

**From:** POLITICO Pro Energy  
**To:** [megan\\_bloomgren@ios.doi.gov](mailto:megan_bloomgren@ios.doi.gov)  
**Subject:** Morning Energy, presented by the National Wildlife Federation: Debate begins on Pruitt nomination today — Trump to sign stream rule CRA — Bishop in holding pattern until administration officials in place  
**Date:** Thursday, February 16, 2017 4:48:37 AM

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By Anthony Adragna | 02/16/2017 05:45 AM EDT

*With help from Alex Guillén and Darius Dixon*

**DO IT, PRUITT!** The Senate is set to advance Scott Pruitt's nomination to run EPA this morning, but Democrats say they plan to delay a final vote as long as they can. Senate Majority Leader [Mitch McConnell](#) has asked everyone to stick around for a Friday afternoon confirmation vote — potentially complicating the travel plans for several senators who had been planning to leave tonight for a codel to the Munich Security Conference. Pruitt will ultimately be confirmed, but not before Democrats highlight their strenuous objections to his record. "I think we'll use our 30 hours" of debate time, Sen. [Ben Cardin](#) told ME. "I don't think we expect at this particular moment the outcome to be in doubt. I don't think it is in doubt. But I think we'll want to articulate our concerns. It's been effective in at least putting the nominee on notice and energizing the private sector to hold the nominee accountable to our environmental objectives."

**What about his emails?** An Oklahoma state judge will hear a lawsuit today saying Pruitt has delayed releasing or withheld emails regarding his dealings as state attorney general with fossil fuel and conservative groups. Watchdog group Center for Media and Democracy argues Pruitt's office had yet to fully respond to a half-dozen requests dating as far back as January 2015. His office released 411 emails on Friday, but CMD said that was insufficient. The group questioned how Pruitt's office narrowed those emails down from 3,000 it previously said it was reviewing, complained Pruitt's office did not provide any emails from the past two years and argued its request should have turned up emails previously reported in The New York Times. The hearing, which is not webcast, is before Judge Aletia Haynes Timmons of the District Court in Oklahoma County at 3 p.m. local time. That will be a few hours after the Senate advances his nomination — a cloture vote on Pruitt is scheduled immediately following the 10:30 a.m. confirmation vote for Rep. [Mick Mulvaney](#) to run OMB.

**How much do Dems want them before he's confirmed?** Enough to send a [letter](#) Wednesday to Timmons urging her to order the emails released. "Without court intervention, we fear the Attorney General's office will continue to use the Open Records Act review process to shelter Mr. Pruitt from scrutiny, and not provide access to information the Senate and the public needs," wrote six Environment and Public Works Committee Democrats. They add getting the emails would still be useful for oversight, even if they are released after Pruitt is confirmed. Five EPW Democrats will call on McConnell to delay Pruitt's vote until the conclusion of the hearing during a 12:00 p.m. press conference today.

**Republican defection:** At least one Republican senator, [Susan Collins](#) of Maine, won't support Pruitt's nomination, although that is unlikely to keep him from getting confirmed. "I have significant concerns that Mr. Pruitt has actively opposed and sued EPA on numerous issues that are of great importance to the state of Maine, including mercury controls for coal-fired power plants and efforts to reduce cross-state air pollution and greenhouse gas emissions," she said in a [statement](#). "His actions leave me with considerable doubts about

whether his vision for the EPA is consistent with the Agency's critical mission to protect human health and the environment."

**ANOTHER ONE BITES THE DUST:** Two weeks after it [cleared the Senate](#), President Donald Trump will today sign a resolution ([H.J. Res. 38](#)) nullifying the Interior Department's stream buffer rule. The coal regulation, years in the making, sought to protect streams, especially in Appalachia, from the effects of mountaintop removal coal mining, but opponents have argued it would further harm jobs in the struggling coal sector. Trump is slated to sign it into law at 3:15 p.m. in the Roosevelt Room.

