

**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: Committees kick off policy hearings today — Challenge to BLM methane rule in trouble? — Evacuation order rescinded for residents near Oroville dam  
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By Anthony Adragna | 02/15/2017 05:47 AM EDT

*With help from Eric Wolff, Esther Whieldon, Nick Juliano, Alex Guillén and Darius Dixon*

**LET'S GET READY FOR RUMBLES!** Energy and environment watchers get their first real taste of 2017 policy hearings today, with two sessions planned in the House and one in the Senate. Here's a quick rundown of the festivities.

**DAPL before Congress:** A Dakota Access project leader and a Standing Rock Sioux representative will be among the nine witnesses testifying today before a House Energy and Commerce subpanel. The committee's intent is to discuss "[modernizing energy and electricity delivery systems](#)." But if there any fireworks, they will surely be from these two witnesses. The Trump administration cleared project roadblocks last week, and now construction is going ahead. The subcommittee will also hear from transmission line construction experts, and the heads of both Laborers' International Union of North America and International Brotherhood of Electrical Workers. The hearing will be at 10 a.m. in Rayburn 2123.

**EPW mulls Endangered Species Act 'update':** Senate EPW members get their [first input](#) on potential ways of updating and modernizing the Endangered Species Act today. Chairman [John Barrasso](#) has been a longtime critic, [pointing in 2015](#) to its "notoriously inconsistent" implementation and "clear failure" since so few species are successfully delisted. Today he'll urge EPW members to follow the bipartisan example of the Western Governors Association "as our committee explores the need to modernize the Endangered Species Act." Witnesses include former Wyoming Democratic Gov. Dave Freudenthal and former Obama administration Fish & Wildlife Service chief Dan Ashe. It kicks off at 10:00 a.m. in Dirksen 406.

**Science panel hits DOE loan program — again:** Two House Science subcommittees are slated to [take aim](#) at a well-tread target this morning in a hearing about DOE's loan guarantee program. Republicans have been wary of the program after high-profile flops like Solyndra, Abound Solar, Fisker and Beacon Power launched it into the public eye more than a half-decade ago. The aspect of the program that backed most of those ill-fated guarantees shuttered in 2011 but expect at least one Republican to explain how the government shouldn't be playing venture capitalist (the original loan program was created by Congress under George W. Bush to take chances on innovative tech and designed it with the expectation of some losses). DOE has [now made money](#) off the program. The real question is whether there's something new to say about this. Witnesses this morning include representatives from the Heritage Foundation and CATO Institute, as well as former DOE official Dan Reicher. If you go, the hearing begins at 10:00 a.m. in Rayburn 2318.

**WELCOME TO WEDNESDAY!** I'm your host Anthony Adragna, and Abbey Reller with Sen. John Barrasso was first to identify California as our biggest rose-growing state. For today: Who was the first senator to be elected by write-in votes? 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.](#)

**TROUBLE FOR METHANE CRA?** There are now three Republican senators — Sens. [Rob Portman](#), [Susan Collins](#) and [Cory Gardner](#) — publicly undecided about whether they'll back a Congressional Review Act resolution nullifying a BLM rule aimed at limiting methane emissions from oil and gas drilling on federal lands, Pro's Nick Juliano [reports](#). Portman's office said he's "still reviewing" the resolution; Collins told ME she had "[concerns](#)" with it. Gardner seemed to be leaning toward supporting the measure in an interview last week, but he said he has not made up his mind. The potential for not getting majority support for the measure from their own ranks, coupled with undecided Democrats who typically side with the GOP on fossil fuel issues, could put the CRA challenge at risk. The measure won't come up until after the President's Day recess at the earliest, although some had expected to see a vote as soon as this week. Instead, the Senate is set to pass a CRA dealing with gun background checks today.

**But GOP lawmakers project confidence:** Energy and Natural Resources Chairwoman [Lisa Murkowski](#) wouldn't say whether the CRA move had the support it needed at the moment but thought enough Republicans would eventually back it. And Senate Majority Whip [John Cornyn](#) added: "Well nothing is easy around here. But what tends to focus people's minds is when the vote is imminent, so I think when you're undecided I think that just means the conversation needs to continue."

**Meanwhile, some 100 protesters** [gathered](#) outside Gardner's district office in Durango, Colo., urging against scrapping the methane rule.

