

From: POLITICO Pro Energy
To: megan_bloomgren@ios.doi.gov
Subject: Morning Energy, presented by ExxonMobil: Energy industry wary of border tax — Pruitt in Houston for CERAWeek today — GOP senators getting impatient for nominees
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By Anthony Adragna | 03/09/2017 05:48 AM EDT

With help from Darius Dixon, Nick Juliano, Esther Whieldon, Alex Guillén and Annie Snider

ENERGY UNEASY OVER TAX STRATEGY: Washington's eyes are locked firmly on the healthcare debate for the moment, but in the conference hallways and on escalators at the IHS Markit CERAWeek conference in Houston energy executives are growing increasingly concerned about President Donald Trump's flirtation with a border tax, Pro's Ben Lefebvre [reports](#). "The industry thinks Trump will be pro-energy. But this border tax thing scares folks to death," one employee at a major oil services company told Ben.

Real congressional action on tax reform is likely months away, so some oil, gas and utility executives are holding their fire for now while others believe they might be able to swallow a border tax if the package includes enough sweeteners. But there's growing concern the plan could spark a backlash from an energy industry just getting back on its feet. "We're watching border tax reform closely," ConocoPhillips CEO Ryan Lance said this week. "For big manufactures it works well. For retailers it doesn't."

The takeaway: The US energy industry is asking itself whether it exited an Obama-era regulatory slog just to end up in a Trump-era protectionist minefield.

PRUITT TO HOUSTON: EPA Administrator Scott Pruitt is in Houston today for a [lunchtime session](#) at CERAWeek with energy industry leaders. It's a much different setting than Thursday when Pruitt had lunch with Trump and Vice President Mike Pence, along with Energy Secretary Rick Perry and Transportation chief Elaine Chao. The meeting was not public and the White House provided no details beyond calling it a "strategic session" on infrastructure.

Speaking of White House meetings: Sen. [Lisa Murkowski](#) used a meeting with Trump on Wednesday afternoon to push the president to swiftly nominate people to fill the rolls at agencies under the Energy and Natural Resource Committee's jurisdiction, Pro's Nick Juliano [reports](#). "We kind of set aside a big part of this first quarter to be processing things," she told ME before the meeting. "I'm prepared to put everything on the wayside if we had some names." Their Oval Office discussion, which included fellow Alaska Republican Sen. [Dan Sullivan](#) and Interior Secretary Ryan Zinke, did not touch on policy specifics, such as elements of an infrastructure bill or how the Trump administration could undo Obama-era policies like the Arctic offshore drilling ban, according to Murkowski.

WELCOME TO THURSDAY EVERYBODY! I'm your host Anthony Adragna, and API's Prentiss Searles was first to identify Vermont as the next state to join the union after the 13 colonies. For today: What is the most densely populated state? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter [@AnthonyAdragna](#), [@Morning_Energy](#), and [@POLITICOPro](#).

GOP SENATORS: SEND US NOMINEES! Senior Republican senators told ME

Wednesday they were troubled by White House slowness in nominating officials to fill lower-level agency positions. [John Thune](#) called the process "frustratingly slow," pointing in part to the voluminous amount of paperwork nominees must complete, while [Jim Inhofe](#) called the number of vacancies in agencies "a concern" and said "it's driving me crazy."

WHIP IT MORE! Sen. [John Hoeven](#) (R-N.D.) mentioned a BLM methane rule targeting emissions on public lands during a party lunch Wednesday as Republicans considered what late-term Obama rules to target next, Pro's Nick Juliano [reports](#). Republicans are still short of the support needed to kill it off, Hoeven says, but "I think we'll get there because the number of names that I have gotten to follow up on is going down, which is a good sign."

One of the holdouts, Sen. [Rob Portman](#) (R-Ohio), said he is listening to both sides and remains undecided. But he expressed some concern about the blunt-force nature of the Congressional Review Act, which would prevent BLM from issuing a rule in the future. "It's always a difficult thing to vote for if you have a nuanced view," he said.

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AND THE WAIT GOES ON: The D.C. Circuit might have hinted Wednesday that it won't rule on the marquee lawsuit challenging the Clean Power Plan for at least a couple more weeks. The ten judges hearing that case set a March 20 deadline for various briefs to be filed in a secondary dispute over whether to consolidate it with a separate lawsuit related to EPA's rejection of petitions to reconsider the rule. (ME wrote about this fight [on Monday](#) if you need a refresher.)

So does that really mean the Clean Power Plan ruling is now on hold? "Your guess is as good as mine," one attorney told ME. Another lawyer said he expects the court will want to weigh in on whether to consolidate the cases before deciding whether the Clean Power Plan itself is legal. But given the number of surprise twists the suit has already seen, "there is no guarantee of anything in this case," a second lawyer told ME. There's nothing to stop the judges from simply issuing their ruling before March 20, which would render this side issue moot. For the record, today is 182 days since the oral arguments.

SCIENCE GOES UNDER THE MICROSCOPE: They're back! The House Science Committee this morning marks up [the HONEST Act](#) (similar to the Secret Science Reform Act of Congresses past), which would require the EPA to make all data for regulatory actions public (with certain exceptions for personal data, trade secrets and financial information). It'll also tackle the [EPA Science Advisory Board Reform Act](#), which would bar anyone with EPA grants from serving on the agency's independent scientific review panel and expand industry access. Similar versions of both have cleared the House previously, but the Senate hasn't taken them up. The markup begins at 9:30 a.m. in Rayburn 2318.

