address issues facing agricultural states.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/28/2017 5:53:36 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Reuters: U.S. appeals court grants Trump request on climate regulations case, 4/28/17

Reuters
http://www.reuters.com/article/us-usa-court-climate-idUSKBN17U2EU
U.S. appeals court grants Trump request on climate regulations case
By Lawrence Hurley 4/28/17 12:32 PM

A U.S. appeals court on Friday granted a Trump administration request to put on hold a legal challenge by industry and a group of states to former President Barack Obama's regulations aimed at curbing greenhouse emissions mainly from coal-fired power plants, rules that the Republican president is moving to undo.

A 10-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit granted the request to put the litigation involving the regulations, known as the Clean Power Plan, in abeyance for at least 60 days while the administration plans its next steps.

The court also asked the administration and other parties to file briefs on whether the case should be sent back to the Environmental Protection Agency.

The Supreme Court last year put the regulations on hold pending the outcome of the case.

In a separate order issued on Friday, the same court put on hold a case challenging another set of Obama climate regulations aimed at new power plants.

Twenty-seven states, led by coal-producer West Virginia and industry groups, challenged the Obama regulation. Other states and environmental groups backed the former administration.

New York Attorney General Eric Schneiderman, who sided with the previous administration's EPA to defend the Clean Power Plan, brushed off the court's move, saying it simply puts the litigation on hold for 60 days.

“Today’s temporary pause in the litigation does not relieve EPA of its legal obligation to limit carbon pollution from its largest source: fossil-fueled power plants," Schneiderman said. "I will continue to fight in court to ensure EPA fulfills its legal responsibility."

West Virginia Attorney General Patrick Morrisey, who led the challenge against the rule, said Friday's decision signaled that the court has acknowledged the change in the political landscape "and that a decision on the merits is not appropriate at this time."

Trump's executive order was part of his effort to cut federal environmental regulations to revive the energy drilling and coal mining industries, a promise he made during the 2016 presidential campaign.

Energy analysts and executives have questioned whether Trump's broad moves against environmental regulations will provide a big benefit for their industries, and environmentalists have called his actions reckless.

The Clean Power Plan was designed to lower carbon emissions from existing U.S. power plants by 2030 to 32 percent below 2005 levels. It was seen as the main tool for the United States to meet the emissions-reduction target it promised to reach at U.N. climate talks in Paris in December 2015. Power plants are the largest source of U.S. carbon emissions.

The fate of the Clean Power Plan was first thrown into question in February 2016 when the Supreme Court made a surprise 5-4 decision to grant a request by the challengers to put the rule on hold while the appeals court considered the matter.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/12/2017 5:30:06 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]
Subject: E&E News: Public is asked to help pick rules for chopping block, 4/12/17

E&E News
https://www.eenews.net/greenwire/2017/04/12/stories/1060052990
Public is asked to help pick rules for chopping block
By Arianna Skibell 4/12/17

U.S. EPA's regulatory task force is looking for suggestions on what rules should be repealed, replaced or modified.

A Federal Register notice posted yesterday asks the agency's program offices to collect public comments on — among other things — rules that eliminate jobs, are outdated or ineffective, impose costs that outweigh benefits, or implement now-repealed executive orders.

"We are supporting the restoration of America's economy through extensive reviews of the misaligned regulatory actions from the past administration," Administrator Scott Pruitt said in a statement.

"The previous administration abused the regulatory process to advance an ideological agenda that expanded the reach of the federal government, often dismissing the technological and economic concerns raised by the regulated community and duplicating long-standing regulations by states and localities."

The comment period ends May 15.

The notice marks the task force's first public effort to begin paring EPA rules. President Trump directed the establishment of the panel through a February executive order that tells agencies to set up deregulatory bodies and designate a rule-reform officer (Greenwire, Feb. 24).

The EPA task force is led by attorney and Clean Power Plan foe Samantha Dravis. Among other panel members are EPA Chief of Staff Ryan Jackson, Deputy Chief of Staff for Policy Byron Brown and the deputy associate administrator for the policy office, Brittany Bolen (Greenwire, April 4).

The agency also launched a website dedicated to deregulatory efforts that lists Trump's relevant executive orders and related information.

The website lists four public meetings hosted by EPA offices to obtain additional feedback. The offices of Land and Emergency Management, Small and Disadvantaged Business Utilization, Water, and International and Tribal Affairs will all hold stakeholder meetings in the coming months.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/24/2017 1:52:35 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Washington Examiner: EPA's Pruitt makes Earth Day about 'sensible' regulations, 4/24/17

Washington Examiner
http://www.washingtonexaminer.com/epas-pruitt-makes-earth-day-about-sensible-regulations/article/2620962
EPA's Pruitt makes Earth Day about 'sensible' regulations
By John Siciliano 4/21/17 11:45 PM

Earth Day is about protecting the nation's natural resources, but doing so with sensible regulations that don't harm the economy.

That was Environmental Protection Agency Administrator Scott Pruitt's Earth Day message delivered Friday evening in Texas.

Earth Day is about protecting the nation's natural resources, but doing so with sensible regulations that don't harm the economy.

That was Environmental Protection Agency Administrator Scott Pruitt's Earth Day message delivered Friday evening in Texas.

"On Earth Day, we celebrate the great natural resources that the United States is blessed with," Pruitt said at Earth Day Texas in Dallas.

"The Environmental Protection Agency was created by Congress to protect these resources, along with human health," he added. "We intend to do just that – protect the environment through sensible regulations that allow for economic growth."

Saturday is Earth Day, the near 50-year-old trademark of the environmental movement, which Pruitt was in Texas to mark.

Pruitt also used the occasion to meet with wildlife conservation groups the Audubon Society and The Nature Conservancy.

Both groups don't see eye-to-eye with the Trump administration's environmental agenda.

The Nature Conservancy supports the Paris climate change deal, which Pruitt recently said he wants the U.S. to exit from. And the Audubon Society has criticized Trump's directive to repeal the EPA Waters of the U.S. rule, which critics say dramatically expands the agency's enforcement authority to stifle development.

The groups will be involved in the March for Science in Washington and other demonstrations on Saturday that will be used to protest President Trump's environmental policies on Earth Day.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/12/2017 5:30:09 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]
Subject: E&E News: EPA to use 2 rulemakings to repeal and replace WOTUS, 4/12/17

E&E News
https://www.eenews.net/greenwire/2017/04/12/stories/1060053007
EPA to use 2 rulemakings to repeal and replace WOTUS
By Ariel Wittenberg 4/12/17

U.S. EPA plans to repeal and replace the Clean Water Rule with two separate rulemaking processes, an EPA official told the Association of State Wetland Managers yesterday.

In a talk to the association's annual winter meeting, Mindy Eisenberg, acting director of the EPA wetlands division, said that the agency plans to first rescind the Obama administration's contentious regulation and then work on a new definition for "waters of the United States," according to multiple people who attended the meeting.

"This is an attempt to repeal and replace, but in this case the EPA has decided that it can repeal the regulation now and replace it later," said Stephen Samuels, a former Department of Justice attorney who spoke to the association's meeting right before Eisenberg did.

The Clean Water Rule, also known as the Waters of the U.S. rule, or WOTUS, aims to clarify the reach of federal regulations over wetlands and waterways under the Clean Water Act. The act itself uses vague language to assert its jurisdiction over "traditionally navigable waters of the United States" without providing any further detail, and various administrations have struggled to define the term in the past.

Current EPA Administrator Scott Pruitt sued the Obama administration over the regulation when he was the Oklahoma attorney general, saying along with industry interests that it amounted to government overreach.

The Trump administration will first look to rescind WOTUS before taking on the heavier lift of replacing the regulation with a new definition of which waters are covered by the Clean Water Act, Eisenberg reportedly told the meeting.

In repealing WOTUS, the agency would revert to a 1986 definition and would also rely on 2008 guidance from the George W. Bush administration about how to apply that definition.

The repeal would essentially maintain the current status quo, as the administration is already using the 1986 rule and Bush guidance because the Obama administration regulation has been stayed by the 6th U.S. Circuit Court of Appeals

pending litigation. The Supreme Court is also currently considering whether the case should proceed in district or circuit court (Greenwire, April 3).

EPA did not respond to requests for comment. Spokeswoman Tricia Lynn said she could not say when EPA would respond or why she could not comment directly on Eisenberg's statements.

Those at the meeting said Eisenberg did not explain the administration's reasoning for separately repealing and replacing WOTUS.

"She was clearly sticking to her talking points," National Wildlife Federation Wetlands and Water Resources Director Jan Goldman-Carter wrote in an email.

But there are a few reasons why the administration might want to split up the process.

One is that the administration could be racing against time to repeal the regulation before the Supreme Court rules on which jurisdiction should hear the legal challenge to the Obama rule.

The Supreme Court could reach a decision on jurisdiction by the end of 2017. If the high court decides that the 6th Circuit does not have jurisdiction, it could endanger the validity of the stay that the circuit court issued for WOTUS, Samuels said.

If the Supreme Court decides that the 6th Circuit can proceed with the case, he said, EPA would likely have an easier time of dismissing the litigation if it has already taken steps to repeal WOTUS.

Rescinding the regulation would be a lot easier, and faster, without EPA also having to come up with a plan to replace it at the same time.

"That Supreme Court decision will determine a lot, not just for the Clean Water Rule, if it is still in existence, but also for any future challenges on this issue," Samuels said.

Former EPA Office of Water head Ken Kopocis has a different theory about the agency's plan.

Kopocis, who did not hear Eisenberg speak to the association but has heard both about the talk and EPA's plans from former colleagues still working at the agency, said he believes EPA may not actually be planning to replace the regulation.

"I am not convinced that they will do a new rule," he said.

EPA has previously said it intends to rewrite WOTUS using an opinion written by the late Supreme Court Justice Antonin Scalia in the famously messy 2006 Rapanos v. United States 4-1-4 split decision.

In that case, Michigan landowner John Rapanos wanted to develop a property that was designated a wetland. Because he hadn't applied for a permit, EPA sought to bring civil and criminal enforcement actions.

Scalia, who died last year, argued that the Clean Water Act only applied to "navigable waters" connected by a surface flow at least part of the year. He was joined by Chief Justice John Roberts and Justices Clarence Thomas and Samuel Alito.

But Justice Anthony Kennedy issued a concurring opinion, stating that waters must have a "significant nexus" to navigable rivers and seas, including through biological or chemical connections.

Until now, EPA has followed Kennedy's "significant nexus" test in regulating clean water.

"Every lawyer who is going to be consulted on this is going to say that defending a rule based on Scalia's opinion will be very, very difficult," Kopocis said.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/28/2017 7:07:13 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Wall Street Journal: Appeals Court Delays Case on Obama EPA Greenhouse Gas Rules, 4/28/17

Wall Street Journal
https://www.wsj.com/articles/appeals-court-delays-case-on-obama-epa-greenhouse-gas-rules-1493394979
Appeals Court Delays Case on Obama EPA Greenhouse Gas Rules
By Brent Kendall 4/28/17 11:56 AM

WASHINGTON—A federal appeals court on Friday put on hold a blockbuster case examining the Obama administration's signature environmental regulations limiting greenhouse gas emissions from power plants, a boost for the Trump administration.

President Donald Trump has been a harsh critic of Obama-era emissions rules. Mr. Trump's Environmental Protection Agency administrator, Scott Pruitt, sued to block the regulations while he was Oklahoma's attorney general.

The U.S. Court of Appeals for the District of Columbia Circuit heard oral arguments in the case last September but didn't rule before former President Barack Obama left office.

The Trump EPA in March asked the court to temporarily suspend work on the case, saying it was taking a new look at the power-plant rules. The request came after Mr. Trump signed an executive order that took steps to begin unwinding Mr. Obama's approach.

With the case on hold, the Trump administration avoids a potential court ruling affirming the Obama approach, a decision that could have made it more complicated for the EPA to go in a different direction.

The EPA issued the rules, called the Clean Power Plan, in the summer of 2015, requiring a 32% reduction in power-plant carbon emissions by 2030 compared with 2005 levels. The rules were the flagship policy of Mr. Obama's climate agenda and represent the core of his administration's commitment to a 2015 United Nations agreement in Paris to address climate change.

The EPA approach sought to push utilities to shift from coal plants to cleaner energy sources such as natural gas, wind and solar. It gave states flexibility on how to reduce power-plant emissions within their borders, but alternative energy was a necessary component of any state plan because the emissions targets couldn't be met solely by making existing coal-fired plants more efficient.

Industry associations and a group of mostly Republican-led states filed more than three dozen lawsuits challenging the rules, arguing among other things the agency exceeded its powers and sought to remake the energy industry without approval from Congress.

The appeals court said Friday it would put the case on hold for 60 days. It also ordered the parties to file new legal papers on whether the entire matter should just be sent back to the EPA instead of remaining on pause at the court.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency

Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/24/2017 5:02:16 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: E&E News: Perry, Pruitt and Zinke pen op-ed for Earth Day, 4/24/17

E&E News
https://www.eenews.net/eedaily/2017/04/24/stories/1060053448
Perry, Pruitt and Zinke pen op-ed for Earth Day
By Arianna Skibell 4/24/17

In honor of Earth Day, top White House appointees penned a "new vision" for the future of American jobs, the environment and energy production.

U.S. EPA Administrator Scott Pruitt, Secretary of Energy Rick Perry and Interior Secretary Ryan Zinke laid out a promise to produce and follow "sound science" to protect America's environment and economy.

They promised to clean up Superfund sites, diversify energy resources, support research for cleaner power and maintain the country's national park system, all while growing the economy and cutting "devastating" regulations.

"We invite all Americans to unite behind our vision of a healthy and clean environment and a strong economy that can support it," they wrote in an op-ed in the *Waco Tribune-Herald*.

"This Earth Day, we have a message for our fellow Americans: Together we can achieve a clean environment and a strong economy," they wrote.

The op-ed came as thousands of scientists and their supporters gathered on the National Mall this weekend to protest President Trump's policies, which they say could endanger the use of sound science in policymaking.

March for Science participants trekked toward to Capitol chanting and holding signs with slogans like "Save the EPA," "the oceans are rising and so are we" and "stop denying the Earth is dying."

Still, Pruitt, Perry and Zinke — the three Cabinet members most associated with energy and the environment — said they are heeding President Trump's call for environmental and economic "stewardship."

"The days of political agendas guiding policy are over," they wrote, referring to Obama's presidency as eight years of "heavy-handed" regulation that picked "winners and losers."

"When it comes to the economy and environment, our effort is neither left nor right — it's about putting Americans first," the secretaries wrote.

They lauded Trump's executive order on American energy independence as a means to restore job growth and spur energy development. "In response, each of our agencies has taken on the hard work of reviewing regulations that have devastated American communities," said the op-ed.

Trump's second executive order on regulation directs all agency heads to establish a regulatory task force to identify and review rules to be modified or repealed.

Pruitt announced the members of EPA's task force early this month, including Clean Power Plan foe Samantha Dravis. Neither Interior nor DOE has yet to announce similar efforts. The deadline for action is today.

James Goodwin, senior policy analyst at the Center for Progressive Reform, said when it comes to administrative process, EPA has always been "the head of the class."

EPA's progress implementing Trump's order could be a reflection of the agency's ability to take the lead on regulatory matters, he said. "Alternatively, it may be they've just been the most public about it," said Goodwin.

Pruitt, Perry and Zinke also said they would work to empower local municipalities, seeking greater input from those outside Washington, D.C.

"For too long, job creators, local communities, tribes and states have been kept in the dark about how the federal government will regulate or support them," they wrote. "This hampers the very efforts our agencies undertake to achieve our shared goals of a cleaner environment and a healthy economy."

The agency heads said they are fighting to restore "common sense" and return to the founding principles of balanced power and federalism. "American energy independence means a healthier American environment and a stronger American economy," they wrote.

In an interview with Fox News, Perry echoed the sentiments. "I don't argue that the climate's changing, I don't argue that man is having an impact on it," Perry said, "but you can have economic growth and clean up your environment."

The president himself released a statement with a similar message: "Economic growth enhances environmental protection. We can and must protect our environment without harming America's working families."

Apparently responding to the science march, he added, "My Administration is committed to advancing scientific research that leads to a better understanding of our environment and of environmental risks. As we do so, we should remember that rigorous science depends not on ideology, but on a spirit of honest inquiry and robust debate."

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/12/2017 6:28:18 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]
Subject: New York Times: Scott Pruitt Faces Anger From Right Over E.P.A. Finding He Won't Fight, 4/12/17

New York Times
https://www.nytimes.com/2017/04/12/climate/scott-pruitt-epa-endangerment-finding.html
Scott Pruitt Faces Anger From Right Over E.P.A. Finding He Won't Fight
By Coral Davenport 4/12/17

WASHINGTON — When President Trump chose the Oklahoma attorney general, Scott Pruitt, to lead the Environmental Protection Agency, his mission was clear: Carry out Mr. Trump's campaign vows to radically reduce the size and scope of the agency and take apart President Barack Obama's ambitious climate change policies.

In his first weeks on the job, Mr. Pruitt drew glowing praise from foes of Mr. Obama's agenda against global warming, as he moved to roll back its centerpiece, known as the Clean Power Plan, and expressed agreement with those who said the E.P.A. should be eliminated. His actions and statements have galvanized protests from environmentalists and others on the left.

But now a growing chorus of critics on the other end of the political spectrum say Mr. Pruitt has not gone far enough — in particular, they are angry that the E.P.A. chief has refused to challenge a landmark agency determination known as the "endangerment finding" that provides the legal basis for Mr. Obama's Clean Power Plan and other global warming policies.

These critics say that Mr. Pruitt is hacking only at the branches of current climate policy. They want him to pull it out by the roots.

"The endangerment finding must be redone or all of this is for naught," said Steven J. Milloy, who runs a website, JunkScience.com, aimed at debunking the established science of human-caused climate change, and who worked on the Trump administration's E.P.A. transition team.

"If you get rid of the endangerment finding, the rest of the climate regulations just sweep themselves away. But if they don't get rid of it, the environmentalists can sue, and then there's going to have to be a Trump Clean Power Plan," said Mr. Milloy, who is also a former policy director for Murray Energy, a major coal company whose chief executive, Robert E. Murray, was a backer of Mr. Trump's campaign and his push to undo climate change policy.

The 2009 legal finding is at the heart of a debate within the Trump administration over how to permanently reverse Mr. Obama's climate change rules. The finding concludes that carbon dioxide emissions endanger public health and welfare

by warming the planet, which led to a legal requirement that the E.P.A. regulate smokestacks and tailpipes that spew planet-warming pollution.

Thus, climate policy experts on both sides of the debate say, even if Mr. Pruitt succeeds in the legally challenging process of withdrawing the Clean Power Plan, the endangerment finding will still put him under the legal obligation to put together a replacement regulation.

Mr. Pruitt has told the White House and Congress that he will not try to reverse the finding, saying that such a move would almost certainly be overturned by the courts.

Last month, as Mr. Trump prepared to release an executive order directing Mr. Pruitt to dismantle the Clean Power Plan, along with nearly every other major element of Mr. Obama's climate change legacy, Mr. Pruitt argued against including a repeal of the endangerment finding in the order, according to people familiar with the matter.

Legal experts outside the Trump White House say that while Mr. Pruitt may face political fire on his right flank for the move, it is nonetheless pragmatic legally, since the finding has already been challenged and upheld by federal courts.

But Mr. Pruitt is now being pilloried by conservative allies of the White House. Writing in Breitbart News, the conservative website formerly run by Mr. Trump's senior strategist, Stephen K. Bannon, James Delingpole, a writer who is close to Mr. Bannon, said that if Mr. Pruitt refused to undo the endangerment finding, "it will represent a major setback for President Trump's war with the Climate Industrial Complex."

"If Scott Pruitt is not up to that task, then maybe it's about time he did the decent thing and handed over the reins to someone who is," he added.

Legal experts say they can see why opponents of climate change policy want to go after the endangerment finding — as long as it remains in place, any efforts to undo climate regulations can always be reversed.

"As a matter of theory, they're absolutely right," said Richard J. Lazarus, a professor of environmental law at Harvard. "If you want to get rid of the climate stuff, you get rid of the root, not just the branches. They want him to uproot the whole thing."

But, Mr. Lazarus added, "As a matter of legal strategy, it makes little sense because the endangerment finding is very strong."

The original recommendation to make an endangerment finding on carbon dioxide emissions was made by Stephen L. Johnson, a career scientist who headed the E.P.A. under the administration of George W. Bush, although the Bush White House did not act on Mr. Johnson's memo. After the Obama administration did so, the finding was legally challenged but upheld in a federal court. The Supreme Court declined to hear an appeal.

Mr. Lazarus said that Mr. Pruitt would have his hands full with the legal challenges of undoing the regulations themselves. Taking on the endangerment finding would probably be futile, he said.

"He doesn't want to spend a lot of time with something that's a sure loser," Mr. Lazarus said. "It wrecks your credibility with the courts."

Mr. Pruitt has a long history of championing legal efforts to undermine major environmental rules. As Oklahoma's attorney general, he sued the E.P.A. 14 times in efforts to undo regulations. He believes in stripping power away from the federal government and returning it to states.

But during his Senate confirmation hearing, he told senators that despite that, he was likely to draw the line at trying to overturn the endangerment finding.

"It is there, and it needs to be enforced and respected," Mr. Pruitt said. "There is nothing that I know that would cause it to be reviewed."

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/14/2017 2:24:28 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: E&E NewsL Coal miners hopeful but realistic after Pruitt visit, 4/14/17

E&E News
https://www.eenews.net/climatewire/2017/04/14/stories/1060053096
Coal miners hopeful but realistic after Pruitt visit
By Emily Holden 4/14/17

SYCAMORE, Pa. — Coal miners and local officials talked next to their trucks after U.S. EPA chief Scott Pruitt's visit here yesterday and said things are looking up.

Under the Obama administration's climate standards, they had heard coal power wouldn't exist in America after 2028.

Cheap natural gas, solar and wind would take over, negating the need for the product they haul out of the country's biggest underground coal mine.

"We felt like we were going to be gone, wiped from the energy mix," one miner said.

Now, under the Trump administration, the Clean Power Plan won't move forward. Other restrictions on coal mining will be lifted. They have a "partner" in Washington, as Pruitt told them.

"It says a lot to have an EPA administrator visit a mine in Pennsylvania," said Rachel Gleason, the executive director of the Pennsylvania Coal Alliance, who was part of a group who met with Pruitt.

"It sent a good message they are serious about stopping the regulatory attack that we've been under for the past eight years," she said, adding that she also wants the administration to "level the playing field" with renewables that get tax incentives.

Pruitt's visit was the second time in recent weeks that Trump administration officials have flanked themselves with coal miners to declare the industry's revival, despite experts' assessments that jobs lost in places like Sycamore are likely not coming back. "You know what this says?" President Trump asked miners last month as he prepared to sign an executive order eliminating the Clean Power Plan regulation on power-sector emissions. "You're going back to work," he told them.

Pruitt declared yesterday that the coal industry "felt a lot of pain" under Obama. But he assured them that "there's always going to be a need for coal in the generation mix. We don't know what percentage or what part that's going to be, but we're going to be part of it as long as we mine coal safely and compliantly and take care of the environment."

In truth, coal capacity might have fallen by about 28 percent by 2028 under the Clean Power Plan. Without it, it still might decrease 17 percent, according to the U.S. Energy Information Administration.

But even with fewer rules placed on how miners and coal plants operate, the industry's path forward is murky. While Trump says the war on coal is over, the markets disagree.

The Harvey mine, which Pruitt toured yesterday, wearing a hard hat emblazoned with the words "Make America Great Again" that had been given to him, underscores that fact.

Its owner, Consol Energy Inc., wants to sell the mine so it can focus on more lucrative natural gas projects (*Climatewire*, Feb. 2).

Still, the coal lobby and one state senator present yesterday said they're hopeful.

"What I'm hoping to hear is this administration is going to get the foot off the neck of the energy industry and recognize the fact that especially in Pennsylvania, we could go for 200 more years using coal," said state Sen. Camera Bartolotta (R).

Politicial leaders 'in denial'?

Where coal backers are encouraged, advocates for poor communities and small-town representatives said, the Trump administration's narrative could distract from a real problem — that, one way or another, coal won't stick around forever to bolster local economies.

"I think a lot of people still have that unanswered question," said Veronica Coptis, executive director of the Center for Coalfield Justice in Washington, Pa. "The administration can impede pending regulations, repeal existing regulations, but none of those change the fact that the coal market is declining."

Coptis said she was initially skeptical of the Clean Power Plan.

"It was like, OK, we can't just shut down all of the coal mines in one day; we have to have a plan for what happens to these communities that have economies dependent on one of these industries," she said.

After listening sessions and public hearings, however, she learned about the federal government's hopes for helping coal country transition.

Now, no one is talking about what to do for the still-dwindling business, she said.

"That's the biggest issue politically right now, is that our elected leaders who hold all the power are in denial that this industry is going anywhere," she said.

Beyond jobs

That's a real concern of coal miners, too.

Christopher Reilly is a 40-year-old from nearby Morgantown, W.Va., who worked his way up to being an outby electrician after getting a psychology degree and leaving a job he didn't enjoy.

"You're working six, seven days a week just to provide for your family," he said. "So you give your life to this, and then whenever someone's looking to take it away ... what do you do?"

Reilly said he has other skills to fall back on, but he likes working at a coal mine, even if he does have some concerns about the environment.

"I like the physical work. I like the people. There's a wide variety of people who work there. You learn a lot about individuals," he said. "I think about it a lot. If I come to work tomorrow, and the next day I get laid off, it's going to affect my family dramatically. Even though I'm a skilled individual, I'm going to struggle finding another job that helps pay the bills."

The fallout from coal's decline isn't just about jobs, either.

Greene County, where the Harvey mine complex is located, gets about 40 percent of its tax revenue from the company.

"That's actually the biggest hurdle I think communities like ours have to figure out in terms of 'after coal,'" Coptis said. "I think that's going to be more crucial for our communities than the job loss, is what's going to be the hit to the school districts, what's going to be the hit to the townships, what's going to be the hit to the county and how are those public agencies going to be able to support the people living [there]."

Searching for a middle ground

Bob Keller, chairman of the board of supervisors for the small nearby township of Morris, said he took a long look at the pros and cons before the company started mining in his area a few years ago. The new business meant a lot of upgrades to infrastructure.

In 25 or 30 years, however, the coal will be gone, and he will have to figure out how to collect enough money to fulfill the township's obligations.

So far, he's looking at trying to increase the population so tax bills are spread among more people.

Keller said he thinks "everything has a medium," and "extremists really shouldn't play a role in decisionmaking," whether they're solely pro-environment or pro-industry.

He believes the climate is always changing, and he isn't sold on the idea that humans are the main cause. A mine worker chatting with him said he wasn't qualified enough to speak about climate science but that people need power to run hospitals and keep air conditioning on for the elderly.

"The reality is we need energy," he said.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/28/2017 7:09:05 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: InsideClimate News: Trump EPA Wins Advantage in Campaign to Dismantle Clean Power Plan, 4/28/17

InsideClimate News
https://insideclimatenews.org/news/28042017/clean-power-plan-court-ruling-delayed-epa-win
Trump EPA Wins Advantage in Campaign to Dismantle Clean Power Plan
By John H Cushman Jr 4/28/17

A federal appeals court on Friday temporarily granted the Trump administration's request to defer ruling on the validity of the Obama-era Clean Power Plan, and said it would next consider handing the far-reaching climate rules back to the Environmental Protection Agency to be overhauled or even dismantled.

It was a significant tactical advance for EPA Administrator Scott Pruitt, who on President Donald Trump's orders is working to undo the CPP, which would regulate carbon dioxide emissions from power plants and is critical to meeting U.S. pledges under the Paris climate agreement.

But the court did not give Pruitt all he wanted. He had sought an indefinite hiatus—or "abeyance," in legal jargon—for as long as it took for him to decide what to do about controlling carbon dioxide emissions, which the Supreme Court has repeatedly found to be EPA's mandate under the Clean Air Act.

Instead, the appeals court granted an abeyance for just 60 days. It asked the adversaries who have been fighting in court ever since the rules were proposed to submit briefs in just over two weeks on whether the painstakingly devised regulations should be "remanded"—basically sent back to EPA's drawing board.

If that happens, electric power plants, especially those burning coal, which have long produced a major proportion of U.S. greenhouse gases, would be allowed indefinitely to continue doing so largely unfettered by federal constraints. They would be mitigated only by market forces, state and local laws, and rules governing other pollutions.

David Doniger, a lawyer at the Natural Resources Defense Council, called the ruling disappointing, but not devastating. He noted that if the rule is remanded to Trump's EPA, the Supreme Court stay could be lifted and the Obama version could remain in force, pending its reconsideration.

Even if the appeals court ultimately decides not to cede the field entirely to the Trump-Pruitt EPA, it's hard to see at this point how anything but delay and uncertainty lies ahead for the next few years.

Ten judges of the United States Court of Appeals for the District of Columbia Circuit had been ready to rule on the merits of the CPP, which was opposed for years by the fossil fuel industry and by their allies in the states, including by Pruitt when he was Oklahoma's attorney general.

Environmental advocates, joined by other states, cities and industries, had defended the CPP and wanted the appeals court, which heard oral arguments before the election, to move quickly ahead with a decision and let the matter move swiftly to the Supreme Court, which in early 2016 put a stay on its enforcement until the litigation ran its course.

New York Attorney General Eric T. Schneiderman, who leads a coalition of states and localities in defense of the Clean Power Plan, said in a statement that the "temporary pause in the litigation does not relieve EPA of its legal obligation to limit carbon pollution from its largest source: fossil-fueled power plants."

"I will continue to fight in court to ensure EPA fulfills its legal responsibility," he said.

Pruitt has said repeatedly that he believes the Obama EPA overstepped its legal authorities in writing the CPP.

One pro-fossil-fuel group, the Competitive Enterprise Institute, which had joined in the litigation, said it expected that if Pruitt's EPA reconsiders the rule, it would adopt one of the legal theories that opponents have long offered, but that no court has ever affirmed.

That, CEI energy fellow William Yeatman said, would mean the CPP would either be "nixed" on a legal technicality involving overlap with other regulations, or that any emission controls would be confined "inside the fence" of individual power plants, rather than addressing the electric grid as a systematic whole, as the CPP's authors tried ambitiously to do.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/24/2017 5:07:39 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Politico: Pruitt to headline Oklahoma GOP gala, 4/24/17

Politico
https://www.politicopro.com/energy/whiteboard/2017/04/pruitt-to-headline-oklahoma-gop-gala-086639
Pruitt to headline Oklahoma GOP gala
By Alex Guillen 4/24/17, 10:52AM

EPA Administrator Scott Pruitt will headline the Oklahoma Republican Party's annual gala next week, according to an event invitation.

"You do not want to miss Pruitt at this year's OKGOP Gala, as he discusses his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!" the invitation says.

It notes that Pruitt in just a few months has already "overseen the rollback of the Waters of the US rule, called for an exit from the Paris Climate Agreement, and championed a return to EPA 'originalism.'"

Pruitt was previously Oklahoma's attorney general. The event takes place on May 5 in Moore, Okla.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/12/2017 8:29:26 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]
Subject: E&E News: State officials to hear Pruitt outline repeal-replace plans, 4/12/17

E&E News
https://www.eenews.net/eenewspm/2017/04/12/stories/1060053018
State officials to hear Pruitt outline repeal-replace plans
By Ariel Wittenberg 4/12/17

U.S. EPA is inviting state leaders to Washington next week to discuss its strategy for undoing the previous administration's controversial Clean Water Rule.

In a letter to a number of intergovernmental associations sent Monday, EPA Administrator Scott Pruitt laid out how his agency is planning to move forward on two separate rulemakings to repeal and replace the rule and asks for state input.

"We greatly look forward to the opportunity to sit at the table with our state and local partners from across the country to discuss the rule and develop an approach to address this significant issue while keeping States at the forefront of our mission," he wrote.

The Clean Water Rule, also known as the Waters of the U.S. rule, or WOTUS, aims to clarify the reach of federal regulations over wetlands and waterways under the Clean Water Act.

The act itself uses vague language to assert jurisdiction over "traditionally navigable waters of the United States" without providing any further detail, and various administrations have struggled to define the law's scope.

Pruitt sued the Obama administration over the measure when he was the Oklahoma attorney general, echoing industry interests in saying it amounted to government overreach.

In his letter, Pruitt said he plans to rely on a 1986 definition of "waters of the United States" after EPA repeals the current regulation and until it can write a new standard.

He notes that the 1986 regulation is what EPA has relied on since the 6th U.S. Circuit Court of Appeals froze WOTUS. So, Pruitt argues, his move "thus maintains the status quo."

Recipients of the letter included the National Governors Association, National Conference of State Legislatures, Council of State Governments, National League of Cities, U.S. Conference of Mayors, National Association of Counties,

International City/County Management Association, National Association of Towns and Townships, County Executives of America and Environmental Council of the States.

EPA also invited state and local water associations, including the National Association of Clean Water Agencies, Association of Clean Water Administrators and Association of State Wetland Managers, to participate in the meeting, which will take place April 19. Pruitt said the agency would explain its process for repealing and rewriting the regulation.

He said the agency wants input "particularly with regard to the charge" in President Trump's WOTUS executive order that EPA write a regulation that relies on an opinion written by the late Supreme Court Justice Antonin Scalia in the famously messy 2006 Rapanos v. United States 4-1-4 split decision.

Scalia, who died last year, argued that the Clean Water Act applied only to relatively permanent bodies of water or wetlands connected to "navigable waters" by a surface flow at least part of the year. Chief Justice John Roberts and Justices Clarence Thomas and Samuel Alito joined him.

But Justice Anthony Kennedy issued a concurring opinion, stating that waters must have a "significant nexus" to navigable rivers and seas, including through biological or chemical connections. Until now, EPA has followed Kennedy's "significant nexus" test in regulating clean water.

"Consulting with state and local government officials, or their representative national organizations, is a priority to both myself and President Trump," Pruitt writes. "We believe this is an important step in the process prior to proposing regulations that may have implications on federalism as defined by the EPA's policy for implementing the order."

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/14/2017 2:24:32 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Bloomberg BNA: Obama-Era Ozone Rule Remains in Place, for Now, 4/14/17

Bloomberg BNA
http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=109361189&vname=dennotallissues&wsn=499165500&searchid=29697745&doctypeid=2&type=date&mode=doc&split=0&scm=1245&pg=0

Obama-Era Ozone Rule Remains in Place, for Now

By Patrick Ambrosio 4/14/17

The Trump administration's review of the 2015 ozone standards hasn't changed looming implementation deadlines and existing permitting requirements for industry, at least not yet.

The Environmental Protection Agency, in a successful motion to halt litigation over the regulation, announced it is assessing whether to proceed with a formal reconsideration of the 70 ppb standards. But unlike the Clean Power Plan and some other major Obama-era environmental regulations being reopened by the Trump administration, the ozone standards haven't been stayed by a court. That means the rule, which includes state planning deadlines and additional permitting requirements for new industrial facilities, is still on the books.

An EPA spokeswoman told Bloomberg BNA in an email that the agency is engaged in a process to determine if the ozone standards are "in line with the pro-growth directives" of the Trump administration. The agency's court filing also said it is assessing the ozone rule to see if it is subject to a March executive order directing the agency to weigh reconsideration of all rules that potentially burden domestic energy production.

The EPA review of the ozone rule won't immediately change anything states are doing to implement the stricter standards, according to Bill Becker, executive director of the National Association of Clean Air Agencies. That association represents air regulators in 40 states, the District of Columbia and over 100 metropolitan areas.

"We have to assume that the standard is in place until EPA or the courts determine that it is not in place," Becker told Bloomberg BNA. "We haven't seen any evidence of that changing."

The EPA hasn't said how long its review of the ozone rule—which might not result in a full rulemaking process on reconsideration—may take. The Obama administration undertook a similar effort to review and eventually reconsider the 2008 ozone standards, a process that lasted two and a half years and resulted in the EPA scrapping its reconsideration.

Permitting Requirements to Continue

While the EPA isn't required until later this year to identify which regions of the U.S. meet the standards and which don't, the Obama-era ozone standards are already factored into Clean Air Act permits granted to industrial facilities.

The EPA's new source review permitting program requires power plants, factories and other new and modified industrial facilities to obtain preconstruction permits, with different requirements in areas that do and don't meet national ambient air quality standards. Prior to the designations process, the permitting program still requires new and modified industrial facilities to conduct certain analyses that take the new standard into account, according to Megan Berge, a partner at Baker Botts LLP.

“That will continue regardless of what's going on in a rulemaking,” Berge told Bloomberg BNA.

Berge said that the Trump administration's ongoing review leaves industry with two options on permitting: moving ahead on the permitting of new facilities with the additional requirements under the 2015 ozone standards or potentially wait several years for the Trump administration to complete a review and reconsideration process that could ultimately result in a less stringent regulation. Berge, based in Washington, D.C., has a regulatory practice that includes work for utilities, refineries and cement plants,

EPA Has Decisions to Make

Implementing the 2015 ozone standards also includes various deadlines for the EPA and states to take action to reduce pollution levels, all of which are still in place despite the ongoing administration review.

Public health and environmental advocates will “vigorously oppose” any effort by the Trump administration to weaken the ozone standards, according to John Walke, director of the climate and clean air program at the Natural Resources Defense Council. Walke, in an interview conducted after the EPA asked the court to delay oral arguments on the standards, told Bloomberg BNA that advocates also would insist that the agency continue to fulfill its legal obligations in implementing and enforcing the ozone regulation.

The process for implementing the ozone standards calls for the EPA to make an important decision later this year: identify “area designations” of places that do and don't meet the standards. Regions that don't meet the standards are subject to strict permitting requirements on new industrial development.

Last year, parts of at least 22 states were identified as unlikely to meet the standards, according to a 2015 Bloomberg BNA survey of state environmental agencies. In order for the EPA to complete the designations process as scheduled by Oct. 1, the EPA would need to inform states by June of any intended modifications to those state recommendations, according to Clint Woods, executive director of the Association of Air Pollution Control Agencies. That association represents 20 state air pollution control agencies.

The EPA declined to comment on whether it was still working to complete the designations process as scheduled. The Clean Air Act includes language in Section 107 that could offer the EPA an opportunity to extend the designations deadline by one year, until October 2018.

Plans Due in 2018

Even if the EPA did extend the designations process by a year, that wouldn't affect a key 2018 deadline for submitting state plans for implementing the new ozone standards and addressing emissions that cross state lines, according to Berge.

Woods told Bloomberg BNA that state agencies were expecting various kinds of assistance from the EPA over the next year to help them implement the standards and meet their statutory planning deadlines. Those include a final implementation rule that Woods described as “critical” for states tasked with implementing the standards and guidance on assessing emissions from new transportation infrastructure projects.

States also were interested to see if the EPA would issue updated national modeling data on ozone transport—emissions that cross state lines and affect the ability of downwind areas to meet air quality standards, Woods said. The development of state plans to address their obligations on interstate transport can take more than a year, so states would need more information from the EPA by summer 2017 if they hoped to meet the Oct. 1 deadline for submitting a plan, according to Woods.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/24/2017 5:20:36 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: E&E News: IG clears Obama agency over ads targeting agriculture, 4/24/17

E&E News
https://www.eenews.net/greenwire/2017/04/24/stories/1060053483
IG clears Obama agency over ads targeting agriculture
By Kevin Bogardus 4/24/17

The U.S. EPA inspector general has cleared the agency of any wrongdoing in an EPA-funded advertising campaign focused on farming.

In a report released today, the internal agency watchdog said EPA didn't violate lobbying prohibitions after agency funds appeared to have been used for billboard ads in a Washington state advocacy campaign that led to Republican-led backlash on Capitol Hill.

That campaign, called "What's Upstream" and run by the Northwest Indian Fisheries Commission, took aim at farmers, saying "unregulated agriculture is putting our waterways at risk." The commission was awarded federal grant money from EPA for the campaign.

Nevertheless, the report, which was signed by Inspector General Arthur Elkins, concluded that the agency and the commission followed federal requirements and did not violate a ban on lobbying by federal agencies.

The IG noted that the Swinomish Indian Tribe was reimbursed for some costs behind an interactive website and other media ads but "the EPA did not pay for advertising on billboards, radio, or transit advertisements, or for updates to the website costs."

As part of its oversight duties, the report said, EPA did talk to the commission and its public relations firm, Strategies 360, regarding the advocacy campaign, but it did not engage in "covert propaganda" with What's Upstream.

The IG compared the advocacy campaign to another EPA effort, the agency's social media campaign promoting the Waters of the U.S. rule. The Government Accountability Office found EPA had violated anti-lobbying provisions with the water rule campaign, but the EPA IG said the agency was within bounds with the What's Upstream effort.

The EPA inspector general also released a separate report today that found the commission had used most of its EPA grant money properly, although there was $87,963 in indirect costs questioned by the watchdog.

Republicans had attacked EPA over what they called a deceptive and unfair ad campaign paid with agency funds that targeted farmers.

The IG investigation came about from a request last year from then-Senate Environment and Public Works Chairman Jim Inhofe (R-Okla.) and Agriculture Chairman Pat Roberts (R-Kan.) (*E&E News PM*, May 13, 2016).

In addition, 145 lawmakers wrote to then-EPA Administrator Gina McCarthy expressing concern over the billboard ads (*E&E Daily*, April 21, 2016).

In response to the IG's clearing EPA, Mike Danylak, an EPW Committee spokesman, said the agency should be focused on protecting the environment rather than PR campaigns.

"Under the last administration, the EPA funded a cooperative agreement with a public relations firm that unfairly attacked farmers and ranchers as polluters. Whether or not the IG found there was a violation of law, EPA should be focused on protecting the nation's water, air, and land, instead of spending taxpayer dollars for anti-farming PR campaigns," Danylak said.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/17/2017 1:54:43 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
Subject: The Week: The EPA's changing mission, explained, 4/17/17

The Week
http://theweek.com/articles/691890/epas-changing-mission-explained
The EPA's changing mission, explained
4/15/17

After decades of dramatic successes — as well as failures — the Environmental Protection Agency is changing its mission. Here's everything you need to know:

How did the EPA begin?
The sprawling regulatory agency President Trump vowed to eliminate "in almost every form" is essentially a child of the '60s. During that era, smog-choked cities and contaminated rivers and lakes made Americans increasingly anxious about pollution from emissions, industrial waste, raw sewage, and other sources. In response, President Richard Nixon — a Republican — established the EPA in 1970 and named as its first administrator William Ruckelshaus, an assistant attorney general. Until then, only the states had enforced environmental laws. "They competed with one another so fiercely for the location of industry that they weren't very good regulators of those industries," Ruckelshaus explains. "It was very hard to get widespread compliance." Ruckelshaus started by trying to establish and enforce air quality standards and target major water polluters. It wasn't until Congress passed landmark environmental legislation, however, that the EPA gained real muscle.

What was the legislation?
The Clean Air Act of 1963 was amended in 1970, giving the EPA broad powers to regulate emissions from smokestacks and tailpipes — by phasing out leaded gasoline, for example. In 1972, the Clean Water Act granted it similar authority over waterways and wetlands. Congress also empowered the agency to regulate pesticides and ban DDT — sprayed across the country to kill mosquitoes, but so toxic it nearly wiped out several bird species, including the bald eagle. After seeping chemicals from a toxic waste dump sickened hundreds of residents of Love Canal, N.Y., in 1978, Congress created the EPA-administered Superfund for hazardous waste cleanup. The agency's work had a major impact on air and water quality, but its regulations proved controversial.

Why?
Industries found the EPA's regulations too complex and costly, and argued that the constant demands of federal bureaucrats for permits and clearances were killing jobs and strangling the country's economic growth. Businesses large and small came to view the EPA as an adversary. They found an ally in President Ronald Reagan, a proponent of small government who campaigned against "environmental extremists." Reagan "was fixated on governmental deregulation," says environmental scholar Walter Rosenbaum, "and EPA was a favorite target." In 1981, Reagan named Anne Gorsuch his EPA administrator. The mother of new U.S. Supreme Court Justice Neil Gorsuch, she was an outspoken agency critic

who made deep cuts in the agency and invited regulated industries to rewrite rules to their liking (see below). But Gorsuch didn't last long, and because cleaning up the environment enjoyed widespread public support, the EPA has had a major comeback under both Republican and Democratic presidents in recent decades.

Has the agency been successful?
By and large, yes. Air pollution is down by 70 percent since the EPA was formed, and studies indicate cleaner air has saved millions of lives. The percentage of America's polluted waterways has been cut almost in half, from two-thirds in 1970 to about 35 percent. The hole in the ozone layer is healing. Blood levels of lead — which can cause brain damage and lowered IQs — have dropped 75 percent in the U.S. public as a whole. Hundreds of Superfund sites have been cleaned up. "I think the EPA has a very good record of setting tough standards and industry meeting them," observes Armond Cohen of the Clean Air Task Force.

What will happen under Trump?
Much will depend on what Congress decides to do with EPA funding when it passes a budget. Trump's original blueprint slashed the EPA by 31 percent, eliminating 50 programs. "What they're trying to do is eviscerate the agency," says Christine Todd Whitman, an EPA administrator under President George W. Bush. New administrator Scott Pruitt is a climate-change skeptic with ties to fossil-fuel interests, who as Oklahoma attorney general brought more than a dozen lawsuits against the EPA. After being sworn in, he told agency employees that their role was now to be "pro-energy and jobs" as well as "pro-environment." Trump has asked Pruitt to help dismantle much of President Obama's environmental legacy: the Clean Power Plan, which promotes renewable energy and curbs greenhouse gas emissions; rules requiring cars and light trucks to average 36 miles per gallon (up from 25 mpg) by 2025; and the Clean Water Rule, which expanded the number of small streams and wetlands that qualify for federal protections. Industry groups had objected to all of these new initiatives.

Will the EPA survive?
The agency may be hard to kill, because it administers so much federal environmental legislation, which is not easily undone. But Trump could try to starve the EPA of funding and employees, and Pruitt could cut way back on enforcement. Voters may not care: Though a recent Gallup poll found that 71 percent favor protecting the environment over more fossil-fuel development, a Pew Research poll late last year found Americans rank the environment 12th on their list of concerns. Perhaps that's because there are no longer so many billowing smokestacks and sewage- and chemical-choked rivers. "To a certain extent, we are victims of our own success," Ruckelshaus observes. "It is not so obvious to people that pollution problems exist and that we need to deal with them."

The first Gorsuch
Before Neil Gorsuch, there was his mother, Anne, the EPA's first female administrator. "Known for wearing fur coats, driving a gas-guzzling Cadillac, and smoking two packs of cigarettes a day," historian Meg Jacobs recalls, "Gorsuch took Washington by storm." She cut her agency to the bone, slashing enforcement actions by 73 percent, rolling back clean air and water rules, and promoting "voluntary compliance by industry." Gorsuch also sped approvals for spraying restricted pesticides, and purged the agency of employees deemed too zealous. Her tenure was short-lived, however: After less than two years, Gorsuch was forced to resign in a scandal over mismanagement of the Superfund program. She remained embittered for the rest of her life, saying President Reagan abandoned "me and my people, people whose only 'crime' was loyal service." Gorsuch died of cancer at 62 in 2004.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 3/16/2017 5:56:39 PM
To: So, Katherine [so.katherine@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17 [actadmmccabe.catherine17@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schnare, David [schnare.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]
Subject: RE: Fuel Efficiency Standards Clips 3/16/17

Below: InsideEPA, Reuters, Bloomberg BNA, Bloomberg (3/15), Reuters (3/15), Walls Street Journal (3/15), Washington Post (3/15), InsideEPA (3/15)

InsideEPA
https://insideepa.com/daily-news/draft-trump-executive-order-has-wide-ranging-attacks-climate-rules
Draft Trump Executive Order Has Wide-Ranging Attacks On Climate Rules
By Doug Obey 3/16/17

President Donald Trump is weighing a wide-ranging executive order to target multiple Obama administration climate change measures, according to a draft version, which calls for a "rewrite" of EPA's greenhouse gas rules for new and existing power plants, while repealing numerous executive actions crafted by the prior administration.

In addition to targeting EPA's power plant rules, the draft document, first reported by *Politico*, calls for an interagency working group to "reconsider" the social cost of carbon metric developed by the Obama administration to estimate the benefits of GHG controls, and "requests " that the White House Council on Environmental Quality rescind its climate change guidance for how agencies craft National Environmental Policy Act reviews of major projects.

Further, it directs the Bureau of Land Management (BLM) to lift its moratorium on new coal leasing, "rescind" its hydraulic fracturing regulation, and "review the new source standard for methane from oil and gas operations."

The latter item is confusing in that it appears to reference EPA's first-time methane limits for new oil and gas facilities, but it is included in language directed at BLM. The bureau has a separate methane rule governing existing oil and gas facilities on federal land that Congress is currently considering eliminating by a Congressional Review Act disapproval resolutions.
Trump is widely expected to sign a version of the climate policy executive order in the coming days.

The extent to which the draft document, labeled as "speculative," will resemble a final order is not clear, but it is nonetheless remarkable for the breadth of its attack on climate change policy.

But the document is also noteworthy in that its explicit language calls for revisiting, rather than eliminating, EPA's power plant rules. Sources have suggested that such language could be a legal hedge to help the order comply with the Administrative Procedure Act.

The document directs EPA to take a series of actions "consistent with applicable law and policy." They include "rewrite" the Obama administration's "so-called" Clean Power Plan; "rewrite" EPA's GHG standards for new power plants, which the document asserts is based on emissions control technology "that is not commercially viable;" and "review and recommend an appropriate path forward" for the proposed federal implementation plan the Obama EPA drafted as a guide for implementing the Clean Power Plan.

The document would order the Department of Justice to ask an appellate court to hold litigation on the power plant rules in abeyance or remand the rules to the agency while administrative proceedings to rewrite them are underway, a step environmentalists and other rule supporters have pledged to fight.

SCC Options

The draft order also does not include a specific proposal for how to rewrite the SCC, which allows agencies to calculate the climate benefits of reducing GHGs in rules. However, speculation has swirled about numerous options the Trump administration could use in this area, including a fundamental rewrite of how discount rates are factored into the metric that could result in cheaper estimates of climate damages.

The draft order also would repeal several Obama administration climate change executive orders -- one on planning for federal sustainability, a second establishing a federal flood risk management standard, a third on "climate resilient" international development, and a fourth on preparing the U.S. for climate impacts.

The last line of the draft order directs EPA and other agencies to "conduct a review of existing agency policies and practices that result in impediments to domestic energy production and the expansion of energy production facilities," and to report their findings.

Broadly, the order is framed as an "energy independence" measure that would reduce domestic dependence on other countries for energy. -- *Doug Obey* (dobey@iwpnews.com)

Reuters
http://www.reuters.com/article/us-usa-trump-autos-idUSKBN16M2C5
Big win for automakers as Trump orders fuel economy standards review
By Nick Carey and David Shepardson 3/16/17 3:29 AM

President Donald Trump on Wednesday ordered a review of tough U.S. vehicle fuel-efficiency standards put in place by the Obama administration, handing a victory to auto industry executives and provoking criticism from Democrats and environmental groups.

In a move widely seen as a preamble to loosening fuel standards, Trump told an audience of cheering union workers, he would "ensure that any regulations we have protect and defend your jobs, your factories," and promised he would encourage growth in the U.S. auto sector.

"The assault on the American auto industry is over," Trump said, standing in front of a banner that read "Buy American-Hire American."

Trump added that the White House is "setting up a task force in every federal agency to identify and remove any regulation that undermines American auto production."

The backdrop and message underscored Trump's efforts to lock down support in industrial states such as Michigan that put him in the White House. Trump spoke at the site of the former Willow Run bomber factory in Ypsilanti, Michigan, which won fame for building an operational B-24 heavy bomber every 59 minutes during World War Two. Now, the site is being redeveloped as a testing ground for autonomous vehicles.

At a roundtable with industry leaders Trump made clear he expected automakers to hire more Americans in return, a theme that dominated his election campaign.

"We're going to do some wonderful work with you, but you're going to have to help us with jobs," he said.

Trump's event was attended by around 1,000 people, including automotive executives, United Auto Workers union President Dennis Williams - who sat next to Trump - and workers from Detroit's "Big Three" automakers: General Motors Co (GM.N), Ford Motor Co (F.N) and Fiat Chrysler Automobiles NV (FCA) (FCHA.MI) (FCAU.N). Automakers lined up examples of vehicles they build in the United States for the president to see.

Auto industry executives have said they are hopeful the Trump administration will pursue tax and regulatory policies that would benefit U.S. manufacturers.

Reopening the fuel efficiency rules put in place by Democratic President Barack Obama days before he left office is one of the top items on the industry's agenda. Automakers, through their lobbying groups, have said the Obama rules were too expensive and could cost American jobs.

"These standards are costly for automakers and the American people," said Environmental Protection Agency Administrator Scott Pruitt.

After one participant in Wednesday's meetings mentioned environmental concerns, Trump said he agreed but did not want an "extra thimbleful of fuel" to get in the way of growth.

In a meeting with top auto executives from U.S. and foreign automakers, Trump said the government needs to get out of the way of the auto industry building vehicles, a person who attended the meeting said.

Automakers are wary of being seen as out of touch with environmental concerns, or unwilling to invest in new technology. Ford, for example, used its Twitter account on Wednesday to highlight previously announced commitments to develop electric vehicles.

It could take a year for the review process to play out, and Wednesday's event was effectively a starting gun for intense lobbying efforts over how government policy will drive technology investment decisions in the auto sector.

Critics like Democratic U.S. Senator Edward Markey of Massachusetts said Trump's move could hurt consumers.

"Filling up their cars and trucks is the energy bill Americans pay most often, but President Trump's roll-back of fuel economy emissions standards means families will end up paying more at the pump," Markey added.

The president is not seeking to revoke California's authority to set vehicle efficiency rules even stricter than federal rules, including mandated sales of electric vehicles, as part of this move, a White House official said. The official did not rule out seeking to withdraw California's authority in the future. Pruitt, an ally of the fossil fuel industry, would not commit during his Senate confirmation hearing to allowing California to continue its own clean vehicle rules.

A group of 10 state attorneys general led by California and New York said on Wednesday they would fight attempts to weaken the rules.

California's attorney general late Tuesday filed legal papers in a federal court defending the Obama administration's decision to finalize the determination in January.

Barclays auto analyst Brian Johnson said in a research note that he expects the Trump administration review will lead to reductions in planned hikes in fuel efficiency standards after 2021.

The Obama administration's rules, negotiated with automakers in 2012, were aimed at doubling average fleetwide fuel efficiency to 54.5 miles per gallon by 2025, although the real-world mileage figures would be lower.

'THOUGHTFUL AND COORDINATED'

Automotive industry executives and lobbying groups were quick to praise the administration's announcement.

"The Trump administration has created an opportunity for decision-makers to reach a thoughtful and coordinated outcome predicated on the best and most current data," said Mitch Bainwol, chief executive of the Alliance of Automobile Manufacturers, an industry lobbying group.

Automakers have signaled they want the government to give manufacturers more credit toward achieving fuel efficiency targets for technologies such as "stop-start" systems that shut down a car's engine at a traffic light.

Regulators should also look at whether ride hailing and vehicle-to-vehicle communications systems designed to prevent accidents and alleviate road congestion could be counted toward the industry's greenhouse gas emissions goals, the automaker group proposed in comments to the EPA last year. The group represents a dozen automakers, including GM, Ford and FCA.

Under the 2012 agreement with the industry, the EPA was given until April 2018 to decide whether the standards were feasible under a "midterm review," but the agency moved up its decision to a week before Obama left office in a bid to maintain a key part of his administration's environmental legacy.

An EPA analysis indicated that compared with previous rules, the 2025 standards would result in savings of between $1,460 and $1,620 over the lifetime of a vehicle and payback for new technology required to meet the new standards of around five years.

The Obama administration said the rules would cost the auto industry $200 billion over 13 years, but save motorists $1.7 trillion over the life of the vehicles.

Bloomberg BNA
http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=107304213&vname=dennotallissues&wsn=499807000&searchid=29519171&doctypeid=2&type=date&mode=doc&split=0&scm=1245&pg=0
Does Golden State Hold Trump Card on Auto Emissions?
By David Schultz and Carolyn Whetzel 3/16/17

The state of California may have the power to thwart the Trump administration's attempts to roll back auto industry rules on greenhouse gas emissions from cars and trucks, according to environmental attorneys.

The administration on March 15 began the process of reviewing these emissions standards, with President Donald Trump telling a rally of auto workers in Detroit that this would allow them to "make cars in America again." But, if it does opt to give automakers the green light to produce less fuel-efficient vehicles, California could choose to defy the administration, setting up a major legal clash.

"We're looking at a potential collision between Trump and California," said Michael Burger, a Columbia Law School professor and director of the school's Sabin Center for Climate Change Law.

While California may be able to resist the Trump administration's efforts here, attorneys say the administration could respond by taking an unprecedented step and rescind the state's ability to regulate its own vehicles.

Mid-Term Review

A final decision from the Environmental Protection Agency on vehicle emissions may not come until early next year. As of now, the Trump administration is only reopening an EPA decision on emissions that had been finalized days before Trump took office.

In January, the Obama administration completed a midterm review of the current greenhouse gas emissions standards, which require automakers to achieve a companywide fuel economy average of 54.5 miles per gallon, or its equivalent, by 2025. The auto industry agreed to this number in 2012, on the condition that federal officials review it midway through this term to ensure this target is still achievable.

Though the EPA had until April of 2018 to complete this review, it surprised many in the industry by finalizing the review early this year and determining that these emissions standards did not need to be changed. Automakers had been telling the EPA that the current target is technologically unattainable and would inflate the prices of its vehicles.

At the Detroit rally, Trump called this an "11th-hour executive action" that he is now nullifying "to ensure any regulations we have ... are going to be fair."

California Waiver

But, if the EPA goes through this midterm review once again and determines that the 54.5 target should be lowered, California might not have to comply. That's because, due to a quirk in environmental law, California has a waiver that allows it to set its own emissions standards.

When the Clean Air Act was being drafted in the 1960s, the state had already been regulating vehicle emissions, so Congress included a provision in the law that allowed it to continue doing so. Janet McCabe, the head of the EPA's air office under Obama, told Bloomberg BNA that it makes sense to let California act independently because its legendary air-pollution problems "have been so severe and so dominated by [cars]."

The last time the emissions regulations were set in 2012, California teamed up with the EPA and the U.S. Department of Transportation, which also has regulatory authority in this area, to harmonize fuel-economy standards and avoid giving automakers different targets to hit in different states.

Crazy Quilt

But this crazy quilt of standards that regulators were trying to avoid may come to fruition if California and the Trump administration can't come to an agreement on what the emissions standards should be.

Furthermore, almost a dozen states—including New York, Massachusetts and Pennsylvania—have formally adopted California's standards as their own, which means these states could also choose to opt out of complying with a relaxed federal emissions target. This could create a scenario where automakers could only sell new cars with reduced fuel economy in certain states.

"My prediction is that there will be only small changes," Dan Sperling, director of the Institute of Transportation Studies at the University of California, Davis, and a member of California's air quality governing board, told Bloomberg BNA. "The auto industry doesn't want California going on its own."

Wade Newton, a spokesman with the industry trade group the Alliance of Automobile Manufacturers, told Bloomberg BNA it expects California to "engage and be part of the discussion in determining how we can improve mileage and reduce carbon emissions while preserving vehicle safety, auto jobs and affordable new cars and trucks."

Waiver Revoked?

But what if the leaders of the Golden State decide they don't want to cooperate with the Trump administration? The state's governor, Jerry Brown (D), described Trump's March 15 move as "an unconscionable gift to polluters."

Environmental attorneys who spoke to Bloomberg BNA said it's possible the EPA could rescind the waiver that allows California to set its own standards, which currently goes through 2025. Since the federal government began granting waivers in 1967, California's waiver has never been revoked, although its application for a waiver was once denied during the George W. Bush administration. (That denial was later reversed under Obama.)

A senior White House official who briefed reporters on March 14 said it was too early to say whether the administration would take this unprecedented step. "We welcome California to the table," he said. "Let's keep talking. If California decides they want to go in a different direction, that's further down the road."

Burger, with the Sabin Center, said that if the EPA wants to revoke California's waiver, it would need to build a very strong case as to why the state shouldn't be allowed to regulate its own vehicles anymore.

"They're certainly going to wind up in court," Burger told Bloomberg BNA. "What EPA will have to show in this instance is that its decision is consistent, and not arbitrary and capricious. That's a problem that's going to confront EPA in this and every other climate deregulation it seeks to enact."

Bloomberg
https://www.bloomberg.com/news/articles/2017-03-15/trump-gives-carmakers-a-year-to-push-for-reset-of-mileage-rules
Trump Demands Auto Jobs After Signaling Fuel Economy Relief
By Ryan Beene, John Lippert, and Shannon Pettypiece 3/15/17 10:35 PM

President Donald Trump is laying out an explicit quid pro quo for automakers: He'll cut them a break on environmental standards and wants more hiring in return.

"You need to come back and give us big numbers in terms of jobs," Trump told the chief executive officers of General Motors Co., Ford Motor Co. and Fiat Chrysler Automobiles NV on Wednesday. The Obama administration's decision to preserve its fuel economy rules "would have destroyed, or further destroyed, the auto industry."

Carmakers will now get another year to dispute the fuel mileage and emissions standards, which will be further scrutinized by the Environmental Protection Agency and National Highway Traffic Safety Administration. The companies cried foul over the EPA failing to collaborate with them and expediting a review of the requirements in the final days of Obama's term.

Trump's move to nullify the ruling of Obama's EPA marks a victory for carmakers including GM, Toyota Motor Corp. and Volkswagen AG, which argued the standards are out of step with market realities. Low gasoline prices have spurred record demand for sport utility vehicles and pickups and dragged on demand for electric vehicles and fuel-sipping passenger cars.

GM seized on Trump's announcement, made during a stop through Detroit's suburbs, by saying it will add 220 new jobs at a transmission plant and retain another 680 workers in the state. Some positions will be filled or preserved by workers laid off at an SUV factory. The hires were planned before Trump took office, spokesman Pat Morrissey said.

GM's 'Peanuts'

"I told them 'that's peanuts,"' Trump told a crowd of workers, referring to GM's job announcement. "We're going to have a lot more. They're going to be building new plants, expanding their plants. My administration will work tirelessly to eliminate the industry-killing regulations, to lower the job-crushing taxes and to ensure a level playing field for all American companies and workers."

During the meeting with executives, Trump also reiterated a demand that Toyota make cars in the U.S. In an exchange with Jim Lentz, chief executive officer of Toyota Motor Corp.'s North American operations, footage on the White House's official YouTube account showed Trump saying, "You've got to build those new plants here."

Toyota will work with the Trump administration to "support policies that help grow our economy, reduce the impact on the environment and serve the best interest of consumers," Kayo Doi, a Tokyo-based company spokeswoman, said in an emailed response to a request for comment following the meeting.

Jeeps, Rams

The lower fuel economy standards could lead Fiat Chrysler to invest more in Jeep SUV and Ram pickups produced in the U.S., CEO Sergio Marchionne told Bloomberg Television. The Obama administration's attempt to short-circuit the review of fuel economy rules was "offensive," he said.

Electric-vehicle maker Tesla Inc.'s stance mirrors the Obama administration's -- that the mileage and emissions standards are attainable.

"The recent success of auto manufacturers in responding to the growing demand for electric vehicles is proof that the nation's current fuel economy standards are practical, achievable and having their intended effect," a spokesman for the automaker led by Elon Musk said in an emailed statement.

Carmakers will make their case on the fuel economy standards to new EPA Administrator Scott Pruitt, who's downplayed how much humans contribute to climate change. The agencies will restore the original timeline the Obama

administration and auto industry agreed to, which was to determine by April 2018 whether standards for 2022 through 2025 are feasible.

"We still support the direction the program is taking us, although some adjustments might be necessary," said Tom Stricker, vice president of product regulatory affairs for Toyota in North America. Factors including cheap gasoline prices have changed since the rules took effect, which is "the exact reason both sides agreed to a midterm review in the first place."

Automakers agreed in 2011 to fuel economy standards set by the U.S. Transportation Department and greenhouse gas emissions rules decided by the EPA and California's Air Resources Board. They call for companies to boost the fuel economy of their fleets to an average of more than 50 miles per gallon by 2025.

Falling Behind

Trump's administration will reopen the review as cars and light trucks from the 2016 model year will be the first to fall short of fleet-wide average fuel economy targets in more than a decade, according to automaker projections released by NHTSA.

A White House official said Tuesday the administration isn't currently contemplating a challenge to California's authority to set its own vehicle emissions standards or electric-car sales mandates. The official also said reopening the review doesn't guarantee that the standards will be weakened.

While the White House official told reporters the president's move was narrowly focused on reviving the review, the former head of Trump's EPA transition team said the administration is contemplating a full-blown attack on Obama's fuel economy standards.

"This is not coming from the auto industry, it's coming from consumers and the auto dealers association," Myron Ebell, who left the Trump transition team in January, said of the onus for the potential rollback. "I don't think the auto companies are united in what they want."

California Digs In

The attack could come in the form of an official DOT determination that only NHTSA can regulate fuel economy, Ebell said. The Trump administration is actively considering such a finding, which would exclude the EPA and California from such rule-making, and could allow severe cuts in Obama's original fuel economy targets, he said.

California's top air-quality regulator meanwhile said she's ready to consider changes to the fuel economy standards -- to a point. The current regulations could be improved from both an environmental and administrative standpoint, said Mary Nichols, chairman of the state's Air Resources Board.

"We're not going to refuse to participate in the newly-reopened review process," Nichols said in a phone interview. "We'll be there and we'll be active."

Reuters
http://www.reuters.com/article/us-usa-trump-autos-california-idUSKBN16M3DU
California ready to pursue clean car standards as Trump brakes
By Peter Henderson 3/15/17 8:13 PM

Automakers hailed President Donald Trump's call on Wednesday for the U.S. Environmental Protection Agency to review and possibly dial back car fuel efficiency standards. But California sees things differently.

California plans to move ahead with tougher car pollution rules for 2022-2025, which the administration of former Democratic President Barack Obama hastily approved before Trump took office. California regulators are expected to finalize the rules at a March 23-24 meeting.

Environmental Protection Agency Administrator (EPA) Scott Pruitt, a climate change skeptic, said his agency will review the federal rules and is widely expected to loosen them.

Meanwhile industry group Auto Alliance has sued the EPA to overturn its rules, which automakers says are expensive and could cost Americans jobs. California's attorney general has asked the court to let the state defend the Obama regulations.

Currently, the nation has a single set of standards automakers must meet when manufacturing vehicles. The clash between California and the Trump administration could lead to one set of standards in California and at least a dozen other states and another standard in the rest of the country, increasing costs for car makers and headaches for consumers.

"We are not backing down," said Hector De La Torre, a member of the California Air Resources Board, which sets policy that more than a dozen other states follow in full or part. Reuters spoke to a majority of board members, who all voiced support for the original plan worked out by the federal government, carmakers and California during Obama's presidency.

That plan includes stricter tailpipe emissions targets and a California mandate for zero-emissions cars.

Pollution controls carry important financial and health consequences for the United States.

U.S. and California regulators last year projected in a draft review that stricter pollution controls will add about $1,000 to the cost of each car sold in 2025. They say that cost will be more than offset by the benefit of lower fuel costs and cleaner air. Automakers say they did not get enough time to review the study.

'VEHEMENT' DEFENSE

Governor Jerry Brown has promised to lead the fight to stop Trump from weakening environmental rules, a stance echoed by Air Resources Board Chair Mary Nichols.

