

From: POLITICO Pro Energy
To: megan_bloomgren@ios.doi.gov
Subject: Morning Energy, presented by the National Wildlife Federation: Pruitt, Zinke, Perry get confirmation votes teed up — Trump to sign first CRA challenge into law — Crisis continues at nation's tallest dam — Major Arizona coal plant to close in 2019
Date: Tuesday, February 14, 2017 4:49:52 AM

By Anthony Adragna | 02/14/2017 05:46 AM EDT

With help from Darius Dixon, Eric Wolff, Nick Juliano, Alex Guillén and Annie Snider

READY, SET, CONFIRM: Senate Majority Leader [Mitch McConnell](#) formally teed up final votes on the nominations of Scott Pruitt to run EPA, Rick Perry's selection to lead DOE and Rep. [Ryan Zinke](#)'s pick for Interior on Monday evening, but the exact timing of votes remains fluid, as Democrats could use procedural rules to draw the process out for more than a week. Sen. [Tom Carper](#), the top Democrat on the Environment and Public Works Committee, said his caucus was still mulling whether to hold an all-night session to highlight their opposition to Pruitt. But the Oklahoma attorney general will be second up this week, following Rep. [Mick Mulvaney](#)'s bid to run OMB. Zinke landed in fourth position, and Perry holds the sixth and last spot among the current batch to move forward.

EPW Democrats are asking McConnell to postpone Pruitt's vote until key emails between him and oil and gas companies are released via litigation playing out in Oklahoma. The Democrats — who were vexed by Pruitt's instruction that they obtain his communications through an open records request — note that a state judge has scheduled an expedited hearing for this Thursday over a left-leaning watchdog group's [lawsuit](#) over a two-year delay in releasing emails. Delaying the vote so the Senate can review those and any other emails that might be released soon "is compelled, in our view, by the Senate's obligation to provide advice and consent on Mr. Pruitt's nomination," all 10 EPW Dems write. "These records are needed for the Senate to evaluate Mr. Pruitt's suitability to serve in the position for which he has been nominated."

The potential for additional delay prompted Majority Whip [John Cornyn](#) to slam the Democratic tactics as a way to handicap President Donald Trump. "If there's some they want to fight over then we can fight over two or three, but this is all designed to undermine and to handicap the administration," he told reporters. "Somebody mentioned to me this is really the equivalent of a government shutdown — that the Democrats are denying the president his Cabinet because they can't begin the process of actually governing until they have the staff that's necessary to do so."

More Democrats announce opposition: It won't make a difference in Pruitt's ultimate confirmation, but three Senate Democrats — Sens. [Joe Donnelly](#) (Ind.), [Mark Warner](#) (Va.) and [Chris Coons](#) (Del.) — announced Monday they'd oppose his nomination on the floor. Donnelly, one of the most moderate Senate Democrats, cited the Oklahoma attorney general's record on the Renewable Fuel Standard as a particular concern. "[I] cannot support an EPA nominee who has sued the EPA to stop the sale of E15 and praised the erosion of a policy designed to strengthen our energy security and promote Hoosier-grown biofuels," Donnelly said, adding he hoped to work with Pruitt on "a better and more collaborative approach" to regulation and a "better" WOTUS rule if the Oklahoman is confirmed. North Dakota Sen. [Heidi Heitkamp](#), who told ME Monday she's still undecided on Pruitt, is the biggest remaining question mark.

FIRST CRA GETS SIGNED TODAY: Trump will sign the first successful use of the Congressional Review Act since 2001 into law today at 2:00 p.m. in the Oval Office. The resolution ([H.J. Res. 41](#)) will nullify a Security and Exchange Commission rule requiring oil, gas and mining companies to disclose payments to foreign governments and bar the agency from issuing a "substantially similar" version in the future.

Toss Up: Cornyn said it was "jump ball" whether senators would vote on a CRA challenge to nullify a regulation aimed at curbing methane emissions on public lands because they'll only have time for one resolution this week. The other option is a rule establishing background check requirements before mentally disabled Social Security recipients can buy guns.

HAPPY VALENTINE'S DAY EVERYONE! I'm your host Anthony Adragna, and congrats to Calpine's Derek Furstenwerth for knowing Kansas is the state that appears in another state's most populous city (Kansas City, Missouri of course). Today's Valentine's Day-themed puzzler: What state is responsible for growing the greatest percentage of U.S. roses? Send your tips, energy gossip and comments to 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](#).