Meanwhile, a Senate Homeland Security subpanel holds [a hearing](#) purporting to look at "proposals for improving transparency and accountability" for use of science in the rulemaking process. Witnesses include former OIRA chief Susan Dudley, as well as witnesses from the Union of Concerned Scientists and American Chemistry Council. It kicks off at 10:15 a.m. in Dirksen 342.

MANCHIN'S MINER LEVERAGE: West Virginia Democratic Sen. [Joe Manchin](#) is [continuing to press](#) for the Miner's Protection Act, a package of health care and pension benefits for miners, to be attached to a statutorily required waiver needed for Robert Lighthizer to become U.S. Trade Representative. "I'm not going to wait until the end of April and, oh my goodness, go down to nail-biting time," Manchin told reporters. "I think anybody's that's been around here understands you need to use every tool you can." He noted he had no specific objection to Lighthizer himself.

DEFENSE DOLLARS: The fiscal 2017 defense appropriation bill the [House passed](#) Wednesday tries once more to overturn a provision of a 2007 law prohibiting the military from purchasing fuel with greater lifecycle greenhouse gas emissions than traditional petroleum — a move the House has tried for years, but that the Senate has regularly rebuffed. Not included? \$1.2 billion that was previously in the agency's massive fuel budget, but that the department estimates is no longer needed, thanks to lower than anticipated petroleum costs.

HAS THE CR TRAIN LEFT THE STATION? With the military spending bill moving, the odds Congress will do a continuing resolution to round out federal spending through September have improved. House appropriators "have been very firm with leadership" on their preference in doing omnibus legislation or a series of "minibus" spending bills instead of another CR, energy and water spending cardinal Rep. [Mike Simpson](#) told ME. But with the defense bill speeding off, "the engine is headed down the road now, and the rest of the train is waiting to go." The Idaho Republican said House and Senate energy appropriators might powwow at some point to sort out any loose ends on their fiscal 2017 bills. And if they do, funding for the Yucca Mountain nuclear waste project is likely to be a topic of discussion. "I would like to see Yucca Mountain and interim storage put into this bill, but whether that can get done or not, I don't know," Simpson said.

When asked about the dollar figures OMB sent to DOE (and other agencies) recently — and whether he'd seen them — Simpson spoke like a true old guard appropriator: "I'm not paying much attention to OMB," he told ME. "What you've gotta remember is what OMB puts out is just the administration's recommendation. It's up to Congress to do the appropriation. ... It's not the gospel. It's not handed down to us on a golden tablets and OMB needs to understand that."

QUOTABLE: Interior Secretary Ryan Zinke [tweets](#): "Was just told my twitter is 'on fleek' remind me to ask my sons what that means... [#DadLife](#)."

MAIL CALL! HELP SOUGHT AT HANFORD: Washington Sens. [Maria Cantwell](#) and [Patty Murray](#) asked DOE's inspector general in [a Wednesday letter](#) to investigate whether medical claims of Hanford workers who were exposed to chemical vapors are being adequately addressed.

OF MONUMENTAL IMPORTANCE: Top House Natural Resources Democrat [Raul Grijalva](#) asked Zinke in [a Wednesday letter](#) whether he believes presidents have the authority under the Antiquities Act to revoke existing national monuments.

RECONSIDER THOSE CHESAPEAKE CUTS: Virginia Sens. Mark Warner and Tim Kaine sent [a letter](#) to Trump on Wednesday urging him to reconsider "draconian" cuts to Chesapeake Bay Program that would reportedly see annual funding slashed from \$73 million to just \$5 million. "While we've seen real improvements in the health of the Chesapeake Bay in recent years, we are deeply concerned about the potential consequences of such a

significant and jarring cut in funding," the former Virginia governors wrote.

HOW DOES YOURS STACK UP? A [study](#) out Wednesday rates federal websites on basic security, speed, mobile friendliness and accessibility standards, among other things. One DOE website — the Office of Scientific and Technical Information — ranked 295th out of 297 websites examined.

WESTERN CAUCUS OUTLINES AGENDA: Sen. [Steve Daines](#) and Rep. [Paul Gosar](#) outline their plans for the House and Senate Western caucuses today at 2:00 p.m. in room 209-08 of the Senate Visitors Center in their first joint appearance. ME caught up with Daines in the Senate subways, and the Montanan said energy development would be a big theme.

I READ THE NEWS TODAY, OH BOY: German Chancellor Angela Merkel told a parliamentary committee investigating the [Dieselgate](#) scandal that she first heard Volkswagen rigged emissions of its cars to cheat on regulatory tests from the news and said her government didn't drop the ball on keeping tabs on the automaker, POLITICO Europe's Janosch Delcker and Joshua Posaner [report](#). "We had no scandal. Volkswagen had a scandal," she said during Wednesday's 130-minute hearing.

SOLAR INSTALLATIONS SKYROCKET: The U.S. saw 14,762 megawatts of solar capacity brought online last year, nearly doubling the capacity installed in 2015, GTM Research and the Solar Energy Industries Association say in a [report](#) out today.