**WELCOME TO THURSDAY!** I'm your host Anthony Adragna, and congratulations to LCV's Sara Chieffo for being first to identify Sen. Strom Thurmond as the first to win as a write-in candidate. For today: Who was the first governor in U.S. history to be recalled (back in 1921)? Send your tips, energy gossip and comments to [aadragna@politico.com](mailto:aadragna@politico.com), or follow us on Twitter [@AnthonyAdragna](#), [@Morning\\_Energy](#), and [@POLITICOPro](#).

**New! Day Ahead:** POLITICO Pro's comprehensive rundown of the day's congressional schedule, including details on legislation, votes, as well as committee hearings and markups. Day Ahead arrives in your inbox each morning to prepare you for another busy day in Washington. [Sign up to receive Day Ahead](#).

**NUMBER TWO AT DOE:** Dan Brouillette, who led DOE's congressional affairs office early in President George W. Bush's administration, is expected to get the nod for number two at the agency, Pro's Darius Dixon [reports](#). An official signoff won't come until Brouillette gets through the standard ethics review and FBI background checks.

**MOVING RIGHT ALONG:** The Senate has only been able to process three to date, but the House continues to send Congressional Review Act resolutions nullifying late-term Obama administration rules across the Capitol. Today, lawmakers will consider an Alaska-specific CRA challenge ([H.J. Res. 69](#)) that would kill off a rule limiting hunting practices in Alaskan national wildlife refuges. Majority Leader [Kevin McCarthy](#)'s office says that while this regulation only applies to one state, "if we don't nip this abuse of power in the bud, the federal bureaucracy could eventually extend its authority to severely limit hunting on public lands to even more states."

**GREENS URGE 'NO' ON MULVANEY:** The Sierra Club and the League of Conservation Voters urged senators to reject Mulvaney Wednesday. "As Director of OMB, Mulvaney would have the power to dramatically weaken environmental and public health safeguards," LCV wrote in [a letter](#).

**In addition,** LCV sent [a letter](#) to senators calling on them to reject former Texas Gov. Rick Perry's DOE nomination. "It is inconceivable that he is being asked to run the very agency he once irresponsibly said should be abolished," it wrote. Perry may not get a final vote until after the President's Day recess.

**\*\* A message from the National Wildlife Federation:** America's 40 million hunters and anglers depend upon our nation's public lands. Some in Congress want to overturn National Monument protections or even sell-off the places Americans hunt, fish, hike, and camp. Join us as we urge President Trump and Congress to defend America's public lands for future generations: <http://bit.ly/2lhONxJ> \*\*

**BISHOP'S HOLDING PATTERN:** House Natural Resources Chairman [Rob Bishop](#) told reporters Wednesday he won't roll out his legislative agenda until Trump's administration is in place. "You need the entire cast in there," the Utah Republican said. "I'm not going to wait forever for the administration to get up and running before we start moving, but I want to give them a chance to be in place." Bishop said he'd like to give Interior nominee [Ryan Zinke](#) time to complete some "major reorganization" at the department that he said Zinke understands needs to happen.

**Ready to move on monuments:** Expect quick movement on a host of fronts to undo [late-term Obama administration national monument designations](#) (can anyone say Bears Ears?), but Bishop isn't tipping his hand yet on his methods. Action may include executive, legislative and judicial attempts to undo the decisions. "There will be action until you do it the right way," Bishop said. The Obama administration and environmental advocates have argued the decisions, issued under the Antiquities Act, cannot be undone.

**Won't you stay with me?** Bishop said he'd like current Forest Service chief Tom Tidwell to stick around for the Trump administration, if possible. "Tidwell is a great Forest chief," Bishop said. "I don't know if he's going to stay there or not. He's been very good to work with us in the past, we'll see if they give him even more latitude."

**Quotable:** "I'm always frustrated with the pace of how things are going in the Senate. Let's face it, them going slowly is the only positive trait they have, but it's still frustrating."

