

From: POLITICO Pro Energy
To: megan_bloomgren@ios.doi.gov
Subject: Afternoon Energy, presented by the National Wildlife Federation: Signed, sealed, rolled back — Oroville dam offers climate warning — Senate doesn't have time for methane emissions resolution
Date: Tuesday, February 14, 2017 3:30:41 PM

By Kelsey Tamborrino | 02/14/2017 04:27 PM EDT

With help from Alex Guillén

TRUMP SIGNS CRA BILL INTO LAW: President Donald Trump today signed a bill that kills the SEC's foreign payments disclosure rule for oil and mining companies, the first in a series of congressional regulatory rollback bills to revoke Obama-era regulations. Alex Guillén [reports](#) the regulation was part of the Dodd-Frank Wall Street reforms and 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 SEC'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." The signing 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.

Welcome to Afternoon Energy. I'm your host Kelsey Tamborrino, wishing you a Happy Valentine's Day. The House Natural Resources Committee went one step further and [tweeted](#) out some pretty amazing [valentines](#) for you to share with all the loved ones in your life. Send your thoughts, news and tips to ktamborrino@politico.com, mdaily@politico.com and njuliano@politico.com, and keep up with us on Twitter at [@kelseytam](#), [@dailym1](#), [@nickjuliano](#), [@Morning_Energy](#) and [@POLITICOPro](#).

**** 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> **

PRONTO FOR PRUITT: Senate EPW 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, Anthony Adragna [reports](#). "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. 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.

PRUITT'S OFFICE TURNS OVER SOME EMAILS, WATCHDOG UNSATISFIED: The watchdog group Center for Media and Democracy today said Pruitt's office turned over 411 emails from a two-year-old open records request that is scheduled to go to court on Thursday, but the group is far from happy. It notes Pruitt's office at first said it was reviewing 3,000 emails, and said the release did not include certain emails previously reported on by The New York Times. Pruitt spokesman Lincoln Ferguson said in an email that CMD's request has been fulfilled, although the group complained there was no explanation of why some 2,600

documents were sifted out. "Fulfilling open records requests is part of our office's regular business practice and has been in no way affected by CMD's lawsuit," Ferguson said.

POLITICO read through the [emails](#) that were released; most are logistical conversations about various press and public appearances Pruitt made several years back, although there were [communications](#) setting up a call in the summer of 2014 to talk Clean Power Plan litigation with coal magnate Robert Murray. Murray's reply to the meeting request — which was handwritten, scanned into a PDF and emailed back to Pruitt's office — was redacted.

SMITH TAKES UP ENCRYPTION FIGHT: Congressional Republicans and their allies are demanding details about federal workers' use of encrypted messaging apps — namely Signal — as part of a broader counterattack on federal employers suspected of opposing Trump's agenda, Andrew Restuccia [reports](#). "Republicans on the House Science Committee took up the cause on Tuesday by [asking](#) EPA's inspector general to review reports that agency employees are using an app called Signal, which allows people to exchange encrypted text messages and phone calls," Andrew writes. POLITICO [reported](#) this month that a group of fewer than a dozen EPA employees were using the app to discuss what they would do if Trump's political appointees flout the law or delete valuable scientific data.

OROVILLE DAM OFFERS WARNING: Oroville Dam was a warning — and more of the same is likely coming, climate experts say. The damage to the Oroville Dam that forced the evacuation of nearly 200,000 residents came after several heavy winter storms hit the Sierra Nevada mountain range in quick succession in recent weeks, Annie Snider reports. And with temperatures warmer than usual, that precipitation fell as rain rather than snow, sending torrents of water into Oroville's reservoir. Historically, the combination of rainfall and snowfall in the region has kept reservoir levels low during the winter when they needed space available to hold the rain from storms and prevent floods.

As climate change drives temperatures higher, precipitation — when it comes at all — is more likely to be in the form of rain rather than snow, Annie writes, and that means that dams built decades ago may be seeing more water headed their way than they were built to handle. When spring comes and they can start to raise reservoir levels again, there's less snowmelt to fill them with.

