To: Allnutt, David[Allnutt.David@epa.gov]; Anderson, Lea[anderson.lea@epa.gov]; Anderson, Steve[Anderson.Steve@epa.gov]; Aranda, Amber[aranda.amber@epa.gov]; Averback, Jonathan[Averback.Jonathan@epa.gov]; Belser, Evan[Belser.Evan@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]; Branning, Amy[Branning.Amy@epa.gov]; Bunker, Byron[bunker.byron@epa.gov]; Chapman, Apple[Chapman.Apple@epa.gov]; Cozad, David[Cozad.David@epa.gov]; Crum, Lynda[Crum.Lynda@epa.gov]; Crystal, Roy[crystal.roy@epa.gov]; Davis, Julian[davis.julian@epa.gov]; Dickinson, David[Dickinson.David@epa.gov]; Dierker, Carl[Dierker.Carl@epa.gov]; Dolph, Becky[Dolph.Becky@epa.gov]; Doster, Brian[Doster.Brian@epa.gov]; Dubey, Susmita[dubey.susmita@epa.gov]; Dubois, Roland[Dubois.Roland@epa.gov]; Frey, Bert[frey.bertram@epa.gov]; Froikin, Sara[Froikin.Sara@epa.gov]; Graham, Cheryl[Graham.Cheryl@epa.gov]; Harrison, Ben[Harrison.Ben@epa.gov]; Hoffman, Howard[hoffman.howard@epa.gov]; Hogan, Stephanie[Hogan.Stephanie@epa.gov]; Holmes, Carol[Holmes.Carol@epa.gov]; Igoe, Sheila[Igoe.Sheila@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]; Kaplan, Robert[kaplan.robert@epa.gov]; Kataoka, Mark[Kataoka.Mark@epa.gov]; Klepp, Robert[Klepp.Robert@epa.gov]; Lee, Michael[lee.michaelg@epa.gov]; Lovett, Lauren[Lovett.Lauren@epa.gov]; Mackey, Cyndy[Mackey.Cyndy@epa.gov]; Manners, Mary[manners.mary@epa.gov]; Marks, Matthew[Marks.Matthew@epa.gov]; Matthews, Julie[Matthews.Juliane@epa.gov]; McConkey, Diane[Mcconkey.Diane@epa.gov]; Mclean, Kevin[Mclean.Kevin@epa.gov]; Morgan, Jeanette[Morgan.Jeanette@epa.gov]; Muller, Sheldon[Muller.Sheldon@epa.gov]; Nguyen, Quoc[Nguyen.Quoc@epa.gov]; Adair, Jocelyn[Adair.Jocelyn@epa.gov]; Odendahl, Steve[Odendahl.Steve@epa.gov]; Okoye, Winifred[Okoye.Winifred@epa.gov]; Orlin, David[Orlin.David@epa.gov]; Pastorkovich, Anne-Marie[Pastorkovich.Anne-Marie@epa.gov]; Rodman, Sonja[Rodman.Sonja@epa.gov]; Rowland, John[Rowland.John@epa.gov]; Schaaf, Eric[Schaaf.Eric@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Senn, John[Senn.John@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]; Snyder, Doug[Snyder.Doug@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Stahle, Susan[Stahle.Susan@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Stern, Allyn[Stern.Allyn@epa.gov]; Thrift, Mike[thrift.mike@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Ting, Kaytrue[Ting.Kaytrue@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Versace, Paul[Versace.Paul@epa.gov]; Vetter, Rick[Vetter.Rick@epa.gov]; Werner, Jacqueline[Werner.Jacqueline@epa.gov]; Wilcox, Geoffrey[wilcox.geoffrey@epa.gov]; Williams, Melina[Williams.Melina@epa.gov]; Williamson, Timothy[Williamson.Tim@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Wills, Jennifer[Wills.Jennifer@epa.gov]; Blake, Wendy[Blake.Wendy@epa.gov]; Schramm, Daniel[Schramm.Daniel@epa.gov]; Vergeront, Julie[Vergeront.Julie@epa.gov]; Tozzi, Lauren[Tozzi.Lauren@epa.gov]; Pilchen, Zach[Pilchen.Zach@epa.gov]; Skinner-Thompson, Jonathan[Skinner-Thompson.Jonathan@epa.gov]; Vijayan, Abi[Vijayan.Abi@epa.gov]; Caballero, Kathryn[Caballero.Kathryn@epa.gov]; Thompson, Christopher[Thompson.Christopher@epa.gov]; Williams, Christopher[Williams.Christopher@epa.gov]; Michaels, Lauren[Michaels.Lauren@epa.gov]; Nguyen, DucH[Nguyen.DucH@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Charlton, Tom[Charlton.Tom@epa.gov]; Kulschinsky, Edward[Kulschinsky.Edward@epa.gov]; Portmess, Jessica[Portmess.Jessica@epa.gov]; Kryman, Matthew[Kryman.Matthew@epa.gov]; Greenglass, Nora[Greenglass.Nora@epa.gov]; Spina, Providence[Spina.Providence@epa.gov]; Palmer, Karen[Palmer.Karen@epa.gov]; Seidman, Emily[seidman.emily@epa.gov]; Conrad, Daniel[conrad.daniel@epa.gov]; OGC FEAT[OGC_FEAT@epa.gov]; Hindin, David[Hindin.David@epa.gov]; Sullivan, Tim[Sullivan.Tim@epa.gov]; Carrillo, Andrea[Carrillo.Andrea@epa.gov]; Krallman, John[krallman.john@epa.gov]; Mastro, Donna[Mastro.Donna@epa.gov]; Kane, Eleanor[kane.eleanor@epa.gov]; Ng, Brian[Ng.Brian@epa.gov]; Li, Ryland (Shengzhi)[Li.Ryland@epa.gov]; Spiegelman, Nina[Spiegelman.Nina@epa.gov]; Kodish, Jeff[Kodish.Jeff@epa.gov]; Dugan, Brett[Dugan.Brett@epa.gov]; Yap, Jacqueline[yap.jacqueline@epa.gov]; Pierce, Alexandria[pierce.alexandria@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Buchsbaum, Seth[buchsbaum.seth@epa.gov]; Iddings, Brianna[Iddings.Brianna@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]; Nelson, Karen[nelson.karen@epa.gov]
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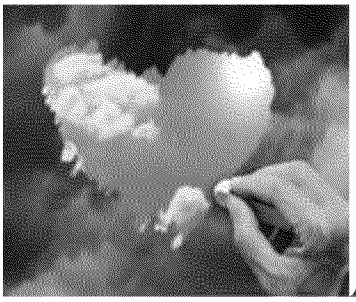
Subject: Air & Radiation Law News for November 2, 2017