"We intend to stick by the commitments that we made. If for some reason the federal government and the industry decide to abandon those agreements that we all reached, we will have to re-examine our options," she said in an interview. "If the issue is are they going to relax the standards, then we would vehemently oppose that."

Federal law prohibits states from setting their own vehicle emissions rules, except for California, which can seek waivers to federal policy under the Clean Air Act.

California has a waiver for the plan through 2025, although its targets are the same as federal ones and it does not require separate compliance from automakers.

If the EPA relaxes its own rules, that could change. California may hold automakers to the original targets by beginning to enforce its rules independently. It is not clear whether that technical decision would require an additional waiver from the Trump administration.

Natural Resources Defense Council vehicle analyst Simon Mui argued it would not. "California doesn't need a permission slip to stick with the standards it has on the books," he said.

Automakers desperately want to continue with a national policy to avoid making different cars for different states. Oil refineries already face challenges in California because they say the state has the strictest environmental rules in the United States, requiring special blends of gasoline to reduce pollution.

In a battle with California, the federal government could try to change the Clean Air Act to end regulation of carbon dioxide as a pollutant, or it could try to revoke California's permission to enforce the current car pollution program.

Both approaches could be difficult, and a Trump administration official speaking on condition of anonymity, said the president was not seeking to revoke California's authority at this time, but would not rule out such a move in the future.

Wall Street Journal
https://www.wsj.com/articles/trump-administration-to-reopen-review-of-emissions-rules-1489611491
Trump Administration to Reopen Review of Car Emissions Rules
By Mike Spector, Mike Colias, and Ted Mann 3/15/17 5:51 PM

The Trump administration reopened a review of vehicle-emissions standards, reversing an earlier Obama administration decision to lock in future targets and extending an olive branch to an industry the current president has targeted over Mexican imports and commitments to U.S. jobs.

The Environmental Protection Agency on Wednesday said it would work with the Transportation Department to reassess standards that require auto makers to sell vehicles averaging 54.5 miles a gallon, or 40 mpg in real-world driving, by 2025. Speaking to auto workers in Michigan, President Donald Trump proclaimed the move a victory for the industry that would preserve American jobs.

“We are going to ensure that any regulations we have protect and defend your jobs and your factories,” Mr. Trump said at a former Ypsilanti, Mich., assembly plant near Detroit. “We’re going to be fair.”

Mr. Trump won Michigan, long a reliable state for Democrats, by a slim margin in November’s election, helping propel him to the White House, and has vowed to push back on the actions of federal regulatory agencies, including the EPA.

“We want to be the car capital of the world again and we will be, and it won’t be long, believe me,” Mr. Trump said. “We helped the companies. And they’re going to help you.”

Before the rally, Mr. Trump and auto executives toured the former assembly plant, now a testing center for connected and self-driving cars, and pressed auto makers to continue hiring.

“You have to build plants here,” Mr. Trump said to Jim Lentz, Toyota Motor Corp.’s top North American executive. “I know I gave you a hard time, but you have to build them here.”

“I understand,” Mr. Lentz replied.

Ahead of Mr. Trump's first visit to the state as president, General Motors Co. disclosed plans to hire and retain employees at two Michigan factories. The Detroit auto maker has been cutting jobs in the Midwest in response to slumping passenger-car demand. Mr. Trump met with executives including GM Chief Executive Mary Barra, who sits on his business advisory council, and Ford Motor Co. CEO Mark Fields, a member of a White House manufacturing group.

"I told them, 'That's peanuts,'' Mr. Trump said of investments from GM and other car companies, urging them to build more factories in the U.S.

Reopening the review of the emissions and mileage standards gives car makers a significant reprieve after Mr. Trump targeted several companies with Twitter missives over their foreign investments and threatened to tax Mexican imports they rely upon to boost U.S. sales and pad North American profits.

In response, auto makers spotlighted U.S. commitments and in some cases changed foreign-investment plans. Mr. Trump in turn changed his tone and lauded the moves even as some companies said they were long-planned and not responses to his criticisms.

Mr. Trump said Wednesday his election had stopped the construction of automotive factories in other countries. "I just want to tell the leaders they made some very wise decisions," he said, referring to car executives.

The Obama administration made a final determination on car-emissions standards a week before Mr. Trump was inaugurated, closing a review of tougher targets looming between 2022 and 2025. The process wasn't expected to be completed until April 2018.

The Trump administration's reopening of the review comes after weeks of industry lobbying and opens the door for the standards to eventually be relaxed.

The Obama administration's earlier-than-expected decision "slammed the door on the fingers of the auto industry," said Mike Jackson, chief executive at AutoNation Inc., the U.S.'s largest dealership chain, on CNBC.

Auto makers contend the current targets will be difficult to meet in an era of cheap gasoline and soaring sales of higher-emitting and fuel-thirsty pickup trucks and sport-utility vehicles. Electric cars and hybrids the industry argues are needed to comply make up a sliver of U.S. sales. The EPA previously found the standards could be met with conventional engine technologies without relying too much on electric vehicles.

"Ultimately, all of these things can be achieved at a price," said Fiat Chrysler Automobiles NV CEO Sergio Marchionne. "The question is: Can the consumer afford to pay for all the technology in the car?"

A move to reopen the review is in line with Mr. Trump's pledge to dismantle Obama-era climate-change regulations. EPA Administrator Scott Pruitt last week questioned whether the EPA can legally regulate carbon emissions and expressed doubt about their contribution to global warming.

Ford's Mr. Fields lobbied Mr. Trump directly during a White House breakfast in January with other car executives. Senior car executives followed with a letter to Mr. Trump seeking to reopen the review, and industry lobbying groups then petitioned Mr. Pruitt. One industry lobbying group told Mr. Pruitt complying with current standards would cost car companies $200 billion.

Mr. Trump's move went over well with workers like John Rudolph, who has worked at Fiat Chrysler's pickup-truck plant in Warren, Mich., for 45 years.

"Hopefully he'll make things easier on the car companies to meet gas-mileage rules," the 65-year-old Mr. Rudolph said, adding he believes Mr. Trump is preventing jobs from leaving the U.S.

Mr. Rudolph's factory makes Ram pickups and is one of two factories receiving a combined $1 billion in upgrades and 2,000 additional jobs. Mr. Trump on Wednesday mentioned the commitment, made in January following his criticism of Detroit auto makers' Mexican imports.

Mr. Trump spoke inside a hangar once used to house and repair bombers during World War II, before a red, white and blue banner that read: "Buy American—Hire American."

Environmental groups decried the move to reopen the emissions review, arguing the EPA has already conducted extensive research demonstrating the stringent emissions and mileage targets will cut oil consumption, reduce greenhouse-gas emissions and save consumers $92 billion at the fuel pump.

"The current standards helped the auto companies move from bankruptcy to profitability, and there is no reason they cannot be met," said Rhea Suh, president of the Natural Resources Defense Council. "This is just another part of President Trump's retreat from action on climate change."

Auto makers are now walking a fine line, attempting to pursue tweaks in the regulations without undoing them. California has a waiver from the EPA to set its own standards for tailpipe emissions that are currently aligned with U.S. targets as part of a "one national program," avoiding a patchwork of regulations auto makers oppose.

California Gov. Jerry Brown, a Democrat, signaled a potential battle ahead. Wednesday's decision is "an unconscionable gift to polluters," he said in a letter to the EPA's Mr. Pruitt.

"If Washington continues down this road, California will take the necessary actions to preserve current standards and protect the health of our people and the stability of our climate," Mr. Brown wrote.

Washington Post
https://www.washingtonpost.com/business/economy/trump-says-he-will-review-obama-administration-fuel-efficiency-standards/2017/03/15/767b6d3e-099d-11e7-93dc-00f9bdd74ed1_story.html?utm_term=.9941efa11581
Trump says he will review Obama administration fuel efficiency standards
By Steven Overly 3/15/17 7:07 PM

President Trump opened the door Wednesday to rolling back fuel efficiency standards that were adopted during the Obama administration, a move that could lead to a legal fight with state regulators and environmental groups in the coming years.

In January, the Environmental Protection Agency reaffirmed that automakers must achieve an average 54.4 mpg across their fleets by 2025. But Trump pledged Wednesday to review those standards in a speech at the American Center for Mobility in Ypsilanti, Mich. He told auto plant workers there that his administration will ensure the regulations do not lead to job losses and factory closures.

"Were going to work on the [fuel] standards so you can make cars in America again," Trump said.

The announcement does not change existing regulations, but Democrats and environmentalists fear it signals the administration's desire to weaken rules they view as critical to reducing greenhouse gas emissions.

They also worry that the administration could eventually target an EPA waiver that allows California and a dozen other states to set stricter emissions standards than the federal government. Automakers will still be compelled to produce more fuel efficient cars so long as the regulations in California, the country's largest car market, remain in place.

"Making this U-turn on fuel economy is the wrong way to go for our security, economy and environment," Sen. Edward J. Markey (D-Mass.) said in a statement .

The three major entities that regulate automobile emissions — the EPA, the National Highway Traffic Safety Administration and the California Air Resources Board — agreed to the fuel economy standards in 2012 and vowed to conduct a review in 2017 and 2018 to determine whether they remained technologically and economically feasible. The standard is 35.5 mpg.

Last year, the EPA determined the industry was on track to reach the goal and that the standards remained appropriate. After Trump's election in November, the agency moved to make that judgment final ahead of schedule despite the industry's request to adhere to the review's original timeline.

Even before Trump's announcement, the Auto Alliance, a trade association, challenged the EPA ruling in court, claiming it was "arbitrary and capricious" and exceeded the agency's legal authority. California filed a motion late Tuesday in support of the EPA's decision, and other states have indicated they will do the same.

Trump criticized the Obama administration for expediting its review of the standards, and a senior White House official said Tuesday that the EPA ignored "a voluminous record of data" when it reached its conclusion.

The EPA formally rescinded that decision Wednesday.

Before the speech, Trump met with auto executives who took turns pitching Trump on the efforts their companies are making to build vehicles in America.

UAW President Dennis Williams, who also attended the meeting, told Trump that "we have to deal with the environment and we have to do it in a responsible way."

Trump nodded and replied that he agreed "100 percent," adding that he didn't think that lower standards should prevent automakers from making new cars.

"If it takes an extra thimble of fuel, we don't want that to stop you," Trump said.

Automakers eagerly welcomed the announcement. Many contend that the regulations place a financial burden on automobile makers, which is likely to result in employee layoffs or more expensive cars.

"After all, these decisions impact the more than 7 million Americans dependent on autos for employment, as well as the driving public seeking affordable transportation," Mitch Bainwol, president and chief executive of the Auto Alliance, said in a statement.

Rebecca Lindland, senior director at Kelley Blue Book, said that meeting the existing standards will be "extremely challenging," because sales of electric vehicles have been tepid and Americans are buying large numbers of less-efficient SUVs and trucks.

Automakers "would certainly like this standard to be more closely representative of what consumers are already buying," Lindland said, adding that she expects the industry will continue to develop vehicles with more efficient combustion engines.

Washington Post
https://www.washingtonpost.com/news/innovations/wp/2017/03/15/trump-to-pull-back-epas-fuel-efficiency-determination-opening-the-door-for-reduced-standards/?utm_term=.5e16995c266b
Trump's review of car fuel standards could lead to fight with California, environmentalists
By Steven Overly 3/15/17 6:25 PM

President Trump opened the door Wednesday to rolling back fuel efficiency standards that were adopted during the Obama administration, a move that could lead to a legal fight with state regulators and environmental groups in the coming years.

In January, the Environmental Protection Agency reaffirmed that automakers must achieve an average 54.4 mpg across their fleets by 2025. But Trump pledged Wednesday to review those standards in a speech at the American Center for Mobility in Ypsilanti, Mich. He told auto plant workers there that his administration will ensure the regulations do not lead to job losses and factory closures.

"Were going to work on the [fuel] standards so you can make cars in America again," Trump said. "We're going to help the companies and they're going to help you."

The announcement does not change existing regulations, but Democrats and environmentalists fear it signals the administration's desire to weaken rules they view as critical to reducing greenhouse gas emissions.

They also worry the administration could eventually target an EPA waiver that allows California and a dozen other states to set stricter emissions standards than the federal government. Automakers will still be compelled to produce more fuel efficient cars so long as the regulations in California, the country's largest car market, remain in place.

"Making this U-turn on fuel economy is the wrong way to go for our security, economy and environment," Sen. Ed Markey (D-Mass.) said in a statement Wednesday. "Undoing the fuel economy standards will also lead to costly litigation and create needless uncertainty for the auto industry, threatening the economic and employment gains automakers have made in recent years."

The three major entities that regulate automobile emissions — the EPA, National Highway Traffic Safety Administration and California Air Resources Board — agreed to the fuel economy standards in 2012 and vowed to conduct a review in 2017 and 2018 to determine whether they remained technologically and economically feasible. The current standard is 35.5 mpg.

Last year, the EPA determined the industry was on track to reach the goal and that the standards remained appropriate. After Trump's election in November, the agency moved to make that judgment final ahead of schedule despite the industry's request to adhere to the review's original timeline.

Even before Trump's announcement, the Auto Alliance, a trade association, challenged the EPA ruling in court, claiming it was "arbitrary and capricious" and exceeded the agency's legal authority. California filed a motion late Tuesday in support of the EPA's decision, and other states have indicated they will do the same.

Trump criticized the Obama administration for expediting its review of the standards, and a senior White House official said Tuesday that the EPA ignored "a voluminous record of data" when it reached its conclusion.

The EPA formally rescinded that decision on Wednesday.

"If the standards threatened auto jobs, then common sense changes could have and should have been made," Trump said.

Prior to the speech, Trump toured a display of vehicles made in the U.S. by a variety of automakers. He then met with auto executives who took turns pitching Trump on the efforts their companies are making to build vehicles in America.

UAW President Dennis Williams, who also attended the meeting, told Trump "we have to deal with the environment and we have to do it in a responsible way."

Trump nodded and replied that he agreed "100 percent," adding that he didn't believe lower standards should prevent automakers from making new cars.

"If it takes an extra thimble of fuel, we don't want that to stop you," Trump said.

Automakers eagerly welcomed the announcement. Many contend that the regulations place a financial burden on automobile makers, which is likely to result in either employee layoffs or more expensive cars.

"After all, these decisions impact the more than 7 million Americans dependent on autos for employment, as well as the driving public seeking affordable transportation," Mitch Bainwol, president and CEO of the Auto Alliance said in a statement.

Rebecca Lindland, senior director at Kelley Blue Book, said that meeting the existing standards will be "extremely challenging," because sales of electric vehicles have been tepid and Americans are buying large numbers of less-efficient SUVs and trucks.

Automakers "would certainly like this standard to be more closely representative of what consumers are already buying," Lindland said, adding that she expects the industry will continue to develop vehicles with more efficient combustion engines. "Consumers want the most fuel efficient version of a vehicle they already want to buy."

InsideEPA
https://insideepa.com/daily-news/epas-reopening-vehicle-ghg-decision-opens-door-industry-pitch
EPA's Reopening of Vehicle GHG Decision Opens Door For Industry Pitch
By Doug Obey 3/15/17

EPA's move to reopen its mid-term review of light-duty vehicle greenhouse gas standards gives automakers an opportunity to build a case over the next year to support weakening the requirements, though the agency faces several significant hurdles to softening the federal GHG and fuel economy limits.

A key challenge for EPA and the Transportation Department (DOT) will be to craft a technical record to defend any rollback of the Obama administration standards -- after the Obama EPA decision to retain the standards that relied significantly on conclusions that advanced gasoline engine and other technologies are available to meet the standards at reasonable costs without wholesale deployment of hybrid or pure electric vehicles.

Environmentalists and consumer advocates are already framing the announcement politically as a retreat on vehicle efficiency that will help "big oil and auto executives" while hurting consumers. And they are suggesting any rollback

effort is doomed to fail in the courts, given the difficulty of refuting the Obama administration's technical defense of the standards.

And several states are seeking to intervene in auto industry litigation challenging the Obama EPA decision, offering a vigorous defense of the standards.

President Donald Trump during a March 15 appearance in Detroit announced a plan to "cancel" EPA's January decision to keep its GHG standards in place, echoing automaker claims that the Obama administration "cut short" a promised mid-term review of the standards that had previously been slated for completion in 2018.

Trump also framed the action as part of a larger goal of protecting U.S. industry from unfair trade practices and regulations. "Today I am announcing we are going to cancel that executive action," Trump said. "We are going to restore the originally scheduled mid-term review, and we are going to ensure that any regulations we have protect and defend your jobs, your factories," he said.

In tandem with the announcement, EPA released a formal notice stating that it "intends" to issue a new determination on whether to retain or change its vehicle GHG standards for model year (MY) 2022-2025 vehicles, justifying its move by arguing that the Obama EPA did not consult the National Highway Traffic Safety Administration (NHTSA) when it made the January determination.
"NHTSA's views with regard to what [corporate average fuel economy (CAFE)] standards would be maximum feasible for those model years is an appropriate consideration in EPA's determining what GHG standards would be appropriate under the" Clean Air Act, says the notice, which was signed by EPA

Administrator Scott Pruitt and Transportation Secretary Elaine Chao.

Accordingly, EPA "has concluded that it is appropriate to reconsider its Final Determination in order to allow additional consultation and coordination with NHTSA in support of a national harmonized program."

The administration's plan to revisit the determination has been expected for weeks, though it was initially unclear whether officials would go further and explicitly challenge California's special waiver authority to adopt state GHG vehicle standards -- a significant barrier to an EPA decision to weaken the GHG limits.

The administration has not taken such a step, and has vowed to work with the Golden State as it moves forward on the issue. However, California Gov. Jerry Brown (D) issued a sharp rebuke to EPA's move, suggesting that a confrontation on the state's authority could be coming soon.

Automaker Lawsuit

Even before the Trump announcement, the Alliance of Automobile Manufacturers formally challenged the Obama determination, filing a March 13 suit in the United States Court of Appeals for the District of Columbia Circuit. California is already seeking to intervene in that suit, with one or more others state to follow.

But a look at prior auto industry comments on the Obama EPA's decision -- written during the proposal stage -- may offer a particularly clear window into the next stage of the fight over the GHG standards. The comments articulate roughly two dozen technical areas in which the industry argues EPA's analysis is flawed, telegraphing the industry's intent to submit additional studies questioning the stringency of the current standards.

"The premature release of the Proposed Determination precluded consideration by EPA of pending studies and more current information," say the December comments, calling for a "return to originally anticipated timelines for the" mid-term review to allow consideration of additional data under preparation by stakeholders.

The alliance cited existing or pending studies as deserving greater EPA attention -- including a so-called baseline study by Novation Analytics arguing in part that the industry is being forced to rely more than anticipated on emissions credits to comply with standards in the early years of the program.

In addition, the comments say the alliance "has also undertaken or sponsored other studies that could not be completed before the close of the Proposed Determination comment period," referencing a then-pending industry assessment of draft modeling of a technical report that underpinned EPA's determination, as well as the second stage of an Indiana University study on fuel economy policy backed by automakers, which floats a variety of both regulatory and legislative changes to GHG and fuel economy mandates.

The comments also reference the need for more analysis of several models used to develop the standards, and urges more study of "consumer acceptance and impacts" of the MY 2022-2025 standards on sales and the economy.

However, former EPA air chief Janet McCabe in a March 15 interview with *Inside EPA* defended EPA's final determination, noting that the decision was based on "dozens and dozens of studies."

McCabe called the vehicle rules a "major major step forward," and said automakers have been overcomplying with the program to date.

In reference to the Trump administration's announcement, she said she is "very concerned about any program that would significantly reduce the progress that we are making on making vehicles more efficient and less polluting on CO2."

McCabe also warned that the administration will face obstacles from "stakeholders" who argued in 2016 that EPA should not only retain but strengthen the standards, and who are now likely to reiterate those arguments in response to the administration's move.

Groups in that category include environmentalists, states, and consumer advocates, who have already begun to preview their strategy.

During a March 15 press call by consumer advocates and businesses who support the standards, speakers said any move to weaken the standards is legally indefensible. "Clearly the president hasn't given us any indication that he's interested in an objective second look," said Consumer Federation of America's Mark Cooper. "I think the fair hearing we'll get is in

the court when [administration officials] can't actually show there's an honest, evidentiary basis for changing their mind. . . . We don't think they can reverse the record."

Cooper also argued that automakers "had plenty of time" to offer analysis during the mid-term review process. "We looked at their stuff. Frankly, it was junk."

Shannon Baker-Branstetter of Consumers Union added: "Now we're seeing automakers come up with new cost estimates [of the rules] that are much higher than prior estimates" from EPA, NHTSA and groups such as the International Council on Clean Transportation." She said the industry "will probably now get a new chance to put these numbers in the record. That doesn't mean those are more accurate or EPA's record doesn't stand on its own as it is."

'Preserve Current Standards'

The Trump administration's move also faces stiff resistance from California, which has air act authority to implement its own vehicle program and appears unlikely to agree to weakened standards.

Brown in separate March 15 letters to Pruitt and automakers offered an aggressive warning that the Golden State would use its special air act authority to retain current state GHG standards aligned with the current federal limits.

"If Washington continues down this road, California will take necessary actions to preserve current standards and protect the health of our people and the stability of our climate," Brown writes in his letter to Pruitt. Brown in the letter to automaker groups, charged that their request to reopen the mid-term review "breaks your promise to the American people," referring to automakers' broad embrace of the GHG and fuel economy rules in 2011.

California March 14 moved to intervene in the automakers' March 13 lawsuit against the Obama determination. Its air board is also scheduled to finalize its separate mid-term review -- the proposed version of which called for retaining current GHG limits -- at a March 24 meeting, according to an agenda released March 15.

Asked whether the air board might postpone its move given EPA's recent decision to reopen the mid-term review, a board spokesman says: "We don't plan to do anything differently."

New York Attorney General Eric Schneiderman (D) March 15 also announced plans to seek intervenor status in the case, and led a coalition of nine states in a joint March 15 statement criticizing the reopening of the vehicle GHG rules.

"We will vigorously oppose attempts by the Trump Administration to weaken our vehicle emission policies and put our public health at risk, and we won't hesitate to stand up for the right of our states to adopt stricter pollution standards that provide critical protections to the health of our residents and our environmental resources," the statement says.

Many of the states in the coalition have adopted California's vehicle GHG standards, pursuant to a separate provision in the Clean Air Act. -- *Doug Obey* (dobey@iwpnews.com) *& Lee Logan* (llogan@iwpnews.com)

Kevin McGonagle

Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/14/2017 2:24:33 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Washington Post: Trump administration halts Obama-era rule aimed at curbing toxic wastewater from coal plants, 4/14/17

Washington Post
https://www.washingtonpost.com/news/energy-environment/wp/2017/04/13/trump-administration-halts-obama-era-rule-aimed-at-curbing-toxic-wastewater-from-coal-plants/?utm_term=.efd754290a29
Trump administration halts Obama-era rule aimed at curbing toxic wastewater from coal plants
By Brady Dennis 4/13/17, 4:43PM

The Trump administration has hit the pause button on an Obama-era regulation aimed at limiting the dumping of toxic metals such as arsenic and mercury by the nation's power plants into public waterways.

"I have decided that it is appropriate and in the public interest to reconsider the rule," Scott Pruitt, head of the Environmental Protection Agency, wrote this week in a letter to groups that had petitioned the agency to revisit the rule, which was finalized in 2015.

Beginning in 2018, power plants would have had to begin showing that they were using the most up-to-date technology to remove heavy metals — including lead, arsenic, mercury and other pollutants — from their wastewater. Pruitt wrote that the EPA plans to postpone compliance deadlines for the regulation, which is also being challenged in a federal court. On Thursday, the EPA said the rule would cost the industry hundreds of millions of dollars a year to comply with.

"This action is another example of EPA implementing President Trump's vision of being good stewards of our natural resources, while not developing regulations that hurt our economy and kill jobs," Pruitt said in a statement. "Some of our nation's largest job producers have objected to this rule, saying the requirements set by the Obama administration are not economically or technologically feasible within the prescribed time frame."

The move drew immediate condemnation from environmental groups, which called it a gift to the energy industry. They insisted that the Trump administration focused only on potential costs of the rule while ignoring its benefits, and that delays in compliance will endanger wildlife and pose health threats to families that live near coal plants, as exposure to heavy metals can cause problems with cognitive development in children, among other problems.

"Trump's attempt to halt these clean water protections for mercury, lead and arsenic from coal power plants is dangerous and irresponsible," the Sierra Club's Mary Anne Hitt said in a statement.

That group and others noted that power plants represent the largest industrial source of toxic wastewater pollution in the country and that more than a third of coal plants discharge wastewater within five miles of a downstream community's drinking water intake. They also argued that the Obama administration's rule was based on years of peer-reviewed studies, input from health experts and a mountain of public comments.

"Despite all this, Trump's EPA administrator is trying to throw it all away to placate polluters," Hitt said. "Trump's decision to attack our right to clean water on behalf of coal executives is just another indication of who this administration works for — and it isn't American families."

In its push to finalize the rule in 2015, the Obama administration noted that federal standards to curb toxic dumping by coal-fired power plants had not been updated in several decades and that states had left the problem largely unregulated. But in the past month, industry representatives have urged the new administration to revisit the rule.

A coalition of energy companies known as the Utility Water Act Group argued in a petition that stretched more than 100 pages that the regulation, if left in place, "will cause negative impacts on jobs dues to the excessive costs of compliance — which were grossly underestimated by the EPA — and regulatory burdens forcing plant closures. Those impacts are being, and will be, felt in communities around the country." That group, as well as the U.S. Small Business Administration, also argued that the rule represents precisely the type of regulation that Trump targeted in a recent executive order instructing the government to revise regulations whose costs outweigh their benefits.

Pruitt appears to agree. In a Federal Register notice filed this week, the EPA said "justice requires" it to stay the regulation's current deadlines "in light of the capital expenditures that facilities incurring costs under the Rule will need to undertake in order to meet the compliance deadlines for the new, more stringent limitations and standards in the rule."

On Thursday, Pruitt visited a coal mine in southwestern Pennsylvania to launch what the EPA called a "back-to-basics" agenda. That agenda includes rolling back a broad range of Obama-era regulations, most notably the Clean Power Plan, which sought to regulate carbon dioxide emissions from the nation's power plants.

"The coal industry was nearly devastated by years of regulatory overreach," Pruitt said in a statement touting his visit. "But with new direction from President Trump, we are helping to turn things around for these miners and for many other hard working Americans."

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 2/27/2017 2:51:15 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17 [actadmmccabe.catherine17@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schnare, David [schnare.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Administrator Pruitt Clips 2/27/17

Below: E&E News, The Hill (2/26), The Daily Caller (2/25), Washington Times (2/25)

E&E News
http://www.eenews.net/climatewire/2017/02/27/stories/1060050573
Pruitt promises 'aggressive' rollback of regs this week
By Emily Holden 2/27/17

NATIONAL HARBOR, Md. — U.S. EPA Administrator Scott Pruitt on Saturday rallied conservatives and promised to rein in the agency.

Speaking at the Conservative Political Action Conference, Pruitt said he would focus on adhering to the formal rulemaking process and stick to the confines of federal law. At the same time, the new administrator said he would promote clean air and water and clean up Superfund sites.

"There's some very important work to protect and provide leadership in the government space. But what's happened in the last several years is the previous administration was so focused on climate change and so focused on CO2 that some of those other priorities were left behind," Pruitt said.

"We as Republicans don't have anything to be apologetic about with respect to the environment. Nothing. We have always believed that you can grow jobs and grow the economy while also ... being a good steward of the environment."

Pruitt hinted at big action this week to start rolling back controversial environmental regulations.

"I think there are some regulations that in the near term need to be rolled back in a very aggressive way," he said. Others may take longer, he noted. In particular, he mentioned the Clean Power Plan, methane standards for the oil and gas industry, and the Waters of the United States rule. Pruitt added that "executive agencies only have the power that Congress has given them."

A former college baseball player, Pruitt repeatedly used a slogan coined by legend Yogi Berra.

"The future ain't what it used to be," Pruitt told attendees who stood and applauded for him in the closing hours of CPAC.

Still, he said that when he made his first address to staff last week, he "wanted to send a message to the agency that there are some very important things EPA does."

Pruitt said states care about clean air and water and are "partners, not adversaries." The new EPA administrator said he would devote resources to visit governors and work with them. One of his first official acts last week was to sit down with Texas Gov. Greg Abbott (R).

While Pruitt touted his support for a clean environment, his reported hiring picks suggest he will focus mostly on nixing regulations. To lead his Office of Policy, Pruitt will choose Samantha Dravis, who aided in fights against EPA in senior roles with the Republican Attorneys General Association and its affiliated Rule of Law Defense Fund, according to Axios.

'We stopped the Clean Power Plan'

In a Q&A after his speech Saturday, a speaker interviewing Pruitt asked for a show of hands from the audience of how many want to eliminate EPA. The crowd cheered.

Asked whether he would support people on social media who have said they want to cut the agency's budget 90 percent, Pruitt said, "It's something that's very difficult to know at this point."

"In the near term, the most important thing we can focus on at the EPA is getting the law right, making sure that the regulations that are posted and adopted by that agency are consistent with the rule of law and consistent with the congressional mandate, and then roll back those that are inconsistent," he said.

The Trump administration has vowed to take apart climate regulations in particular. Executive action to promote fossil fuels and eliminate climate rules is likely this week.

Pruitt said during his Senate confirmation hearing that humans are "in some manner" contributing to climate change.

At CPAC, he said the specific impact is unknown.

"To measure with precision, that is something that is very difficult to do," he said.

He steered the conversation away from whether climate change is real to how policymakers can act.

"If it is happening, what can Congress and what can the administrative state do about it?" he asked. "If the tools aren't in the toolbox and Congress hasn't spoken on the issue, agencies can't just make it up."

Pruitt built his career on lawsuits against the federal government for agency action that he thought was not mandated by law, including EPA's climate standards for coal plants, the Clean Power Plan.

The Supreme Court has found that federal law requires EPA to regulate greenhouse gases as pollutants, but Pruitt says he believes EPA overstepped its authority in asking power companies to shift away from coal.

Pruitt proudly acknowledged suing EPA 14 times as the attorney general of Oklahoma. He said it was "deservedly."

"We not only sued. We won. We stopped the Clean Power Plan. We stopped WOTUS," he said.

The Supreme Court stayed the Clean Power Plan last year, although the courts have not settled whether the climate rule is legal. President Trump and Pruitt plan to do away with the regulation as it is written.

A generational split on climate among conservatives

When Pruitt left the stage, John Jeffrey, a freshman at George Washington University who is gay and considers himself a Republican "centrist," waited to catch the EPA administrator as he exited.

Jeffrey, from Long Island, N.Y., said he was initially apprehensive about Pruitt because he thinks climate change is happening and will only get worse.

"I was worried a lot about him cutting the funding for the EPA and deregulating to the point where the environment was going to be impacted in a negative fashion that was going to be too extreme, and of course I was worried about people in areas who rely on water quality," Jeffrey said, noting lead contamination in the water supply of Flint, Mich.

But Pruitt's speech largely changed Jeffrey's mind.

"After hearing what he had to say about the idea of 'It's not mutually exclusive, you can be pro-energy and pro-environment,' it made me a lot more hopeful," he said.

Frank and Sarah Arch, who live in Northern Virginia, brought their 11-year-old daughter, Millie, to CPAC. The three were decked out in Trump gear. Frank proudly lifted his pant cuffs to show off his Trump socks and shoes.

"I think we have a man who will help our EPA start focusing on the No. 1 priorities, which are clean water, clean air," Sarah Arch said.

She said she believes EPA hasn't regulated air at all, and she noted the agency has fallen behind on some reviews. But Sarah and Frank Arch both said that they don't want EPA to shut down coal plants to limit pollution. They said that if clean energy makes sense, companies will pursue it on their own.

"They want to put coal out of business. That shouldn't be the goal. The goal is clean air and clean water," Frank Arch said.

Several CPAC attendees cited their personal experiences with government waste or clean energy in expressing support for Pruitt.

Jeffrey said Medicare rented his friend's grandmother an electric wheelchair after a surgery when it would have cost the same to buy it for her. The Arches said they considered getting solar panels for their roof so they could have backup power, but they then balked at the cost.

Kathy Ponce, who came to CPAC with a group of girlfriends from Fontana, Calif., said she's glad Pruitt is in charge and thinks environmentalists have taken things too far.

"They're monitoring cow farts in California," she said.

Ponce said she thinks climate change is "the biggest hoax there is."

"It's not a proven science," she said. "There are some articles that, yes, it is a proven science. But you can also pull a lot of studies up that it's not a proven science. Just follow the weather pattern and the climate history of the past 100 years. It's called weather. It fluctuates."

The Hill
http://thehill.com/policy/energy-environment/321093-five-takeaways-from-the-scott-pruitt-emails
Five takeaways from the Scott Pruitt emails
By Timothy Cama 2/26/17, 8:00AM

A liberal group this week released thousands of pages of emails, obtained under an open records law, detailing communications between new Environmental Protection Agency (EPA) head Scott Pruitt and various energy and conservative interest groups.

The emails painted a picture of an office that went out of its way to coordinate with the fossil fuel and conservative organizations.

Pruitt's staffers often shared talking points, memos, strategy and more with the outside groups or companies and were in frequent conversation with them.

The documents also provided a unique perspective into Pruitt's priorities and concerns on environmental and other legal matters.

Here are five takeaways from the documents and the stories surrounding them.

The emails probably would not have threatened Pruitt's confirmation

Senate Democrats argued Pruitt's confirmation vote should have been delayed until the emails were released.

The GOP refused to budge and voted 52 to 46 on Feb. 17 to confirm him, mostly along party lines.

"Seeing industry representatives fawning over Pruitt's efforts to attack the EPA, it's clear that this information should have been closely examined by the Senate as we considered his nomination to run that agency," Sen. Sheldon Whitehouse (D-R.I.) said after the records were published.

But it's unlikely that the emails would have significantly shifted the winds against Pruitt: members already knew about significant coordination between Pruitt and the fossil fuel industry, thanks to a 2014 *New York Times* story that revealed industry ties beyond what the contents of the emails showed.

The new documents only reinforced what Democrats and liberal groups have long argued: He is a close ally of the fossil fuel industry and his office frequently collaborated with those interests.

"There was no new information in these emails to support the left's anti-Pruitt fever dreams," said Jeremy Adler, a spokesman for the conservative research group America Rising Squared.

Pruitt's office frequently worked with Oklahoma companies and groups

One of the major themes that emerged from the emails is that Pruitt's staffers and top deputies often went to great lengths to assist fossil fuel, utility and conservative interests and often used talking points and analysis from them.

Most of the communications involved groups in Pruitt's home state.

For example, Devon Energy Corp., an oil and natural gas producer based in Oklahoma City, frequently was in touch with Pruitt's office, as was the Public Service Company of Oklahoma, a unit of utility giant American Electric Power Co.

Staffers also frequently worked closely with conservative organizations such as the Oklahoma chapter of Americans for Prosperity and the Oklahoma Council of Public Affairs.

"Frankly, he came from an oil and gas state and you would expect that kind of an interchange between he and the constituents in that state, and he was an elected representative of those constituents," Christine Todd Whitman, an EPA administrator under President George W. Bush and frequent critic of President Trump and Pruitt, told MSNBC.

Pruitt's office was worried about impacts of the ethanol mandate

The emails provide a window into how Pruitt's office dealt with the federal ethanol blending mandate for gasoline refiners.

In one 2013 exchange, Clayton Eubanks, Pruitt's deputy solicitor general, discusses strategies to get the EPA to lower ethanol blending requirements with Richard Moskowitz of the American Fuel and Petrochemical Manufacturers.

Specifically, the two discussed the "economic and environmental harm" to Oklahoma from requiring too much ethanol.

Moskowitz asked Eubanks to file a formal petition with the EPA to waive certain aspects of the mandate, to align with one the refiners' group would file.

Oklahoma did not end up filing the petition. But Pruitt applauded the EPA's decision later that year to reduce the mandate, saying in a statement that "the decision by the EPA to lower that standard is good news for Oklahoma consumers."

At his January confirmation hearing, Pruitt declined to go too strongly in favor of ethanol or oil, to the anger of some senators representing corn-heavy states.

He pledged only to "honor the intent" of the standard, telling Sen. Deb Fischer (R-Neb.), "it is not the job of the administrator of the EPA to do anything other than administer the program according to the intent of Congress, and I commit to you to do so."

More emails are likely coming

The Center for Media and Democracy, the liberal group behind the releases, filed numerous requests for Pruitt's communications, so more records are likely to be released.

Aides to Mike Hunter, Oklahoma's current attorney general, are seeking more time to comply with the request, which could delay the release of new records. The state Supreme Court will hold a hearing on Hunter's request on Tuesday.

The emails are likely to keep dripping out, and they could lead to a stream of potentially negative news regarding the new EPA administrator, similarly to the periodic releases of Hillary Clinton email records during the 2016 election cycle by the State Department.

In addition, the office of Oklahoma Gov. Mary Fallin (R) was ordered this week by a court to release documents related to two executions, the Tulsa World reported.

Since Pruitt was the state's top lawyer, some of the records could provide insight into his role in the cases.

The emails could sow unrest at the EPA

Some of the EPA's 15,000 employees and union leaders have made no secret about their contempt for their new leader.

Further evidence of his close ties to fossil fuel interests — which are often in the EPA's crosshairs in pollution enforcement — is likely to sow even more unrest.

EPA employees went so far as to lobby the Senate against Pruitt's confirmation, an unprecedented step, due to his fossil fuel ties and his frequent litigation against the agency while he was Oklahoma's top attorney.

"Mr. Pruitt's background speaks for itself, and it comes on top of what the president wants to do to EPA," John O'Grady, president of the EPA's union, told the New York Times.

"It seems like Trump and Pruitt want a complete reversal of what EPA has done. I don't know if there's any other agency that's been so reviled," Nicole Cantello, a union leader in the Chicago area, told the Times.

Daily Caller
http://dailycaller.com/2017/02/25/scott-pruitt-its-justified-for-people-to-want-the-epa-abolished/
Scott Pruitt: It's 'Justified' For People To Want The EPA Abolished
By Chris White 2/25/17

The head of the Environmental Protection Agency (EPA) said Saturday that people are absolutely justified in wanting President Donald Trump to abolish the agency.

Scott Pruitt, who was narrowly confirmed as Trump's EPA chief last week, told a crowd at the Conservative Political Action Conference that people should be angry the EPA has abused "its authority" as the country's primary environmental regulator.

He added the agency is committed to working with not against states to protect the U.S.'s waterways and environment. Pruitt also said he intends on working within the "rule of law," not making up laws on a whim.

The former Oklahoma attorney general's comments come a few days after a liberal watchdog group released nearly 8,000 emails that show Pruitt kept in communication with various energy groups in his state.

The Center for Media and Democracy, a watchdog group with financial ties with billionaire financier George Soros, sued to have the emails released after it claimed the Oklahoma Republican stonewalled information requests for two years.

The emails, which date back to 2013, show that various groups, including the Koch brothers and Devon Energy, reached out to thank Pruitt's office for engaging in legal fisticuffs with former President Barack Obama's environmental agenda.

Pruitt has become a punching bag for environmentalists and Democrats, many of whom are convinced the Oklahoma Republican will do everything he can to dismantle the EPA. They worked hard trying to derail Pruitt's confirmation hearing.

They failed. Only two Democrats – Sens. Heidi Heitkamp of North Dakota and Joe Manchin of West Virginia – bucked their party and voted in favor of Pruitt to head the agency. Their support came even after their Democratic colleagues continued to call the Oklahoma AG a "climate denier" who will do the bidding of "Big Oil.

Washington Times
http://www.washingtontimes.com/news/2017/feb/25/scott-pruit-epa-administrator-says-obama-neglected/
Obama administration neglected priorities to focus on climate change, new EPA chief says
By David Sherfinksi 2/25/17

Environmental Protection Agency Administrator Scott Pruitt on Saturday said the Obama administration neglected would-be department priorities to pursue a climate change agenda and hinted that a rollback of some regulations could be announced as soon as next week.

"I wanted to send a message to those at the agency — there are some very important things that the EPA does for this country," Mr. Pruitt said on the final day of the Conservative Political Action Conference. "There are air quality issues and water quality issues that cross state line[s]."

"There's some very important work to protect and provide leadership … but what's happened over the last several years is the previous administration was so focused on climate change and so focused on CO2 that some of those other priorities were left behind," he said.

He said some regulations will be rolled back in the near term "in a very aggressive way."

"Next week, you may be hearing about some of those," he said.

He said the Obama administration "transformed" the Clean Water Act through the Waters of the United States rule on regulating streams and rivers.

Mr. Pruitt's agency could also roll back the Obama administration's Clean Power Plan, which imposed carbon dioxide limits on the country's power plants.

He did concede that a sentiment among some conservatives that the EPA should just go away is "justified."

"I think people across this country look at the EPA much like they look at the IRS," he said, also saying he hoped to change that.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/17/2017 1:54:45 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
Subject: National Law Review: EPA Launches Back To Basics Agenda at Pennsylvania Coal Mine, 4/17/17

The National Law Review
http://www.natlawreview.com/article/epa-launches-back-to-basics-agenda-pennsylvania-coal-mine
EPA Launches Back To Basics Agenda at Pennsylvania Coal Mine
4/16/17

U.S. Environmental Protection Agency Administrator Scott Pruitt visited the Harvey Mine in Sycamore, Pa., today, to meet with coal miners and announce EPA's *Back-to-Basics* agenda. The agenda reinforces Administrator Pruitt's commitment to refocusing EPA on its intended mission, returning power to the states, and creating an environment where jobs can grow.

"What better way to launch EPA's *Back-to-Basics* agenda than visiting the hard-working coal miners who help power America. The coal industry was nearly devastated by years of regulatory overreach, but with new direction from President Trump, we are helping to turn things around for these miners and for many other hard working Americans," said Administrator Pruitt. "*Back-to-Basics* means returning EPA to its core mission: protecting the environment by engaging with state, local, and tribal partners to create sensible regulations that enhance economic growth."

Administrator Pruitt spoke with coal miners about the President's recent Energy Independence Executive Order, which directs EPA and other federal agencies to review the Clean Power Plan and revise regulatory barriers that impede energy independence, including unnecessary burdens on coal miners and coal-fired electric utilities.

"We welcome Administrator Pruitt to Southwestern Pennsylvania and are very encouraged by the new Administration's commonsense approach in balancing the need for environmental protection, energy development and economic growth," said Jimmy Brock, CEO of CNX Coal Resources.

"The Pennsylvania Coal Alliance looks forward to new direction from the EPA. We are hopeful that Administrator Pruitt will work with to stop the systematic regulatory approach to dismantle industry, and work with us to continue responsible mining and contribute billions to Pennsylvania's economy," said Rachel Gleason, Executive Director of PA Coal Alliance.

"Administrator Pruitt's appearance should give confidence to coal communities across the country that the days when our government stands in opposition to them are over and that the appreciation they deserve for securing the nation's energy supply for our manufacturing industries and families is finally at hand," said Hal Quinn, President and CEO of the National Mining Association.

In his speech to Pennsylvania miners, Administrator Pruitt explained that EPA's *Back-to-Basics* agenda means returning EPA to its core mission and focusing on greater value and results. EPA will be partnering with states and tribes to ensure a thoughtful approach is used to maximize resources to protect America's air, land, and water.

EPA'S *BACK-TO-BASICS* AGENDA

Protecting the environment; engaging with state, local and tribal partners; and creating sensible regulations that enhance economic growth.

- Following the President's Energy Independence Executive Order, Administrator Pruitt signed four notices to review and, if appropriate, to revise or rescind major, economically significant, burdensome rules the last Administration issued. This includes the so-called Clean Power Plan that threatens over 125,000 U.S. jobs.
- EPA is restoring states' important role in the regulation of local waters by reviewing the WOTUS ("waters of the U.S.") rule.
- EPA is clearing the backlog of new chemicals that were waiting approval from EPA, so they can go to market, and companies can innovate and create jobs.
- EPA is helping states achieve high air quality targets, clean up toxic waste sites and improve America's water infrastructure.
- EPA rescinded an unjustified, premature evaluation of greenhouse gas and fuel economy standards for model year 2022-2025 vehicles, and is working with the U.S. Department of Transportation (DOT) to conduct a collaborative and robust review of the standards.
- The agency is reviewing the Oil and Gas Methane New Source Performance Standards for new and modified sources, to determine whether it is duplicative.
- EPA is allocating funds for vital environmental projects that go directly to the health of our citizens, such as providing $100 million to upgrade drinking water infrastructure in Flint, Michigan.
- EPA is stopping the methane Information Collection Request (ICR) by telling businesses they no longer have this additional bureaucratic burden, with the cost to American businesses attempting to comply exceeding $42 million.
- Launched the EPA Regulatory Reform Task Force to undergo extensive reviews of the misaligned regulatory actions.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/14/2017 3:17:42 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Huffington Post: Scott Pruitt Heads To Coal Mine To Pitch New EPA Agenda, 4/14/17

Huffington Post
http://www.huffingtonpost.com/entry/scott-pruitt-visits-pennsylvania-coal-mine_us_58eeb500e4b0bb9638e13300
Scott Pruitt Heads To Coal Mine To Pitch New EPA Agenda
By Chris D'Angelo 4/13/17, 10:02PM

SYCAMORE, Pennsylvania — The head of the Environmental Protection Agency chose a Pennsylvania coal mine with a history of violating environmental laws as his venue for unveiling a new plan to refocus his agency in a way that he says will both protect the planet and promote economic growth.

Ignoring the fact that the U.S. coal industry's troubles are primarily the result of market forces, Scott Pruitt offered roughly 75 miners at the Harvey Mine this hopeful message: The "regulatory assault" on coal is over.

It was here in Appalachian coal country, at North America's largest producing underground coal complex, that Pruitt formally launched the EPA's "Back-To-Basics agenda." But instead of sharing details about that plan, he commiserated with those in the room. What happened to coal under former President Barack Obama, Pruitt said in a four-minute address, is "really sad."

Pruitt, a climate change denier and longtime ally of the fossil fuel industry, claimed that coal, oil and gas companies are both pro-environment and pro-growth. Now that Obama is out of office, he said, America doesn't have to chose between the two.
"It's been said — I think you've heard it said — you can't have your cake and eat it too," Pruitt said. "I'll tell you, whoever says that doesn't know what you're supposed to do with cake."

Pruitt's message wasn't surprising, but his choice of venue was somewhat baffling.

Consol Energy was fined $3 million just last year for dumping mine wastewater into Ohio River tributaries. Consol Energy owns the Bailey Mine Complex, which includes Harvey Mine. The company exceeded its daily or monthly effluent limit more than 300 times between 2006 and 2015, according to the EPA complaint. Consol, which now focuses primarily on natural gas production, has voiced its intent to sell off its remaining coal assets.

Patrick Grenter, a senior campaign representative for the Sierra Club's Beyond Coal Campaign, told The Huffington Post that Consol has operated recklessly for many years. In a 2005 settlement, the company paid $36 million to replace a dam that it was accused of damaging with its operations.

Grenter called Pruitt's visit to Harvey Mine "very concerning." He said the only reasonable conclusion he could draw is that "'back-to-basics' means back to promoting polluters over public health."

Pruitt's visit to coal country comes a little over two weeks after President Donald Trump, surround by coal miners, signed an executive order instructing the EPA to review Obama's Clean Power Plan, a policy limiting greenhouse gas emissions from power plants. The order also took measures to further protect the coal industry, namely by instructing the Department of the Interior to lift a temporary ban on coal leasing on federal lands that the Obama administration put in place last year.

The American Federation of Government Employees, which represents 700,000 federal and D.C. government employees, including EPA workers, has called the order the latest in "a continued assault on the country's top-line of defense for community health."

Miners, most of whom were in their 30s and 40s and many of whom were covered in dust from their morning shift below ground, began to gather inside a large common area of the portal building before Pruitt's address. At one end, workers wearing headlamps, hardhats and reflective suits came and went from a silver elevator shaft. On a long wall, a board covered in tags indicated who was on shift.

"[It's] no lie that the [coal] industry in the last eight years, we've all felt a lot of pain," said Jimmy Brock, CEO of CNX Coal Resources, which operates the Harvey Mine. But the Bailey complex persevered somehow, he said.

"It's easy to be optimistic now," Brock said following Pruitt's speech. He added that coal miners should never apologize for the work they do.

Other miners in attendance seemed to share Brock's optimism about the future of coal.

Eben McClay, of the nearby town Claysville, has worked at the Bailey complex for a decade. He told HuffPost that he sees Trump as being "all about America" and likes to see the administration standing up for coal and bringing jobs and industry back to the U.S.

"The coal mine produces a lot of money and a lot of jobs for this area — for a lot of families," he said.

Harvey Mine is located in Pennsylvania's Green County, which has a population of just over 35,000. The coal industry here employs between 7,000 and 8,000 people, according to Robbie Matesic, executive director of the county's Department of Economic Development. The county probably couldn't withstand a sudden death of the industry, she said, but added that she is seriously concerned about climate change and believes coal companies must be held accountable for the environmental damage they cause.

"Here's our problem: We have an economy dependent on it," she said. "The truth is our economy is not healthy because of the way it is dependent on the energy industry."

The community has been working hard to diversify its economy for the last several years, Matesic said. But it needs more time.
Mark Kusky, a coal miner who has been with Consol for 11 years, said it's encouraging to see Trump follow though on his campaign promise. Asked about climate change and the argument for cutting carbon emissions and moving toward renewable energy, Kusky said all energy sources have their downsides.

He added that he's hopeful coal will make a comeback, but that only time will tell if it can become the powerhouse it once was.
"The future looks bright from where we're standing," he said.

Matesic, however, said the only way to have healthy economies is to diversify — meaning Trump and Pruitt are giving the coal industry, and communities like her own, false hope.

"If the Trump administration is really concerned about the economic health and the environmental health of this country — if they really are — they're not going about it the right way," she said.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 2/27/2017 6:26:15 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17 [actadmmccabe.catherine17@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schnare, David [schnare.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: RE: Administrator Pruitt Clips 2/27/17

Below: E&E News, E&E News, The Hill (2/26), The Daily Caller (2/25), Washington Times (2/25)

E&E News
http://www.eenews.net/greenwire/2017/02/27/stories/1060050620
'Time suck' looms as emails dog Pruitt
By Kevin Bogardus 2/27/17

U.S. EPA Administrator Scott Pruitt has an email problem.

Pruitt, just days into his tenure as EPA chief, is dealing with a familiar irritant for past agency leaders: transparency regarding his communication records with those trying to influence public policy. His prior office of Oklahoma attorney general is battling in court to delay the release of more emails and documents from his time as the state's top lawyer while questions swirl over his reported use of personal email to conduct official business.

It's all well-known territory for former EPA administrators — a never-ending debate over emails and other message records that won't upend the agency but can prove a persistent distraction for the agency's chief and senior officials.

Liz Purchia, a former EPA public affairs director who batted back Republican-led attacks on ex-Administrator Gina McCarthy's use of text messages, said dealing with questions over emails and other such records can be "a huge time suck."

"It is extremely distracting. It takes time away from senior leaders who want to focus on the program work of the agency," Purchia said. "It takes hours and hours of time."

Doug Ericksen, who is leading communications for EPA as the Trump administration settles in, declined to comment on Pruitt's emails during the administrator's time as Oklahoma attorney general, saying, "Those things happened before EPA. We are now focused on public health and the environment."

"He has been through the Senate confirmation process. It is time to move on," Ericksen said.

Nevertheless, questions over emails have lingered for Pruitt since he was confirmed as EPA administrator just over a week ago, and look to follow him for some time still.

Last week, the Oklahoma attorney general's office turned over 7,564 pages of emails and other records to the Center for Media and Democracy (CMD) in response to open records litigation by the liberal-leaning watchdog group. Those emails

reinforced what was already known about Pruitt — that as Oklahoma attorney general, he and his office had a close relationship with oil and gas companies as Pruitt sued EPA over several of its regulations (*Greenwire*, Feb. 22).

Democrats had pushed to postpone Pruitt's confirmation vote until after those emails were released but failed.

CMD is not done yet. Under the court order, more of Pruitt's emails are scheduled to be disclosed later this week on Friday. The Oklahoma attorney general's office, however, is now seeking an emergency stay from the state Supreme Court to delay the release of those records (*Greenwire*, Feb. 24).

"In appealing the district court's order, the Office of Attorney General seeks nothing more than the due process rights guaranteed to all litigants, like responding to a petition," Lincoln Ferguson, an Oklahoma attorney general spokesman, said last week. "By rushing to judgment, the district court has denied this office that right."

Sen. Tom Carper (D-Del.), ranking member on the Senate Environment and Public Works Committee, criticized the motion, saying it was "continued obstruction" and would "further obscure the truth and keep concerned Americans in the dark."

Despite Ericksen's call to move on, the email issue is not going away for Pruitt's critics.

"People are not going to let this go away anytime soon," Purchia said. "They [Republicans] spent the last years nitpicking every thing that the agency did. ... There is still much more that people want to learn" about Pruitt.

Personal email

In addition, a local Oklahoma television station, Fox 25, reported Friday that Pruitt had used personal email to conduct state business as Oklahoma attorney general. While permissible under state law, that seemingly contradicts testimony Pruitt gave to the EPW panel for his confirmation.

"I use only my official OAG email address and government issued phone to conduct official business," Pruitt said in one written response.

Ferguson with the Oklahoma attorney general's office didn't return messages from E&E News asking for comment for this story.

Pruitt's travails with emails are well-trod ground for EPA.

Republican lawmakers targeted EPA over its emails for years, investigating the agency administrators from the Obama administration. At the time, then-Sen. David Vitter (R-La.) said ex-EPA chief Lisa Jackson's use of a secondary email address showed "an absolute disregard for transparency" (*E&E News PM*, May 1, 2013).

"It was a constant thorn in our side. It was a huge distraction from what we were trying to do," said Bob Sussman, a former senior policy adviser to Jackson at EPA.

Jackson found herself in hot water over her use of the alias "Richard Windsor" email address. Critics argued it was used to avoid transparency and recordkeeping laws. The inspector general investigated and found that was not the case.

Sussman said a secondary email was within the law and was used by Jackson's predecessors.

"It was grossly unfair because the reality is, despite their labors, the Richard Windsor email was perfectly legitimate and aboveboard for her to conduct business," Sussman said.

Sussman also had a warning for Pruitt and his staff as they move forward at EPA: Stay off your personal email.

"I can certainly say if he or anyone else in the Trump political team at EPA was using private email, they would be held up for severe criticism, and justly so given the history of this issue," Sussman said.

E&E News
http://www.eenews.net/climatewire/2017/02/27/stories/1060050573
Pruitt promises 'aggressive' rollback of regs this week
By Emily Holden 2/27/17

NATIONAL HARBOR, Md. — U.S. EPA Administrator Scott Pruitt on Saturday rallied conservatives and promised to rein in the agency.

Speaking at the Conservative Political Action Conference, Pruitt said he would focus on adhering to the formal rulemaking process and stick to the confines of federal law. At the same time, the new administrator said he would promote clean air and water and clean up Superfund sites.

"There's some very important work to protect and provide leadership in the government space. But what's happened in the last several years is the previous administration was so focused on climate change and so focused on CO2 that some of those other priorities were left behind," Pruitt said.

"We as Republicans don't have anything to be apologetic about with respect to the environment. Nothing. We have always believed that you can grow jobs and grow the economy while also ... being a good steward of the environment."

Pruitt hinted at big action this week to start rolling back controversial environmental regulations.

"I think there are some regulations that in the near term need to be rolled back in a very aggressive way," he said. Others may take longer, he noted. In particular, he mentioned the Clean Power Plan, methane standards for the oil and gas industry, and the Waters of the United States rule. Pruitt added that "executive agencies only have the power that Congress has given them."

A former college baseball player, Pruitt repeatedly used a slogan coined by legend Yogi Berra.

"The future ain't what it used to be," Pruitt told attendees who stood and applauded for him in the closing hours of CPAC.

Still, he said that when he made his first address to staff last week, he "wanted to send a message to the agency that there are some very important things EPA does."

Pruitt said states care about clean air and water and are "partners, not adversaries." The new EPA administrator said he would devote resources to visit governors and work with them. One of his first official acts last week was to sit down with Texas Gov. Greg Abbott (R).

While Pruitt touted his support for a clean environment, his reported hiring picks suggest he will focus mostly on nixing regulations. To lead his Office of Policy, Pruitt will choose Samantha Dravis, who aided in fights against EPA in senior roles with the Republican Attorneys General Association and its affiliated Rule of Law Defense Fund, according to Axios.

'We stopped the Clean Power Plan'

In a Q&A after his speech Saturday, a speaker interviewing Pruitt asked for a show of hands from the audience of how many want to eliminate EPA. The crowd cheered.

Asked whether he would support people on social media who have said they want to cut the agency's budget 90 percent, Pruitt said, "It's something that's very difficult to know at this point."

"In the near term, the most important thing we can focus on at the EPA is getting the law right, making sure that the regulations that are posted and adopted by that agency are consistent with the rule of law and consistent with the congressional mandate, and then roll back those that are inconsistent," he said.

The Trump administration has vowed to take apart climate regulations in particular. Executive action to promote fossil fuels and eliminate climate rules is likely this week.

Pruitt said during his Senate confirmation hearing that humans are "in some manner" contributing to climate change.

At CPAC, he said the specific impact is unknown.

"To measure with precision, that is something that is very difficult to do," he said.

He steered the conversation away from whether climate change is real to how policymakers can act.

"If it is happening, what can Congress and what can the administrative state do about it?" he asked. "If the tools aren't in the toolbox and Congress hasn't spoken on the issue, agencies can't just make it up."

Pruitt built his career on lawsuits against the federal government for agency action that he thought was not mandated by law, including EPA's climate standards for coal plants, the Clean Power Plan.

The Supreme Court has found that federal law requires EPA to regulate greenhouse gases as pollutants, but Pruitt says he believes EPA overstepped its authority in asking power companies to shift away from coal.

Pruitt proudly acknowledged suing EPA 14 times as the attorney general of Oklahoma. He said it was "deservedly."

"We not only sued. We won. We stopped the Clean Power Plan. We stopped WOTUS," he said.

The Supreme Court stayed the Clean Power Plan last year, although the courts have not settled whether the climate rule is legal. President Trump and Pruitt plan to do away with the regulation as it is written.

A generational split on climate among conservatives

When Pruitt left the stage, John Jeffrey, a freshman at George Washington University who is gay and considers himself a Republican "centrist," waited to catch the EPA administrator as he exited.

Jeffrey, from Long Island, N.Y., said he was initially apprehensive about Pruitt because he thinks climate change is happening and will only get worse.

"I was worried a lot about him cutting the funding for the EPA and deregulating to the point where the environment was going to be impacted in a negative fashion that was going to be too extreme, and of course I was worried about people in areas who rely on water quality," Jeffrey said, noting lead contamination in the water supply of Flint, Mich.

But Pruitt's speech largely changed Jeffrey's mind.

"After hearing what he had to say about the idea of 'It's not mutually exclusive, you can be pro-energy and pro-environment,' it made me a lot more hopeful," he said.

Frank and Sarah Arch, who live in Northern Virginia, brought their 11-year-old daughter, Millie, to CPAC. The three were decked out in Trump gear. Frank proudly lifted his pant cuffs to show off his Trump socks and shoes.

"I think we have a man who will help our EPA start focusing on the No. 1 priorities, which are clean water, clean air," Sarah Arch said.

She said she believes EPA hasn't regulated air at all, and she noted the agency has fallen behind on some reviews. But Sarah and Frank Arch both said that they don't want EPA to shut down coal plants to limit pollution. They said that if clean energy makes sense, companies will pursue it on their own.

"They want to put coal out of business. That shouldn't be the goal. The goal is clean air and clean water," Frank Arch said.

Several CPAC attendees cited their personal experiences with government waste or clean energy in expressing support for Pruitt.

Jeffrey said Medicare rented his friend's grandmother an electric wheelchair after a surgery when it would have cost the same to buy it for her. The Arches said they considered getting solar panels for their roof so they could have backup power, but they then balked at the cost.

Kathy Ponce, who came to CPAC with a group of girlfriends from Fontana, Calif., said she's glad Pruitt is in charge and thinks environmentalists have taken things too far.

"They're monitoring cow farts in California," she said.

Ponce said she thinks climate change is "the biggest hoax there is."

"It's not a proven science," she said. "There are some articles that, yes, it is a proven science. But you can also pull a lot of studies up that it's not a proven science. Just follow the weather pattern and the climate history of the past 100 years. It's called weather. It fluctuates."

The Hill
http://thehill.com/policy/energy-environment/321093-five-takeaways-from-the-scott-pruitt-emails
Five takeaways from the Scott Pruitt emails
By Timothy Cama 2/26/17, 8:00AM

A liberal group this week released thousands of pages of emails, obtained under an open records law, detailing communications between new Environmental Protection Agency (EPA) head Scott Pruitt and various energy and conservative interest groups.

The emails painted a picture of an office that went out of its way to coordinate with the fossil fuel and conservative organizations.

Pruitt's staffers often shared talking points, memos, strategy and more with the outside groups or companies and were in frequent conversation with them.

The documents also provided a unique perspective into Pruitt's priorities and concerns on environmental and other legal matters.

Here are five takeaways from the documents and the stories surrounding them.

The emails probably would not have threatened Pruitt's confirmation

Senate Democrats argued Pruitt's confirmation vote should have been delayed until the emails were released.

The GOP refused to budge and voted 52 to 46 on Feb. 17 to confirm him, mostly along party lines.

"Seeing industry representatives fawning over Pruitt's efforts to attack the EPA, it's clear that this information should have been closely examined by the Senate as we considered his nomination to run that agency," Sen. Sheldon Whitehouse (D-R.I.) said after the records were published.

But it's unlikely that the emails would have significantly shifted the winds against Pruitt: members already knew about significant coordination between Pruitt and the fossil fuel industry, thanks to a 2014 *New York Times* story that revealed industry ties beyond what the contents of the emails showed.

The new documents only reinforced what Democrats and liberal groups have long argued: He is a close ally of the fossil fuel industry and his office frequently collaborated with those interests.

"There was no new information in these emails to support the left's anti-Pruitt fever dreams," said Jeremy Adler, a spokesman for the conservative research group America Rising Squared.

Pruitt's office frequently worked with Oklahoma companies and groups

One of the major themes that emerged from the emails is that Pruitt's staffers and top deputies often went to great lengths to assist fossil fuel, utility and conservative interests and often used talking points and analysis from them.

Most of the communications involved groups in Pruitt's home state.

For example, Devon Energy Corp., an oil and natural gas producer based in Oklahoma City, frequently was in touch with Pruitt's office, as was the Public Service Company of Oklahoma, a unit of utility giant American Electric Power Co.

Staffers also frequently worked closely with conservative organizations such as the Oklahoma chapter of Americans for Prosperity and the Oklahoma Council of Public Affairs.

"Frankly, he came from an oil and gas state and you would expect that kind of an interchange between he and the constituents in that state, and he was an elected representative of those constituents," Christine Todd Whitman, an EPA administrator under President George W. Bush and frequent critic of President Trump and Pruitt, told MSNBC.

Pruitt's office was worried about impacts of the ethanol mandate

The emails provide a window into how Pruitt's office dealt with the federal ethanol blending mandate for gasoline refiners.

In one 2013 exchange, Clayton Eubanks, Pruitt's deputy solicitor general, discusses strategies to get the EPA to lower ethanol blending requirements with Richard Moskowitz of the American Fuel and Petrochemical Manufacturers.

Specifically, the two discussed the "economic and environmental harm" to Oklahoma from requiring too much ethanol.

Moskowitz asked Eubanks to file a formal petition with the EPA to waive certain aspects of the mandate, to align with one the refiners' group would file.

Oklahoma did not end up filing the petition. But Pruitt applauded the EPA's decision later that year to reduce the mandate, saying in a statement that "the decision by the EPA to lower that standard is good news for Oklahoma consumers."

At his January confirmation hearing, Pruitt declined to go too strongly in favor of ethanol or oil, to the anger of some senators representing corn-heavy states.

He pledged only to "honor the intent" of the standard, telling Sen. Deb Fischer (R-Neb.), "it is not the job of the administrator of the EPA to do anything other than administer the program according to the intent of Congress, and I commit to you to do so."

More emails are likely coming

The Center for Media and Democracy, the liberal group behind the releases, filed numerous requests for Pruitt's communications, so more records are likely to be released.

Aides to Mike Hunter, Oklahoma's current attorney general, are seeking more time to comply with the request, which could delay the release of new records. The state Supreme Court will hold a hearing on Hunter's request on Tuesday.

The emails are likely to keep dripping out, and they could lead to a stream of potentially negative news regarding the new EPA administrator, similarly to the periodic releases of Hillary Clinton email records during the 2016 election cycle by the State Department.

In addition, the office of Oklahoma Gov. Mary Fallin (R) was ordered this week by a court to release documents related to two executions, the Tulsa World reported.

Since Pruitt was the state's top lawyer, some of the records could provide insight into his role in the cases.

The emails could sow unrest at the EPA

Some of the EPA's 15,000 employees and union leaders have made no secret about their contempt for their new leader.

Further evidence of his close ties to fossil fuel interests — which are often in the EPA's crosshairs in pollution enforcement — is likely to sow even more unrest.

EPA employees went so far as to lobby the Senate against Pruitt's confirmation, an unprecedented step, due to his fossil fuel ties and his frequent litigation against the agency while he was Oklahoma's top attorney.

"Mr. Pruitt's background speaks for itself, and it comes on top of what the president wants to do to EPA," John O'Grady, president of the EPA's union, told the New York Times.

"It seems like Trump and Pruitt want a complete reversal of what EPA has done. I don't know if there's any other agency that's been so reviled," Nicole Cantello, a union leader in the Chicago area, told the Times.

Daily Caller
http://dailycaller.com/2017/02/25/scott-pruitt-its-justified-for-people-to-want-the-epa-abolished/
Scott Pruitt: It's 'Justified' For People To Want The EPA Abolished
By Chris White 2/25/17

The head of the Environmental Protection Agency (EPA) said Saturday that people are absolutely justified in wanting President Donald Trump to abolish the agency.

Scott Pruitt, who was narrowly confirmed as Trump's EPA chief last week, told a crowd at the Conservative Political Action Conference that people should be angry the EPA has abused "its authority" as the country's primary environmental regulator.

He added the agency is committed to working with not against states to protect the U.S.'s waterways and environment. Pruitt also said he intends on working within the "rule of law," not making up laws on a whim.

The former Oklahoma attorney general's comments come a few days after a liberal watchdog group released nearly 8,000 emails that show Pruitt kept in communication with various energy groups in his state.

The Center for Media and Democracy, a watchdog group with financial ties with billionaire financier George Soros, sued to have the emails released after it claimed the Oklahoma Republican stonewalled information requests for two years.

The emails, which date back to 2013, show that various groups, including the Koch brothers and Devon Energy, reached out to thank Pruitt's office for engaging in legal fisticuffs with former President Barack Obama's environmental agenda.

Pruitt has become a punching bag for environmentalists and Democrats, many of whom are convinced the Oklahoma Republican will do everything he can to dismantle the EPA. They worked hard trying to derail Pruitt's confirmation hearing.

They failed. Only two Democrats – Sens. Heidi Heitkamp of North Dakota and Joe Manchin of West Virginia – bucked their party and voted in favor of Pruitt to head the agency. Their support came even after their Democratic colleagues continued to call the Oklahoma AG a "climate denier" who will do the bidding of "Big Oil.