There's little question about the need to update the water control manuals that govern many dams across the U.S. Language to incorporate modern forecasting into reservoir operations was included in various iterations of legislation last year, including the Senate's Water Resources Development Act and energy package, but never made it into law. Meanwhile, Golden State Republicans are pressing to expand existing dams and build new ones across the state, moves they say will be a crucial part of dealing with the volatility in the weather. More [here](#).

SENATE DOESN'T HAVE THE TIME: There's not enough time this week for the Senate to take up a resolution blocking an Obama administration rule to limit methane emissions from oil and gas drilling, Nick Juliano [reports](#). Due to procedural rules, only one Congressional Review Act resolution will get through the chamber before a recess that begins at the end of this week, and the Senate today began debating a separate resolution to block a rule requiring background checks for gun purchases by mentally disabled Social Security recipients. That puts off action on the House-passed measure on methane emissions until at least the end of the month.

COLORADO AG USES BOULDER OVER FRACKING BAN: Colorado Attorney General Cynthia Coffman today [sued](#) Boulder for the county's continued moratorium on fracking, which was overturned by the state Supreme Court last May. According to Coffman's office, the county commissioners said they needed more time to write rules for accepting and processing oil and gas development applications, but Coffman said the county is in "open defiance" of state law. The state Supreme Court last year struck down a suite of similar moratoriums or bans on fracking in cities around the state, concluding that oil and gas regulation is the state's responsibility.

U.K.: STAY IN THE PARIS DEAL: The U.K. government is touting economic benefits of the Paris climate agreement in order to convince Trump to support the deal, Bloomberg reports today. In an effort to save the U.N. pact, "British government representatives stationed in Washington have been talking to officials in the U.S. president's administration about climate policy, focusing on the jobs and growth that tackling pollution can bring to the U.S., according to an energy official who isn't authorized to speak to the media and asked not to be named," Bloomberg writes. More [here](#).

SEIA RECOGNIZES NEW YORK'S KAUFFMAN: On Monday, the Solar Energy Industries Association gave its top award to Richard Kauffman, New York Gov. Andrew Cuomo's energy czar. With its Solar Champion Award, SEIA recognized Kauffman for his work expanding the solar industry, including his involvement in the NY-Sun program and the Reforming the Energy Vision effort. "As a result of Mr. Kauffman's leadership, the solar industry in New York has grown tremendously across all market sectors, serving as a model for the rest of the nation to follow," said Abigail Ross Hopper, SEIA's president and CEO. Kauffman, who served as a senior adviser to former Energy Secretary Stephen Chu, helped lift New York into the sixth spot in the nation in solar jobs, with 8,100 employed.

OPPOSITION: DIVEST IN DAPL: In response to Trump's decision to continue construction on the Dakota Access pipeline, opponents are aiming to put pressure on investors to divest from the pipeline's builders. On Monday, more than 100 people gathered during California Public Employees Retirement System's board meeting, calling for divestment from the companies building pipeline, [reports](#) East Bay Express. CalPERS is the nation's largest public pension fund and it owns bonds issued by Energy Transfer Partners, the company behind the DAPL, worth about \$57 million. "The CalPERS board is considering whether to support or oppose AB 20, legislation introduced in December that would require both CalPERS, and the state teachers' pension system CalSTRS, to liquidate all investments involved in building or financing the Dakota Access Pipeline," the website reports.

MOVERS, SHAKERS: Gary Andres is joining the Biotechnology Innovation Organization as senior executive vice president of public affairs. He was previously the majority staff director for the House Energy and Commerce Committee. (h/t [POLITICO Influence](#))

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](#).

QUICK HITS:

— Key congressman reiterates interest in shipping nuke waste to Yucca Mountain, [Las Vegas Sun](#).

- U.S. producer inflation boosted by higher energy prices, [Reuters](#).
- India's air pollution rivals China as world's deadliest, [The New York Times](#).

WIDE WORLD OF POLITICS:

- Why Trump let [Michael Flynn go](#)
- Spicer: Trump has been "[incredibly tough](#) on Russia"
- Oprah gives tape with [Puzder abuse allegations](#) to Senate

**** 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/afternoon-energy/2017/02/signed-sealed-rolled-back-021386>

Stories from POLITICO Pro

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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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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Conservatives demanding details on federal workers' encryption use [Back](#)

By Andrew Restuccia | 02/14/2017 03:00 PM EDT

Republicans in Congress and their conservative allies are demanding details about federal workers' use of encrypted messaging apps, part of a broader counterattack on employees suspected of opposing President Donald Trump's agenda.