CO-OPS ADDING MORE SOLAR: Rural electric cooperatives in the U.S. this year are expected to install 480 megawatts of solar generation capacity, which would nearly double down on the amount the co-ops had installed as of the end of 2016, the National Rural Electric Cooperative Association is reporting today. The number of states in which co-ops own solar generation has also increased over the last two years to 44 from 34 states.

BIG, BEAUTIFUL... SUSTAINABLE? At least one architecture firm wants Trump's Southern wall with Mexico to be a sustainable structure built out of recycled shipping containers, Katelyn Fossett [reports](#) in POLITICO Magazine. "Our design is not about division but about unity of sense and sustainable functionality," principal architect Francisco Llado explained.

NEW HOPE FOR COAL COUNTRY? James Higdon looks at whether legislation to revitalize coal communities has a chance in the new Congress in [POLITICO Magazine](#). A Republican-led measure to convert \$1 billion of the Abandoned Mine Lands into economic development grants was ultimately upended by other Republicans last year, but there's hope for revival this year.

QUICK HITS

— Spring Came Early. Scientists Say Climate Change Is a Culprit. [The New York Times](#).

— White House Pushes for Deep Cuts to Clean Energy Office. [Bloomberg](#).

— President Trump promised mine jobs and highways; West Virginia won't forget. [USA Today](#).

— EPA takes over treatment of acidic, slightly radioactive wastewater at Pascagoula site. [AL.com](#).

— Alaska's senators and the Interior secretary meet with President Trump. [Alaska Dispatch News](#).

— Ivanka Trump's Landlord Is a Chilean Billionaire Suing the U.S. Government. [The Wall Street Journal](#).

— Rover Challenges FERC Response to Historic Home Demolition. [Natural Gas Intel](#).

HAPPENING THURSDAY

9:30 a.m. — [Full Committee Markup- H.R. _____, the HONEST Act, and H.R. _____, the "EPA Science Advisory Board Reform Act of 2017,"](#) House Science, Space and Technology Committee, 2318 Rayburn

10:00 a.m. — "[The Next Farm Bill: Rural Development & Energy Programs](#)," House Agriculture Subcommittee on Commodity Exchanges, Energy, and Credit, 1300 Longworth

10:00 a.m. — "[Building a 21st Century Infrastructure for America: The Role of Federal Agencies in Water Infrastructure](#)," House Transportation Subcommittee on Water Resources and Environment, 2167 Rayburn

10:00 a.m. — "[Agency Use of Science in the Rulemaking Process: Proposals for Improving Transparency and Accountability](#)," Senate Homeland Security and Governmental Affairs Subcommittee on Regulatory Affairs and Federal Management, 342 Dirksen

11:00 a.m. — "[National Science Foundation Part I: Overview and Oversight](#)," House Science, Space and Technology Subcommittee on Research and Technology, 2318 Rayburn

2:00 p.m. — "[Can the United States Achieve a Low Carbon Economy by 2050?](#)" The Environmental and Energy Study Institute, G-11 Dirksen

2:00 p.m. — Sen. Steve Daines and Rep. Paul Gosar outline vision for Congressional Western Caucus, Senate Visitors Center, Room 209-08

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To view online:

<https://www.politicopro.com/tipsheets/morning-energy/2017/03/energy-industry-wary-of-border-tax-021751>

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Energy companies grow wary of Trump's tax strategy [Back](#)

By Ben Lefebvre | 03/08/2017 06:04 PM EDT

HOUSTON — President Donald Trump's flirtation with protectionist tax policies has generated some angst among oil, gas and utility executives gathered for their major industry conference here this week.

Energy industry heads at the IHS Markit CERAWEEK conference are optimistic about the sustained rebound in global oil prices and Trump's promise of fewer regulations, but several have expressed worries over the border tax being drawn up in Congress and Trump's apparent support for the proposal.

"The principle is to make American industry competitive," Chevron Chief Executive John Watson said in regards to what he wants to see in a reformulated tax code. "It's not just to keep foreign competition out. I want to see the U.S. more competitive, not burdening imports."

OPEC seems to be sticking with production cuts that have tamed what had been a supply glut and brought U.S. oil prices back above \$50 after falling below \$40 in January 2016. But in the conference hallways and on escalators the same executives can be heard chattering about the border tax idea being floated by House Ways and Means Chairman [Kevin Brady](#) (R-Texas), as well as Trump's broader "America first" policy agenda. Some executives are asking: Will that approach throw a wrench into the international oil market?

"The industry thinks Trump will be pro-energy. But this border tax thing scares folks to death," said an employee at a major oil services company who was not authorized to speak to the press.

Although it is not always named specifically, the border tax has split CEOs meeting here. Such a tax would especially hit companies buying oil and gas imported from Canada or Mexico. And it would exempt fossil fuel exports from corporate income taxes, encouraging more exporting of oil, natural gas and road fuels. That would drive up costs for utilities and some refiners who depend on those fossil fuels, and inflate the dollar.

"I don't think there's been any time in history that protectionism has worked in the long run," said Tom Fanning, chief executive of Southern Company, an Atlanta-based gas and electric utility. "Whenever we try to move production back to the border, you may create jobs for a certain class of people, but you raise prices for a wide swathe of people. Trade barriers turn into a regressive tax."