**\*\* 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> \*\*

**TRUMP 'KEEPING A CLOSE EYE' ON OROVILLE:** Press secretary Sean Spicer told reporters Tuesday the situation at the Oroville Dam in California is a "textbook example" of why Congress should take up a major infrastructure package and pledged to continue working with Rep. [Doug LaMalfa](#) and other state officials to provide necessary relief. "In order to prevent the next disaster, we'll pursue the president's vision for an overhaul of our nation's crumbling infrastructure," Spicer said. Trump approved an emergency declaration for California late Tuesday night.

**Evacuation order lifted:** More than 180,000 people will be allowed to return to their homes after the evacuation order was lowered to a warning on Tuesday afternoon, the Desert Sun [reports](#). But FERC ordered the state in a Feb. 13 [letter](#) to begin emergency repairs to the structure. "The Commission has a team on site at the Oroville Dam spillway in California and is closely monitoring the situation," Acting FERC Chairman Cheryl LaFleur said in a statement.

**NEW NOAA, OLD DOCS:** House Science Chairman Lamar Smith has reiterated and refined

what information he wants from NOAA concerning the agency's 2015 *Science* paper refuting the pause in global warming, results that others have essentially backed up. Smith has been seeking emails and other communications between those who worked on the paper for more than a year hoping to confirm suspicions about whether the paper was improperly rushed. Under the Obama administration the agency had only coughed up notes among the political appointees and not those of scientists, the latter request being fairly controversial. Now, in a [Tuesday letter](#), emboldened by the comments of former NOAA scientist and archivist John Bates, Smith has asked the new Trump NOAA for the information. Also interesting — besides cc'ing Vice President Mike Pence: Smith asked NOAA to brief the committee on Bates' claims "to ensure that NOAA engages with unbiased independent experts" as the agency looks for outside parties to review the conduct surrounding the paper.

**BARRASSO'S CONFIRMATION FRUSTRATIONS:** The slow pace of confirming Cabinet nominees is slowing down Republican plans for implementing their agenda, a frustrated Barrasso told reporters. "The longer the Democrats obstruct there, it delays some of the stuff we're trying to do," he said.

**ICYMI:** The Wyoming Republican [promised](#) Scott Pruitt would get a vote on his EPA nomination this week, though timing remains fluid.

**Up today:** The Senate begins considering Rep. Mick Mulvaney's nomination to head OMB with a final vote expected no later than Thursday. Pruitt's up after that.

**CHALLENGE FILED AGAINST DAKOTA ACCESS:** The Standing Rock Sioux on Tuesday [asked a federal district court](#) to set aside the Trump administration's Feb. 8 decision to grant an easement that allowed the controversial Dakota Access pipeline to move forward. Tribal leaders from the Cheyenne River Sioux Tribe and the Great Sioux Nation will today hold a press conference at 12:30 p.m. at the National Press Club to discuss their next steps in opposing the project.

**COMING SOON... THE ZOMBIE REGULATION:** President Donald Trump on Tuesday [signed](#) the Congressional Review Act resolution killing the SEC's energy extraction disclosure rule — but a small contingent of Republican senators hopes the SEC will bring it back to life, albeit with some changes. In a [letter](#) sent the day the Senate approved the resolution on a party-line vote, six GOP senators — Bob Corker, Susan Collins, Marco Rubio, Johnny Isakson, Lindsey Graham and Todd Young — ask the SEC to take another crack at the rule, this time providing a more explicit exemption for countries that prohibit such disclosure (a list the oil industry says includes China, Qatar, Angola and Cameroon). The rule finalized by the SEC last June allowed for case-by-case exemptions as requested by companies rather than a blanket country exemption, and advocacy groups like Oxfam note that similar disclosure rules in Europe and Canada mean many companies already report payments to those nations.

As Pros will recall, any rule that is successfully CRA'd is barred from ever being issued again in "substantially the same" form (unless Congress says otherwise), a provision that has never before been tested. But Congress didn't repeal the part of Dodd-Frank requiring this rule, so the SEC is left in a unique position in which it must try, try again. The six Republicans are apparently hoping changing the exemption requirements and addressing other unspecified "anti-competitiveness concerns" are enough to escape the CRA's sudden death round. And if a judge says that won't fly, the senators are "open to supporting legislative or other solutions that might be appropriate to address any issues that might be posed by the Congressional Review Act's restrictions."