QUITTING CLIMATE AGREEMENTS NOT SO EASY: Exiting international climate agreements would not be as quick and straightforward as some White House officials have suggested, the Congressional Research Service said in [a report](#) posted online Monday by the Federation of American Scientists. Trump could not withdraw the U.S. from the Paris Agreement until November 2019 under the accord's terms. And a more drastic step of leaving the 1992 Senate-approved United Nations Framework Convention on Climate Change might "invoke the historical and largely unresolved debate over the role of Congress in treaty termination," the report said.

BACK IN THE GAME: Lest you thought lawmakers wrapped their efforts to overhaul the regulatory process after their [early January flurry](#) of legislative activity, House Oversight panel members today mark up a wave of new legislation. Some are familiar faces that previously passed the House: The [Searching for and Cutting Regulations that are Unnecessarily Burdensome Act](#) would create a commission to recommend existing federal regulations to repeal in order to lower costs and the [Regulatory Integrity Act](#) would force federal agencies to post copies of all steps and rulemaking communications on public websites.

More, more, more: A new bill appears to be the [OIRA Insight, Reform and Accountability Act](#), which would establish a Regulatory Working Group with agency representatives to look at ways to improve the regulatory process and implement a host of other changes to the regulatory gatekeeper. Panel members are also likely to advance [legislation](#) (H.R. 653) guaranteeing legal protections to unpaid federal interns (which came in response to sexual harassment scandal at EPA) and [another bill](#) (H.R. 195) restricting members of Congress from receiving hard copies (!) of the Federal Register every day. The session kicks off today at 10:00 a.m. in Rayburn 2154.

**** 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> **

STEELING THEMSELVES FOR RFS BATTLE: The United Steelworkers, concerned that members who work in refineries are in danger of losing their jobs, are calling on members to sign a [petition](#) to make a change to the Renewable Fuel Standard that would shift which companies must comply with the program. Members of the union work in refineries in the Delaware River Valley believed to be in danger in part because of obligation costs from the program. The union has already put pressure on Rep. [Bob Brady](#) (D-Pa.) to [get involved](#) in the argument, joining refining giant Valero and billionaire Carl Icahn as major proponents of the change.

OPPOSITES ATTRACT: The Governor's Wind & Solar Energy Coalition is [asking](#) the Trump administration to provide funding for grid modernization, support clean energy research and speed up the permitting process for wind and solar projects. "The boons of renewable energy can be virtually endless with your Administration's and Congress' support of the key initiatives detailed here," the letter, signed by Democratic Rhode Island Gov. Gina Raimondo and Republican Kansas Gov. Sam Brownback, says. "Your support of these initiatives will allow our nation to capitalize on renewable resources, meet the needs of Americans and bolster the economy."

Blowing away the competition: The letter comes as the Southwest Power Pool [announced](#) it became the first regional transmission organization to serve more than half of its load with wind energy. It reached the mark Feb. 12 at 4:30 a.m. with 52.1 percent wind-penetration.

COAL PLANT TO SHUT DOWN: The utilities that operate the Navajo Generating Station in Arizona announced plans Monday to close the plant in 2019, the Arizona Republic [reports](#). The utilities, which include the Salt River Project, Tucson Electric, Arizona Public Service, NV Energy, and the Bureau of Reclamation, said coal was too expensive a fuel in the face of cheap natural gas. Closing the 2,250 MW plant will take with it 430 jobs at the plant, and 325 jobs at the nearby Kayenta Coal mine, which has no other customers. The Bureau of Reclamation, a federal agency with a 24 percent ownership stake, did not vote for the closure in the hopes of saving the plant. The move sets off waves not just in the energy world, but also among water users, since the Navajo Generating Station provides the power to move Colorado River water 336 miles through the Central Arizona Project, and the federal portion of the power station helps repay the cost of having built the water project.

CRISIS ONGOING AT OROVILLE: Evacuation orders remain in place for more than 100,000 people below the Oroville Dam in Northern California amid concerns the nation's tallest dam could fail, The Los Angeles Times [reports](#). Authorities are working on a plan to have residents return but there is no timeline yet. "Getting those people home is important to me. But I have to be able to sleep at night knowing they're back in that area," Butte County Sheriff Kory Honea said on Monday. Meanwhile, crews are working to shore up an overflow channel before the next round of storms. The evacuation orders came down suddenly on Sunday evening amid concerns the dam was on the brink of collapse.

