To: Casso, Ruben[Casso.Ruben@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]
From: Beaver, Melinda
Sent: Wed 7/19/2017 5:24:17 PM
Subject: RE: AIR POLLUTION: EPA seeks to freeze Utah regional haze litigation

Thanks Ruben. I was not expecting the photo!

From: Casso, Ruben
Sent: Wednesday, July 19, 2017 1:05 PM
To: Beaver, Melinda <Beaver.Melinda@epa.gov>; Werner, Christopher <Werner.Christopher@epa.gov>
Subject: AIR POLLUTION: EPA seeks to freeze Utah regional haze litigation

AIR POLLUTION: EPA seeks to freeze Utah regional haze litigation

Sean Reilly, E&E News reporter

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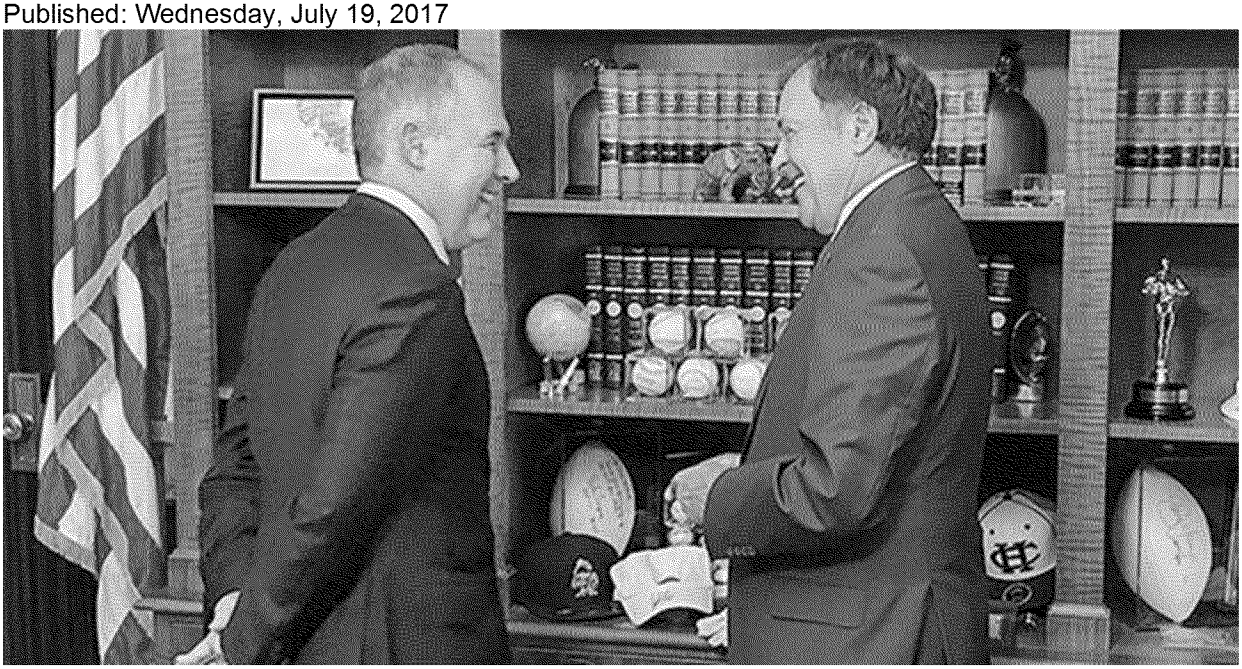

U.S. EPA Administrator Scott Pruitt met yesterday with Utah Gov. Gary Herbert (R). @EPAScottPruitt/Twitter

U.S. EPA has agreed to revisit a contested plan to cut pollution from two Utah coal-fired power plants and is seeking to freeze litigation surrounding the plan, newly filed court documents indicate.

In a motion yesterday, agency lawyers asked the 10th U.S. Circuit Court of Appeals to hold lawsuits brought by PacifiCorp and the state in abeyance while the agency administratively reconsiders the

regional haze rule published last July.

Recent letters from PacifiCorp and the Utah Department of Environmental Quality "identify new information that was not available to EPA at the time it promulgated the final rule," the lawyers wrote in explaining the agency's decision to grant reconsideration.

Last week, EPA Administrator Scott Pruitt told the company and the Utah department that they provided "sufficient information regarding existing and new evidence" on cost factors and other differences between the federal plan and a previously proposed state alternative "to warrant reconsidering our prior action," according to reply letters attached to the motion.

As of this morning, the 10th Circuit had not ruled. In May, the court agreed to EPA's request for a 60-day delay in the briefing schedule for the consolidated litigation, partly on the grounds that the agency was seeking an administrative settlement.

Pruitt's decision to now reconsider the plan furnishes the latest evidence of the Trump administration's gentler tack to enforcing regulations under the regional haze program, which is supposed to clear the skies around 156 national parks and wilderness areas by 2064. *The Salt Lake Tribune* reported that Pruitt, who was in Utah yesterday, personally delivered a letter outlining his decision to Gov. Gary Herbert (R).

Under the Obama administration, EPA had imposed the haze reduction plan after deciding that the state alternative would do too little to cut releases of nitrogen oxides (NOx) from PacifiCorp's Hunter and Huntington plants in central Utah.

Under the plan, the Oregon-based power producer would eventually have to reduce NOx releases from the two facilities by almost 10,000 tons annually; EPA predicted the plan would improve vistas in eight national parks. The state's air quality chief has objected that the tighter controls would yield little visibility improvement, despite a projected $700 million price tag.

Nationwide, the Utah legal clash is one in a series of fights over the Obama administration's interpretation of requirements that older coal-fired plants adopt "best available retrofit technology" to cut haze-forming emissions. Among the critics has been Pruitt himself: As Oklahoma attorney general, he brought a lengthy, unsuccessful court challenge to a haze plan for that state.

"It shows an attitude of indifference," he said of EPA's approach at a Senate hearing in January on his nomination to head the agency, "an attitude of trying to be dictatorial in some respects toward the state's role or manipulative of the state's role in a way that's, I think, counterproductive for air quality" (*Greenwire*, Feb. 14).

Last week, EPA proposed giving three power plants in Arkansas another 18 months to meet NOx reduction requirements under a haze reduction plan for that state. The agency also recently sided with PacifiCorp and Wyoming state regulators in successfully urging the 10th Circuit to freeze legal proceedings in litigation over some elements of another haze plan while a partial settlement involving Basin Electric Power Cooperative is put into effect (*Greenwire*, June 20).