Acting SEC Chairman Michael Piwowar, who voted against the rule last year, vowed to "direct the SEC staff to take a fresh look to determine how we might comply with our statutory obligations to adopt a new rule in a way that better aligns with our core mission." Based on the SEC's track record on this rule, expect to see a final version sometime in 2019. The SEC is currently down to just two members.

**GHG EMISSIONS DOWN 2.2 PERCENT IN 2015, EPA SAYS:** U.S. greenhouse gas emissions were down 2.2 percent between 2014 and 2015, according to a new [draft inventory](#) released by EPA. Total emissions were almost 6.6 billion metric tons in 2015, or about 20.5 tons per person. The report says emissions were down for three primary reasons: switching from coal to natural gas; warmer winter conditions that drove down demand for heating fuel; and a small decrease in demand for electricity. The two years preceding 2015 saw increases in emissions of 2.2 percent and 0.9 percent; the greatest decrease since 1991 was 2009, the height of the economic recession, when emissions dropped a whopping 6.2 percent. But on average over that time, emissions have increased annually 0.2 percent. Public comments are due by March 17.

**Going up:** While most types of greenhouse gas saw decreases, hydrofluorocarbon emissions actually increased 4.4 percent as it grew as a substitute for ozone-depleting chemicals. Nitrogen trifluoride, a byproduct of semiconductor manufacturing, was up about 20 percent. The U.S. doesn't emit much NF3 (about 600,000 tons of CO2 equivalent in 2015), but the gas packs a punch — it was 17,200 times the global warming potential of CO2 and stays in the atmosphere for a whopping 740 years.

**YELLEN' ABOUT CLIMATE CHANGE:** U.S. Federal Reserve Chair Janet Yellen told Sen. [Brian Schatz](#) (D-Hawaii) "there's not very much that we can do in incorporating [climate change] into our forecasts" but Schatz pushed back on that assertion at a Banking hearing Tuesday. "Just because we don't know the extent of the risk doesn't mean we should book it at zero," Schatz said. "At some point, the Fed is going to have to recognize that climate change is real and it's not merely an ecological issue or a political issue, but an economic one."

**MAIL CALL! TOP CONSERVATIVES SEEK MEETING OVER CARBON TAX:** Five influential conservative voices — Tom Pyle of the American Energy Alliance, Grover Norquist of Americans for Tax Reform, Michael Needham of Heritage Action, Myron Ebell of the Competitive Enterprise Institute and Adam Brandon of FreedomWorks — are asking to meet with White House chief economic adviser Gary Cohn over a recent carbon tax proposal floated by other Republicans. "We respectfully request a meeting with you to further discuss our concerns regarding a carbon tax and to provide additional information that may be helpful in your assessment of the issue," they write in [a letter](#) today.

**SOLAR MARKET BOOM:** The solar industry installed 14,635 megawatts of capacity last year, nearly double the amount built in the US in 2015, GTM Research and the Solar Energy Industries Association said in an advanced look at their annual report due out next month. Utility-scale investments again dominated the scene, bolstered by developers who started building projects in late 2015 over concerns federal tax incentives would not continue past that year. Lawmakers ended up extending the investment tax credit through 2022, with the amounts stepping down in increments beginning in 2020.

**GEORGIA NOTCHES WIN IN FLORIDA WATER WARS:** A U.S. Supreme Court official recommended that Florida's request for a cap on Georgia's water use be denied on

Tuesday, POLITICO Florida's Bruce Ritchie [reports](#). Court special master Ralph Lancaster, a Maine lawyer, said Florida failed to show during a six-week trial last fall how a water-use cap would provide the relief the state is seeking. Georgia Gov. Nathan Deal said his state was "incredibly pleased" by the decision, while there was no substantive comment from Florida Gov. Rick Scott. But a Florida environmental group said the case is far from over.

**GRIJALVA SEEKS PROBE OF BLM'S CYBER RISKS:** House Natural Resources ranking member [Raul Grijalva](#) asked GAO in [a letter](#) Tuesday to look into what BLM cybersecurity for online federal lease sales for oil and gas production. "I am concerned that foreign or domestic actors could manipulate online lease sales to their own benefit and to the detriment of the American people," he wrote.

**TOP HOUSE SCIENCE DEMOCRATS PICKED:** House Science ranking member [Eddie Bernice Johnson](#) announced subcommittee ranking members Tuesday: [Marc Veasey](#) on the energy subcommittee; [Suzanne Bonamici](#) for the environment subcommittee; [Dan Lipinski](#) for the research and technology subpanel; [Don Beyer](#) on the oversight subpanel and [Ami Bera](#) for the space subcommittee.