Air & Radiation Law News

for November 2, 2017

Bloomberg BNA Daily Environment Report™

Leading the News

Air Pollution
EPA Won't Expand Region Required to Reduce Ozone Pollution
Central states will not have to install more rigorous pollution controls for ozone-forming emissions that contribute to neighboring states' ozone problems, the EPA said.

Air Pollution
Shippers Question $14 Billion Cost of Greening California Ports
AP Moller-Maersk, Evergreen Shipping Agency, and other terminal operators, along with dozens of trucking companies, would shoulder most of the $14 billion cost of a plan to address air pollution at the city-owned ports of Los Angeles and Long Beach.

Energy
Three LNG Export Terminal Authorizations Upheld in D.C. Circuit
Energy Department authorizations of liquefied natural gas export terminals in Louisiana, Maryland, and Texas were upheld Nov. 1 by a federal appeals court, which rejected the Sierra Club's petitions alleging the department didn't do enough to assess indirect environmental impacts of the projects.

News

Civil Infrastructure

Engineers Question Millions FEMA Spent on Generators for Puerto Rico

The Federal Emergency Management Agency spent $35.1 million on renting two emergency generators to help power blacked-out San Juan, Puerto Rico. But a group of engineers says existing infrastructure could have been used more effectively at a fraction of the cost.

Climate Policy

Biggest Aluminum Maker Outside China Aims for Low Carbon Brand

United Co. Rusal, the biggest aluminum maker outside China, plans to sell a quarter of its output under a "low carbon" brand in the next three to four years to tap into demand for metal produced with less pollution and to mark itself off from rivals relying on power generated from coal.

Energy

Emphasis on Coal Moves Japan in the Wrong Direction, Report Says

Japan's support for coal power is pushing against global trends and ignores the nation's advantages in clean-energy technology, according to a report released Nov. 1.

Energy

U.K. Nuclear Industry Sees No Brexit Win from Euratom Pullout

There is no upside to Britain withdrawing from the European Union's treaty dealing with such issues as radioactive materials transport to nuclear reactor parts. That was the unanimous verdict of four industry insiders quizzed by a cross-party panel of lawmakers Nov. 1.

International Climate

Sweden Pays for Trump Whistleblower to Attend UN Climate Talks

The government of Sweden is paying for a former U.S. Interior Department official and prominent critic of President Donald Trump's climate policy to attend next week's United Nations climate conference in Germany, where he says he will speak about the U.S. "war on science."

Mine Safety

Coal Boss Bob Murray to Challenge 'Humiliating' Order

Murray Energy Corp. is vowing to "immediately" appeal a pending ruling forcing company boss Bob Murray to tell miners, either personally or via video, about their safety rights, a company spokesman told Bloomberg Environment.

Oil & Gas

Gas Retailers Seek Bounty in Blue-Sky Push in Indian Capital

A ban on dirty fuels in areas surrounding one of the world's most polluted cities is set to spur sales at India's natural-gas retailers.

Renewable Energy

Japan-Based Toda to Sell Millions in Green Bonds for Wind Farm

Toda Corp., a Japanese construction company, plans to sell 10 billion yen ($88 million) of green bonds to build a floating wind farm.

Renewable Energy

Vietnam Seen as Frontier for Solar, But Not at Expense of Coal

Solar water heaters and rooftop panels are nothing new in Vietnam, but only recently has there been a glimmer of light suggesting the government will bring solar power into the national electric grid.

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TRUMP'S EPA: Agency at a crossroads -- Complete coverage

Inside EPA's **Weekly Report,** 11/03/2017

https://insideepa.com/newsletters/inside-epa

Latest News

ECOS, EPA Eye Metrics To Reduce State Program Reviews, Boost Flexibility

Todd Parfitt, president of the Environmental Council of the States (ECOS), says the group of state environmental regulators is working with EPA to craft metrics for reducing agency reviews of state programs in order to free up limited resources and bolster agency Administrator Scott Pruitt's goal of delegating more environmental protection work to states with increased flexibility in how states achieve those goals.

Beck Defends Opposition To Using 'Exploratory' Science For EPA Rules

Nancy Beck, the former chemical industry toxicologist who is currently the top Trump toxics appointee at EPA, is defending her approach to regulation that critics have said favors weaker rules sought by industry, saying she focuses on using robust scientific studies for policies and not "exploratory" science to support costly rules.

Hurricanes Revive Debate On EPA 'Force Majeure' Refinery Air Rule Waiver

Recent major hurricanes and other extreme weather events are reviving debate over an Obama EPA air toxics rule that allows refineries a waiver from the regulation due to *force majeure* -- unforeseen and uncontrollable events -- with environmentalists urging the agency to scrap the exemption in its ongoing reconsideration of the rule.

Truckers Fear 50-State Rule Patchwork If EPA Loses Trailer GHG Authority

Truckers and other industry groups that support the Obama EPA's phase 2 greenhouse gas rule for medium- and heavy-duty trucks are questioning trailer manufacturers' successful legal bid to halt, at least temporarily, the rule's trailer provisions, fearing it will lead to a permanent ban and open the door to a patchwork of 50 different state standards.

Daily Feed

EPA sends final 2018 RFS volumes rule for OMB review

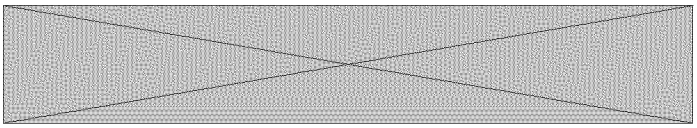
EPA has sent its 2018 renewable fuel standard (RFS) regulation for White House review, which could signal the agency will meet a Nov. 30 statutory deadline for issuing the rule.