Meanwhile, California lawmakers wrote Trump to immediately ask for a major disaster declaration for the state, which would free up federal dollars to respond to the crisis.

Democratic Sens. [Dianne Feinstein](#) and [Kamala Harris](#) requested \$162.3 million in disaster relief, while 11 House Republicans [separately warned](#) the risk of collapse was "likely to persist for months."

SMITHERMAN JOINS NRG BOARD: Not that long ago Barry Smitherman's [resignation](#) from the Vinson & Elkins law firm kicked up rumors that the former Texas regulator was on his way to D.C. for his next gig. But his latest move throws some cold water on speculation that he may have been en route to FERC. Smitherman joined NRG Energy's board of directors, according to a Monday [SEC filing](#). The Houston Business Journal notes NRG [shook up](#) its board as part of a deal with activist investors Elliott Management and Bluescape Energy Partners. As part of the deal, two board members retired and two were added, including Smitherman. He'll also be part of a five-member "ad hoc" committee tasked with making recommendations on a range of business issues to the board. If Smitherman were to take a job at FERC or the Energy Department, he'd almost certainly have to sign an ethics agreement forcing him to leave NRG. That doesn't mean he couldn't ditch NRG for something else down the line, but NRG might feel a little burned if he left too soon.

BILL TARGETING DAPL PROTESTERS FAILS IN NORTH DAKOTA: Legislation that would have permitted any driver that injures or kills a person who is intentionally blocking vehicle traffic on a public road to not be held liable failed to advance in the North Dakota House on Monday, The Bismarck Tribune [reports](#). House Bill 1203 came in response to months of protests surrounding the Dakota Access pipeline where demonstrators have frequently gathered in roadways. It failed by a 41-50 vote.

ALITO HITS RISE IN AGENCY AUTHORITY: Supreme Court Justice Samuel Alito [criticized](#) Congress for shedding its lawmaking authority over recent years and the executive branch for filling the void by enacting major regulations. He was especially critical of federal efforts to interpret Congress' vague term "waters of the U.S." and of the 2007 Supreme Court decision that found EPA has the authority to regulate carbon dioxide.

Alito, speaking to the Claremont Institute over the weekend, said he thinks carbon dioxide is "not a pollutant," but EPA used the court's decision affirming it is to issue regulations with "enormous" economic costs. "I am not a scientist or an economist, and it is not my place to say whether these regulations represent good or bad public policy. But I will say that a policy of this importance should have been decided by elected representatives of the people in accordance with the Constitution and not by unelected members of the judiciary and bureaucrats."

WHERE IS THE CLIMATE LOVE, LAMAR SMITH? That's what members of the Moms Clean Air Force and the broader San Antonio community will ask as they deliver 200 climate change-themed valentines to Rep. [Lamar Smith](#)'s district office this morning at 11 a.m. "Congressman Smith is pushing a dangerous agenda. To undermine our basic health protections to this extent, by policing and intimidating scientists is reprehensible," Krystal Henagan with the Moms Clean Air Force said in a statement.

WHITEHOUSE PUSHES MNUCHIN ON CLIMATE: Democrats spoke out against Steve Mnuchin's Treasury nomination Monday afternoon, but Sen. [Sheldon Whitehouse](#) used a large chunk of his remarks to implore him to show "some common sense and some decency" on climate change. "It is perhaps hard to expect much good to come, but let's hope that Mr. Mnuchin makes himself a part of the solution rather than just a part of the climate denial problem that so infects us, particularly here in congress," the Rhode Island Democrat said. He

pointed to the fact three former GOP Treasury chiefs have endorsed climate action and the fact he sees the industry taking the problem "pretty seriously."

CAUTION URGED TO FEDS: Even while criticizing efforts to muzzle federal employees, Public Employees for Environmental Responsibility warned public employees should [tread carefully](#) when addressing Trump administration policies Monday, saying murky ethics guidelines could leave them vulnerable to removal. "Unlike White House staff who are merely counseled about clear ethics violations, public employees trying to educate the public about the consequences of Trump initiatives may be targeted for discipline or removal," PEER's director Jeff Ruch said in a statement.