Congressional Republicans are also pondering changes to longstanding laws that protect government workers, further stoking fears among some federal employees that the new administration's supporters are out to squash dissent.

Republicans on the House Science Committee took up the cause on Tuesday by [asking](#) EPA's

inspector general to review reports that agency employees are using an app called Signal, which allows people to exchange encrypted text messages and phone calls. POLITICO [reported](#) this month that a group of fewer than a dozen EPA employees were using the app to discuss what they would do if Trump's political appointees flout the law or delete valuable scientific data.

The anti-Trump resistance has infuriated Republicans, who fear that dissenters in the government could undercut the president's policy proposals by unleashing even more embarrassing leaks. They also contend that the use of encrypted messaging circumvents federal record-keeping laws — an argument Science Chairman [Lamar Smith](#) (R-Texas) echoed in Tuesday's letter.

"[T]he Committee is concerned that these encrypted and off-the-record communication practices, if true, run afoul of federal record-keeping requirements, leaving information that could be responsive to future Freedom of Information Act (FOIA) and congressional requests unattainable," wrote Smith, who organized the letter to the IG. The panel has jurisdiction over many cybersecurity issues.

Outside conservative groups have launched similar efforts.

Citing POLITICO's story, the Cause of Action Institute, a right-leaning watchdog group, filed a request under the Freedom of Information Act this month seeking EPA employees' communications using Signal. "The bottom line is: An encrypted app is basically a way to avoid transparency," Institute Assistant Vice President Henry Kerner said in an interview.

It's not just encryption that is raising eyebrows. Republican research firm America Rising filed a FOIA request this month seeking all emails sent by John O'Grady, a top union official at the EPA, that "mentions or refers to President Trump."

The FOIA request came in response to O'Grady's [comments](#) to The Washington Post that Trump's decision to firing then-acting Attorney General Sally Yates "sends kind of a chilling effect" through agencies. O'Grady did not respond to a request for comment.

"The public is entitled to know whether career federal government employees are engaged in partisan politics on the taxpayers' dime," said Allan Blutstein, vice president of FOIA operations at America Rising.

EPA employees said they are not using Signal for official government business, and they raised concerns that they're being targeted because they are critical of Trump.

"I don't think anybody can dictate which apps we use on our personal time, for personal conversations," one EPA employee told POLITICO.

The debate comes as employees across the government — political appointees and career officials alike — are increasingly relying on encrypted messaging apps, fearing repercussions if their private conversations are made public.

National security officials have long used encrypted mobile phone software like Signal and WhatsApp to communicate with reporters and other staffers. Signal frequently [comes up](#) in [articles advising people](#) how they can [communicate free](#) of snooping from government officials or hackers, especially following the massive leaks of stolen Democratic Party emails

that roiled last year's presidential election.

Trump's appointees have gotten into the act, too: The Washington Post [reported](#) this week that administration staff are using an app called Confide, which deletes messages once they are read, because they're afraid of being accused of leaking to the press.

Asked if the House Science Committee will pursue a similar probe of White House staffers' use of encrypted messaging apps, spokeswoman Kristina Baum declined to make any commitments. But she said the panel "intends to continue to monitor" cyber issues.

The growing tension across the government has some career employees worried that Republicans will try to make radical changes to laws protecting federal workers — a move that could make people more fearful to speak out against Trump. Trump has already imposed a freeze on most federal hires and has promised to reduce the size of the workforce.

"Frankly, the climate has shifted rather dramatically and we've gone from a chief executive who respects civil servants to a rather bombastic, disdainful chief executive who unfortunately empowers their disparagement," Rep. [Gerry Connolly](#) (D-Va.) said in an interview.