Even some potential beneficiaries, such as liquefied natural gas exporters, criticized the border tax. For one thing, it would be a hassle to assess for major projects, said Charif Souki, a U.S. LNG export pioneer when he was CEO of Houston-based Cheniere Energy earlier this decade. Cheniere shipped the first U.S. LNG export cargo last year from its plant in Sabine Pass, La.

"We buy turbines in Cincinnati. They're flown out to Florence to be put in compressors. Then that comes back to the U.S. How do you assess that?" he said to reporters Wednesday. However, Souki noted that he was happy with the proposal overall because of its potential to boost exports.

Some companies may put up with the border tax plan if a tax reform package includes enough sweeteners, industry sources in Houston said.

The energy industry would love to see a significant cut in the corporate tax rate, said Jack Gerard, head of the American Petroleum Institute. The API is still analyzing how a border tax

framework in tandem with other changes to the tax code would affect its members, Gerard said.

"We all agree that there needs to be tax reform," Gerard said. "We're giving the president the benefit of the doubt."

But while Exxon Mobil, ConocoPhillips and Chevron have praised tax reform efforts in general, they've been less forthcoming about anything the House has proposed besides a cut in the corporate tax rate.

ConocoPhillips is all for corporate tax breaks, said its Chief Executive Ryan Lance. But the company remains in a wait-and-see mode pending more details on the border tax.

The Houston-based oil company is one of the largest drillers in U.S. shale fields, but also operates in the Canadian oil sands. That Canadian oil would fall under any new import tax as it flows via pipeline or railcar to U.S. refiners, which would then have to pay more for the oil and pass the price hike on to customers at the gas pump.

"We're watching border tax reform closely," Lance said during a presentation Tuesday. "For big manufacturers it works well. For retailers it doesn't."

In all, there's the growing sense that Republican tax plan has the potential to spark a backlash from the energy industry that was just getting back on its feet, said Jason Bordoff, a professor at Columbia University's Center on Global Energy.

"We spent the last decade promoting free and open energy markets," Bordoff said. "The U.S. energy industry certainly welcomes that we may see deregulation by this administration. But they're concerned with the rhetoric that interferes with open energy markets."

Frank Verrastro, senior vice president and trustee fellow at the Center for Strategic and International Studies, noted that "business has generally been quiet" on the border tax in recent weeks. But there's a good chance that divisions within the industry lead to "a come to Jesus moment" when the committee unveils specific language on the tax, he said.

"When you start looking at the component pieces, it's uneven," Verrastro said of the tax reform proposals. "It will hit some businesses harder than others."

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Murkowski tells Trump to hustle to get Zinke some reinforcements [Back](#)

By Nick Juliano | 03/08/2017 07:34 PM EDT

Sen. [Lisa Murkowski](#) pressed President Donald Trump during a meeting in the Oval Office today to nominate people to fill the rolls at the Interior Department and other agencies under the jurisdiction of her Energy and Natural Resource Committee.

Murkowski met with Trump for an hour and was joined by fellow Alaska Republican Sen. [Dan Sullivan](#) and Interior Secretary Ryan Zinke, who was confirmed last week.

"I think the thing that we can do right now to help Secretary Zinke is help him get some people in place," Murkowski told reporters after returning to Capitol Hill from the White

House. "He's moving through that right now, but he'll be the first one to tell you: 'I don't have folks.'"

Murkowski said Trump did not indicate when he planned to send the Senate more nominees.

The meeting did not touch on policy specifics, such as elements of an infrastructure bill or how the Trump administration could undo Obama-era policies like the Arctic offshore drilling ban, Murkowski said. But the session offered the Alaska senators a chance to familiarize the president with their priorities.

"We talked about all of Alaska's onshore and offshore opportunities ... more in the sense of when you have great resources like we have but you can't access it, it doesn't do anybody any good at any time," Murkowski said.

Murkowski and Sullivan also invited Trump to Alaska, and "based on his response, I think he would really welcome that visit," she added.

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Republicans have more whipping to do on methane CRA [Back](#)

By Nick Juliano | 03/08/2017 05:13 PM EDT

Senate Republicans are still searching for the votes they need to block an Interior Department rule aimed at limiting methane emissions and revising an outdated formula to calculate royalties the government collects for oil and gas drilling on public lands.

Sen. [John Hoeven](#) (R-N.D.) said he brought up that methane rule at a GOP lunch today when senators were discussing what regulations to target next. Supporters of the resolution still need to round up enough votes, he said, but "I think we'll get there because the number of names that I have gotten to follow up on is going down, which is a good sign."

One of the holdouts, Sen. [Rob Portman](#) (R-Ohio), told POLITICO that he has heard "very different points of view" in the debate: Industry backers tell him the Interior Department has been too stingy with the pipeline permits that oil and gas companies need to be able to collect methane that is currently vented or flared, while environmentalists say capturing and selling that gas would be the cheapest option for those companies.

Portman said the law's prohibition on agencies enacting "substantially similar" regulations once they were blocked by Congress also makes it tough to support a CRA resolution, although he remains undecided.

"Part of my argument is let's make sure that we're doing hydraulic fracking in a responsible way," he said in a brief interview today. "It's always a difficult thing to vote for if you have a nuanced view on it because you in theory can't go back and ... promulgate regulations in the same area."