Washington Times
http://www.washingtontimes.com/news/2017/feb/25/scott-pruit-epa-administrator-says-obama-neglected/
Obama administration neglected priorities to focus on climate change, new EPA chief says
By David Sherfinksi 2/25/17

Environmental Protection Agency Administrator Scott Pruitt on Saturday said the Obama administration neglected would-be department priorities to pursue a climate change agenda and hinted that a rollback of some regulations could be announced as soon as next week.

"I wanted to send a message to those at the agency — there are some very important things that the EPA does for this country," Mr. Pruitt said on the final day of the Conservative Political Action Conference. "There are air quality issues and water quality issues that cross state line[s]."

"There's some very important work to protect and provide leadership … but what's happened over the last several years is the previous administration was so focused on climate change and so focused on CO2 that some of those other priorities were left behind," he said.

He said some regulations will be rolled back in the near term "in a very aggressive way."

"Next week, you may be hearing about some of those," he said.

He said the Obama administration "transformed" the Clean Water Act through the Waters of the United States rule on regulating streams and rivers.

Mr. Pruitt's agency could also roll back the Obama administration's Clean Power Plan, which imposed carbon dioxide limits on the country's power plants.

He did concede that a sentiment among some conservatives that the EPA should just go away is "justified."

"I think people across this country look at the EPA much like they look at the IRS," he said, also saying he hoped to change that.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/24/2017 5:52:38 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Politico: Inspector General: EPA-funding agricultural pollution campaign did not violate the law, 4/24/17

Politico
https://www.politicopro.com/energy/whiteboard/2017/04/inspector-general-epa-funded-agricultural-pollution-campaign-did-not-violate-federal-law-086642
Inspector General: EPA-funding agricultural pollution campaign did not violate the law
By Annie Snider 4/24/17, 11:48AM

A contentious EPA-funded advocacy campaign about agricultural pollution in Washington state did not violate anti-lobbying rules, the agency's inspector general has concluded.

Lawmakers in both Washington state and on Capitol Hill blasted the Swinomish Indian Tribe's "What's Upstream" campaign as anti-farmer, pointing to billboards and a website with messages like "Polluters of our waterways should be held accountable for their impacts on our water, our health and our fish." The campaign was partially funded with a $723,138 EPA grant tagged for outreach and education efforts related to water quality problems.

But in a report today, the EPA inspector general concluded that the agency's funding of the campaign did not violate federal rules because it broadly supported clean water and environmentally-friendly agricultural practices, rather than advocating action on a specific pending legislative action.

Critics had also drawn a comparison between the "What's Upstream" campaign and EPA's social media activity in support of the Obama administration's Waters of the U.S. rule, which a 2015 Government Accountability Office opinion concluded violated anti-lobbying laws.

But today's IG report differentiated EPA's actions related to the Washington state campaign from its actions related to the water rule.

"This is not a case where, like the facts in the GAO opinion, the EPA developed the message and used the entity to provide information without attribution to the EPA," the IG report states.

Katherine So
Office of Media Relations Intern

U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/17/2017 1:54:46 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
Subject: E&E News: Enviros push to continue legal battle over EPA standards, 4/17/17

E&E News
https://www.eenews.net/energywire/2017/04/17/stories/1060053134
Enviros push to continue legal battle over EPA standards
By Ellen M Gilmer 4/17/17

A coalition of environmental groups is urging a federal court to allow litigation to continue over Obama-era standards for methane emissions from new oil and gas operations.

The Sierra Club, the Natural Resources Defense Council, the Environmental Defense Fund and four other groups on Friday asked the U.S. Court of Appeals for the District of Columbia Circuit to reject a recent request from the Trump administration to freeze a legal battle over U.S. EPA's new methane rule while the agency rethinks it.

"EPA's decision to undertake a review of unknown length and uncertain outcome does not justify an indefinite abeyance of these cases," the groups told the court.

The New Source Performance Standards, finalized by the Obama administration last summer, require operators of new oil and gas operations to monitor and repair leaks of methane, a potent greenhouse gas. States and industry groups quickly challenged the rule last year, while environmental groups and other states lined up on the Obama administration's side.

The standards are now in the crosshairs of President Trump's March "energy independence" executive order, which directs EPA and other agencies to review regulations that could burden domestic energy development.

On April 7, the administration asked the D.C. Circuit to put the litigation on hold while EPA decides whether to suspend, revise or rescind the methane standards (*E&E News PM*, April 7).

The environmental groups' Friday filing argues that resolution of legal questions raised in the litigation would help inform any rulemaking process for methane standards and other Clean Air Act regulations.

"It would in no way compromise EPA's regulatory review were this Court to resolve the various legal issues presented in this litigation, many of which would be relevant in any future action related to [Clean Air Act] section 111 regulations for the oil and gas sector and other industrial sectors," the groups told the court, adding that they are prepared to defend the methane standards even if the Trump administration is not.

They noted, however, that they would not oppose a 90-day extension of the briefing schedule in the case "to provide a reasonable period for EPA to determine its course of conduct." Opening briefs have not yet been filed.

The other environmental groups in the coalition are the Clean Air Council, Earthworks, the Environmental Integrity Project, and the Group Against Smog and Pollution, represented in part by Earthjustice.

The debate over holding the methane case in abeyance comes as the Trump administration reconsiders its position in several other lawsuits over regulations, most notably the Clean Power Plan. Many of the same groups have urged the D.C. Circuit to reject a similar Trump administration request to pause that case — which has been fully briefed and argued (*Energywire*, April 6).

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/14/2017 5:38:27 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: E&E News: No time to waste for Trump admin's assault on WOTUS, 4/14/17

E&E News
https://www.eenews.net/greenwire/2017/04/14/stories/1060053119
No time to waste for Trump admin's assault on WOTUS
By Ariel Wittenberg 4/14/17

The Trump administration must sprint if it wants to repeal and replace the Clean Water Act rule that determines which wetlands and streams get automatic federal protection.

Legal experts say agencies overseeing the Clean Water Rule — U.S. EPA and the Army Corps of Engineers — must dump former President Obama's regulation before the Supreme Court decides which court should handle multiple legal challenges to it.

EPA said this week that it intends to do two rulemakings to repeal and replace the rule, which is also known as the Waters of the U.S. (WOTUS) rule. The regulation has drawn fierce fire from farmers, developers and the oil and gas industry, which say it's regulatory overreach.

The agency has one eye on the high court, which is expected to decide on WOTUS jurisdiction by the end of this year.

If the justices decide the litigation belongs in district court, it could endanger a nationwide stay issued by the 6th U.S. Circuit Court of Appeals that barred WOTUS from taking effect.

"If the court says the 6th Circuit doesn't have jurisdiction, the stay is dissolved," said Pat Parenteau, a professor at Vermont Law School. "They already tried to stop the court from taking the case, and that didn't work, so this is the next best way around that question."

But replacing WOTUS won't be done quickly or easily given likely legal challenges to a revamped regulation and a long history of battling over Clean Water Act protections for isolated wetlands and waterways (*Greenwire*, Feb. 10).

So the Trump administration likely felt it had to proceed with a repeal to ensure it could get that done before the Supreme Court rules, said Larry Liebesman, a senior adviser with Dawson & Associates, a Washington lobby shop and consulting firm that specializes in water resources.

"I think they probably looked at the practical realities of doing it one at a time and realized that this was the easier path, given the Supreme Court decision, rather than trying to do it all in one fell swoop," he said.

Jonathan Adler, a law professor at Case Western Reserve University, agreed.

"I think this strategy probably makes sense in the sense that they want the old rule gone and they admit that a replacement will take time," he said. "There is a certain logic to doing it in two stages."

Adler noted that the Trump administration has said it will write a new regulation that relies on an opinion written by the late Supreme Court Justice Antonin Scalia in the famously messy 2006 *Rapanos v. United States*, a 4-1-4 split decision.

Scalia, who died last year, had argued that the Clean Water Act applied only to relatively permanent bodies of water or wetlands connected to "navigable waters" by a surface flow at least part of the year. Chief Justice John Roberts and Justices Clarence Thomas and Samuel Alito joined him.

But Justice Anthony Kennedy issued a concurring opinion stating that waters must have a "significant nexus" to navigable rivers and seas, including through biological or chemical connections. Until now, EPA has followed Kennedy's "significant nexus" test in regulating clean water.

Both the George W. Bush and Obama administrations relied on Kennedy's test.

"The more aggressive the administration wants to be, the more care and attention will be required," Adler said. "Writing a regulation that is more in line with Scalia's plurality opinion can be done lawfully, but it would take care to do it right. It's not something you can do on the fly."

Reed Hopper, an attorney at the conservative Pacific Legal Foundation, said WOTUS challengers could convince a district court to issue a nationwide stay, but the matter would be easier if the administration can repeal the regulation before the Supreme Court rules.

"They are going to withdraw the rule sometime, so they might as well do it now," he said. "It can take a while to do a replacement, there is no question about it, and you have a litigation that is still pending, so why not get rid of it now and start from a clean slate?"

'Legal roadblocks'

Still, while conducting separate rulemakings to repeal and replace the regulation might be easier for the Trump administration than trying to do both at once, it's far from a sure path.

Splitting the rulemakings gives environmentalists two opportunities to challenge the administration and start another round of litigation.

"Even the rescission is going to be challenged, and certainly the replacement will be," Parenteau said.

Liebesman agreed: "This strategy will run into legal roadblocks, there is no way around that."

But the PLF's Hopper said the administration has little choice but to take that route.

"It is probably the most economical and efficient approach, even though we are confident that the courts would ultimately overturn the regulation," he said.

Liberal-leaning legal experts say a strategy of splitting up WOTUS repeal and replacement into separate procedures could mean a replacement is never written. They say that would bring Clean Water Act jurisdiction back to guidance

from the George W. Bush administration, which would likely be less restrictive than the Trump administration would prefer.

Jon Devine, a senior attorney for the Natural Resources Defense Council, said he believes the Trump administration is "desperately afraid" that any attempt to write a more conservative regulation will flop.

"They're scared that their preferred plan of changing the legal test to radically roll back what the law protects will fail, so they don't want to tie their repeal of the Clean Water Rule to that anchor," he said.

Parenteau agreed.

He said while the courts might not appreciate the Trump administration repealing the regulation without even setting a timeline for replacing it, "that risk may be less than the risk of coming up with a Scalia-based test."

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/24/2017 6:33:34 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: InsideEPA: Industry targets EPA's water quality criteria, permits, WOTUS and others, 4/24/17

InsideEPA
https://insideepa.com/daily-news/industry-targets-epas-water-quality-criteria-permits-wotus-and-others
Industry targets EPA's water quality criteria, permits, WOTUS and others
By Amanda Palleschi 4/24/17

Industry comments on EPA's Clean Water Act program target a host of existing and pending rules and policies, including EPA and the Army Corps' of Engineers' Waters of the United States (WOTUS) rule that the administration is already working to overhaul, the agency's water quality standards program, a host of permit requirements and others.

Clean Water Act Jurisdiction

Several industry groups endorsed ongoing efforts by the Trump administration to repeal and replace the Obama-era WOTUS rule.

For example, the American Fuel & Petrochemical Manufacturers (AF&PM) said in its comments: "The current jurisdictional determination process and lack of clear jurisdiction on marginal wetlands and water features create uncertainty for industry and the public and bog down the [Corps] with unnecessary submittals."

Water Quality Standards

Several manufacturing sectors took aim at EPA's water quality criteria program, especially the agency's decisions to increase its estimates of fish consumption rates that have resulted in more protective criteria, adopt more conservative risk levels and base criteria on the most highly-exposed individuals.

"Based on a new legal theory that tribal treaty rights required more protective criteria, EPA has removed the states' discretion and imposed extreme risk management policies," the American Forest & Paper Association (AF&PA) said in its comments.

It called on EPA to repeal strict federal rules imposed on Maine and Washington, approve pending criteria in Idaho and Florida, begin using a probabalistic risk method and withdraw guidance to states on conducting fish consumption surveys.

The Aluminum Association noted in its comments that various groups in Washington state have already filed a petition seeking to reconsider EPA's rules.

The association also said it supports EPA efforts to revise its draft water quality criteria for aluminum because the current standard, implemented in 1988, has made it difficult to permit ongoing operation and expansion of facilities.

But the group said it is seeking a new analytical test method for aluminum in water "to accurately represent only the bioavailable fraction of the total aluminum present," as current methods do not provide "appropriate data for input into the EPA models and for regulatory compliance in effluent permits."

AF&PA also called on EPA to withdraw controversial draft guidance that allows regulators to use water conductivity - a measure of salinity - as a surrogate for estimating the total amount of dissolved substances.
The National Association of Manufacturers (NAM) in its comments also urged EPA "postpone" strict new water quality standards for selenium "until such time as cost-effective and proven technologies are developed."

NPDES Permits

A number of commenters raised concerns about EPA's proposed rule updating regulations governing National Pollutant Discharge Elimination System (NPDES) permits, especially a provision that would allow EPA to take over and issue as a federal permit state permits that have been administratively extended.

"We contend this approach to 'address the backlog of administratively continued permits' is in fact a backdoor approach to forcefully revise permit conditions out-of-cycle," refiner Valero said in its comments. "This highly disruptive approach would in some cases require complete revisions of wastewater treatment operations at manufacturing sites. We recommend the administration not finalize this aspect of the proposal."

Several groups urged EPA to adopt measures that would help speed permitting. The Aluminum Association noted, for example, that EPA's rules governing NPDES permits and pretreatment regulations were developed "when the need for rapid permit responses was not considered a priority. Today the antiquated permitting timelines embedded in these regulations costs businesses money and opportunities for growth."

The group called for EPA to incorporate the new process and new technologies into the rule "to ensure quick permit responses along with requiring the provision of adequate resource staff in the states to process and act on permit applications."

The association also urged EPA to extend NPDES permit terms from five years to "at least" 10 years. This "would be more appropriate with permit modifications or updates available to be used as needed only when significant changes to a facility are made."

And NAM urged EPA in its comments to ensure all its regions issue streamlined and flexible general NPDES permits for discharges of hydrostatic test water for testing pipelines.

Stormwater Permits

EPA's stormwater permit requirements also drew criticisms.

The American Foundry Society said in its comments that EPA should provide more flexibility in how to enforce its multi-sector general permit (MSGP), which metalcasters operated under, where they are required to implement certain benchmark best management practices (BMPs) to meet stormwater concentration levels.

"If additional BMPs are still not achieving benchmarks (and if EPA required strict compliance or identified possible stream impairment), then end-of-pipe, mechanical/chemical stormwater treatment may be required. While this may appear to be an extreme option, it may be necessary if the facility must meet numeric limits as part of the MSGP or it may be forced to secure an individual facility permit outside the MSGP and thus meet new numeric limits set at or near benchmark values. EPA needs to provide for flexibility in and for enforcing them as permit levels."

And The Aluminum Association asks EPA to modify the 1992 multi-sector general permit (MSGP) used as a model by some delegated states.

"EPA and most delegated states have defaulted to the water quality criterion value for the benchmark values without regard to the size of the receiving stream that the industrial facility is discharging into. Therefore, the Association suggests that the EPA modify the general storm water permit to develop alternate parameters for monitoring and allow the development of alternate benchmark values."

Spill Prevention

Several groups are urging EPA to address its Spill Prevention, Control and Countermeasure (SPCC) requirements.

AF&PA is urging EPA to extend a court-ordered settlement with environmentalists that requires the agency to propose a draft rule addressing hazardous substances by 2018 and take final action in 2019.

AF&PA called this a "very ambitious schedule" and urged the agency to seek extensions in order to "allow the agency to gather and analyze available information on existing requirements."

"EPA staff have acknowledged that there are numerous existing federal, state and local rules and requirements that already may achieve much of what would be sought in a federal rule," they write. "Accordingly, there is no need to burden manufacturing facilities with additional costly regulations that would impede their competitiveness, yet provide no additional human health or environmental protection."

And NAM urged EPA to develop a method for exempting produced water from drilling operations that contains only tiny amounts of oil from its spill requirements. The group said that EPA requires most produced water from drilling

operations - even water containing 1 milligram of oil per liter -- to comply with SPCC requirements. To address this, the group urges EPA to establish an analytical method and detection limit for oil in produced water that "if concentration of oil is non-detect, then there is 'no oil' and the impoundment would not be subject to the SPCC plan requirements." -- *Amanda Palleschi* (apalleschi@iwpnews.com)

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/14/2017 5:38:34 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Politico: White House showdown on Paris deal set for next week, 4/14/17

Politico
https://www.politicopro.com/energy/story/2017/04/white-house-showdown-on-paris-deal-set-for-next-week-155330
White House showdown on Paris deal set for next week
By Eric Wolff, Andrew Restuccia and Josh Dawsey 4/14/17, 1:03PM

President Donald Trump's most senior advisers will huddle next week to resolve long-simmering tensions over whether the United States should stay in the Paris climate change agreement, a major point of dispute between the moderate and nationalist wings of the White House, three administration officials told POLITICO.

National Economic Council Director Gary Cohn, Secretary of State Rex Tillerson, National Security Adviser H.R. McMaster, EPA Administrator Scott Pruitt, Energy Secretary Rick Perry, senior adviser Jared Kushner and chief strategist Steve Bannon are expected to be at the table. The meeting is tentatively scheduled for Tuesday, but sources cautioned that the timing and number of attendees is still in flux.

The advisers and Cabinet officials hope to be able to reach consensus on a recommendation to the president, though that could prove difficult, as they are divided over whether to abandon the agreement.

Bannon and Pruitt are said to be strongly opposed to remaining in the agreement, while Kushner and Tillerson are said to be in favor of staying. Cohn and McMaster have not yet staked out a position in internal discussions at the White House, but they are also expected to argue for staying in the pact.
The climate agreement struck in Paris in 2015 was considered one of former President Barack Obama's biggest environmental achievements. It was the first global agreement under which the nearly 200 countries who negotiated it pledged to flight climate change and curb greenhouse gas emissions.

Pruitt has emerged in recent days as a staunch opponent of the pact, telling Fox & Friends Thursday that "it's something we need to exit, in my opinion."
Two sources told POLITICO that Pruitt is also concerned that the Paris agreement could harm his legal position as he pushes forward with a repeal of Obama's climate change regulations for power plants. An EPA spokesman did not immediately respond to a request for comment.

Administration officials who want to stick with the Paris deal have been arguing behind the scenes that the agreement is not legally binding and will not hobble Pruitt's effort to undo Obama's climate rules. Defenders of the EPA rule to limit

carbon emissions from power plants have not invoked the Paris agreement in their legal arguments to defend it. The Clean Power Plan predates the Paris deal and was not legally based on any international commitment.

Tuesday's meeting will mark the first time that senior advisers to the president have a formal discussion about Paris. Lower-level White House aides have been discussing the issue behind the scenes for weeks, with several trying to build a case for remaining in the agreement.

A small group of White House aides have been holding meetings with fossil fuel industry officials to outline one approach: Stay in the agreement, but weaken Obama's domestic emissions reduction target. The aides have also argued that remaining in the pact will give the U.S. leverage to win greater support for technology that will reduce emissions from the use of coal and other fossil fuels. That approach has won the endorsement of several major coal companies.

A White House spokeswoman did not immediately respond to a request for comment.

Conservative groups like the Heritage Foundation have been agitating for the president to keep his campaign promise to withdraw from the agreement.
"If Trump allows this deal to go forward, he will unwittingly fulfill Hillary Clinton's arrogant and dastardly promise to put every coal miner in America out of a job," Heritage fellow Stephen Moore and research associate Timothy Doescher wrote in a recent op-ed.

Trump is expected to make a final decision on Paris by late May, when he and other world leaders will travel to Italy for a G-7 summit.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 2/27/2017 9:42:57 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17 [actadmmccabe.catherine17@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schnare, David [schnare.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: RE: Administrator Pruitt Clips 2/27/17

Below: AP, E&E News (2), The Hill (2/26), The Daily Caller (2/25), Washington Times (2/25)

AP
http://hosted.ap.org/dynamic/stories/U/US_EPA_PRUITT_EMAILS?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT
Records Show EPA's Pruitt Used Private Email, Despite Denial
By Michael Biesecker and Sean Murphy 2/27/17, 3:39PM

WASHINGTON (AP) -- Environmental Protection Agency administrator Scott Pruitt occasionally used private email to communicate with staff while serving as Oklahoma's attorney general, despite telling Congress that he always used a state email account for government business.

Pruitt emails obtained by The Associated Press through a public records request show exchanges where the Republican used a private account hosted by Apple. Pruitt's use of private email, which is not illegal for officials in Oklahoma, was first reported by Oklahoma City Fox television station KOKH.

Pruitt denied using private email for work in both his Senate confirmation hearing last month and in response to written questions.

Democratic Sen. Ron Wyden of Oregon said Monday the issue raises questions about Pruitt's honesty.

Pruitt did not respond to emails seeking comment.

E&E News
http://www.eenews.net/greenwire/2017/02/27/stories/1060050620
'Time suck' looms as emails dog Pruitt
By Kevin Bogardus 2/27/17

U.S. EPA Administrator Scott Pruitt has an email problem.

Pruitt, just days into his tenure as EPA chief, is dealing with a familiar irritant for past agency leaders: transparency regarding his communication records with those trying to influence public policy. His prior office of Oklahoma attorney general is battling in court to delay the release of more emails and documents from his time as the state's top lawyer while questions swirl over his reported use of personal email to conduct official business.

It's all well-known territory for former EPA administrators — a never-ending debate over emails and other message records that won't upend the agency but can prove a persistent distraction for the agency's chief and senior officials.

Liz Purchia, a former EPA public affairs director who batted back Republican-led attacks on ex-Administrator Gina McCarthy's use of text messages, said dealing with questions over emails and other such records can be "a huge time suck."

"It is extremely distracting. It takes time away from senior leaders who want to focus on the program work of the agency," Purchia said. "It takes hours and hours of time."

Doug Ericksen, who is leading communications for EPA as the Trump administration settles in, declined to comment on Pruitt's emails during the administrator's time as Oklahoma attorney general, saying, "Those things happened before EPA. We are now focused on public health and the environment."

"He has been through the Senate confirmation process. It is time to move on," Ericksen said.

Nevertheless, questions over emails have lingered for Pruitt since he was confirmed as EPA administrator just over a week ago, and look to follow him for some time still.

Last week, the Oklahoma attorney general's office turned over 7,564 pages of emails and other records to the Center for Media and Democracy (CMD) in response to open records litigation by the liberal-leaning watchdog group. Those emails reinforced what was already known about Pruitt — that as Oklahoma attorney general, he and his office had a close relationship with oil and gas companies as Pruitt sued EPA over several of its regulations (*Greenwire*, Feb. 22).

Democrats had pushed to postpone Pruitt's confirmation vote until after those emails were released but failed.

CMD is not done yet. Under the court order, more of Pruitt's emails are scheduled to be disclosed later this week on Friday. The Oklahoma attorney general's office, however, is now seeking an emergency stay from the state Supreme Court to delay the release of those records (*Greenwire*, Feb. 24).

"In appealing the district court's order, the Office of Attorney General seeks nothing more than the due process rights guaranteed to all litigants, like responding to a petition," Lincoln Ferguson, an Oklahoma attorney general spokesman, said last week. "By rushing to judgment, the district court has denied this office that right."

Sen. Tom Carper (D-Del.), ranking member on the Senate Environment and Public Works Committee, criticized the motion, saying it was "continued obstruction" and would "further obscure the truth and keep concerned Americans in the dark."

Despite Ericksen's call to move on, the email issue is not going away for Pruitt's critics.

"People are not going to let this go away anytime soon," Purchia said. "They [Republicans] spent the last years nitpicking every thing that the agency did. ... There is still much more that people want to learn" about Pruitt.

Personal email

In addition, a local Oklahoma television station, Fox 25, reported Friday that Pruitt had used personal email to conduct state business as Oklahoma attorney general. While permissible under state law, that seemingly contradicts testimony Pruitt gave to the EPW panel for his confirmation.

"I use only my official OAG email address and government issued phone to conduct official business," Pruitt said in one written response.

Ferguson with the Oklahoma attorney general's office didn't return messages from E&E News asking for comment for this story.

Pruitt's travails with emails are well-trod ground for EPA.

Republican lawmakers targeted EPA over its emails for years, investigating the agency administrators from the Obama administration. At the time, then-Sen. David Vitter (R-La.) said ex-EPA chief Lisa Jackson's use of a secondary email address showed "an absolute disregard for transparency" (*E&E News PM*, May 1, 2013).

"It was a constant thorn in our side. It was a huge distraction from what we were trying to do," said Bob Sussman, a former senior policy adviser to Jackson at EPA.

Jackson found herself in hot water over her use of the alias "Richard Windsor" email address. Critics argued it was used to avoid transparency and recordkeeping laws. The inspector general investigated and found that was not the case.

Sussman said a secondary email was within the law and was used by Jackson's predecessors.

"It was grossly unfair because the reality is, despite their labors, the Richard Windsor email was perfectly legitimate and aboveboard for her to conduct business," Sussman said.

Sussman also had a warning for Pruitt and his staff as they move forward at EPA: Stay off your personal email.

"I can certainly say if he or anyone else in the Trump political team at EPA was using private email, they would be held up for severe criticism, and justly so given the history of this issue," Sussman said.

E&E News
http://www.eenews.net/climatewire/2017/02/27/stories/1060050573
Pruitt promises 'aggressive' rollback of regs this week
By Emily Holden 2/27/17

NATIONAL HARBOR, Md. — U.S. EPA Administrator Scott Pruitt on Saturday rallied conservatives and promised to rein in the agency.

Speaking at the Conservative Political Action Conference, Pruitt said he would focus on adhering to the formal rulemaking process and stick to the confines of federal law. At the same time, the new administrator said he would promote clean air and water and clean up Superfund sites.

"There's some very important work to protect and provide leadership in the government space. But what's happened in the last several years is the previous administration was so focused on climate change and so focused on CO2 that some of those other priorities were left behind," Pruitt said.

"We as Republicans don't have anything to be apologetic about with respect to the environment. Nothing. We have always believed that you can grow jobs and grow the economy while also ... being a good steward of the environment."

Pruitt hinted at big action this week to start rolling back controversial environmental regulations.

"I think there are some regulations that in the near term need to be rolled back in a very aggressive way," he said. Others may take longer, he noted. In particular, he mentioned the Clean Power Plan, methane standards for the oil and gas industry, and the Waters of the United States rule. Pruitt added that "executive agencies only have the power that Congress has given them."

A former college baseball player, Pruitt repeatedly used a slogan coined by legend Yogi Berra.

"The future ain't what it used to be," Pruitt told attendees who stood and applauded for him in the closing hours of CPAC.

Still, he said that when he made his first address to staff last week, he "wanted to send a message to the agency that there are some very important things EPA does."

Pruitt said states care about clean air and water and are "partners, not adversaries." The new EPA administrator said he would devote resources to visit governors and work with them. One of his first official acts last week was to sit down with Texas Gov. Greg Abbott (R).

While Pruitt touted his support for a clean environment, his reported hiring picks suggest he will focus mostly on nixing regulations. To lead his Office of Policy, Pruitt will choose Samantha Dravis, who aided in fights against EPA in senior roles with the Republican Attorneys General Association and its affiliated Rule of Law Defense Fund, according to Axios.

'We stopped the Clean Power Plan'

In a Q&A after his speech Saturday, a speaker interviewing Pruitt asked for a show of hands from the audience of how many want to eliminate EPA. The crowd cheered.

Asked whether he would support people on social media who have said they want to cut the agency's budget 90 percent, Pruitt said, "It's something that's very difficult to know at this point."

"In the near term, the most important thing we can focus on at the EPA is getting the law right, making sure that the regulations that are posted and adopted by that agency are consistent with the rule of law and consistent with the congressional mandate, and then roll back those that are inconsistent," he said.

The Trump administration has vowed to take apart climate regulations in particular. Executive action to promote fossil fuels and eliminate climate rules is likely this week.

Pruitt said during his Senate confirmation hearing that humans are "in some manner" contributing to climate change.

At CPAC, he said the specific impact is unknown.

"To measure with precision, that is something that is very difficult to do," he said.

He steered the conversation away from whether climate change is real to how policymakers can act.

"If it is happening, what can Congress and what can the administrative state do about it?" he asked. "If the tools aren't in the toolbox and Congress hasn't spoken on the issue, agencies can't just make it up."

Pruitt built his career on lawsuits against the federal government for agency action that he thought was not mandated by law, including EPA's climate standards for coal plants, the Clean Power Plan.

The Supreme Court has found that federal law requires EPA to regulate greenhouse gases as pollutants, but Pruitt says he believes EPA overstepped its authority in asking power companies to shift away from coal.

Pruitt proudly acknowledged suing EPA 14 times as the attorney general of Oklahoma. He said it was "deservedly."

"We not only sued. We won. We stopped the Clean Power Plan. We stopped WOTUS," he said.

The Supreme Court stayed the Clean Power Plan last year, although the courts have not settled whether the climate rule is legal. President Trump and Pruitt plan to do away with the regulation as it is written.

A generational split on climate among conservatives

When Pruitt left the stage, John Jeffrey, a freshman at George Washington University who is gay and considers himself a Republican "centrist," waited to catch the EPA administrator as he exited.

Jeffrey, from Long Island, N.Y., said he was initially apprehensive about Pruitt because he thinks climate change is happening and will only get worse.

"I was worried a lot about him cutting the funding for the EPA and deregulating to the point where the environment was going to be impacted in a negative fashion that was going to be too extreme, and of course I was worried about people in areas who rely on water quality," Jeffrey said, noting lead contamination in the water supply of Flint, Mich.

But Pruitt's speech largely changed Jeffrey's mind.

"After hearing what he had to say about the idea of 'It's not mutually exclusive, you can be pro-energy and pro-environment,' it made me a lot more hopeful," he said.

Frank and Sarah Arch, who live in Northern Virginia, brought their 11-year-old daughter, Millie, to CPAC. The three were decked out in Trump gear. Frank proudly lifted his pant cuffs to show off his Trump socks and shoes.

"I think we have a man who will help our EPA start focusing on the No. 1 priorities, which are clean water, clean air," Sarah Arch said.

She said she believes EPA hasn't regulated air at all, and she noted the agency has fallen behind on some reviews. But Sarah and Frank Arch both said that they don't want EPA to shut down coal plants to limit pollution. They said that if clean energy makes sense, companies will pursue it on their own.

"They want to put coal out of business. That shouldn't be the goal. The goal is clean air and clean water," Frank Arch said.

Several CPAC attendees cited their personal experiences with government waste or clean energy in expressing support for Pruitt.

Jeffrey said Medicare rented his friend's grandmother an electric wheelchair after a surgery when it would have cost the same to buy it for her. The Arches said they considered getting solar panels for their roof so they could have backup power, but they then balked at the cost.

Kathy Ponce, who came to CPAC with a group of girlfriends from Fontana, Calif., said she's glad Pruitt is in charge and thinks environmentalists have taken things too far.

"They're monitoring cow farts in California," she said.

Ponce said she thinks climate change is "the biggest hoax there is."

"It's not a proven science," she said. "There are some articles that, yes, it is a proven science. But you can also pull a lot of studies up that it's not a proven science. Just follow the weather pattern and the climate history of the past 100 years. It's called weather. It fluctuates."

The Hill
http://thehill.com/policy/energy-environment/321093-five-takeaways-from-the-scott-pruitt-emails
Five takeaways from the Scott Pruitt emails
By Timothy Cama 2/26/17, 8:00AM

A liberal group this week released thousands of pages of emails, obtained under an open records law, detailing communications between new Environmental Protection Agency (EPA) head Scott Pruitt and various energy and conservative interest groups.

The emails painted a picture of an office that went out of its way to coordinate with the fossil fuel and conservative organizations.

Pruitt's staffers often shared talking points, memos, strategy and more with the outside groups or companies and were in frequent conversation with them.

The documents also provided a unique perspective into Pruitt's priorities and concerns on environmental and other legal matters.

Here are five takeaways from the documents and the stories surrounding them.

The emails probably would not have threatened Pruitt's confirmation

Senate Democrats argued Pruitt's confirmation vote should have been delayed until the emails were released.

The GOP refused to budge and voted 52 to 46 on Feb. 17 to confirm him, mostly along party lines.

"Seeing industry representatives fawning over Pruitt's efforts to attack the EPA, it's clear that this information should have been closely examined by the Senate as we considered his nomination to run that agency," Sen. Sheldon Whitehouse (D-R.I.) said after the records were published.

But it's unlikely that the emails would have significantly shifted the winds against Pruitt: members already knew about significant coordination between Pruitt and the fossil fuel industry, thanks to a 2014 *New York Times* story that revealed industry ties beyond what the contents of the emails showed.

The new documents only reinforced what Democrats and liberal groups have long argued: He is a close ally of the fossil fuel industry and his office frequently collaborated with those interests.

"There was no new information in these emails to support the left's anti-Pruitt fever dreams," said Jeremy Adler, a spokesman for the conservative research group America Rising Squared.

Pruitt's office frequently worked with Oklahoma companies and groups

One of the major themes that emerged from the emails is that Pruitt's staffers and top deputies often went to great lengths to assist fossil fuel, utility and conservative interests and often used talking points and analysis from them.

Most of the communications involved groups in Pruitt's home state.

For example, Devon Energy Corp., an oil and natural gas producer based in Oklahoma City, frequently was in touch with Pruitt's office, as was the Public Service Company of Oklahoma, a unit of utility giant American Electric Power Co.

Staffers also frequently worked closely with conservative organizations such as the Oklahoma chapter of Americans for Prosperity and the Oklahoma Council of Public Affairs.

"Frankly, he came from an oil and gas state and you would expect that kind of an interchange between he and the constituents in that state, and he was an elected representative of those constituents," Christine Todd Whitman, an EPA administrator under President George W. Bush and frequent critic of President Trump and Pruitt, told MSNBC.

Pruitt's office was worried about impacts of the ethanol mandate

The emails provide a window into how Pruitt's office dealt with the federal ethanol blending mandate for gasoline refiners.

In one 2013 exchange, Clayton Eubanks, Pruitt's deputy solicitor general, discusses strategies to get the EPA to lower ethanol blending requirements with Richard Moskowitz of the American Fuel and Petrochemical Manufacturers.

Specifically, the two discussed the "economic and environmental harm" to Oklahoma from requiring too much ethanol.

Moskowitz asked Eubanks to file a formal petition with the EPA to waive certain aspects of the mandate, to align with one the refiners' group would file.

Oklahoma did not end up filing the petition. But Pruitt applauded the EPA's decision later that year to reduce the mandate, saying in a statement that "the decision by the EPA to lower that standard is good news for Oklahoma consumers."

At his January confirmation hearing, Pruitt declined to go too strongly in favor of ethanol or oil, to the anger of some senators representing corn-heavy states.

He pledged only to "honor the intent" of the standard, telling Sen. Deb Fischer (R-Neb.), "it is not the job of the administrator of the EPA to do anything other than administer the program according to the intent of Congress, and I commit to you to do so."

More emails are likely coming

The Center for Media and Democracy, the liberal group behind the releases, filed numerous requests for Pruitt's communications, so more records are likely to be released.

Aides to Mike Hunter, Oklahoma's current attorney general, are seeking more time to comply with the request, which could delay the release of new records. The state Supreme Court will hold a hearing on Hunter's request on Tuesday.

The emails are likely to keep dripping out, and they could lead to a stream of potentially negative news regarding the new EPA administrator, similarly to the periodic releases of Hillary Clinton email records during the 2016 election cycle by the State Department.

In addition, the office of Oklahoma Gov. Mary Fallin (R) was ordered this week by a court to release documents related to two executions, the Tulsa World reported.

Since Pruitt was the state's top lawyer, some of the records could provide insight into his role in the cases.

The emails could sow unrest at the EPA

Some of the EPA's 15,000 employees and union leaders have made no secret about their contempt for their new leader.

Further evidence of his close ties to fossil fuel interests — which are often in the EPA's crosshairs in pollution enforcement — is likely to sow even more unrest.

EPA employees went so far as to lobby the Senate against Pruitt's confirmation, an unprecedented step, due to his fossil fuel ties and his frequent litigation against the agency while he was Oklahoma's top attorney.

"Mr. Pruitt's background speaks for itself, and it comes on top of what the president wants to do to EPA," John O'Grady, president of the EPA's union, told the New York Times.

"It seems like Trump and Pruitt want a complete reversal of what EPA has done. I don't know if there's any other agency that's been so reviled," Nicole Cantello, a union leader in the Chicago area, told the Times.

Daily Caller
http://dailycaller.com/2017/02/25/scott-pruitt-its-justified-for-people-to-want-the-epa-abolished/
Scott Pruitt: It's 'Justified' For People To Want The EPA Abolished
By Chris White 2/25/17

The head of the Environmental Protection Agency (EPA) said Saturday that people are absolutely justified in wanting President Donald Trump to abolish the agency.

Scott Pruitt, who was narrowly confirmed as Trump's EPA chief last week, told a crowd at the Conservative Political Action Conference that people should be angry the EPA has abused "its authority" as the country's primary environmental regulator.

He added the agency is committed to working with not against states to protect the U.S.'s waterways and environment. Pruitt also said he intends on working within the "rule of law," not making up laws on a whim.

The former Oklahoma attorney general's comments come a few days after a liberal watchdog group released nearly 8,000 emails that show Pruitt kept in communication with various energy groups in his state.

The Center for Media and Democracy, a watchdog group with financial ties with billionaire financier George Soros, sued to have the emails released after it claimed the Oklahoma Republican stonewalled information requests for two years.

The emails, which date back to 2013, show that various groups, including the Koch brothers and Devon Energy, reached out to thank Pruitt's office for engaging in legal fisticuffs with former President Barack Obama's environmental agenda.

Pruitt has become a punching bag for environmentalists and Democrats, many of whom are convinced the Oklahoma Republican will do everything he can to dismantle the EPA. They worked hard trying to derail Pruitt's confirmation hearing.

They failed. Only two Democrats – Sens. Heidi Heitkamp of North Dakota and Joe Manchin of West Virginia – bucked their party and voted in favor of Pruitt to head the agency. Their support came even after their Democratic colleagues continued to call the Oklahoma AG a "climate denier" who will do the bidding of "Big Oil.

Washington Times
http://www.washingtontimes.com/news/2017/feb/25/scott-pruit-epa-administrator-says-obama-neglected/
Obama administration neglected priorities to focus on climate change, new EPA chief says
By David Sherfinksi 2/25/17

Environmental Protection Agency Administrator Scott Pruitt on Saturday said the Obama administration neglected would-be department priorities to pursue a climate change agenda and hinted that a rollback of some regulations could be announced as soon as next week.

"I wanted to send a message to those at the agency — there are some very important things that the EPA does for this country," Mr. Pruitt said on the final day of the Conservative Political Action Conference. "There are air quality issues and water quality issues that cross state line[s]."

"There's some very important work to protect and provide leadership … but what's happened over the last several years is the previous administration was so focused on climate change and so focused on CO2 that some of those other priorities were left behind," he said.

He said some regulations will be rolled back in the near term "in a very aggressive way."

"Next week, you may be hearing about some of those," he said.

He said the Obama administration "transformed" the Clean Water Act through the Waters of the United States rule on regulating streams and rivers.

Mr. Pruitt's agency could also roll back the Obama administration's Clean Power Plan, which imposed carbon dioxide limits on the country's power plants.

He did concede that a sentiment among some conservatives that the EPA should just go away is "justified."

"I think people across this country look at the EPA much like they look at the IRS," he said, also saying he hoped to change that.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/24/2017 6:33:40 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Huffington Post: EPA quietly asked the public which clean air rules to cut. Industry answered loudest., 4/24/17

Huffington Post
http://www.huffingtonpost.com/entry/epa-clean-air-public-comment_us_58fe2c1be4b00fa7de1665cb
EPA quietly asked the public which clean air rules to cut. Industry answered loudest.
By Alexander C. Kaufman 4/24/17, 208PM

A utility lobbyist called on regulators to do less work monitoring greenhouse gas emissions. An oil and gas lobbyist praised the Trump administration's retreat from safeguards and urged federal rulemakers to limit regulations on carbon emissions and smog. A lobbyist for wood-product manufacturers complained about the "ever-tightening" public health standards for ozone pollution and asked regulators to change the permitting process.

Those were just some of the requests made by industry advocates during a conference call Monday, when the Environmental Protection Agency held the first of several sessions to ask the public which rules should be eliminated under President Donald Trump's executive order instructing agencies to slash regulations. The three-hour call, held by the Office of Air and Radiation, focused on clean air and ozone pollution rules.

In March, EPA Administrator Scott Pruitt announced plans to hold the public hearings, but environmental advocates say the agency scheduled the events with little notice, in some cases just days in advance.

"New meetings appear on a website that the EPA has set up to coordinate the process, so unless you check it every day, it is easy to miss when a new hearing is announced," Andrew Wetzler, deputy chief program officer at the Natural Resources Defense Council, wrote in a blog post ahead of Monday's call. "All of this is made worse by the fact that EPA staff are offering only limited slots for in-person comments. In fact, some of the meetings aren't public at all."

The EPA's Office of Water, Wetzler noted, is offering an in-person meeting with local water agencies, but only offering a "virtual listening session" over the phone to the public.

"And the deadline for the public to comment on rolling back all these crucial safeguards?" he added. "It ends in a mere three weeks."

The EPA has already taken drastic steps to gut a host of rules, claiming they hold back businesses and stymie job growth. In March, the agency scrapped a rule requiring oil and gas drillers to report methane emissions, a greenhouse gas up to 86 times more heat-trapping than carbon dioxide. A week later, the White House shredded an Obama-era EPA

assessment of fuel efficiency standards, a move celebrated by automakers that claimed complying with the regulation cost too much. By the end of the month, Trump signed an executive order instructing the EPA to rewrite the Clean Power Plan, the Obama administration's embattled rule to reduce emissions from electrical utilities.

"Regulations ought to make things regular," Pruitt said in his first speech as EPA chief in February. "Regulations exist to give certainty to those they regulate. Those we regulate ought to know what's expected of them so they can place and allocate resources to comply."

Based on Monday's call, the regulated heard him loud and clear. Lobbyists and business proponents vastly outnumbered ordinary citizens on Monday's teleconference. Environmental advocates, however, made a considerable turnout to urge the agency not to press ahead with its rollbacks.

A handful of ordinary citizens also spoke during the call, with each given a strictly enforced three-minute limit. One man, who said he lives in Austin, Texas, said that when he testified on behalf of the Clean Power Plan during Barack Obama's presidency, people filled two conference rooms at the EPA's Atlanta office for a full day.

"Out of that process came a very robust and very responsible regulation and now we're being asked to roll it back," he said. "These are people's lives. These are my children's lives. This is the future of the planet. We cannot move backward on that. We need to have a strong, robust process, at least as robust as what we had in the past."

Another man slammed the agency for limiting the opportunities for public comment to a mere phone call on a weekday morning.

"This process today has been extremely enlightening in how the new administration is completely curtailing and cutting out public comment by reducing this to a three-hour conference call on Monday, that no working person would be able to attend reasonably without being an activist in the space or a representative of a major corporate interest," the man said, adding that his background is in economics. "This is not really fair and should be outright illegal."

"I'm horrified, absolutely horrified, at the degenerate level of contribution we've seen from representatives from industry who have seemingly no concern for the massive, sweeping deleterious effects that are about to be suffered nationwide, should this repeal happen the way it is about to happen," he added.

The operator promptly moved on to the next caller.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/17/2017 1:54:49 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
Subject: New York Times: Wrong Message, Wrong Coal Mine, 4/17/17

New York Times
https://www.nytimes.com/2017/04/17/opinion/wrong-message-wrong-coal-mine.html?_r=0
Wrong Message, Wrong Coal Mine
By The Editorial Board 4/17/17

Scott Pruitt, the climate-change denier charged by President Trump with making the Environmental Protection Agency less protective of the environment, traveled to Pennsylvania last week to kick off E.P.A.'s "back to basics" agenda and tell a group of worried coal miners that the Obama administration's "war on coal" was over and that he and Mr. Trump would lead a revival of the industry.

He may have chosen the wrong coal mine at which to make his pitch. The Harvey Mine, in Sycamore, Pa., is part of the Bailey Mine Complex, the largest producing underground mine in North America. The complex employs 2,000 people and is clearly vital to the local economy.

What's not clear at all is that it represents the future of the local economy. Like a lot of mines, Bailey has had its share of environmental violations, including some that led to a $3 million fine last year from the pre-Trump E.P.A. and the Justice Department for polluting Ohio River tributaries. But the much larger question mark hanging over Bailey is that its parent, Consol Energy, wants to get out of the coal mining business and focus on its more profitable natural gas operations. Consol told Bloomberg News in March that it had engaged two financial firms to help find a buyer.

The mine, once sold, could stay in business for a time, which would be good news for the miners who heard Mr. Pruitt's pep talk. Still, coal's long-term outlook is poor, less because of environmental regulations than market forces, including competition from natural gas and increasingly cost-effective renewable sources. Loosening environmental laws won't make coal cheaper than natural gas, and it certainly won't make it cleaner. Which is why Consol's management, as clearheaded as Mr. Pruitt is delusional, wants to exit coal.

Mr. Pruitt also used the occasion to restate the administration's environmental agenda, which was set forth in Mr. Trump's energy independence executive order last month and which basically involves demolishing or amending beyond recognition every useful thing the Obama administration did to improve air and water quality and reduce emissions of the greenhouse gases that cause climate change.

At the top of the hit list is Mr. Obama's Clean Power Plan, which targets old coal-fired power plants and is the most visible symbol of the "regulatory overreach" from which Mr. Pruitt promised to deliver "the hard-working coal miners

who help power America." Those miners would be far better served by honesty and a serious effort to train them for a world in which coal plays an ever-smaller role.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/14/2017 7:41:02 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Philly.com: Touring Pa. coal mine, EPA chief Scott Pruitt says he'll be a friend to the industry, 4/14/17

Philly.com
http://www.philly.com/philly/business/energy/Touring-Pa-coal-mine-EPA-chief-Scott-Pruitt-says-hell-be-a-friend-to-the-industry.html
Touring Pa. coal mine, EPA chief Scott Pruitt says he'll be a friend to the industry
By Anya Litvak 4/14/17

Scott Pruitt, the new administrator of the U.S. Environmental Protection Agency, chose a Western Pennsylvania coal mine to start his "Back-to-Basics" tour on Thursday, where he declared that "the war on coal is done."

Dozens of Consol Energy miners, in hard hats and coveralls, some with coal dust on their faces and hands, cheered as Mr. Pruitt delivered a short speech, received an honorary Consol hard hat with the inscription "Make America Great Again" and thanked them for their work.

Where the previous administration tried to convince people that there's a choice to be made between environmental protection and the work these miners do, Mr. Pruitt said, that will no longer be the calculation in Washington.

"It's been said that you can't have your cake and eat it too, and I'll tell you, whoever says that doesn't know what you're supposed to do with cake," he said.

More than 1,500 people work at the Bailey Mine complex, which includes three mines: Bailey, Enlow Fork and Harvey, a portal to which served as the venue for the event.

"In the last eight years, we've all felt a lot of pain," said Jimmy Brock, CEO of CNX Coal Resources, a master limited partnership that Consol spun out in 2015 to operate Bailey — the largest underground mining complex in the United States.

"We're ready for a new chapter," he said.

Mr. Brock was at the headquarters of the Environmental Protection Agency two weeks ago when President Donald Trump signed an executive order that targeted a half-dozen Obama-era regulations to curb climate change, including Mr. Obama's signature Clean Power Plan. The rule aimed to limit carbon dioxide emissions from electricity generators and would hit coal plants the hardest.

Mr. Pruitt didn't mention carbon dioxide or climate change in his brief remarks at Consol, nor did he talk about the stream protection rule, which Congress and Mr. Trump rescinded soon after the new president took the oath of office. That rule, finalized just weeks before the change in administration, would have required coal companies to restore affected streams to their pre-mined conditions.

Instead, Mr. Pruitt talked about jobs and how the government can help unleash American energy growth.

Mr. Brock, who called Mr. Pruitt a "true leader on issues that matter to us," said he doesn't recall an EPA administrator visiting a coal mine to learn what miners do, "and, more importantly, how they can help us."

"The regulatory assault is over," Mr. Pruitt promised.

"It's encouraging, isn't it?" Mr. Brock said to nodding heads. "All of us that mine coal will never apologize for what we do."

Greg Bernot, a mechanic and electrician at the Harvey Mine, appreciated the attitude.

"I think Mr. Pruitt is an extraordinary individual," he said, having read about his record as Oklahoma's attorney general, a post he used to sharply criticize the agency he now leads and file more than a dozen lawsuits against its regulations, many of which he is now working to dismantle.

"I just hope that he can accomplish what his intentions are," Mr. Bernot said. "Get the EPA to quit trying to make laws."

A group of coal miners listen to U.S. Environmental Protection Agency Administrator Scott Pruitt during his visit Thursday to Consol Pennsylvania Coal Company's Harvey Mine in Sycamore, Pa.

Mr. Bernot, who grew up in Carmichaels, said he remembers the days when the majority of homes were heated with coal — how his parents had to wash their walls several times a year to wipe off the soot.

But he bemoaned the closure of dozens of coal-fired power plants and said he believed that federal environmental regulators had not considered whether it's cost-effective to keep asking for incremental emission reductions when so much progress has already been made.

'Coercive federalism'

The Back-to-Basics agenda, according to the EPA, is about "protecting the environment by engaging with state, local, and tribal partners to create sensible regulations that enhance economic growth."

Mr. Pruitt has talked about returning power to the states and several weeks ago sent a letter to the Pennsylvania Department of Environmental Protection announcing that "the days of coercive federalism are over."

DEP Secretary Patrick McDonnell said he would welcome a discussion on how the two regulatory bodies can "build on the relationships that have served us for more than 40 years."

But the recently proposed budget cuts — the Trump administration wants to cut 31 percent from the EPA's budget and lay off a quarter of its staff — are an indication that the "federal government is turning its back" on those relationships," Mr. McDonnell said.

"The DEP sincerely hopes that the days of cooperative federalism are not over as well," he said.

No one from the DEP was invited to attend Mr. Pruitt's event, nor tour the mine with him, or participate in the private roundtable between the administrator and members of the coal industry, including representatives from Consol, Kittaning-based Rosebud Mining and GMS Mine Repair & Maintenance.

It's clear that Consol feels it has a friend in Mr. Pruitt and in Mr. Trump

"Needless to say we're very excited to see a new governing philosophy from the incoming administration that embraces what we do," Tommy Johnson, Consol's vice president for government affairs, said at the company's analyst day last year, shortly after the presidential election.

"This onslaught of rulemakings and policy initiatives by the [Obama] administration are expected to be rescinded or weakly defended before the courts" when Mr. Trump comes to power, Mr. Thompson said.

At the same event, however, when Consol's CEO Nick Deluliis was asked whether the election changed the company's thinking about its intention to sell the coal business and focus solely on gas, Mr. Deluliis said it hadn't really.

Two things have been depressing coal's role in the electric grid, he said — the shale gas revolution that has made natural gas a cheaper fuel than coal, and environmental regulations.

"Nobody really knew which one was the main driver and which one was just the catalyst that sped it up," he said.

And although Mr. Trump's presidency loosened the "heavy hand" of regulations, "we still see a permanent reset here," he said, with gas capturing market share from coal

Environmentalists fire back

Mr. Pruitt, who took no questions from reporters on Thursday, seemed aware of the visual of an EPA administrator hanging out in a coal mine.

He accused "some on the environmental left" of conflating his visits with industry with trying to compromise environmental outcomes.

Indeed, environmental groups in the region were highly critical of Mr. Pruitt's message and choice of venue.

"When Administrator Pruitt says he wants to get the EPA 'back-to-basics' we all know he wants to send the agency back to the days before the Clean Water Act and the Clean Air Act, laws which have protected Pennsylvania families from harmful pollution for decades," said Randy Francisco, an organizer for Sierra Club's Beyond Coal campaign, who spoke at a news conference organized by the Sierra Club and the Center for Coalfield Justice.

"And to launch his polluter-friendly agenda, Pruitt choose a mine that was fined $3 million for Clean Water Act violations just last year," Mr. Francisco said.

In August, Consol signed a consent decree with the EPA and the Pennsylvania Department of Environmental Protection that stemmed from the regulatory agencies' findings that five years prior the company was discharging too many pollutants into tributaries to the Ohio River.

Environmental groups were also unnerved by Mr. Pruitt's implication that environmental regulations must not infringe on job prospects for coal miners.

"More people are employed in Pennsylvania's clean energy industry at 66,000 than in its coal industry, which dwindles at 6,600," PennFuture, a nonprofit environmental advocacy group said in a statement.

Hours after Mr. Pruitt left the Harvey Mine portal, the EPA sent out a notice that it is delaying compliance deadlines for regulations finalized in 2015 that set the first limits for toxic metal discharges in wastewater from power plants.

"Some of our nation's largest job producers have objected to this rule, saying the requirements set by the Obama administration are not economically or technologically feasible within the proscribed time frame," Mr. Pruitt said in a statement.

Compliance was set to begin next year. The EPA is now reconsidering the rule.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/24/2017 7:01:08 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: National Law Review: EPA plans rewrite of WOTUS; House contemplates nuclear waste policy, 4/24/17

National Law Review
http://www.natlawreview.com/article/epa-plans-rewrite-wotus-house-contemplates-nuclear-waste-policy
EPA plans rewrite of WOTUS; House contemplates nuclear waste policy
4/24/17

Regulatory Activity

WOTUS

Last week, the ***Environmental Protection Agency (EPA)*** indicated its plans to solicit comments by June 19 as to how the agency should rewrite the "***Waters of the U.S." (WOTUS)*** rule following President Trump's February 28 executive order (EO) directing the agency to revise the contentious Obama Administration rule. Following the EO, EPA specified its plans to revise the rule through a formal notice-and-comment rulemaking process. While this is typically a lengthy procedure, the Trump Administration has expressed its interest in replacing the rule by the end of the year.

This follows a meeting last week that was held between the EPA and a number of groups representing state and local officials, including the National Governors' Association, the U.S. Conference of Mayors, the National Association of Counties and the Environmental Council of the states, where participants discussed the Trump Administration's rewrite of rule.

Legislative Activity

This week's Hearings

- On Wednesday, April 26, the Senate Environment and Public Works Committee has scheduled a hearing titled "A Review of the Technical, Scientific, and Legal Basis of the WOTUS Bill." The witnesses will be announced.
- On Wednesday, April 26, the House Committee on Energy and Commerce will hold a hearing to examine the Nuclear Waste Policy Amendments Act of 2017. The bill would expedite the licensing process for the Yucca Mountain nuclear waste repository by authorizing the Secretary of Energy to order infrastructure operations as needed for building and operating the repository. The witnesses will be announced.
- On Thursday, April 27, the House Transportation and Infrastructure Subcommittee on Economic Development, Public Buildings, and Emergency Management has scheduled a hearing titled "Building a 21st Century Infrastructure for America: Mitigating Damage and Recovering Quickly from Disasters." The witnesses will be:

    - Andrew Phelps, Director, Oregon Office of Emergency Management;
    - Chief John Sinclair, President and Chairman of the Board, International Association of Fire Chiefs;
    - Mark Berven, President and Chief Operating Officer, Nationwide Property and Casualty Operations (on behalf of the Build Strong Coalition);
    - The Honorable W. Craig Fugate, Former Administrator, Federal Emergency Management Agency; and
    - The Honorable R. David Paulison, Former Administrator, Federal Emergency Management Agency.
- On Thursday, April 27, the House Energy and Commerce Subcommittee on Digital Commerce and Consumer Protection has scheduled a hearing titled "Outdoor Recreation: Vast Impact of the Great Outdoors." The witnesses will be announced.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/14/2017 7:41:04 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: The Intelligencer: EPA Administrator Scott Pruitt: 'War On Coal Is done', 4/14/17

The Intelligencer
http://www.theintelligencer.net/news/top-headlines/2017/04/epa-administrator-scott-pruitt-war-on-coal-is-done/
EPA Administrator Scott Pruitt: 'War On Coal Is done'
By Joselyn King 4/14/17

SYCAMORE, Pa. — To the delight of dozens of miners at the CNX Coal Resources Harvey Mine, Thursday, Environmental Protection Agency Administrator Scott Pruitt declared an end to the "regulatory assault" on their industry.

Pruitt, appointed by President Donald Trump to head the EPA in the post-Obama administration era, spoke briefly at the Pennsylvania mine. The Harvey Mine is now officially part of a master limited partnership, which is sponsored by the facility's long-time owner, Consol Energy.

Pruitt's visit came just two weeks after Trump signed an executive order intended to overturn the Clean Power Plan, which former President Barack Obama and other Democrats had hoped would sharply cut CO2 emissions from power plants. The easiest way for power producers to meet the CPP goal would be to reduce coal burning because of the mineral's high carbon content.

"The war on coal is done," according to Pruitt.

"It's really sad over the last several years that a regulatory body of the federal government of the U.S. would declare a war on a vital part of our economy," he said.

Pruitt said what he has witnessed across the country is that in states in where oil, natural gas and coal are produced, leaders in those states are committed to being both "pro-environment, and pro-growth."

"The days in which we had to choose between those two are over," he said. "The past administration said we had to choose between the environment and job growth. This administration says the opposite.

"We can achieve both. We will."

Pruitt said he came to Western Pennsylvania not just to celebrate the executive order signed by Trump, but to partner with and work together with the coal industry "to achieve positive outcomes."

He responded to those who think the EPA is now "compromising outcomes" with respect to the environment as it relaxes regulations on coal-fired power plants.

"Lets look at what the past (Obama) administration achieved," Pruitt said. "Almost 140 million live in areas non-compliant with respect to air quality."

Pruitt said there are 1,322 Superfund sites across the country, and still problems with the water in Flint, Mich.

"We're going to improve the environment in this country, protect our water, protect our air, but at the same time do it the American way — grow jobs, and show the world we can achieve it," he said.

Pruitt thanked the miners and coal executives present "for persevering."

"The regulatory assault is over," he said. "We're going to partner together...."

Pruitt spoke to the miners for a few minutes before joining coal executives upstairs at the Harvey Mine for a private roundtable discussion. He was also expected to take a tour of the mine.

The Harvey Mine, and the nearby Bailey and Enlow Fork mines make up the Pennsylvania complex of CNX Coal Resources. Together, they constitute the largest underground mine in the U.S. — encompassing an area that larger than Manhattan, according to CEO Jimmy Brock

The mines collectively employ 1,500, and produce 26 million to 28 million tons of coal per year.

Brock said while everyone in the coal industry has "felt a lot of pain" over the past eight years, they always believed there would still be a need for coal.

"It's easy to be optimistic today," he said. "As long as we work safely and protect the environment, the future is going to be great."

Todd McNair, assistant superintendent at the Harvey Mine, said he also sees a brighter future for the coal industry.

"The new administration is at last willing to look at us, rather than not," he said. "That in itself is positive."

Lee Farrell, assistant superintendent at the Bailey Mine, said he has worked in the coal industry for 42 years.

"I've seen the struggles," he said. "But, I have confidence that we have the right political people in place."

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 3/1/2017 2:56:03 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17 [actadmmccabe.catherine17@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schnare, David [schnare.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Administrator Pruitt Clips 3/1/17

Below: E&E News (2), Washington Times

E&E News
http://www.eenews.net/energywire/2017/03/01/stories/1060050729
Okla. Supreme Court blocks release of more Pruitt emails
By Mike Lee and Kevin Bogardus 3/1/17

U.S. EPA Administrator Scott Pruitt won't have to turn over more documents detailing his relationship with the energy industry for now, after the Oklahoma Supreme Court yesterday stayed a watchdog group's open records lawsuit.

Pruitt, a Republican, served as Oklahoma's attorney general from 2011 until this year and developed a reputation as a champion of oil, gas and coal interests. The attorney general's office had already turned over about 7,600 pages of emails and other documents in response to a lower-court ruling in the suit by the Center for Media and Democracy, and was facing a Friday deadline to turn over more information.

The attorney general's office argued that the lower-court judge should have allowed the case to proceed through discovery and other normal processes and that it was merely answering open records requests in the order they were received (*Greenwire*, Feb. 24).

The state Supreme Court's two-page order didn't discuss the merits of the case but said the lower court's ruling was blocked until further notice.

"Not only was this a patently unreasonable directive, but the AG's office was not given the opportunity to respond to the petition," attorney general spokesman Lincoln Ferguson said in a statement. "Our office is appreciative and encouraged by the Court's decision and welcomes the opportunity to present its case so that these records can be reviewed and provided in an orderly fashion."

The decision frustrated Senate Democrats, who tried to delay Pruitt's nomination to the EPA post until more of his background information was released.

"We just want the facts, ma'am, just the facts, and I think having access to those emails would provide those facts," Sen. Tom Carper of Delaware, the ranking Democrat on the Environment and Public Works Committee, told reporters.

As Oklahoma's top lawyer, Pruitt frequently sued the Obama administration to block environmental rules at EPA and other agencies. The Center for Media and Democracy, a liberal-leaning watchdog group, in January 2015 began requesting documents about his contacts with energy companies and over the next two years filed a series of requests.

The attorney general still hadn't responded as of January, more than two years after CMD's original request. The group sued on Feb. 7. On Feb. 16, state District Judge Aletia Haynes Timmons ruled after hearing about 25 minutes of arguments that the delay was an "abject failure" to follow the law.

The first batch of emails showed, among other things, that Pruitt and his senior staff had used letters and other materials provided by Devon Energy Corp., an Oklahoma-based oil and gas company, to argue against the Interior Department's rules on hydraulic fracturing.

He also worked with the mining and refining industries on other issues and with conservative think tanks like Americans for Prosperity, which is affiliated with the billionaire Koch brothers. And, contrary to Pruitt's testimony during a Senate hearing, he used a private email address to conduct state business (*Greenwire*, Feb. 22; *Greenwire*, Feb. 27).

Timmons is also reviewing some material from the first batch of documents to determine if it's exempt from disclosure under state law. She had given the state until Friday to respond to five other requests from the CMD, which were filed later in 2015 and 2016. The Supreme Court decision blocked the release of that material.

The CMD has a good chance of winning the underlying lawsuit, since the state apparently didn't respond to any open records requests from January 2015 until last month, said Arn Pearson, the group's general counsel.

"We'll argue on the appeal, we'll keep going, and then however that gets settled out, we'll be back," he said.

E&E News
http://www.eenews.net/climatewire/2017/03/01/stories/1060050736
Pruitt 'concerned' about some specific budget cuts
By Emily Holden 3/1/17

U.S. EPA Administrator Scott Pruitt said last night he will discuss with the White House ways to save portions of the agency's budget, such as those that go to state grants for water infrastructure and cleaning up Superfund sites.

His comments follow reports that the administration may be considering slashing EPA's budget by up to a quarter. About half of EPA's money goes to states to carry out federal environmental laws and build public works projects (*E&E News PM*, Feb. 27).

Speaking after President Trump's first address to Congress, Pruitt confirmed that he had talked yesterday with North Dakota Sen. Heidi Heitkamp, one of only two Democrats who voted for his confirmation, about her concerns about the potential spending cuts.

Pruitt said the two had a "great conversation" and that he had already talked with White House Office of Management and Budget Director Mick Mulvaney about the funding in question.

"I am concerned about the grants that have been targeted, particularly around water infrastructure, and those very important state revolving funds," Pruitt said. "The importance is setting priorities as an agency and then allowing the budget to be formed around that. What's difficult, having only been there a week, is to have these kinds of recommendations made and then look at our priorities and say, 'You know what, we've got to make sure that we look at these programs.'"

Pruitt noted that the nation is at 40 percent nonattainment for air quality criteria pollutants.

"We can do better than that, so it needs to be a priority," he said.

He added that more than a thousand Superfund sites across the country need to be cleaned up, too.

Pruitt said he would ask Trump, as the administration and Congress discuss an infrastructure package outside the budget, to also consider money for water infrastructure and Superfund cleanup.

"What's important for us is to educate OMB on what the priorities of the agency are, from water infrastructure to Superfund, providing some of those tangible benefits to our citizens, while at the same time making sure that we reallocate, reprioritize in our agency to do regulatory reform to get back within the bounds of Congress," Pruitt said.

He said his staff will need to work on regulatory reform too and commended the president for beginning the process yesterday to roll back the Waters of the U.S. rule.

Dems slam Trump speech as 'empty' words

Heitkamp said she believed Pruitt shared her concern about how EPA cuts could affect rural America.

"The one concern that I have about EPA's budget is people don't understand half of it is in grants for water infrastructure," she said. "When you're going to have those big cuts, I think that's easy to say, 'We're going to cut it 25 percent.' What rural America is going to see is cuts in rural water projects, and that's not something that's a formula for success."

Heitkamp said Pruitt needs to make the internal case for water grants.

"I think he knows that there's some challenges ahead with that level of cuts," she said.

Other Democrats after Trump's speech last night were not as confident that the administration will protect the environment.

Trump wants to boost defense spending $54 billion and cut spending by other agencies, including EPA. But he said in his speech that he wants "to promote clean air and clear water" (*see related story*).

Sen. Tom Carper (D-Del.), ranking member on the Senate Environment and Public Works Committee, said, "It's ironic that he nominated a person who spent the last six years trying to make sure we don't allow the EPA to better ensure that we do have clean air and clean water."

"As candidate Trump, as President-elect Trump, as President Trump, he said, 'We're basically going to degrade and destroy the EPA,'" Carper said. "We'll see what they do on the budget cuts. ... It all sounds good. People may not believe what you say, but they'll believe what you do. So let's just see what he does."

Sen. Jeff Merkley (D-Ore.) didn't believe Trump, either.

"He mentioned some words. Empty," he said.

E&E News
http://www.eenews.net/eedaily/2017/03/01/stories/1060050723
Pruitt wants more money for water projects, Superfund cleanups
By Geof Koss 3/1/17

U.S. EPA Administrator Scott Pruitt will meet with top White House officials tomorrow to push for money to boost water infrastructure and Superfund cleanups in the infrastructure package that President Trump reiterated last night should top $1 trillion.

In an interview at the Capitol following Trump's joint address to Congress, the recently confirmed administrator said EPA's water infrastructure revolving loan and grant programs, and the backlog of Superfund cleanups, are prime candidates for inclusion in the infrastructure bill.

"One of the things I'm emphasizing with the White House is that we shouldn't just talk about infrastructure from a roads and bridges perspective, we need to be thinking about water infrastructure," Pruitt said.

"We need to be thinking about these Superfund sites across the country, 1,300 or so that we see," he said. "We need to do more to remediate those because some of those have been on the list for three or four decades."

Pruitt said he will be making that point at tomorrow's White House meeting, which he said will focus on "roads, bridges and water infrastructure — outside the budget."

When it comes to Superfund cleanups, Pruitt cited long-delayed work in Oregon's Port of Portland; Butte, Mont.; and the Hanford nuclear site in Washington state.

"It is absolutely unacceptable to have sites on the [Superfund] National Priorities List for three to four decades," Pruitt said.

"Those are places where we've got to set some goals and objectives and get those areas cleaned up. That means jobs and communities have a cleaner environment," he said. "So they're some of the most tangible things we can do to benefit our environment."

Pruitt declined to identify what EPA programs could be cut in the upcoming fiscal 2018 budget, which reportedly will call for a 24 percent overall reduction for the agency (*see related story*).

Pruitt said he spoke last night to White House Office of Management and Budget Director Mick Mulvaney about "the concerns I have about what's been recommended."

He said: "This is early in the process. These are discussions that are occurring with OMB and the executive agencies. I've emphasized the importance of those state revolving funds, of those [Water Infrastructure Finance and Innovation Act] grants, of making sure that we partner with the states in a very good way on water infrastructure."