**BACK TO THE FUTURE:** A House Energy and Commerce subcommittee today [begins efforts](#) to revamp environmental statutes like the Clean Air Act and Brownfields. According to [a memo](#), lawmakers hope to hear ideas for how to encourage new investments in infrastructure and domestic manufacturing, regulatory challenges to those new projects, ways to encourage the redevelopment of contaminated properties and options for more efficiently, cost-effectively implementing the environmental laws. "We will be returning to this topic a lot in coming months," Subcommittee Chairman [John Shimkus](#) will say. "We will be taking testimony to help us to identify practical solutions and statutory updates that will accelerate the development of infrastructure and manufacturing."

Witnesses include representatives from National Association of Manufacturers, U.S. Chamber of Commerce, Pennsylvania Chamber of Business and Industry and Center for Progressive Reform, among others. If you go: The hearing kicks off at 10:00 a.m. in Rayburn 2123.

**MURKOWSKI: SEND ME NAMES PLEASE!** Senate Energy and Natural Resources Chairwoman [Lisa Murkowski](#) told ME Wednesday she hasn't heard a peep from the White House on possible FERC nominees and is "anxiously awaiting" them. "We are looking forward to being able to process the names of not only the FERC nominees but the other DOI and DOE folks," she said. As ME readers no doubt remember, the agency currently lacks a quorum necessary to operate.

**CONFIDENCE AT OROVILLE:** California officials expressed confidence Wednesday the Oroville dam would withstand another bout of weather headed its way, according to [The Los Angeles Times](#). Bill Croyle, acting director of the state Department of Water Resources, said: "It's holding up really well."

**THE NRC'S FUKUSHIMA DOWNLOAD:** The leadership of the Nuclear Regulatory Commission is slated to get an [update this morning](#) from staff on the progress of several post-

Fukushima safety regulations. While there is still outstanding work to implement some of the regulations, such as those addressing hardened vents and earthquake reevaluations, a number of items were closed out at the end of 2016, including additional water readout instrumentation for spent fuel pools. Enough progress has been made on the agency's work on the issue — or was distributed to other operations at the NRC — that the special steering committee the regulator created after the 2011 accident held its final meeting with its industry counterpart earlier this month before it's set to dissolve. Officials from industry, state government and watchdog groups are opening the meeting before agency staff give their presentation. The briefing starts at 9:30 a.m. at NRC headquarters in Rockville, Md., and will be [webcast](#).

**PROBE TO EXAMINE EPA'S CYBERSECURITY PRACTICES:** EPA's inspector general [announced](#) Wednesday it would begin to examine whether the agency properly conducted background checks on contractors with access to sensitive information and has taken steps to address weaknesses in its information security program.

**MAIL CALL! AGs URGE REJECTION OF WATER BILL:** Ten attorneys general, led by New York AG Eric Schneiderman, asked Senate leaders to reject legislation that would create a national standard for ballast water discharge, POLITICO New York's David Giambusso [reports](#). "The Commercial Vessel Act would dramatically weaken defenses against aquatic invasive species discharged in the ballast water of big ships by eliminating key legal protections," their [letter](#) states.

**REVIVED HEALTH SUMMIT LIVES!** The public health and climate communities gather in Atlanta today for a one-day event to replace the CDC conference [axed shortly](#) after Trump assumed office. Former Vice President Al Gore delivers keynote remarks at 9:30 a.m. You can stream the entire thing [here](#).

**MOVER, SHAKER:** Attorney David Bookbinder has joined the libertarian Niskanen Center as chief counsel; he comes from Element VI Consulting.

Linda Anderson has become the new state director of Bold Nebraska; she worked for two years at the helm of the Nebraskans for Bernie Sanders campaign.

## QUICK HITS

- EPA staff told to prepare for Trump executive orders: Sources. [Reuters](#).
- North Dakota, feds address garbage left at pipeline protest camp. [The Spokesman-Review](#).
- Trump's vow to scrap the Paris climate change accord faces skepticism from corporations, GOP moderates. [Los Angeles Times](#).
- Dakota Access Builder Compares Pipeline Protesters to Terrorists. [Bloomberg](#).
- Corps to accelerate cleanup at oil pipeline protest camp. [AP](#).
- The Compost King of New York. [New York Times Magazine](#).