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House handily approves final 2017 defense spending bill [Back](#)

By Connor O'Brien | 03/08/2017 06:08 PM EDT

The House on Wednesday handily approved the final \$584 billion defense spending bill for this fiscal year, kicking off an effort to fund all of the government for the rest of the year before the continuing spending resolution expires on April 28.

The vote was 371-48. Forty-three Democrats and five Republicans opposed the measure.

Unlike an initial defense spending measure passed by the House in June, the [revised bill](#) doesn't short fund the Pentagon's war account to boost base spending. Most Democrats opposed that bill, and the Obama administration threatened then to veto it.

Instead, the new measure largely conforms to the National Defense Authorization Act passed in December. And the new Trump White House now [supports](#) the bill's passage.

But despite the wide agreement in the House, Democrats warned Wednesday there were no guarantees on how or when the remaining full-year appropriations bills might be considered. The bill could also hit a roadblock in Senate, where Democrats could hold up a full year defense spending bill to secure funding for domestic agencies before the April 28 deadline to fund the government.

"There's general agreement on the bill itself because it looks like the one we did last November," explained the ranking Democrat on the Senate Armed Services Committee, Sen. Jack Reed of Rhode Island.

"But then there's the question ... what about the other bills?" Reed asked. "That's still very much an open question. We'd like to see all of the appropriations bills completed."

The [legislation includes](#) \$516.1 billion for the Pentagon's base budget as well as \$61.8 billion for the war-related Overseas Contingency Operations account.

On the House floor Wednesday, House Appropriations Chairman Rodney Frelinghuysen (R-N.J.), who previously chaired the Defense subcommittee, called the bill "the first step after years of cutbacks."

"Today, our nation faces a dangerous and unpredictable world. At the same time, our armed forces are struggling to have our soldiers ... fully trained and ready to meet every conceivable threat," Frelinghuysen said. "That important work, to address that critical situation, starts with this bill."

Democrats, meanwhile, praised the bill as the product of good faith bipartisan negotiations, but complained the must-pass legislation should've been finished months earlier.

"For nearly six months, the Department of Defense has been operating under two separate continuing resolutions," said Rep. Pete Visclosky of Indiana, the ranking Democrat on the House Appropriations defense subcommittee. "All that has been absent is ... political will on behalf of the majority party."

House Appropriations ranking Democrat Nita Lowey of New York also warned about the possibility of inaction on the remaining appropriations bills.

"Each member of this body will need to determine whether positive aspects of the bill outweigh uncertainty about the prospects of 10 other critical funding bills languishing without

a clear path forward," Lowey said.

It notably includes a \$6.8 billion boost in procurement funding above the Obama administration's final fiscal 2017 budget request, including more fighters, helicopters and ships. That includes \$979 million for 12 Boeing-made F/A-18 Super Hornets, \$750 million for six additional Navy and Marine Corps F-35 Joint Strike Fighters and \$495 million for five extra Air Force F-35s.

Appropriators also added nearly \$3 billion for Navy shipbuilding, including \$1.8 billion for an LPD-17 amphibious ship, \$433 million for the DDG-51 destroyer program, a third Littoral Combat Ship and \$150 million in advance procurement for a new polar icebreaker.

The bill also funds provisions in the defense policy bill that mandate more active-duty troops in the Army and Marine Corps as well as a 2.1 percent military pay raise.

In addition to the full-year defense spending bill, the Pentagon is preparing a separate supplemental spending request of about \$30 billion for fiscal 2017 that is expected to boost readiness funding.

Jeremy Herb contributed to this report.

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The Great Green Wall of America [Back](#)

By Katelyn Fossett | 03/08/2017 04:24 PM EDT

President Donald Trump has given us many details about his wall. "A great wall." "A big, beautiful, open gate." "[Impenetrable, physical, tall, powerful, beautiful.](#)" "[There could be some fencing.](#)" And we all know who is paying for it: Mexico, whose president continues to insist, "[Mexico, of course, will not pay.](#)"

The wall has galvanized Trump's supporters and horrified his opponents. It has split fiscal conservatives from immigration hawks. It has met with fierce resistance among border communities that fear it will lead to economic catastrophe. And it's invited skepticism among engineers, who point to the complexity of building a 2,000-mile structure along rugged terrain full of water-logged canyons and mountainous peaks. One thing it has not done, however, is inspired America's architects—generally a liberal bunch—to start drawing up designs.

Until ... now?

One Miami architecture firm, DOMO Design Studio, is proposing a softer, gentler version of Trump's famous wall: a sustainable structure built out of recycled shipping containers that mimics natural boundaries with divisions created by waterways, sloping terrain and, in urban areas, shopping, public art spaces and even housing units. The drawings look like they could be for a cutting-edge park or an innovative redevelopment project—it just so happens that they're for a barrier meant to keep out "criminals" and "rapists," as Trump put it so memorably in his campaign kickoff speech in 2015.

"One of our goals was to not be like the Great Wall of China or the Berlin Wall or any of those typologies that represent division," principal architect Francisco Llado explained in a recent phone call. "Our design is not about division but about unity of sense and sustainable

functionality."