'Time to put a little flesh on that'

While Trump last night again called for Congress to pass legislation "that produces a $1 trillion investment" in U.S. infrastructure, "financed through both public and private capital," he offered no insight as to how lawmakers should foot the bill.

Although infrastructure has been one possible area of bipartisan agreement, top Democrats on the primary committees of jurisdiction last night said it was past time for the White House to offer a detailed proposal — including how to pay for the plan.

"We've been hearing a trillion since last summer or some time during the campaign, but it's time to put a little flesh on that," said Rep. Peter DeFazio (D-Ore.), ranking member on the House Transportation and Infrastructure Committee. "And that means a real plan."

Senate Environment and Public Works Committee ranking member Tom Carper (D-Del.) noted that Democrats have already introduced their own $1 trillion infrastructure plan. He said public-private partnerships will only go so far as a financing mechanism.

"The tricky thing about infrastructure investment in roads, highways, bridges, rails, airports, ports and all that stuff is it costs money," Carper said after the speech. "And to somehow say that we're going to pay for this through public-private partnerships — that will help with a little bit of it, but that's not going to do the lion's share of the lifting."

Sen. Heidi Heitkamp (D-N.D.) said she is "very interested in what we could do" on a package that includes public and private partnerships. "Obviously we've been looking at a package that's much bigger," she said.

EPW Chairman John Barrasso (R-Wyo.) noted that his committee is having another hearing on the "huge need for infrastructure" today but said the administration has not shared its plans for financing the push.

"We have to find out how to fund it," he said.

Sen. James Lankford (R-Okla.) said he expects more details from the White House on infrastructure in the coming days but signaled that deficit concerns are on his mind.

"It is a uniquely governmental role to deal with infrastructure, so I don't have any combat with that," he said last night. "That is something that we should be engaged in. The issue is how do we pay for it, what does that look like, what is the process, what is the time period."

Climate

At least one moderate Republican, Florida Rep. Carlos Curbelo, connected the infrastructure push to climate change.

"Infrastructure is a lot of opportunity, broadly speaking, for the country but also for those of us who are concerned about sea-level rise and climate change because infrastructure investments do include investments in coastal communities to help them prepare for the effects of sea-level rise, which we're already seeing in places like the Florida Keys," he said.

Curbelo also praised the tone of Trump's speech, which was more focused and less combative than many of the president's previous addresses.

"I think it's a night where we were called to come together to look on the bright side of things," Curbelo said. "It's a welcome turning of the page from what has been a painfully divisive chapter in our nation's politics, but words aren't enough. Now we have to actually turn this sentiment into action and craft some of these solutions."

Washington Times
http://www.washingtontimes.com/news/2017/feb/28/scott-pruitt-email-release-delayed-oklahoma-suprem/
Oklahoma Supreme Court agrees with state AG, delays release of Pruitt emails
By Ben Wolfgang 2/28/17

The Oklahoma Supreme Court on Tuesday delivered a win for EPA Administrator Scott Pruitt, halting the scheduled release of thousands of additional emails from Mr. Pruitt's time as the state's attorney general.

Earlier this month the attorney general's office complied with a lower court's order and made public more than 7,500 pages of emails. Many of them contained communications between Mr. Pruitt, his deputies and oil-and-gas companies.

Critics argue those documents proved the EPA chief is far too cozy with the fossil fuels sector, pointing to specific instances in which he coordinated with oil-and-gas firms in the effort to fight Obama-era environmental regulations.

Another massive email dump was scheduled for late this week in response to lawsuits from the watchdog group The Center for Media and Democracy.

But the Oklahoma attorney general's office argued in court that it simply didn't have time to review all the emails and compile them for public release.

"All those documents have to be manually reviewed ... twice," the state assistant attorney general, Dan Weitman, said in a court hearing Tuesday, adding that it took staffers more than 90 man-hours to put together the initial release.

The Oklahoma Supreme Court agreed with that argument, and late Tuesday afternoon reversed the lower court's order and issued an indefinite stay, keeping Mr. Pruitt's emails under wraps for the foreseeable future.

"Enforcement of the trial court's order ... is stayed until further order from this court," the state supreme court said in its ruling.

In a statement following the decision, The Center for Media and Democracy vowed to keep fighting, and said the emails already released prove that Mr. Pruitt is too closely tied to the energy sector.

"A small dose of sunlight has already shown a more deliberate hand-in-glove relationship between Scott Pruitt and the oil and gas industry than previously understood and proved that he used personal email on the job, contrary to what he told U.S. senators," said center director Lisa Graves.

"Legal maneuvering and delay tactics will not distract us from unearthing what Pruitt is hiding from the American people. We're confident we'll win the case and obtain the thousands of emails the Oklahoma AG's office is trying desperately to withhold," she claimed.

In its statement, the Oklahoma attorney general's office said the lower court's order was unreasonable.

"Not only was this a patently unreasonable directive, but the AG's office was not given the opportunity to respond to the petition. Our office is appreciative and encouraged by the court's decision and welcomes the opportunity to present its case so that these records can be reviewed and provided in an orderly fashion," spokesman Lincoln Ferguson said.

The initial batch of emails showed that Mr. Pruitt's office worked with firms such as Oklahoma-based Devon Energy to fight Obama administration rules on fracking, among other things. The two sides co-drafted a letter that Mr. Pruitt ultimately sent to the administration in his capacity as attorney general.

Mr. Pruitt has admitted to working on behalf of the oil-and-gas sector, but said such actions were within his duties as Oklahoma attorney general.

Senate Democrats earlier this month tried to hold up Mr. Pruitt's confirmation to head the EPA until all the emails were made public, but their efforts failed.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency

Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/17/2017 1:54:53 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]
Subject: The Hill: Dem AGs join front lines of Trump opposition, 4/17/17

The Hill
http://thehill.com/policy/energy-environment/328928-dem-ags-join-front-lines-of-trump-opposition
Dem AGs join front lines of Trump opposition
By Timothy Cama 4/16/17 7:03 PM

Democratic state attorneys general are taking a leading role in fighting the Trump administration's environmental policies.

Top legal officers from blue states, led by New York Attorney General Eric Schneiderman, have gone to court to challenge the Environmental Protection Agency's (EPA) attempt to repeal the Clean Power Plan. They're also fighting the Energy Department's delay of energy efficiency standards.

"We anticipate being significantly involved because President Trump has made clear his intention to roll back the Clean Power Plan and to increase the carbon footprint here in America," said Connecticut Attorney General George Jepsen.

"I feel very much in the mainstream here," Jepsen added. "But I stress that these issues, while they might have their locus on the environment, have an economic impact as well, in addition to public health."

Schneiderman, Jepsen and 15 other state attorneys general and the top legal officers from a handful of localities have sought this month to prevent the Trump administration from halting a court case against the Clean Power Plan while the EPA reviews the policy.

The Clean Power Plan requires the power plant sector to curb its carbon emissions.

The state attorneys plan to keep fighting to preserve the plan, including if Trump seeks to repeal it through a new regulation.

Meanwhile, a legal coalition that includes nine of the attorneys general sued the Energy Department over its delay of six energy efficiency rules covering appliances like ceiling fans and commercial boilers.

Democratic attorneys general have lined up against Trump on other issues as well. Washington's Bob Ferguson and Hawaii's Doug Chin, for example, have notched wins against Trump's executive order banning travel to the United States from several countries. That policy remains in legal limbo.

State attorneys general have long used their power to shape federal policy, and their involvement in a case can have a significant impact, often giving litigants legal standing to challenge the government.

"From a legal perspective, it's really helpful for a state to be on the case," said Mark Templeton, head of the environmental law clinic at the University of Chicago's law school, and a former environmental regulator in Missouri.

"There are specific and useful state interests in these national policies."

But Peter Glaser, an environmental attorney at Troutman Sanders who works for industry clients, said he doesn't think the involvement of Democratic attorneys general will necessarily sway the courts.

"These states have been in these cases for a long time, and their arguments tend to be virtually identical to the environmentalists," said Glaser, who represents the National Mining Association in the Clean Power Plan lawsuit.

"I think the fact that it's coming from states might add something additional optically ... but in the end, it's similar arguments, and courts will make up their minds based on how they see the facts and the law."

Aside from notching policy victories, the court battles generate headlines and attention, often giving attorneys general a springboard to higher offices like governor or senator.

"The beauty from a political perspective is that it's both great policy and great politics," said Colm O'Comartun, a principal at state policy strategy firm 50 State and a former executive director of the Democratic Governors Association.

"This is one that is very effective with their base, is consistent with what Democrats think Democratic elected representatives should be doing — which is promoting health and safety — and is a great way to come together as a group and have a louder voice."

Environmental protection is a winning issue with the Democratic base, so being involved is "an amazing place to be," he said.

Numerous attorneys general from both parties have gone on to higher office, including New York Gov. Andrew Cuomo (D), Alaska Sen. Dan Sullivan (R), and even Trump's EPA administrator, Scott Pruitt, who sued the Obama administration more than a dozen times as Oklahoma's attorney general.

James Tierney, who fought the Reagan administration on acid rain prevention as Maine's Democratic attorney general, said the legal fights have grown more partisan over the years.

"It used to be we did this all on a bipartisan basis," he said.

"I was a Democrat, but the Vermont AG [John Easton] was a Republican, and we frankly didn't notice much whether somebody was a Democrat or Republican, we just went in and did it."

Kevin McGonagle

Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/14/2017 8:30:21 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: The Hill: Trump officials to deliberate on Paris climate pact

The Hill
http://thehill.com/policy/energy-environment/328894-trump-officials-to-deliberate-on-paris-climate-pact
Trump officials to deliberate on Paris climate pact
By Timothy Cama 4/14/17

Top Trump administration officials plan to meet next week to decide whether the U.S. should participate in the Paris climate agreement.

Politico reported Friday that the meeting is tentatively scheduled for Tuesday at the White House.

As planned, the meeting would include National Economic Council Director Gary Cohn, Secretary of State Rex Tillerson, National Security Adviser H.R. McMaster, Environmental Protection Agency Administrator Scott Pruitt, Energy Secretary Rick Perry, senior adviser Jared Kushner and chief strategist Stephen Bannon, Politico said.

They're hoping to come to a consensus and recommend to President Trump whether he should stick to his campaign promise to pull the United States out of the non-binding global warming accord, or if it is better for diplomacy and business to stay in.

A White House spokeswoman didn't respond to a request for comment Friday on the Politico report.

White House press secretary Sean Spicer said last month that Trump would decide a course of action on Paris by the Group of Seven meeting in late May.

Whichever choice Trump eventually makes, he is very unlikely to seek policies to meet the 26 to 28 percent emissions cut that former President Obama promised for the United States.

Trump and his administration are working to repeal nearly all of Obama's climate agenda, including the Clean Power Plan, which represented the bulk of the policies to reach the goal.

Bannon and Pruitt are the main forces who are opposing the Paris pact and pushing for Trump to pull out.

Pruitt has been outspoken in his opposition. He told "Fox & Friends" Thursday that the pact is "something we need to exit in my opinion and "a bad deal for America," in part because nations like India and China are subject to what he sees as weaker standards.

Bannon, who used to lead the far-right website Breitbart News, is generally opposed to international governance and climate change policy.

Kushner is one of the main proponents of the pact, along with Tillerson, the former CEO of Exxon Mobil Corp.

To them, it's best to retain the Paris agreement as a diplomatic tool and to keep a seat at the table on international climate policy.

Trump may also choose to stay in the agreement and reduce the emissions commitment. Rep. Kevin Cramer (R-N.D.) and coal producer Cloud Peak Energy are among those asking for that outcome.

The accord was reached in 2015, with nearly 200 nations committing to limit their carbon dioxide emissions, thanks in large part to efforts by Obama. Since the emissions cuts are not binding, Obama never submitted it for Senate ratification as a treaty, something that would have been nearly certain to fail.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/26/2017 1:39:22 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Politico: Trump's already making his mark on climate, 4/26/17

Politico
http://www.politico.com/story/2017/04/26/trumps-climate-change-237611
Trump's already making his mark on climate
By Eric Wolff 4/26/17, 5:11AM

President Donald Trump's aggressive rollback of the Obama administration's climate policies is already changing the trajectory of the world's efforts on global warming, with some analysts estimating it will mean billions more tons of greenhouse gases entering the atmosphere during the next decade and a half.

It could be one of the most durable legacies of his young presidency — regardless of whether Trump decides to withdraw the U.S. from the Paris climate agreement.

Trump has spent much of his first 100 days in office launching a series of efforts to undo former President Barack Obama's domestic climate policies, seeking to ease pollution limits on power plants, vehicle tailpipes, coal mining, and oil and gas wells. And while Democrats and environmental groups promise fierce resistance, analysts say Trump's efforts could bring an effective halt to U.S. efforts to cut the carbon pollution that scientists blame for warming the planet.

"This is an experiment we can only run once, and then it's too late," said Princeton University climate scientist Michael Oppenheimer. "We were in a lot of trouble with climate change already. This only makes it more risky. It's hard to quantify how much it matters, but it makes attainment of a difficult-to-achieve target more or less impossible."

The United States is the world's second-largest carbon polluter, but its greenhouse gas output has slid sharply in the past decade — a trend driven partly by increases in energy efficiency and a shift from coal to natural gas as a power source. Obama had pledged to continue those reductions in the coming decade to meet U.S. commitments in the 2015 Paris agreement, in which nearly 200 nations made nonbinding promises to cut their carbon pollution. Hillary Clinton had promised even steeper reductions.

Trump, in contrast, has vowed to reverse Obama's policies, lift restrictions on the energy industry and "save our wonderful coal miners" — pledges that helped him win fossil fuel-producing swing states like Pennsylvania and Ohio.

And his actions will have a real-world effect, based on POLITICO's analysis of estimates from the Democratic-leaning consultant Rhodium Group and the World Resources Institute. Instead of falling, Rhodium's projection estimated that Trump's policies, if fully implemented, will cause U.S. carbon pollution to continue more or less at current levels. That means that by 2025, according to POLITICO's analysis, the U.S. would be pumping 900 more megatons of greenhouse gases into the atmosphere each year than under Obama's most ambitious target.

That extra U.S. carbon would exceed the annual output of Germany, one of the world's top greenhouse gas polluters. That would be enough to increase the world's annual carbon emissions by almost 2 percent, Pennsylvania State University climate scientist Michael Mann said — at a time when climate researchers say the world urgently needs to accelerate its cuts.

Through 2030, the cumulative gap between the Trump and Obama policies could exceed 4 billion metric tons of carbon dioxide, based on Rhodium's estimates.

In other words, Trump's domestic actions on energy would be his real contribution to global climate policy — a fact obscured by the noisy political fight on whether the U.S. should withdraw from Paris. The figures don't even account for the possibility that a U.S. retreat on climate efforts would cause other major polluters, such as China and India, to pull back on their commitments.

"If you're going after the Clean Power Plan and going after everything else and all the other rules, then whether or not you stay in Paris appears to be symbolic from the perspective of U.S. emissions," said Andrew Light, a fellow at the World Resources Institute who worked for the State Department under Obama.

Rhodium based its analysis on a March 28 executive order in which Trump directed his agencies to take the first steps toward reversing some of Obama's most significant climate actions, including regulations on coal miners, oil and gas drillers, and thousands of power plants.

Trump and his appointees have made no secret of their disdain for Obama's attempts to rally the world on climate change, an issue the president has labeled a Chinese-inspired "hoax" that's wiped out American jobs. White House budget director Mick Mulvaney dismissed climate programs last month as "a waste of your money," telling reporters that "we're not spending money on that anymore."

Mulvaney was defending Trump's proposal for a 31 percent budget cut for the Environmental Protection Agency, whose carbon regulations on the power, auto, coal, oil and gas industries had provided the heart of Obama's climate policies.

Among other steps to erase Obama's climate legacy, Trump has ordered the EPA to begin unwinding Obama's 2015 regulations on greenhouse gases from power plants, moved toward easing the agency's vehicle fuel-efficiency requirements and signed off on Congress' repeal of stream-pollution restrictions that had threatened to hinder some coal mining activity. He is also due to take steps this week toward opening up vast new offshore regions for oil and gas production — a sharp break from the limits Obama imposed late in his second term.

More quietly, the administration has postponed Energy Department efficiency standards for commercial and consumer appliances such as freezers and boilers, withheld grants for research into next-generation energy technologies, and ordered the government to revise a metric called the "social cost of carbon" that seeks to factor the impacts of climate change into regulatory actions. Administration lawyers have also persuaded appellate judges to postpone rulings on several Obama-era rules facing industry challenges, giving Trump's agencies more time to pull them back for reworking.

Rhodium's analysis of the effect of Trump's executive order comes with plenty of caveats: It assumes that cities and states will fail to fill the gap in federal policy, and that a climate advocate will not take over the White House in 2020. It also does not allow for faster-than-expected advances in renewable energy technologies — notably battery storage — that could accelerate the shift to wind and solar power.

But Rhodium also doesn't include other measures that Trump could take, such as reneging on a 2016 treaty to limit the production of potent greenhouse gases known as hydrofluorocarbons. That agreement by itself could forestall 0.5 degrees Celsius in global warming during this century, according to U.N. estimates. The Paris agreement is meant to prevent the rise in average global temperatures from exceeding 2 degrees Celsius above pre-industrial levels.

Rhodium's partners include Trevor Houser, who was a top outside adviser to the Clinton campaign on energy issues.

Climate researchers say the world is so close to a tipping point that any backsliding would be dangerous.

For example, carbon dioxide levels in the Earth's atmosphere have been hovering above 405 parts per million since November, the highest on record, according to the National Oceanic and Atmospheric Administration — significantly higher than the 350-parts-per-million level that some leading climate researchers say the world needs to move back to. The estimated change in emissions allowed by Trump's executive order would add 2 parts per million in the next 20 years, according to a rough estimate by Pieter Tans, chief of the Carbon Cycle Greenhouse Gases Group at the NOAA Earth Science Research Laboratory.

Put another way, those extra emissions alone would move the world 4 percent closer to 450 parts per million — the point at which the world still has a better-than-50-percent chance of stabilizing global temperatures, according to the Organization for Economic Cooperation and Development. Failing to stabilize temperatures would could mean intensifying extreme weather events at "unprecedented levels," the OECD says. It could also move the world to a point where temperature and emissions feedback loops make changes in the world's climate change irreversible.

"Thus far, we human beings have mostly controlled climate change through emissions of greenhouse gases," Tans said in an email. "Continuing on this path will likely lead to uncontrolled and potentially very large emissions of [carbon dioxide] and [methane] from the melting of permafrost in the Arctic, to name one plausible feedback effect."

Still, some advocates for deep cuts in carbon emissions, such as Mann, hold out hope that Obama's policies will prove difficult to uproot. They're counting on the courts and resistant federal staffers to stall Trump's plans.
"Bureaucracy can be both a good and bad thing, depending on the circumstances," Mann said in an email. "In this case, I think it may save us.

By signing up you agree to receive email newsletters or alerts from POLITICO. You can unsubscribe at any time.
"Were Democrats to win back one or both houses of Congress in the mid-terms less than two years away, I think that much of the damage could almost certainly be mitigated," he added.

Skeptics of Obama's policies argue that the U.S. would absorb most of the pain of the Paris agreement while countries such as China and India — the world's biggest and fourth-biggest carbon polluters, respectively — would get off easy. Both countries are expected to produce more carbon dioxide in 2030 than they did in 2015.

"The Obama administration made really ambitious commitments in Paris with no clear way to get there under current regulations," said Robert Dillon, an energy expert with the American Council for Capital Formation, who contends that Trump's decision to ease off on Obama's carbon rules puts the U.S. on a level playing field.

"Any time you have a concern where you're tying one hand behind your back to compete in the global market, there are legitimate concerns about how the country remains competitive and improves the standard of living for American families," he added.

Meanwhile, Trump's rollback puts pressure on other countries to decide how to respond. The U.S. already butted heads with other G-7 nations this month when Energy Secretary Rick Perry's insistence that the Paris agreement should not be mentioned scuttled a joint communique.
Some foreign leaders are choosing to be optimistic, for now.

"I don't see the world backing off," Swedish Deputy Prime Minister Isabella Lövin told reporters last week in Washington. Instead she expressed concern about the next stage of the Paris agreement, which calls for nations to further cut their greenhouse gases.

"We are concerned that some might point to the U.S. and say, 'We don't have to raise ambitions now if the U.S. is not going to take part of this,'" she said. "And the U.S., of course, has a great responsibility for the historic emissions. That makes it a really bad chase to the bottom."

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/17/2017 1:54:55 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
Subject: Washington Examiner: Environmental groups reaching fever pitch in Trump 'resistance', 4/17/17

Washington Examiner
http://www.washingtonexaminer.com/environmental-groups-reaching-fever-pitch-in-trump-resistance/article/2620342
Environmental groups reaching fever pitch in Trump 'resistance'
By John Siciliano 4/16/17 12:00 AM

Environmentalists appear more excited than President Trump himself in marking his 100th day in office.

In the lead-up to April 30, Trump's official 100th day, environmental groups have leveled at least one lawsuit, or related legal action, for nearly every executive order that has been signed since Trump was inaugurated Jan. 20.

Some of the highlights include:

A lawsuit in federal court over Trump's approval of the Keystone XL pipeline. The Natural Resources Defense Council led the litigation, which argues that the Trump administration rushed the environmental review for the project. It also is seeking to bog down the approval process at the Nebraska public service commission, which must approve the project.

Rallying states and local governments in briefing the D.C. Circuit Court of Appeals on the legal flaws inherent with Trump's push to hold up a court decision on Obama-era climate regulations. Trump issued a March 28 order that seeks to roll back a number of former President Barack Obama's climate change regulations. But it needs the court to place a hold on a lawsuit against the Clean Power Plan, the centerpiece of Obama's climate agenda, while the Environmental Protection Agency reviews the regulation.

Last week, the Center for Biological Diversity, joined by Rep. Raul Grijalva of Arizona, the top Democrat on the House Natural Resources Committee, sued Trump over his executive order directing the Department of Homeland Security to begin planning a wall along the U.S.-Mexico border. It was the first lawsuit leveled against Trump's proposal to build the wall.

Scott Pruitt, Trump's head of the Environmental Protection Agency, dismissed the lawsuit as "frivolous," the type of thing to be expected as the administration seeks a major restructuring of the government.

At the same time, the New York Times reported last week that Pruitt is seeking a 24-hour security detail of 10 men to guard him around the clock. One of the reasons for the increased security could be the number of activist groups planning to rally against him and Trump's vision for the EPA, including nationwide protests planned for next week.

Trump plans to stay clear of major public events the weekend of April 28, declining to attend the White House Correspondents Dinner, which the president traditionally attends.

That weekend, activists plan to amass in the streets of Washington and surround the White House to protest Trump's executive orders rolling back Obama's climate rules, his hostility to the Paris climate change agreement, and the several executive orders seeking to increase fossil fuel development over clean energy resources.

Ahead of the April 29 climate march, legions of scientists will be in Washington on April 22, Earth Day, to protest Trump's hostility to the science of global warming, as well as scientific research in general. The March for Science will focus on Trump's 31 percent cuts to EPA's budget and other targeted reductions to clean energy programs at the Energy Department, the National Oceanic and Atmospheric Administration, and the National Institutes of Health.

"President Trump's huge budget cuts aimed at science research programs at the DOE, NIH, NOAA, and EPA would devastate innovation on critical issues ... like health and energy research," said a statement from 314 Action, a non-profit group helping to organize the protest.

"These programs have the potential to affect all Americans, but the most vulnerable will be impacted the most — and that's un-American," the group said. "These budget cuts have the science community up in arms. The March for Science is not just about climate change, it's about making sure that science and the scientific process has a seat in the highest levels of government."

Climate activists also are seeking to help organize protests at lawmakers' town hall meetings during the April recess.

Billionaire activist Tom Steyer launched the Town Hall Project last week as a new partnership organized by his group, NextGen Climate, "to empower Americans across the country to make their voices heard."

Steyer's group has put together a list of town hall meetings through an "engagement map" and other online resources to assist would-be activists to rally at town halls. Other tools include news analysis, issue guides, organizer trainings and advocacy campaigns to assist the effort.

"We want to make sure that every American has the ability to stand up and defend our values," Steyer said. "In the face of the Trump administration's attacks on our fundamental rights, Americans have been making their voices heard across the country."

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/14/2017 8:30:24 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: The Daily Caller: Report: White House Officials To Meet To Determine Fate OF Paris Climate Deal, 4/14/17

The Daily Caller
http://dailycaller.com/2017/04/14/report-white-house-officials-to-meet-to-determine-fate-of-paris-climate-deal/
Report: White House Officials To Meet To Determine Fate Of Paris Climate Deal
By Chris White 4/14/17

President Donald Trump's senior officials will gather next week to finally hash out internal disagreements about whether the U.S. should stay in the Paris climate deal, White House officials told Politico Friday.

Secretary of State Rex Tillerson, EPA administrator Scott Pruitt, Energy Secretary Rick Perry, senior adviser Jared Kushner, and Trump's chief strategist Steve Bannon are among those expected to participate in the meeting, which is tentatively scheduled for next Tuesday. Sources told Politico the the names of the participants and time of the meeting are still in flux.

The much-talked about climate deal requires the U.S. to dramatically reduce greenhouse gasses. Former President Barack Obama signed the deal last year without the Senate's consent. The agreement has become a contentious point within the Trump administration.

Bannon and Pruitt represent the side most opposed to the agreement, while Tillerson and Kushner have staked out more conciliatory positions. The secretary of state believes the deal could be an effective diplomatic tool.

Pruitt, a Republican who sued the EPA more than a dozen times as Oklahoma's attorney general, has made no bones about his antipathy for the deal, telling reporters last week the Obama-era deal is a "bad deal for this country."

Pruitt is primarily worried the deal could toss a wrench in his push to repeal Obama's climate change regulations for power plants, reported Politico.

Other White House officials, meanwhile, argue the agreement is not legally binding and will not hurt Pruitt's effort to undo Obama's so-called Clean Power Plan, which requires the U.S. to reduce its greenhouse gas emissions by more than 28 percent over the next 10 years.
The CPP predates the Paris deal and was not legally based on any international commitment.

Coal companies have come out of the woodwork in support of the deal. They are willing to adhere to the deal so long as Trump can negotiate for lower emissions goals and subsidies for clean coal.

Cloud Peak became the first major coal company on April 6 to officially come out in favor of staying in the Paris agreement. Recent reports, however, suggest at least two other coal majors — Peabody Energy and Arch Coal — have also signaled to the White House a preference for staying pat on the deal.

Trump has been mum on the deal since becoming president, but he made dismantling the beleaguered agreement a central part of his campaign message during the 2016 presidential election.

The president is expected to render a final decision on the deal by late May when he and other world leaders will travel to Italy for a G-7 summit. More than 200 countries have singed the Paris agreement.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/26/2017 1:39:27 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: E&E News: Republicans ramp up their offensive, 4/26/17

E&E News
https://www.eenews.net/eedaily/2017/04/26/stories/1060053583
Republicans ramp up their offensive
By Hannah Hess 4/26/17

Congressional Republicans have sent President Trump the strongest signal yet of what they want him to do with the Paris Agreement.

The Senate Republican Policy Committee yesterday advised in a memo shared at its weekly lunch that the United States' obligations under the deal will increase over time. The "plain language" of the historic emissions-reduction agreement struck in December 2015, the memo says, states "that we can only pledge to do more — not less — as time goes on."

The memo, also posted to Medium, coincided with Energy Secretary Rick Perry publicly saying the Trump administration should stay in the deal but alter its current commitment to cut its greenhouse gas emissions 26 to 28 percent below 2005 levels by 2025 (*E&E News PM*, April 25).

"I think the president ought to come out of the agreement," Sen. John Barrasso (R-Wyo.), chairman of the policy group, told reporters yesterday afternoon.

Barrasso echoes U.S. EPA Administrator Scott Pruitt — who is expected to join Perry and other top Trump advisers for a meeting on how the United States should proceed on the pact — and a dozen House Republicans who last week called for an exit (*Greenwire*, April 19).

Today, Rep. Kevin Cramer (R-N.D.), a close Trump ally and energy adviser during the campaign, will send the president a letter he has been circulating that lays out conditions for staying in the agreement.

Eight other Republicans, mostly members of the House Energy and Commerce Committee, have signed on, Cramer said yesterday after hosting a forum to talk about the contentious topic.

While die-hard congressional opponents of President Obama's climate policies maintain the landmark deal negotiated at a December 2015 climate conference held by the United Nations should have been submitted to the Senate for approval, Cramer disagrees.

"It was the use of presidential constitutional authority to come to an agreement that could never have been a treaty," Cramer said, but Obama wanted it to "have all the weight of a treaty" knowing he could never have gotten ratification from GOP-dominated Capitol Hill.

Keith Benes, a former legal adviser at the State Department who worked in the treaty affairs office under President George W. Bush, came to a similar conclusion during the forum. Benes said nothing prevents the United States from communicating a different goal, though he acknowledged there would be political blowback.

"If you don't want diplomatic blowback, you only get it once by withdrawing," said Chris Horner, a senior fellow at the Competitive Enterprise Institute who was part of Trump's agency landing team for EPA. Horner said Article 4 of the agreement prevents the United States from lowering its emissions reduction targets.

Those pushing for Trump to follow through on his campaign pledge to pull out of the deal argue that Obama allies will cite the agreement in court battles over key pieces of his climate legacy, including the Clean Power Plan.

Indeed, more than a dozen state prosecutors, led by New York Attorney General Eric Schneiderman (D), sent a letter to Trump yesterday condemning the idea of exiting.

Other panelists, including Bracewell LLP energy lobbyist Scott Segal and Pillsbury Winthrop Shaw Pittman LLP's Jeff Merrifield, a former Nuclear Regulatory Commission member, said the Trump administration would not be legally confined by Paris.

"A Trump-appointed negotiating team that decamps to address the problems of the Paris accord would generate a much different-looking document, one that could be encouraging for both baseload and mobile sources of power in the United States, like coal," Segal said.

Merrifield agreed Trump could empower negotiators to "go back and make a better deal."

Tom Pyle, president of the Institute for Energy Research and former leader of Trump's Energy Department transition team, said he's becoming increasingly concerned about Paris because he agrees with Pruitt that the United States should withdraw.

"I don't buy this about them being able to negotiate a better deal. The agreement is set up so that the prices going forward are designed to make sacrifices stronger, the agreement stricter," Pyle said in an interview. The agreement also contains financial obligations Obama made to developing nations that the Trump administration is unlikely to negotiate away, Pyle added.

"I think they're playing a game of chicken right now," he said. "The agreement has systematic review periods, and the idea is to make even more sacrifices and deeper cuts."

When asked about Perry's comments yesterday calling for the administration to keep the United States in the Paris Agreement, Pyle said he didn't think the secretary had thought the issue the whole way through, adding, "He's only one voice."

Lobbying and public opinion

Lobbying from both sides has increased ahead of the White House sit-down, which was postponed last week (*E&E News PM*, April 18).

The Industrial Energy Consumers of America, an industry group representing large manufacturing companies on energy policy issues, sent its analysis of the deal to the White House late Monday. It concluded that failure to withdraw would run counter to Trump's economic goals.

Cramer acknowledged that the forum and his letter seemed more urgent after *Politico* reported, citing anonymous administration sources, that the meeting has been rescheduled for tomorrow.

A White House spokeswoman declined to confirm the report yesterday.

Public polling, both domestically and abroad, shows strong support for taking action to address global warming. Cramer acknowledged an economic opportunity "as well as moral opportunity" for the United States to play a role in finding climate solutions.

"I've never believed that every country in the 190 or so was going to do exactly what they said they were going to do especially when the United States was the hinge pin of the whole thing," Cramer said. "All of that seemed too loose to me to be of much legal consequence."

The raucous public debate among Trump administration officials over the fate of the deal reflects the fact that the president allows people close to him to express their very strong opinions — even while they're different, said Cramer.

"This is how he processes ... to the swamp and appears chaotic because it's so out of the ordinary," said Cramer. "I think as people watch it that they are going to find it to be quite refreshing."

Cramer suggested that coming to a private decision in a very public way was "kind of noble" on Trump's part.

Paul Bledsoe, a former Clinton White House climate adviser and lecturer at American University's Center for Environmental Policy, suggested that ongoing intrigue over Trump's decision on Paris has overshadowed his negative impact on U.S. climate policy. For instance, leaked budget documents reveal plans to cut the office responsible for global negotiations to the bone (*Greenwire*, April 25).

Bledsoe said some believe the "Paris fig leaf will cover all Trump sins, and that's simply not the case."

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 3/27/2017 2:25:01 PM
To: So, Katherine [so.katherine@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]
Subject: Clean Power Plan Clips 3/27/17

Today you'll receive separate emails of clips dedicated to these topics:
- Clean Power Plan
- General OPA news

Below: Reuters, E&E News (2), Politico, International Business Times, AP (3/26), Bloomberg (3/26), Washington Examiner (3/26), Washington Times (3/26)

Reuters
http://www.reuters.com/article/us-usa-energy-regulation-idUSKBN16X150
Trump to sign order on Tuesday easing energy regulations: officials
By Steve Holland and Jason Lange 3/27/17 7:09 AM

President Donald Trump will sign an order on Tuesday aimed at making it easier for companies to produce energy in the United States, administration officials said on Sunday.

Under Trump, the U.S. Environmental Protection Agency is aiming to aggressively roll back Obama-era environmental regulations.

Trump plans to sign the executive order at the EPA to reduce "unnecessary regulatory obstacles that restrict the responsible use of domestic energy resources," a White House official said.

EPA Administrator Scott Pruitt told ABC's "This Week" the order would help reverse the Obama administration's anti-fossil fuel strategy.

Pruitt has publicly doubted the scientific consensus that human actions are the lead cause of climate change. His installation at the EPA last month reinforced the view on both sides of the political divide that America is ceding its position as a leader in the global fight on climate change.

E&E News
http://www.eenews.net/energywire/2017/03/27/stories/1060052110
Trump to roll back Clean Power Plan tomorrow at EPA
By Niina Heikkinen 3/27/17

The White House will release its executive order on the Clean Power Plan tomorrow, triggering President Trump's promises to dismantle the climate policies of his predecessor.

U.S. EPA Administrator Scott Pruitt announced the timing yesterday on ABC's "This Week." The move comes as the White House seeks safe footing after its stunning legislative loss on health care Friday.

The twin announcements about signing the executive order and permitting the Keystone XL pipeline, made before the weekend, stand to ease the turbulence of last week by fulfilling two of Trump's oaths to rural constituents.

"We've made tremendous progress on our environment, and we can be both pro-jobs and pro-environment, and the executive order's going to address the [past] administration's effort to kill jobs across the country through the Clean Power Plan," Pruitt said.

Vice President Mike Pence set the stage Saturday by telling a crowd in West Virginia, "The war on coal is over."

His remarks sought to reorient the White House toward an issue that served Trump well on the campaign trail, where he at one point wore a coal miner's hard hat and exulted in the devotion of workers in reflective stripes and coveralls.

"We're going to bring back jobs," Pence said. "We're going to get Washington out of the way of energy producers and coal miners — because energy means growth for America, and President Trump digs coal."

Still hurdles ahead before repeal

The White House confirmed yesterday that Trump will visit EPA, an agency for which he expressed disdain before the election, to formally announce the order with Pruitt at his side.

"On Tuesday, President Trump will sign an Energy Independence Executive Order at the EPA to strengthen the nation's energy security by reducing unnecessary regulatory obstacles that restrict the responsible use of domestic energy resources," White House spokeswoman Kelly Love said in a statement.

"This order will help keep energy and electricity affordable, reliable, and clean in order to boost economic growth and job creation," she said.

Sources have told E&E News that the order would begin the long process of unwinding the Clean Power Plan by requiring Pruitt to review the program, which cuts carbon emissions from existing power plants 32 percent by 2030. It also orders the Department of Justice to ask the U.S. Court of Appeals for the District of Columbia Circuit to abruptly freeze the legal challenge against the Clean Power Plan, effectively ending the government's defense of the carbon program.

The order is also expected to cancel the Climate Action Plan, while instructing federal agencies to review actions that restrict energy production (*Climatewire*, Feb. 21).

The order itself does not have legal force to repeal the Clean Power Plan, but it does send a signal to EPA to begin the process of rulemaking and public comment necessary to rescind it. The administration would then have to prove that the repeal was evidence-based and not arbitrary, said Steve Silverman, a former EPA attorney in the Office of General Counsel.

"The most immediate practical effect would be on pending litigation," he said, referring to challenges to the Clean Power Plan in the U.S. Court of Appeals for the District of Columbia Circuit (*Climatewire*, March 9).

"What they would ask the court to do is to put the litigation on ice while the administration takes action," said Silverman.

While the court doesn't have to agree, it likely will side with the administration on pausing the litigation, he said.

'States can make a difference,' but how much?

Agency efforts to terminate the Clean Power Plan could also be hindered if Congress follows through with Trump's proposed 31 percent cut to EPA's budget.

"If EPA is going to continue budget cuts, they aren't going to be able to do a new rulemaking process," said Kenneth Gillingham, an assistant economics professor at Yale University and a former senior economist on the White House Council of Economic Advisers under President Obama.

The "bare minimum" the administration could do to address the Clean Power Plan would be to simply repeal it, without replacing the climate rule with something else. In this case, the administration could take away funding for Clean Power Plan implementation in states but would still have to have funds to address court challenges to the rule's repeal, he said.

Taking away the Clean Power Plan would put the initiative back in the hands of states that want to address climate change, Gillingham added.

"States can make a difference, but not the kind of difference the federal government can make," he said.

The executive order has been expected for several weeks, since Pruitt first took the helm at EPA. Last week, White House spokesman Sean Spicer denied that it had been delayed and declined to comment on any details it might include (*E&E News PM*, March 22).

While environmental groups have challenged a repeal as an assault on climate action, Pruitt told "This Week" host George Stephanopoulos that the executive order would help bring back coal and manufacturing jobs to the United States and would also help the country reduce the need for energy sources from abroad.

Pruitt added that technological innovations in the coal and natural gas sectors were largely responsible for recent reductions in the United States' CO_2 emissions. He cited horizontal drilling for extracting natural gas as an example but did not cite any coal-related technologies.

Pruitt: Paris was a 'bad deal'

Government studies have shown that canceling the Clean Power Plan would have minimal benefits to mining jobs in some regions. Meanwhile, natural gas production in the United States has surged following advances in hydraulic fracturing. Power companies have lowered their carbon footprints by switching away from coal and toward natural gas and renewable power. Technologies to cut carbon output for coal plants, however, are not widely in use.

Pruitt called the Obama administration "anti-fossil fuel" and said rolling back the Clean Power Plan would help to reduce electricity rates for consumers.

When questioned whether the move would affect the United States' ability to meet its commitments under the Paris Agreement, Pruitt said the Clean Power Plan was not "tethered" to the accords. He called the 2015 negotiations on climate change a "bad deal" since major polluters China and India do not have to take steps to reduce pollution until 2030. Instead, he said the United States should act within the framework of the Clean Air Act.

The EPA administrator did not answer repeated questions from Stephanopoulos on whether he would continue to allow California to maintain its waiver under the Clean Air Act to enact stricter fuel efficiency standards on automobiles than the rest of the country. Pruitt said the president would re-evaluate the corporate average fuel economy (CAFE) standards in 2018. He said that the public did not want to buy the cars that meet the higher efficiency standards and that continuing to manufacture them is "counter-helpful" to the environment.

"What this CAFE standards combined with the Clean Power Plan and the executive order sends a message to the American people that we're going to do what we can to make sure we produce jobs and growth while also being sensitive to the environment, and making sure that we introduce common sense back into the discussion," he said.

E&E News
http://www.eenews.net/eedaily/2017/03/27/stories/1060052095
Pruitt promises Clean Power Plan rollback tomorrow
By Kevin Bogardus 3/27/17

U.S. EPA Administrator Scott Pruitt said that President Trump tomorrow will sign his long-anticipated executive order rolling back environmental regulations.

Appearing on ABC's "This Week" yesterday, Pruitt said the "energy independence" executive order will come out tomorrow, ensuring the Trump administration has "a pro-growth and pro-environment approach to how we do regulation in this country."

Pruitt said the order will address the Clean Power Plan, which requires power plants to reduce their carbon emissions and has been subject to a stay issued by the Supreme Court. The EPA chief said the regulation drafted by the Obama administration was "unlawful" and that after Trump's executive order, the agency will act "within the framework of the Clean Air Act."

"And it will be legal," Pruitt added.

The order is expected to include several other energy-policy-related initiatives. Many thought the measure would be issued soon after Pruitt's Senate confirmation last month, but it was delayed for weeks.

On yesterday's show, Pruitt was pressed on whether the order rolling back the Clean Power Plan would bring back industry jobs, as Trump has repeatedly promised. The EPA administrator said it would.

"I think absolutely it will. It will bring back manufacturing jobs across the country, coal jobs across the country," Pruitt said, adding, "The last administration had an idea of keeping it in the ground. We need to [be] more independent, less reliant upon foreign energy sources. And this is an opportunity."

Trump has long courted the coal industry. The president and others in his administration have said he would roll back federal rules to help boost the energy sector.

"We're going to get Washington out of the way of energy producers and coal miners — because energy means growth for America, and President Trump digs coal," Vice President Mike Pence said in an appearance in West Virginia on Saturday.

Trump has targeted several regulations at EPA, including ordering the withdrawal of the Waters of the U.S. rule as well as reopening a review of the agency's vehicle emissions standards.

Yesterday, Pruitt was also asked how the United States could reach its carbon reduction targets under the 2015 Paris Agreement if EPA backed down on the Clean Power Plan.

Saying Paris was nonbinding as well as "a bad deal," the EPA chief said the power plant rule was not tied to the climate change deal.

"The Clean Power Plan is not tethered to the Paris accords. And so this is an effort to undo the unlawful approach the previous administration engaged in and to do it right going forward with the mindset of being pro-growth and pro-environment, and we can achieve both," Pruitt said.

Politico
https://www.politicopro.com/tipsheets/morning-energy/2017/03/pruitt-says-executive-order-coming-tuesday-022034
Pruitt says executive order coming Tuesday
By Anthony Adragna 3/27/17 5:46 AM

IT'S COMING! After weeks of repeated delays, President Donald Trump is expected to sign the "energy independence" executive order directing his administration to undo a host of Obama-era environmental actions on Tuesday, according to EPA Administrator Scott Pruitt. "This is an effort to undo the unlawful approach the previous administration engaged in, and to do it right going forward with the mindset of being pro-growth and pro-environment," Pruitt told ABC's "This Week" Sunday. "And we can achieve both." As your ME host reports, Pruitt said the action would "absolutely" help bring back coal industry jobs as the Trump administration pursues a "long term" strategy to reinvigorate the domestic fossil fuel industry. Pros were first to know about the Tuesday signing last week. But first, The Washington Post reports Trump will today announce a new White House office led by son-in-law and senior adviser Jared Kushner with sweeping authority to overhaul the federal bureaucracy by harvesting ideas from the business world.

Clean Plan rewrite will be tough: Career federal managers keep the wheels of government turning while awaiting a political appointee to take over. But those people have careers that span administrations, and they do not typically make tough political calls. "There are dozens and dozens of important issues that will be involved in that rulemaking," said Jeff Holmstead, who ran the Office of Air and Radiation for Bush, the office that would be tasked with the Clean Power Plan rewrite. "Those will be important legal issues. Someone who is acting, a career official is not going to be able to make those decisions. Either they will have to take them up to the administrator, or they will need someone who is political head of the office who can make all those important decisions."

International Business Times
http://www.ibtimes.co.uk/epa-chief-trump-executive-order-will-roll-back-job-killing-climate-protection-legislation-1613793
EPA chief: Trump executive order will roll back 'job-killing' climate protection legislation
By James Tennent 3/27/17

The head of the US Environmental Protection Agency (EPA) has said that Donald Trump will signal the dismantling of legislation designed to fight global warming with the signing of an executive order on Tuesday.

Scott Pruitt, whose appointment to the EPA in February caused controversy because of his own climate change sceptic credentials, told ABC's This Week that the Energy Independence Executive Order was "about making sure we have a pro-growth and pro-environment approach to how we do regulation in this country".

"For too long, over the last several years, we've accepted a narrative that if you're pro-growth, pro-jobs, you're anti-environment. We can be both pro-jobs and pro-environment and the executive order is going to address the past administration's effort to kill jobs across this country through the Clean Power Plan."

The Clean Power Plan was a set of rules introduced under the Obama administration that would have seen states pushed to reduce CO2 emissions but which was held up by legal challenges.

The plan is expected to be scrapped under Trump. Defunding was suggested in the 2018 budget proposals.

Trump campaigned on a platform that Obama-era environmental regulation had led to job losses, particularly in coalmining areas. Critics argued that waning demand and automation were much bigger factors in companies cutting back on jobs.

In Kentucky last weekend, Trump continued his rhetoric, telling a rally of supporters that the EPA was going to be changed "from a job-killer into a job-creator".

Pruitt said that the Paris Agreement to combat climate change, which the US signed up to, was "non-binding".

"What was wrong with Paris," Pruitt said, "was not just that it failed to be treated as a treaty but [that] China and India, the largest producers of CO2 internationally, got away scot-free. They didn't have to take steps until 2030. Paris was just a bad deal."

Pruitt came under fire earlier in March when he appeared to say that CO2 emissions were not "a primary contributor" to global warming, going against the belief of his own agency and the majority scientific consensus.

AP
http://hosted.ap.org/dynamic/stories/U/US_TRUMP_CLIMATE?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT
EPA chief: Trump to undo Obama plan to curb global warming
3/26/17 2:02 PM

WASHINGTON (AP) -- President Donald Trump in the coming days will sign a new executive order that unravels his predecessor's sweeping plan to curb global warming, the head of the Environmental Protection Agency said Sunday.

EPA chief Scott Pruitt said the executive order to be signed Tuesday will undo the Obama administration's Clean Power Plan, an environmental regulation that restricts greenhouse gas emissions at coal-fired power plants. The 2015 rule has been on hold since last year while a federal appeals court considers a challenge by coal-friendly Republican-led states and more than 100 companies.

Speaking on ABC's "This Week," Pruitt said Trump's intention is to bring back coal-mining jobs and reduce the cost of electricity.

Supporters of former President Barack Obama's plan, including some Democratic-led states and environmental groups, argue it would spur thousands of clean-energy jobs and help the U.S. meet ambitious goals to reduce carbon pollution set by an international agreement reached in Paris in late 2015.

Pruitt on Sunday called the Paris climate accord a "bad deal" because he said it went too easy on China and India, who like the U.S. are among the world's leading producers of carbon dioxide.

"So we've penalized ourselves through lost jobs while China and India didn't take steps to address the issue internationally. So Paris was just a bad deal, in my estimation," he said.

Bloomberg
https://www.bloomberg.com/news/articles/2017-03-26/trump-to-begin-reversing-obama-era-cutbacks-in-carbon-dioxide

Trump to Begin Reversing Obama-Era Cutbacks in Carbon Dioxide
By Jennifer A Dlouhy 3/26/17 11:14 AM

The Trump administration will issue an executive order on Tuesday that begins dismantling a rule under former President Barack Obama that slashed carbon dioxide emissions and discouraged coal-fired electricity, U.S. environmental chief Scott Pruitt said.

"The executive order is going to address the past administration's effort to kill jobs across this country through the Clean Power Plan," Pruitt said on ABC's "This Week" program on Sunday.

Pruitt, the head of the Environmental Protection Agency, said Tuesday's order will be followed swiftly by actions to "make sure that whatever steps we take in the future will be pro-growth, pro-environment but within the framework of the Clean Air Act." He said it will be legal and is "an effort to undo the unlawful approach the previous administration engaged in and do it right going forward."

Under Obama, the EPA set a goal of reducing carbon dioxide emissions by 32 percent below 2005 levels by the year 2030, and its Clean Power Plan dictated specific targets for states to reach. The initiative has been in legal limbo since the Supreme Court stayed it in February 2016. Still, utilities have already shed coal-fired electricity and added natural gas and renewable power, partly in a bid to satisfy the looming requirements.

Opponents of the rule argue that the EPA overstepped its regulatory authority under the Clean Air Act by giving states broad carbon-cutting mandates instead of imposing specific requirements on individual facilities.

Coal Leases

President Donald Trump's long-awaited executive order also is slated to compel Interior Secretary Ryan Zinke to lift a moratorium on the sale of new coal leases on federal land. The actions set in motion by the order could take years to play out bureaucratically, but the directive will deliver immediate symbolic value.

Rescinding Obama's Clean Power Plan could help Trump fulfill his pledge to "cancel job-killing restrictions" on domestic energy. It also would undercut the carbon-cutting pledge that the U.S. and nearly 200 other countries made in Paris in 2015 -- an accord that Trump may disavow.

Support from coal miners helped propel Trump to victory by aiding wins in Pennsylvania, West Virginia and other states that have seen jobs tied to the fossil fuel decline. Trump has repeatedly promised to put miners back to work.

The change is not expected to return coal to its earlier dominance in electricity production, but the fossil fuel may see moderate growth as a result, according to projections from the Energy Information Administration. Use of natural gas by power plants also could decrease.

Even before he became EPA administrator, Pruitt was fighting the Clean Power Plan. As the state's attorney general, he had Oklahoma join more than two dozen other states, plus electric utilities, labor unions, business groups and coal miners, in challenging the rule. An array of environmental groups, public health advocates, renewable-energy developers, large corporations and 18 other states defended the initiative.

The U.S. Court of Appeals heard arguments on the challenge last September but hasn't ruled. The Trump administration can file a motion to hold the matter in abeyance as a way to begin rule-making aimed at rescinding the measure administratively. Environmental activists who are already defending the rule in court have vowed to fight such a move.

Washington Examiner
http://www.washingtonexaminer.com/trump-order-to-undo-obama-emissions-plan-coming-tuesday/article/2618486
Trump order to undo Obama emissions plan coming Tuesday
By Joseph Lawler 3/26/17 12:24PM

President Trump will issue an executive order on Tuesday to begin undoing former President Obama's rule on carbon emissions, Environmental Protection Agency head Scott Pruitt said Sunday.

"This is about making sure that we have a pro-growth and pro-environment approach to how we do regulation in this country," Pruitt said on ABC's This Week.

The order, he said, "will address the past administration's efforts to kill jobs across this country through the Clean Power Plan."

The plan, currently stayed by a February 2016 Supreme Court decision, sets specific carbon dioxide emission reduction targets for states, discouraging electricity produced from coal.

Pruitt said that Trump aimed to bring back coal jobs, and that future efforts from the EPA would be directed toward that end.

As for the Paris Agreement setting emissions targets for countries, Pruitt called it a "bad deal" because it cost the U.S. jobs without getting concessions from China and India.

Innovation in coal and natural gas extraction have lowered emissions while also lowering the price of electricity, Pruitt argued.

"This is an effort to undo the unlawful approach the previous administration engaged in and to do it right going forward with the mindset of being pro-growth and pro-environment, and we can achieve both," he said.

Washington Times
http://www.washingtontimes.com/news/2017/mar/26/executive-action-to-kill-clean-power-plan-coming-t/
Trump executive order to kill Obama-era Clean Power Plan coming this week: EPA chief
By Ben Wolfgang 3/26/17

President Trump this week will sign an executive order to begin unraveling the Clean Power Plan, EPA Administrator Scott Pruitt said Sunday, the first step in the lengthy process of dismantling the central piece of former President Obama's climate-change agenda.

The plan, which would limit carbon emissions from power plants and greatly reduce coal's share of U.S. power generation, was stayed by the U.S. Supreme Court and has not gone into full effect.

Still, Mr. Trump and Mr. Pruitt have said that formally eliminating the plan and returning certainty to the energy marketplace will drive down electricity prices and create jobs.

"For too long, over the last several years, we've accepted a narrative that if you're pro-growth, pro-jobs, you're anti-environment. If you're pro-environment, you're anti-jobs or anti-growth," he told ABC's "This Week."

"That's just not where we've been as a country throughout our existence. We've made tremendous progress on our environment and we can be both pro-jobs and pro-environment, and the executive order's going to address the past administration's effort to kill jobs across this country through the Clean Power Plan," Mr. Pruitt said.

The former Oklahoma attorney general predicted that getting rid of the plan would bring back coal mining and manufacturing jobs across the U.S.

Mr. Pruitt sued to halt the order while Oklahoma attorney general, one of several states that kept the plan tied up in the courts.

The executive order targeting the Clean Power Plan will be signed Tuesday, he said.

The executive order, however, is just the first step in what will be a complex process. The EPA still must hold public hearings, accept public comments, consult with stakeholders, and likely face numerous lawsuits in its effort to eliminate the Clean Power Plan altogether.

The process of removing the program from the books is expected to take at least one year, possibly longer.

Supporters of Mr. Obama's plan, including some Democratic-led states and environmental groups, argue it will create thousands of clean-energy jobs and help the U.S. meet ambitious goals to reduce carbon pollution set by an international agreement reached in Paris in late 2015.

Mr. Pruitt called the Paris accord on climate change a "bad deal" because he said it went too easy on China and India, who are among the world's leading producers of carbon dioxide.

"So we've penalized ourselves through lost jobs while China and India didn't take steps to address the issue internationally," he said. "So Paris was just a bad deal, in my estimation."

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/17/2017 1:57:52 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]
Subject: The Daily Caller: US Manufacturers See EPA As The Most In Need Of Regulatory Reform, 4/17/17

The Daily Caller
http://dailycaller.com/2017/04/17/us-manufacturers-see-epa-as-the-most-in-need-of-regulatory-reform/
US Manufacturers See EPA As The Most In Need Of Regulatory Reform
By Michael Bastasch 4/17/17 9:47 AM

U.S. manufacturers have advised the Trump administration to target the Environmental Protection Agency for regulatory rollback aimed at boosting domestic manufacturing in comments submitted to the Department of Commerce.

Trump ordered the Commerce Department in January to seek feedback from businesses regarding which federal agencies hamper their operations the most, with the goal of determining which regulations should be prioritized for roll back. Nearly half of the 168 comments submitted by the manufacturers advised the administration to focus on rolling back EPA regulations, reports The Washington Post.

EPA "emerged as the primary target in these comments, accounting for nearly half, with the Labor Department in second place as the subject of more than one-fifth," WaPo reported based on a Commerce Department analysis of the comments.

Seventy-nine of the comments businesses submitted mentioned EPA, while 38 mentioned the Department of Labor. Businesses fingered the Clean Air Act as the most problematic law for regulations followed by EPA's new source rules and Clean Water Act rules.

The U.S. Chamber of Commerce told WaPo the Obama administration's regulations cost its members $70 billion a year.

Trump promised to eliminate "job-killing" restrictions on energy production, including a slew of Obama-era regulations aimed to cut greenhouse gas emissions. Trump put Obama's "Climate Action Plan" in his crosshairs within hours of being sworn in. He ordered EPA in March to review the Clean Power Plan, which limits carbon dioxide emissions from new and existing power plants. Trump also ordered EPA and the Department of the Interior to review rules on methane emissions from oil and natural gas drilling.

Under former President Barack Obama, the EPA imposed nearly $344 billion in costs from just 177 regulations, according to data compiled by the right-leaning American Action Forum. Those rules imposed nearly 33 million hours worth of paperwork.

Former Obama administration officials opposed rolling back regulations they spent years working on.

"The culture of the trade associations in Washington is to attack any new regulation as burdensome, even though the empirical evidence is that they're easily met, they're not burdensome and they save lives," David Michaels, the former head of the Occupational Safety and Health Administration, told WaPo.

"But injured workers don't have a voice in Washington," Michaels said. "Trade associations do."

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/18/2017 1:49:55 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: E&E News: States, industry debate litigation's fate as EPA reviews rule, 4/18/17

E&E News
https://www.eenews.net/energywire/2017/04/18/stories/1060053194
States, industry debate litigation's fate as EPA reviews rule
By Ellen M Gilmer 4/18/17

Supporters and opponents of an Obama-era effort to slash methane emissions from the oil and gas industry made their pitches last night for whether litigation over U.S. EPA's rule should continue.

As expected, industry and state critics of the methane standards argued to freeze a legal battle while the Trump administration reviews New Source Performance Standards that crack down on methane from new oil and gas operations.

State supporters of the regulation, meanwhile, made their case for keeping the litigation moving.

The legal scuffle stems from a Trump administration request that the U.S. Court of Appeals for the District of Columbia Circuit hold the case in abeyance while EPA rethinks the standards. The president's recent "energy independence" executive order directs EPA and other agencies to review any regulation that could burden domestic energy development.

More than a dozen states and a large coalition of oil and gas industry groups — who challenged the standards after EPA finalized them last summer — now argue that the court should put the litigation on hold to conserve judicial resources.

"Such abeyance would conserve judicial and party resources by deferring and perhaps eliminating the need for the parties to brief the many complex issues presented in these cases, and the need for the Court thereafter to consider the lawfulness of the 2016 NSPS Rule ... during the pendency of EPA's review," state challengers told the court.

Supporters of the methane standards pushed to keep the case in motion. In a filing last night, 11 states and the city of Chicago argued that the legal controversy is still very much alive because the standards are in effect, and Trump's executive order "does not alter EPA's obligation to regulate methane and VOC emissions under the Clean Air Act."

They argue that the methane standards are actually in line with the executive order because they cut down on waste at oil and gas sites, where methane often leaks or is burned off.

"Every ton of methane leaked to the atmosphere is a ton of methane that cannot be sold, and for producing states, may result in lost tax and royalty benefits," the filing said. "The 2016 Rule will therefore deliver significant climate protection and public health benefits at a favorable benefit-cost ratio."

The states noted, however, that they would not oppose a 90-day extension to proceedings in the case, which has not yet been briefed. Environmental groups made a similar proposal in a filing last week (*Energywire*, April 17).

Similar debates over whether to continue litigation are playing out in cases dealing with other EPA rules that are facing Trump administration review — most notably the Clean Power Plan.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/26/2017 1:39:28 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: E&E News: Senator files complaint over Pruitt keynote speech, 4/26/17

E&E News
https://www.eenews.net/climatewire/2017/04/26/stories/1060053595
Senator files complaint over Pruitt keynote speech
By Emily Holden 4/26/17

Sen. Sheldon Whitehouse (D-R.I.) filed a complaint yesterday that alleges U.S. EPA Administrator Scott Pruitt is violating the Hatch Act by delivering a keynote address at a fundraiser for the Oklahoma Republican Party next month.

Whitehouse in his letter to the independent U.S. Office of Special Counsel cited an invitation to the May 5 gala at a Baptist church in Moore, Okla. A VIP reception is $50, dinner costs $100 and sponsors can spend up to $5,000. The event will take place before the state convention the next day in Oklahoma City.

The Hatch Act limits certain political activities of federal employees. The law bars executive branch employees from using their office or influence to interfere with elections, including by campaigning for candidates or using their titles in connection with fundraising, Whitehouse says in his complaint.
Whitehouse says that "the unmistakable impression one receives from the May 5 invitation is that by purchasing a ticket or agreeing to sponsor the OKGOP Gala, the attendee will have special access to a federal employee discussing official actions already taken, and to be taken in the future."

The event invitation touts the former Oklahoma attorney general's efforts to reverse environmental regulations as EPA chief.

"During his short tenure as EPA Administrator, Pruitt has overseen the rollback of the Waters of the US rule, called for an exit from the Paris Climate Agreement, and championed a return to EPA 'originalism,'" the invitation says. "You do not want to miss Pruitt at this year's OKGOP Gala, as he discusses his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!

"Make sure to purchase your Gala tickets so you don't miss out on Administrator Pruitt's future plans and how he will continue to Drain the Swamp!" it continues.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 3/27/2017 3:54:24 PM
To: So, Katherine [so.katherine@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]
Subject: RE: Clean Power Plan Clips 3/27/17

Below: Washington Post, The Daily Caller, Reuters, E&E News (2), Politico, International Business Times, AP (3/26), Bloomberg (3/26), Washington Examiner (3/26), Washington Times (3/26)

Washington Post
https://www.washingtonpost.com/news/energy-environment/wp/2017/03/27/heres-how-trump-will-try-to-eviscerate-obamas-climate-policies-on-tuesday/?utm_term=.03880e9366e6
Here's how Trump will try to eviscerate Obama's climate policies on Tuesday
By Juliet Eilperin 3/27/17 11:17 AM

President Barack Obama tried to integrate climate change into every facet of federal decision-making; President Trump aims to pull it out by its roots. Environmental Protection Agency Administrator Scott Pruitt said Sunday on ABC's "This Week" that an executive order the president will sign Tuesday "will address the past administration's effort to kill jobs throughout the country through the Clean Power Plan," a reference to a regulation limiting greenhouse gases emitted by electric utilities. But it does much more than that: Here's a snapshot of what's in, and out, of the directive, based on the latest draft.

WHAT'S IN IT:

1. Instructions to EPA to rewrite regulations restricting carbon emissions from both new and existing power plants. These rules — particularly the one affecting existing plants, many of which are coal-fired — lie at the center of Obama's effort to curb the nation's carbon output. The limits on existing facilities aim to cut carbon pollution by about one-third by 2030, compared with 2005 levels, and the rule is subject to a pending lawsuit before the U.S. Court of Appeals for the D.C. Circuit. The order would instruct Attorney General Jeff Sessions to ask the D.C. Circuit to hold the lawsuit in abeyance while EPA revises the rules, a process that will take more than a year and will inevitably face a court challenge of its own.

2. Lift a moratorium on federal coal leasing. Trump will direct the Interior Department's Bureau of Land Management to lift the freeze on coal leasing on its land, which has been in effect since December 2015. In January, Interior proposed that the program guiding coal exploration and production across 570 million publicly owned acres be updated to factor in the climate effect of such activities and provide a bigger return for U.S. taxpayers. This will not have a major impact on domestic coal production, since the government has sold one set of coal leases since October 2012, and has estimated that it has already granted leases that are equivalent to a 20-year supply of coal. But Pruitt told ABC that this and other policies in the order constitute "a promise to the American people — saying we can put people back to work and be pro-environment as well."

3. Abolish federal guidance instructing agencies to incorporate climate change into federal decision-making. Obama ordered agencies to include climate change as a consideration when they conducted reviews under the National Environmental Policy Act, a sweeping law that informed any federal decision that had a significant environmental impact. This will be eliminated outright.

4. Jettison the Obama administration's "social cost of carbon." The order would dissolve the task force that calculated what has become known as "the social cost of carbon" and revert to the 2003 standard used under the George W. Bush administration. The current calculus, which is set at $36 per ton of carbon dioxide, aims to capture the negative consequences of allowing greenhouse gas emissions to continue to rise and is applied to any regulations that have a climate impact.

5. Promote oil and gas development on Interior's lands, including national wildlife refuges. The order would make it easier to flare methane on oil and gas operations on federal land. In November the previous administration issued a rule curbing such "fugitive" emissions of the potent greenhouse gas, which the House has voted to overturn. The order would also make it easier to conduct energy exploration on land managed by the U.S. Fish and Wildlife Service.

WHAT'S NOT IN IT:

Language on the Paris climate agreement. The president's top advisers have been divided over whether America should formally withdraw from the 2015 global warming pact that Obama and his deputies helped broker through the U.N. Framework Convention on Climate Change. Under that accord, which has already entered into force, the United States voluntarily committed to reduce greenhouse gas emissions by 26 to 28 percent below 2005 levels in 2025, while making "best efforts" to reduce those emissions by 28 percent. In his Sunday interview, Pruitt suggested that whether the United States opts out or remains in the agreement is unrelated to Tuesday's executive action. "The Paris accord is nonbinding. It was not a treaty, as such. The Clean Power Plan is not tethered to the Paris accords," he said. "This is an effort to undo the unlawful approach the previous administration engaged in and do it right going forward with the mind set of being pro-growth and pro-environment."

The EPA administrator made it clear he's not a fan of the pact. "What was wrong with Paris was not just that it failed to be treated as a treaty, but China and India got away scot-free. They didn't have to take steps until 2030," he said. "We penalized ourselves through lost jobs while China and India didn't take steps to address the issue internationally. Paris was just a bad deal, in my estimation."

The Daily Caller
http://dailycaller.com/2017/03/27/trump-readies-energy-independence-order-to-repeal-obama-climate-policies/
Trump Readies 'Energy Independence' Order To Repeal Obama Climate Policies
By Michael Bastasch 3/27/17 9:33 AM

President Donald Trump will issue a sweeping "energy independence" executive order Tuesday to dismantle signature global warming policies put in place by the Obama administration.

Environmental Protection Agency (EPA) Administrator Scott Pruitt told ABC News Trump would issue the order tomorrow to make "sure that we have a pro-growth and pro-environment approach to how we do regulation in this country."

"The executive order is going to address the past administration's effort to kill jobs across this country through the Clean Power Plan," Pruitt told ABC's George Stephanopoulos of the "energy independence" executive order on Sunday.

Trump promised to eliminate "job-killing" energy regulations during his campaign, specifically rolling back an EPA regulation limiting greenhouse gas emissions on power plants — the Clean Power Plan (CPP).

The upcoming order goes even farther than axing the CPP, according to Bloomberg's Jennifer Dlouhy, who got a sneak peek at Tuesday's order. Here's what it does:

Orders EPA to review and "if appropriate" work to repeal or revise the CPP.

Rescinds the Interior Department's moratorium on new coal mining leases on federal lands.

Repeals an Obama-era guidance on how federal agencies should take global warming into account when doing National Environmental Policy Act (NEPA) permitting reviews.

Disbands a federal working group that developed the "social cost of carbon" (SCC) estimate used to justify onerous global warming regulations. The SCC will also be thrown out.

Dlouhy reports Trump's order revokes "six specific directives from his predecessor, including Obama's broad strategy for paring emissions of methane released from oil and gas operations."

Trump will also rescind "Obama directives targeted for repeal include one on climate change and national security, as well as a pair of directives from June 2013 that laid out his climate plans," Dlouhy reported.

While most of Trump's order can immediately take effect, repealing the CPP will have to go through a lengthy process that could take months or years.

Environmentalists have also vowed to sue the Trump administration to defend the CPP. They'll likely be joined by Democratic state attorneys general.

Reuters
http://www.reuters.com/article/us-usa-energy-regulation-idUSKBN16X150
Trump to sign order on Tuesday easing energy regulations: officials
By Steve Holland and Jason Lange 3/27/17 7:09 AM

President Donald Trump will sign an order on Tuesday aimed at making it easier for companies to produce energy in the United States, administration officials said on Sunday.

Under Trump, the U.S. Environmental Protection Agency is aiming to aggressively roll back Obama-era environmental regulations.

Trump plans to sign the executive order at the EPA to reduce "unnecessary regulatory obstacles that restrict the responsible use of domestic energy resources," a White House official said.

EPA Administrator Scott Pruitt told ABC's "This Week" the order would help reverse the Obama administration's anti-fossil fuel strategy.

Pruitt has publicly doubted the scientific consensus that human actions are the lead cause of climate change. His installation at the EPA last month reinforced the view on both sides of the political divide that America is ceding its position as a leader in the global fight on climate change.

E&E News
http://www.eenews.net/energywire/2017/03/27/stories/1060052110

Trump to roll back Clean Power Plan tomorrow at EPA
By Niina Heikkinen 3/27/17

The White House will release its executive order on the Clean Power Plan tomorrow, triggering President Trump's promises to dismantle the climate policies of his predecessor.

U.S. EPA Administrator Scott Pruitt announced the timing yesterday on ABC's "This Week." The move comes as the White House seeks safe footing after its stunning legislative loss on health care Friday.

The twin announcements about signing the executive order and permitting the Keystone XL pipeline, made before the weekend, stand to ease the turbulence of last week by fulfilling two of Trump's oaths to rural constituents.