## HAPPENING THURSDAY

10:00 a.m. — "[Modernizing Environmental Laws: Challenges and Opportunities for](#)

[Expanding Infrastructure and Promoting Development and Manufacturing](#)," House Energy and Commerce Subcommittee on the Environment, 2123 Rayburn

10:00 a.m. — "[The Road to Market Rebalance: Oil and Gas in 2017](#)," The Center for Strategic and International Studies, 1616 Rhode Island Avenue NW

10:00 a.m. — "The Future of Cyber Security: Spotlight on Oil and Gas," Bloomberg breakfast event, livestream: <https://www.bloomberg.com/live/stream>

11:00 a.m. — Congressman Marc Veasey Hosts 'African Americans in the Energy Industry' Panel, 121 Cannon

12:00 p.m. — "[The Smoke and Mirrors Behind Climate Modeling: Advice to Policymakers](#)," The Heritage Foundation, 214 Massachusetts Avenue NE, Lehrman Auditorium

2:00 p.m. — "[The High-Voltage Grid: Its Operations, Challenges, and Benefits](#)," Environmental and Energy Study Institute, 385 Russell

## THAT'S ALL FOR ME!

**\*\* A message from the National Wildlife Federation:** America's 40 million hunters and anglers depend upon our nation's public lands. Many of these lands have been protected over the past century by both Republican and Democratic Presidents through the Antiquities Act - a bedrock conservation law enacted by President Theodore Roosevelt - so that every American can enjoy our nation's outdoor treasures. These majestic places help define us as Americans. They are indispensable to America's hunting and fishing heritage - and serve as powerful economic engines for local communities. Yet right now, some in Congress want to overturn National Monument protections for iconic places, like Bears Ears in Utah. Others want to allow more pollution or even sell-off special places where Americans hunt, fish, hike, and camp. President Trump has strongly supported keeping America's public lands public and we need Congress to do the same for America's hunters and anglers. Help us defend America's public lands: <http://bit.ly/2lhONxJ> \*\*

*To view online:*

<https://www.politicopro.com/tipsheets/morning-energy/2017/02/debate-begins-on-pruitt-nomination-today-021417>

## Stories from POLITICO Pro

**Dems urge judge to order Pruitt to release emails** [Back](#)

By Alex Guillén | 02/15/2017 04:07 PM EDT

Six Senate Democrats today [urged](#) a state judge to order Oklahoma Attorney General Scott Pruitt's office to turn over his email correspondence with fossil fuel companies and conservative groups — just days before the Senate is expected to confirm Pruitt as EPA administrator.

Judge Aletia Haynes Timmons of the District Court in Oklahoma County will hold an expedited hearing on Thursday in a lawsuit filed by the watchdog group Center for Media and Democracy, which argues Pruitt's office has stonewalled on requests dating back to January 2015.

Pruitt's office released more than 400 emails to CMD on Friday, but the group alleges documents were held back and notes it has more than a half-dozen requests still pending.

The Democrats, led by Sen. [Tom Carper](#), said they have a vested interest in the outcome of the case because Pruitt told them multiple times to take their requests for such communications through the standard state open records process. Pruitt's office says it processes requests in the order they are received. The emails released Friday to CMD were requested in January 2015, indicating a two-year wait for a response.

"Without court intervention, we fear the Attorney General's office will continue to use the Open Records Act review process to shelter Mr. Pruitt from scrutiny, and not provide access to information the Senate and the public needs," wrote the senators. They add that getting the emails would still be useful for oversight, even if they are released after Pruitt is confirmed.

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### **Senate seals fate of Interior stream rule [Back](#)**

By Alex Guillén | 02/02/2017 03:10 PM EDT

The Senate today voted to send President Donald Trump a measure that will kill the Interior Department's stream protection rule, a key coal mining regulation that was only finalized in December.