MOVER, SHAKER: Misty McGowen has joined the House Transportation Committee as director of outreach and coalitions; she comes from the American Petroleum Institute, where she was director of federal relations for seven years.

TAKE A GLANCE! CRA CHALLENGES LINKED TO DONATIONS: The Center for American Progress is out with [an analysis](#) today arguing opponents of regulations targeted under the Congressional Review Act have donated an average of \$2.3 million per rule to congressional backers of their nullification.

IT'S A GAS! The Consumer Energy Alliance is today launching a new campaign, entitled "[Power On](#)," highlighting the importance of natural gas in powering New England through the winter. The push will feature ads and videos throughout the region.

QUICK HITS

- Mish Michaels isn't alone: Many meteorologists question climate change science. [Boston Globe](#).
- Climate change activists urge Cuomo to go further. [WXXI](#).
- Pipeline fire out in Louisiana; missing worker presumed dead. [ABC News](#).
- China and U.S. lead way with wind power installations, says global energy report. [CNBC](#).
- Sea Ice Hits Record Lows at Both Poles. [Scientific American](#).
- Abandoned Vehicles Pose New Pollution Threat At DAPL Protest Site. [Western Wire](#).

HAPPENING TUESDAY

8:00 a.m. — Institute for Electric Innovation holds breakfast briefing on new services and technologies in the electric industry, Renaissance West B, Renaissance Hotel, 999 9th St. NW

10:00 a.m. — [Markup](#) of a number of regulatory overhaul bills, House Oversight and Government Reform Committee, 2154 Rayburn

3:00 p.m. — House Rules Committee [considers](#) two more resolutions of disapproval including one Interior Department rule, H-313

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/pruitt-zinke-perry-get-confirmation-votes-teed-up-021365>

Stories from POLITICO Pro

Watchdog sues for Pruitt communications [Back](#)

By Alex Guillén | 02/07/2017 11:52 AM EDT

A watchdog group today sued EPA nominee Scott Pruitt in an effort to force him to answer a public records request seeking communications with a variety of fossil fuel companies, activist groups and related organizations.

Pruitt, the Oklahoma attorney general, has not responded to requests dating back to 2015, in violation of state law, according to the [complaint](#) from the Center for Media and Democracy.

The group [asks](#) for the court to order Pruitt and his office not to destroy any relevant records until the legal dispute is resolved. CMD is asking for copies of emails between Pruitt's office and more than two dozen companies, nonprofits and law firms, including Devon Energy, Koch Industries and Freedom Partners.

Pruitt's office told CMD last August that it had some 3,000 emails and documents to comb through in relation to the group's first request, but has yet to release those.

CMD said it will request an emergency hearing on the matter given Pruitt's pending nomination. The Senate could vote on Pruitt as early as next week.

Democrats on the Senate Environment and Public Works Committee boycotted Pruitt's confirmation vote last week in part because Pruitt responded to at least 17 [questions](#) regarding his communications and other documents by directing lawmakers to file a records request with the state.

Pruitt's office did not immediately return a request for comment.

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Goodlatte: Congress coordinating with Trump team on regulation changes [Back](#)

By Eric Wolff | 01/06/2017 12:11 PM EDT

The House Judiciary Committee is in close coordination with President-elect Donald Trump's transition team on its legislation to enact sweeping new restrictions on regulations, Chairman [Bob Goodlatte](#) (R-Va.) told reporters today.

"We have worked very, very closely with members of the Trump transition, and people that we expect will be in positions related to this in the new administration," he said, adding they want "to make sure we are as much as possible on the same page."

The House passed the REINS Act last night and the Midnight Rules Relief act on Wednesday. Goodlatte also introduced the Regulatory Accountability Act on Tuesday, a package of bills passed in the 114th Congress that would eliminate judicial deference to agencies and increase notification and reporting around rules.






Goodlatte said RAA, REINS, and Midnight Rules are the "triple crown" of regulatory change legislation, and that other bills passed in the House during the last Congress will be forthcoming. A spokeswoman for Rep. [Doug Collins](#) (R-Ga.) said his bill to make it more difficult for government agencies to reach settlement deals with outside groups would be introduced next week.

Collins, who sponsored the REINS Act, told reporters that Trump had promised to sign the bill if it reached his desk. However, Trump made that promise in 2015, [according to USA Today](#).

All of the bills face an uphill climb in the Senate, where Democrats are likely to filibuster.

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