EPA seeks comment on permitting best practices

EPA is seeking comment on whether federal permitting best practices apply to delegated state programs, an effort that could aid Trump administration efforts to speed permitting.

Ewire: Potential Senate rule changes could boost EPA nominees

In today's news roundup: Senate Majority Leader Mitch McConnell (R-KY) eyes rules changes to speed up consideration of President Donald Trump's nominees for top EPA positions.



EPA

Pruitt demotes critic as he remakes science boards

Kevin Bogardus, E&E News reporter

Published: Wednesday, November 1, 2017

U.S. EPA Administrator Scott Pruitt (seated) named a new chairman of the agency's Board of Scientific Counselors, Paul Gilman (second from left), replacing one of his critics, Deborah Swackhamer, in the process.
@EPAScottPruitt/Twitter

Deborah Swackhamer checked her phone yesterday in the Zagreb, Croatia, airport and found out she would no longer lead a U.S. EPA science advisory board.

A friend had forwarded to Swackhamer, the chairwoman of EPA's Board of Scientific Counselors, who was returning from vacation in Europe, a news article saying Administrator Scott Pruitt had launched a sweeping directive to reshape the agency's science panels. Pruitt had also named new chairmen for some of those boards, including Paul Gilman to lead BOSC, which Swackhamer currently heads up.

"I was getting hints from inside EPA from its Office of Research and Development asking me if I wanted to stay, tiptoeing around it," Swackhamer told E&E News. "I officially found out yesterday when I saw Paul Gilman's name in the paper."

Since March 2015, Swackhamer, a retired public health professor from the University of Minnesota and an environmental chemist, has been chairwoman of the science board, which advises EPA on its research programs. Her term ends in March 2018, and she expects to serve out her term on BOSC — although just as a member, not as its chairwoman.

Deborah Swackhamer. University of Minnesota

"I will be getting a letter to say I'm not a chair. I asked for clarity on when I'm going to be terminated as chair and was told I would get a letter," Swackhamer said. "When I get that letter, I will serve as a member of the BOSC, and I will serve out my term."

She added, "It is not normal to remove a chair. None of this is normal. None of this is regular."

Swackhamer has been critical of Pruitt and EPA under the Trump administration. She said she openly criticized his plan to remove the agency's science advisers who have received EPA grants and also clashed with President Trump's political appointees in the agency.

She gave congressional testimony earlier this year in which she questioned whether the administration could be politicizing science. That led to a dispute with EPA Chief of Staff Ryan Jackson, who Swackhamer says tried to sway her testimony (*E&E Daily*, June 28).

Swackhamer said she doesn't know the "official reason" for losing the BOSC chairmanship but suspects it involves the controversy over her testimony, which sparked a letter from Capitol Hill Democrats asking for an EPA inspector general investigation.

"I didn't tangle with Ryan Jackson. Ryan Jackson tangled with me, and it ended up in the press and with letters from Congress and to the IG," Swackhamer said. "I think that was a black mark against me. ... I

suspect that's the reason."

In response to written questions from E&E News asking why Swackhamer was demoted and whether it resulted from the episode with Jackson, an EPA spokesman said she "is currently serving a three-year term on the BOSC, and we fully expect her to continue serving."

Yesterday, Pruitt announced his order that required members of EPA's advisory committees to not be in receipt of EPA grants. Critics argue the order will leave EPA's advisers with industry ties in place, while academics and other researchers will be ousted (*E&E News PM*, Oct. 31).

Pruitt "is remaking these boards to support his agenda. This is not about science," Swackhamer said. "I have never seen such a takeover of an agency from top to bottom. ... He is playing his cards totally professionally well. He is a very strategic man."

She added, "I don't have any EPA funding, so they could not use that against me."

Pruitt also installed new chairmen for two other EPA panels: the Science Advisory Board (SAB) and the Clean Air Scientific Advisory Committee (CASAC).

But on both committees, those positions were already vacant. Ana Diez Roux, a Drexel University epidemiologist who had headed the CASAC, stepped down after her term expired Sept. 30. Peter Thorne, an occupational health professor at the University of Iowa, left the chairmanship of the SAB at the same time, also because his term had ended.

The BOSC chairman spot wasn't empty, given that Swackhamer still had roughly four months to serve as head of the science panel.

BOSC has already been targeted by Pruitt. The EPA chief decided not to renew several of the board members' terms, leading it to cancel its subcommittee meetings in the late summer and fall of this year (*Greenwire*, June 20).

Members of the science board traditionally serve two consecutive three-year terms. Swackhamer's first term ends this coming March, and she does not anticipate it will be renewed.

"I have no expectation of renewal," Swackhamer said. "He [Pruitt] has shown that he is not going to follow that tradition."

Reporter Sean Reilly contributed.

DOE

Agency releases documents on Obama-era travel spending

Hannah Northey, E&E News reporter

Published: Wednesday, November 1, 2017

Obama-era Energy Secretary Ernest Moniz and Deputy Secretary Elizabeth Sherwood-Randall (on left) used government aircraft and a noncommercial plane, records show. Airman 1st Class Christian Sullivan/U.S. Air Force

Obama-era Department of Energy officials traveled with government-owned or chartered aircraft three times last year and on a private, noncommercial plane once, according to newly released documents.

DOE last night publicly released documents submitted to House Oversight and Government Reform Chairman Trey Gowdy (R-S.C.) and ranking member Elijah Cummings (D-Md.) that detail the agency's travel throughout the prior year.

The documents arrive as House Democrats call for more information about Energy Secretary Rick Perry's use of noncommercial flights and DOE travel more broadly. The issue has plagued agencies across the federal government in recent months (*Greenwire*, Oct. 30).