"We've made tremendous progress on our environment, and we can be both pro-jobs and pro-environment, and the executive order's going to address the [past] administration's effort to kill jobs across the country through the Clean Power Plan," Pruitt said.

Vice President Mike Pence set the stage Saturday by telling a crowd in West Virginia, "The war on coal is over."

His remarks sought to reorient the White House toward an issue that served Trump well on the campaign trail, where he at one point wore a coal miner's hard hat and exulted in the devotion of workers in reflective stripes and coveralls.

"We're going to bring back jobs," Pence said. "We're going to get Washington out of the way of energy producers and coal miners — because energy means growth for America, and President Trump digs coal."

Still hurdles ahead before repeal

The White House confirmed yesterday that Trump will visit EPA, an agency for which he expressed disdain before the election, to formally announce the order with Pruitt at his side.

"On Tuesday, President Trump will sign an Energy Independence Executive Order at the EPA to strengthen the nation's energy security by reducing unnecessary regulatory obstacles that restrict the responsible use of domestic energy resources," White House spokeswoman Kelly Love said in a statement.

"This order will help keep energy and electricity affordable, reliable, and clean in order to boost economic growth and job creation," she said.

Sources have told E&E News that the order would begin the long process of unwinding the Clean Power Plan by requiring Pruitt to review the program, which cuts carbon emissions from existing power plants 32 percent by 2030. It also orders the Department of Justice to ask the U.S. Court of Appeals for the District of Columbia Circuit to abruptly freeze the legal challenge against the Clean Power Plan, effectively ending the government's defense of the carbon program.

The order is also expected to cancel the Climate Action Plan, while instructing federal agencies to review actions that restrict energy production (*Climatewire*, Feb. 21).

The order itself does not have legal force to repeal the Clean Power Plan, but it does send a signal to EPA to begin the process of rulemaking and public comment necessary to rescind it. The administration would then have to prove that the repeal was evidence-based and not arbitrary, said Steve Silverman, a former EPA attorney in the Office of General Counsel.

"The most immediate practical effect would be on pending litigation," he said, referring to challenges to the Clean Power Plan in the U.S. Court of Appeals for the District of Columbia Circuit (*Climatewire*, March 9).

"What they would ask the court to do is to put the litigation on ice while the administration takes action," said Silverman.

While the court doesn't have to agree, it likely will side with the administration on pausing the litigation, he said.

'States can make a difference,' but how much?

Agency efforts to terminate the Clean Power Plan could also be hindered if Congress follows through with Trump's proposed 31 percent cut to EPA's budget.

"If EPA is going to continue budget cuts, they aren't going to be able to do a new rulemaking process," said Kenneth Gillingham, an assistant economics professor at Yale University and a former senior economist on the White House Council of Economic Advisers under President Obama.

The "bare minimum" the administration could do to address the Clean Power Plan would be to simply repeal it, without replacing the climate rule with something else. In this case, the administration could take away funding for Clean Power Plan implementation in states but would still have to have funds to address court challenges to the rule's repeal, he said.

Taking away the Clean Power Plan would put the initiative back in the hands of states that want to address climate change, Gillingham added.

"States can make a difference, but not the kind of difference the federal government can make," he said.

The executive order has been expected for several weeks, since Pruitt first took the helm at EPA. Last week, White House spokesman Sean Spicer denied that it had been delayed and declined to comment on any details it might include (*E&E News PM*, March 22).

While environmental groups have challenged a repeal as an assault on climate action, Pruitt told "This Week" host George Stephanopoulos that the executive order would help bring back coal and manufacturing jobs to the United States and would also help the country reduce the need for energy sources from abroad.

Pruitt added that technological innovations in the coal and natural gas sectors were largely responsible for recent reductions in the United States' CO2 emissions. He cited horizontal drilling for extracting natural gas as an example but did not cite any coal-related technologies.

Pruitt: Paris was a 'bad deal'

Government studies have shown that canceling the Clean Power Plan would have minimal benefits to mining jobs in some regions. Meanwhile, natural gas production in the United States has surged following advances in hydraulic fracturing. Power companies have lowered their carbon footprints by switching away from coal and toward natural gas and renewable power. Technologies to cut carbon output for coal plants, however, are not widely in use.

Pruitt called the Obama administration "anti-fossil fuel" and said rolling back the Clean Power Plan would help to reduce electricity rates for consumers.

When questioned whether the move would affect the United States' ability to meet its commitments under the Paris Agreement, Pruitt said the Clean Power Plan was not "tethered" to the accords. He called the 2015 negotiations on climate change a "bad deal" since major polluters China and India do not have to take steps to reduce pollution until 2030. Instead, he said the United States should act within the framework of the Clean Air Act.

The EPA administrator did not answer repeated questions from Stephanopoulos on whether he would continue to allow California to maintain its waiver under the Clean Air Act to enact stricter fuel efficiency standards on automobiles than

the rest of the country. Pruitt said the president would re-evaluate the corporate average fuel economy (CAFE) standards in 2018. He said that the public did not want to buy the cars that meet the higher efficiency standards and that continuing to manufacture them is "counter-helpful" to the environment.

"What this CAFE standards combined with the Clean Power Plan and the executive order sends a message to the American people that we're going to do what we can to make sure we produce jobs and growth while also being sensitive to the environment, and making sure that we introduce common sense back into the discussion," he said.

E&E News
http://www.eenews.net/eedaily/2017/03/27/stories/1060052095
Pruitt promises Clean Power Plan rollback tomorrow
By Kevin Bogardus 3/27/17

U.S. EPA Administrator Scott Pruitt said that President Trump tomorrow will sign his long-anticipated executive order rolling back environmental regulations.

Appearing on ABC's "This Week" yesterday, Pruitt said the "energy independence" executive order will come out tomorrow, ensuring the Trump administration has "a pro-growth and pro-environment approach to how we do regulation in this country."

Pruitt said the order will address the Clean Power Plan, which requires power plants to reduce their carbon emissions and has been subject to a stay issued by the Supreme Court. The EPA chief said the regulation drafted by the Obama administration was "unlawful" and that after Trump's executive order, the agency will act "within the framework of the Clean Air Act."

"And it will be legal," Pruitt added.

The order is expected to include several other energy-policy-related initiatives. Many thought the measure would be issued soon after Pruitt's Senate confirmation last month, but it was delayed for weeks.

On yesterday's show, Pruitt was pressed on whether the order rolling back the Clean Power Plan would bring back industry jobs, as Trump has repeatedly promised. The EPA administrator said it would.

"I think absolutely it will. It will bring back manufacturing jobs across the country, coal jobs across the country," Pruitt said, adding, "The last administration had an idea of keeping it in the ground. We need to [be] more independent, less reliant upon foreign energy sources. And this is an opportunity."

Trump has long courted the coal industry. The president and others in his administration have said he would roll back federal rules to help boost the energy sector.

"We're going to get Washington out of the way of energy producers and coal miners — because energy means growth for America, and President Trump digs coal," Vice President Mike Pence said in an appearance in West Virginia on Saturday.

Trump has targeted several regulations at EPA, including ordering the withdrawal of the Waters of the U.S. rule as well as reopening a review of the agency's vehicle emissions standards.

Yesterday, Pruitt was also asked how the United States could reach its carbon reduction targets under the 2015 Paris Agreement if EPA backed down on the Clean Power Plan.

Saying Paris was nonbinding as well as "a bad deal," the EPA chief said the power plant rule was not tied to the climate change deal.

"The Clean Power Plan is not tethered to the Paris accords. And so this is an effort to undo the unlawful approach the previous administration engaged in and to do it right going forward with the mindset of being pro-growth and pro-environment, and we can achieve both," Pruitt said.

Politico
https://www.politicopro.com/tipsheets/morning-energy/2017/03/pruitt-says-executive-order-coming-tuesday-022034
Pruitt says executive order coming Tuesday
By Anthony Adragna 3/27/17 5:46 AM

IT'S COMING! After weeks of repeated delays, President Donald Trump is expected to sign the "energy independence" executive order directing his administration to undo a host of Obama-era environmental actions on Tuesday, according to EPA Administrator Scott Pruitt. "This is an effort to undo the unlawful approach the previous administration engaged in, and to do it right going forward with the mindset of being pro-growth and pro-environment," Pruitt told ABC's "This Week" Sunday. "And we can achieve both." As your ME host reports, Pruitt said the action would "absolutely" help bring back coal industry jobs as the Trump administration pursues a "long term" strategy to reinvigorate the domestic fossil fuel industry. Pros were first to know about the Tuesday signing last week. But first, The Washington Post reports Trump will today announce a new White House office led by son-in-law and senior adviser Jared Kushner with sweeping authority to overhaul the federal bureaucracy by harvesting ideas from the business world.

Clean Plan rewrite will be tough: Career federal managers keep the wheels of government turning while awaiting a political appointee to take over. But those people have careers that span administrations, and they do not typically make tough political calls. "There are dozens and dozens of important issues that will be involved in that rulemaking," said Jeff Holmstead, who ran the Office of Air and Radiation for Bush, the office that would be tasked with the Clean Power Plan rewrite. "Those will be important legal issues. Someone who is acting, a career official is not going to be able to make those decisions. Either they will have to take them up to the administrator, or they will need someone who is political head of the office who can make all those important decisions."

International Business Times
http://www.ibtimes.co.uk/epa-chief-trump-executive-order-will-roll-back-job-killing-climate-protection-legislation-1613793
EPA chief: Trump executive order will roll back 'job-killing' climate protection legislation
By James Tennent 3/27/17

The head of the US Environmental Protection Agency (EPA) has said that Donald Trump will signal the dismantling of legislation designed to fight global warming with the signing of an executive order on Tuesday.

Scott Pruitt, whose appointment to the EPA in February caused controversy because of his own climate change sceptic credentials, told ABC's This Week that the Energy Independence Executive Order was "about making sure we have a pro-growth and pro-environment approach to how we do regulation in this country".

"For too long, over the last several years, we've accepted a narrative that if you're pro-growth, pro-jobs, you're anti-environment. We can be both pro-jobs and pro-environment and the executive order is going to address the past administration's effort to kill jobs across this country through the Clean Power Plan."

The Clean Power Plan was a set of rules introduced under the Obama administration that would have seen states pushed to reduce CO2 emissions but which was held up by legal challenges.

The plan is expected to be scrapped under Trump. Defunding was suggested in the 2018 budget proposals.

Trump campaigned on a platform that Obama-era environmental regulation had led to job losses, particularly in coalmining areas. Critics argued that waning demand and automation were much bigger factors in companies cutting back on jobs.

In Kentucky last weekend, Trump continued his rhetoric, telling a rally of supporters that the EPA was going to be changed "from a job-killer into a job-creator".

Pruitt said that the Paris Agreement to combat climate change, which the US signed up to, was "non-binding".

"What was wrong with Paris," Pruitt said, "was not just that it failed to be treated as a treaty but [that] China and India, the largest producers of CO2 internationally, got away scot-free. They didn't have to take steps until 2030. Paris was just a bad deal."

Pruitt came under fire earlier in March when he appeared to say that CO2 emissions were not "a primary contributor" to global warming, going against the belief of his own agency and the majority scientific consensus.

AP
http://hosted.ap.org/dynamic/stories/U/US_TRUMP_CLIMATE?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT
EPA chief: Trump to undo Obama plan to curb global warming
3/26/17 2:02 PM

WASHINGTON (AP) -- President Donald Trump in the coming days will sign a new executive order that unravels his predecessor's sweeping plan to curb global warming, the head of the Environmental Protection Agency said Sunday.

EPA chief Scott Pruitt said the executive order to be signed Tuesday will undo the Obama administration's Clean Power Plan, an environmental regulation that restricts greenhouse gas emissions at coal-fired power plants. The 2015 rule has been on hold since last year while a federal appeals court considers a challenge by coal-friendly Republican-led states and more than 100 companies.

Speaking on ABC's "This Week," Pruitt said Trump's intention is to bring back coal-mining jobs and reduce the cost of electricity.

Supporters of former President Barack Obama's plan, including some Democratic-led states and environmental groups, argue it would spur thousands of clean-energy jobs and help the U.S. meet ambitious goals to reduce carbon pollution set by an international agreement reached in Paris in late 2015.

Pruitt on Sunday called the Paris climate accord a "bad deal" because he said it went too easy on China and India, who like the U.S. are among the world's leading producers of carbon dioxide.

"So we've penalized ourselves through lost jobs while China and India didn't take steps to address the issue internationally. So Paris was just a bad deal, in my estimation," he said.

Bloomberg
https://www.bloomberg.com/news/articles/2017-03-26/trump-to-begin-reversing-obama-era-cutbacks-in-carbon-dioxide
Trump to Begin Reversing Obama-Era Cutbacks in Carbon Dioxide

By Jennifer A Dlouhy 3/26/17 11:14 AM

The Trump administration will issue an executive order on Tuesday that begins dismantling a rule under former President Barack Obama that slashed carbon dioxide emissions and discouraged coal-fired electricity, U.S. environmental chief Scott Pruitt said.

"The executive order is going to address the past administration's effort to kill jobs across this country through the Clean Power Plan," Pruitt said on ABC's "This Week" program on Sunday.

Pruitt, the head of the Environmental Protection Agency, said Tuesday's order will be followed swiftly by actions to "make sure that whatever steps we take in the future will be pro-growth, pro-environment but within the framework of the Clean Air Act." He said it will be legal and is "an effort to undo the unlawful approach the previous administration engaged in and do it right going forward."

Under Obama, the EPA set a goal of reducing carbon dioxide emissions by 32 percent below 2005 levels by the year 2030, and its Clean Power Plan dictated specific targets for states to reach. The initiative has been in legal limbo since the Supreme Court stayed it in February 2016. Still, utilities have already shed coal-fired electricity and added natural gas and renewable power, partly in a bid to satisfy the looming requirements.

Opponents of the rule argue that the EPA overstepped its regulatory authority under the Clean Air Act by giving states broad carbon-cutting mandates instead of imposing specific requirements on individual facilities.

Coal Leases

President Donald Trump's long-awaited executive order also is slated to compel Interior Secretary Ryan Zinke to lift a moratorium on the sale of new coal leases on federal land. The actions set in motion by the order could take years to play out bureaucratically, but the directive will deliver immediate symbolic value.

Rescinding Obama's Clean Power Plan could help Trump fulfill his pledge to "cancel job-killing restrictions" on domestic energy. It also would undercut the carbon-cutting pledge that the U.S. and nearly 200 other countries made in Paris in 2015 -- an accord that Trump may disavow.

Support from coal miners helped propel Trump to victory by aiding wins in Pennsylvania, West Virginia and other states that have seen jobs tied to the fossil fuel decline. Trump has repeatedly promised to put miners back to work.

The change is not expected to return coal to its earlier dominance in electricity production, but the fossil fuel may see moderate growth as a result, according to projections from the Energy Information Administration. Use of natural gas by power plants also could decrease.

Even before he became EPA administrator, Pruitt was fighting the Clean Power Plan. As the state's attorney general, he had Oklahoma join more than two dozen other states, plus electric utilities, labor unions, business groups and coal miners, in challenging the rule. An array of environmental groups, public health advocates, renewable-energy developers, large corporations and 18 other states defended the initiative.

The U.S. Court of Appeals heard arguments on the challenge last September but hasn't ruled. The Trump administration can file a motion to hold the matter in abeyance as a way to begin rule-making aimed at rescinding the measure administratively. Environmental activists who are already defending the rule in court have vowed to fight such a move.

Washington Examiner

http://www.washingtonexaminer.com/trump-order-to-undo-obama-emissions-plan-coming-tuesday/article/2618486

Trump order to undo Obama emissions plan coming Tuesday

By Joseph Lawler 3/26/17 12:24PM

President Trump will issue an executive order on Tuesday to begin undoing former President Obama's rule on carbon emissions, Environmental Protection Agency head Scott Pruitt said Sunday.

"This is about making sure that we have a pro-growth and pro-environment approach to how we do regulation in this country," Pruitt said on ABC's This Week.

The order, he said, "will address the past administration's efforts to kill jobs across this country through the Clean Power Plan."

The plan, currently stayed by a February 2016 Supreme Court decision, sets specific carbon dioxide emission reduction targets for states, discouraging electricity produced from coal.

Pruitt said that Trump aimed to bring back coal jobs, and that future efforts from the EPA would be directed toward that end.

As for the Paris Agreement setting emissions targets for countries, Pruitt called it a "bad deal" because it cost the U.S. jobs without getting concessions from China and India.

Innovation in coal and natural gas extraction have lowered emissions while also lowering the price of electricity, Pruitt argued.

"This is an effort to undo the unlawful approach the previous administration engaged in and to do it right going forward with the mindset of being pro-growth and pro-environment, and we can achieve both," he said.

Washington Times

http://www.washingtontimes.com/news/2017/mar/26/executive-action-to-kill-clean-power-plan-coming-t/

Trump executive order to kill Obama-era Clean Power Plan coming this week: EPA chief

By Ben Wolfgang 3/26/17

President Trump this week will sign an executive order to begin unraveling the Clean Power Plan, EPA Administrator Scott Pruitt said Sunday, the first step in the lengthy process of dismantling the central piece of former President Obama's climate-change agenda.

The plan, which would limit carbon emissions from power plants and greatly reduce coal's share of U.S. power generation, was stayed by the U.S. Supreme Court and has not gone into full effect.

Still, Mr. Trump and Mr. Pruitt have said that formally eliminating the plan and returning certainty to the energy marketplace will drive down electricity prices and create jobs.

"For too long, over the last several years, we've accepted a narrative that if you're pro-growth, pro-jobs, you're anti-environment. If you're pro-environment, you're anti-jobs or anti-growth," he told ABC's "This Week."

"That's just not where we've been as a country throughout our existence. We've made tremendous progress on our environment and we can be both pro-jobs and pro-environment, and the executive order's going to address the past administration's effort to kill jobs across this country through the Clean Power Plan," Mr. Pruitt said.

The former Oklahoma attorney general predicted that getting rid of the plan would bring back coal mining and manufacturing jobs across the U.S.

Mr. Pruitt sued to halt the order while Oklahoma attorney general, one of several states that kept the plan tied up in the courts.

The executive order targeting the Clean Power Plan will be signed Tuesday, he said.

The executive order, however, is just the first step in what will be a complex process. The EPA still must hold public hearings, accept public comments, consult with stakeholders, and likely face numerous lawsuits in its effort to eliminate the Clean Power Plan altogether.

The process of removing the program from the books is expected to take at least one year, possibly longer.

Supporters of Mr. Obama's plan, including some Democratic-led states and environmental groups, argue it will create thousands of clean-energy jobs and help the U.S. meet ambitious goals to reduce carbon pollution set by an international agreement reached in Paris in late 2015.

Mr. Pruitt called the Paris accord on climate change a "bad deal" because he said it went too easy on China and India, who are among the world's leading producers of carbon dioxide.

"So we've penalized ourselves through lost jobs while China and India didn't take steps to address the issue internationally," he said. "So Paris was just a bad deal, in my estimation."

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/18/2017 1:49:58 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Politico: Pruitt's link between carbon rule and Paris deal draws scrutiny, 4/18/17

Politico
https://www.politicopro.com/energy/story/2017/04/pruitts-link-between-carbon-rule-and-paris-deal-draws-scrutiny-155368

Pruitt's link between carbon rule and Paris deal draws scrutiny
By Eric Wolff and Alex Guillen 4/17/17, 6:26PM

EPA Administrator Scott Pruitt's effort to pull the U.S. out of the Paris climate pact is part of his strategy to ensure the administration has a clear path to killing the Clean Power Plan — but experts say there is no clear legal link between the two climate change actions.

President Donald Trump's top advisers, including Pruitt, are expected to convene on Tuesday to decide whether to recommend that Trump withdraw from the agreement struck by nearly 200 countries in December 2015. Trump is expected to announce a position on the Paris deal before the G-7 meeting in late May.

While some Trump advisers are pushing to remain in the deal but to weaken the U.S. commitment to reduce carbon emissions, Pruitt has emerged as a force for exiting the Paris agreement, calling it "a bad deal for America" in an interview last week. White House sources have said that, privately, Pruitt has cited another reason for wanting to pull out of Paris: So that it cannot interfere with his effort to halt litigation over the Clean Power Plan and repeal the regulation.

The idea that the Paris agreement and the Obama administration's carbon rule — or the Endangerment Finding underpinning EPA's climate regulation — are legally connected appears to be novel even among conservatives who opposed the international pact.

"Nothing in the Paris Agreement is dependent on either the Endangerment Finding by U.S. EPA or on the Clean Power Plan," wrote Sheila Harvey, Jeff Merrifield, and Meghan Claire Hammond, all attorneys in the energy practice at the law firm Pillsbury Winthrop Shaw Pittman, wrote in a memo published last week.

Scott Segal, who leads the policy division of Bracewell, said in a memo released on April 7 that the Paris agreement "is silent on what mechanisms" countries can use to reduce their emissions, and therefore neither the Clean Power Plan nor the endangerment finding are mandated by the agreement.
"In short, the Paris Agreement imposes no enforceable obligations on the United States that would require particular regulatory outcomes or strategies," he writes.

Pruitt's legal argument surprised legal experts when POLITICO reported it on Friday.

Nick Loris, an energy and environment fellow for the conservative Heritage Foundation, which has called for Trump to pull the U.S. out of Paris, said he hasn't seen anyone else raise that concern. Even environmental groups have not cited a link between the power plant regulation and the Paris deal in their attempts in recent weeks to keep the CPP lawsuit alive, essentially guaranteeing the court won't factor it into their decision.
Some experts said Pruitt's argument appears to have significant flaws.

For starters, the Clean Power Plan was conceived well before the Paris deal was struck, and has a legal justification based on Section 111 of the Clean Air Act, which requires EPA to take action on pollutants not addressed elsewhere in the act — including carbon dioxide.

In addition, the carbon reduction commitments in the Paris deal are not legally binding in large part because international negotiators knew any binding treaty would be blocked in the Senate by Republicans.

The agreement also falls under the "non-self-executing treaty doctrine," meaning Congress or the president have to take action to put it into effect. Without such action, courts are unlikely to take the deal into account, said Dan Bodansky, law professor and expert in international climate law at Arizona State University's Sandra Day O'Connor College of Law.

Sean Donahue, an attorney who is helping greens to defend the Clean Power Plan, agreed while it was not directly tied to the Paris deal, repealing the carbon rule would affect the U.S. pledge to lower emissions under the Paris framework, he added.

"There's not a formal legal link between Paris and CPP, but the CPP is an important part of the United States' Paris commitment, the emissions reductions," Donahue said. "So if you are going to abandon the CPP, you would need to find those big emissions reductions somewhere else."
Trump made withdrawal from the international agreement to combat climate change one of his campaign promises, but White House aides have been divided on the issue, with chief Trump adviser Steve Bannon and Pruitt at odds with Secretary of State Rex Tillerson and Jared Kushner, who are said to favor remaining in the pact.

Still, Pruitt's position has a few allies. Mike McKenna, a former member of Trump's transition team, released a lengthy statement over the weekend pressing the case for withdrawal.

"Remaining in Paris poses a significant and ongoing legal risk," he said. "The Agreement requires signatories to routinely increase the level of greenhouse gas reductions. There is little doubt that if left in place, the Agreement will be used both in litigation (immediately) and by the next Democratic Administration (at some point) to argue for and justify expanding new and aggressive regulatory regimes."

This isn't the first time that the Paris deal and the Clean Power Plan have been connected.

In December 2015, just as the Paris talks kicked into high gear, the Obama administration urged the court not to freeze the regulation. It included a statement from Todd Stern, then the State Department's climate negotiator, saying the Clean Power Plan was helping the global pact come together by demonstrating America's resolve.

A group of utilities that support the regulation briefly cited the Paris talks in urging the Supreme Court not to stay the rule.
Clinton-era Secretary of State Madeleine Albright later brought up the climate deal in April 2016 when she filed a brief arguing that the rule's "successful implementation will support U.S. efforts to ensure that others follow through on those commitments" made under the Paris deal.

It remains unclear to what extent, if any, the judiciary was persuaded by those arguments. The D.C. Circuit did not explain its decision not to stay the rule, nor did the Supreme Court when it did stay the rule, which has left experts in the dark about precisely what legal justifications the justices relied upon.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 3/28/2017 2:04:48 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Clean Power Plan 3/28/17

Today, you'll receive separate emails of clips dedicated to these topics:

- Clean Power Plan
- General OPA news

Below: Bloomberg, Reuters, AP, Politico (2), E&E News (3), CNN, Huffington Post, Washington Post (3/27), Washington Examiner (3/27), The Hill (2) (3/27), InsideEPA (3/27), Washington Examiner (3/27), Mother Jones (3/27)

Bloomberg
https://www.bloomberg.com/politics/articles/2017-03-28/trump-to-cancel-obama-s-policies-aimed-at-paris-climate-pledge
Trump to Cancel Obama Policies Aimed at Paris Climate Pledge
By Jennifer A Dlouhy 3/28/17 8:27 AM

President Donald Trump is moving aggressively to undo policies designed to keep the carbon-cutting promises the U.S. made alongside nearly 200 other countries in Paris, while stopping short of a decision to formally withdraw from that landmark climate accord.

Trump will sign an executive order Tuesday that begins unraveling a raft of rules and directives to combat climate change, which President Barack Obama wove into the fabric of the federal government as he made addressing the issue a centerpiece of his second term.

The changes stem from Trump's desire to advance the U.S. economy and domestic production of energy from fossil fuels as well as nuclear and renewable sources, while still protecting the air and water, a senior White House official told reporters Monday.

EPA Administrator Scott Pruitt told Fox and Friends Tuesday that Trump was "coming to the EPA to set a new course" that is "pro growth, pro jobs and pro environment."

Trump, who once called climate change a hoax, has vowed to reorient the federal government so that U.S. oil and coal producers thrive, while manufacturers aren't burdened by "job-killing" restrictions.

"A lot of people are going to be put back to work, a lot of coal miners are going back to work," he said during a rally in Louisville, Kentucky last week.

Some changes will happen immediately, such as the repeal of a 2016 policy that encouraged federal regulators to consider climate change in environmental reviews as well as directives from Obama that compelled government agencies and the military to factor the phenomenon into their planning. The Interior Department also will swiftly rescind a moratorium on the sale of new rights to extract coal on federal land.

And the Trump administration also is tossing an Obama-era "social cost of carbon" metric that estimated the potential economic damage from climate change and was used to justify a slew of environmental actions, from efficiency standards for microwave ovens to the revamp of government buildings. Instead, the government will return to an earlier 2003 approach for estimating the potential costs of any regulations governing greenhouse gas emissions.

Other policy pivots will take years of work, such as reversing the Clean Power Plan that forced states to cut greenhouse gas emissions from electricity. An Interior Department rule setting requirements for hydraulic fracturing on federal land will be rescinded. And a pair of regulations governing potent methane emissions from oil and gas wells also will be reviewed at the Environmental Protection Agency and the Interior Department -- with possible changes or a reversal years away.

Most -- if not all -- of the changes will face legal challenges from the same environmentalists who already are fighting to defend Obama's Clean Power Plan in federal court.

"In taking a sledgehammer to U.S. climate action, the administration will push the country backward, making it harder and more expensive to reduce emissions," Andrew Steer, president of the World Resources Institute, said in an emailed statement. "Climate science is clear and unwavering: mounting greenhouse gas emissions are warming our planet, putting people and business in harm's way."

The news was cheered by some conservatives who have been pushing Trump to go even further in stripping climate regulations from the rulebooks, including by undoing the EPA's landmark declaration that greenhouse gas emissions jeopardize the public health and welfare. That 2009 endangerment finding served as the underpinning for later EPA carbon rules.

Myron Ebell, director of the Competitive Enterprise Institute's Center for Energy and Environment, cast Trump's executive order as a good start.

"It takes the necessary first steps in undoing President Obama's energy-rationing agenda," Ebell said by email. "Of course, there is more work to be done down the road, most importantly withdrawing from the Paris climate treaty and reopening the endangerment finding."

The Trump administration hasn't said if the U.S. will remain a part of the 2015 Paris climate accord -- despite the president's campaign pledges to rip up the deal that set broad, non-binding carbon-cutting targets for the U.S. and nearly 200 other countries. Whether the U.S. remains in the pact is still under discussion, according to the senior White House official.

Secretary Tillerson

Secretary of State Rex Tillerson has advocated the U.S. keep its seat at the table by sticking with the plan. Even without formally pulling out of the Paris pact, the U.S. is abandoning its pledge to pay $3 billion into a United Nations fund to help countries on the front lines of climate change.

Trump's actions are politically significant, following months of promises to reverse the fortunes of struggling coal miners -- campaign vows that helped propel him to victory in industrial strongholds like West Virginia and Pennsylvania.

Although the changes he is setting in motion will make it cheaper to extract coal and use it to generate electricity, they are unlikely to dramatically boost domestic demand for coal, which faces stiff competition from cheap natural gas and is affected by other pollution regulations untouched by Trump's order.

And mining jobs have been in decline for decades as automated equipment increasingly unearths coal, doing the work that once required pick axes and mules.

Even before the Obama administration imposed the coal-leasing moratorium in January 2016, coal producers had little interest in adding new federal reserves to their portfolios, amid slumping domestic demand. Existing federal leases contain at least 20 years' worth of coal, according to Interior Department estimates.

It was not immediately clear Monday whether Trump's Interior Department would continue a broad review of the federal coal leasing program even as it restarts sales; that analysis is already about a third complete, with regulators unveiling a broad blueprint of possible changes earlier this year.

Sierra Club Executive Director Michael Brune called Trump's order "the single biggest attack on climate action in U.S. history" and said it was a misguided attempt to help workers displaced by the global shift to cleaner energy sources.

"The best way to protect workers and the environment is to invest in growing the clean energy economy that is already outpacing fossil fuels and ensuring no one is left behind," Brune said in an emailed statement. "At a time when we can declare independence from dirty fuels by embracing clean energy, this action could only deepen our dependence on fuels that pollute our air, water and climate while making our kids sicker."

Legal Limbo

The EPA's Clean Power Plan was already in legal limbo, having been put on hold by the Supreme Court in February 2016, while lower court proceedings were underway. The U.S. Court of Appeals heard arguments on the challenge last September but has not ruled on the case that the Trump administration will now seek to put on hold. Environmental groups and states that support the rule and are defending it in court have vowed to fight to keep those proceedings going.

Janet McCabe, the former head of the EPA Office of Air and Radiation that helped develop the Clean Power Plan, defended the measure as a "solid, reasonable and flexible rule based on years of research and outreach that follows" an ongoing market transition toward cleaner energy. "EPA has an obligation to address carbon pollution," she said in an emailed statement. "Congress put the Clean Air Act in place to protect Americans from air pollution, and there is no doubt greenhouse gases are air pollution; the science makes that crystal clear."

Critics of the initiative said the EPA went beyond its authority under the Clean Air Act by imposing broad statewide emissions targets, rather than specific mandates for individual power plants.

"The Clean Power plan was an unprecedented power grab by the previous administration that was built on a shaky legal foundation," said Thomas Pyle, head of the American Energy Alliance, a fossil fuel-oriented free market advocacy group. "This executive order won't get rid of the regulation overnight, but it's an important first step that reaffirms President Trump's commitment to protecting American families from higher energy costs."

Reuters
http://www.reuters.com/article/us-usa-trump-energy-idUSKBN16Z1L6
Trump to sign order sweeping away Obama-era climate policies
By Valerie Volcovici and Timothy Gardner 3/28/17 8:58 AM

U.S. President Donald Trump will sign an executive order on Tuesday to undo a slew of Obama-era climate change regulations, a move meant to bolster domestic energy production and create jobs, but environmentalists say the order is dangerous and vow to challenge it in court.

The decree's main target is former President Barack Obama's Clean Power Plan, requiring states to slash carbon emissions from power plants - a critical element in helping the United States meet its commitments to a global climate change accord reached by nearly 200 countries in Paris in December 2015.

The order will also rescind a ban on coal leasing on federal lands, reverse rules to curb methane emissions from oil and gas production, and reduce the weight of climate change in federal assessments of new regulations.

Trump has long telegraphed the moves, and claimed that undoing green regulation will trigger a new boom in oil, gas, and coal production and create thousands of jobs, all without harming U.S. air and water quality.

"We're going to go in a different direction," a senior White House official told reporters ahead of Tuesday's order. "The previous administration devalued workers with their policies. We can protect the environment while providing people with work."

Energy analysts and executives have questioned whether the moves will have a big effect on their industries, and environmentalists have called them reckless.

"I cannot tell you how many jobs the executive order is going to create but I can tell you that it provides confidence in this administration's commitment to the coal industry," Kentucky Coal Association president Tyler White told Reuters.

Trump will sign the order at the Environmental Protection Agency with Administrator Scott Pruitt, Interior Secretary Ryan Zinke and Energy Secretary Rick Perry on Tuesday afternoon.

The wide-ranging order is the boldest yet in Trump's broader push to cut environmental regulation to revive the drilling and mining industries, a promise he made repeatedly during the presidential campaign.

'ASSAULT ON AMERICAN VALUES'

Environmental groups hurled scorn on Trump's order.

"These actions are an assault on American values and they endanger the health, safety and prosperity of every American," said billionaire environmental activist Tom Steyer, the head of activist group NextGen Climate.

Green group Earthjustice was one of many organizations that said it will fight the order both in and out of court. "This order ignores the law and scientific reality," said its president, Trip Van Noppen.

An overwhelming majority of scientists believe that human use of oil and coal for energy is a main driver of climate change, causing a damaging rise in sea levels, droughts, and more frequent violent storms.

Trump and several members of his administration, however, have doubts about climate change, and Trump promised during his campaign to pull the United States out of the Paris climate accord, arguing it would hurt U.S. business.

Since being elected Trump has been mum on the Paris deal and the executive order does not address it.

Christiana Figueres, former executive secretary of the United Nations Framework Convention on Climate Change who helped broker the Paris accord, lamented Trump's order.

"The action by the U.S. to undo important domestic carbon reduction regulation in the face of the enormous momentum building globally toward a low carbon economy risks putting the country on a back-foot at a time when most Americans are looking to lead," she said in a statement.

"Trying to make fossil fuels remain competitive in the face of a booming clean renewable power sector, with the clean air and plentiful jobs it continues to generate, is going against the flow of economics," she said.

The order will direct the EPA to start a formal "review" process to undo the Clean Power Plan, which was introduced by Obama in 2014 but was never implemented in part because of legal challenges brought by Republican-controlled states.

The Clean Power Plan required states to collectively cut carbon emissions from power plants by 32 percent below 2005 levels by 2030.

Trump's order lifts the Interior Department's Bureau of Land Management's temporary ban on coal leasing on federal property put in place by Obama in 2016 as part of a review to study the program's impact on climate change and ensure royalty revenues were fair to taxpayers.

It also asks federal agencies to discount the cost of carbon in policy decisions and the weight of climate change considerations in infrastructure permitting, and reverses rules limiting methane leakage from oil and gas facilities.

AP
http://hosted.ap.org/dynamic/stories/U/US_TRUMP_CLIMATE_PLAN?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT&CTIME=2017-03-28-08-51-48
Trump puts anti-global warming projects on chopping block
By Matthew Daly and Jill Colvin 3/28/17 8:51 AM

WASHINGTON (AP) -- President Donald Trump is expected to sign an executive order Tuesday aimed at moving forward on his campaign pledge to unravel former President Barack Obama's plan to curb global warming.

The order will suspend, rescind or flag for review more than a half-dozen measures in an effort to boost domestic energy production in the form of fossil fuels.

As part of the roll-back, Trump will initiate a review of the Clean Power Plan, which restricts greenhouse gas emissions at coal-fired power plants. The regulation, which was the former president's signature effort to curb carbon emissions, has been the subject of long-running legal challenges by Republican-led states and those who profit from burning oil, coal and gas.

Trump, who has called global warming a "hoax" invented by the Chinese, has repeatedly criticized the power-plant rule and others as an attack on American workers and the struggling U.S. coal industry. The contents of the order were outlined to reporters in a sometimes tense briefing with a senior White House official, whom aides insisted speak without attribution despite President Trump's criticism of the use of unnamed sources in the news media.

The official at one point appeared to break with mainstream climate science, denying familiarity with widely publicized concerns about the potential adverse economic impacts of climate change, such as rising sea levels and more extreme weather.

In addition to pulling back from the Clean Power Plan, the administration will also lift a 14-month-old moratorium on new coal leases on federal lands.

The Obama administration had imposed a three-year moratorium on new federal coal leases in January 2016, arguing that the $1 billion-a-year program must be modernized to ensure a fair financial return to taxpayers and address climate change.

Trump accused his predecessor of waging a "war on coal" and boasted in a speech to Congress that he has made "a historic effort to massively reduce job-crushing regulations," including some that threaten "the future and livelihoods of our great coal miners."

The order will also chip away at other regulations, including scrapping language on the "social cost" of greenhouse gases. It will initiate a review of efforts to reduce the emission of methane in oil and natural gas production as well as a Bureau of Land Management hydraulic fracturing rule, to determine whether those reflect the president's policy priorities.

It will also rescind Obama-era executive orders and memoranda, including one that addressed climate change and national security and one that sought to prepare the country for the impacts of climate change.

The administration is still in discussion about whether it intends to withdraw from the Paris Agreement on climate change. But the moves to be announced Tuesday will undoubtedly make it more difficult for the U.S. to achieve its goals.

Trump's Environmental Protection Agency chief, Scott Pruitt, alarmed environmental groups and scientists earlier this month when he said he does not believe carbon dioxide is a primary contributor to global warming. The statement is at odds with mainstream scientific consensus and Pruitt's own agency.

The overwhelming majority of peer-reviewed studies and climate scientists agree the planet is warming, mostly due to man-made sources, including carbon dioxide, methane, halocarbons and nitrogen oxide.

The official who briefed reporters said the president does believe in man-made climate change.

The power-plant rule Trump is set to address in his order has been on hold since last year as a federal appeals court considers a challenge by coal-friendly states and more than 100 companies who call the plan an unconstitutional power grab.

Opponents say the plan will kill coal-mining jobs and drive up electricity costs. The Obama administration, some Democratic-led states and environmental groups countered that it would spur thousands of clean-energy jobs and help the U.S. meet ambitious goals to reduce carbon pollution set by the international agreement signed in Paris.

Trump's order on coal-fired power plants follows an executive order he signed last month mandating a review of an Obama-era rule aimed at protecting small streams and wetlands from development and pollution. The order instructs the EPA and Army Corps of Engineers to review a rule that redefined "waters of the United States" protected under the Clean Water Act to include smaller creeks and wetlands.

While Republicans have blamed Obama-era environmental regulations for the loss of coal jobs, federal data shows that U.S. mines have been shedding jobs for decades under presidents from both parties as a result of increasing automation and competition from cheaper natural gas. Another factor is the plummeting cost of solar panels and wind turbines, which now can produce emissions-free electricity cheaper than burning coal.

According to an Energy Department analysis released in January, coal mining now accounts for fewer than 70,000 U.S. jobs. By contrast, renewable energy - including wind, solar and biofuels - now accounts for more than 650,000 U.S. jobs.

The Trump administration's plans drew praise from business groups and condemnation from environmental groups.

U.S. Chamber of Commerce President Thomas J. Donohue praised the president for taking "bold steps to make regulatory relief and energy security a top priority."

"These executive actions are a welcome departure from the previous administration's strategy of making energy more expensive through costly, job-killing regulations that choked our economy," he said.

Former EPA Administrator Gina McCarthy accused the Trump administration of wanting "us to travel back to when smokestacks damaged our health and polluted our air, instead of taking every opportunity to support clean jobs of the future."

"This is not just dangerous; it's embarrassing to us and our businesses on a global scale to be dismissing opportunities for new technologies, economic growth, and U.S. leadership," she said in a statement.

Politico
http://www.politico.com/story/2017/03/donald-trump-obama-climate-change-policies-236570
Trump takes biggest swing yet at Obama climate legacy
By Alex Guillen 3/28/17, 7:01AM

President Donald Trump will direct the federal government on Tuesday to begin dismantling his predecessor's most significant climate change policies, with a sweeping directive telling agencies to stop trying to reduce the carbon pollution of electric utilities, oil and gas drillers and coal miners.

The executive order Trump will sign represents his biggest blow yet to former President Barack Obama's climate legacy. But it does not go as far as some conservatives would like to dismantle the EPA's authority to regulate greenhouse gases, nor will it begin to separate the U.S. from a landmark international climate accord — two areas of intense disagreement within the administration.

Democrats argue that Trump is ignoring the risks of climate change for the sake of rewarding supporters in the fossil fuel industry.

"My hope is that we're at peak climate science denial in the Republican Party," Sen. Chris Murphy (D-Conn.) told POLITICO Monday. "They're going to extraordinary lengths to deny this meteor that is global warming is catapulting toward the Earth. I'm scared stiff. My kids won't be able to solve this problem if we don't tackle it right now because it will be too late in 20 years."

After last week's embarrassing failure of Trump's attempt to repeal and replace Obama's health care law, the energy executive order offers the president a chance to refocus on another key campaign-trail promise: unleashing the American energy industry. The order comes on the heels of Trump's move to ease Obama's ambitious vehicle fuel efficiency requirements and his order to reverse EPA's controversial Waters of the U.S. rule. The president has also recently signed legislation undoing Obama-era rules on Appalachian coal mining and energy companies' payments to foreign governments.

Trump plans to order the EPA to rewrite tough rules that make it virtually impossible to build a new coal-fired power plant, and he will tell the Interior Department to end Obama's moratorium on new coal mines on federal lands, among other steps, White House officials said.

Additionally, the president's "energy independence" executive order also will repeal several Obama-era environmental directives aimed at reducing the federal government's own carbon footprint, and it will direct agencies to ferret out any additional policies that "result in impediments" to U.S. energy production, a likely reference to restrictions on fracking and offshore drilling. The president also will tell federal regulators to stop using the "social cost of carbon," which attempts to quantify the effects of climate change, in economic analyses of future rules.

"There is every reason to believe that the federal government will no longer seek to punish American consumers and businesses for using the energy resources that fuel our economy," U.S. Chamber of Commerce President and CEO Thomas J. Donohue said in a statement welcoming the order.

But Trump is not expected to tell EPA to reconsider the underlying policy that lets it regulate carbon emissions — the 2009 "endangerment finding" in which it declared that greenhouse gas pollution threatens human health and welfare. Nor will he address whether the U.S. will stay in the 2015 Paris climate accord.

"We're happy with it so far and we look forward to the right decisions on Paris and endangerment, but I think those are still to be made and they're a ways down the road," said Myron Ebell, director of the Center for Energy and Environment at the Competitive Enterprise Institute and the former leader of Trump's EPA transition team.

EPA Administrator Scott Pruitt went on national TV earlier this month to declare that carbon dioxide is not "a primary contributor to the global warming that we see," a statement that is at odds with the conclusions of the vast majority of climate scientists, including those at his own agency. But Pruitt has not followed up on that statement with any effort to reverse the Obama-era endangerment finding — a factor that sources say contributed to last week's abrupt departure of a Trump appointee from the agency.

On Monday, a writer for Breitbart.com, the site previously run by White House strategist Steve Bannon, suggested that a failure to revoke the endangerment finding would be grounds for Pruitt to resign.

"If Scott Pruitt is not up to that task, then maybe it's about time he did the decent thing and handed over the reins to someone who is," wrote James Delingpole, a prominent climate skeptic.

The White House did not rule out later revisiting the endangerment finding, which Trump promised on the campaign trail to review. But environmentalists hope the administration decides that would be too much trouble, given that the policy already survived judicial scrutiny, and that courts are unlikely to support revoking it given the overwhelming scientific data on climate change.

Trump has not nominated anyone to fill key leadership positions below Pruitt and Interior Secretary Ryan Zinke, leaving open the question of how quickly his order will yield any concrete results.

"It's going to be harder if you don't have those positions filled," said David Doniger, director of the climate and clean air program at the Natural Resources Defense Council. "Unless, actually, their intention is never to fill them and work through political operatives who are not accountable."

Trump's advisers are split over whether to withdraw from the Paris climate deal, which Obama joined with a pledge to reduce U.S. emissions at least 26 percent from 2005 levels by 2025. The U.S. would face no penalty for missing that target, but many conservatives nonetheless say Trump should abandon the agreement altogether, as he pledged to do during the campaign.

But more moderate advisers, including Trump's daughter Ivanka and his son-in-law Jared Kushner, fear that pulling out would damage relations with key U.S. allies. Administration officials are now considering a middle-ground approach: Stay in the deal in exchange for more international support for technologies to reduce emissions from fossil fuels.

The order was also silent on a carbon tax, another issue that has become a flashpoint in disputes between moderates and hardliners in the White House.

Despite the lofty rhetoric coming out of the White House, Tuesday's order will have relatively little immediate effect.

It will take EPA years to rewrite its Clean Power Plan and accompanying rules on future power plants — both of which courts already had frozen while lawsuits play out.

The Trump administration plans to ask federal courts to suspend lawsuits over the EPA climate regulations and send the rules back to the agency to be rewritten or withdrawn. But the D.C. Circuit Court of Appeals, which heard arguments on the Clean Power Plan six months ago, does not have to go along. The appeals court judges could rule any day on the Clean Power Plan, and a separate D.C. Circuit panel has scheduled oral arguments on the future plant rule for April 17.

If EPA will not defend the regulation, environmentalists and states like California and New York have indicated they will step up and do so. And the ultimate fate of EPA's climate authority likely will eventually be decided by the Supreme Court, which ruled in 2007 that the agency had to regulate greenhouse gases if they endanger public health — but did not say how.

Trump's plans for the social cost of carbon are less clear.

The Obama administration estimated of that each ton of carbon dioxide imposes $36 in costs to society to evaluate its climate rules. But Republicans and fossil energy supporters argued it arrived at that figure by counting global benefits while specifying only domestic costs — and they complain the metric was not subjected to a traditional notice-and-comment period before it was employed.

Critics also said the Obama administration used the social cost of carbon to impose stricter rules at EPA, the Energy Department and elsewhere that would be too costly to justify otherwise. Many environmentalists, meanwhile, complained that the amount was too low.

Whether Trump significantly lowers the cost of carbon or abolishes it altogether, the change could have a serious impact on energy regulations that will play out over a period of years. And it remains unclear how the courts might react. Federal judges have upheld agencies' use of the metric before, but some may be inclined to give deference to the Trump administration over what amounts to a highly technical calculation.

Meanwhile, Trump's order will also lead to the resumption of federal coal leasing. But major coal companies are hardly champing at the bit to sign new leases on federal land, although the Bureau of Land Management could make new tracts available relatively quickly. For example, a spokesman for Peabody Energy, which mines more U.S. coal than anyone else, told Bloomberg that the company will not need a new lease in Wyoming's Powder River Basin for "approximately a decade."

The Obama administration imposed a moratorium in February 2016 as part of a three-year review of the federal coal program. That followed reports from the Government Accountability Office, Interior's inspector general and a coalition of environmentalists and government spending watchdogs that concluded Interior was undervaluing coal on public lands.

Zinke hinted earlier this month that he will continue the underlying review, despite lifting the moratorium, to ensure taxpayers get the full value of coal being sold off of federal lands.

It's not clear that the moratorium cost any jobs, particularly since most coal mining is happening on private rather than public lands. The National Mining Association has not calculated the costs of the moratorium so far, but the group noted that coal mines on federal lands employ 14,000 miners.

Politico Pro

https://www.politicopro.com/tipsheets/morning-energy/2017/03/energy-executive-order-arrives-but-wont-go-far-enough-for-some-022057

Energy executive order arrives but won't go far enough for some

By Anthony Adragna 3/28/17, 5:41AM

TODAY'S THE DAY! President Donald Trump will travel to EPA headquarters today at 2 p.m. to sign a sweeping directive that will begin dismantling his predecessor's most significant climate change policies, Pro's Alex Guillén reports. White House officials said the executive order will ask EPA to rewrite its Clean Power Plan and an accompanying rule on future power plants, repeal several Obama-era environmental directives aimed at reducing the federal government's own carbon footprint, request the Interior Department end Obama's moratorium on new coal mines on federal lands and tell federal regulators to stop using the "social cost of carbon," which attempts to quantify the effects of climate change, in economic analyses of future rules, among other provisions.

Far enough? While the order takes a sledgehammer to Obama-era efforts to embed climate change considerations into all components of federal decision-making, it does not go as far as some conservatives would like. Trump will not tell EPA to reconsider its "endangerment finding," the underlying policy that lets it regulate carbon emissions, nor will he pull the U.S. from the international Paris climate deal. A columnist for Breitbart, the website previously run by Trump's chief strategist Steve Bannon, even suggested EPA Administrator Scott Pruitt should consider resigning because he is "more interested in building his political career than he is taking on the Green Blob."

Pro's Andrew Restuccia and Alex Guillén have a deeper look at the conflicts. Pruitt successfully argued in closed-door meetings against using the executive order to try to overturn the endangerment finding, saying the legal hurdles were too great. Hardliners now hope the White House, perhaps Bannon, will intervene in the matter. But the endangerment finding is not the only source of unrest within EPA — Pruitt is irked by the White House's slow pace in nominating deputies, while others are expressing frustration at the presence of former Washington State Sen. Don Benton, who is expected to leave the agency soon.

EPA Spokesman John Konkus did not directly address Pruitt's role in discussions over the endangerment finding in a statement to ME Monday night: "The Executive Order focuses on the Clean Power Plan, and Administrator Pruitt is excited that the President is taking action on jobs, our economy, and the regulations that fail to put Americans first. This executive order is a victory for American jobs, and we think that speaks for itself."

A couple of important cautions: Neither Pruitt nor Interior Secretary Ryan Zinke have any reinforcements nominated below them to help implement the order, leaving open the question of how quickly Trump's order will yield any concrete results. And despite the lofty rhetoric coming out of the White House, Tuesday's order will have relatively little immediate effect. Some efforts, like rewriting the Clean Power Plan and other regulations, will take years to complete and face vigorous legal challenges from environmental advocates and blue states all along the way.

Not lying down: But green groups aren't waiting to mount their resistance to the administration's action. Activists are looking to protest outside Trump's speech at EPA and the Sierra Club, Mom's Clean Air Force and People's Climate Movement will host what they're calling an "emergency" White House rally tonight at 5 p.m. to fight rolling back the Clean Power Plan. "Trump can't reverse our clean energy and climate progress with the stroke of a pen, and we'll fight Trump in the courts, in the streets, and at the state and local level across America to protect the health of every community," Sierra Club Executive Director Michael Brune said in a statement. And five Senate Environment and Public Works Committee Democrats will hold their own press availability at 2 p.m. to respond to the executive order.

TRUMP TEAM RECOMMENDS DEEP DOE, EPA CUTS: A budget breakdown obtained by POLITICO recommends deep cuts for key EPA and Energy Department programs during the rest of fiscal year 2017, Pro's Alex Guillén and Helena Bottemiller Evich report.

DOE would take a $1.4 billion cut overall, including a 25 percent cut to the Office of Energy Efficiency and Renewable Energy.

EPA would lose $247 million, including a $48 million cut to the research and development account, largely from scaling back climate research. The document also suggests cutting $115 million from a more than $1 billion grant program to help states run their own environmental offices.

Interior's budget would take a $371 million hit, including $51 million from the Payment in Lieu of Taxes program, which compensates states with abundant federal land. It also proposes ending Rep. Hal Rogers's coal mine reclamation pilot project, saving $90 million, and would cut $372 million from the Low Income Home Energy Assistance Program.

But, but, but: Helena and Sarah Ferris report the request may not find a friendly airing on Capitol Hill. "Lawmakers have indicated they are prepared to reject Trump's calls to gut programs they deem important," they report.

READY TO ROLL: The Dakota Access Pipeline now contains oil ready for shipment, the pipeline operators said. The news marks the latest success for pipelines that President Trump highlighted in executive orders he signed during the first week of his taking office, following Trump's approval of Keystone XL on Friday. DAPL developer Energy Transfer Partners said in a court filing that it is in the last stages of commissioning the 1,200-mile pipeline and preparing it to deliver crude. DAPL opponents earlier this month lost their court fight seeking a block its completion.

HOW TRUMP MAKES POLICY CALLS: Trump is increasingly leaning on business executives to help shape his nascent policy decisions, Pro's Andrew Restuccia reports. The president often asks CEOs during private conversations to list the federal regulations they would most like to eliminate, according to people who have spoken with him. It's a level of access that is especially astonishing to industry and business executives used to being shut out during eight years with Barack Obama in the White House.

The rise of the business community comes as career staff at federal agencies are increasingly being left out of policy discussions: EPA's transportation experts were sidelined during the internal discussion about reopening Obama's fuel economy standards, infuriating staffers who had worked on the issue for years, according to two people familiar with the issue. And Trump's political appointees did not consult with State Department officials before the president issued a January memo calling for a Keystone approval.

FLINT GETS PIPE PROMISE: Under a settlement filed in federal district court Monday, the state of Michigan and city of Flint for the first time committed legally to replace 18,000 water service lines made of lead and galvanized steel. If approved by the judge, the agreement would end a lawsuit brought by Flint pastors, the Natural Resources Defense Council and the American Civil Liberties Union. The deal would have the state set aside $87 million for the work, in addition to the $100 million in federal funds approved by Congress last year, and commit to monitoring requirements to ensure the water's safety, but it would stop short of the door-to-door bottled water delivery that the plaintiffs sought in the suit.

YOU'RE HIRED: J.P. Freire is expected to join EPA as communications director, two sources with knowledge of the hire tell ME. Freire is currently communications director for Sen. Orrin Hatch. Neither Freire nor EPA responded to requests for comment.

ANOTHER EPA-RELATED BILL HEADED TO HOUSE FLOOR: The House Rules Committee meets today at 3 p.m. to discuss the EPA Science Advisory Board Reform Act (H.R. 1431), likely clearing the measure for floor action later this week. The bill, similar versions of which have cleared the House in prior congresses, would overhaul how members are picked for the agency's independent science advisory board to allow more industry-associated scientists to come aboard.

E&E News
http://www.eenews.net/energywire/2017/03/28/stories/1060052176
It's D-day for climate regs. Bombs fall at 2 p.m.
By Evan Lehmann 3/28/17

President Trump will try to land a knockout blow on his predecessor's sprawling climate agenda by issuing an executive order today targeting at least nine actions that form the foundation of U.S. efforts to cut emissions and prepare for rising perils.

The "energy independence" order, to be signed at 2 p.m. today, underscores Trump's belief that the seriousness of climate change was overblown by the past administration and deserves to be set aside in order to revive a struggling coal industry and encourage an unbridled boom in the production of oil and gas.

A senior White House official, when asked yesterday if the president agrees with scientists who say that people are largely responsible for rising temperatures, told reporters, "Yeah, sure."

But the administration appears deeply skeptical about the extent of potential damage that climate change might cause, and the order to be signed today would leave the administration seemingly free of any policy to address the risks — both environmental and economic — that scientists have warned about for years.

"I mean, to the extent that the economy is strong and growing and you have prosperity, that's the best way to protect the environment," the White House official said in a briefing about the order. "But certainly, natural gas is important. Clean coal's important. Nuclear is important. Renewables are important."

Today's executive order sets EPA on the road to rescind the Clean Power Plan, an Obama-era rule to reduce emissions at power plants 32 percent by 2030. The official said rescinding the rule could take up to three years and is bound to face legal challenges.

The order also eliminates Obama-era efforts to improve adaptation, embed climate risks in national security apparatuses, reduce agency emissions, expand the importance of climate impacts in the National Environmental Policy Act and freeze new coal leases on public land. It also begins a review of methane regulations by EPA and the Bureau of Land Management and a rule on hydraulic fracturing by BLM. And it will instruct agencies not to use the social cost of carbon when weighing the costs and benefits of environmental regulation.

The order also promotes fossil fuel production. It requires agencies to identify "all regulations, all rules, all policies [and] guidance documents that serve as obstacles or impediments to domestic energy production," the official said.

Then, in 180 days, the White House will use those agency plans to develop a "blueprint" for energy policy.

Does Trump believe in man-made warming? 'Sure, yeah'

The Clean Power Plan is the cornerstone of the United States' climate policy, and it is a key to meeting the nation's commitment under the global Paris Agreement, under which the United States has pledged to cut emissions 26 to 28 percent by 2025. Whether the United States will remain in the Paris accord is still being discussed in the White House, but the official suggested the nation's commitments stand to be weakened. Paris is not included in the order.

"I mean, we have a different view about how you should address climate policy in the United States, so we're gonna go in a different direction," the official said. "I can't get into what that ultimately means from an emissions standpoint. I have no idea."

The order also instructs the Department of Justice to essentially withdraw its defense of the Clean Power Plan in the U.S. Court of Appeals for the District of Columbia Circuit. Instead, it seeks to freeze the case, which is near completion, before the court issues an opinion expected this spring.

The official disputed the idea that the federal government is required to regulate greenhouse gases under Section 111(d) of the Clean Air Act.

"I'm sure there are plenty of people who disagree on that, but that's not something we're thinking of right now," the official said, adding that the administration is focused on unspooling the "massive" Clean Power Plan and not devising new policies to address emissions.

Environmental groups are already threatening to sue the government if it fails to aggressively cut emissions. They contend that EPA is legally obligated to drive down climate pollutants. The official, meanwhile, described an EPA under Trump that focuses not on climate change but on the agency's "core mission" — conventional air and water pollution.

The official faced a string of questions from reporters about whether the president and his advisers believe that humans are causing climate change.

"I think the president understands there's a disagreement over the policy response, and we're gonna see that in the order tomorrow. We're taking a different path," the official said.

When pressed on whether Trump believes in man-made warming, the official said, "Sure, yeah."

A campaign promise checked off

Another reporter asked if the official believes that sea-level rise could cause economic damage to major cities like Miami, New York and New Orleans, as scientists are warning.

"I'd like to see the research. Sure, that would be good. Show it to me," the official said.

The reporter replied: "So are you saying there's not rising sea levels?"

The official answered: "I didn't say that all. I want to see the study."

The president has sent inconsistent signals about his views of human-caused climate in the past 18 months, saying in December 2015 that it's a "hoax," and a year later that there is some "connectivity" between people's actions and warming.

Today's order ushers a White House that is still reeling from last week's remarkable legislative loss on health care into the embracing arms of the coal industry. Trump vowed last May to revive jobs in the hard-hit towns of Appalachia by erasing the Clean Power Plan.

"We're going to rescind all the job-destroying Obama executive actions," Trump said then. "OK, remember that. We're going to save the coal industry. We're going to save that coal industry, believe me. We're going to save it."

He promised to revoke the climate rules within 100 days of taking office. It's day 68.

E&E News
http://www.eenews.net/climatewire/2017/03/28/stories/1060052178
Was the climate rule really bad for the economy?
By Emily Holden 3/28/17

As President Trump today pulls the first strings in unraveling President Obama's signature climate change regulation, he will claim he's saving Americans from skyrocketing electricity bills and putting coal miners back to work.

In truth, that's hard to show.

Experts say it's difficult to get more than a rough estimate of how the Clean Power Plan would influence power costs, since natural gas and renewable energy prices play a role, as do state choices about trading systems.

Canceling the first-ever standards to reduce emissions from power plants is also unlikely to revive the dying coal industry, although it may keep some jobs in western U.S. mines from disappearing, according to the U.S. Energy Information Administration.

While economic studies on the rule have varied wildly, the Trump administration is relying on one paid for by the coal lobby and conducted by NERA Economic Consulting. NERA found that the Clean Power Plan could cause double-digit electricity price increases in many states. In a briefing yesterday, the White House cited that finding and argued that it couldn't pursue any policy that "puts the economy at risk."

Supporters of the Clean Power Plan, however, point to studies that show people would save money on electricity under the rule. They believe the Clean Power Plan would spur energy savings and result in lower bills. U.S. EPA and EIA came in somewhere in between, estimating that electricity prices would rise slightly at first but fall later. EPA thought they would be lower than without the rule by 2030.

The huge number of unknowns makes it "very easy for folks to cherry-pick desired results," said Noah Kaufman, a climate economist with the World Resources Institute who worked for the Obama administration. NERA assumed much higher costs for wind and solar power than did groups like MJ Bradley & Associates and Synapse Energy Economics, Kaufman noted in a recent analysis.

Despite the wide range of estimates, Kaufman said he hasn't seen any study that "makes a compelling and independent case to show that the economic effects are anything other than just noise in comparison to the economy as a whole."

Industry groups disagree, and they believe the costs of the rule would be higher than any possible benefits.
A recent study by NERA for the U.S. Chamber of Commerce and the American Council for Capital Formation found that meeting the Paris climate pledge would cost the average American household up to $160 a year and eliminate up to 440,000 jobs by 2025 (*Greenwire*, March 16). Environmental groups attacked those numbers as unreasonable, saying the researchers intentionally picked the most expensive ways to comply. The chamber says it was being realistic about how the United States might regulate different sectors based on legal confines.

As those types of debate rage on, Trump today will claim a victory for cash-strapped Americans and fossil fuel workers. But the actual economic impact of his actions will be hard to decipher.

When ideology mixes with economics

Observers might assume that the true cost of climate action would fall in the middle of the range of estimates. Researchers warn against that.

"Across all the years I've looked at it, it's not necessarily in the middle," said Tom Wilson, a senior program manager at the Electric Power Research Institute who has been studying climate policy analyses since the 1980s and has witnessed the unexpected natural gas boom and rapid declines in renewable power costs.

"The sort of key thing is that all types of strange things can happen," he said.

Wilson in his presentations explains how analysts in the 1980s estimated the level of global carbon emissions for 2000 and nailed it. They got all the inputs wrong, believing before the Chernobyl meltdown that nuclear power would expand quickly and thinking that Africa would use more power than China. But somehow all the figures balanced out.

There is similar uncertainty in the power sector now. Cheap natural gas has pushed coal and zero-carbon nuclear power offline. It's unclear whether people will really want to buy electric vehicles even when they cost the same as traditional ones. They might not like the way the cars accelerate or could cling to range anxiety, Wilson explained.

"Fundamental issues like that would dictate the cost of a climate policy," he said.

Environmental advocates will also note that many studies don't consider the economic benefits of reducing carbon emissions and spurring other countries to do so, as well. They say policymakers should consider lowered public health costs, avoided infrastructure expenses and savings from curbing the intensity of extreme weather events.

While the exact costs of the Clean Power Plan are hard to pin down, soldiers on both sides of the political debate insist they know how the rule would play out. That's an age-old strategy.

When the House passed cap-and-trade legislation in 2009, and the Senate was considering it, some models showed that the legislation would have been economically manageable, recalled Greg Dotson, who worked for former Rep. Henry Waxman (D-Calif.), a co-author of the bill. Dotson cited one government study that found the cap-and-trade plan would have slowed the growth of the gross domestic product, but only by a few months and not for decades.

Dotson said critics misused some modeling to make their arguments that the measure would be bad for the economy. He said models also almost never adequately assessed the cost of failing to address climate change and exaggerated the importance of small effects projected to occur years in the future. For example, during the debate in 2009, opponents posted stickers on gas pumps warning of immediate price spikes that weren't projected to occur until 2030.

"When you start thinking about it in those terms, models show that it's possible to craft climate change policies in which the costs are small but the benefits are huge," he said.

At the time, it was mainly pundits and those in conservative circles citing industry studies against cap and trade. Now, the president is using such assessments to back up his executive actions.
Dotson said that could be helpful, in giving people a chance to do some fact-checking.

"The problem with whisper campaigns that take place by industry outside of Washington, D.C., is sometimes they're quite hard to rebut," Dotson said. "When something comes from the president's mouth or Administrator Pruitt's mouth ... it gives experts something to really focus on."
Public Citizen yesterday was already taking aim at Pruitt's comments on ABC News on Sunday that climate policies cause electricity rates to increase.

'Coal still has a role to play'

Part of why Clean Power Plan assessments are so hard is because EPA would have given states wide latitude in how to meet their goals, including by using carbon trading.

Before the courts stalled the rule, most states were considering carbon trading, which would have lowered costs, according to various studies by regional grid organizations.
To be sure, costs of the rule would vary around the country, likely hitting coal-heavy states that have been slower to transition away from fossil fuels the hardest.

Market realities are hitting states in the West particularly hard as they try to navigate coal plant closures as companies no longer find the fossil fuel cost-competitive.

Scott Segal, an industry lawyer at Bracewell LLP, said that while it's "always difficult for the government to establish a program that can expand or save any specific industry," the government can "remove obstacles."

He argued that while natural gas is cheap and renewable power is growing cheaper, "coal still has a role to play."

No power company in the country is looking to invest in a new coal plant. But Segal said that "market demands and unforeseen circumstances could spell a resurgence for coal," if the government gets the regulatory approach right.

E&E News
http://www.eenews.net/eedaily/2017/03/28/stories/1060052163

Staff awaits trump with trepidation
By Kevin Bogardus 3/28/17

Many U.S. EPA staff members are gritting their teeth for President Trump's visit today.

The president plans to visit the agency's Washington headquarters this afternoon to sign his long-anticipated executive order to boost energy production and target environmental regulations, including the Clean Power Plan.

Trump — who has proposed a massive 31 percent, or $2.6 billion, budget cut for EPA, which could result in 3,200 fewer jobs at the agency — is not a popular figure among its employees.

After his election last year, many EPA workers were upset, worried about the future of their jobs and the agency itself. On the campaign trail, Trump pledged to dismantle EPA. And last week in Kentucky, he said Administrator Scott Pruitt "would turn the EPA from a job killer into a job creator."

Consequently, gallows humor has become prevalent at the agency.

"Coming to EPA? Are you sure he's not going across the street to have lunch at Trump Hotel?" said one career EPA employee when told about Trump's visit to agency headquarters.

Across the street from EPA's William Jefferson Clinton Federal Building is the Trump International Hotel, where the president has already dined a few times since his inauguration.

That career employee predicted Trump would receive a chilly reception from staff, with many staying in their cubicles rather going to the president's signing of the executive order — if they're invited at all.

"There is going to be bewilderment and shock. Not a lot of excitement. Just pissed-off people," said the employee. "We're going to be at our desks. We'll not be going down there."

A presidential visit will also require heightened security. According to an internal email sent to agency employees yesterday and obtained by E&E News, the Secret Service and the Federal Protective Service will implement "multiple security measures" for the building, "and there will be an increased security presence at the Federal Triangle Complex."

With some entrances closed all day, employees will not be allowed on the first floor of the Clinton East building. The agency's mailroom and print shop will also be closed for the day.

In addition, some EPA employees working in an area facing the courtyard "must close window blinds beginning no later than 10:00 am (and remain closed all day)," said the email.

Security was likely as tight for President Obama's visit to EPA in January 2012. The mood then, however, was celebratory.

Back then, agency employees crowded into the Andrew W. Mellon Auditorium to cheer on the 44th president. Obama thanked workers for their dedication and said environmental protection and economic benefits can go hand in hand.

"I do not buy the notion that we have to make a choice between having clean air and clean water and growing this economy in a robust way," Obama said. "I think that is a false debate" (*E&E News PM*, Jan. 10, 2012).

Pruitt has offered similar sentiments as EPA chief. Nevertheless, it hasn't done much to improve relations between the administration's leadership and the agency's workers.

"Oh, God," said one former EPA official when told about Trump's visit. "There will be certainly a different dynamic than when Obama visited."

The ex-official added, "There is probably no agency and political leader that feel this hostile toward each other, including the CIA."

Trump of course visited the intelligence agency the day after his inauguration. Speaking about his inaugural crowd size and election victory before the CIA's Memorial Wall, Trump sparked criticism for his campaignlike speech.