**DEPT OF EVERYONE SAW IT COMING — LAWSUIT FILED OVER ILL ENERGY LAW:** Several power generators have sued the Illinois Power Agency and the Illinois Commerce Commission in a district court in Chicago hoping to rollback credits for nuclear power backed into the state's recent fix to its energy portfolio standard. Attorneys for the Electric Power Supply Association, which has also sued New York over that state's nuclear-friendly clean energy program, asserted in a [Tuesday complaint](#) that the law improperly intrudes on FERC's territory. Without the law — longshot legislation passed during a special veto session of the General Assembly in November — Exelon Corp. had already announced plans to shut down its Clinton reactor June 1, and its Quad Cities nuclear plant next year. "Bailing out uneconomic power plants is a bad deal for Illinois ratepayers," Jonathan Schiller, a member of EPSA's legal team, said in a statement. The case has been filed in the U.S. District Court for Northern District of Illinois, Eastern Division.

**MOVER, SHAKER:** Scott Peterson has joined the National Rural Electric Cooperative Association as a senior vice president of communications; he was previously with the Nuclear Energy Institute.

## QUICK HITS

- Enviro groups seek immediate block to Mariner East 2 pipeline. [Philly.com](#).
- The United States of oil and gas. [The Washington Post](#).
- Ohio GOP targets clean energy standards, efficiency rules. [Cleveland Plain Dealer](#).
- Judge blasts WVDEP, EPA over lack of mine pollution cleanup. [Charleston Gazette-Mail](#).
- Trump Repeal of Obama SEC Regulation Signals More to Come. [Bloomberg](#).
- Philippine Environment Secretary Cancels 75 Mining Deals. [AP](#).

## HAPPENING WEDNESDAY

8:30 a.m. — [3rd Annual Energy Storage Policy Forum](#), Energy Storage Association, National



Press Club, 529 14th Street

10:00 a.m. — "[Modernizing Energy and Electricity Delivery Systems: Challenges and Opportunities to Promote Infrastructure Improvement and Expansion](#)," Energy and Commerce Energy Subcommittee, 2123 Rayburn

10:00 a.m. — "[Modernization of the Endangered Species Act](#)," Senate Environment and Public Works Committee, 406 Dirksen

10:00 a.m. — "[Risky Business: The DOE Loan Guarantee Program](#)," House Science, Space and Technology Subcommittees on Energy and Oversight, 2318 Rayburn

10:00 a.m. — "[How to Manage Global Catastrophic Risk](#)," The Brookings Institution, 1775 Massachusetts Avenue NW

11:00 a.m. — "Climate Change and Water Management in Eastern States: Overcoming Barriers to Innovation in Regulated Riparianism," American Water Resources Association [webinar](#), contact: [info@awra.org](mailto:info@awra.org)

12:30 p.m. — "[Navigating the Southeast Energy and Environmental Policy Landscape](#)," Nicholas Institute for Environmental Policy Solutions, Grand Hyatt Washington 1000 H Street NW

12:30 p.m. — Tribal Leaders to hold press conference on next steps to stop Dakota Access pipeline, National Press Club, 529 14<sup>th</sup> Street NW

4:00 p.m. — Young Conservatives for Energy Reform and the American Wind Energy Association hold wind energy rally, Grand Ballroom, Washington Court Hotel, 525 New Jersey Ave., NW

## 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/committees-kick-off-policy-hearings-today-021391>

**Stories from POLITICO Pro**

## **DOE's loan guarantee program back in black** [Back](#)

By Alex Guillén | 11/13/2014 04:00 AM EDT

Looks like the Energy Department's loan office is in the black.

Despite losses from Solyndra and some other companies, DOE says it has already made money off its loan and loan guarantee portfolio.

DOE so far has received \$810 million in interest payments on its loan portfolio, more than offsetting the \$780 million in actual and estimated losses the program has suffered.

And DOE says it expects to ultimately make \$5 billion from the interest payments on the projects.

The news is a bright spot for supporters of the loan program who have sought to counter the critics who say the losses incurred by Solyndra, Abound Solar, Fisker, Beacon Power and the Vehicle Production Group mark the program as a failure.