In August 2016, former Energy Secretary Ernest Moniz, at least four other DOE senior officials and an editor from *The Atlantic* used a government plane to visit the Hanford waste site in Washington state, meet Gov. Jay Inslee (D) and view the Shepherds Flat Wind Farm from the air. That trip cost about $3,500.

On a second trip in January, Moniz flew on a government plane while traveling on official business with the former head of the Federal Energy Regulatory Commission, Norman Bay.

Moniz and a number of DOE officials took a government plane from Washington, D.C., to Mexico City earlier this year. Later flights were then listed from Mexico City to the Cavern City Air Terminal in New Mexico and then on to Washington. The cost of that trip was not to exceed $65,000, documents showed.

A third trip involved then-Deputy Secretary Elizabeth Sherwood-Randall using a Bonneville aircraft to tour the Grand Coulee Dam in February 2016 and a Southern Co. jet to visit the Vogtle nuclear reactors in Georgia and Kemper Project in Mississippi in March 2016. That trip cost about $3,000, and DOE reimbursed Southern for the flight.

The travel itineraries do not list details or cost estimates for senior DOE non-career officials who traveled

with former President Obama or Vice President Joe Biden. All trips and payments were approved by ethics lawyers at DOE.

Documents released last month show Perry took at least four noncommercial flights since taking office at a cost of roughly $56,000.

LAW

Court rejects environmental challenges to gas exports

Ellen M. Gilmer, E&E News reporter

Published: Wednesday, November 1, 2017

A court rejected Sierra Club lawsuits challenging the Energy Department's approval of liquefied natural gas exports. Pictured is the Freeport LNG terminal, which survived a separate Sierra Club challenge earlier this year. Freeport LNG Development LP

Environmentalists lost another battle against liquefied natural gas exports today.

Actually, they lost three.

The U.S. Court of Appeals for the District of Columbia Circuit this morning tossed three lawsuits from the Sierra Club that challenged the Department of Energy's approval of LNG exports from various terminals.

In a short order, a three-judge panel rejected the environmental group's claims that DOE failed to adequately consider climate impacts related to export approvals from Cove Point in Maryland, Sabine Pass in Louisiana and Corpus Christi in Texas.

The judges relied on a decision issued by the D.C. Circuit in a similar case just two months ago. In August, a separate panel tossed environmental challenges to DOE's approval of exports from the Freeport LNG terminal in Texas.

The court ruled DOE had properly explained why it chose not to do in-depth analysis of certain climate impacts. The department has consistently argued — under the current and previous administrations — that measuring the effect of LNG exports on global greenhouse gas emissions is too speculative to inform its decision (*Greenwire*, Aug. 15).

"The court's decision in Freeport largely governs the resolution of the instant cases," today's order says.

Judge David Tatel and Senior Judges Harry Edwards and David Sentelle declined to write a full opinion on the cases, instead issuing a four-page judgment that briefly addresses three distinct issues raised for the three export approvals: whether DOE should have done an in-depth environmental impact statement, rather than an environmental assessment for Cove Point and Sabine Pass; whether DOE ignored information about gas production that would feed exports from Cove Point; and whether the agency failed to properly weigh the public interest for the three projects.

On all three points, the court sided with the agency, ruling that DOE had properly justified its conclusions that the projects were in the public interest and would not cause significant impacts.

LNG export supporters quickly praised the D.C. Circuit's decision.

"We are pleased but not surprised that the D.C. Circuit Court has again upheld DOE, further cementing its opinion earlier this year that the existing rigorous DOE review process appropriately considers the environmental impacts of these projects," said Charlie Riedl, executive director of the Center for Liquefied Natural Gas, in a statement.

"We hope today's decision will put an end to the unnecessary and costly challenges by Sierra Club that delay LNG projects," he added. "The facts are clear and the Court agrees: the regulatory review process for U.S. LNG projects provides a thorough review of both operational and environmental impacts before being approved."

The Sierra Club, meanwhile, lamented the news. The group had hoped the court might instead take the approach of a separate D.C. Circuit decision that ordered the Federal Energy Regulatory Commission to take a closer look at greenhouse gas emissions from a pipeline (*Energywire*, Oct. 5).

"DOE is tasked with determining if proposed exports are in the public interest, and it is disappointing that the court has declined to hold the agency accountable for doing a real analysis that takes the costs for American communities into account," attorney Nathan Matthews said in a statement. "We will continue to work to protect communities from the threats of fracked gas pollution."

Environmental groups have opposed LNG exports for years, first making several failed attempts to challenge FERC approvals of export terminals, then turning their sights to DOE, which handles the actual applications for exports to countries that do not have free-trade agreements with the United States.

But Matthews vowed the battle against exports isn't over. In an interview, he noted environmentalists are challenging export proposals on several other grounds, including local impacts. And while the group doesn't have current plans for any new climate-focused challenges to DOE export approvals, it is continuing to push the issue in comments on other projects and an agency proposal to expedite small-scale exports.

After today's decision, at least one similar case remains pending — another challenge to export approvals from Sabine Pass.

Matthews said the Sierra Club is still evaluating its options on whether to seek a rehearing on today's

cases.

Click here to read the judgment.

ENERGY POLICY

Hill woes boost agencies' roles — FERC chairman

Sam Mintz, E&E News reporter

Published: Wednesday, November 1, 2017

FERC Chairman Neil Chatterjee spoke with E&E News reporters this morning. Amy Carlile/E&E News

Congressional gridlock has expanded the roles of federal agencies in setting policy, Federal Energy Regulatory Commission Chairman Neil Chatterjee said in an interview today.

"Because of the difficulty in getting major policy through the legislative branch, more and more public policy is being made in these agencies," he said. "The role of these agencies is becoming really, really important — FERC, in particular."

Speaking to several E&E News reporters, he added, "The fact that you guys are interested enough to ask me all these questions, the significance of the agency has never been more than it is in this moment."

His comments come as FERC is undertaking a rulemaking proposal from Energy Secretary Rick Perry that has massive implications for the energy and electricity industries.

The Department of Energy proposal would allow coal-fired and nuclear power plants in certain markets overseen by FERC to fully recover their costs in exchange for keeping a 90-day supply of fuel on-site. The plan has been praised by the coal and nuclear industries and others that would benefit. It's been panned by environmentalists, renewable energy advocates and petroleum interests.