The Congressional Review Act resolution passed by a vote of 54-45, just one day after the House approved it. Democratic Sens. Joe Manchin (W.Va.), Claire McCaskill (Mo.), Joe Donnelly (Ind.) and Heidi Heitkamp (N.D.) joined all Republicans except for Maine's Susan Collins in voting for the measure.

When Trump signs the resolution, as expected, it will mark only the second time ever that Congress has successfully used the CRA to kill a rule, assuming President Donald Trump signs the bill. The first and only previous use of the CRA was a 2001 vote to nullify a Labor Department ergonomics regulation.

But it will not be the last. Senate Republicans are expected to move on immediately to another House resolution targeting a Securities and Exchange Commission rule requiring drilling and mining corporations to reveal their payments to foreign governments. And the House has several other CRA resolutions on tap this week, including one set to pass Friday that would overturn Interior's venting and flaring rule.

CRA resolutions require only a simple majority to pass and cannot be filibustered in the Senate, though Democrats have been able to force up to ten hours of debate on each one.

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### **Sources: Brouillette slated to be DOE No. 2 [Back](#)**

By Darius Dixon | 02/15/2017 06:33 PM EDT

Dan Brouillette, who led DOE's congressional affairs office early in President George W. Bush's administration, is expected to be tapped for deputy Energy secretary, according to



several sources close to the process.

After his stint at DOE, Brouillette worked stints with the House Energy and Commerce Committee and Ford Motor Co. before joining USAA in 2006 to lead the financial service company's government and industry relations shop in Texas.

Rick Dearborn, who followed Brouillette in the role of DOE's assistant secretary for congressional and intergovernmental affairs, is now a deputy chief of staff in the Trump White House.

The Trump administration has [generally held off](#) from announcing Cabinet deputies until the agency leader is confirmed by the Senate. Energy secretary nominee Rick Perry has not yet gotten a vote from the full Senate.

The sources also said Brouillette won't get official signoff until he gets through the standard ethics review and FBI background checks.

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

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## **Obama creates new national monuments in Utah, Nevada [Back](#)**

By Darius Dixon | 12/28/2016 05:02 PM EDT

President Barack Obama created two new national monuments on Wednesday, setting aside 1.65 million acres in southeastern Utah and southern Nevada, a move sure to anger Republicans who have sought to curb the power the outgoing president has wielded to protect record amounts of sensitive and historic lands and waters.

Obama's aggressive use of the Antiquities Act to create national monuments has drawn scathing criticism from Republicans, who say the White House has abused the law to override local opposition and restrict development and usage of the lands. The new Bears Ears monument in Utah in particular has been at the center of those complaints, with local officials and conservative groups decrying pressure from conservationists and tribes on the White House to protect the site.

In creating the Bear's Ears National Monument in Utah and Gold Butte National Monument in Nevada, Obama said in a statement he was protecting desert landscapes that contain "some of our country's most important cultural treasures, including abundant rock art, archeological sites, and lands considered sacred by Native American tribes."

Obama has used his power under the Antiquities Act to to protect more land than any previous president, from underwater canyons and mountains off Cape Cod to the vast Papahānaumokuākea Marine National Monument in the Pacific Ocean. With the nearly 2,600 square miles he's added his total on Wednesday, he's added at least 757,578 square miles to the nation's protected lands.

For Obama, creating the monuments is part of his environmental legacy, and one that's likely to be more permanent than his administration's regulations to fight climate change, like EPA's Clean Power Plan, which is likely to be gutted under the Trump administration.

"The Antiquities Act gives the president the authority to create monuments but does not provide explicit authority to undo them," said Christy Goldfuss, managing director at the White House Council on Environmental Quality, when asked by reporters if she was concerned the Trump administration would scrap the Bears Ears monument.

The designations, Goldfuss said, would block any new mining or oil and gas development on the land.

Lawmakers from Utah have been among the president's most vocal critics on monuments. Rep. [Rob Bishop](#), chairman of the House Committee on Natural Resources, [has blasted](#) the Antiquities Act as "past its prime" and philosophically and intellectually wrong, while the state's GOP Sens. [Orrin Hatch](#) and [Mike Lee](#) introduced legislation ( [S. 3317](#)) in September that would prevent presidents from using the Antiquities Act in their state.