It also gives DOE a new defense as the department moves to utilize the remaining billions of dollars in loan authority in its auto program as well as a program for advanced nuclear and fossil energy projects and renewables and efficiency.

DOE notes that the losses from Solyndra and the rest make up about 2.3 percent of the \$34 billion it has issued via loans, loan guarantees and conditional commitments. DOE has actually disbursed \$21.71 billion of that, and \$3.49 billion of principal was repaid as of September, it said.

Many of the projects that received loan guarantees alongside Solyndra are solar or wind power projects that are now generating electricity.

But Solyndra became a Republican talking point during the 2012 election as symbol of the Obama administration's wasteful green spending.

DOE always noted that the \$528 million spent on Solyndra represented a tiny portion of its overall portfolio and pointed to a \$10 billion reserve created by Congress to cover potential losses.

And the program has enjoyed several notable successes — like Tesla Automotive, which [paid back](#) the balance of its \$465 million loan in May 2013.

Congress has largely left DOE's loan program alone in recent years. Lending authority in the 1705 program, which funded Solyndra, ended in 2011.

Two other programs are still active but have been essentially dormant until recently.

The 1703 loan guarantee program has finalized part of an \$8.33 billion loan guarantee for new nuclear reactors in Georgia. And the Advanced Technology Vehicles Manufacturing program hasn't made any public commitments in more than three years.

DOE is moving forward with new loans and guarantees under those programs, and Energy Secretary Ernest Moniz [said in April](#) that he expects DOE to finalize several deals by year's

end.

In July, DOE announced it has offered a conditional \$150 million loan guarantee to [Cape Wind](#), though the deal has not yet been finalized.

New loans may draw the attention of a GOP-controlled Congress, which could seek to stop future loans and guarantees from being finalized. House Republicans frequently targeted DOE's remaining authority in appropriations bills, but the Democratic-controlled Senate kept those out of final spending bills.

Incoming Senate Majority Leader Mitch McConnell vocally criticized DOE's loan portfolio, though he also [took fire in 2011](#) for lobbying DOE in support of a \$235 million loan for an electric vehicle plan in Kentucky.

On the other hand, key Republicans have actually voiced some support for DOE's remaining loan programs.

Sen. Lamar Alexander, the incoming chairman of the energy and water spending panel, supports DOE's nuclear loan guarantees, calling them a " [welcome change](#)." And Sen. Lisa Murkowski, the incoming Energy and Natural Resources Committee chairwoman, wants to [beef up oversight](#) of the program and in 2012 expressed frustration that the ATVM program was " [virtually dormant](#)."

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**Portman undecided on whether to block methane rule** [Back](#)

By Nick Juliano | 02/14/2017 05:46 PM EDT

Sen. [Rob Portman](#) is "still reviewing" a proposal to block a rule aimed at limiting methane emissions from oil and gas drilling on federal lands and has not decided how he will vote, a spokesman for the Ohio Republican said today.

Portman brings to three the number of Senate Republicans who have not yet committed to backing a Congressional Review Act resolution blocking the Bureau of Land Management regulation. That means GOP leaders cannot at this point count on majority support for the measure from their own ranks, and Democrats who typically side with them on fossil fuel issues remain undecided as well.

Senate Majority Whip [John Cornyn](#) (R-Texas) said today that Republicans decided to put off a vote on the methane CRA because of time constraints this week. They were "best prepared" to pass a CRA undoing required background checks for gun purchases by mentally disabled Social Security recipients, Cornyn said today. "But the methane one is still on our list."

Sen. [Susan Collins](#) (R-Maine) has said she has " [concerns](#) " with the methane resolution, and Sen. [Cory Gardner](#) seemed to be leaning toward supporting the measure in an interview last week, but he [said](#) he has not made up his mind.

While CRA resolutions cannot be filibustered, Republicans are still working with narrow margins in their 52-member caucus.

"Well nothing is easy around here," Cornyn said. "But what tends to focus people's minds is



when the vote is imminent, so I think when you're undecided i think that just means the conversation needs to continue."

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## **Collins has 'concerns' with move to block methane rule [Back](#)**

By Nick Juliano and Anthony Adragna | 02/14/2017 04:34 PM EDT

Sen. Susan Collins says she is not ready to support Republicans' effort to block an Obama administration rule designed to prod oil and gas companies into capturing excess methane when they drill on federal lands.