FERC is still considering what action to take on the proposal, with a wide range of options and more than 500 comments from stakeholders.

"I was pleased with not just the quantity but the quality of the comments that came in," Chatterjee said.

The agency has until Dec. 11 to decide its next move.

FERC could adopt the notice of proposed rulemaking or it could reject it and begin its own rulemaking, Chatterjee said.

"What the comments are helping us do is navigate those options," he said.

One twist: Chatterjee might not be chairman at the Dec. 11 witching hour.

President Trump has nominated energy attorney Kevin McIntyre for a FERC post and tapped him to take over as chairman. The nominations of McIntyre and Democratic Senate aide Richard Glick have been held up, but senators are working on a deal to free them for confirmation (*E&E Daily*, Nov. 1).

Chatterjee said he is "pretty excited" about McIntyre taking the FERC gavel.

"Having gotten to know him on a personal level, I think we will work very well together," Chatterjee said. "I hope that he will look to the work that I've done since I had this opportunity."

He added, "I think the three months I've spent as chairman to date have probably been more involved than some people have in years. I hope that when I hand the gavel over to Kevin, that I can look him credibly in the face and say, 'I did the best I could, and I did it right.' I have full confidence that he will take the baton from me and run with it, and I will be right there with him."

PEOPLE

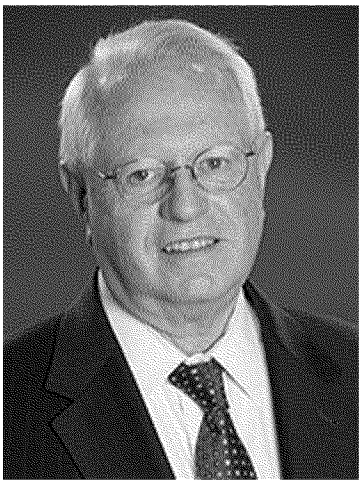
Well-known U.S. Chamber energy lobbyist to retire

Hannah Northey, E&E News reporter

Published: Wednesday, November 1, 2017

Bill Kovacs, a regulatory affairs expert at the U.S. Chamber of Commerce who once led the call for climate change trials, is set to retire.

The U.S. Chamber, the nation's largest trade group representing business, confirmed Kovacs is stepping down from his role as senior vice president for environment, technology and regulatory affairs, and the group is searching for a replacement. His departure was first reported by *Axios*.



Bill Kovacs. U.S. Chamber of Commerce

A seasoned D.C. lawyer, Kovacs first joined the U.S. Chamber in 1998. Before that, he served as chairman of Virginia's hazardous waste facilities siting board and as chief counsel for the House Subcommittee on Transportation and Commerce, according to his online biography.

He has a law degree from the Ohio State University Moritz College of Law and a Bachelor of Science degree from the University of Scranton.

Kovacs has led the call for regulatory reform in recent months.

He also led the U.S. Chamber's push for U.S. EPA to hold a public hearing on the science underpinning anthropogenic climate change.

Kovacs told the *Los Angeles Times* in 2009 that such a rare hearing would be "the science of climate change on trial," complete with witnesses, cross-examinations and a judge who would rule, essentially, on whether humans are warming the planet to dangerous effect.

The U.S. Chamber has since said the climate is changing and "man is contributing to these changes," while pushing back on President Obama's Clean Power Plan and other regulations.

Reporter Kevin Bogardus contributed.

WHITE HOUSE

Official portraits of Trump, Pence are unveiled

Published: Wednesday, November 1, 2017

Official portraits of President Trump and Vice President Pence have been released, nine months after they were sworn in. Shealah Craighead/White House

Nine months after the inauguration, the White House yesterday released the official portraits of President Trump and Vice President Mike Pence to be hung in thousands of federal offices nationwide.

The portraits had been missing from government buildings for months, leaving empty picture frames.

Replacing the pictures has been a tradition since the Civil War, and the transition is often fairly prompt. President Obama's picture was up by the third month of his tenure in 2009.

But for unknown reasons, the White House took a long time to prepare the pictures of Trump and Pence.

The administration is supposed to send the pictures to the Government Publishing Office, which in turn gives them to the General Services Administration, owner or leaser of almost 10,000 federal buildings.

Waiting for the White House, some offices had printed pictures of Trump from the White House website but found the resolution low. Also, the president was scowling.

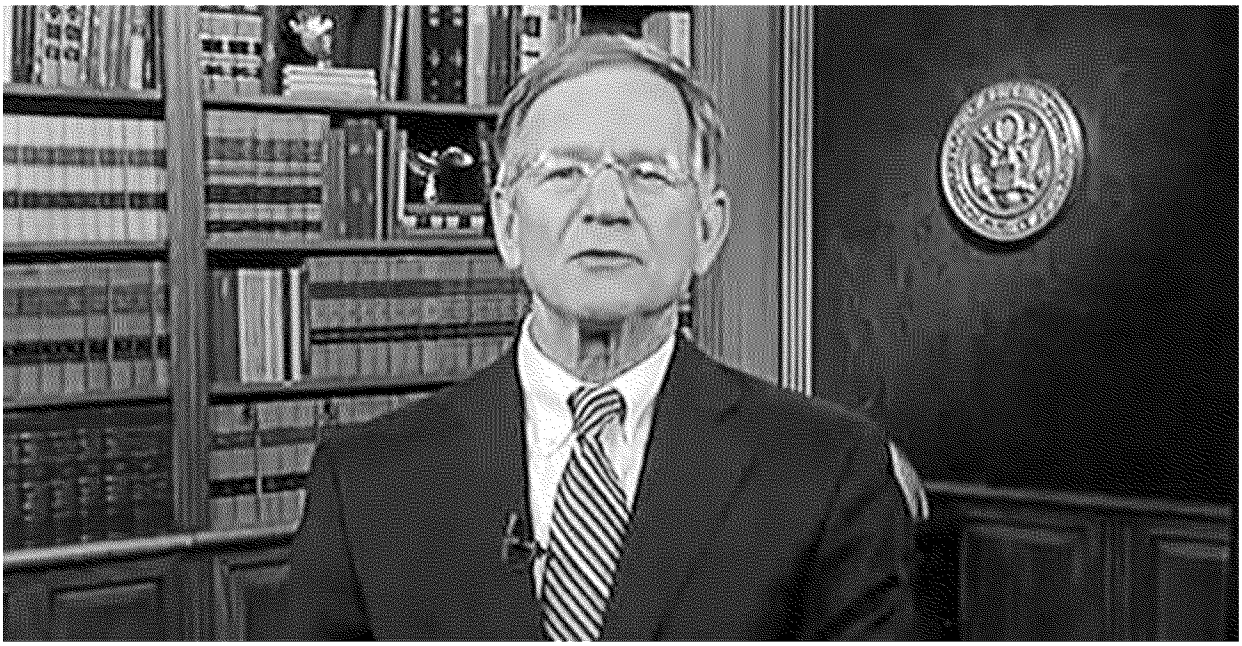
Trump sports a grin in his official photo (Lisa Rein, *Washington Post*, Oct. 31). **— NB**