Llado and Robert Moehring, the firm's other principal, did not want to talk about politics, and emphasized that their mission is purely architectural. "This is a different way of addressing the border that is sustainable, functional and hopefully beneficial to society in any way possible," Llado says, "as well as any fauna, flora, landscaping, etc."

The core of DOMO's plan rests on the use of recycled shipping containers and excavated trenches. To minimize the eyesore associated with a towering concrete wall, the firm is proposing to scoop 25-foot slopes into the land that doesn't already have natural boundaries and stack three shipping containers into the manmade grooves. That division would be invisible when viewed at grade level. The border would change as you go along: Some parts of it are rivers, some are mountains, and the studio would like those natural barriers to be mimicked by landscaped borders. When the wall gets into urban areas, that's where the markets and housing come in.

Llado thinks shipping containers are the only object of the needed size that already exists in surplus and can be readily repurposed for such a large-scale project. Shipping containers are also more cost-effective. "When they ran the numbers, it made no sense," Llado says about the [calculations](#) that showed Trump's projected \$8 billion price tag was about \$17 billion off the mark.

To that basic skeleton, the architects are proposing a whole array of eco-friendly features, from water recollection to solar panels to animal shelters with food and cans of water. "Just some things that can be done along the length of the border that would help that particular ecosystem," Moehring says. "We're looking at every possibility of helping everyone," Llado adds.

They've also proposed micro-housing units in the shipping containers, something that, Llado says, "is very common in Europe." Micro-housing units are apartments typically no larger than 350 square feet, often with communal kitchens and living areas, and have begun sprouting up to fill the lack of affordable housing in places like New York and Seattle. The shopping areas and public art spaces could make the wall economically sustainable, too, they say. "It'd be self-paid, on its own," Llado adds.

Micro-housing isn't the only place they're taking inspiration from Europe. "When you see the divisions in Europe between France and Spain, it would be the Pyrenees, or you have the Alps," Llado says. "You have the Rio Grande between the U.S. and Mexico now, so why not create all those conditions and things to blend while maintaining the functionality and providing opportunities?"

The Department of Homeland Security has begun formally accepting solicitations for design and construction of the border wall, with a deadline for engineering and design firms to submit [by March 20](#); awards are expected to be made in mid-April. A pre-solicitation notice obtained by CityLab [listed](#) interested bidders including defense contractor Raytheon and the international design firm Leo A Daly (Leo A Daly has since [clarified](#) that it will not be pursuing the project), both the kinds of firms that dwarf a boutique studio like DOMO.

Llado and Moehring acknowledge that the wall would be their biggest project yet—"Only the Great Wall of China is on this scale," Llado says—but they do have experience with what they call macro projects, dealing with urban redevelopment and manmade islands, in Qatar and

Dubai. And while a border project like this would be a big change from their usual repertoire of luxury hotels and resorts in Ibiza, Doha and the Caribbean, they're not ruling out the possibility of making a formal bid. "At this time, we're keeping it confidential," Llado says.

This article has been updated to reflect the fact that Leo A Daly will not be pursuing the wall project.

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The Obama Idea to Save Coal Country [Back](#)

By James Higdon | 03/08/2017 05:36 AM EDT

On February 2, in one of his first acts as Senate Majority Leader of the 115th Congress, Mitch McConnell ushered through the repeal of the Stream Protection Rule. The Obama-era regulation had taken eight years to write, emerging on the last day of the Obama administration, only to be snuffed out two weeks later. In the so-called War on Coal, this was the first time coal had punched back, drawing cheers from Washington to Appalachia.

"We cannot allow the legacy of the Obama administration to continue damaging our communities." McConnell wrote in a self-congratulatory op-ed in the *Lexington Herald-Leader*.

The Stream Protection Rule, and "a wave of environmental regulations" like it, according to a spokesperson for the American Public Power Association, have long been the source of Republican anger towards Obama-era energy policy, which conservatives contend is the reason that 40,000 coal miners have lost their jobs, 11,000 in Kentucky alone, since 2011. That was the year the EPA announced a stricter air standard that had the effect of forcing coal-fired power plants to shift to natural gas at a time when the price of gas had fallen to historic lows.

"This tragedy in central Appalachia is a direct result of government action," said former governor of Kentucky, Paul Patton, a Democrat, and currently the chancellor of the University of Pikeville in Pike County, which has lost 80 percent of its coal jobs over the past five years. "I can tell you that we're paying the price for it."

But since that much-ballyhooed vote in early February, this is how many new coal jobs have been created in Appalachia: Zero. And there are no signs there are any coming any time soon: Tyler White, president of the Kentucky Coal Association, couldn't say how many jobs he thought the repeal of the Rule would create, "but I can tell you that it definitely will help stop the bleeding."

Even if every one of Obama's environmental regulations—the Mercury and Air Toxics Standards; the Cross State Air Pollution Rule; the Coal Ash Rule; the Effluent Limitations Guidelines for wastewater discharge, and section 316(b) of the Clean Water Act—were all struck down tomorrow, the effect on jobs in Appalachia would still be negligible. That's because global demand for coal is slowing, and coal from Wyoming costs a fraction of the coal from Appalachia. Even without the Stream Protection Rule, the Appalachian economy still needs to be remade.