In a new message posted on [Facebook](#), Lee vowed to try to kill the new monument designations.

"I'm going to do everything I can to work with the new Congress, and to work with the incoming Trump administration, to undo this monument designation. But I'm not going to stop there. I'm gonna do what I can also to repeal the Antiquities Act so that things like this can't happen — not in Utah, and not elsewhere in the future."

Retiring Senate Minority Leader [Harry Reid told reporters](#) in Las Vegas in August that Gold Butte was expected to get the president's blessing.

In his statement, Obama said the new designations were designed to preserve the sites, and give tribes a voice in their management.

"Today's actions will help protect this cultural legacy and will ensure that future generations are able to enjoy and appreciate these scenic and historic landscapes. Importantly, today I have also established a Bears Ears Commission to ensure that tribal expertise and traditional knowledge help inform the management of the Bears Ears National Monument and help us to best care for its remarkable national treasures."

The Bears Ears Inter-Tribal Coalition — a partnership between the Hopi, Navajo, Ute Indian Tribe, Ute Mountain Ute, and Zuni governments — welcomed the new designation for the site, which lies between Canyonlands National Park and the San Juan River and is named for twin buttes that resemble a bear raising its head above the horizon.

"Our connection with this land is deeply tied to our identities, traditional knowledge, histories, and cultures. We look forward to working with the current and future administrations to fully and properly administer these lands for all to enjoy," Alfred Lomahquahu, vice chairman of Hopi Tribe and co-chair of the Bears Ears Inter-Tribal Coalition said in a statement.

Mathew Gross, spokesman for the Southern Utah Wilderness Alliance, said the tribes' joining together on the issue was itself historic.

"It's the first time in the 110 years of the Antiquities Act, it's the first time that tribes have come together to ask the president to use the act on sacred sites on their behalf," he said.

*Eric Wolff contributed to this report.*



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## **Schneiderman, other AGs, urge Congress to reject shipping bill [Back](#)**

By David Giambusso | 02/15/2017 04:49 PM EDT

New York Attorney General Eric Schneiderman, along with his counterparts in nine other states, are urging U.S. Senate leadership to reject Commercial Vessel Incidental Discharge Act.

In their letter, Schneiderman and attorneys general from California, Illinois, Maine, Massachusetts, Michigan, Oregon, Rhode Island, Vermont and Washington state, urge U.S. Sens. Mitch McConnell and Charles Schumer to kill the bill which they say will pollute state waterways with waste discharged from large vessels.

"The Commercial Vessel Act would dramatically weaken defenses against aquatic invasive species discharged in the ballast water of big ships by eliminating key legal protections," the letter states. "In particular, this legislation seeks to preempt traditional state authority to take the actions necessary for protecting state water resources, while doing away with existing federal laws that safeguard our nation's waters against harmful pollutant discharges from vessels."

A copy of the letter can be read [here](#).

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## **Private groups revive climate and health conference [Back](#)**

By Sarah Karlin-Smith | 01/26/2017 04:41 PM EDT

A coalition of public health and environmental groups will hold a [climate and health meeting](#) in February after CDC earlier this month abruptly canceled its own meeting on the topic.

The Feb. 16 meeting at the Carter Center in Atlanta will be hosted by former Vice President Al Gore, the American Public Health Association, the Climate Reality Project, the Harvard Global Health Institute, the University of Washington Center for Health and the Global Environment and former CDC official Howard Frumkin.

The meeting will last just one day instead of the three days the CDC conference was scheduled for.

The CDC conference was canceled shortly before Donald Trump's inauguration. CDC declined to provide a reason for the cancellation, but former agency officials told [E&E News](#) that the CDC may have decided to self-censor given Trump's climate change skepticism.

"Today we face a challenging political climate, but climate shouldn't be a political issue," Gore said in a statement. "Health professionals urgently need the very best science in order to protect the public, and climate science has increasingly critical implications for their day-to-day work."

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