The president's visit to EPA could lead to similar reviews. Asked if Trump's stopping by EPA headquarters to sign an order to roll back agency rules was a poke in the eye to employees, one union leader said it was.

"It definitely is. Otherwise, he would do this from the comfort of the White House," said John O'Grady, president of American Federation of Government Employees Council 238, which represents thousands of EPA employees. "I'm speechless. This is like someone's worst nightmare."

CNN
http://www.cnn.com/2017/03/27/politics/trump-climate-change-executive-order/
In executive order, Trump to dramatically change US approach to climate change
By Dan Mercia 3/28/17 7:38 AM

Washington (CNN) President Donald Trump will sign a sweeping executive order Tuesday at the Environmental Protection Agency, which looks to curb the federal government's enforcement of climate regulations by putting American jobs above addressing climate change.

The order represents a clear difference between how Trump and former President Barack Obama view the role the United States plays in combating climate change, and dramatically alters the government's approach to rising sea levels and temperatures -- two impacts of climate change.

A White House official briefed on the plan said Monday the administration believes the government can both "serve the environment and increase energy independence at the same time" by urging the EPA for focus on what the administration believes is its core mission: Clean air and clean water.

More important than regulating climate change, the official said, is protecting American jobs.

"It is an issue that deserves attention," the official said of climate change. "But I think the President has been very clear that he is not going to pursue climate change policies that put the US economy at risk. It is very simple."

Tuesday's order will initiate a review of the Clean Power Plan initiative, rescind the moratorium on coal mining on US federal lands and urge federal agencies to "identify all regulations, all rules, all policies ... that serve as obstacles and impediments to American energy independence," the official said.

Specifically, the order will rescind at least six Obama-era executive orders aimed at curbing climate change and regulating carbon emissions, including Obama's November 2013 executive order instructing the federal government to prepare for the impact of climate change and the September 2016 presidential memorandum that outlined the "growing threat to national security" that climate change poses.

"The previous administration devalued workers by their policies," the official said. "We are saying we can do both. We can protect the environment and provide people with work."

The White House official went on to argue that the best way to protect the environment is to have a strong economy, noting that countries like India and China do less to protect the environment.

"To the extent that the economy is strong and growing and you have prosperity, that is the best way to protect the environment," the official said.

The executive order also represents the greatest fears climate change advocates had when Trump was elected in November 2016.

"These actions are an assault on American values and they endanger the health, safety and prosperity of every American," Tom Steyer, the president of NexGen Climate, said in a statement. "Trump is deliberately destroying programs that create jobs and safeguards that protect our air and water, all for the sake of allowing corporate polluters to profit at our expense."

Andrew Steer, CEO of the World Resources Institute, said that the executive order shows Trump is "failing a test of leadership to protect Americans' health, the environment and economy."

But as much as Democrats and climate advocates will decry it, Trump's executive order follows the President's past comments about climate change. Though Trump told The New York Times during the election that he has an "open mind" about confronting climate change, he also once called it a hoax.

"The concept of global warming was created by and for the Chinese in order to make U.S. manufacturing non-competitive," Trump tweeted in November 2012.

"I will also cancel all wasteful climate change spending from Obama/Clinton," Trump said in October 2016.

The changes, the official said, do not mean the Trump administration will not look to protect the environment any longer, the official said, but when pressed about the human impact on climate change and Trump's beliefs, the official was reluctant to say whether all government officials in the Trump White House believe humans cause climate change.

"I think there are plenty of rules on the books already. We will continue to enforce that provide for clean air and clean water. And that is what we are going to do," the official said. "The President has been very clear that he wants the EPA to stick to that basic core mission that Congress set out for it."

The changes also reflect the view of EPA Administrator Scott Pruitt, who routinely sued the organization he now leads during his time as the Attorney General of Oklahoma. In an interview with CNBC earlier this month, Pruitt argued incorrectly that carbon dioxide isn't the "primary contributor" to climate change, a comment that goes against most scientific research.

This executive order is also an attempt by the Trump administration to make good on its promise to bring more coal jobs back. The official said that Obama's regulations "were not helpful" to the coal industry and these reversals are the President honoring "a pledge he made to the coal industry."

"We are going to put our coal miners back to work," Trump said at a March 2017 event in Kentucky. "They have not been treated well, but they're going to be treated well now."

He added: "The miners are coming back."

Huffington Post
http://www.huffingtonpost.com/entry/trump-climate-executive-order-environmentalists_us_58d9ec2ae4b018c4606ae900
Environmentalists Vow To Fight Donald Trump's 'Dangerous,' 'Embarrassing' Climate Rollback
By Nick Visser 3/28/17, 5:47AM

Environmentalists and former White House officials on Monday slammed President Donald Trump's impending executive order that would undue much of the work his predecessor has done to combat climate change.

Trump was due to sign the Energy Independence Executive Order on Tuesday, which will target former President Barack Obama's signature Clean Power Plan and open up federal land to coal development. But environmentalists are not giving up without a fight and plan to protest the wide-ranging order that has been met with fierce criticism.

Gina McCarthy, a former administrator of the Environmental Protection Agency, called it a "dangerous," order that flies "in the face of EPA's mission."

"They want us to travel back to when smokestacks damaged our health and polluted our air, instead of taking every opportunity to support clean jobs of the future," McCarthy said in a statement. "This is not just dangerous; it's embarrassing to us and our businesses on a global scale to be dismissing opportunities for new technologies, economic growth, and US leadership."

EPA Administrator Scott Pruitt, a noted climate change denier, said Tuesday's order would "address the past administration's effort to kill jobs throughout the country" — a statement that couldn't be more different from the agency's stance just three months ago.

Janet McCabe, the former head of the EPA's Office of Air and Radiation, said the agency "has an obligation to address carbon pollution" and challenged Pruitt's recent assertion that carbon emissions were not the cause of climate change.

"Congress put the Clean Air Act in place to protect Americans from air pollution, and there is no doubt greenhouse gases are air pollution — the science makes that crystal clear and the Supreme Court has confirmed it as a matter of law," she said in a statement.

Environmentalists vowed to fight the effects of the rollback and planned a protest in Washington, D.C., for Tuesday evening.

"Trump's attack ignores reality — not just the reality of the climate crisis, but the reality that the clean energy economy is rapidly growing in both red and blue states, creating jobs and safeguarding our air and water," Sierra Club executive director Michael Brune said in a statement. "Trump can't reverse our clean energy and climate progress with the stroke of a pen, and we'll fight Trump in the courts, in the streets, and at the state and local level across America to protect the health of every community."

World Resources Institute president Andrew Steer said the Trump administration was "taking a sledgehammer to U.S. climate action," and with the signing of a pen, the president will "push the country backward."

"Make no mistake: This Executive Order will undermine people's health and the U.S. economy. It hands moral authority and global leadership over to others, leaving America behind," Steer said in a statement.
Economists and energy executives have already casts doubts on the aim of the executive order and Trump's plans to restore thousands of coal mining jobs.

"I really don't know how far the coal industry can be brought back," Robert Murray, the head of one of the countries largest coal mining companies, told The New York Times.

Washington Times

http://www.washingtontimes.com/news/2017/mar/27/paris-climate-treaty-faces-us-exit-after-donald-tr/

Trump's executive action on Clean Power Plan signals U.S. exit from Paris climate treaty

By Ben Wolfgang 3/27/17

President Trump's executive action Tuesday to begin unraveling the Clean Power Plan may also signal America's de facto exit from the landmark Paris climate treaty — former President Barack Obama's signature environmental achievement.

The Clean Power Plan, the first set of national limits on greenhouse gas pollution from power plants, is crucial to the U.S. meeting President Obama's pledge to cut emissions by at least 26 percent by 2025.

While Mr. Trump has yet to formally pull out of the Paris deal — a nonbinding agreement with no enforcement mechanisms other than public shaming — his move Tuesday essentially guarantees the U.S. won't meet the ambitious target.

"It was extraordinarily unlikely we would've met President Obama's Paris pledge under the best of circumstances. But clearly, if the Trump administration goes through with what's on the table so far, it will be impossible to meet the pledge," said Stephen Eule, vice president for climate and technology at the U.S. Chamber of Commerce's Institute for 21st Century Energy.

The Clean Power Plan, which was stayed by the Supreme Court last year and has not gone into full effect, calls for a 30 percent reduction in carbon emissions from the power sector by 2030, and would greatly shrink coal's share of electricity generation in the process.

That reduction is central to meeting the broader Paris goal, as are other regulations now under review, including fuel economy standards for automobiles.

Within the administration, there's an ongoing debate over whether to stay in the Paris deal or formally withdraw. The agreement itself remains highly controversial, not only because of the onerous measures the U.S. would have to put in place to meet its targets but also because it gives China, the world's biggest polluter, a free pass for the next 13 years.

Under Paris, China has to do virtually nothing until 2030, when the country says its greenhouse gas emissions will peak and then slowly begin dropping each year thereafter.

India, another major polluter, also faces no targets for more than a decade.

There's no indication that a decision on the Paris deal is on the immediate horizon, but top officials within the administration increasingly are speaking out. Even without technically disavowing the deal, it's becoming clear the White House has no intention whatsoever of honoring Mr. Obama's commitment.

"What was wrong with Paris was not just that it … failed to be treated as a treaty, but China and India, the largest producers of CO2 internationally, got away scot-free. They didn't have to take steps until 2030," Environmental Protection Administrator Scott Pruitt told ABC News over the weekend.

"So we've penalized ourselves through lost jobs, while China and India didn't take steps to address the issue internationally. So Paris was just a bad deal, in my estimation," he said.

A senior White House official on Monday evening said it's "still under discussion" whether to leave formally the Paris agreement, and wouldn't elaborate on how the administration could possibly meet its commitment while eliminating rules to cut emissions.

In addition to the Clean Power Plan, the official also confirmed that Tuesday's executive order will eliminate Obama administration estimates on the "social cost of carbon," will end a federal moratorium on new coal leases and will take other steps to reduce regulations and promote American energy independence.

The order, however, is by no means the final word on the Clean Power Plan.

The EPA still must hold public hearings, accept public comments, consult with stakeholders and likely face numerous lawsuits in its effort to eliminate the Clean Power Plan altogether.

Specialists have said it will take at least one year, possibly longer, to remove it from the books completely.

Exiting the Paris deal is a different story. Because the agreement was never submitted to the Senate to be approved as a formal treaty, there's nothing stopping the administration from quickly ending U.S. participation.

Supporters of the Paris deal say the White House is sending the wrong signal to the rest of the world by approving new fossil fuel projects like the Keystone XL oil pipeline while backing down on emissions-reduction goals.

"The Trump administration says 'yes' to sending the dirtiest Canadian oil to Latin America and China after it crosses the American plains, but 'no' to providing American leadership as China and Latin America make historic commitments to the global agreement on climate change," Sen. Edward J. Markey, Massachusetts Democrat, said Monday.

Indeed, there would seem to be little reason for the rest of the world to accept U.S. leadership on climate issues if the administration abandons Paris.

"We lose any ability, any moral authority, to say to any other country, 'You have to clean up your act,'" said Christine Todd Whitman, the former Republican governor of New Jersey and EPA administrator during the George W. Bush administration.

But some analysts say the U.S. can retain a global voice on emissions even while undoing regulations, like the Clean Power Plan, that would hamper economic growth at home.

"It would be possible … to keep our seat at the table while still making fundamental changes to our domestic regulations. This position is all the more reasonable in light of the fact that market forces are already advancing the ball toward reasonable greenhouse gas goals," said Scott Segal, a partner at Washington's Bracewell law firm who specializes in energy and environmental issues.

Washington Post
https://www.washingtonpost.com/national/health-science/trump-moves-decisively-to-wipe-out-obamas-climate-change-record/2017/03/27/411043d4-132c-11e7-9e4f-09aa75d3ec57_story.html?utm_term=.c54766528a9c
Trump moves decisively to wipe out Obama's climate change record
By Juliet Ellperin and Brady Dennis 3/27/17, 11:01PM

President Trump will take the most significant step yet in obliterating his predecessor's environmental record Tuesday, instructing federal regulators to rewrite key rules curbing U.S. carbon emissions.
The sweeping executive order also seeks to lift a moratorium on federal coal leasing and remove the requirement that federal officials consider the impact of climate change when making decisions.

The order sends an unmistakable signal that just as President Barack Obama sought to weave climate considerations into every aspect of the federal government, Trump is hoping to rip that approach out by its roots.

"This policy is in keeping with President Trump's desire to make the United States energy independent," said a senior administration official who briefed reporters on the directive Monday evening and asked for anonymity to speak in advance of the announcement. "When it comes to climate change, we want to take our course and do it in our own form and fashion."

Some of the measures could take years to implement and are unlikely to alter broader economic trends that are shifting the nation's electricity mix from coal-fired generation to natural gas and renewables. The order is silent on whether the United States should withdraw from the 2015 Paris climate agreement, under which it has pledged to cut its greenhouse gas emissions between 26 and 28 percent by 2025 compared to 2005 levels, because the administration remains divided on that question.

The order comes after several moves by Trump to roll back Obama-era restrictions on mining, drilling and coal- and gas-burning operations. In his first two months as president, Trump has nullified a regulation barring surface-mining companies from polluting waterways and set aside a new accounting system that would have compelled coal companies and other energy firms to pay more in federal royalties.

The administration also has announced it will reconsider stricter fuel-efficiency standards for cars and light trucks and has approved two major oil pipelines, Dakota Access and Keystone XL, that Obama had halted.

Accelerating fossil-fuel production on federal lands and sidelining climate considerations could lead to higher emissions of the greenhouse gases driving climate change and complicate a global effort to curb the world's carbon output. But Trump has repeatedly questioned whether climate change is underway and emphasized that he is determined to deliver for the voters in coal country who helped him win the Oval Office.

"He's made a pledge to the coal industry and he's going to do whatever he can to help those workers," the senior administration official said.

U.S. coal jobs, which number about 75,000, have been declining for decades. The official did not predict how many jobs might be spurred by this shift in policy.

Legal fight possible

The centerpiece of the new presidential directive, telling the Environmental Protection Agency to begin rewriting the 2015 regulation that limits greenhouse-gas emissions from existing power plants, will trigger a laborious rulemaking process and a possible legal fight.

The agency must first get permission from the U.S. Court of Appeals for the D.C. Circuit, where the rule is tied up in litigation, to revisit the matter. Then, agency officials will have to justify reaching the opposite conclusion of the Obama EPA, which argued it was technically feasible and legally warranted to reduce carbon pollution by about one-third by 2030, compared with 2005 levels.

"So, for the president, even if he would like to revoke the Clean Power Plan, he doesn't have legal authority to do that," said Jeffrey Holmstead, a partner at the Bracewell law firm who opposes the Obama-era rule. Holmstead, who headed the EPA's air and radiation office under President George W. Bush, said he thinks the agency can justify reversing the regulation. But "they have to justify why they have changed," he added.

While environmental groups decried Trump's move, mining officials welcomed it as an important course correction in federal energy policy.

"This rule was an unlawful attempt to radically transform the nation's power grid, destroying valuable energy assets and leaving our economy more vulnerable to rising power prices — all for an insignificant environmental benefit," said Hal Quinn, president and chief executive of the National Mining Association.

Environmentalists vowed to fight the executive order in court and press ahead with their goals on the state level.

David Doniger, director of the Natural Resources Defense Council's climate and clean-air program, said unwinding the Clean Power Plan will not happen quickly, no matter what the president wants. "Tearing the rules down require going through the same process it took to build them up," Doniger said. "We will make them face the music at every step."

Christopher Field, a professor at Stanford University's Wood Institute for the Environment, said in an email that the directive carries long-term risks, rather than immediate ones. "Some are risks from eroding the position of U.S. companies in the clean energy sector," Field said. "Others are from the loss of irreplaceable natural heritage that is put in jeopardy by ill-conceived policies."

The president will also instruct the Interior Department to rewrite a 2015 rule, currently stayed in court, that imposes restrictions on hydraulic fracturing on federal and tribal lands. The directive will also make it easier to flare methane in oil and gas operations on federal land, by triggering the review of a rule the Interior Department finalized in November.

More immediate actions

Other aspects of the executive order can take effect immediately, though it is unclear how quickly they will translate into greater coal extraction. One section overturns a 2016 White House directive to consider climate change when agencies conduct reviews under the National Environmental Policy Act, a sweeping law that informed any federal decisions that have a significant environmental impact.

Another provision instructs Interior's Bureau of Land Management to lift a freeze on federal coal leasing. That moratorium has been in effect since December 2015.

Tom Sanzillo, director of finance for the Institute for Energy Economics and Financial Analysis, said in an interview that the move "becomes a largely politically symbolic measure for right now" because other, lower-carbon sources of energy are out-competing coal. He noted that U.S. coal consumption has declined 27 percent since 2005, from 1.02 billion tons to 739 million tons in 2016, its lowest level in nearly four decades.

"They're not going to reverse the fundamental economic law here," Sanzillo said. "There's no market signal that's telling them they should be mining more coal."

Still, regulatory relief could make some coal firms, nearly 50 of which have filed for bankruptcy since 2012, somewhat more economically viable. Some of the sector's biggest companies — including Arch Coal, Peabody Energy and Alpha Natural Resources — are just now emerging from bankruptcy protection.

Ethan Zindler, head of U.S. research at Bloomberg New Energy Finance, said in an email that solar and wind are competitive with coal in some parts of the country and that natural gas ranks as the lowest-cost source of electricity generation overall. The sector that could suffer the greatest hit from the elimination of the Clean Power Plan is nuclear energy, which provides about a fifth of U.S. businesses' and households' power.

"Many of the 100 or so U.S. plants are aging, and approximately a third are economically uncompetitive today," Zindler said. Without stricter federal emissions limits, he added, "there may be little to stop the retirement of these plants in coming years and their replacement with a combination of gas, wind and solar."

Separately, Trump has instructed federal officials to abandon the practice of factoring in the impact of climate change — what is dubbed "the social cost of carbon" — in their policymaking decisions. That calculus, which is currently set at $36 per ton of carbon dioxide, aims to capture the negative consequences of allowing greenhouse-gas emissions to continue to rise. But some conservatives have criticized it as too sweeping.

Federal officials will return to the traditional cost-benefit analysis the George W. Bush administration adopted nearly 15 years ago, which has a much lower cost associated with carbon emissions.
As Trump seeks to scale back federal limits on greenhouse gas emissions, states and cities are likely to take on a larger role in charting the course forward.

An analysis by the Rhodium Group, an economic consulting firm, found that Trump's forthcoming executive order would slow the country's shift away from carbon-emitting sources of energy. It found after Trump's action, the United States would be 14 percent below its 2005 emissions levels by 2025, compared to 21 percent below that mark had current Obama-era policies remained in place.

Tim Profeta, who directs Duke University's Nicholas Institute for Environmental Policy Solutions, said regulators from more than half-dozen states in the Southeast are now talking about how to chart their own path forward. Having met for nearly three years, the group stopped discussing how to comply with the Clean Power Plan after November's election, but it is still talking.
"We are now talking about the evolution of the power sector in an environment of uncertainty," Profeta said in an interview. "We're seeing the beginning of states taking control of their destiny."

The Hill
http://thehill.com/policy/energy-environment/325977-what-to-watch-for-in-trumps-climate-change-order
What to watch for in Trump's climate change order
By Devin Henry and Timothy Cama 3/27/17, 4:01PM

President Trump will sign an executive order on climate change Wednesday, opening a new front in his battle against former President Obama's environmental legacy.

The action will address Trump's campaign promises and is expected to knock out the Obama administration's landmark climate rule, among other things.

Here are five things to watch when Trump releases the long-awaited executive order on Tuesday.

How far does he go?

The order is expected to be a broad assault on key aspects of Obama's climate change policies.

Trump is expected to order the Environmental Protection Agency (EPA) to formally consider repealing its Clean Power Plan, a rule created to cut power sector emissions. He is also likely to lift a moratorium on new coal mining leases on public land.

Sources told The Hill last week that the order would also target oil and gas drilling rules and the climate change metrics that Obama built into government environmental assessments and regulations, among other things.

Trump will also direct agencies to begin considering actions they can take to encourage energy production, according to Bloomberg.

Some parts of the order will take effect immediately, while others will take time. Trump can't immediately scrap the Clean Power Plan, for instance, as the EPA will have to conduct a formal rulemaking process that could take up to a year.

What will the battle lines be?

Don't expect environmentalists to immediately challenge Trump's action in court.

Lawsuits against the order are certain, but environmental advocates can't file them until the EPA proceeds through the regulatory process.

Much of the coming legal battle is likely to center on the Clean Power Plan. The rule is already at the center of a major lawsuit, with fossil fuel companies, industry groups and coal-friendly Republican states suing to undo the regulation.

That litigation will likely freeze after Trump signs the executive order but will restart again as the process moves forward.

Environmentalists are also likely to fight the cancellation of the coal moratorium, a policy Obama's Interior Department implemented in part to address complaints that the government was not doing enough to account for the climate impact of the fuel's use.

Will the Paris climate pact be mentioned?

The president's order is expected to tread lightly on one major piece of Obama's climate agenda: the Paris agreement.

The non-binding pact was negotiated in 2015 by nearly 200 countries, through the United Nations, with significant leadership from Obama. Each country pledged its own greenhouse gas emissions limits; Obama promised a 26 percent to 28 percent cut in the United States' emissions by 2025.

While Trump promised to "cancel" the accord during last year's campaign, he's been under pressure from some in his administration. In particular, his daughter Ivanka and her husband Jared Kushner — one of Trump's closest advisers — support the accord and convinced Trump to strike language from the order that would have been critical of it, according to The Wall Street Journal.

But while the United States might stay in the pact, Trump's executive order striking climate policies could make it difficult to meet the 2025 goal.

Trump may instead seek to reduce the United States' commitments under the agreement, something that has the support of Trump allies in Congress like Rep. Kevin Cramer (R-N.D.).

Will the order help jobs?

Trump and the White House have touted the order as being designed to help produce jobs in the energy industry.

"We can be both pro-jobs and pro-environment," EPA Administrator Scott Pruitt said Sunday on "This Week with George Stephanopoulos."

"The executive order will address the past administration's efforts to kill jobs across this country through the Clean Power Plan."

But there are indications the order won't pack quite the punch the White House is promising.

Undoing the power plant rules, for instance, is designed to help coal workers. But the industry's decline is much more closely tied to market forces like cheap, prevalent natural gas than federal regulations, something that even the coal industry acknowledges.

"I suggested that he temper his expectations," coal executive Bob Murray told The Guardian on Monday. "Those are my exact words. He can't bring them back."

The White House insists its new action will have an impact.

Asked if the order will bring back coal jobs, Pruitt said Sunday, "I think absolutely it will. It will bring back manufacturing jobs across the country, coal jobs across the country."

How will the White House unveil the order?

Trump is aiming to unveil the order with his traditional showman's touch.

The White House says Trump will go to EPA headquarters in downtown Washington, D.C., to sign the directive.

In addition to Pruitt, the administration may bring in coal miners to celebrate the signing, as Trump did when he signed legislation to undo the Interior Department's rule to protect streams from mining pollution.

Members of Congress, who have long looked to halt Obama's climate actions, are likely to look on as well.

The order could represent a major turning point in American energy policy, fulfilling several of the president's campaign promises.

The Hill
http://thehill.com/policy/energy-environment/326047-trump-to-undo-obamas-climate-change-agenda
Trump to undo Obama's climate change agenda
By Devin Henry 3/27/17, 11:00AM

President Trump will use an executive order on Tuesday to dismantle to the Obama administration's climate change agenda.

The order will compel the Environmental Protection Agency (EPA) to review the Obama administration's chief climate rule for power plant emissions, the 2015 Clean Power Plan, a White House official said on Monday night. The White House opposes that rule, signaling its eventual termination.

The action will order several other federal agencies to undo the previous administration's climate change work: it will tell the Interior Department to end a moratorium on new coal leasing on federal land, the official said, and the Obama administration's assault on methane emissions — outlined in early 2014 and overseen by Interior and EPA — will be ended, as well.

A major hydraulic fracturing regulation from the Bureau of Land Management will be reviewed under the order. It will also end President Obama's climate action plan, the main 2013 directive outlining the federal government's response to climate change.

Trump's Tuesday order will represent a reset of the federal government's policies on climate change. It will not address several major environmental rules issued during Obama term, including an update on ozone pollution or mercury standards at power plants. But efforts initiated by Obama — who made addressing climate change a key goal of his second term — will disappear.

"There are plenty of rules on the books already, that we will continue to enforce, that provide for clean air and clean water and that's what we're going to do," the White House official told reporters on Monday night.

"I think the president has been clear he wants the EPA to stick to that basic core mission that Congress laid out for it."

One thing the order will not address is the United States's involvement in the Paris climate deal, a global pact to cut greenhouse gases. Obama was a driving force behind that agreement, pledging a 26 percent to 28 percent reduction in U.S. emissions by 2025.

But the official said the administration has a "different view about how you should to address climate policies as the United States and we're going to go in a different direction."

Trump doubts the broad scientific consensus — affirmed by the vast majority of climate scientists — that human activity contributes to and has exacerbated a warming trend around the globe.

He has stacked his administration with officials who agree with his views. EPA Administrator Scott Pruitt, for example, said earlier this month that he does not believe carbon dioxide is a "primary contributor" to global warming, a conclusion at odds with the scientific research of his own agency.

Trump's order will not nix the Obama administration's 2009 finding that carbon dioxide is a threat to the United States, a formal conclusion that underpins federal rules on the matter.

"But the administration will interpret it differently than Obama did. That "endangerment finding," Trump's administration argues, relates only to carbon emissions from cars, not carbon emissions as a whole, and therefore does not apply to the power plant rules Obama issued.

The official said climate change is an "issue that deserves attention," but there is no indication from the contents of the order that Trump will focus on it.

Instead, the White House is framing the order as one to help the U.S. economy -- something Republicans, Trump and others in his administration have said is threatened by climate regulations.

"Energy independence: that's the goal," the official said. "The president understands there's a disagreement over the policy response and you'll see that in the order tomorrow. We're taking a different path."

Environmentalists have promised a strong response.

Groups have planned a protest on Tuesday night, an early sign that they will fight back against the changes.

"On the heels of the three hottest years on record, President Trump is reversing the biggest steps our country has taken to fighting climate change, League of Conservation Voters President Gene Karpinski said.

"Donald Trump may care more about corporate interests, but the people of this country care about a safe, clean and healthy environment and they will not let him get away with destroying it."

Environmental lawyers have said they will pore over the regulatory review process in order to sue against it in the end.

"This order ignores the law and scientific reality," Trip Van Noppen, the president of the environmental law group Earthjustice, said in a statement.

"Dirty coal power is never coming back because it can't compete with clean energy and denial won't make climate change go away. Earthjustice will continue to defend clean air and progress on climate in court and out, and we will never back down from protecting our public lands."

The White House said it was preparing for a lengthy fight over the contents of the order.

"I bet a good deal that there will be litigation once the final review is undertaken," the official said. "It's going to take a while."

The action will rescind several other Obama directives issued by his administration.

An order asking federal agencies to consider climate impacts in normal environmental reviews will come off the books, and the administration will reconsider the "social cost of carbon" metric designed to assess the climate implications of government actions.

Other Obama policies — including those focusing on climate change adaptation and its impact on national security — will also come off the books.

The order will have federal agencies identify plans for expanding American energy production, something that will serve as a "blueprint" for the Trump administration's energy agenda.

The fossil fuel industry stands to benefit from the action. The coal sector, for instance, has lambasted the Clean Power Plan as a regulation designed to damage the industry, which produces a high-polluting fuel.

Oil and natural gas companies oppose the methane regulations as burdensome and duplicative, and they have fought them in court and in Congress.

But the order will not be a silver bullet, something even coal executive Bob Murray acknowledged this week.

"I suggested that he temper his expectations," Murray told The Guardian, noting market forces that have hurt his sector. "Those are my exact words. He can't bring [jobs] back."

InsideEPA
https://insideepa.com/daily-news/trump-order-requires-agencies-id-rules-stymie-energy-production
Trump Order Requires Agencies To ID Rules That Stymie Energy Production
By Abby Smith 3/27/17

President Donald Trump will sign a long-awaited executive order March 28 that a senior White House official says will begin to lay out a framework for the administration's energy and environment policy -- one that will prioritize energy production and eliminate climate or environmental policies that "put the U.S. economy at risk."

The forthcoming order "will look back and look forward," the official told reporters in previewing the order late March 27. The order, known as the "Energy Independence" executive order, will direct federal agencies to identify "all regulations, guidance and documents that serve as obstacles or impediments to U.S. energy production," the official said.

Agencies will be expected to come up with energy independence plans, which the White House will then review. "Those plans will serve as a blueprint for the administration going forward on energy policies," the official said.

Regarding climate change, the White House official suggested several Obama-era policies "don't reflect" Trump's agenda, and therefore will be immediately pulled back or subject to review.

The official indicated the administration wants to "take our own course and do" climate policy "in our own form and fashion."

Specifically, the order will target a wide range of Obama administration climate policies, largely mirroring what appeared in a draft summary of the order obtained by *InsideEPA/climate* and other news outlets.
The order will "initiate the review" of several regulations, including EPA's existing power plant greenhouse gas rule known as the Clean Power Plan and the companion rule for new sources. Both rules are currently subject to pending legal challenges in the U.S. Court of Appeals for the District of Columbia Circuit.

The document could also order the Department of Justice to ask the D.C. Circuit to hold litigation on the power plant rules in abeyance or remand the rules to the agency while administrative proceedings to rewrite them are underway.

The White House official said there is no timeframe associated with the review of the Clean Power Plan and other rules, but EPA Administrator Scott Pruitt "is ready to hit the ground running on it." The source also noted that the administration will have to go through the rulemaking process if it intends to rescind or revise the regulations and acknowledged there will likely be litigation over the end result.
Whether the process takes one, two or three years, "I don't know. It's going to take some time," the official said.

In addition, the White House official listed several other Obama-era policies that will undergo review -- including EPA's rule regulating emissions of the potent GHG methane from new oil and gas sources, as well as the Bureau of Land Management's (BLM) methane venting and flaring rule and its rule regulating hydraulic fracturing on public lands.

"All will be reviewed" based on "whether those reflect the policy priority at the beginning of the order," the official said, though the source did not specify what that priority would be beyond a focus on energy independence and "getting EPA back to its core mission."

NEPA Reviews

According to the White House official, the order will also rescind Obama White House Council on Environmental Quality guidance for how to account for climate impacts in National Environmental Policy Act (NEPA) reviews. "That guidance was widely opposed by a number of different industries," the official said, adding that the administration believes it goes "way beyond what NEPA requires."

The order will also target the Obama administration's social cost of carbon metric, and the related social cost of methane and social cost of nitrous oxide -- default values that agencies use to measure the benefits of rules that limit GHGs.

"The prior administration put out its own estimates, not in a very transparent fashion," the official said, adding the Trump administration believes the metrics violate "longstanding" Office of Management & Budget policy. Those metrics "will no longer stand," the source said.

In addition, the White House official said the order will target about six climate change-related executive orders and presidential memorandum from former President Barack Obama, including four orders related to climate adaptation and resilience, the 2013 memo putting forth the Climate Action Plan and a 2014 memo outlining a strategy to cut methane.

The order will also rescind the Department of Interior's moratorium on new coal leasing on federal lands.
The White House official said the order will not address how the Trump administration will proceed with the Paris Agreement, which the source said is "still under discussion."

It will also not address EPA's 2009 GHG endangerment finding, which underpins the agency's climate regulations and which many conservative groups have urged the Trump EPA to review. Just last month, the free-market Competitive Enterprise Institute asked EPA to review the GHG risk finding in a petition obtained by *Inside EPA*.

"Certainly if you look at the previous administration's" Paris Agreement pledge, "we have a different view about how you would address climate policy in the U.S.," the White House official said, adding that the Trump administration intends to go in a "different direction" but the emissions impact of that pathway is unclear.

The White House official emphasized that Trump "made a pledge" to help the coal industry. While it is true that such things like the low cost of natural gas and other market forces affect coal's success, "certainly government policy has a role, and to the extent he can have a beneficial effect, he's going to take it."

In addition, the White House official indicated the executive order would "lay out very clearly" how the Trump administration intends to approach climate policy. The source suggested the administration believes the most important factor is to "make sure you have a strong economy," noting that the United States has a "cleaner, healthier environment" than large developing countries like China.

The official also noted that the Trump administration will continue to enforce clean air laws that are "on the books" but will review "policies like the Clean Power Plan that we believe don't provide environmental protection." The source added that "whether it's clean coal, nuclear power, renewables . . . allowing all those to flourish is a good way to address the issue." -- *Abby Smith* (asmith@iwpnews.com)

Washington Examiner
http://www.washingtonexaminer.com/trumps-newest-order-looks-to-block-obamas-climate-legacy/article/2618606
Trump's newest order looks to block Obama's climate legacy
By John Siciliano 3/27/17 11:00 PM

President Trump will sign an executive order Tuesday to roll back the centerpiece of the Obama administration's climate change agenda, the Clean Power Plan, and cancel what Trump says are unnecessary rules on coal, oil and natural gas production that are harming economic growth.

The executive order is seen as central in meeting the president's campaign promises to help coal country rebound from the tens of thousands of job losses that the industry blames, in part, on restrictive environmental regulations.

A senior administration official told reporters on a call Monday that the order has the "twin goals" of both moving forward while also looking backward.

It "looks forward" by setting the stage for the "beginning strategy" in devising an energy policy framework for the nation, said the senior official. And it looks backward by eliminating regulations from the previous administration that hinder growth and energy production.

It will call on all agencies to conduct a comprehensive review of all rules to determine those that inhibit energy production, and report back to the White House in 180 days.

After that, the White House will sit down with the agencies to develop an energy "blueprint," the official told reporters.

The order will also direct the Environmental Protection Agency to review and, if necessary, redo climate regulations for existing fossil fuel power plants, called the Clean Power Plan, with the end goal of redacting the regulation. And, it will roll back climate regulations on new power plants, known as the New Source rule, which is called a "defacto ban" on building new coal-fired power plants in the country.

The clean coal technology required to meet the rule is cost prohibitive and not yet even commercially viable.

The rule directs the Justice Department to ask the D.C. Circuit Court of Appeals to hold in abeyance current lawsuits opposing the regulations. Nearly 30 states and hundred of groups, firms and companies are suing the agency over the power plant rules.

Rolling back the regulations would help keep coal power plants from prematurely closing down over the next decade. The review that EPA must do to comply with the Administrative Procedures Act could take years, as the official expects the review will be challenged in court.

In other areas, the rule takes aim at Obama-era regulations opposed by industry groups that are meant to control methane emissions from fracking wells.

Both the EPA and the Interior Department have regulations for essentially doing the same thing, limiting emissions of methane, which is a potent greenhouse gas that many scientists blame for causing manmade global warming through the burning of fossil fuels.

The methane regulations are part of President Barack Obama's broad climate agenda issued in 2013, called the Climate Action Plan. But the rule rescinds all six executive orders that make up the Climate Action Plan.

The order has faced weeks of delays because of complex legal questions regarding the Clean Power Plan and EPA climate rules, which are currently under review by the D.C. Circuit Court of Appeals.

The order is "legally complex," and the White House was being "very careful" due to the ongoing litigation, the official said.

He said EPA Administrator Scott Pruitt is "ready to hit the ground running" in conducting the climate rule at the agency. But he said it seems clear there will be litigation, which could take years to resolve.

Big environmental groups like the Natural Resources Defense Council and Sierra Club will likely initiate opposition in the courts to the executive order and its actions.

NRDC President Rhea Suh began ramping up support for her group's legal response to Trump's assault on EPA in November. Her group is already suing against Trump's approval of the Keystone XL pipeline on Friday.

Meanwhile, Sen. Ed Markey, D-Mass., an ardent supporter of steps to control climate change, plans to introduce legislation in direct response to Trump's executive orders on Keystone XL and the Clean Power Plan.

"President Trump didn't issue an executive order today, he issued a declaration of war on American leadership on climate change and our clean energy future," said Markey.

Markey said Monday that he plans to introduce a slew of bills, including one to transition to 100 percent clean and renewable energy by 2050, another to reform the federal coal leasing program, and a third to "block export of Keystone XL oil and refined product," while opening up offshore wind energy on the nation's coasts.

Mother Jones
http://www.motherjones.com/environment/2017/03/trump-executive-order-climate
Trump Just Released His Plan to Gut Obama's Climate Policies. It's Worse Than You Thought.
By Rebecca Leber 3/27/17 11:00 PM

President Donald Trump will issue his long-promised executive order rolling back federal government efforts to fight climate change Tuesday.

The wide-ranging order, which will be accompanied by other environmental directives, targets Obama-era policies across the government, including in the Environmental Protection Agency, the Department of Interior, and the Department of Defense. It directs the EPA to revisit the Clean Power Plan, which limits carbon pollution from power plants and was considered the center-piece of former President Barack Obama's climate policy. Additionally, Trump is asking the Justice Department to stop defending the plan in court.

The president will instruct agencies to rescind a moratorium on coal leasing on public lands; rewrite limits on methane emissions from the oil and gas industry; and ignore the EPA's current calculation on the costs of carbon pollution. There are also broad directives reversing an Obama initiative requiring that federal departments consider climate mitigation strategy and the national security risks of global warming.

One of Trump's more notable "Day One" promises is missing, however: The United States will remain in the landmark Paris climate accord for the time being—despite Trump's pledge to "cancel" it.

Still, environmentalists are furious. "This is not just dangerous; it's embarrassing to us and our businesses on a global scale to be dismissing opportunities for new technologies, economic growth, and US leadership," Obama EPA Administrator Gina McCarthy said in a statement.

Sen. Edward Markey (D-Mass.) called Trump's actions "a declaration of war on American leadership on climate change and our clean energy future" in his own statement.

Indeed, Tuesday's actions are just the start of a long fight over the federal government's role in confronting climate change. Undoing the regulations already on the books, from the Clean Power Plan to the methane rule, could take several years. And Trump will face fierce resistance throughout the protracted fight. Green groups are already threatening legal action.

EPA Administrator Scott Pruitt, White House Press Secretary Sean Spicer, and Trump himself have all stuck to a similar script while previewing the order. They insist it will create jobs and help the United States achieve energy independence (although the US wasn't "energy independent" before the Obama rules existed). At a recent Kentucky rally, Trump claimed the executive order would "save our coal industry." (It won't.)

On a press call Monday night, a senior White House official also stuck to that script. That is, until reporters asked him whether administration staffers who worked on the order accepted the science behind global warming and sea level rise—and the research showing that climate change makes extreme weather worse.

"I would like to see" that research, said the official, who spoke on background to reporters. "Send it to me."

Asked whether the president and his staff all believe in manmade climate change, the official stumbled, "Um...again I think it's not a controversial statement. The key question is the extent over what frame of time." Asked whether the official personally believed climate change is manmade, he said, "Yeah, sure I do. That doesn't say much does it?"

It actually says a lot. Trump and Pruitt have both at times dismissed climate science—Trump infamously called it a Chinese hoax. Environmental lawyers think these pronouncements could strengthen their lawsuits. "It is possible that statements of that sort will come back to haunt them," Richard Revesz, a New York University environmental law professor, said. "It would suggest they prejudge the science before consulting with scientists. There is a pretty high burden for departing from an existing rule."

Here's the rundown of some of what Trump's executive actions will do:

Gutting the Clean Power Plan

The Clean Power Plan was the Obama EPA's strategy for reducing carbon pollution from existing power plants 32 percent by 2030. Under this rule, states would have to submit plans to achieve customized emissions targets using a mix of renewables, natural gas, and energy efficiency. The Supreme Court put the rule on hold last year as attempts to block it wind their way through the court system, so the EPA's work on the program has ground to a halt.

Trump's order directs the EPA to revise the plan and review what it thinks is required under the Clean Air Act, which forms the basis for the power plant regulations. The moves will require an extensive public notice and comment period to justify any changes, and the administration has yet to make a timetable public.

Trump is instructing the EPA to revise the rule (and weaken it substantially)—rather than rescind it entirely—presumably because the Supreme Court told the agency in 2007 it must regulate carbon pollution if it finds carbon to be a threat to human health. The agency issued this so-called "endangerment finding" in 2009, and it was upheld in a 2012 appeals court case. As long as the EPA's finding that climate change poses a health danger remains in effect, the EPA is legally required to issue regulations based on the "best available science." While revoking the endangerment finding has long been a goal of some on the right, it would be a difficult feat that would likely involve convincing the courts that climate change is, as Trump contends, a hoax.

Adding more complication still, the DC federal court of appeals has yet to issue its opinion on the legality of the Clean Power Plan, after hearing the case on an expedited schedule last fall. As expected, Trump is now asking the Department of Justice to withdraw its defense of the plan.

Ignoring the Cost of Carbon

In 2007, a federal appellate court ruled that when performing a cost-benefit analysis on its fuel efficiency standards, the Bush administration had to account for the costs that carbon emissions inflict on society by contributing global warming and other problems. The court recognized that "while the record shows that there is a range of values [for the social cost of carbon], the value of carbon emissions reduction is certainly not zero."

Of course, translating the impacts of carbon emissions and climate change into an economic "cost" that can be measured in dollars is a complicated undertaking. Obama's EPA ultimately worked out a formula for tabulating these costs and used it as a basis for its climate regulations.

Trump's order directs the EPA to ignore this calculation.

Ending the Moratorium on Coal Leases on Public land

In January 2016, Obama ordered a moratorium on new coal leases on public lands until Interior could update its badly outdated leasing program. Trump is now directing the department to reverse that moratorium. Unlike the Clean Power Plan, which was a formal rule that can only be undone through a drawn-out process, Interior can act on this directive immediately.

When that happens, environmental groups are ready to fight back. Earthjustice expects this to be the first in a long series of legal battles over Tuesday's order. The group says it plans to file a lawsuit within hours of the agency's action.

"We expect to challenge any action that allows coal leasing to resume before [an] environmental review is completed that evaluates whether the federal coal leasing program should be reformed (or scrapped altogether) in light of its significant climate impacts and failure to generate a fair return for US taxpayers," Earthjustice attorney Jenny Harbine said.

Rolling Back Methane Restrictions

The Obama administration finalized a series of regulations toward the end of his presidency limiting methane emissions. Among them was an Interior rule limiting excessive flaring and venting from oil and gas operations on public lands. Like the Clean Power Plan, this change will have to go through a formal rulemaking process in order for Trump to undo it. Trump will also rescind Obama's broad strategy, released in 2014, for reducing methane emissions.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/19/2017 1:49:59 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]
Subject: Politico: Pruitt visits Chicago-area Superfund site today, 4/19/17

Politico
https://www.politicopro.com/tipsheets/morning-energy/2017/04/pruitts-visits-chicago-area-superfund-site-today-022416
Pruitt visits Chicago-area Superfund site today
By Anthony Adragna 4/19/17, 5:46AM

PRUITT'S ON THE MOVE AGAIN: EPA Administrator Scott Pruitt heads to the Chicago area today where he'll tour a lead cleanup project. The USS Lead Superfund site in East Chicago, Ind., gained national attention last summer when some 1,000 public housing residents were forced from their homes after tests showed high levels of lead and arsenic. Pruitt is the first EPA administrator to visit the site itself, and today's trip aligns with his emphasis on the Superfund program as part of the agency's core mission. Indiana Gov. Eric Holcomb's office said Pruitt will participate in a private briefing with local elected officials and community groups at the site, along with Sens. Joe Donnelly and Todd Young and Rep. Pete Visclosky. They'll hold a public availability afterward at 1 p.m. CST.

The trip comes after Pruitt was spotted Tuesday… in Oklahoma. Gov. Mary Fallin tweeted a picture after meeting with him. The agency did not respond to requests for what else Pruitt was up to in his home state.

Back in Washington today, EPA officials will hold a two-hour-long confab at the agency's headquarters this afternoon with groups representing state and local officials to solicit their "input and wisdom" on the planned rewrite of the Waters of the U.S. rule. In a letter extending the invitation last week, Pruitt said the consultation is a priority "to both myself and President Trump." But don't expect unanimity from attendees: States were fiercely divided on the Obama administration's rule, with more than 30 filing suits against it, while others sided with EPA in support of the rule. Meanwhile, some of the associations that were invited to the meeting represent a specific set of interests in states — for instance, sewer administrators and wetlands managers — whose stake in the rule could differ from their governor's or even each other's.

RESCHEDULED: The White House said a scheduled meeting between senior Trump advisers on the Paris climate accord was postponed because many of the attendees wanted to accompany the president to Wisconsin, but promised it would be rescheduled. "That date has not been set when it will be, but it will be scheduled at some point over the next couple of weeks," Deputy Press Secretary Sarah Huckabee Sanders told reporters.

The delay comes amid divisions over Paris inside the White House, among Republican lawmakers and within the business community. But Sanders said the delay had nothing to do with those disagreements. Just before the meeting was canceled, a dozen Republican lawmakers led by West Virginia Rep. David McKinley sent Trump a letter urging him to

withdraw from the accord altogether. That followed appeals from several major oil and coal companies telling Trump to stick with the agreement but adjust the U.S. emissions-reduction pledge.

SPRINT IS ON FOR RFS: It's going to be a tight squeeze if the Trump administration intends to meet the annual deadline to issue the Renewable Fuel Standard mandates, but most observers still believe it can be done by the Nov. 30 deadline, Pro's Eric Wolff reports. "EPA has repeatedly committed to the timely promulgation of the rules implementing the RFS, and I have every expectation they will meet the statutory requirement," said Bob Dinneen, CEO of the Renewable Fuels Association, an ethanol producers group.

To get its final 2018 biofuel-volumes rule out on time, EPA would likely have to issue a proposed rule by late May but OMB hasn't yet received anything to review, making that time frame unlikely. Ethanol and oil refining sources tell Eric they've been told the proposed rule could slip to early June, which they believe still allows EPA to issue the final Renewable Volume Obligations in time to meet the deadline. The RFS rule would also seem to be a test of Trump's two-for-one deregulatory executive order, though there's some thought it falls under an exception under OMB guidance. It's worth remembering that the Obama EPA missed the annual deadlines regularly, though it did issue last year's rule on time.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/26/2017 1:39:32 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: BNA: China Doubts U.S. Climate Pledge as Trump Mulls Paris Withdrawal, 4/26/17

BNA
http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=110163686&vname=dennotallissues&wsn=499982000&searchid=29771331&doctypeid=2&type=date&mode=doc&split=0&scm=1245&pg=0
China Doubts U.S. Climate Pledge as Trump Mulls Paris Withdrawal
By Jennifer A Dlouhy 4/26/17

China, the world's top emitter of carbon dioxide, is questioning whether the U.S. is doing enough under President Donald Trump to meet commitments made as part of the landmark Paris climate accord.

China joined the U.K., Brazil and other countries in scrutinizing U.S. climate progress in queries filed with the United Nations. The responses illustrate the potential global humiliation—if not outright retaliation—the U.S. could incur if Trump decides to keep the country in the pact even as he eviscerates policies central to keeping its carbon-cutting commitment.

Top Trump administration officials are still debating whether the U.S. should formally remain a party to the pact signed in 2015. A decision is expected in the coming weeks, but former climate negotiators—and a pro-Paris contingent in the White House—say that the stay-in-but-don't-comply option is better than pulling out altogether, even if it draws complaints from other signatories.

“Weakening the target certainly isn't in keeping with the spirit of the Paris agreement, but pulling out would be a direct assault on that agreement,” said Elliot Diringer, who represented the U.S. in other climate change negotiations under former President Bill Clinton and is now executive vice president of the Center for Climate and Energy Solutions.

The Paris accord, signed by more than 190 countries, is one of former President Barack Obama's signature achievements on climate change. He personally lobbied a reluctant China to sign, paving the way for other nations to follow, and put in place an array of regulations and policies to help the U.S. to meet its commitment under the pact.

Since taking office, Trump has reversed or discarded many of those measures. He prodded the Environmental Protection Agency to dismantle the Clean Power Plan that slashed carbon dioxide emissions from generating electricity and repealed his predecessor's broad strategy for paring oilfield releases of methane, another potent greenhouse gas.

U.S. Report Draws Scrutiny

Those changes prompted pointed responses to a U.S. report on its climate progress, filed with the United Nations by the Obama administration. Countries filed questions in February; they were released last week.

For instance, China invoked Trump by name as it noted that the U.S. can't cut greenhouse gas emissions 17 percent below 2005 levels by 2020—much less hit its 26 percent target for 2025—if the U.S. doesn't preserve Obama-era policies and take additional steps building on them.

“Given that President Trump is not supportive of President Obama's climate action plan, it is even more challenging to achieve the 17 percent emission reduction in 2020 purely through domestic actions,” China said. “What additional measure will the U.S. consider?“

China also wanted to know what the U.S. was doing to curb greenhouse gas emissions from electric plants in case the Clean Power Plan is canceled and asked for an assessment of the climate impacts of Trump's recent policy announcements.

China Takes the Lead

The queries from China come as that country drives down its emissions by aggressively supporting renewable energy and turning to natural gas instead of coal to generate electricity.

Obama helped recruit China to join the Paris climate agreement after the failed effort to broker a climate deal in Copenhagen in 2009. He saw China as the key to attracting international support for the pact because China and the U.S. are the world's two biggest polluters, accounting for some two-fifths of greenhouse gas emissions.

In the run up to Paris, Obama and Chinese President Xi Jinping announced ambitious goals to curb greenhouse gases. China pledged its emissions would peak around 2030, the first time it agreed to such a cap, and the U.S. agreed to double the pace of its greenhouse gas cuts.

The Paris accord is not legally binding. Although countries may face international ridicule for failing to live up to individual carbon-cutting pledges, they do not face sanctions under the pact. The U.S. has the freedom to rewrite its commitment or just openly flout it by obliterating the Obama-era policies designed to help meet its goals—an argument advanced by White House officials who back the pact.

Withdrawal Could Jeopardize Goodwill

Supporters argue that remaining in the deal would maintain goodwill with international trading partners, facilitating exports of U.S. natural gas and clean energy technology. Pulling out throws that into jeopardy, said Dan Bodansky, an expert in international environmental agreements at Arizona State University.

“We would be subject to much more significant pushback if we pulled out altogether,” Bodansky said by phone. “If we move out, we're really an international pariah for abandoning this agreement that was just adopted by the entire international community a year and a half ago.“

The U.S. still could face some reprisals for a stay-in-but-don't-comply stance, analysts and some pro-Paris business groups argue, but the risk of such repercussions is higher with a complete retreat.

“Given the importance of U.S. leadership to the Paris agreement, we think supporters might prefer to accommodate U.S. flexibility,” ClearView Energy Partners told clients in a research note.

A U.S. withdrawal could make it harder for other countries to justify their continued participation and undermine the global nature of the accord, Bodansky said.

By contrast, the biggest risk of the U.S. taking the middle-ground option is that other countries stop aggressively working to pare emissions, Diringer said.

“There's a potential corrosive effect on global ambition,” he said. “If the world's largest economy isn't trying as hard, others may be less willing to make the effort.“

Accord's Risks

Conservatives arguing in favor of a U.S. pullout from Paris say the risks are too great to remain. Under the accord, countries are expected to strengthen their individual goals every five years, and the agreement prods developed countries to “lead,” undertaking the “highest possible ambition.” Member nations are set to gather again next year to take stock of their collective progress.

“This whole idea of being binding or non-binding is a distinction without a difference,” said Marlo Lewis, a senior fellow at the Competitive Enterprise Institute. “Trump and whoever comes after Trump will continually be caught in this no man's land where if you don't do what Obama promised, you are breaking a promise that America, allegedly, has made to the world.“

Since Trump is already rolling back domestic climate regulations, “why not go all the way?” Lewis asked. “Why affirm the legitimacy of an agreement—and why pledge fealty to an agreement—that basically indicts you for doing what you are going to do?“

Remaining a party to the deal while flouting the U.S. commitment “would turn the United States into a professional liar and hypocrite,” said Mike McKenna, a strategist advising energy companies. “If we're not going to participate in honest action, the right answer is, get out. It is weaselly and beneath our national honor to do something like this.“

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 3/28/2017 4:08:38 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: RE: Clean Power Plan 3/28/17

Below: BNA, AP, Wall Street Journal, BBC, Bloomberg, Reuters, Politico (2), E&E News (3), CNN, Huffington Post, Washington Post (3/27), Washington Examiner (3/27), The Hill (2) (3/27), InsideEPA (3/27), Washington Examiner (3/27), Mother Jones (3/27)

BNA
http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108093090&vname=dennotallissues&wsn=499566000&searchid=29533522&doctypeid=2&type=date&mode=doc&split=0&scm=1245&pg=0
Trump Said to Issue Far-Reaching Reversal of Obama Climate Push
By Jennifer A Dlouhy 3/28/17

President Donald Trump is set to sign a sweeping executive order March 28 aimed at promoting domestic oil, coal and natural gas by reversing much of his predecessor's efforts to address climate change.

The document lays out a broad blueprint for the Trump administration to dismantle the architecture that former President Barack Obama built to combat the phenomenon, according to details shared with Bloomberg News. Some of the changes will happen immediately, while others will take years to complete.

The order will compel federal agencies to quickly identify any actions that could burden the production or use of domestic energy resources, including nuclear power, and then work to suspend, revise or rescind the policies unless they are legally mandated, are necessary for the public interest or promote development.

It also will toss out two Obama-era directives that gave climate change a prominent role in federal rule making. One advised government agencies to factor climate change into environmental reviews, such as those governing where oil drilling could take place. The other, called the "social cost of carbon," is a metric reflecting the potential economic damage from climate change that the Obama administration used to justify a suite of regulations.

Pro-Growth

"This is about making sure that we have a pro-growth and pro-environment approach to how we do regulation in this country," Scott Pruitt, head of the Environmental Protection Agency, said on ABC's "This Week" program March 26.

Trump, who has called climate change a hoax, has vowed to reorient the government so that U.S. oil and coal producers thrive and steel and auto manufacturers don't face "job-killing restrictions." The coming order underscores Trump's commitment to make good on his campaign promises, which helped propel him to victory in industrial strongholds such as West Virginia and Pennsylvania.

The details shared with Bloomberg News reflected the latest draft of the White House order and could change before the announcement, which Pruitt said would happen March 28.

While the order will make clear that the target of the planned regulatory rollback should be policies curbing the production of oil, natural gas, coal and nuclear energy, it also will say the U.S. is well served when affordable, reliable and clean electricity is produced from an array of sources, including solar, wind and hydropower.

The order also is set to include a targeted assault on a handful of specific Obama-era regulations. It will require the Interior Department to lift a moratorium on the sale of new coal leases on federal land and compel the EPA to review, and, "if appropriate," begin proceedings to suspend, revise or rescind regulations designed to reduce greenhouse gas emissions from power plants.

Clean Power Plan

Obama's Clean Power Plan was designed to cut carbon dioxide emissions from electricity by 32 percent by 2030 compared to 2005 levels. The initiative has been in legal limbo since the Supreme Court stayed it while it was reviewed by a federal appeals court. The Trump administration now is expected ask that court to put the matter on hold to allow it time to revise or undo the measure—an action environmentalists have vowed to challenge.

Other policies in the crosshairs: an EPA rule setting requirements for greenhouse gas emissions for construction of new power plants and an Interior Department regulation setting mandates on hydraulic fracturing of oil and gas wells on federal lands. The Interior Department's Bureau of Land Management said earlier this month that it will begin the process to rescind the regulation, which requires companies to disclose the chemicals they pump underground and to seal off wastewater in storage tanks.

Revoking Directives

Trump's executive order also is set to revoke six specific directives from his predecessor, including Obama's broad strategy for paring emissions of methane released from oil and gas operations. Other Obama directives targeted for repeal include one on climate change and national security, as well as a pair of directives from June 2013 that laid out his climate plans.

The Obama administration wove climate considerations into decisions across the federal bureaucracy, from efficiency standards for microwave ovens to the refurbishing of government buildings.

Coal Market

The changes may have little immediate impact on the market for coal, which is facing stiff competition from cheaper natural gas and renewable energy, analysts said.

Even before the Obama administration imposed the coal-leasing moratorium in January 2016, producers had little interest in adding new federal reserves to their portfolios amid slumping domestic demand. The U.S. government has sold just one coal leases since October 2012, though earlier this month it approved a transaction originally sought in 2005. Existing federal leases contain at least 20 years' worth of coal, according to Interior Department estimates.

Even without the EPA's Clean Power Plan in force because of the Supreme Court stay, using coal to generate electricity has been in decline as a result of previous pollution regulations and competition from low-cost natural gas, solar and wind.

Coal's Decline

The removal of the Clean Power Plan could halt coal's decline as a source of electricity during the next two decades, according to projections from the Energy Information Administration. More coal use would mean less natural gas use, EIA said.

Trump's action sets in motion at least a year of bureaucratic work at the EPA to formally dismantle the Clean Power Plan. And whatever happens will inevitably be challenged in court by those same environmental groups.

By contrast, the Interior Department can undo the coal leasing moratorium with the stroke of a pen, the same way it was imposed a year ago, under an administrative order issued by former Interior Secretary Sally Jewell.

Trump's targets also would reduce the role of climate change in government decision-making. For instance, the social cost of carbon metric served as the linchpin for many Obama administration environmental rules. Critics say the number—now nearly $40 for every metric ton of carbon dioxide emitted into the atmosphere—gives artificial precision to uncertain conditions nearly 300 years in the future.

According to shared details of the executive order, the Trump administration will disband the working group that created the social cost of carbon and return to an earlier 2003 approach for calculating the costs and benefits of proposed regulations.

AP
http://hosted.ap.org/dynamic/stories/U/US_TRUMP_CLIMATE_PLAN?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT&CTIME=2017-03-28-08-51-48
Trump puts anti-global warming projects on chopping block
By Matthew Daly and Jill Colvin 3/28/17 11:45AM

WASHINGTON (AP) -- President Donald Trump is expected to sign an executive order Tuesday aimed at moving forward on his campaign pledge to unravel former President Barack Obama's plan to curb global warming.

The order seeks to suspend, rescind or flag for review more than a half-dozen measures in an effort to boost domestic energy production in the form of fossil fuels.

As part of the roll-back, Trump will initiate a review of the Clean Power Plan, which restricts greenhouse gas emissions at coal-fired power plants. The regulation, which was the former president's signature effort to curb carbon emissions, has been the subject of long-running legal challenges by Republican-led states and those who profit from burning oil, coal and gas.

Just as former President Barack Obama's climate efforts were often stymied by legal challenges, environmental groups are promising to fight Trump's pro-fossil fuel agenda in court.

Trump, who has called global warming a "hoax" invented by the Chinese, has repeatedly criticized the power-plant rule and others as an attack on American workers and the struggling U.S. coal industry. The contents of the order were outlined to reporters in a sometimes tense briefing with a senior White House official, whom aides insisted speak without attribution despite President Trump's criticism of the use of unnamed sources in the news media.

The official at one point appeared to break with mainstream climate science, denying familiarity with widely publicized concerns about the potential adverse economic impacts of climate change, such as rising sea levels and more extreme weather.

In addition to pulling back from the Clean Power Plan, the administration will also lift a 14-month-old moratorium on new coal leases on federal lands.

The Obama administration had imposed a three-year moratorium on new federal coal leases in January 2016, arguing that the $1 billion-a-year program must be modernized to ensure a fair financial return to taxpayers and address climate change.

Trump accused his predecessor of waging a "war on coal" and boasted in a speech to Congress that he has made "a historic effort to massively reduce job-crushing regulations," including some that threaten "the future and livelihoods of our great coal miners."

The order will also chip away at other regulations, including scrapping language on the "social cost" of greenhouse gases. It will initiate a review of efforts to reduce the emission of methane in oil and natural gas production as well as a Bureau of Land Management hydraulic fracturing rule, to determine whether those reflect the president's policy priorities.

It will also rescind Obama-era executive orders and memoranda, including one that addressed climate change and national security and one that sought to prepare the country for the impacts of climate change.

The administration is still in discussion about whether it intends to withdraw from the Paris Agreement on climate change.

Trump's order could make it more difficult, though not impossible, for the U.S. to achieve its carbon reduction goals. The president's promises to boost coal jobs run counter to market forces, such as U.S. utilities converting coal-fired power plants to cheaper, cleaner-burning natural gas.

Trump's Environmental Protection Agency chief, Scott Pruitt, alarmed environmental groups and scientists earlier this month when he said he does not believe carbon dioxide is a primary contributor to global warming. The statement is at odds with mainstream scientific consensus and Pruitt's own agency.

The overwhelming majority of peer-reviewed studies and climate scientists agree the planet is warming, mostly due to man-made sources, including carbon dioxide, methane, halocarbons and nitrogen oxide.

The power-plant rule Trump is set to address in his order has been on hold since last year as a federal appeals court considers a challenge by coal-friendly states and corporations who call the plan an unconstitutional power grab.

Opponents say the plan will kill coal-mining jobs and drive up electricity costs. The Obama administration, some Democratic-led states and environmental groups countered that it would spur thousands of clean-energy jobs and help the U.S. meet ambitious goals to reduce carbon pollution set by the international agreement signed in Paris.

Trump's order on coal-fired power plants follows an executive order he signed last month mandating a review of an Obama-era rule aimed at protecting small streams and wetlands from development and pollution. The order instructs the EPA and Army Corps of Engineers to review a rule that redefined "waters of the United States" protected under the Clean Water Act to include smaller creeks and wetlands.

While Republicans have blamed Obama-era environmental regulations for the loss of coal jobs, federal data shows that U.S. mines have been shedding jobs for decades under presidents from both parties as a result of increasing automation and competition from natural gas, which has become more abundant through hydraulic fracturing. Another factor is the plummeting cost of solar panels and wind turbines, which now can produce emissions-free electricity cheaper than burning coal.

According to an Energy Department analysis released in January, coal mining now accounts for fewer than 75,000 U.S. jobs. By contrast, renewable energy - including wind, solar and biofuels - now accounts for more than 650,000 U.S. jobs.

The Trump administration's plans drew praise from business groups and condemnation from environmental groups.

U.S. Chamber of Commerce President Thomas J. Donohue praised the president for taking "bold steps to make regulatory relief and energy security a top priority."

"These executive actions are a welcome departure from the previous administration's strategy of making energy more expensive through costly, job-killing regulations that choked our economy," he said.

Former EPA Administrator Gina McCarthy accused the Trump administration of wanting "us to travel back to when smokestacks damaged our health and polluted our air, instead of taking every opportunity to support clean jobs of the future."

"This is not just dangerous; it's embarrassing to us and our businesses on a global scale to be dismissing opportunities for new technologies, economic growth, and U.S. leadership," she said in a statement.

Wall Street Journal
https://www.wsj.com/articles/despite-trump-move-utilities-shift-from-coal-is-set-to-continue-1490693406
Despite Trump Move on Climate Change, Utilities Shift From Coal Is Set to Continue
By Cassandra Sweet 3/28/17, 10:08AM

The Trump administration's expected move to roll back President Obama's signature climate-change policy may extend the life of some aging coal-fired power plants, but companies and energy experts say it is unlikely to reverse the U.S. utility industry's shift to natural gas, solar and wind as leading sources of electricity.

President Donald Trump is expected Tuesday to sign an executive order that would begin to reverse the Clean Power Plan, which would have required utilities to reduce power-plant carbon-dioxide emissions to 32% below 2005 levels by 2030. The order also rolls back guidance from the Council on Environmental Quality on climate change and rescinds a temporary ban on new coal leases on federal lands, a senior White House official said Monday night.

While the action may give a reprieve to some coal-fired plants facing extinction, large utilities say they will continue long-term investments to generate more power from gas, wind and solar, which are being driven by economic as well as regulatory forces. The White House official said Monday that the order is part of the president's promise to restore the coal sector, but the official acknowledged that merely repealing the regulations wouldn't bring back jobs.

Cheap U.S. natural gas unlocked by hydraulic fracturing and horizontal drilling has prompted many companies to scrap older coal plants in favor of gas-fired plants, which require fewer workers to operate. Companies are also taking advantage of tax credits for renewable power to build out solar and wind farms, which are becoming more cost-competitive with fossil-fuel generation thanks to economies of scale and advances in technology.

Duke Energy Corp. says it plans to invest $11 billion in natural gas and renewable power generation over the next 10 years, as the company aims by 2026 to cut its greenhouse-gas emissions by 35% from 2005 levels.

That represents a long-term company strategy and isn't likely to change, Duke Chief Executive Lynn Good said in a February interview. The utility's power generating mix is now 34% coal and 28% natural gas, compared with 61% coal and 5% gas in 2005. By 2026, it estimates gas will be the dominant fuel, followed by coal, nuclear and renewable power.

"Because of the competitive price of natural gas and the declining price of renewables, continuing to drive carbon out makes sense for us," said Ms. Good. "Administrations will change during the life of our business and our assets, and we'll continue to move forward in a way that makes sense for our investors and our customers."

Southern Co. plans to invest at least $1 billion a year over the next five years in new wind farms. It now uses natural gas to generate 47% of its power, with coal providing 31%, nuclear 15%, and hydropower, wind, solar and other renewable sources 7%.

"Going forward, we anticipate an increase in renewable generation capacity and declining utilization of coal," said Terrell McCollum, a spokesman for the Atlanta-based utility.

U.S. utilities generated more electricity from natural gas than from coal last year. Power from coal plants fell to 3.4 million megawatt-hours a day in 2016 to supply 30% of U.S. generation, down from 33% in 2015, according to the U.S. Energy Department. Natural-gas plants supplied 3.8 million megawatt-hours daily, or 34% of total power supplies this past year, up from 33% the previous year.

Hydropower and other renewables generated 1.7 million megawatt-hours daily, or about 15% this past year, up from 13% in 2015. Nuclear plants contributed 20%, and petroleum and other sources produced the rest.

Without the Clean Power Plan, however, the Energy Department expects coal-fired generation from existing plants to rise and natural gas-fired generation to fall by 2020, followed by another reversal after 2030 when it anticipates gas will exceed coal again.

The extent of a coal recovery will depend largely on the price utilities pay for gas, which averaged about $3 a million British thermal units last year. The department predicts it will rise to more than $4.50 in 2020, and $5 in 2029.

Many energy companies face state requirements to increase renewable power generation and are coming under pressure from large investors such as pension funds and university endowments to clean up their operations.

More pension funds, university endowments and other funds are divesting from companies that burn coal over concerns about the environment, said Fiona Reynolds, managing director at Principles for Responsible Investment, a London-based nonprofit that helps funds figure out how to cut the carbon footprint of their investments. "Investors want to see companies that are moving away from coal, to other energies," she said.

Nearly 700 institutions worth more than $5 trillion have pledged to divest from fossil fuel companies, according to a December report by consulting firm Arabella Advisors.

Still, some coal plants that are economical to run, particularly those owned by rural electric cooperatives in states where coal is plentiful, are likely to enjoy longer lives without the carbon rule.

Basin Electric Power Cooperative, based in Bismarck, N.D., was among the power generators that fought the Clean Power Plan in court. It was concerned it would be forced to shut down coal plants it is still paying off, and replace them with new gas plants and wind farms, at a cost of $5 billion.

"We're building natural gas and wind, but that doesn't mean we would take a perfectly functioning coal facility and not consider that a valuable resource as well," said Mike Eggl, a spokesman for Basin Electric.

BBC
http://www.bbc.com/news/science-environment-39419074
Trump to make major change to US climate change narrative
By Matt McGrath 3/28/17

"This is, I think, one of the most historic attacks on climate and environmental action that the US has ever seen," said Liz Perera from the Sierra Club.

Her words are certain to cheer Trump supporters everywhere.

Green "job-killing" regulations limiting energy production have long been a red rag for Donald Trump, as candidate and President.