Rep. [Jason Chaffetz](#) (R-Utah), chairman of the House Oversight Committee, is eyeing a major overhaul of the civil service system. He has discussed phasing out pensions for new government employees, instead relying on a defined-contribution plan like a 401(k), and has advocated making it easier to fire problem workers. Chaffetz reportedly talked about some of these issues during a recent meeting with Trump.

Connolly said he's concerned that the Republican Congress could win enough support to move a bill gutting civil service protections. "It is very alarming and I think frankly very destructive in terms of the fabric of a free government and a free society," he said.

In the Senate, lawmakers are also considering changes to civil service laws, but Sen. [James Lankford](#) (R-Okla.) said he is eyeing targeted tweaks that can win bipartisan support, such as efforts to improve the hiring process.

"If we can keep it small and we can keep it targeted, I think we can move it through unanimous consent," said Lankford, who chairs the Homeland Security and Governmental Affairs Committee's panel on regulatory affairs and federal management. "We need to be better at hiring. If we're better at hiring we don't have to worry about firing."

Alex Guillén contributed to this story.

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Federal workers turn to encryption to thwart Trump [Back](#)

By Andrew Restuccia, Marianne LeVine and Nahal Toosi | 02/02/2017 05:07 AM EDT

Federal employees worried that President Donald Trump will gut their agencies are creating new email addresses, signing up for encrypted messaging apps and looking for other, protected ways to push back against the new administration's agenda.

Whether inside the Environmental Protection Agency, within the Foreign Service, on the edges of the Labor Department or beyond, employees are using new technology as well as

more old-fashioned approaches — such as private face-to-face meetings — to organize letters, talk strategy, or contact media outlets and other groups to express their dissent.

The goal is to get their message across while not violating any rules covering workplace communications, which can be monitored by the government and could potentially get them fired.

At the EPA, a small group of career employees — numbering less than a dozen so far — are using an encrypted messaging app to discuss what to do if Trump's political appointees undermine their agency's mission to protect public health and the environment, flout the law, or delete valuable scientific data that the agency has been collecting for years, sources told POLITICO.

Fearing for their jobs, the employees began communicating incognito using the app Signal shortly after Trump's inauguration. Signal, like WhatsApp and other mobile phone software, encrypts all communications, making it more difficult for hackers to gain access to them.

One EPA employee even got a new, more secure cellphone, and another joked about getting a "burner phone."

"I have no idea where this is going to go. I think we're all just taking it one day at a time and respond in a way that seems appropriate and right," said one of the EPA employees involved in the clandestine effort, who, like others quoted in this story, was granted anonymity to talk about the sensitive discussions.

The employee added that the goal is to "create a network across the agency" of people who will raise red flags if Trump's appointees do anything unlawful.

The White House did not immediately respond to a request for comment.

While many workers across the federal government are still in wait-and-see mode, the first two weeks of the Trump administration — with its flurry of executive orders that have in some cases upended lives — have sent a sobering message to others who believe they must act now.

In recent days, career employees at the State Department gathered nearly 1,000 signatures for what's known as a "Dissent Channel" memo, in which they express their anger over a Trump executive order that bars immigrants from seven Muslim-majority countries and halts refugee admissions to the country. The number of signatures was extraordinarily high, even though the letter was submitted after White House spokesman Sean Spicer essentially warned the dissenting diplomats they were risking their jobs.

The executive order on immigration and refugees caused widespread panic at airports, spurring protests and outrage around the world.

It also led to what has been the most high-profile act of defiance yet from a Trump administration official: Acting Attorney General Sally Yates on Monday ordered the Department of Justice's lawyers not to defend the order in court. Yates was fired that same night.

Current and former employees of the Labor Department, meanwhile, are using their private email accounts to send around a link to a letter asking senators to oppose the nomination of Andrew Puzder for secretary of their agency. The employees may sign on to the letter using

Google Docs. The letter will not be submitted to the Senate HELP Committee, and the signatures will not be made public, unless 200 current employees sign on.

A federal worker familiar with the letter's circulation said that it's being signed by hundreds of current and former DOL employees.

According to a [draft of the letter](#) obtained by POLITICO, the employees write that they have "serious concerns" about the fast-food magnate's willingness to protect the rights of workers given some of his past comments and actions.