It turns out that one of the best ideas for how to rescue the region came from the same people

who have been reviled for their role in burying the coal industry.

As part of the 2016 budget, the Obama White House created something called the POWER Plus plan specifically to help Appalachian communities that were getting left behind because of the rapidly changing energy market. The acronym stands for Partnerships for Opportunity and Workforce and Economic Revitalization, and it proposed a suite of projects including to convert \$1 billion from the Abandoned Mine Lands reserve—a pot of money that had been growing since the Carter administration—funding for projects to clean up abandoned mine lands, mostly underground, that are linked to local economic development strategies. For Kentucky alone, that would mean \$20 million a year for five years. The money would likely have gone to promote other businesses sectors like manufacturing and tourism and to retrain miners for new jobs like writing computer code.

This potential windfall was met with disinterest, if not skepticism, in the Republican-controlled Congress.

"When we included the proposal, no Republican member of Congress was willing to touch it at first," said Jason Walsh, a senior policy advisor at the Domestic Policy Council in Obama's White House who helped craft the plan. Then someone stepped forward. Representative Hal Rogers, a Republican whose district encompasses all of Appalachian Kentucky, proposed a bill of his own, piggybacking on the White House proposal. He called it the RECLAIM Act.

"I refuse to let the Obama Administration off the hook for its role in systemically destabilizing and dismantling the Appalachian coal industry," Rogers told POLITICO Magazine.

"However, neither Democrats nor Republicans have a monopoly on good ideas, and I've always been willing to partner with anyone who wants to create opportunities in Southern and Eastern Kentucky."

If you're wondering what happened to this exemplary act of bipartisanship, it was quashed by members of Rogers's own party. How that happened is a story of political self-interest that challenges some of the standard narratives of the War on Coal. And it remains an open question whether this Congress will finally find a productive use for that \$1 billion that is sitting largely untouched in the federal coffers.

The Obama administration understood well the disruption faced by the Appalachian economy due to changing energy markets. In October [2015](#), a coordinated effort led by the White House involving 10 federal agencies (the POWER Initiative, a component of the POWER Plus plan) began awarding funds to economic and workforce development projects in Appalachia and other coal communities across the country. That December, Congress appropriated an additional \$90 million in general funds (not the abandoned mines fund) to begin pilot projects for economic development linked to abandoned mine land clean-up in the states with the most abandoned mines: Kentucky, West Virginia, and Pennsylvania. It bore similarities to programs offered to workers who lost manufacturing work to NAFTA; grants made by the Defense Department to communities affected by military base closures and buyouts of tobacco farmers. But the \$90 million wasn't enough to overwhelm the Republicans' attack on "Obama's War on Coal".

Like most Congressional Republicans, Hal Rogers never had much good to say about President Obama. In June 2013, in just one of many of his press releases critical of the

president's energy policies, Rogers said: "President Obama's disastrous climate change plan is the latest job-killing bomb to be dropped on Kentucky... This War on Coal is a war on middle-class Americans—it's a war on jobs... In 2008, the President promised to bankrupt the coalfields and today he took another step toward his reckless, shameful goal."

And yet, despite the confrontational rhetoric, Rogers saw a good idea in the Obama administration's POWER Plus plan. He introduced it as the RECLAIM Act in the House in February 2016—a stand-alone bill to convert \$1 billion of the Abandoned Mine Lands into economic development grants for hard-hit Appalachian areas. The bill would eventually garner 26 cosponsors from both parties and every region of the country, including John Yarmuth, his liberal colleague from Louisville.

"I don't think it's an unlikely partnership between Hal and myself," Yarmuth told POLITICO Magazine. "This is legislation that will literally turn our environmental problems into economic opportunities." Yarmuth cares about environmental issues in Appalachia because most of the water that flows out of Hal Rogers's district ends up in the Ohio River, which forms the northern border of Yarmuth's district.

Who could be against such bipartisan legislating? Wyoming, apparently.

The governor of Wyoming, Matt Mead, a Republican, wrote to his state's Congressional delegation expressing his opposition to Rogers's plan, calling it "detrimental to Wyoming's coal industry and the national economy." Mead argued that the RECLAIM Act would redistribute money from Wyoming mining operations "to non-reclamation economic development activities in states where federal energy policies decimated viable industries."

And while Rogers was then the chairman of the powerful Appropriations Committee, the key members of the Energy and Commerce committee were western Republicans in Mead's orbit. The RECLAIM Act receded into legislative oblivion while the nation was consumed by the presidential election.

On March 13, 2016, Hillary Clinton fell irretrievably down the mineshaft of the War on Coal when she was asked why poor white people should vote for her. Her response: "I'm the only candidate which has a policy about how to bring economic opportunity using clean renewable energy as the key into coal country. Because we're going to put a lot of coal miners and coal companies out of business, right?"

In her next breath, Clinton said: "And we're going to make it clear that we don't want to forget those people. Those people labored in those mines for generations, losing their health, often losing their lives to turn on our lights and power our factories. Now we've got to move away from coal and all the other fossil fuels, but I don't want to move away from the people who did the best they could to produce the energy that we relied on." But that's not what voters heard thanks to some smart editing by Republican ad-makers. Despite the fact that Hillary Clinton was the only candidate with a detailed plan to help coal communities—a \$30 billion proposal that's still [on her campaign website](#)—Trump beat Clinton by 30 points in Kentucky, a state her husband won twice. Maybe it just didn't make political sense for a Republican to be seen holding hands with the party that had become an avowed enemy of the region, but Rogers remained silent as RECLAIM's chances faded.