His **expected new energy independence executive order** seeks to radically change the US narrative on climate change, its causes and its importance. The best way of fighting global warming according to the new outline is to create prosperity. Environmental regulation should be about air and water. CO2, in this light, is your friend.

Supporters believe that cutting back Obama climate regulations will create thousands of jobs in the newly liberated oil and gas industries.

His opponents agree the new order will be a job creator - but they'll be jobs for lawyers, not in the coal fields.

Front and centre is practical action on the **Clean Power Plan** (CPP), the Obama project to cut fossil fuels from electricity production. Although it has long **been tied up in the courts**, the CPP will be left to fester there while the new administration comes up with a much weaker replacement.

"Undoing the rule will not be straightforward," said Prof Bruce Huber, from the Notre Dame law school.

"For the Environmental Protection Agency (EPA) to reverse course, it will have to propose a new rule, with all the lengthy procedures that entails. When President George W Bush tried to reverse course on some of President Clinton's signature environmental regulations, those efforts took years and were not entirely successful."

In terms of coal, the new executive order will allow the Department of the Interior to lift a moratorium on the sale of new coal leases on federal lands. However, boosting coal as a source of energy, and jobs, will be very difficult.

Many coal plants **have shut down** not because of Obama's carbon restrictions but because of mercury pollution associated with burning the fuel. Thanks to fracking, cheap natural gas has soared as a source of power generation, and renewables are taking an every bigger share.

Former State department climate adviser Andrew Light now works for the World Resources Institute. Both of his grandfathers were coal miners.

"They were paid by the tonne for the coal they pulled out of the ground, but those jobs are gone, and technology has moved beyond that and I hope it's the case that voters in the coal states will recognise that their jobs aren't magically coming back because of this executive order," he told BBC News.

President Obama sought to put consideration of climate change at the heart of all government policy - but by revising the **social cost of carbon measure** and encouraging an immediate government review of all rules that inhibit energy production, President Trump is signalling a change in the widely held philosophy that CO2 is the enemy, the main driver of climate change.

While rolling back Obama era ideas like the role of climate change in national security, or how climate change should be considered in relation to the **National Environmental Policy Act**, the Trump plan does not directly attack the key finding on which much of America's carbon restrictions are based.

Back in 2007, the US Supreme Court **ruled** that carbon dioxide gas was a pollutant under the Clean Air Act.

In response, the EPA ruled in 2009 that CO2 and other gases were responsible for contributing to climate change which results in a threat to the public health and welfare of current and future generations.

This "endangerment finding" compels the federal government to regulate emissions of CO2. And according to some environmentalists, this finding is the solid rock that Trump's plans will be dashed against.

"The law of the land is that CO2 endangers my public health and welfare," said Liz Perera from the Sierra Club.

"So they have to regulate it. What they are doing now is saying that all the Obama regulations were wrong but that means they are going to have to put something forward in their place and by the law it has to be adequate or we can sue them every step of the way."

Other experts believe that the ultimate goal of this executive order will be to overturn the Supreme Court ruling on CO2 as a pollutant.

They believe that the **declaration** of EPA administrator Scott Pruitt that CO2 was not a "primary contributor" to climate change is instructive of the direction of travel.

"It is fundamental," said Andrew Light. "I believe that Scott Pruitt wants to go after the endangerment finding. Their argument is that climate change exists, but it is not the case that humans are causing it.

"It is the endangerment finding that draws that tight connection between the fact that humans are making it and the fact that global warming is happening. Once you destabilise that point then you can go for the endangerment finding. That would be the biggest win they could get."

But Liz Perera, for one, believes that won't happen.

"We have the economics on our side, we have the market on our side, we have the public on our side, and we have the law on our side - that this is endangering public health and welfare. They can't change any of those things."

But in many ways, extended court battles are exactly what President Trump and the fossil fuel lobby are looking for.

"Delay is what they want," one green source told me. "Delay is winning."

Bloomberg
https://www.bloomberg.com/politics/articles/2017-03-28/trump-to-cancel-obama-s-policies-aimed-at-paris-climate-pledge
Trump to Cancel Obama Policies Aimed at Paris Climate Pledge
By Jennifer A Dlouhy 3/28/17 8:27 AM

President Donald Trump is moving aggressively to undo policies designed to keep the carbon-cutting promises the U.S. made alongside nearly 200 other countries in Paris, while stopping short of a decision to formally withdraw from that landmark climate accord.

Trump will sign an executive order Tuesday that begins unraveling a raft of rules and directives to combat climate change, which President Barack Obama wove into the fabric of the federal government as he made addressing the issue a centerpiece of his second term.

The changes stem from Trump's desire to advance the U.S. economy and domestic production of energy from fossil fuels as well as nuclear and renewable sources, while still protecting the air and water, a senior White House official told reporters Monday.

EPA Administrator Scott Pruitt told Fox and Friends Tuesday that Trump was "coming to the EPA to set a new course" that is "pro growth, pro jobs and pro environment."

Trump, who once called climate change a hoax, has vowed to reorient the federal government so that U.S. oil and coal producers thrive, while manufacturers aren't burdened by "job-killing" restrictions.

"A lot of people are going to be put back to work, a lot of coal miners are going back to work," he said during a rally in Louisville, Kentucky last week.

Some changes will happen immediately, such as the repeal of a 2016 policy that encouraged federal regulators to consider climate change in environmental reviews as well as directives from Obama that compelled government agencies and the military to factor the phenomenon into their planning. The Interior Department also will swiftly rescind a moratorium on the sale of new rights to extract coal on federal land.

And the Trump administration also is tossing an Obama-era "social cost of carbon" metric that estimated the potential economic damage from climate change and was used to justify a slew of environmental actions, from efficiency standards for microwave ovens to the revamp of government buildings. Instead, the government will return to an earlier 2003 approach for estimating the potential costs of any regulations governing greenhouse gas emissions.

Other policy pivots will take years of work, such as reversing the Clean Power Plan that forced states to cut greenhouse gas emissions from electricity. An Interior Department rule setting requirements for hydraulic fracturing on federal land will be rescinded. And a pair of regulations governing potent methane emissions from oil and gas wells also will be reviewed at the Environmental Protection Agency and the Interior Department -- with possible changes or a reversal years away.

Most -- if not all -- of the changes will face legal challenges from the same environmentalists who already are fighting to defend Obama's Clean Power Plan in federal court.

"In taking a sledgehammer to U.S. climate action, the administration will push the country backward, making it harder and more expensive to reduce emissions," Andrew Steer, president of the World Resources Institute, said in an emailed statement. "Climate science is clear and unwavering: mounting greenhouse gas emissions are warming our planet, putting people and business in harm's way."

The news was cheered by some conservatives who have been pushing Trump to go even further in stripping climate regulations from the rulebooks, including by undoing the EPA's landmark declaration that greenhouse gas emissions jeopardize the public health and welfare. That 2009 endangerment finding served as the underpinning for later EPA carbon rules.

Myron Ebell, director of the Competitive Enterprise Institute's Center for Energy and Environment, cast Trump's executive order as a good start.

"It takes the necessary first steps in undoing President Obama's energy-rationing agenda," Ebell said by email. "Of course, there is more work to be done down the road, most importantly withdrawing from the Paris climate treaty and reopening the endangerment finding."

The Trump administration hasn't said if the U.S. will remain a part of the 2015 Paris climate accord -- despite the president's campaign pledges to rip up the deal that set broad, non-binding carbon-cutting targets for the U.S. and nearly 200 other countries. Whether the U.S. remains in the pact is still under discussion, according to the senior White House official.

Secretary Tillerson

Secretary of State Rex Tillerson has advocated the U.S. keep its seat at the table by sticking with the plan. Even without formally pulling out of the Paris pact, the U.S. is abandoning its pledge to pay $3 billion into a United Nations fund to help countries on the front lines of climate change.

Trump's actions are politically significant, following months of promises to reverse the fortunes of struggling coal miners -- campaign vows that helped propel him to victory in industrial strongholds like West Virginia and Pennsylvania. Although the changes he is setting in motion will make it cheaper to extract coal and use it to generate electricity, they are unlikely to dramatically boost domestic demand for coal, which faces stiff competition from cheap natural gas and is affected by other pollution regulations untouched by Trump's order.

And mining jobs have been in decline for decades as automated equipment increasingly unearths coal, doing the work that once required pick axes and mules.

Even before the Obama administration imposed the coal-leasing moratorium in January 2016, coal producers had little interest in adding new federal reserves to their portfolios, amid slumping domestic demand. Existing federal leases contain at least 20 years' worth of coal, according to Interior Department estimates.

It was not immediately clear Monday whether Trump's Interior Department would continue a broad review of the federal coal leasing program even as it restarts sales; that analysis is already about a third complete, with regulators unveiling a broad blueprint of possible changes earlier this year.

Sierra Club Executive Director Michael Brune called Trump's order "the single biggest attack on climate action in U.S. history" and said it was a misguided attempt to help workers displaced by the global shift to cleaner energy sources.

"The best way to protect workers and the environment is to invest in growing the clean energy economy that is already outpacing fossil fuels and ensuring no one is left behind," Brune said in an emailed statement. "At a time when we can declare independence from dirty fuels by embracing clean energy, this action could only deepen our dependence on fuels that pollute our air, water and climate while making our kids sicker."

Legal Limbo

The EPA's Clean Power Plan was already in legal limbo, having been put on hold by the Supreme Court in February 2016, while lower court proceedings were underway. The U.S. Court of Appeals heard arguments on the challenge last September but has not ruled on the case that the Trump administration will now seek to put on hold. Environmental groups and states that support the rule and are defending it in court have vowed to fight to keep those proceedings going.

Janet McCabe, the former head of the EPA Office of Air and Radiation that helped develop the Clean Power Plan, defended the measure as a "solid, reasonable and flexible rule based on years of research and outreach that follows" an ongoing market transition toward cleaner energy. "EPA has an obligation to address carbon pollution," she said in an emailed statement. "Congress put the Clean Air Act in place to protect Americans from air pollution, and there is no doubt greenhouse gases are air pollution; the science makes that crystal clear."

Critics of the initiative said the EPA went beyond its authority under the Clean Air Act by imposing broad statewide emissions targets, rather than specific mandates for individual power plants.

"The Clean Power plan was an unprecedented power grab by the previous administration that was built on a shaky legal foundation," said Thomas Pyle, head of the American Energy Alliance, a fossil fuel-oriented free market advocacy group.

"This executive order won't get rid of the regulation overnight, but it's an important first step that reaffirms President Trump's commitment to protecting American families from higher energy costs."

Reuters
http://www.reuters.com/article/us-usa-trump-energy-idUSKBN16Z1L6
Trump to sign order sweeping away Obama-era climate policies
By Valerie Volcovici and Timothy Gardner 3/28/17 8:58 AM

U.S. President Donald Trump will sign an executive order on Tuesday to undo a slew of Obama-era climate change regulations, a move meant to bolster domestic energy production and create jobs, but environmentalists say the order is dangerous and vow to challenge it in court.

The decree's main target is former President Barack Obama's Clean Power Plan, requiring states to slash carbon emissions from power plants - a critical element in helping the United States meet its commitments to a global climate change accord reached by nearly 200 countries in Paris in December 2015.

The order will also rescind a ban on coal leasing on federal lands, reverse rules to curb methane emissions from oil and gas production, and reduce the weight of climate change in federal assessments of new regulations.

Trump has long telegraphed the moves, and claimed that undoing green regulation will trigger a new boom in oil, gas, and coal production and create thousands of jobs, all without harming U.S. air and water quality.

"We're going to go in a different direction," a senior White House official told reporters ahead of Tuesday's order. "The previous administration devalued workers with their policies. We can protect the environment while providing people with work."

Energy analysts and executives have questioned whether the moves will have a big effect on their industries, and environmentalists have called them reckless.

"I cannot tell you how many jobs the executive order is going to create but I can tell you that it provides confidence in this administration's commitment to the coal industry," Kentucky Coal Association president Tyler White told Reuters.

Trump will sign the order at the Environmental Protection Agency with Administrator Scott Pruitt, Interior Secretary Ryan Zinke and Energy Secretary Rick Perry on Tuesday afternoon.

The wide-ranging order is the boldest yet in Trump's broader push to cut environmental regulation to revive the drilling and mining industries, a promise he made repeatedly during the presidential campaign.

'ASSAULT ON AMERICAN VALUES'

Environmental groups hurled scorn on Trump's order.

"These actions are an assault on American values and they endanger the health, safety and prosperity of every American," said billionaire environmental activist Tom Steyer, the head of activist group NextGen Climate.

Green group Earthjustice was one of many organizations that said it will fight the order both in and out of court. "This order ignores the law and scientific reality," said its president, Trip Van Noppen.

An overwhelming majority of scientists believe that human use of oil and coal for energy is a main driver of climate change, causing a damaging rise in sea levels, droughts, and more frequent violent storms.

Trump and several members of his administration, however, have doubts about climate change, and Trump promised during his campaign to pull the United States out of the Paris climate accord, arguing it would hurt U.S. business.

Since being elected Trump has been mum on the Paris deal and the executive order does not address it.

Christiana Figueres, former executive secretary of the United Nations Framework Convention on Climate Change who helped broker the Paris accord, lamented Trump's order.

"The action by the U.S. to undo important domestic carbon reduction regulation in the face of the enormous momentum building globally toward a low carbon economy risks putting the country on a back-foot at a time when most Americans are looking to lead," she said in a statement.

"Trying to make fossil fuels remain competitive in the face of a booming clean renewable power sector, with the clean air and plentiful jobs it continues to generate, is going against the flow of economics," she said.

The order will direct the EPA to start a formal "review" process to undo the Clean Power Plan, which was introduced by Obama in 2014 but was never implemented in part because of legal challenges brought by Republican-controlled states.

The Clean Power Plan required states to collectively cut carbon emissions from power plants by 32 percent below 2005 levels by 2030.

Trump's order lifts the Interior Department's Bureau of Land Management's temporary ban on coal leasing on federal property put in place by Obama in 2016 as part of a review to study the program's impact on climate change and ensure royalty revenues were fair to taxpayers.

It also asks federal agencies to discount the cost of carbon in policy decisions and the weight of climate change considerations in infrastructure permitting, and reverses rules limiting methane leakage from oil and gas facilities.

Politico
http://www.politico.com/story/2017/03/donald-trump-obama-climate-change-policies-236570
Trump takes biggest swing yet at Obama climate legacy
By Alex Guillen 3/28/17, 7:01AM

President Donald Trump will direct the federal government on Tuesday to begin dismantling his predecessor's most significant climate change policies, with a sweeping directive telling agencies to stop trying to reduce the carbon pollution of electric utilities, oil and gas drillers and coal miners.

The executive order Trump will sign represents his biggest blow yet to former President Barack Obama's climate legacy. But it does not go as far as some conservatives would like to dismantle the EPA's authority to regulate greenhouse gases, nor will it begin to separate the U.S. from a landmark international climate accord — two areas of intense disagreement within the administration.

Democrats argue that Trump is ignoring the risks of climate change for the sake of rewarding supporters in the fossil fuel industry.

"My hope is that we're at peak climate science denial in the Republican Party," Sen. Chris Murphy (D-Conn.) told POLITICO Monday. "They're going to extraordinary lengths to deny this meteor that is global warming is catapulting

toward the Earth. I'm scared stiff. My kids won't be able to solve this problem if we don't tackle it right now because it will be too late in 20 years."

After last week's embarrassing failure of Trump's attempt to repeal and replace Obama's health care law, the energy executive order offers the president a chance to refocus on another key campaign-trail promise: unleashing the American energy industry. The order comes on the heels of Trump's move to ease Obama's ambitious vehicle fuel efficiency requirements and his order to reverse EPA's controversial Waters of the U.S. rule. The president has also recently signed legislation undoing Obama-era rules on Appalachian coal mining and energy companies' payments to foreign governments.

Trump plans to order the EPA to rewrite tough rules that make it virtually impossible to build a new coal-fired power plant, and he will tell the Interior Department to end Obama's moratorium on new coal mines on federal lands, among other steps, White House officials said.

Additionally, the president's "energy independence" executive order also will repeal several Obama-era environmental directives aimed at reducing the federal government's own carbon footprint, and it will direct agencies to ferret out any additional policies that "result in impediments" to U.S. energy production, a likely reference to restrictions on fracking and offshore drilling. The president also will tell federal regulators to stop using the "social cost of carbon," which attempts to quantify the effects of climate change, in economic analyses of future rules.

"There is every reason to believe that the federal government will no longer seek to punish American consumers and businesses for using the energy resources that fuel our economy," U.S. Chamber of Commerce President and CEO Thomas J. Donohue said in a statement welcoming the order.

But Trump is not expected to tell EPA to reconsider the underlying policy that lets it regulate carbon emissions — the 2009 "endangerment finding" in which it declared that greenhouse gas pollution threatens human health and welfare. Nor will he address whether the U.S. will stay in the 2015 Paris climate accord.

"We're happy with it so far and we look forward to the right decisions on Paris and endangerment, but I think those are still to be made and they're a ways down the road," said Myron Ebell, director of the Center for Energy and Environment at the Competitive Enterprise Institute and the former leader of Trump's EPA transition team.

EPA Administrator Scott Pruitt went on national TV earlier this month to declare that carbon dioxide is not "a primary contributor to the global warming that we see," a statement that is at odds with the conclusions of the vast majority of climate scientists, including those at his own agency. But Pruitt has not followed up on that statement with any effort to reverse the Obama-era endangerment finding — a factor that sources say contributed to last week's abrupt departure of a Trump appointee from the agency.

On Monday, a writer for Breitbart.com, the site previously run by White House strategist Steve Bannon, suggested that a failure to revoke the endangerment finding would be grounds for Pruitt to resign.

"If Scott Pruitt is not up to that task, then maybe it's about time he did the decent thing and handed over the reins to someone who is," wrote James Delingpole, a prominent climate skeptic.

The White House did not rule out later revisiting the endangerment finding, which Trump promised on the campaign trail to review. But environmentalists hope the administration decides that would be too much trouble, given that the policy already survived judicial scrutiny, and that courts are unlikely to support revoking it given the overwhelming scientific data on climate change.

Trump has not nominated anyone to fill key leadership positions below Pruitt and Interior Secretary Ryan Zinke, leaving open the question of how quickly his order will yield any concrete results.

"It's going to be harder if you don't have those positions filled," said David Doniger, director of the climate and clean air program at the Natural Resources Defense Council. "Unless, actually, their intention is never to fill them and work through political operatives who are not accountable."

Trump's advisers are split over whether to withdraw from the Paris climate deal, which Obama joined with a pledge to reduce U.S. emissions at least 26 percent from 2005 levels by 2025. The U.S. would face no penalty for missing that target, but many conservatives nonetheless say Trump should abandon the agreement altogether, as he pledged to do during the campaign.

But more moderate advisers, including Trump's daughter Ivanka and his son-in-law Jared Kushner, fear that pulling out would damage relations with key U.S. allies. Administration officials are now considering a middle-ground approach: Stay in the deal in exchange for more international support for technologies to reduce emissions from fossil fuels.

The order was also silent on a carbon tax, another issue that has become a flashpoint in disputes between moderates and hardliners in the White House.

Despite the lofty rhetoric coming out of the White House, Tuesday's order will have relatively little immediate effect.

It will take EPA years to rewrite its Clean Power Plan and accompanying rules on future power plants — both of which courts already had frozen while lawsuits play out.

The Trump administration plans to ask federal courts to suspend lawsuits over the EPA climate regulations and send the rules back to the agency to be rewritten or withdrawn. But the D.C. Circuit Court of Appeals, which heard arguments on the Clean Power Plan six months ago, does not have to go along. The appeals court judges could rule any day on the Clean Power Plan, and a separate D.C. Circuit panel has scheduled oral arguments on the future plant rule for April 17.

If EPA will not defend the regulation, environmentalists and states like California and New York have indicated they will step up and do so. And the ultimate fate of EPA's climate authority likely will eventually be decided by the Supreme Court, which ruled in 2007 that the agency had to regulate greenhouse gases if they endanger public health — but did not say how.

Trump's plans for the social cost of carbon are less clear.

The Obama administration estimated of that each ton of carbon dioxide imposes $36 in costs to society to evaluate its climate rules. But Republicans and fossil energy supporters argued it arrived at that figure by counting global benefits while specifying only domestic costs — and they complain the metric was not subjected to a traditional notice-and-comment period before it was employed.

Critics also said the Obama administration used the social cost of carbon to impose stricter rules at EPA, the Energy Department and elsewhere that would be too costly to justify otherwise. Many environmentalists, meanwhile, complained that the amount was too low.

Whether Trump significantly lowers the cost of carbon or abolishes it altogether, the change could have a serious impact on energy regulations that will play out over a period of years. And it remains unclear how the courts might react. Federal judges have upheld agencies' use of the metric before, but some may be inclined to give deference to the Trump administration over what amounts to a highly technical calculation.

Meanwhile, Trump's order will also lead to the resumption of federal coal leasing. But major coal companies are hardly champing at the bit to sign new leases on federal land, although the Bureau of Land Management could make new tracts available relatively quickly. For example, a spokesman for Peabody Energy, which mines more U.S. coal than anyone else, told Bloomberg that the company will not need a new lease in Wyoming's Powder River Basin for "approximately a decade."

The Obama administration imposed a moratorium in February 2016 as part of a three-year review of the federal coal program. That followed reports from the Government Accountability Office, Interior's inspector general and a coalition of environmentalists and government spending watchdogs that concluded Interior was undervaluing coal on public lands.

Zinke hinted earlier this month that he will continue the underlying review, despite lifting the moratorium, to ensure taxpayers get the full value of coal being sold off of federal lands.

It's not clear that the moratorium cost any jobs, particularly since most coal mining is happening on private rather than public lands. The National Mining Association has not calculated the costs of the moratorium so far, but the group noted that coal mines on federal lands employ 14,000 miners.

Politico Pro
https://www.politicopro.com/tipsheets/morning-energy/2017/03/energy-executive-order-arrives-but-wont-go-far-enough-for-some-022057
Energy executive order arrives but won't go far enough for some
By Anthony Adragna 3/28/17, 5:41AM

TODAY'S THE DAY! President Donald Trump will travel to EPA headquarters today at 2 p.m. to sign a sweeping directive that will begin dismantling his predecessor's most significant climate change policies, Pro's Alex Guillén reports. White House officials said the executive order will ask EPA to rewrite its Clean Power Plan and an accompanying rule on future power plants, repeal several Obama-era environmental directives aimed at reducing the federal government's own carbon footprint, request the Interior Department end Obama's moratorium on new coal mines on federal lands and tell federal regulators to stop using the "social cost of carbon," which attempts to quantify the effects of climate change, in economic analyses of future rules, among other provisions.

Far enough? While the order takes a sledgehammer to Obama-era efforts to embed climate change considerations into all components of federal decision-making, it does not go as far as some conservatives would like. Trump will not tell EPA to reconsider its "endangerment finding," the underlying policy that lets it regulate carbon emissions, nor will he pull the U.S. from the international Paris climate deal. A columnist for Breitbart, the website previously run by Trump's chief strategist Steve Bannon, even suggested EPA Administrator Scott Pruitt should consider resigning because he is "more interested in building his political career than he is taking on the Green Blob."

Pro's Andrew Restuccia and Alex Guillén have a deeper look at the conflicts. Pruitt successfully argued in closed-door meetings against using the executive order to try to overturn the endangerment finding, saying the legal hurdles were too great. Hardliners now hope the White House, perhaps Bannon, will intervene in the matter. But the endangerment finding is not the only source of unrest within EPA — Pruitt is irked by the White House's slow pace in nominating deputies, while others are expressing frustration at the presence of former Washington State Sen. Don Benton, who is expected to leave the agency soon.

EPA Spokesman John Konkus did not directly address Pruitt's role in discussions over the endangerment finding in a statement to ME Monday night: "The Executive Order focuses on the Clean Power Plan, and Administrator Pruitt is excited that the President is taking action on jobs, our economy, and the regulations that fail to put Americans first. This executive order is a victory for American jobs, and we think that speaks for itself."

A couple of important cautions: Neither Pruitt nor Interior Secretary Ryan Zinke have any reinforcements nominated below them to help implement the order, leaving open the question of how quickly Trump's order will yield any concrete results. And despite the lofty rhetoric coming out of the White House, Tuesday's order will have relatively little immediate effect. Some efforts, like rewriting the Clean Power Plan and other regulations, will take years to complete and face vigorous legal challenges from environmental advocates and blue states all along the way.

Not lying down: But green groups aren't waiting to mount their resistance to the administration's action. Activists are looking to protest outside Trump's speech at EPA and the Sierra Club, Mom's Clean Air Force and People's Climate

Movement will host what they're calling an "emergency" White House rally tonight at 5 p.m. to fight rolling back the Clean Power Plan. "Trump can't reverse our clean energy and climate progress with the stroke of a pen, and we'll fight Trump in the courts, in the streets, and at the state and local level across America to protect the health of every community," Sierra Club Executive Director Michael Brune said in a statement. And five Senate Environment and Public Works Committee Democrats will hold their own press availability at 2 p.m. to respond to the executive order.

TRUMP TEAM RECOMMENDS DEEP DOE, EPA CUTS: A budget breakdown obtained by POLITICO recommends deep cuts for key EPA and Energy Department programs during the rest of fiscal year 2017, Pro's Alex Guillén and Helena Bottemiller Evich report.

DOE would take a $1.4 billion cut overall, including a 25 percent cut to the Office of Energy Efficiency and Renewable Energy.

EPA would lose $247 million, including a $48 million cut to the research and development account, largely from scaling back climate research. The document also suggests cutting $115 million from a more than $1 billion grant program to help states run their own environmental offices.

Interior's budget would take a $371 million hit, including $51 million from the Payment in Lieu of Taxes program, which compensates states with abundant federal land. It also proposes ending Rep. Hal Rogers's coal mine reclamation pilot project, saving $90 million, and would cut $372 million from the Low Income Home Energy Assistance Program.

But, but, but: Helena and Sarah Ferris report the request may not find a friendly airing on Capitol Hill. "Lawmakers have indicated they are prepared to reject Trump's calls to gut programs they deem important," they report.

READY TO ROLL: The Dakota Access Pipeline now contains oil ready for shipment, the pipeline operators said. The news marks the latest success for pipelines that President Trump highlighted in executive orders he signed during the first week of his taking office, following Trump's approval of Keystone XL on Friday. DAPL developer Energy Transfer Partners said in a court filing that it is in the last stages of commissioning the 1,200-mile pipeline and preparing it to deliver crude. DAPL opponents earlier this month lost their court fight seeking a block its completion.

HOW TRUMP MAKES POLICY CALLS: Trump is increasingly leaning on business executives to help shape his nascent policy decisions, Pro's Andrew Restuccia reports. The president often asks CEOs during private conversations to list the federal regulations they would most like to eliminate, according to people who have spoken with him. It's a level of access that is especially astonishing to industry and business executives used to being shut out during eight years with Barack Obama in the White House.

The rise of the business community comes as career staff at federal agencies are increasingly being left out of policy discussions: EPA's transportation experts were sidelined during the internal discussion about reopening Obama's fuel economy standards, infuriating staffers who had worked on the issue for years, according to two people familiar with the issue. And Trump's political appointees did not consult with State Department officials before the president issued a January memo calling for a Keystone approval.

FLINT GETS PIPE PROMISE: Under a settlement filed in federal district court Monday, the state of Michigan and city of Flint for the first time committed legally to replace 18,000 water service lines made of lead and galvanized steel. If approved by the judge, the agreement would end a lawsuit brought by Flint pastors, the Natural Resources Defense Council and the American Civil Liberties Union. The deal would have the state set aside $87 million for the work, in addition to the $100 million in federal funds approved by Congress last year, and commit to monitoring requirements to ensure the water's safety, but it would stop short of the door-to-door bottled water delivery that the plaintiffs sought in the suit.

YOU'RE HIRED: J.P. Freire is expected to join EPA as communications director, two sources with knowledge of the hire tell ME. Freire is currently communications director for Sen. Orrin Hatch. Neither Freire nor EPA responded to requests for comment.

ANOTHER EPA-RELATED BILL HEADED TO HOUSE FLOOR: The House Rules Committee meets today at 3 p.m. to discuss the EPA Science Advisory Board Reform Act (H.R. 1431), likely clearing the measure for floor action later this week. The bill, similar versions of which have cleared the House in prior congresses, would overhaul how members are picked for the agency's independent science advisory board to allow more industry-associated scientists to come aboard.

E&E News
http://www.eenews.net/energywire/2017/03/28/stories/1060052176
It's D-day for climate regs. Bombs fall at 2 p.m.
By Evan Lehmann 3/28/17

President Trump will try to land a knockout blow on his predecessor's sprawling climate agenda by issuing an executive order today targeting at least nine actions that form the foundation of U.S. efforts to cut emissions and prepare for rising perils.

The "energy independence" order, to be signed at 2 p.m. today, underscores Trump's belief that the seriousness of climate change was overblown by the past administration and deserves to be set aside in order to revive a struggling coal industry and encourage an unbridled boom in the production of oil and gas.

A senior White House official, when asked yesterday if the president agrees with scientists who say that people are largely responsible for rising temperatures, told reporters, "Yeah, sure."

But the administration appears deeply skeptical about the extent of potential damage that climate change might cause, and the order to be signed today would leave the administration seemingly free of any policy to address the risks — both environmental and economic — that scientists have warned about for years.

"I mean, to the extent that the economy is strong and growing and you have prosperity, that's the best way to protect the environment," the White House official said in a briefing about the order. "But certainly, natural gas is important. Clean coal's important. Nuclear is important. Renewables are important."

Today's executive order sets EPA on the road to rescind the Clean Power Plan, an Obama-era rule to reduce emissions at power plants 32 percent by 2030. The official said rescinding the rule could take up to three years and is bound to face legal challenges.

The order also eliminates Obama-era efforts to improve adaptation, embed climate risks in national security apparatuses, reduce agency emissions, expand the importance of climate impacts in the National Environmental Policy Act and freeze new coal leases on public land. It also begins a review of methane regulations by EPA and the Bureau of Land Management and a rule on hydraulic fracturing by BLM. And it will instruct agencies not to use the social cost of carbon when weighing the costs and benefits of environmental regulation.

The order also promotes fossil fuel production. It requires agencies to identify "all regulations, all rules, all policies [and] guidance documents that serve as obstacles or impediments to domestic energy production," the official said.

Then, in 180 days, the White House will use those agency plans to develop a "blueprint" for energy policy.

Does Trump believe in man-made warming? 'Sure, yeah'

The Clean Power Plan is the cornerstone of the United States' climate policy, and it is a key to meeting the nation's commitment under the global Paris Agreement, under which the United States has pledged to cut emissions 26 to 28 percent by 2025. Whether the United States will remain in the Paris accord is still being discussed in the White House, but the official suggested the nation's commitments stand to be weakened. Paris is not included in the order.

"I mean, we have a different view about how you should address climate policy in the United States, so we're gonna go in a different direction," the official said. "I can't get into what that ultimately means from an emissions standpoint. I have no idea."

The order also instructs the Department of Justice to essentially withdraw its defense of the Clean Power Plan in the U.S. Court of Appeals for the District of Columbia Circuit. Instead, it seeks to freeze the case, which is near completion, before the court issues an opinion expected this spring.

The official disputed the idea that the federal government is required to regulate greenhouse gases under Section 111(d) of the Clean Air Act.

"I'm sure there are plenty of people who disagree on that, but that's not something we're thinking of right now," the official said, adding that the administration is focused on unspooling the "massive" Clean Power Plan and not devising new policies to address emissions.

Environmental groups are already threatening to sue the government if it fails to aggressively cut emissions. They contend that EPA is legally obligated to drive down climate pollutants. The official, meanwhile, described an EPA under Trump that focuses not on climate change but on the agency's "core mission" — conventional air and water pollution.

The official faced a string of questions from reporters about whether the president and his advisers believe that humans are causing climate change.

"I think the president understands there's a disagreement over the policy response, and we're gonna see that in the order tomorrow. We're taking a different path," the official said.

When pressed on whether Trump believes in man-made warming, the official said, "Sure, yeah."

A campaign promise checked off

Another reporter asked if the official believes that sea-level rise could cause economic damage to major cities like Miami, New York and New Orleans, as scientists are warning.

"I'd like to see the research. Sure, that would be good. Show it to me," the official said.

The reporter replied: "So are you saying there's not rising sea levels?"

The official answered: "I didn't say that all. I want to see the study."

The president has sent inconsistent signals about his views of human-caused climate in the past 18 months, saying in December 2015 that it's a "hoax," and a year later that there is some "connectivity" between people's actions and warming.

Today's order ushers a White House that is still reeling from last week's remarkable legislative loss on health care into the embracing arms of the coal industry. Trump vowed last May to revive jobs in the hard-hit towns of Appalachia by erasing the Clean Power Plan.

"We're going to rescind all the job-destroying Obama executive actions," Trump said then. "OK, remember that. We're going to save the coal industry. We're going to save that coal industry, believe me. We're going to save it."

He promised to revoke the climate rules within 100 days of taking office. It's day 68.

E&E News

http://www.eenews.net/climatewire/2017/03/28/stories/1060052178

Was the climate rule really bad for the economy?

By Emily Holden 3/28/17

As President Trump today pulls the first strings in unraveling President Obama's signature climate change regulation, he will claim he's saving Americans from skyrocketing electricity bills and putting coal miners back to work.

In truth, that's hard to show.

Experts say it's difficult to get more than a rough estimate of how the Clean Power Plan would influence power costs, since natural gas and renewable energy prices play a role, as do state choices about trading systems.

Canceling the first-ever standards to reduce emissions from power plants is also unlikely to revive the dying coal industry, although it may keep some jobs in western U.S. mines from disappearing, according to the U.S. Energy Information Administration.

While economic studies on the rule have varied wildly, the Trump administration is relying on one paid for by the coal lobby and conducted by NERA Economic Consulting. NERA found that the Clean Power Plan could cause double-digit electricity price increases in many states. In a briefing yesterday, the White House cited that finding and argued that it couldn't pursue any policy that "puts the economy at risk."

Supporters of the Clean Power Plan, however, point to studies that show people would save money on electricity under the rule. They believe the Clean Power Plan would spur energy savings and result in lower bills. U.S. EPA and EIA came in somewhere in between, estimating that electricity prices would rise slightly at first but fall later. EPA thought they would be lower than without the rule by 2030.

The huge number of unknowns makes it "very easy for folks to cherry-pick desired results," said Noah Kaufman, a climate economist with the World Resources Institute who worked for the Obama administration. NERA assumed much higher costs for wind and solar power than did groups like MJ Bradley & Associates and Synapse Energy Economics, Kaufman noted in a recent analysis.

Despite the wide range of estimates, Kaufman said he hasn't seen any study that "makes a compelling and independent case to show that the economic effects are anything other than just noise in comparison to the economy as a whole."

Industry groups disagree, and they believe the costs of the rule would be higher than any possible benefits.
A recent study by NERA for the U.S. Chamber of Commerce and the American Council for Capital Formation found that meeting the Paris climate pledge would cost the average American household up to $160 a year and eliminate up to 440,000 jobs by 2025 (*Greenwire*, March 16). Environmental groups attacked those numbers as unreasonable, saying the researchers intentionally picked the most expensive ways to comply. The chamber says it was being realistic about how the United States might regulate different sectors based on legal confines.

As those types of debate rage on, Trump today will claim a victory for cash-strapped Americans and fossil fuel workers. But the actual economic impact of his actions will be hard to decipher.

When ideology mixes with economics

Observers might assume that the true cost of climate action would fall in the middle of the range of estimates. Researchers warn against that.

"Across all the years I've looked at it, it's not necessarily in the middle," said Tom Wilson, a senior program manager at the Electric Power Research Institute who has been studying climate policy analyses since the 1980s and has witnessed the unexpected natural gas boom and rapid declines in renewable power costs.

"The sort of key thing is that all types of strange things can happen," he said.

Wilson in his presentations explains how analysts in the 1980s estimated the level of global carbon emissions for 2000 and nailed it. They got all the inputs wrong, believing before the Chernobyl meltdown that nuclear power would expand quickly and thinking that Africa would use more power than China. But somehow all the figures balanced out.

There is similar uncertainty in the power sector now. Cheap natural gas has pushed coal and zero-carbon nuclear power offline. It's unclear whether people will really want to buy electric vehicles even when they cost the same as traditional ones. They might not like the way the cars accelerate or could cling to range anxiety, Wilson explained.

"Fundamental issues like that would dictate the cost of a climate policy," he said.

Environmental advocates will also note that many studies don't consider the economic benefits of reducing carbon emissions and spurring other countries to do so, as well. They say policymakers should consider lowered public health costs, avoided infrastructure expenses and savings from curbing the intensity of extreme weather events.

While the exact costs of the Clean Power Plan are hard to pin down, soldiers on both sides of the political debate insist they know how the rule would play out. That's an age-old strategy.

When the House passed cap-and-trade legislation in 2009, and the Senate was considering it, some models showed that the legislation would have been economically manageable, recalled Greg Dotson, who worked for former Rep. Henry Waxman (D-Calif.), a co-author of the bill. Dotson cited one government study that found the cap-and-trade plan would have slowed the growth of the gross domestic product, but only by a few months and not for decades.

Dotson said critics misused some modeling to make their arguments that the measure would be bad for the economy. He said models also almost never adequately assessed the cost of failing to address climate change and exaggerated the importance of small effects projected to occur years in the future. For example, during the debate in 2009, opponents posted stickers on gas pumps warning of immediate price spikes that weren't projected to occur until 2030.

"When you start thinking about it in those terms, models show that it's possible to craft climate change policies in which the costs are small but the benefits are huge," he said.

At the time, it was mainly pundits and those in conservative circles citing industry studies against cap and trade. Now, the president is using such assessments to back up his executive actions.
Dotson said that could be helpful, in giving people a chance to do some fact-checking.

"The problem with whisper campaigns that take place by industry outside of Washington, D.C., is sometimes they're quite hard to rebut," Dotson said. "When something comes from the president's mouth or Administrator Pruitt's mouth ... it gives experts something to really focus on."
Public Citizen yesterday was already taking aim at Pruitt's comments on ABC News on Sunday that climate policies cause electricity rates to increase.

'Coal still has a role to play'

Part of why Clean Power Plan assessments are so hard is because EPA would have given states wide latitude in how to meet their goals, including by using carbon trading.

Before the courts stalled the rule, most states were considering carbon trading, which would have lowered costs, according to various studies by regional grid organizations.
To be sure, costs of the rule would vary around the country, likely hitting coal-heavy states that have been slower to transition away from fossil fuels the hardest.

Market realities are hitting states in the West particularly hard as they try to navigate coal plant closures as companies no longer find the fossil fuel cost-competitive.

Scott Segal, an industry lawyer at Bracewell LLP, said that while it's "always difficult for the government to establish a program that can expand or save any specific industry," the government can "remove obstacles."

He argued that while natural gas is cheap and renewable power is growing cheaper, "coal still has a role to play."

No power company in the country is looking to invest in a new coal plant. But Segal said that "market demands and unforeseen circumstances could spell a resurgence for coal," if the government gets the regulatory approach right.

E&E News
http://www.eenews.net/eedaily/2017/03/28/stories/1060052163
Staff awaits trump with trepidation
By Kevin Bogardus 3/28/17

Many U.S. EPA staff members are gritting their teeth for President Trump's visit today.

The president plans to visit the agency's Washington headquarters this afternoon to sign his long-anticipated executive order to boost energy production and target environmental regulations, including the Clean Power Plan.

Trump — who has proposed a massive 31 percent, or $2.6 billion, budget cut for EPA, which could result in 3,200 fewer jobs at the agency — is not a popular figure among its employees.

After his election last year, many EPA workers were upset, worried about the future of their jobs and the agency itself. On the campaign trail, Trump pledged to dismantle EPA. And last week in Kentucky, he said Administrator Scott Pruitt "would turn the EPA from a job killer into a job creator."

Consequently, gallows humor has become prevalent at the agency.

"Coming to EPA? Are you sure he's not going across the street to have lunch at Trump Hotel?" said one career EPA employee when told about Trump's visit to agency headquarters.

Across the street from EPA's William Jefferson Clinton Federal Building is the Trump International Hotel, where the president has already dined a few times since his inauguration.

That career employee predicted Trump would receive a chilly reception from staff, with many staying in their cubicles rather going to the president's signing of the executive order — if they're invited at all.

"There is going to be bewilderment and shock. Not a lot of excitement. Just pissed-off people," said the employee. "We're going to be at our desks. We'll not be going down there."

A presidential visit will also require heightened security. According to an internal email sent to agency employees yesterday and obtained by E&E News, the Secret Service and the Federal Protective Service will implement "multiple security measures" for the building, "and there will be an increased security presence at the Federal Triangle Complex."

With some entrances closed all day, employees will not be allowed on the first floor of the Clinton East building. The agency's mailroom and print shop will also be closed for the day.

In addition, some EPA employees working in an area facing the courtyard "must close window blinds beginning no later than 10:00 am (and remain closed all day)," said the email.

Security was likely as tight for President Obama's visit to EPA in January 2012. The mood then, however, was celebratory.

Back then, agency employees crowded into the Andrew W. Mellon Auditorium to cheer on the 44th president. Obama thanked workers for their dedication and said environmental protection and economic benefits can go hand in hand.

"I do not buy the notion that we have to make a choice between having clean air and clean water and growing this economy in a robust way," Obama said. "I think that is a false debate" (*E&E News PM*, Jan. 10, 2012).

Pruitt has offered similar sentiments as EPA chief. Nevertheless, it hasn't done much to improve relations between the administration's leadership and the agency's workers.

"Oh, God," said one former EPA official when told about Trump's visit. "There will be certainly a different dynamic than when Obama visited."

The ex-official added, "There is probably no agency and political leader that feel this hostile toward each other, including the CIA."

Trump of course visited the intelligence agency the day after his inauguration. Speaking about his inaugural crowd size and election victory before the CIA's Memorial Wall, Trump sparked criticism for his campaignlike speech.

The president's visit to EPA could lead to similar reviews. Asked if Trump's stopping by EPA headquarters to sign an order to roll back agency rules was a poke in the eye to employees, one union leader said it was.

"It definitely is. Otherwise, he would do this from the comfort of the White House," said John O'Grady, president of American Federation of Government Employees Council 238, which represents thousands of EPA employees. "I'm speechless. This is like someone's worst nightmare."

CNN
http://www.cnn.com/2017/03/27/politics/trump-climate-change-executive-order/
In executive order, Trump to dramatically change US approach to climate change
By Dan Mercia 3/28/17 7:38 AM

Washington (CNN) President Donald Trump will sign a sweeping executive order Tuesday at the Environmental Protection Agency, which looks to curb the federal government's enforcement of climate regulations by putting American jobs above addressing climate change.

The order represents a clear difference between how Trump and former President Barack Obama view the role the United States plays in combating climate change, and dramatically alters the government's approach to rising sea levels and temperatures -- two impacts of climate change.

A White House official briefed on the plan said Monday the administration believes the government can both "serve the environment and increase energy independence at the same time" by urging the EPA for focus on what the administration believes is its core mission: Clean air and clean water.

More important than regulating climate change, the official said, is protecting American jobs.

"It is an issue that deserves attention," the official said of climate change. "But I think the President has been very clear that he is not going to pursue climate change policies that put the US economy at risk. It is very simple."

Tuesday's order will initiate a review of the Clean Power Plan initiative, rescind the moratorium on coal mining on US federal lands and urge federal agencies to "identify all regulations, all rules, all policies ... that serve as obstacles and impediments to American energy independence," the official said.

Specifically, the order will rescind at least six Obama-era executive orders aimed at curbing climate change and regulating carbon emissions, including Obama's November 2013 executive order instructing the federal government to prepare for the impact of climate change and the September 2016 presidential memorandum that outlined the "growing threat to national security" that climate change poses.

"The previous administration devalued workers by their policies," the official said. "We are saying we can do both. We can protect the environment and provide people with work."

The White House official went on to argue that the best way to protect the environment is to have a strong economy, noting that countries like India and China do less to protect the environment.

"To the extent that the economy is strong and growing and you have prosperity, that is the best way to protect the environment," the official said.

The executive order also represents the greatest fears climate change advocates had when Trump was elected in November 2016.

"These actions are an assault on American values and they endanger the health, safety and prosperity of every American," Tom Steyer, the president of NexGen Climate, said in a statement. "Trump is deliberately destroying programs that create jobs and safeguards that protect our air and water, all for the sake of allowing corporate polluters to profit at our expense."

Andrew Steer, CEO of the World Resources Institute, said that the executive order shows Trump is "failing a test of leadership to protect Americans' health, the environment and economy."

But as much as Democrats and climate advocates will decry it, Trump's executive order follows the President's past comments about climate change. Though Trump told The New York Times during the election that he has an "open mind" about confronting climate change, he also once called it a hoax.

"The concept of global warming was created by and for the Chinese in order to make U.S. manufacturing non-competitive," Trump tweeted in November 2012.

"I will also cancel all wasteful climate change spending from Obama/Clinton," Trump said in October 2016.

The changes, the official said, do not mean the Trump administration will not look to protect the environment any longer, the official said, but when pressed about the human impact on climate change and Trump's beliefs, the official was reluctant to say whether all government officials in the Trump White House believe humans cause climate change.

"I think there are plenty of rules on the books already. We will continue to enforce that provide for clean air and clean water. And that is what we are going to do," the official said. "The President has been very clear that he wants the EPA to stick to that basic core mission that Congress set out for it."

The changes also reflect the view of EPA Administrator Scott Pruitt, who routinely sued the organization he now leads during his time as the Attorney General of Oklahoma. In an interview with CNBC earlier this month, Pruitt argued

incorrectly that carbon dioxide isn't the "primary contributor" to climate change, a comment that goes against most scientific research.

This executive order is also an attempt by the Trump administration to make good on its promise to bring more coal jobs back. The official said that Obama's regulations "were not helpful" to the coal industry and these reversals are the President honoring "a pledge he made to the coal industry."

"We are going to put our coal miners back to work," Trump said at a March 2017 event in Kentucky. "They have not been treated well, but they're going to be treated well now."

He added: "The miners are coming back."

Huffington Post
http://www.huffingtonpost.com/entry/trump-climate-executive-order-environmentalists_us_58d9ec2ae4b018c4606ae900
Environmentalists Vow To Fight Donald Trump's 'Dangerous,' 'Embarrassing' Climate Rollback
By Nick Visser 3/28/17, 5:47AM

Environmentalists and former White House officials on Monday slammed President Donald Trump's impending executive order that would undue much of the work his predecessor has done to combat climate change.

Trump was due to sign the Energy Independence Executive Order on Tuesday, which will target former President Barack Obama's signature Clean Power Plan and open up federal land to coal development. But environmentalists are not giving up without a fight and plan to protest the wide-ranging order that has been met with fierce criticism.

Gina McCarthy, a former administrator of the Environmental Protection Agency, called it a "dangerous," order that flies "in the face of EPA's mission."

"They want us to travel back to when smokestacks damaged our health and polluted our air, instead of taking every opportunity to support clean jobs of the future," McCarthy said in a statement. "This is not just dangerous; it's embarrassing to us and our businesses on a global scale to be dismissing opportunities for new technologies, economic growth, and US leadership."

EPA Administrator Scott Pruitt, a noted climate change denier, said Tuesday's order would "address the past administration's effort to kill jobs throughout the country" — a statement that couldn't be more different from the agency's stance just three months ago.

Janet McCabe, the former head of the EPA's Office of Air and Radiation, said the agency "has an obligation to address carbon pollution" and challenged Pruitt's recent assertion that carbon emissions were not the cause of climate change.

"Congress put the Clean Air Act in place to protect Americans from air pollution, and there is no doubt greenhouse gases are air pollution — the science makes that crystal clear and the Supreme Court has confirmed it as a matter of law," she said in a statement.

Environmentalists vowed to fight the effects of the rollback and planned a protest in Washington, D.C., for Tuesday evening.

"Trump's attack ignores reality — not just the reality of the climate crisis, but the reality that the clean energy economy is rapidly growing in both red and blue states, creating jobs and safeguarding our air and water," Sierra Club executive director Michael Brune said in a statement. "Trump can't reverse our clean energy and climate progress with the stroke of a pen, and we'll fight Trump in the courts, in the streets, and at the state and local level across America to protect the health of every community."

World Resources Institute president Andrew Steer said the Trump administration was "taking a sledgehammer to U.S. climate action," and with the signing of a pen, the president will "push the country backward."

"Make no mistake: This Executive Order will undermine people's health and the U.S. economy. It hands moral authority and global leadership over to others, leaving America behind," Steer said in a statement.
Economists and energy executives have already casts doubts on the aim of the executive order and Trump's plans to restore thousands of coal mining jobs.

"I really don't know how far the coal industry can be brought back," Robert Murray, the head of one of the countries largest coal mining companies, told The New York Times.

Washington Times
http://www.washingtontimes.com/news/2017/mar/27/paris-climate-treaty-faces-us-exit-after-donald-tr/
Trump's executive action on Clean Power Plan signals U.S. exit from Paris climate treaty
By Ben Wolfgang 3/27/17

President Trump's executive action Tuesday to begin unraveling the Clean Power Plan may also signal America's de facto exit from the landmark Paris climate treaty — former President Barack Obama's signature environmental achievement.

The Clean Power Plan, the first set of national limits on greenhouse gas pollution from power plants, is crucial to the U.S. meeting President Obama's pledge to cut emissions by at least 26 percent by 2025.

While Mr. Trump has yet to formally pull out of the Paris deal — a nonbinding agreement with no enforcement mechanisms other than public shaming — his move Tuesday essentially guarantees the U.S. won't meet the ambitious target.

"It was extraordinarily unlikely we would've met President Obama's Paris pledge under the best of circumstances. But clearly, if the Trump administration goes through with what's on the table so far, it will be impossible to meet the pledge," said Stephen Eule, vice president for climate and technology at the U.S. Chamber of Commerce's Institute for 21st Century Energy.

The Clean Power Plan, which was stayed by the Supreme Court last year and has not gone into full effect, calls for a 30 percent reduction in carbon emissions from the power sector by 2030, and would greatly shrink coal's share of electricity generation in the process.

That reduction is central to meeting the broader Paris goal, as are other regulations now under review, including fuel economy standards for automobiles.

Within the administration, there's an ongoing debate over whether to stay in the Paris deal or formally withdraw. The agreement itself remains highly controversial, not only because of the onerous measures the U.S. would have to put in place to meet its targets but also because it gives China, the world's biggest polluter, a free pass for the next 13 years.

Under Paris, China has to do virtually nothing until 2030, when the country says its greenhouse gas emissions will peak and then slowly begin dropping each year thereafter.

India, another major polluter, also faces no targets for more than a decade.

There's no indication that a decision on the Paris deal is on the immediate horizon, but top officials within the administration increasingly are speaking out. Even without technically disavowing the deal, it's becoming clear the White House has no intention whatsoever of honoring Mr. Obama's commitment.

"What was wrong with Paris was not just that it … failed to be treated as a treaty, but China and India, the largest producers of CO2 internationally, got away scot-free. They didn't have to take steps until 2030," Environmental Protection Administrator Scott Pruitt told ABC News over the weekend.

"So we've penalized ourselves through lost jobs, while China and India didn't take steps to address the issue internationally. So Paris was just a bad deal, in my estimation," he said.

A senior White House official on Monday evening said it's "still under discussion" whether to leave formally the Paris agreement, and wouldn't elaborate on how the administration could possibly meet its commitment while eliminating rules to cut emissions.

In addition to the Clean Power Plan, the official also confirmed that Tuesday's executive order will eliminate Obama administration estimates on the "social cost of carbon," will end a federal moratorium on new coal leases and will take other steps to reduce regulations and promote American energy independence.

The order, however, is by no means the final word on the Clean Power Plan.

The EPA still must hold public hearings, accept public comments, consult with stakeholders and likely face numerous lawsuits in its effort to eliminate the Clean Power Plan altogether.

Specialists have said it will take at least one year, possibly longer, to remove it from the books completely.

Exiting the Paris deal is a different story. Because the agreement was never submitted to the Senate to be approved as a formal treaty, there's nothing stopping the administration from quickly ending U.S. participation.

Supporters of the Paris deal say the White House is sending the wrong signal to the rest of the world by approving new fossil fuel projects like the Keystone XL oil pipeline while backing down on emissions-reduction goals.

"The Trump administration says 'yes' to sending the dirtiest Canadian oil to Latin America and China after it crosses the American plains, but 'no' to providing American leadership as China and Latin America make historic commitments to the global agreement on climate change," Sen. Edward J. Markey, Massachusetts Democrat, said Monday.

Indeed, there would seem to be little reason for the rest of the world to accept U.S. leadership on climate issues if the administration abandons Paris.

"We lose any ability, any moral authority, to say to any other country, 'You have to clean up your act,'" said Christine Todd Whitman, the former Republican governor of New Jersey and EPA administrator during the George W. Bush administration.

But some analysts say the U.S. can retain a global voice on emissions even while undoing regulations, like the Clean Power Plan, that would hamper economic growth at home.

"It would be possible … to keep our seat at the table while still making fundamental changes to our domestic regulations. This position is all the more reasonable in light of the fact that market forces are already advancing the ball

toward reasonable greenhouse gas goals," said Scott Segal, a partner at Washington's Bracewell law firm who specializes in energy and environmental issues.

Washington Post
https://www.washingtonpost.com/national/health-science/trump-moves-decisively-to-wipe-out-obamas-climate-change-record/2017/03/27/411043d4-132c-11e7-9e4f-09aa75d3ec57_story.html?utm_term=.c54766528a9c
Trump moves decisively to wipe out Obama's climate change record
By Juliet Ellperin and Brady Dennis 3/27/17, 11:01PM

President Trump will take the most significant step yet in obliterating his predecessor's environmental record Tuesday, instructing federal regulators to rewrite key rules curbing U.S. carbon emissions.
The sweeping executive order also seeks to lift a moratorium on federal coal leasing and remove the requirement that federal officials consider the impact of climate change when making decisions.

The order sends an unmistakable signal that just as President Barack Obama sought to weave climate considerations into every aspect of the federal government, Trump is hoping to rip that approach out by its roots.

"This policy is in keeping with President Trump's desire to make the United States energy independent," said a senior administration official who briefed reporters on the directive Monday evening and asked for anonymity to speak in advance of the announcement. "When it comes to climate change, we want to take our course and do it in our own form and fashion."

Some of the measures could take years to implement and are unlikely to alter broader economic trends that are shifting the nation's electricity mix from coal-fired generation to natural gas and renewables. The order is silent on whether the United States should withdraw from the 2015 Paris climate agreement, under which it has pledged to cut its greenhouse gas emissions between 26 and 28 percent by 2025 compared to 2005 levels, because the administration remains divided on that question.

The order comes after several moves by Trump to roll back Obama-era restrictions on mining, drilling and coal- and gas-burning operations. In his first two months as president, Trump has nullified a regulation barring surface-mining companies from polluting waterways and set aside a new accounting system that would have compelled coal companies and other energy firms to pay more in federal royalties.

The administration also has announced it will reconsider stricter fuel-efficiency standards for cars and light trucks and has approved two major oil pipelines, Dakota Access and Keystone XL, that Obama had halted.

Accelerating fossil-fuel production on federal lands and sidelining climate considerations could lead to higher emissions of the greenhouse gases driving climate change and complicate a global effort to curb the world's carbon output. But Trump has repeatedly questioned whether climate change is underway and emphasized that he is determined to deliver for the voters in coal country who helped him win the Oval Office.

"He's made a pledge to the coal industry and he's going to do whatever he can to help those workers," the senior administration official said.

U.S. coal jobs, which number about 75,000, have been declining for decades. The official did not predict how many jobs might be spurred by this shift in policy.

Legal fight possible

The centerpiece of the new presidential directive, telling the Environmental Protection Agency to begin rewriting the 2015 regulation that limits greenhouse-gas emissions from existing power plants, will trigger a laborious rulemaking process and a possible legal fight.

The agency must first get permission from the U.S. Court of Appeals for the D.C. Circuit, where the rule is tied up in litigation, to revisit the matter. Then, agency officials will have to justify reaching the opposite conclusion of the Obama EPA, which argued it was technically feasible and legally warranted to reduce carbon pollution by about one-third by 2030, compared with 2005 levels.

"So, for the president, even if he would like to revoke the Clean Power Plan, he doesn't have legal authority to do that," said Jeffrey Holmstead, a partner at the Bracewell law firm who opposes the Obama-era rule. Holmstead, who headed the EPA's air and radiation office under President George W. Bush, said he thinks the agency can justify reversing the regulation. But "they have to justify why they have changed," he added.

While environmental groups decried Trump's move, mining officials welcomed it as an important course correction in federal energy policy.

"This rule was an unlawful attempt to radically transform the nation's power grid, destroying valuable energy assets and leaving our economy more vulnerable to rising power prices — all for an insignificant environmental benefit," said Hal Quinn, president and chief executive of the National Mining Association.

Environmentalists vowed to fight the executive order in court and press ahead with their goals on the state level.

David Doniger, director of the Natural Resources Defense Council's climate and clean-air program, said unwinding the Clean Power Plan will not happen quickly, no matter what the president wants. "Tearing the rules down require going through the same process it took to build them up," Doniger said. "We will make them face the music at every step."

Christopher Field, a professor at Stanford University's Wood Institute for the Environment, said in an email that the directive carries long-term risks, rather than immediate ones. "Some are risks from eroding the position of U.S. companies in the clean energy sector," Field said. "Others are from the loss of irreplaceable natural heritage that is put in jeopardy by ill-conceived policies."

The president will also instruct the Interior Department to rewrite a 2015 rule, currently stayed in court, that imposes restrictions on hydraulic fracturing on federal and tribal lands. The directive will also make it easier to flare methane in oil and gas operations on federal land, by triggering the review of a rule the Interior Department finalized in November.

More immediate actions

Other aspects of the executive order can take effect immediately, though it is unclear how quickly they will translate into greater coal extraction. One section overturns a 2016 White House directive to consider climate change when agencies conduct reviews under the National Environmental Policy Act, a sweeping law that informed any federal decisions that have a significant environmental impact.

Another provision instructs Interior's Bureau of Land Management to lift a freeze on federal coal leasing. That moratorium has been in effect since December 2015.

Tom Sanzillo, director of finance for the Institute for Energy Economics and Financial Analysis, said in an interview that the move "becomes a largely politically symbolic measure for right now" because other, lower-carbon sources of energy are out-competing coal. He noted that U.S. coal consumption has declined 27 percent since 2005, from 1.02 billion tons to 739 million tons in 2016, its lowest level in nearly four decades.

"They're not going to reverse the fundamental economic law here," Sanzillo said. "There's no market signal that's telling them they should be mining more coal."

Still, regulatory relief could make some coal firms, nearly 50 of which have filed for bankruptcy since 2012, somewhat more economically viable. Some of the sector's biggest companies — including Arch Coal, Peabody Energy and Alpha Natural Resources — are just now emerging from bankruptcy protection.

Ethan Zindler, head of U.S. research at Bloomberg New Energy Finance, said in an email that solar and wind are competitive with coal in some parts of the country and that natural gas ranks as the lowest-cost source of electricity generation overall. The sector that could suffer the greatest hit from the elimination of the Clean Power Plan is nuclear energy, which provides about a fifth of U.S. businesses' and households' power.

"Many of the 100 or so U.S. plants are aging, and approximately a third are economically uncompetitive today," Zindler said. Without stricter federal emissions limits, he added, "there may be little to stop the retirement of these plants in coming years and their replacement with a combination of gas, wind and solar."

Separately, Trump has instructed federal officials to abandon the practice of factoring in the impact of climate change — what is dubbed "the social cost of carbon" — in their policymaking decisions. That calculus, which is currently set at $36 per ton of carbon dioxide, aims to capture the negative consequences of allowing greenhouse-gas emissions to continue to rise. But some conservatives have criticized it as too sweeping.

Federal officials will return to the traditional cost-benefit analysis the George W. Bush administration adopted nearly 15 years ago, which has a much lower cost associated with carbon emissions.
As Trump seeks to scale back federal limits on greenhouse gas emissions, states and cities are likely to take on a larger role in charting the course forward.

An analysis by the Rhodium Group, an economic consulting firm, found that Trump's forthcoming executive order would slow the country's shift away from carbon-emitting sources of energy. It found after Trump's action, the United States would be 14 percent below its 2005 emissions levels by 2025, compared to 21 percent below that mark had current Obama-era policies remained in place.

Tim Profeta, who directs Duke University's Nicholas Institute for Environmental Policy Solutions, said regulators from more than half-dozen states in the Southeast are now talking about how to chart their own path forward. Having met for nearly three years, the group stopped discussing how to comply with the Clean Power Plan after November's election, but it is still talking.
"We are now talking about the evolution of the power sector in an environment of uncertainty," Profeta said in an interview. "We're seeing the beginning of states taking control of their destiny."

The Hill
http://thehill.com/policy/energy-environment/325977-what-to-watch-for-in-trumps-climate-change-order
What to watch for in Trump's climate change order
By Devin Henry and Timothy Cama 3/27/17, 4:01PM

President Trump will sign an executive order on climate change Wednesday, opening a new front in his battle against former President Obama's environmental legacy.

The action will address Trump's campaign promises and is expected to knock out the Obama administration's landmark climate rule, among other things.

Here are five things to watch when Trump releases the long-awaited executive order on Tuesday.

How far does he go?

The order is expected to be a broad assault on key aspects of Obama's climate change policies.

Trump is expected to order the Environmental Protection Agency (EPA) to formally consider repealing its Clean Power Plan, a rule created to cut power sector emissions. He is also likely to lift a moratorium on new coal mining leases on public land.

Sources told The Hill last week that the order would also target oil and gas drilling rules and the climate change metrics that Obama built into government environmental assessments and regulations, among other things.

Trump will also direct agencies to begin considering actions they can take to encourage energy production, according to Bloomberg.

Some parts of the order will take effect immediately, while others will take time. Trump can't immediately scrap the Clean Power Plan, for instance, as the EPA will have to conduct a formal rulemaking process that could take up to a year.

What will the battle lines be?

Don't expect environmentalists to immediately challenge Trump's action in court.

Lawsuits against the order are certain, but environmental advocates can't file them until the EPA proceeds through the regulatory process.

Much of the coming legal battle is likely to center on the Clean Power Plan. The rule is already at the center of a major lawsuit, with fossil fuel companies, industry groups and coal-friendly Republican states suing to undo the regulation.

That litigation will likely freeze after Trump signs the executive order but will restart again as the process moves forward.

Environmentalists are also likely to fight the cancellation of the coal moratorium, a policy Obama's Interior Department implemented in part to address complaints that the government was not doing enough to account for the climate impact of the fuel's use.

Will the Paris climate pact be mentioned?

The president's order is expected to tread lightly on one major piece of Obama's climate agenda: the Paris agreement.

The non-binding pact was negotiated in 2015 by nearly 200 countries, through the United Nations, with significant leadership from Obama. Each country pledged its own greenhouse gas emissions limits; Obama promised a 26 percent to 28 percent cut in the United States' emissions by 2025.

While Trump promised to "cancel" the accord during last year's campaign, he's been under pressure from some in his administration. In particular, his daughter Ivanka and her husband Jared Kushner — one of Trump's closest advisers — support the accord and convinced Trump to strike language from the order that would have been critical of it, according to The Wall Street Journal.

But while the United States might stay in the pact, Trump's executive order striking climate policies could make it difficult to meet the 2025 goal.

Trump may instead seek to reduce the United States' commitments under the agreement, something that has the support of Trump allies in Congress like Rep. Kevin Cramer (R-N.D.).

Will the order help jobs?

Trump and the White House have touted the order as being designed to help produce jobs in the energy industry.

"We can be both pro-jobs and pro-environment," EPA Administrator Scott Pruitt said Sunday on "This Week with George Stephanopoulos."

"The executive order will address the past administration's efforts to kill jobs across this country through the Clean Power Plan."

But there are indications the order won't pack quite the punch the White House is promising.

Undoing the power plant rules, for instance, is designed to help coal workers. But the industry's decline is much more closely tied to market forces like cheap, prevalent natural gas than federal regulations, something that even the coal industry acknowledges.

"I suggested that he temper his expectations," coal executive Bob Murray told The Guardian on Monday. "Those are my exact words. He can't bring them back."

The White House insists its new action will have an impact.

Asked if the order will bring back coal jobs, Pruitt said Sunday, "I think absolutely it will. It will bring back manufacturing jobs across the country, coal jobs across the country."

How will the White House unveil the order?

Trump is aiming to unveil the order with his traditional showman's touch.

The White House says Trump will go to EPA headquarters in downtown Washington, D.C., to sign the directive.

In addition to Pruitt, the administration may bring in coal miners to celebrate the signing, as Trump did when he signed legislation to undo the Interior Department's rule to protect streams from mining pollution.

Members of Congress, who have long looked to halt Obama's climate actions, are likely to look on as well.

The order could represent a major turning point in American energy policy, fulfilling several of the president's campaign promises.

The Hill
http://thehill.com/policy/energy-environment/326047-trump-to-undo-obamas-climate-change-agenda
Trump to undo Obama's climate change agenda
By Devin Henry 3/27/17, 11:00AM

President Trump will use an executive order on Tuesday to dismantle to the Obama administration's climate change agenda.

The order will compel the Environmental Protection Agency (EPA) to review the Obama administration's chief climate rule for power plant emissions, the 2015 Clean Power Plan, a White House official said on Monday night. The White House opposes that rule, signaling its eventual termination.

The action will order several other federal agencies to undo the previous administration's climate change work: it will tell the Interior Department to end a moratorium on new coal leasing on federal land, the official said, and the Obama administration's assault on methane emissions — outlined in early 2014 and overseen by Interior and EPA — will be ended, as well.

A major hydraulic fracturing regulation from the Bureau of Land Management will be reviewed under the order. It will also end President Obama's climate action plan, the main 2013 directive outlining the federal government's response to climate change.

Trump's Tuesday order will represent a reset of the federal government's policies on climate change. It will not address several major environmental rules issued during Obama term, including an update on ozone pollution or mercury standards at power plants. But efforts initiated by Obama — who made addressing climate change a key goal of his second term — will disappear.

"There are plenty of rules on the books already, that we will continue to enforce, that provide for clean air and clean water and that's what we're going to do," the White House official told reporters on Monday night.

"I think the president has been clear he wants the EPA to stick to that basic core mission that Congress laid out for it."

One thing the order will not address is the United States's involvement in the Paris climate deal, a global pact to cut greenhouse gases. Obama was a driving force behind that agreement, pledging a 26 percent to 28 percent reduction in U.S. emissions by 2025.

But the official said the administration has a "different view about how you should to address climate policies as the United States and we're going to go in a different direction."

Trump doubts the broad scientific consensus — affirmed by the vast majority of climate scientists — that human activity contributes to and has exacerbated a warming trend around the globe.

He has stacked his administration with officials who agree with his views. EPA Administrator Scott Pruitt, for example, said earlier this month that he does not believe carbon dioxide is a "primary contributor" to global warming, a conclusion at odds with the scientific research of his own agency.

Trump's order will not nix the Obama administration's 2009 finding that carbon dioxide is a threat to the United States, a formal conclusion that underpins federal rules on the matter.

"But the administration will interpret it differently than Obama did. That "endangerment finding," Trump's administration argues, relates only to carbon emissions from cars, not carbon emissions as a whole, and therefore does not apply to the power plant rules Obama issued.

The official said climate change is an "issue that deserves attention," but there is no indication from the contents of the order that Trump will focus on it.