POLITICS

Smith asks if Russians posed as Dakota Access protesters

Sam Mintz, E&E News reporter

Published: Wednesday, November 1, 2017



House Science, Space and Technology Chairman Lamar Smith (R-Texas) has asked Facebook and Twitter about possible Russian influence in energy issues. Smith's Office

A House committee is widening its investigation of Russian entities allegedly using social media to influence U.S. opinions on energy.

Science, Space and Technology Chairman Lamar Smith (R-Texas) yesterday sent a letter to the heads of Facebook, Twitter and Google referring to an Oct. 23 Buzzfeed article he said reported that Russian "antagonists" posed on Instagram as Native Americans protesting the Dakota Access pipeline.

The article, based largely on reporting from Russia news outlet RBC, says that an Instagram account called @Native_Americans_United_, which had at least 33,000 followers, was connected to a Russian "troll farm."

"This recent revelation confirms the Committee's suspicion: Russia has exploited American social media platforms in an effort to influence the U.S. energy market," Smith wrote.

The account, along with a similarly named user, has been suspended by Instagram. Facebook, which owns Instagram, did not confirm to Buzzfeed whether the accounts were related to the Russian meddling that the company has discovered in the course of investigating its role in the election.

Since June, Smith has been looking into whether Russia has interfered with American energy markets. He claims that Russian government entities have both donated money to environmental groups and used social media platforms to spread anti-fossil fuel messages, in an attempt to disrupt U.S. energy markets (*Greenwire*, Sept. 27).

His letter said the committee remains interested in information that the three companies have about Russian entities purchasing anti-fracking or anti-fossil fuel ads on the platforms, and requested a response or briefing by Nov. 14.

All three companies have representatives testifying on the Hill this week about Russian interference in the U.S. election.

FEDERAL AGENCIES

Bipartisan bill would promote data collection, use

Maxine Joselow, E&E News reporter

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The Commission on Evidence-Based Policymaking presented its report to the House Oversight and Government Reform Committee in September. @AERA_EdResearch/Twitter

House Speaker Paul Ryan (R-Wis.) and Sen. Patty Murray (D-Wash.) introduced legislation yesterday aimed at improving federal agencies' collection and use of data in decisionmaking.

The "Foundations for Evidence-Based Policymaking Act" is split to address "evidence-building activities" and "open government" at agencies.

The first section would require agencies to submit an evidence-building plan, which the Office of Management and Budget would consolidate into a governmentwide plan.

The second section would direct agencies to establish a data inventory and catalogue. Agencies would also be tasked with appointing a chief data officer.

"Patty and I have long advocated for a way to better measure the federal government's effectiveness — and this bill puts those efforts into action," Ryan said in a statement.

"As lawmakers, we have to change our approach not only to how we make policy, but how we gauge its results," Ryan said. "Ensuring our programs work is just common sense — and what American taxpayers deserve."

Some view Ryan's sponsorship of an evidence-gathering bill as ironic, given his questioning of

mainstream climate science and the impact of human activity on climate change.

That irony was palpable during a September hearing, when Rep. Elijah Cummings (D-Md.) said climate change heightened the importance of using evidence in policymaking (*E&E Daily*, Sept. 27).

Murray, who has been busy striking deals on health care, said in a statement, "No matter what side of the aisle you're on, we should all agree that government should work as efficiently as possible for the people it serves."

The legislation was directly informed by the recommendations of the Commission on Evidence-Based Policymaking. The council — a bipartisan group of social scientists, data experts and former government officials — released a report in September after 15 months of hearings and deliberation.

The 138-page report contained nearly two dozen recommendations, including the formation of a National Secure Data Service that would facilitate access to data while "ensuring privacy and transparency."

The House Oversight and Government Reform Committee is set to mark up the Ryan-Murray bill tomorrow, along with other measures.

EPA

Democrats say Pruitt is trying to 'muzzle' scientists

Arianna Skibell, E&E News reporter

Published: Wednesday, November 1, 2017

Democratic lawmakers want U.S. EPA Administrator Scott Pruitt to explain why agency scientists were prevented from speaking at a conference last month in Providence, R.I., about the state of Narragansett Bay and its watershed program. Doc Searls/Wikimedia Commons

A group of Democratic lawmakers are demanding that U.S. EPA Administrator Scott Pruitt explain why

agency scientists were prevented from speaking at a conference last month in Providence, R.I., about the state of Narragansett Bay and its watershed program.

In a letter spearheaded by senators and representatives from Rhode Island and Massachusetts, lawmakers said EPA's decision to "muzzle its scientists" is concerning.

"You would not have taken kindly to Washington bureaucrats telling scientists in Oklahoma they couldn't speak with Oklahoma organizations to come up with 'neighborhood solutions' to better protect public health and a critical economic asset," the lawmakers wrote. "Neither do we."