"I'm still reviewing it, but I have a number of concerns about it," [Collins](#) told POLITICO Tuesday when asked about the Congressional Review Act resolution targeting the Bureau of Land Management regulation.

The Maine Republican is at least the second member of her party not yet on board with blocking the methane rule — Sen. [Cory Gardner](#) (R-Colo.) said last week that he remains undecided — and Democrats who tend to break with their party on fossil fuel issues remain on the fence as well. A vote on the CRA resolution has been put off at least until after next week's recess, but without additional support GOP leaders risk relying on Vice President Mike Pence for another tie-breaking vote to get it across the finish line.

"I think there's internal issues with certain Republicans who feel very strongly that maybe this rule should get reviewed and amended but not repealed," said Sen. [Heidi Heitkamp](#) (D-N.D.), who often joins Republicans on energy votes but has not decided how she will vote on the methane rule.

Heitkamp said she needed to learn more about how overturning the BLM rule would affect similar state regulations and how to strike the right balance between not wasting gas extracted from federal lands. The rule sets standards to limit the venting and flaring of natural gas, and it would modify royalty rates for federal oil and gas production.

"The concern that I have is that this is a valuable mineral owned by the people of this country and it should be captured," Heitkamp said. "The question is, you know, I know enough about oil drilling to know that not every hydrocarbon can get captured. And for safety reasons there is a need to have flares, and we have a pretty good record of closing that loophole in North Dakota. But we don't want to face situations where federal minerals are left behind."

Senate Energy and Natural Resources Chairwoman [Lisa Murkowski](#) said opponents of the rule were tallying votes they could count on and "explaining it to some of our colleagues who are not Westerners why we don't need it."

Murkowski did not say directly whether the CRA resolution has the support it needs to pass right now, but she sounded encouraged that her non-Western colleagues would come around.

"I think as a general rule they're looking at it and saying, 'anything we can do to roll back some of these regs is not going to be a bad thing at the end of the day,'" Murkowski said.

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## **Barrasso: Pruitt will get a vote this week [Back](#)**

By Anthony Adragna | 02/14/2017 03:33 PM EDT

Senate Environment and Public Works Chairman [John Barrasso](#) flatly rejected a request from the panel's Democrats to delay a floor vote on Scott Pruitt's nomination to run EPA.

"He will be voted on this week," the Wyoming Republican told reporters today.

EPW Democrats [sought a delay](#) because a court hearing later this week in Oklahoma may result in the disclosure of key emails between Pruitt and oil and gas companies.

"That nomination could come to the Senate floor on the same time, same day as the judge in Oklahoma is making the decision on ... requiring the disclosure of all the additional emails between the attorney general's office and petroleum companies, natural gas companies, coal companies, a bunch of donors and so forth," Ranking Member [Tom Carper](#) told reporters earlier today. "It would be an interesting coincidence."

Votes have not yet been scheduled on Pruitt or several other pending nominees as Senate leaders continue to negotiate scheduling for the remainder of the week.

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## **Trump signs bill killing SEC rule on foreign payments [Back](#)**

By Alex Guillén | 02/14/2017 02:44 PM EDT

President Donald Trump today signed the first in a series of Congressional regulatory rollback bills, revoking an Obama-era regulation that required oil and mining companies to disclose their payments to foreign governments.

That regulation, part of the Dodd-Frank Wall Street reforms, was strongly opposed by the oil and gas industry — including Trump's Secretary of State, Rex Tillerson, who as head of Exxon Mobil [personally lobbied](#) to kill the Securities and Exchange Commission's rule that he said would make it difficult to do business in Russia.

"It's a big deal," Trump said at the signing. "The energy jobs are coming back. Lots of people going back to work now."

Today's signing in the Oval Office marked the first time in 16 years that the Congressional Review Act has been successfully used to roll back a regulation, and Congress is queuing up several others to send to the president's desk.

The American Petroleum Institute had challenged the SEC's first version of that rule, known as the 1504 rule after the relevant section of the 2010 Dodd-Frank Wall Street reform bill, forcing the agency back to the drawing board in 2013. In 2015, a federal judge said the SEC was dragging its feet on issuing a new version, and the SEC was ordered to finish the new rule by late June 2016 — putting it just within reach of the CRA's timeframe.

Congress has already passed another resolution gutting the Interior Department's stream protection rule that has been criticized by the coal industry. Trump was reportedly scheduled to sign that one at an event in Ohio on Thursday, but that trip has been scrubbed, and it

remains unclear when he will sign the measure.