Instead, the White House is framing the order as one to help the U.S. economy -- something Republicans, Trump and others in his administration have said is threatened by climate regulations.

"Energy independence: that's the goal," the official said. "The president understands there's a disagreement over the policy response and you'll see that in the order tomorrow. We're taking a different path."

Environmentalists have promised a strong response.

Groups have planned a protest on Tuesday night, an early sign that they will fight back against the changes.

"On the heels of the three hottest years on record, President Trump is reversing the biggest steps our country has taken to fighting climate change, League of Conservation Voters President Gene Karpinski said.

"Donald Trump may care more about corporate interests, but the people of this country care about a safe, clean and healthy environment and they will not let him get away with destroying it."

Environmental lawyers have said they will pore over the regulatory review process in order to sue against it in the end.

"This order ignores the law and scientific reality," Trip Van Noppen, the president of the environmental law group Earthjustice, said in a statement.

"Dirty coal power is never coming back because it can't compete with clean energy and denial won't make climate change go away. Earthjustice will continue to defend clean air and progress on climate in court and out, and we will never back down from protecting our public lands."

The White House said it was preparing for a lengthy fight over the contents of the order.

"I bet a good deal that there will be litigation once the final review is undertaken," the official said. "It's going to take a while."

The action will rescind several other Obama directives issued by his administration.

An order asking federal agencies to consider climate impacts in normal environmental reviews will come off the books, and the administration will reconsider the "social cost of carbon" metric designed to assess the climate implications of government actions.

Other Obama policies — including those focusing on climate change adaptation and its impact on national security — will also come off the books.

The order will have federal agencies identify plans for expanding American energy production, something that will serve as a "blueprint" for the Trump administration's energy agenda.

The fossil fuel industry stands to benefit from the action. The coal sector, for instance, has lambasted the Clean Power Plan as a regulation designed to damage the industry, which produces a high-polluting fuel.

Oil and natural gas companies oppose the methane regulations as burdensome and duplicative, and they have fought them in court and in Congress.

But the order will not be a silver bullet, something even coal executive Bob Murray acknowledged this week.

"I suggested that he temper his expectations," Murray told The Guardian, noting market forces that have hurt his sector. "Those are my exact words. He can't bring [jobs] back."

InsideEPA
https://insideepa.com/daily-news/trump-order-requires-agencies-id-rules-stymie-energy-production
Trump Order Requires Agencies To ID Rules That Stymie Energy Production
By Abby Smith 3/27/17

President Donald Trump will sign a long-awaited executive order March 28 that a senior White House official says will begin to lay out a framework for the administration's energy and environment policy -- one that will prioritize energy production and eliminate climate or environmental policies that "put the U.S. economy at risk."

The forthcoming order "will look back and look forward," the official told reporters in previewing the order late March 27. The order, known as the "Energy Independence" executive order, will direct federal agencies to identify "all regulations, guidance and documents that serve as obstacles or impediments to U.S. energy production," the official said.

Agencies will be expected to come up with energy independence plans, which the White House will then review. "Those plans will serve as a blueprint for the administration going forward on energy policies," the official said.

Regarding climate change, the White House official suggested several Obama-era policies "don't reflect" Trump's agenda, and therefore will be immediately pulled back or subject to review.

The official indicated the administration wants to "take our own course and do" climate policy "in our own form and fashion."

Specifically, the order will target a wide range of Obama administration climate policies, largely mirroring what appeared in a draft summary of the order obtained by *InsideEPA/climate* and other news outlets.
The order will "initiate the review" of several regulations, including EPA's existing power plant greenhouse gas rule known as the Clean Power Plan and the companion rule for new sources. Both rules are currently subject to pending legal challenges in the U.S. Court of Appeals for the District of Columbia Circuit.

The document could also order the Department of Justice to ask the D.C. Circuit to hold litigation on the power plant rules in abeyance or remand the rules to the agency while administrative proceedings to rewrite them are underway.

The White House official said there is no timeframe associated with the review of the Clean Power Plan and other rules, but EPA Administrator Scott Pruitt "is ready to hit the ground running on it." The source also noted that the administration will have to go through the rulemaking process if it intends to rescind or revise the regulations and acknowledged there will likely be litigation over the end result.
Whether the process takes one, two or three years, "I don't know. It's going to take some time," the official said.

In addition, the White House official listed several other Obama-era policies that will undergo review -- including EPA's rule regulating emissions of the potent GHG methane from new oil and gas sources, as well as the Bureau of Land Management's (BLM) methane venting and flaring rule and its rule regulating hydraulic fracturing on public lands.

"All will be reviewed" based on "whether those reflect the policy priority at the beginning of the order," the official said, though the source did not specify what that priority would be beyond a focus on energy independence and "getting EPA back to its core mission."

NEPA Reviews

According to the White House official, the order will also rescind Obama White House Council on Environmental Quality guidance for how to account for climate impacts in National Environmental Policy Act (NEPA) reviews. "That guidance

was widely opposed by a number of different industries," the official said, adding that the administration believes it goes "way beyond what NEPA requires."

The order will also target the Obama administration's social cost of carbon metric, and the related social cost of methane and social cost of nitrous oxide -- default values that agencies use to measure the benefits of rules that limit GHGs.

"The prior administration put out its own estimates, not in a very transparent fashion," the official said, adding the Trump administration believes the metrics violate "longstanding" Office of Management & Budget policy. Those metrics "will no longer stand," the source said.

In addition, the White House official said the order will target about six climate change-related executive orders and presidential memorandum from former President Barack Obama, including four orders related to climate adaptation and resilience, the 2013 memo putting forth the Climate Action Plan and a 2014 memo outlining a strategy to cut methane.

The order will also rescind the Department of Interior's moratorium on new coal leasing on federal lands.
The White House official said the order will not address how the Trump administration will proceed with the Paris Agreement, which the source said is "still under discussion."

It will also not address EPA's 2009 GHG endangerment finding, which underpins the agency's climate regulations and which many conservative groups have urged the Trump EPA to review. Just last month, the free-market Competitive Enterprise Institute asked EPA to review the GHG risk finding in a petition obtained by *Inside EPA*.

"Certainly if you look at the previous administration's" Paris Agreement pledge, "we have a different view about how you would address climate policy in the U.S.," the White House official said, adding that the Trump administration intends to go in a "different direction" but the emissions impact of that pathway is unclear.

The White House official emphasized that Trump "made a pledge" to help the coal industry. While it is true that such things like the low cost of natural gas and other market forces affect coal's success, "certainly government policy has a role, and to the extent he can have a beneficial effect, he's going to take it."

In addition, the White House official indicated the executive order would "lay out very clearly" how the Trump administration intends to approach climate policy. The source suggested the administration believes the most important factor is to "make sure you have a strong economy," noting that the United States has a "cleaner, healthier environment" than large developing countries like China.

The official also noted that the Trump administration will continue to enforce clean air laws that are "on the books" but will review "policies like the Clean Power Plan that we believe don't provide environmental protection." The source added that "whether it's clean coal, nuclear power, renewables . . . allowing all those to flourish is a good way to address the issue." -- *Abby Smith* (asmith@iwpnews.com)

Washington Examiner
http://www.washingtonexaminer.com/trumps-newest-order-looks-to-block-obamas-climate-legacy/article/2618606

Trump's newest order looks to block Obama's climate legacy
By John Siciliano 3/27/17 11:00 PM

President Trump will sign an executive order Tuesday to roll back the centerpiece of the Obama administration's climate change agenda, the Clean Power Plan, and cancel what Trump says are unnecessary rules on coal, oil and natural gas production that are harming economic growth.

The executive order is seen as central in meeting the president's campaign promises to help coal country rebound from the tens of thousands of job losses that the industry blames, in part, on restrictive environmental regulations.

A senior administration official told reporters on a call Monday that the order has the "twin goals" of both moving forward while also looking backward.

It "looks forward" by setting the stage for the "beginning strategy" in devising an energy policy framework for the nation, said the senior official. And it looks backward by eliminating regulations from the previous administration that hinder growth and energy production.

It will call on all agencies to conduct a comprehensive review of all rules to determine those that inhibit energy production, and report back to the White House in 180 days.

After that, the White House will sit down with the agencies to develop an energy "blueprint," the official told reporters.

The order will also direct the Environmental Protection Agency to review and, if necessary, redo climate regulations for existing fossil fuel power plants, called the Clean Power Plan, with the end goal of redacting the regulation. And, it will roll back climate regulations on new power plants, known as the New Source rule, which is called a "defacto ban" on building new coal-fired power plants in the country.

The clean coal technology required to meet the rule is cost prohibitive and not yet even commercially viable.

The rule directs the Justice Department to ask the D.C. Circuit Court of Appeals to hold in abeyance current lawsuits opposing the regulations. Nearly 30 states and hundred of groups, firms and companies are suing the agency over the power plant rules.

Rolling back the regulations would help keep coal power plants from prematurely closing down over the next decade. The review that EPA must do to comply with the Administrative Procedures Act could take years, as the official expects the review will be challenged in court.

In other areas, the rule takes aim at Obama-era regulations opposed by industry groups that are meant to control methane emissions from fracking wells.

Both the EPA and the Interior Department have regulations for essentially doing the same thing, limiting emissions of methane, which is a potent greenhouse gas that many scientists blame for causing manmade global warming through the burning of fossil fuels.

The methane regulations are part of President Barack Obama's broad climate agenda issued in 2013, called the Climate Action Plan. But the rule rescinds all six executive orders that make up the Climate Action Plan.

The order has faced weeks of delays because of complex legal questions regarding the Clean Power Plan and EPA climate rules, which are currently under review by the D.C. Circuit Court of Appeals.

The order is "legally complex," and the White House was being "very careful" due to the ongoing litigation, the official said.

He said EPA Administrator Scott Pruitt is "ready to hit the ground running" in conducting the climate rule at the agency. But he said it seems clear there will be litigation, which could take years to resolve.

Big environmental groups like the Natural Resources Defense Council and Sierra Club will likely initiate opposition in the courts to the executive order and its actions.

NRDC President Rhea Suh began ramping up support for her group's legal response to Trump's assault on EPA in November. Her group is already suing against Trump's approval of the Keystone XL pipeline on Friday.

Meanwhile, Sen. Ed Markey, D-Mass., an ardent supporter of steps to control climate change, plans to introduce legislation in direct response to Trump's executive orders on Keystone XL and the Clean Power Plan.

"President Trump didn't issue an executive order today, he issued a declaration of war on American leadership on climate change and our clean energy future," said Markey.

Markey said Monday that he plans to introduce a slew of bills, including one to transition to 100 percent clean and renewable energy by 2050, another to reform the federal coal leasing program, and a third to "block export of Keystone XL oil and refined product," while opening up offshore wind energy on the nation's coasts.

Mother Jones
http://www.motherjones.com/environment/2017/03/trump-executive-order-climate
Trump Just Released His Plan to Gut Obama's Climate Policies. It's Worse Than You Thought.
By Rebecca Leber 3/27/17 11:00 PM

President Donald Trump will issue his long-promised executive order rolling back federal government efforts to fight climate change Tuesday.

The wide-ranging order, which will be accompanied by other environmental directives, targets Obama-era policies across the government, including in the Environmental Protection Agency, the Department of Interior, and the Department of Defense. It directs the EPA to revisit the Clean Power Plan, which limits carbon pollution from power plants and was considered the center-piece of former President Barack Obama's climate policy. Additionally, Trump is asking the Justice Department to stop defending the plan in court.

The president will instruct agencies to rescind a moratorium on coal leasing on public lands; rewrite limits on methane emissions from the oil and gas industry; and ignore the EPA's current calculation on the costs of carbon pollution. There are also broad directives reversing an Obama initiative requiring that federal departments consider climate mitigation strategy and the national security risks of global warming.

One of Trump's more notable "Day One" promises is missing, however: The United States will remain in the landmark Paris climate accord for the time being—despite Trump's pledge to "cancel" it.

Still, environmentalists are furious. "This is not just dangerous; it's embarrassing to us and our businesses on a global scale to be dismissing opportunities for new technologies, economic growth, and US leadership," Obama EPA Administrator Gina McCarthy said in a statement.

Sen. Edward Markey (D-Mass.) called Trump's actions "a declaration of war on American leadership on climate change and our clean energy future" in his own statement.

Indeed, Tuesday's actions are just the start of a long fight over the federal government's role in confronting climate change. Undoing the regulations already on the books, from the Clean Power Plan to the methane rule, could take several years. And Trump will face fierce resistance throughout the protracted fight. Green groups are already threatening legal action.

EPA Administrator Scott Pruitt, White House Press Secretary Sean Spicer, and Trump himself have all stuck to a similar script while previewing the order. They insist it will create jobs and help the United States achieve energy independence (although the US wasn't "energy independent" before the Obama rules existed). At a recent Kentucky rally, Trump claimed the executive order would "save our coal industry." (It won't.)

On a press call Monday night, a senior White House official also stuck to that script. That is, until reporters asked him whether administration staffers who worked on the order accepted the science behind global warming and sea level rise—and the research showing that climate change makes extreme weather worse.

"I would like to see" that research, said the official, who spoke on background to reporters. "Send it to me."

Asked whether the president and his staff all believe in manmade climate change, the official stumbled, "Um...again I think it's not a controversial statement. The key question is the extent over what frame of time." Asked whether the official personally believed climate change is manmade, he said, "Yeah, sure I do. That doesn't say much does it?"

It actually says a lot. Trump and Pruitt have both at times dismissed climate science—Trump infamously called it a Chinese hoax. Environmental lawyers think these pronouncements could strengthen their lawsuits. "It is possible that statements of that sort will come back to haunt them," Richard Revesz, a New York University environmental law professor, said. "It would suggest they prejudge the science before consulting with scientists. There is a pretty high burden for departing from an existing rule."

Here's the rundown of some of what Trump's executive actions will do:

Gutting the Clean Power Plan

The Clean Power Plan was the Obama EPA's strategy for reducing carbon pollution from existing power plants 32 percent by 2030. Under this rule, states would have to submit plans to achieve customized emissions targets using a mix of renewables, natural gas, and energy efficiency. The Supreme Court put the rule on hold last year as attempts to block it wind their way through the court system, so the EPA's work on the program has ground to a halt.

Trump's order directs the EPA to revise the plan and review what it thinks is required under the Clean Air Act, which forms the basis for the power plant regulations. The moves will require an extensive public notice and comment period to justify any changes, and the administration has yet to make a timetable public.

Trump is instructing the EPA to revise the rule (and weaken it substantially)—rather than rescind it entirely—presumably because the Supreme Court told the agency in 2007 it must regulate carbon pollution if it finds carbon to be a threat to human health. The agency issued this so-called "endangerment finding" in 2009, and it was upheld in a 2012 appeals court case. As long as the EPA's finding that climate change poses a health danger remains in effect, the EPA is legally required to issue regulations based on the "best available science." While revoking the endangerment finding has long been a goal of some on the right, it would be a difficult feat that would likely involve convincing the courts that climate change is, as Trump contends, a hoax.

Adding more complication still, the DC federal court of appeals has yet to issue its opinion on the legality of the Clean Power Plan, after hearing the case on an expedited schedule last fall. As expected, Trump is now asking the Department of Justice to withdraw its defense of the plan.

Ignoring the Cost of Carbon

In 2007, a federal appellate court ruled that when performing a cost-benefit analysis on its fuel efficiency standards, the Bush administration had to account for the costs that carbon emissions inflict on society by contributing global warming and other problems. The court recognized that "while the record shows that there is a range of values [for the social cost of carbon], the value of carbon emissions reduction is certainly not zero."

Of course, translating the impacts of carbon emissions and climate change into an economic "cost" that can be measured in dollars is a complicated undertaking. Obama's EPA ultimately worked out a formula for tabulating these costs and used it as a basis for its climate regulations.

Trump's order directs the EPA to ignore this calculation.

Ending the Moratorium on Coal Leases on Public land

In January 2016, Obama ordered a moratorium on new coal leases on public lands until Interior could update its badly outdated leasing program. Trump is now directing the department to reverse that moratorium. Unlike the Clean Power Plan, which was a formal rule that can only be undone through a drawn-out process, Interior can act on this directive immediately.

When that happens, environmental groups are ready to fight back. Earthjustice expects this to be the first in a long series of legal battles over Tuesday's order. The group says it plans to file a lawsuit within hours of the agency's action.

"We expect to challenge any action that allows coal leasing to resume before [an] environmental review is completed that evaluates whether the federal coal leasing program should be reformed (or scrapped altogether) in light of its significant climate impacts and failure to generate a fair return for US taxpayers," Earthjustice attorney Jenny Harbine said.

Rolling Back Methane Restrictions

The Obama administration finalized a series of regulations toward the end of his presidency limiting methane emissions. Among them was an Interior rule limiting excessive flaring and venting from oil and gas operations on public lands. Like the Clean Power Plan, this change will have to go through a formal rulemaking process in order for Trump to undo it. Trump will also rescind Obama's broad strategy, released in 2014, for reducing methane emissions.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency

Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 4/19/2017 1:50:06 PM
To: Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]
Subject: Wall Street Journal: Highway From the Endangerment Zone, 4/19/17

Wall Street Journal
https://www.wsj.com/articles/highway-from-the-endangerment-zone-1492555808
Highway From the Endangerment Zone
4/18/17 6:50 PM

Scott Pruitt has emerged as a leading voice in the Trump Administration for U.S. withdrawal from the Paris global climate deal, so it's ironic that the Environmental Protection Agency chief is being assailed from the right for being soft on carbon. Too many conservatives these days are searching for betrayals where none exist.

As Attorney General of Oklahoma, Mr. Pruitt successfully sued to stop the enforcement of President Obama's regulations known as the Clean Power Plan, or CPP, and he's preparing to dismantle them for good as EPA administrator. The rap from the right is that he won't challenge the underlying determination for regulating CO 2 emissions known as an endangerment finding. In 2009 the EPA concluded in this finding that carbon dioxide and other greenhouse gases pose a threat to public health and the environment, and this document serves as the nominal legal basis for the CPP and other anticarbon rules.

Mr. Pruitt's critics claim that withdrawing from the CPP without reversing endangerment will strengthen his opponents in the inevitable green lawsuits that are coming. Endangerment findings create a legal obligation for the EPA to regulate the relevant pollutants, even if carbon is far different from traditional hazards like SO X and NO X .

The endangerment finding was deeply misguided and flawed in its execution, and nobody fought it more than we did. But there's a practical reason that Mr. Pruitt is right about the risks of trying to revoke it now. The finding has been upheld by the courts, and creating a legally bulletproof non-endangerment rule would consume a tremendous amount of EPA resources, especially at an agency with few political appointees and a career staff hostile to reform.

Technical determinations about the state of the science are supposed to be entitled to judicial deference, but the reality is that the D.C. Circuit Court of Appeals that would hear the case is packed with progressive judges. Climate change has become a theological conviction on the left, so Mr. Pruitt would almost certainly lose either with a three-judge panel or en banc.

The Supreme Court's appetite for such a case is also minimal, since it would run directly at the 2007 ruling in Massachusetts v. EPA that prepared the way for the endangerment finding. Justice Anthony Kennedy was in that 5-4 majority.

Mr. Pruitt is already taking on difficult and controversial challenges, so better for the Administration to use scarce political capital where it will make a difference instead of burning it on a doomed mission. The endangerment finding doesn't dictate any specific regulation, and Mr. Pruitt has the discretion to interpret the Clean Air Act to achieve his favored policy outcomes, including to repeal legally tenuous central planning like CPP.

A future Democratic President could use the endangerment finding to revive something like CPP, but then that same Administration could restore endangerment too. Mr. Pruitt is a natural target for the left, but when conservatives are impugning one of the leaders of President Trump's economic deregulation project as a sellout, maybe the problem is the critics, not Mr. Pruitt.

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/18/2017 1:50:06 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: Washington Times: Future of Paris climate deal hangs in the balance at White House meeting Tuesday, 4/18/17

Washington Times
http://www.washingtontimes.com/news/2017/apr/18/future-paris-climate-deal-hangs-balance-white-hous/
Future of Paris climate deal hangs in the balance at White House meeting Tuesday
By Ben Wolfgang 4/18/17

Top White House officials will meet Tuesday to hash out whether the U.S. should remain in the Paris climate accord, a landmark 2015 deal that stands as one of the Obama administration's leading international achievements.

Throughout his campaign, President Trump vowed to pull the country out of the agreement, but he softened that stance soon after the November election. In the months since, administration officials repeatedly have said that the Paris deal is under review inside the White House, where some officials reportedly want the U.S. to remain a party to the agreement and others favor withdrawal.

Among those who want the U.S. out of the agreement is Environmental Protection Agency Administrator Scott Pruitt, who has been very public in his feelings about Paris.

"You know, what was wrong with Paris was not just that it was, you know, failed to be treated as a treaty, but China and India, the largest producers of CO2 internationally, got away scot-free. They didn't have to take steps until 2030. So we've penalized ourselves through lost jobs while China and India didn't take steps to address the issue internationally," he said in an interview with ABC News late last month. "So Paris was just a bad deal, in my estimation."

Other administration officials, including top adviser Jared Kushner, reportedly favor staying in the agreement.

The deal, which is not a formal treaty and carries no non-compliance penalties whatsoever, calls on the U.S. to cut its greenhouse gas emissions by at least 26 percent by 2025 — a massive reduction that would require dramatic changes in domestic American energy policy.

China, on the other hand, has to do nothing until 2030, when it says it will reach peak emissions and then begin reductions. There are signs, however, that China already is beginning to curb its emissions.

While Mr. Trump apparently is still open to remaining in the agreement, his administration is taking steps that will make it virtually impossible to meet the emissions targets. For example, he's instructed the EPA to undo the Clean Power Plan, a set of national limits on carbon pollution from power plants that's central to meeting the broader emissions targets.

More broadly, Mr. Trump has made clear he wants to ramp up U.S. oil, gas, and coal production, and end the Obama administration's favoritism toward renewable energy. Those policy priorities make the Paris pledge little more than words on a page, even if the nation formally remains a part of the deal.

For environmentalists, the fact that the climate deal is even up for review sends the wrong signal to the rest of the world.

"The United States is the world's largest historic climate polluter. Our country has a moral imperative to take action proportionate to our responsibility for this crisis. Our commitments under the Paris Agreement were already woefully inadequate given our responsibility and the severity of the problem," said Ben Schreiber, senior political director at Friends of the Earth. "By holding this meeting, Trump has communicated to the rest of the world that the U.S. is a climate pariah."

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/26/2017 1:39:35 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: BNA: Water Rule Lawsuits Could Be Iced If EPA Reinstates Prior Rule, 4/26/17

BNA
http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=110163682&vname=dennotallissues&wsn=499979500&searchid=29771331&doctypeid=2&type=date&mode=doc&split=0&scm=1245&pg=0
Water Rule Lawsuits Could Be Iced If EPA Reinstates Prior Rule
By Amena Saiyid 4/26/17

A plan by the Trump administration to reinstate an older EPA regulation designed to protect upstream waterways could render moot legal challenges to a replacement rule issued in 2015, attorneys familiar with the agency's plans said.

The Environmental Protection Agency told state and local groups recently that it wants to repeal the 2015 Clean Water Rule (RIN: 2040-AF30)—issued during the Obama administration and immediately challenged by a range of interest groups—and then issue a new rule.

This would have the effect of removing the Obama rule completely from the books. With no rule, the federal appellate and district courts, and quite possibly the U.S. Supreme Court, would have no choice but to dismiss the resulting challenges, legal observers told Bloomberg BNA.

The U.S. Court of Appeals for the Sixth Circuit put a nationwide hold on the rule pending a review of whether the Obama EPA and U.S. Army Corps of Engineers overstepped their authority in issuing it.

No Rule Left to Challenge

Courts don't want to rule on a case that has no underlying basis, or in this instance, an actual regulation being challenged, Julia Anastasio, general counsel and executive director of the Association of Clean Water Administrators, told Bloomberg BNA April 21.

Lowell Rothschild, an attorney with Bracewell LLP, agreed, saying that "elimination of the Clean Water Rule would make it likely that they would be dismissed," referring to the dozens of lawsuits filed in several federal district and appellate courts. He represented the Texas Alliance for Responsible Growth, Environment and Transportation, which has challenged the Obama rule in the Sixth Circuit and the Southern District of Texas. The alliance members include Texas real estate developers, home builders and general contractors.

The first step of the Trump administration plan to undo the Clean Water Rule, also known as the waters of the U.S. (WOTUS), according to an EPA presentation, is to reinstate the regulation and related guidance that was in place beforehand.

Reinstating a prior rule, however, will be time consuming because it has to be follow the rulemaking process requiring public notice and comment, said Anastasio, who was present at the meeting with EPA representing state and interstate water officials.

Meanwhile, the legal proceedings in the Sixth Circuit await a determination by the U.S. Supreme Court on whether the appellate court in Cincinnati is even the proper venue for hearing challenges to the WOTUS rule. The Eleventh Circuit,

which was weighing the same question before the Supreme Court agreed to hear the question of the proper venue, also punted on making a decision about the rule's merits pending a finding by the Sixth Circuit on the regulation itself. All these cases, save the one before the U.S. Supreme Court, could be dismissed by the reinstatement of the prior rule, according to Anastasio and other attorneys.

No Effect of Reinstating Old Rule

Vermont Law Professor Patrick Parenteau disagrees, saying the rule repealing the Obama rule will not automatically moot the legislation pending in either the Supreme Court or the Sixth Circuit.

He said the Supreme Court made it clear that it will decide the court's venue question regardless of what EPA Administrator Scott Pruitt does with the rule. There is no doubt in Parenteau's mind that Pruitt will move to moot the Obama rule, but he added, "I don't think the 6th Circuit will rule on that until EPA & Corps have issued a replacement rule which will also be challenged."

In other words, the "mootness issue," according to Parenteau won't be decided unless and until the Sixth Circuit decides that the repeal and replace rules are valid. He is not convinced that the "recodified rule" will serve as the basis for dismissing lawsuits.

Falling Into the Same 'Trap'

The fate of the Clean Water Rule was thrown into turmoil by Trump's executive order (E.O. No. 13778) directing the EPA and the corps to consider the late Justice Antonin Scalia's plurality opinion in Rapanos v. United States (547 U.S. 715, 62 ERC 1481 (U.S. 2006)). It was Justice Anthony Kennedy's opinion in that case that is seen as the basis of the Obama rule.

Anastasio said she worries the Trump administration may be falling into the "same trap" as the Obama administration by focusing on one justice's opinion in writing the rule. Parenteau said it makes no sense for the administration to focus exclusively on Scalia's reading when the courts of appeal have relied on Kennedy to affirm jurisdiction over wetlands.

EPA will take comments until June 19 on what features define relatively permanent flow in streams and whether wetlands that directly abut navigable waters or those that have a continuous flow connection to navigable waters should be considered jurisdictional.

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov

Message

From: McGonagle, Kevin [mcgonagle.kevin@epa.gov]
Sent: 3/27/2017 5:28:32 PM
To: So, Katherine [so.katherine@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]
Subject: RE: Clean Power Plan Clips 3/27/17

Below: Bloomberg, Washington Post, The Daily Caller, Reuters, E&E News (2), Politico, International Business Times, AP (3/26), Bloomberg (3/26), Washington Examiner (3/26), Washington Times (3/26)

Bloomberg
https://www.bloomberg.com/politics/articles/2017-03-26/trump-said-to-issue-far-reaching-reversal-of-obama-climate-push
Trump to Issue Far-Reaching Reversal of Obama Climate Push
By Jennifer A Dlouhy 3/27/17 9:39 AM

President Donald Trump is set to sign a sweeping executive order on Tuesday aimed at promoting domestic oil, coal and natural gas by reversing much of his predecessor's efforts to address climate change -- prompting warnings the action will undermine U.S. leadership on the issue.

The document lays out a broad blueprint for the Trump administration to dismantle the architecture that former President Barack Obama built to combat the phenomenon, according to details shared with Bloomberg News. Some of the changes would happen immediately, while others would take years to complete.

"He's trying to undo more than a decade of progress in fighting climate change and protecting public health," David Doniger, director of the climate and clean air program at the Natural Resources Defense Council, said in an email. "But nobody voted to abandon America's leadership in climate action and the clean-energy revolution. This radical retreat will meet a great wall of opposition."

The order will compel federal agencies to quickly identify any actions that could burden the production or use of domestic energy resources, including nuclear power, and then work to suspend, revise or rescind the policies unless they are legally mandated, are necessary for the public interest or promote development.

Pro-Growth

It also will toss out two Obama-era directives that gave consideration of climate change a prominent role in federal rule making. One advised government agencies to factor climate change into environmental reviews, such as those governing where oil drilling should take place. The other, called the "social cost of carbon," is a metric reflecting the potential economic damage from climate change that was used by the Obama administration to justify a suite of regulations.

“This is about making sure that we have a pro-growth and pro-environment approach to how we do regulation in this country,” Scott Pruitt, the head of the Environmental Protection Agency, said on ABC’s "This Week” program on Sunday.

Trump, who has called climate change a hoax, has vowed to reorient the government so that U.S. oil and coal producers thrive and steel and auto manufacturers don’t face “job-killing restrictions.” The coming order underscores Trump’s commitment to make good on his campaign promises, which helped propel him to victory in industrial strongholds such as West Virginia and Pennsylvania.

The details shared with Bloomberg News reflected the latest draft of the White House order and could change before the announcement, which Pruitt said would happen Tuesday.

Coal Jobs

Some analysts question whether reversing the rules can save coal miner jobs. Killing the Clean Power Plan is not enough to spark a coal revival and avert a wave of planned retirements of power plants using the fossil fuel, said Kevin Book, an analyst with Washington-based research firm ClearView Energy.

"Even without the Clean Power Plan, there are still 14 gigawatts of coal retirements related to" a mercury pollution rule "and market dynamics waiting in the wings," Book said.

While the White House order will make clear that the target of the planned regulatory rollback should be on policies curbing the production of oil, natural gas, coal and nuclear energy, it also will say the U.S. is well served when affordable, reliable and clean electricity is produced from an array of sources, including solar, wind and hydropower.

The order also is set to include a targeted assault on a handful of specific Obama-era regulations. It will require the Interior Department to lift a moratorium on the sale of new coal leases on federal land and compel the EPA to review, and, “if appropriate,” begin proceedings to suspend, revise or rescind regulations designed to reduce greenhouse gas emissions from power plants.

Clean Power Plan

Obama’s Clean Power Plan was designed to cut carbon dioxide emissions from electricity by 32 percent by 2030 compared to 2005 levels. The initiative has been in legal limbo since the Supreme Court stayed it while it was reviewed by a federal appeals court. The Trump administration now is expected ask that court to put the matter on hold to allow it time to revise or undo the measure -- an action environmentalists have vowed to challenge.

Other policies in the cross hairs: an EPA rule setting requirements for greenhouse gas emissions for construction of new power plants and an Interior Department regulation setting mandates on hydraulic fracturing of oil and gas wells on federal lands. The Interior Department’s Bureau of Land Management said earlier this month it would begin the process to rescind the regulation, which requires companies to disclose the chemicals they pump underground and to seal off waste water in storage tanks.

Revoking Directives

Trump’s executive order also is set to revoke six specific directives from his predecessor, including Obama’s broad strategy for paring emissions of methane released from oil and gas operations. Other Obama directives targeted for repeal include one on climate change and national security, as well as a pair of directives from June 2013 that laid out his climate plans.

The Obama administration wove climate considerations into decisions across the federal bureaucracy, from efficiency standards for microwave ovens to the refurbishing of government buildings.

The changes may have little immediate impact on the market for coal, which is facing stiff competition from cheaper natural gas and renewable energy, analysts say.

Even before the Obama administration imposed the coal-leasing moratorium in January 2016, producers had little interest in adding new federal reserves to their portfolios amid slumping domestic demand. The U.S. government has sold just one coal leases since October 2012, though earlier this month it approved a transaction originally sought in 2005. Existing federal leases contain at least 20 years' worth of coal, according to Interior Department estimates.

Coal's Decline

Even without the EPA's Clean Power Plan in force because of the Supreme Court stay, using coal to generate electricity has been in decline as a result of previous pollution regulations and competition from low-cost natural gas, solar and wind.

The removal of the Clean Power Plan could halt coal's decline as a source of electricity during the next two decades, according to projections from the Energy Information Administration. More coal use would mean less natural gas use, EIA said.

Trump's action sets in motion at least a year of bureaucratic work at the EPA to formally dismantle the Clean Power Plan. And whatever happens will inevitably be challenged in court by those same environmental groups.

By contrast, the Interior Department can undo the coal leasing moratorium with the stroke of a pen, the same way it was imposed a year ago, under an administrative order issued by former Interior Secretary Sally Jewell.

Trump's targets would also reduce the role of climate change in government decision-making. For instance, the social cost of carbon metric served as the linchpin for many Obama administration environmental rules. Critics say the number -- now nearly $40 for every metric ton of carbon dioxide emitted into the atmosphere -- gives artificial precision to uncertain conditions nearly 300 years in the future.

According to shared details of the executive order, the Trump administration will disband the working group that created the social cost of carbon and return to an earlier 2003 approach for calculating the costs and benefits of proposed regulations.

Washington Post
https://www.washingtonpost.com/news/energy-environment/wp/2017/03/27/heres-how-trump-will-try-to-eviscerate-obamas-climate-policies-on-tuesday/?utm_term=.03880e9366e6
Here's how Trump will try to eviscerate Obama's climate policies on Tuesday
By Juliet Eilperin 3/27/17 11:17 AM

President Barack Obama tried to integrate climate change into every facet of federal decision-making; President Trump aims to pull it out by its roots. Environmental Protection Agency Administrator Scott Pruitt said Sunday on ABC's "This Week" that an executive order the president will sign Tuesday "will address the past administration's effort to kill jobs throughout the country through the Clean Power Plan," a reference to a regulation limiting greenhouse gases emitted by electric utilities. But it does much more than that: Here's a snapshot of what's in, and out, of the directive, based on the latest draft.

WHAT'S IN IT:

1. Instructions to EPA to rewrite regulations restricting carbon emissions from both new and existing power plants. These rules — particularly the one affecting existing plants, many of which are coal-fired — lie at the center of Obama's effort to curb the nation's carbon output. The limits on existing facilities aim to cut carbon pollution by about one-third by 2030, compared with 2005 levels, and the rule is subject to a pending lawsuit before the U.S. Court of Appeals for the D.C. Circuit. The order would instruct Attorney General Jeff Sessions to ask the D.C. Circuit to hold the lawsuit in abeyance while EPA revises the rules, a process that will take more than a year and will inevitably face a court challenge of its own.

2. Lift a moratorium on federal coal leasing. Trump will direct the Interior Department's Bureau of Land Management to lift the freeze on coal leasing on its land, which has been in effect since December 2015. In January, Interior proposed that the program guiding coal exploration and production across 570 million publicly owned acres be updated to factor in the climate effect of such activities and provide a bigger return for U.S. taxpayers. This will not have a major impact on domestic coal production, since the government has sold one set of coal leases since October 2012, and has estimated that it has already granted leases that are equivalent to a 20-year supply of coal. But Pruitt told ABC that this and other policies in the order constitute "a promise to the American people — saying we can put people back to work and be pro-environment as well."

3. Abolish federal guidance instructing agencies to incorporate climate change into federal decision-making. Obama ordered agencies to include climate change as a consideration when they conducted reviews under the National Environmental Policy Act, a sweeping law that informed any federal decision that had a significant environmental impact. This will be eliminated outright.

4. Jettison the Obama administration's "social cost of carbon." The order would dissolve the task force that calculated what has become known as "the social cost of carbon" and revert to the 2003 standard used under the George W. Bush administration. The current calculus, which is set at $36 per ton of carbon dioxide, aims to capture the negative consequences of allowing greenhouse gas emissions to continue to rise and is applied to any regulations that have a climate impact.

5. Promote oil and gas development on Interior's lands, including national wildlife refuges. The order would make it easier to flare methane on oil and gas operations on federal land. In November the previous administration issued a rule curbing such "fugitive" emissions of the potent greenhouse gas, which the House has voted to overturn. The order would also make it easier to conduct energy exploration on land managed by the U.S. Fish and Wildlife Service.

WHAT'S NOT IN IT:

Language on the Paris climate agreement. The president's top advisers have been divided over whether America should formally withdraw from the 2015 global warming pact that Obama and his deputies helped broker through the U.N. Framework Convention on Climate Change. Under that accord, which has already entered into force, the United States voluntarily committed to reduce greenhouse gas emissions by 26 to 28 percent below 2005 levels in 2025, while making "best efforts" to reduce those emissions by 28 percent. In his Sunday interview, Pruitt suggested that whether the United States opts out or remains in the agreement is unrelated to Tuesday's executive action. "The Paris accord is nonbinding. It was not a treaty, as such. The Clean Power Plan is not tethered to the Paris accords," he said. "This is an effort to undo the unlawful approach the previous administration engaged in and do it right going forward with the mind set of being pro-growth and pro-environment."

The EPA administrator made it clear he's not a fan of the pact. "What was wrong with Paris was not just that it failed to be treated as a treaty, but China and India got away scot-free. They didn't have to take steps until 2030," he said. "We

penalized ourselves through lost jobs while China and India didn't take steps to address the issue internationally. Paris was just a bad deal, in my estimation."

The Daily Caller
http://dailycaller.com/2017/03/27/trump-readies-energy-independence-order-to-repeal-obama-climate-policies/
Trump Readies 'Energy Independence' Order To Repeal Obama Climate Policies
By Michael Bastasch 3/27/17 9:33 AM

President Donald Trump will issue a sweeping "energy independence" executive order Tuesday to dismantle signature global warming policies put in place by the Obama administration.

Environmental Protection Agency (EPA) Administrator Scott Pruitt told ABC News Trump would issue the order tomorrow to make "sure that we have a pro-growth and pro-environment approach to how we do regulation in this country."

"The executive order is going to address the past administration's effort to kill jobs across this country through the Clean Power Plan," Pruitt told ABC's George Stephanopoulos of the "energy independence" executive order on Sunday.

Trump promised to eliminate "job-killing" energy regulations during his campaign, specifically rolling back an EPA regulation limiting greenhouse gas emissions on power plants — the Clean Power Plan (CPP).

The upcoming order goes even farther than axing the CPP, according to Bloomberg's Jennifer Dlouhy, who got a sneak peek at Tuesday's order. Here's what it does:

Orders EPA to review and "if appropriate" work to repeal or revise the CPP.

Rescinds the Interior Department's moratorium on new coal mining leases on federal lands.

Repeals an Obama-era guidance on how federal agencies should take global warming into account when doing National Environmental Policy Act (NEPA) permitting reviews.

Disbands a federal working group that developed the "social cost of carbon" (SCC) estimate used to justify onerous global warming regulations. The SCC will also be thrown out.

Dlouhy reports Trump's order revokes "six specific directives from his predecessor, including Obama's broad strategy for paring emissions of methane released from oil and gas operations."

Trump will also rescind "Obama directives targeted for repeal include one on climate change and national security, as well as a pair of directives from June 2013 that laid out his climate plans," Dlouhy reported.

While most of Trump's order can immediately take effect, repealing the CPP will have to go through a lengthy process that could take months or years.

Environmentalists have also vowed to sue the Trump administration to defend the CPP. They'll likely be joined by Democratic state attorneys general.

Reuters
http://www.reuters.com/article/us-usa-energy-regulation-idUSKBN16X150

Trump to sign order on Tuesday easing energy regulations: officials
By Steve Holland and Jason Lange 3/27/17 7:09 AM

President Donald Trump will sign an order on Tuesday aimed at making it easier for companies to produce energy in the United States, administration officials said on Sunday.

Under Trump, the U.S. Environmental Protection Agency is aiming to aggressively roll back Obama-era environmental regulations.

Trump plans to sign the executive order at the EPA to reduce "unnecessary regulatory obstacles that restrict the responsible use of domestic energy resources," a White House official said.

EPA Administrator Scott Pruitt told ABC's "This Week" the order would help reverse the Obama administration's anti-fossil fuel strategy.

Pruitt has publicly doubted the scientific consensus that human actions are the lead cause of climate change. His installation at the EPA last month reinforced the view on both sides of the political divide that America is ceding its position as a leader in the global fight on climate change.

E&E News
http://www.eenews.net/energywire/2017/03/27/stories/1060052110
Trump to roll back Clean Power Plan tomorrow at EPA
By Niina Heikkinen 3/27/17

The White House will release its executive order on the Clean Power Plan tomorrow, triggering President Trump's promises to dismantle the climate policies of his predecessor.

U.S. EPA Administrator Scott Pruitt announced the timing yesterday on ABC's "This Week." The move comes as the White House seeks safe footing after its stunning legislative loss on health care Friday.

The twin announcements about signing the executive order and permitting the Keystone XL pipeline, made before the weekend, stand to ease the turbulence of last week by fulfilling two of Trump's oaths to rural constituents.

"We've made tremendous progress on our environment, and we can be both pro-jobs and pro-environment, and the executive order's going to address the [past] administration's effort to kill jobs across the country through the Clean Power Plan," Pruitt said.

Vice President Mike Pence set the stage Saturday by telling a crowd in West Virginia, "The war on coal is over."

His remarks sought to reorient the White House toward an issue that served Trump well on the campaign trail, where he at one point wore a coal miner's hard hat and exulted in the devotion of workers in reflective stripes and coveralls.

"We're going to bring back jobs," Pence said. "We're going to get Washington out of the way of energy producers and coal miners — because energy means growth for America, and President Trump digs coal."

Still hurdles ahead before repeal

The White House confirmed yesterday that Trump will visit EPA, an agency for which he expressed disdain before the election, to formally announce the order with Pruitt at his side.

"On Tuesday, President Trump will sign an Energy Independence Executive Order at the EPA to strengthen the nation's energy security by reducing unnecessary regulatory obstacles that restrict the responsible use of domestic energy resources," White House spokeswoman Kelly Love said in a statement.

"This order will help keep energy and electricity affordable, reliable, and clean in order to boost economic growth and job creation," she said.

Sources have told E&E News that the order would begin the long process of unwinding the Clean Power Plan by requiring Pruitt to review the program, which cuts carbon emissions from existing power plants 32 percent by 2030. It also orders the Department of Justice to ask the U.S. Court of Appeals for the District of Columbia Circuit to abruptly freeze the legal challenge against the Clean Power Plan, effectively ending the government's defense of the carbon program.

The order is also expected to cancel the Climate Action Plan, while instructing federal agencies to review actions that restrict energy production (*Climatewire*, Feb. 21).

The order itself does not have legal force to repeal the Clean Power Plan, but it does send a signal to EPA to begin the process of rulemaking and public comment necessary to rescind it. The administration would then have to prove that the repeal was evidence-based and not arbitrary, said Steve Silverman, a former EPA attorney in the Office of General Counsel.

"The most immediate practical effect would be on pending litigation," he said, referring to challenges to the Clean Power Plan in the U.S. Court of Appeals for the District of Columbia Circuit (*Climatewire*, March 9).

"What they would ask the court to do is to put the litigation on ice while the administration takes action," said Silverman.

While the court doesn't have to agree, it likely will side with the administration on pausing the litigation, he said.

'States can make a difference,' but how much?

Agency efforts to terminate the Clean Power Plan could also be hindered if Congress follows through with Trump's proposed 31 percent cut to EPA's budget.

"If EPA is going to continue budget cuts, they aren't going to be able to do a new rulemaking process," said Kenneth Gillingham, an assistant economics professor at Yale University and a former senior economist on the White House Council of Economic Advisers under President Obama.

The "bare minimum" the administration could do to address the Clean Power Plan would be to simply repeal it, without replacing the climate rule with something else. In this case, the administration could take away funding for Clean Power Plan implementation in states but would still have to have funds to address court challenges to the rule's repeal, he said.

Taking away the Clean Power Plan would put the initiative back in the hands of states that want to address climate change, Gillingham added.

"States can make a difference, but not the kind of difference the federal government can make," he said.

The executive order has been expected for several weeks, since Pruitt first took the helm at EPA. Last week, White House spokesman Sean Spicer denied that it had been delayed and declined to comment on any details it might include (*E&E News PM*, March 22).

While environmental groups have challenged a repeal as an assault on climate action, Pruitt told "This Week" host George Stephanopoulos that the executive order would help bring back coal and manufacturing jobs to the United States and would also help the country reduce the need for energy sources from abroad.

Pruitt added that technological innovations in the coal and natural gas sectors were largely responsible for recent reductions in the United States' CO2 emissions. He cited horizontal drilling for extracting natural gas as an example but did not cite any coal-related technologies.

Pruitt: Paris was a 'bad deal'

Government studies have shown that canceling the Clean Power Plan would have minimal benefits to mining jobs in some regions. Meanwhile, natural gas production in the United States has surged following advances in hydraulic fracturing. Power companies have lowered their carbon footprints by switching away from coal and toward natural gas and renewable power. Technologies to cut carbon output for coal plants, however, are not widely in use.

Pruitt called the Obama administration "anti-fossil fuel" and said rolling back the Clean Power Plan would help to reduce electricity rates for consumers.

When questioned whether the move would affect the United States' ability to meet its commitments under the Paris Agreement, Pruitt said the Clean Power Plan was not "tethered" to the accords. He called the 2015 negotiations on climate change a "bad deal" since major polluters China and India do not have to take steps to reduce pollution until 2030. Instead, he said the United States should act within the framework of the Clean Air Act.

The EPA administrator did not answer repeated questions from Stephanopoulos on whether he would continue to allow California to maintain its waiver under the Clean Air Act to enact stricter fuel efficiency standards on automobiles than the rest of the country. Pruitt said the president would re-evaluate the corporate average fuel economy (CAFE) standards in 2018. He said that the public did not want to buy the cars that meet the higher efficiency standards and that continuing to manufacture them is "counter-helpful" to the environment.

"What this CAFE standards combined with the Clean Power Plan and the executive order sends a message to the American people that we're going to do what we can to make sure we produce jobs and growth while also being sensitive to the environment, and making sure that we introduce common sense back into the discussion," he said.

E&E News
http://www.eenews.net/eedaily/2017/03/27/stories/1060052095
Pruitt promises Clean Power Plan rollback tomorrow
By Kevin Bogardus 3/27/17

U.S. EPA Administrator Scott Pruitt said that President Trump tomorrow will sign his long-anticipated executive order rolling back environmental regulations.

Appearing on ABC's "This Week" yesterday, Pruitt said the "energy independence" executive order will come out tomorrow, ensuring the Trump administration has "a pro-growth and pro-environment approach to how we do regulation in this country."

Pruitt said the order will address the Clean Power Plan, which requires power plants to reduce their carbon emissions and has been subject to a stay issued by the Supreme Court. The EPA chief said the regulation drafted by the Obama administration was "unlawful" and that after Trump's executive order, the agency will act "within the framework of the Clean Air Act."

"And it will be legal," Pruitt added.

The order is expected to include several other energy-policy-related initiatives. Many thought the measure would be issued soon after Pruitt's Senate confirmation last month, but it was delayed for weeks.

On yesterday's show, Pruitt was pressed on whether the order rolling back the Clean Power Plan would bring back industry jobs, as Trump has repeatedly promised. The EPA administrator said it would.

"I think absolutely it will. It will bring back manufacturing jobs across the country, coal jobs across the country," Pruitt said, adding, "The last administration had an idea of keeping it in the ground. We need to [be] more independent, less reliant upon foreign energy sources. And this is an opportunity."

Trump has long courted the coal industry. The president and others in his administration have said he would roll back federal rules to help boost the energy sector.

"We're going to get Washington out of the way of energy producers and coal miners — because energy means growth for America, and President Trump digs coal," Vice President Mike Pence said in an appearance in West Virginia on Saturday.

Trump has targeted several regulations at EPA, including ordering the withdrawal of the Waters of the U.S. rule as well as reopening a review of the agency's vehicle emissions standards.

Yesterday, Pruitt was also asked how the United States could reach its carbon reduction targets under the 2015 Paris Agreement if EPA backed down on the Clean Power Plan.

Saying Paris was nonbinding as well as "a bad deal," the EPA chief said the power plant rule was not tied to the climate change deal.

"The Clean Power Plan is not tethered to the Paris accords. And so this is an effort to undo the unlawful approach the previous administration engaged in and to do it right going forward with the mindset of being pro-growth and pro-environment, and we can achieve both," Pruitt said.

Politico
https://www.politicopro.com/tipsheets/morning-energy/2017/03/pruitt-says-executive-order-coming-tuesday-022034
Pruitt says executive order coming Tuesday
By Anthony Adragna 3/27/17 5:46 AM

IT'S COMING! After weeks of repeated delays, President Donald Trump is expected to sign the "energy independence" executive order directing his administration to undo a host of Obama-era environmental actions on Tuesday, according to EPA Administrator Scott Pruitt. "This is an effort to undo the unlawful approach the previous administration engaged in, and to do it right going forward with the mindset of being pro-growth and pro-environment," Pruitt told ABC's "This Week" Sunday. "And we can achieve both." As your ME host reports, Pruitt said the action would "absolutely" help bring back coal industry jobs as the Trump administration pursues a "long term" strategy to reinvigorate the domestic fossil fuel industry. Pros were first to know about the Tuesday signing last week. But first, The Washington Post reports Trump will today announce a new White House office led by son-in-law and senior adviser Jared Kushner with sweeping authority to overhaul the federal bureaucracy by harvesting ideas from the business world.

Clean Plan rewrite will be tough: Career federal managers keep the wheels of government turning while awaiting a political appointee to take over. But those people have careers that span administrations, and they do not typically make tough political calls. "There are dozens and dozens of important issues that will be involved in that rulemaking," said Jeff Holmstead, who ran the Office of Air and Radiation for Bush, the office that would be tasked with the Clean Power Plan rewrite. "Those will be important legal issues. Someone who is acting, a career official is not going to be able to make those decisions. Either they will have to take them up to the administrator, or they will need someone who is political head of the office who can make all those important decisions."

International Business Times
http://www.ibtimes.co.uk/epa-chief-trump-executive-order-will-roll-back-job-killing-climate-protection-legislation-1613793
EPA chief: Trump executive order will roll back 'job-killing' climate protection legislation
By James Tennent 3/27/17

The head of the US Environmental Protection Agency (EPA) has said that Donald Trump will signal the dismantling of legislation designed to fight global warming with the signing of an executive order on Tuesday.

Scott Pruitt, whose appointment to the EPA in February caused controversy because of his own climate change sceptic credentials, told ABC's This Week that the Energy Independence Executive Order was "about making sure we have a pro-growth and pro-environment approach to how we do regulation in this country".

"For too long, over the last several years, we've accepted a narrative that if you're pro-growth, pro-jobs, you're anti-environment. We can be both pro-jobs and pro-environment and the executive order is going to address the past administration's effort to kill jobs across this country through the Clean Power Plan."

The Clean Power Plan was a set of rules introduced under the Obama administration that would have seen states pushed to reduce CO2 emissions but which was held up by legal challenges.

The plan is expected to be scrapped under Trump. Defunding was suggested in the 2018 budget proposals.

Trump campaigned on a platform that Obama-era environmental regulation had led to job losses, particularly in coalmining areas. Critics argued that waning demand and automation were much bigger factors in companies cutting back on jobs.

In Kentucky last weekend, Trump continued his rhetoric, telling a rally of supporters that the EPA was going to be changed "from a job-killer into a job-creator".

Pruitt said that the Paris Agreement to combat climate change, which the US signed up to, was "non-binding".

"What was wrong with Paris," Pruitt said, "was not just that it failed to be treated as a treaty but [that] China and India, the largest producers of CO2 internationally, got away scot-free. They didn't have to take steps until 2030. Paris was just a bad deal."

Pruitt came under fire earlier in March when he appeared to say that CO2 emissions were not "a primary contributor" to global warming, going against the belief of his own agency and the majority scientific consensus.

AP
http://hosted.ap.org/dynamic/stories/U/US_TRUMP_CLIMATE?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT
EPA chief: Trump to undo Obama plan to curb global warming
3/26/17 2:02 PM

WASHINGTON (AP) -- President Donald Trump in the coming days will sign a new executive order that unravels his predecessor's sweeping plan to curb global warming, the head of the Environmental Protection Agency said Sunday.

EPA chief Scott Pruitt said the executive order to be signed Tuesday will undo the Obama administration's Clean Power Plan, an environmental regulation that restricts greenhouse gas emissions at coal-fired power plants. The 2015 rule has been on hold since last year while a federal appeals court considers a challenge by coal-friendly Republican-led states and more than 100 companies.

Speaking on ABC's "This Week," Pruitt said Trump's intention is to bring back coal-mining jobs and reduce the cost of electricity.

Supporters of former President Barack Obama's plan, including some Democratic-led states and environmental groups, argue it would spur thousands of clean-energy jobs and help the U.S. meet ambitious goals to reduce carbon pollution set by an international agreement reached in Paris in late 2015.

Pruitt on Sunday called the Paris climate accord a "bad deal" because he said it went too easy on China and India, who like the U.S. are among the world's leading producers of carbon dioxide.

"So we've penalized ourselves through lost jobs while China and India didn't take steps to address the issue internationally. So Paris was just a bad deal, in my estimation," he said.

Bloomberg
https://www.bloomberg.com/news/articles/2017-03-26/trump-to-begin-reversing-obama-era-cutbacks-in-carbon-dioxide
Trump to Begin Reversing Obama-Era Cutbacks in Carbon Dioxide
By Jennifer A Dlouhy 3/26/17 11:14 AM

The Trump administration will issue an executive order on Tuesday that begins dismantling a rule under former President Barack Obama that slashed carbon dioxide emissions and discouraged coal-fired electricity, U.S. environmental chief Scott Pruitt said.

"The executive order is going to address the past administration's effort to kill jobs across this country through the Clean Power Plan," Pruitt said on ABC's "This Week" program on Sunday.

Pruitt, the head of the Environmental Protection Agency, said Tuesday's order will be followed swiftly by actions to "make sure that whatever steps we take in the future will be pro-growth, pro-environment but within the framework of the Clean Air Act." He said it will be legal and is "an effort to undo the unlawful approach the previous administration engaged in and do it right going forward."

Under Obama, the EPA set a goal of reducing carbon dioxide emissions by 32 percent below 2005 levels by the year 2030, and its Clean Power Plan dictated specific targets for states to reach. The initiative has been in legal limbo since the Supreme Court stayed it in February 2016. Still, utilities have already shed coal-fired electricity and added natural gas and renewable power, partly in a bid to satisfy the looming requirements.

Opponents of the rule argue that the EPA overstepped its regulatory authority under the Clean Air Act by giving states broad carbon-cutting mandates instead of imposing specific requirements on individual facilities.

Coal Leases

President Donald Trump's long-awaited executive order also is slated to compel Interior Secretary Ryan Zinke to lift a moratorium on the sale of new coal leases on federal land. The actions set in motion by the order could take years to play out bureaucratically, but the directive will deliver immediate symbolic value.

Rescinding Obama's Clean Power Plan could help Trump fulfill his pledge to "cancel job-killing restrictions" on domestic energy. It also would undercut the carbon-cutting pledge that the U.S. and nearly 200 other countries made in Paris in 2015 -- an accord that Trump may disavow.

Support from coal miners helped propel Trump to victory by aiding wins in Pennsylvania, West Virginia and other states that have seen jobs tied to the fossil fuel decline. Trump has repeatedly promised to put miners back to work.

The change is not expected to return coal to its earlier dominance in electricity production, but the fossil fuel may see moderate growth as a result, according to projections from the Energy Information Administration. Use of natural gas by power plants also could decrease.

Even before he became EPA administrator, Pruitt was fighting the Clean Power Plan. As the state's attorney general, he had Oklahoma join more than two dozen other states, plus electric utilities, labor unions, business groups and coal miners, in challenging the rule. An array of environmental groups, public health advocates, renewable-energy developers, large corporations and 18 other states defended the initiative.

The U.S. Court of Appeals heard arguments on the challenge last September but hasn't ruled. The Trump administration can file a motion to hold the matter in abeyance as a way to begin rule-making aimed at rescinding the measure administratively. Environmental activists who are already defending the rule in court have vowed to fight such a move.

Washington Examiner
http://www.washingtonexaminer.com/trump-order-to-undo-obama-emissions-plan-coming-tuesday/article/2618486
Trump order to undo Obama emissions plan coming Tuesday
By Joseph Lawler 3/26/17 12:24PM

President Trump will issue an executive order on Tuesday to begin undoing former President Obama's rule on carbon emissions, Environmental Protection Agency head Scott Pruitt said Sunday.

"This is about making sure that we have a pro-growth and pro-environment approach to how we do regulation in this country," Pruitt said on ABC's This Week.

The order, he said, "will address the past administration's efforts to kill jobs across this country through the Clean Power Plan."

The plan, currently stayed by a February 2016 Supreme Court decision, sets specific carbon dioxide emission reduction targets for states, discouraging electricity produced from coal.

Pruitt said that Trump aimed to bring back coal jobs, and that future efforts from the EPA would be directed toward that end.

As for the Paris Agreement setting emissions targets for countries, Pruitt called it a "bad deal" because it cost the U.S. jobs without getting concessions from China and India.

Innovation in coal and natural gas extraction have lowered emissions while also lowering the price of electricity, Pruitt argued.

"This is an effort to undo the unlawful approach the previous administration engaged in and to do it right going forward with the mindset of being pro-growth and pro-environment, and we can achieve both," he said.

Washington Times
http://www.washingtontimes.com/news/2017/mar/26/executive-action-to-kill-clean-power-plan-coming-t/
Trump executive order to kill Obama-era Clean Power Plan coming this week: EPA chief
By Ben Wolfgang 3/26/17

President Trump this week will sign an executive order to begin unraveling the Clean Power Plan, EPA Administrator Scott Pruitt said Sunday, the first step in the lengthy process of dismantling the central piece of former President Obama's climate-change agenda.

The plan, which would limit carbon emissions from power plants and greatly reduce coal's share of U.S. power generation, was stayed by the U.S. Supreme Court and has not gone into full effect.

Still, Mr. Trump and Mr. Pruitt have said that formally eliminating the plan and returning certainty to the energy marketplace will drive down electricity prices and create jobs.

"For too long, over the last several years, we've accepted a narrative that if you're pro-growth, pro-jobs, you're anti-environment. If you're pro-environment, you're anti-jobs or anti-growth," he told ABC's "This Week."

"That's just not where we've been as a country throughout our existence. We've made tremendous progress on our environment and we can be both pro-jobs and pro-environment, and the executive order's going to address the past administration's effort to kill jobs across this country through the Clean Power Plan," Mr. Pruitt said.

The former Oklahoma attorney general predicted that getting rid of the plan would bring back coal mining and manufacturing jobs across the U.S.

Mr. Pruitt sued to halt the order while Oklahoma attorney general, one of several states that kept the plan tied up in the courts.

The executive order targeting the Clean Power Plan will be signed Tuesday, he said.

The executive order, however, is just the first step in what will be a complex process. The EPA still must hold public hearings, accept public comments, consult with stakeholders, and likely face numerous lawsuits in its effort to eliminate the Clean Power Plan altogether.

The process of removing the program from the books is expected to take at least one year, possibly longer.

Supporters of Mr. Obama's plan, including some Democratic-led states and environmental groups, argue it will create thousands of clean-energy jobs and help the U.S. meet ambitious goals to reduce carbon pollution set by an international agreement reached in Paris in late 2015.

Mr. Pruitt called the Paris accord on climate change a "bad deal" because he said it went too easy on China and India, who are among the world's leading producers of carbon dioxide.

"So we've penalized ourselves through lost jobs while China and India didn't take steps to address the issue internationally," he said. "So Paris was just a bad deal, in my estimation."

Kevin McGonagle
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4524
mcgonagle.kevin@epa.gov

Message

From: So, Katherine [so.katherine@epa.gov]
Sent: 4/18/2017 1:50:10 PM
To: McGonagle, Kevin [mcgonagle.kevin@epa.gov]; Jefferson, Gayle [Jefferson.Gayle@epa.gov]; Mccabe, Catherine [McCabe.Catherine@epa.gov]; Reeder, John [Reeder.John@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Hull, George [Hull.George@epa.gov]; Slotkin, Ron [slotkin.ron@epa.gov]; Sowell, Sarah [Sowell.Sarah@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]; Orquina, Jessica [Orquina.Jessica@epa.gov]; Benton, Donald [benton.donald@epa.gov]; Bangerter, Layne [bangerter.layne@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Ericksen, Doug [ericksen.doug@epa.gov]; Konkus, John [konkus.john@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Kreutzer, David [kreutzer.david@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Sugiyama, George [sugiyama.george@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Valentine, Julia [Valentine.Julia@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Freire, JP [Freire.JP@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Graham, Amy [graham.amy@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; Younes, Lina [Younes.Lina@epa.gov]; AO OPA Media Relations [AO_OPA_Media_Relations@epa.gov]; Brennan, Thomas [Brennan.Thomas@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]
CC: So, Katherine [so.katherine@epa.gov]
Subject: InsideEPA: Potential EPA request to delay utility MACT lawsuit faces legal barriers, 4/18/17

InsideEPA
https://insideepa.com/daily-news/potential-epa-request-delay-utility-mact-lawsuit-faces-legal-barriers
Potential EPA request to delay utility MACT lawsuit faces legal barriers
By Anthony Lacey 4/17/17

EPA is said to be considering asking a federal appeals court to halt litigation over the Obama administration's revised cost review justifying the agency's utility air toxics rule, but an industry attorney says such a request faces legal barriers, including the timing of such a request one month before oral argument and the fact EPA recently filed a brief in support of the cost finding.

“It's much harder to ask for the abeyance if it is the second thing you have done after filing a brief,” the source says. “It's much easier if you file for abeyance as the first thing you do once you get to the agency.”

The industry source says new administrations routinely ask courts to grant abeyance in suits over regulations issued by prior administrations, in order to reconsider the rules. But the source says the utility air toxics rule case is “unusual” because EPA will have to explain why it wants abeyance so soon after filing a brief defending it.

EPA has not yet asked the U.S. Court of Appeals for the District of Columbia Circuit to hold the utility maximum achievable control technology (MACT) cost review case, *Murray Energy Corporation v. EPA, et al.,* in abeyance. Oral argument is currently scheduled for May 18.

But environmentalists are concerned the administration may try to delay the litigation. “The Administration may be planning to ask the [court] to postpone hearing the case -- after it has been fully briefed, and only a few weeks before oral argument was scheduled,” Environmental Defense Fund said in an April 17 note to reporters.

Their concerns may not be unfounded. Since Administrator Scott Pruitt was sworn in on Feb. 17, EPA has won requests from the court to postpone arguments in cases over major Obama EPA air rules including the greenhouse gas (GHG) rule for new power plants and the tightening of the ozone air standard.

The D.C. Circuit granted the administration's request to delay the ozone litigation just eight business days before scheduled oral argument, timing that drew a rebuke from the three-judge panel slated to hear the case.

In an April 11 order, the panel said that although it was granting EPA's request to delay argument in the ozone case, also known as *Murray Energy v. EPA*, it "disfavors motions to postpone oral argument and reminds respondent it is imperative that the court be notified promptly when a potential issue arises that affects the date of oral argument."

The agency is also seeking to delay litigation over first-time methane limits for new oil and gas drilling and to delay issuance of a ruling in litigation over the Clean Power Plan (CPP) greenhouse gas (GHG) rule for existing power plants.

However, in each case EPA did not file any substantial briefs in defense of those rules after Pruitt took office, whereas Pruitt's agency offered a strong defense of the utility MACT cost review in a March 22 filing.

If the Pruitt EPA does decide to try and seek abeyance in the D.C. Circuit suit over the utility MACT cost review as environmentalists fear, the industry source says "there's going to have be some explaining, especially if they say it's to reconsider or change the rule. It begs for some sort of reconciling of positions."

Environmentalists who have intervened in the case to defend EPA's cost finding and utility MACT from industry attacks could also site the reversal in position to fight the abeyance request, the source says.

"The environmentalists could say, 'This is ridiculous, look at the inconsistency with what they just filed,'" the source says, referring to the Pruitt EPA's March 22 brief offering a solid defense of the cost analysis -- although the final brief is largely a re-submission of an earlier respondent brief the Obama EPA filed on Jan. 18.

The source adds that the D.C. Circuit might also reject an abeyance request in the *Murray Energy* case because oral argument on May 18 is roughly only a month away -- though the D.C. Circuit granted the administration's request in the ozone case on a much shorter deadline.

Related Litigation

If EPA asks to put the utility MACT case on hold, it is unclear whether the agency would also seek to delay a related case, *ARIPPA v. EPA*, that consolidates environmentalist and power industry challenges to the Obama EPA's decision to reject petitions asking it to reconsider various provisions of the utility MACT.

The source says EPA is in the same unusual position as *Murray Energy* if it asks for abeyance, given that the agency filed an April 3 final brief saying the lawsuits should all be rejected. In the final brief, filed more than a month after Pruitt joined the agency, EPA outlines its legal defense of the petition denials.

While *ARIPPA* deals with the petition denials, *Murray Energy* focuses on the merits of a supplemental cost analysis EPA performed for the utility MACT in response to a Supreme Court ruling. The court in its 5-4 ruling from 2015 in *Michigan v. EPA* said the agency erred by not undertaking the cost review of the MACT before issuing its declaration that the rule

was “appropriate and necessary” under the Clean Air Act, and remanded litigation over the rule to EPA. The agency then issued the cost finding and said the rule was still justified.

Meanwhile, EPA is asking the D.C. Circuit to hold litigation over its first-time methane rule for new oil and gas drilling in abeyance while it weighs possible changes to the rule in line with President Donald Trump's executive order directing agencies to reduce regulatory burdens on the energy sector.

The agency filed its abeyance request on April 7 and environmentalists and public health groups file their response in opposition on April 14, but the court at press time had not issued a decision.

EPA succeeded with its request to delay argument in the case over the Obama-era decision to tighten the ozone NAAQS from the 2008 limit of 75 parts per billion (ppb) down to 70 ppb. But the agency had not filed anything in the case since Pruitt became administrator other than a March 15 letter offering its take on the format for oral argument. It waited almost a month before then filing the April 7 request to postpone argument.

In the CPP litigation, EPA on March 13 under Pruitt filed to say it did not oppose consolidating various cases over the rule, followed by its March 28 request to hold the litigation in abeyance. Oral argument in that case took place last year, but briefing continued after groups sued over EPA's denial of petitions to reconsider the CPP.

For the climate new source performance standards for power plants, EPA filed its final brief on Feb. 6 offering a strong defense of the rule -- days after Trump took office, but before Pruitt joined the agency. On March 28, the agency then asked to put argument in the litigation on hold while it weighed whether to reconsider the rule. The court granted the request on March 30, removing the litigation from the scheduled April 17 oral argument calendar.

In other air cases, the Pruitt EPA has continued the Obama EPA's position -- such as an April 14 filing continuing a 4th Circuit appeal of a federal district court ruling setting a tight deadline for the agency to conduct a review of the impact its Clean Air Act rules have had on jobs in the coal sector.

The agency, for now, appears to be continuing the previous administration's defense of D.C. Circuit litigation scheduled for May 8 oral argument over a rule that forces 36 states to remove language from their Clean Air Act compliance plans allowing some facilities to exceed federal air pollution limits during periods of startup, shutdown and malfunction, filing an April 4 letter on its preferred oral argument format.

Trump administration lawyers also defended EPA at Feb. 10 oral argument in a case where environmentalists challenged an Obama-era declaration that the agency had met a mandate to regulate 90 percent of sources of specific air toxics, although that occurred before Pruitt took office. -- *Anthony Lacey* (alacey@iwpnews.com)

Katherine So
Office of Media Relations Intern
U.S. Environmental Protection Agency
Telephone: (202)-564-4511
so.katherine@epa.gov