The letter was sent by Democratic Sens. Sheldon Whitehouse and Jack Reed of Rhode Island and Elizabeth Warren and Ed Markey of Massachusetts and by Democratic Reps. David Cicilline and Jim Langevin of Rhode Island and Richard Neal, Jim McGovern, Joe Kennedy, Katherine Clark and Seth Moulton of Massachusetts.

"Narragansett Bay is one of Rhode Island's and Massachusetts' most important economic assets," the members wrote. "The [Narragansett Bay Estuary Program] and other environmental organizations in the Narragansett Bay watershed have long relied upon the expertise of EPA scientists to provide the data and analysis needed to plan for its future.

"If EPA scientists are not allowed to participate in a workshop discussing the results of scientific research because that workshop included a discussion of climate change, that begs the question whether EPA will censor [National Estuary Program] grantees from discussing climate change."

The conference last month featured the release of a report three years in the making on the status of New England's largest estuary. The 500-page document includes an extensive section on climate change (*Greenwire*, Oct. 23).

EPA helps fund research on the bay through its administration of the NEP. Three agency-affiliated scientists were scheduled to speak at the conference, but were unexpectedly asked not to speak, as first reported by *The New York Times*.

EPA spokesman and former Trump campaign worker John Konkus attributed the decision to the nature of the event. "EPA scientists are attending. They simply are not presenting; it is not an EPA conference," he said.

COAL

Judge keeps Mont. mine running after slamming climate review

Dylan Brown, E&E News reporter

Published: Wednesday, November 1, 2017

A court allowed Signal Peak Energy LLC's Bull Mountains Mine No. 1 in Montana to continue operating. Signal Peak Energy/Facebook

A federal judge in Montana yesterday granted a coal company's last-minute plea to keep digging for coal several months after halting a mine expansion because federal officials failed to properly calculate its climate impacts.

Montana U.S. District Senior Judge Donald Molloy modified his August order that found a federal lease for the Bull Mountains Mine No. 1 did not take a "hard look at the indirect and cumulative effects of coal transportation and coal combustion" (*E&E News PM*, Aug. 15).

Mine owner Signal Peak Energy LLC followed up with a motion, backed by the Trump administration, warning about immediate layoffs as a result of an injunction.

The underground mine north of Billings extracted 1.8 million tons of coal for the most recent quarter and employs 253 people, according to the federal Mine Safety and Health Administration.

Signal Peak is jointly owned by investment firms and FirstEnergy Corp., an Ohio-based utility that has lobbied the White House extensively to keep open several of its coal plants (*Greenwire*, Aug. 23).

After a hearing yesterday, Molloy ruled that Signal Peak could mine up to 170,000 additional tons.

"Any federal coal so displaced must be stockpiled and stored at the Mine, and shall be neither sold nor shipped," he wrote. "In all other regards, the injunction ... remains in full force and effect."

Molloy promised a written explanation of the decision soon.

"We're extremely pleased, especially for our employees," Signal Peak spokesman Mike Dawson told E&E News. "It gives us the ability to move forward."

The Sierra Club's Beyond Coal campaign was at least pleased that Signal Peak cannot ship or sell the coal, representative Mike Scott said.

"This decision reaffirms the need for the company to finally be honest with the public about the costs of doing business that it passes on to American families every day in the form of dried-up aquifers, increased respiratory problems and more extreme drought and wildfires," he said.

"The American public and utilities across the country are turning away from this dirty form of energy in favor of cleaner and cheaper alternatives," Schott said. "It's time for Montana's leaders to recognize that and start paving the way for new clean energy jobs in our state."

COAL

Ramaco appeals permit denial for Wyo. mine

Published: Wednesday, November 1, 2017

After regulators and a citizens board rejected a permit application for what would be Wyoming's first new coal mine in decades, the company is appealing the decision.

In September, an independent citizens council said the plan by Ramaco Resources Inc. for the Brook mine near Sheridan failed to sufficiently address concerns about water and soil stability (*Greenwire*, Sept. 28).

The Wyoming Department of Environmental Quality then reversed its previous decision to approve Ramaco's application for the mine (*Greenwire*, Oct. 13).

In an appeal filed Friday in state district court, Ramaco said there were several procedural errors before and after the citizens board's decision.

CEO Randall Atkins said in a statement that the company is devoted to being "a good steward of Wyoming's air, water and soil."

He added, "We will address all of the alleged deficiencies raised by the [citizens board] in a manner that the state of Wyoming wants" (Heather Richards, *Casper* [Wyo.] *Star-Tribune*, Oct. 31). **— MJ**

COAL

Murray consolidates control in the West

Dylan Brown, E&E News reporter

Published: Wednesday, November 1, 2017

Murray Energy Corp. announced a deal yesterday consolidating its control over coal production in the West.

A new coal company co-owned by Murray, Canyon Consolidated Resources LLC, will acquire Kentucky-based Bowie Resource Partners LLC and its three operations in Utah, including the Sufco mine, the state's largest.

Canyon Consolidated Resources is a partnership between Murray Energy, which already owns mines in Utah, and former Bowie Resources Chairman John Siegel.

Siegel will serve as the new company's CEO when the deal is finalized on or before Nov. 15.

He and Murray Energy will each control 30.5 percent of the shares of Canyon Consolidated Resources. Second lien holders will control another 28.5 percent while the remaining roughly 10 percent will be controlled by the partnership's main investors, Javelin Global Commodities Ltd. — a joint venture of Murray Energy and German energy company Uniper SE — and Mexican coal import marketer Grupo CLISA.

"We believe that this partnership will generate tremendous cost synergies, which will allow these mines to be extremely competitive in the domestic and international coal marketplace," Murray Energy CEO Robert Murray said in a statement.

Murray has expressed concerns both publicly and directly to his ally, President Trump, that he may be forced to file for bankruptcy if certain coal plants close (*Greenwire*, Aug. 23).

"Clearly, the United States coal industry has experienced tremendous transformation over the past several years," Murray Energy Chief Operating Officer and Chief Financial Officer Robert Moore said in a statement. "We have long maintained that our industry must undergo significant consolidation in order to survive in what have been extraordinarily depressed coal markets."