A year later, Rogers's staff is not holding grudges against their western counterparts, trying to smooth over their intra-party squabble as best they can: "No one in particular can or should be

blamed," said Danielle Smoot, spokesperson for Rogers. "It was simply a matter of functionality. The proper vehicle never presented itself in the waning days of the 114th Congress."

Although Rogers didn't want to point any fingers, Yarmuth, his co-sponsor from Louisville, was quick to point to fellow Louisvillian Mitch McConnell: "What I find disappointing is that other members of the delegation, including the Senate Majority Leader, aren't out in front of this bipartisan effort to help some of Kentucky's most economically distressed communities."

Water security has always been something of an inverse indicator of eastern Kentucky's economic health. The more polluted the water, the better the mines were probably doing. That relationship still holds, but it's the water that is doing better these days because there are fewer mines operating.

Before the House voted to repeal the Stream Protection Rule in February, Yarmuth of Louisville spoke in opposition of the repeal and held up a jar of brown water that came from the well of a family from Pike County. Yarmuth invited his Republican colleagues to drink the water, and none did. There are small pockets of Pike County with bad water, but 95 percent of Pike County is on municipal water run by the Mountain Wafer District, which publishes water quality test results on its website; it's good water. But next door in Martin County (population: 13,000), the municipal water supply is tenuous. Boil-water warnings are common, not because coal mining has polluted the city water but because the lack of mining has gutted the county's tax base, leaving critical infrastructure at risk.

Which is not to say that coal mining hasn't destroyed drinking water in mountain communities. In Eolia, Kentucky (population: 1,400) at the base of Pine Mountain in Letcher County, the water is so loaded with methane gas it's flammable when it comes out of the tap. "I don't know anybody anymore whose water isn't already ruined," Jim Webb, who lives on Pine Mountain, told POLITICO Magazine. "We've gone from the best water in the country to having to buy it from the grocery store."

And then there's Lynch and Benham, two former mining camps at the foot of Black Mountain at the top of Harlan County. They get their water from an underground reservoir left behind by US Steel; their water is purer when it goes into the legally required filtration system than when it comes out. A mining operation owned by Jim Justice, governor of West Virginia, had filed a permit to mine above Lynch and Benham, but some of the 1,250 residents challenged that permit with the help of the Kentucky Resources Council and the mining company withdrew its application. The short-lived Stream Protection Rule had nothing to do with it.

"It may be good political rhetoric to say 'War on Coal,' but it's a little more complicated than that," said Benham resident Roy Silver in a telephone interview. "It's just propaganda to say if you remove these regulations jobs will come flowing back."

The question is, where are they going to work in a post-coal Appalachia? The Obama administration's POWER Initiative has funded a program Hal Rogers created called SOAR (Shaping Our Appalachian Region), which promotes increased broadband internet; teaches former miners to write computer code; and runs other pilot programs to create jobs in manufacturing, farming, tourism and other small businesses. The RECLAIM Act would add an additional \$1 billion to the \$90 million appropriated for the Interior Department's economic

revitalization pilot program.

That's only if it can get attention from the same people who let it die last year.

"We fully expect to see RECLAIM 2.0 this Congress," said Molly Block, spokesperson for the House Natural Resources Committee. But there is concern that discussing opening up debate on the RECLAIM Act could spark a broader reform of money from the Abandoned Mine Lands fund gets distributed and that's not a debate Rogers and his co-sponsors had bargained for. Never mind the fact that Wyoming was all too happy to take \$271 million a year from the Abandoned Mine Lands fund until 2020 for infrastructure projects through the Fixing America's Surface Transportation, or FAST Act, which was signed into law by Obama in December 2015.

On the Senate side, Mitch McConnell, who was silent last Congress on the specifics of the RECLAIM Act, laid out his six-point pro-coal plan in a January letter to then president-elect Donald Trump. He said he wanted to kill the Stream Protection Rule (done); end the government's legal defense of the Clean Power Plan (any day now); stop enforcement of the EPA's Carbon pollution standards for new power plants (a rule which has resulted in fewer coal-fired power plants burning less coal); protect the long-term health care benefits of retired coal miners (a by-product of an employer-based health care model) and invest in clean-coal technology. Number four on McConnell's list was his intention to fund programs for "job training and education, transportation infrastructure, the reclamation of abandoned mine sites," essentially what the RECLAIM Act proposes to do. His willingness to push on that item as hard as he has the gutting of environmental regulations matters. Twenty-one gigawatts of old coal-fired plants are scheduled for retirement in the next four years, according to the American Public Power Association, a fact that will not make Appalachian coal any more competitive in the marketplace than it is now.

"In this political moment, more than ever, we need to show that Republicans and Democrats can work together to solve problems facing the country," Jason Walsh, the former Obama White House policy advisor, told POLITICO Magazine. "A good place to start would be to pass and sign into law the RECLAIM Act to help fulfill our nation's moral commitment to support the coal miners and coal communities that sacrificed so much to keep the lights on in this country for generations."

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