The Senate is also teeing up votes this week for several others that have already been passed by the House.

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## **Florida dealt setback at U.S. Supreme Court in water wars with Georgia — but case is far from over [Back](#)**

By Bruce Ritchie | 02/14/2017 07:33 PM EDT

TALLAHASSEE — Georgia Gov. Nathan Deal said his state was "incredibly pleased" with a U. S. Supreme Court official's recommendation Tuesday that Florida's request for a cap on Georgia's water use should be denied. But a Florida environmentalist involved in the issue said the case isn't over.

Florida Gov. Rick Scott, who decided in 2013 to file the lawsuit against Georgia, made no substantive comment about the action.

Court special master Ralph Lancaster, a Maine lawyer, said Florida failed to show during a six-week trial last fall how a water-use cap would provide the relief the state is seeking. He said that's because the U. S. Army Corps of Engineers, which operates reservoirs on the Chattahoochee River, wasn't brought into the case by Florida.

Dan Tonsmeire of Apalachicola Riverkeeper said he hopes the court will pull the Corps of Engineers into the case, although it seems unclear how that could happen. He also said that the Corps' operation of reservoirs remains subject to a federal legal challenge filed in 1990.

"I don't think it's game over at all," Tonsmeire said. "What I just said is we've showed that Georgia's water use is impacting the Apalachicola but we were unable to bring all the culprits to the table at the same time."

The decision comes as the Florida House says it is auditing nearly \$72 million in legal expenses that have been paid since 2000, including \$41 million within the past year.

Scott filed the direct action at the U. S. Supreme Court a year after the oyster population crashed in Apalachicola. He blamed Georgia's water use by farms and cities along the Chattahoochee and Flint rivers for lack of fresh water flowing into Florida, which allows oyster predators to move into the shallow Apalachicola Bay.

Georgia responded that Florida's own water use and mismanagement of oysters had caused the bay's oyster population to collapse.

Florida said the Corps of Engineers wasn't a necessary party in the Supreme court lawsuit, prompting Georgia to argue dismissing the case. But Lancaster in 2015 allowed it to proceed but warned that Florida's case "will live or die" based on its ability to show that a water-use cap is justified and will provide relief.

And Lancaster wrote in his recommendation to the court on Tuesday that without the Corps' involvement in the lawsuit, the court cannot order the federal agency to take action that would provide more water to Florida.

"There is no guarantee that the Corps will exercise its discretion to release or hold back water at any particular time," Lancaster wrote Tuesday. "Further, Florida has not shown that it would benefit from increased pass-through operations under normal conditions."

A Scott spokeswoman said only that the decision was being reviewed.

Deal and Georgia Attorney General Chris Carr said they were encouraged by the recommendation.

"Georgia remains committed to the conservation efforts that make us amicable stewards of our water," Deal said in a written statement. "We are encouraged by this outcome which puts us closer to finding a resolution to a decades-long dispute over the use and management of the waters of the basin."

But Tonsmeire said Lancaster's recommendation wasn't a complete loss for Florida because it states that the court cannot provide relief that Florida needs because of the upstream water use.

"That part was good," Tonsmeire said. "There was a recognition the operations of the Corps, in conjunction with Georgia's water use, that there was an impact."

The federal lawsuit filed by Alabama and Florida against the Corps in 1990 remains on hold in federal court while the agency updates its reservoir operations manual. The agency [announced](#) in December it would provide 621 million gallons per day to Georgia cities from the Chattahoochee River despite objections from Florida officials.

Tonsmeire said that case still is awaiting a formal record of decision by the Corps of Engineers that could be subject to a legal challenge.

He also disagreed with the idea that spending on the litigation was a waste of money.

House Speaker Richard Corcoran said House members were conducting an audit of legal expenses associated with the case. While saying it is necessary to defend the rights of Floridians, he told reporters in January that the state is "getting gouged and that needs to be fixed."

Tonsmeire said he is not defending the amount that was charged to the state or whether those charges were proper. But he also said Georgia has acted in bad faith in ways including blocking federal legislation that would allow consideration of the water needs of Florida.

"The litigation was absolutely necessary," he said. "And protection of the Apalachicola is a high priority for the state of Florida economically and ecologically."

View a copy of Lancaster's recommendation [here](#).

*POLITICO Florida reporter Daniel Ducassi contributed to this story.*

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