In addition to Sufco, Canyon Consolidated Resources will control two other Bowie Resource mines in Utah — the Skyline and Dugout Canyon mines.

Murray Energy will also help oversee day-to-day mining operations at the mines and, under the terms of the partnership, Canyon Consolidated Resources will be required to buy all the coal mined at Murray Energy's Lila Canyon mine.

AIR POLLUTION

Court keeps Ark. haze litigation on ice

Sean Reilly, E&E News reporter

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A court wants parties to continue talks in an Arkansas haze case regarding emissions from Entergy Corp. coal-fired power plants like the Independence plant near Newark, Ark. Photolitherland/Wikipedia

A federal appeals court is maintaining a hold on lawsuits surrounding federal haze reduction requirements for Arkansas, overriding objections from environmental groups that state regulators are acting in bad faith.

In a brief unsigned order this morning, the 8th U.S. Circuit Court of Appeals kept the case in abeyance until Dec. 15, with all sides required to submit new status reports at that point.

The order marked a win for U.S. EPA, the Arkansas Department of Environmental Quality and Entergy Corp. In status reports submitted yesterday, all had asked the court for more time to hammer out a settlement to the regional haze litigation.

"With approximately $2 billion at stake ... Entergy has the greatest incentive of the parties to ensure that the abeyance period is used efficiently to determine if a negotiated resolution is possible," company attorneys said in an allusion to the projected cost of complying with an Obama-era cleanup plan for several coal-fired power plants.

Under President Trump, EPA officials have retreated from that earlier approach in favor of a state-drafted alternative. In a joint filing yesterday, EPA and the Arkansas Department of Environmental Quality (ADEQ) acknowledged the revisions are taking longer than expected and sought more time. The litigation has already been on hold since March. The National Parks Conservation Association and the Sierra Club had argued yesterday that added delay was pointless.

The state had provided a draft of its regional haze plan only two business days earlier, the groups' lawyers wrote, adding the provisions "do not provide a basis" for a negotiated deal. While the original EPA plan would have required Entergy to install "state-of-the-art" sulfur dioxide controls on one plant, for example, "the draft state plan unlawfully fails to require any meaningful reduction in air pollution," according to the filing.

Although a haze plan for Arkansas is now almost a decade overdue, the two groups said in their filing, "ADEQ has not made a good faith effort to resolve the issues in dispute in *this* litigation, and, by all appearances, the agency has no intention of seeking to negotiate with, or account for," the interests of the

environmental groups. In vain, they asked the court to end the hold on legal proceedings and set a schedule for submission of remaining briefs.

The regional haze program, dating back to 1999 in its current form, aims to restore natural views to 156 national parks and wilderness areas by 2064. In unveiling its original cleanup plan for Arkansas last year, EPA had predicted the new pollution controls on coal-fired power plants in the state would annually cut emissions of sulfur dioxide and nitrogen oxides by about 68,500 tons and 15,100 tons, respectively.

CALIFORNIA

Brown travels to Europe to promote climate cooperation

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California Gov. Jerry Brown (D) heads to Europe this weekend for an 11-day trip focused on climate change.

The trip, which will stop at the Vatican and a United Nations conference in Germany, is yet another attempt by Brown to continue the international fight against climate change, even as the U.S. government backs off.

Brown has emerged as one of President Trump's primary opponents on the issue, organizing states to increase emissions cuts in the wake of Trump's decision to ditch the Paris climate deal and working to strengthen California's already stringent emissions laws.

"While the White House declares war on climate science and retreats from the Paris Agreement, California is doing the opposite and taking action," Brown said in a statement. "We are joining with our partners from every part of the world to do what needs to be done to prevent irreversible climate change."

The nonprofit California State Protocol Foundation, which takes private donations, will fund the travel. His staff's travel is paid for in part by the nonprofit Climate Registry and also by Climate Action Reserve, a program that promotes carbon offsets.

Brown visited China and Russia earlier this year to promote efforts to curb climate change.

He will hold a San Francisco summit on the issue next year.

Brown is the special adviser for states and regions at the U.N. Climate Change Conference in Bonn, Germany. Democratic Govs. Kate Brown of Oregon, Jay Inslee of Washington and Terry McAuliffe of Virginia will join him on a panel about state efforts.

Brown will also give a speech to European Parliament leaders, address the state parliament in Germany's Baden-Württemberg and meet with representatives from national scientific academies (Kathleen Ronayne, Associated Press, Nov. 1). **— NB**

AUTOS

White House sets aside mandate for talking-car tech

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The Trump administration will not move forward with plans to require new vehicles to be able to wirelessly communicate with each other, a major blow for a technology that could prevent traffic deaths, auto industry officials said.

Two officials who have talked with the White House said the administration is quietly putting aside the plans, which the Obama administration proposed last year.

The proposal would require a function known as vehicle-to-vehicle communications, or V2V, to come standard on all new cars.

The technology essentially lets cars talk to each other, transmitting their speed, location and other information to nearby vehicles 10 times every second. It could allow cars to predict when someone is going to run a red light, or prevent crashes on blind turns.

The Department of Transportation declined to comment, but V2V is no longer listed with other regulations being considered by the White House Office of Management and Budget. Instead, V2V has been moved to its long-term agenda.

Some carmakers are still installing the technology without the mandate, but the industry has been pushing for a requirement to set up standards to allow different makes of cars to communicate with each other (Joan Lowy, AP/Albany *Times Union*, Nov. 1). **— NS**

AN E&E NEWS PUBLICATION

CLIMATEWIRE — Thu., November 2, 2017

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Will Bridenstine politicize NASA?

Will the first politician to lead NASA politicize it? That was the central question left unresolved yesterday as Rep. Jim Bridenstine (R-Okla.) testified before the Senate Commerce, Science and Transportation Committee about heading the nation's space agency.

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Elon Musk, usually an optimist, dwells on Tesla's problems

In a call with investors, Tesla's CEO focused on snags at the Gigafactory and blasted negative news reports.

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Eyeing clock, investors push shale drillers for returns

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Drilling proposal for Nev.'s Ruby Mountains under fire

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