The draft of the letter criticizes Puzder's comments about women, and cites his restaurants' advertisements, some of which feature women in bikinis eating burgers. Puzder has defended the ads.

"One of us once heard a colleague ask, quite seriously, whether it would violate workplace rules of civility and prohibitions against sexual harassment to view Mr. Puzder's ads on a government computer," the letter says. "We think the question is a good one."

The federal employees interviewed for this story stressed that they see themselves as nonpartisan stewards of the government. But several also said they believe they have a duty to speak out if they feel a policy is undermining their mission.

Drafts of the Dissent Channel memo signed by the State Department employees insist, for instance, that instead of protecting U.S. national security through his new executive order on refugees and immigrants, Trump is endangering the United States by bolstering the terrorists' narrative that the West hates Muslims.

"I think we all have to look within ourselves and say 'Where is that line that I will not cross?'" one Foreign Service officer said.

Since Trump was elected in November, many State Department employees have also met quietly for other reasons. Groups of Muslims who work at Foggy Bottom, for instance, have held meetings to discuss fears that they could be subject to witch hunts and see their careers stall under the new administration. A few of Trump's top aides have spoken out against radical Islamism in such harsh terms that some Muslims believe the aides are opposed to the religion of Islam as a whole.

Steven Aftergood, who directs the Project on Government Secrecy at the Federation of American Scientists, indicated that it's too soon to say whether there's a broad trend of bureaucratic resistance to Trump taking hold.

"Quite a few federal employees seem to be looking for constructive ways to express discontent," he said. "Meanwhile, tension is still growing, not subsiding."

EPA employees are uniquely concerned about their future, having faced barbs from Trump advisers who have toyed with cutting the agency's staff by [two-thirds](#) and from other Republicans who want to eliminate the agency altogether. So career staffers are discussing the best way to alert the public to what's happening behind the scenes.

"I'm suddenly spending my days comparing the importance of the oath I took when I started my career service and the code that I have as an American," an EPA employee said.

EPA employees have started reaching out to former Obama administration political appointees, who they hope will help them spread the word about any possible improper conduct at the agency.

"It's probably much safer to have those folks act as the conduit and to act as the gathering point rather than somebody in the agency," the employee said. "You're putting your career and your livelihood and your paycheck at risk every time you talk to somebody."

Organizations such as the Government Accountability Project, which advocates for whistleblowers, have been busy as federal employees fret about what their new bosses may ask them to do.

"We've had a significant number of federal employees who have contacted us in recent weeks," said Louis Clark, the nonprofit's CEO. "It has to be the largest influx of people trying to reach us that we've seen."

The largest group of callers? "The people who want to know what to do if they're asked to violate the law," Clark said.

Jeff Ruch, executive director of Public Employees for Environmental Responsibility, said EPA employees are in perhaps the "deepest pit of despair" among his group's membership.

He said his group has been fielding calls on everything from what triggers a reduction in the federal workforce to how long they can carry health insurance benefits if they are pushed out.

Asked how EPA employees are feeling, Ruch said, "In the broadest sense, scared and depressed."

Rachael Bade contributed to this report.

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Oroville dam debacle offers a climate warning [Back](#)

By Annie Snider | 02/14/2017 11:41 AM EDT

The failure of key sections of California's Oroville dam that forced the evacuation of nearly 200,000 residents isn't just a disaster — it's a warning of what's to come as the climate warms, experts say.

The damage to the Oroville dam came after several heavy winter storms hit the Sierra Nevada mountain range in quick succession in recent weeks. With temperatures warmer than usual, that precipitation fell as rain rather than snow, sending torrents of water into Oroville's 49-year-old reservoir — the second largest in California and a linchpin of the State Water Project that moves water from northern California to farmers and cities in the central and southern portions of the state.

This year's robust winter storm season has been vital to helping the Golden State recover from a five-year drought. But those hefty storms sparked a serious threat of flooding. Many of the state's reservoirs are built with a dual purpose: storing the state's water supply and preventing floods.

Historically, those two goals dovetailed nicely, with water managers keeping reservoir levels low during the winter when they needed space available to hold the rain from storms and prevent floods. Then, when spring arrived and the threat of storms dissipated, they would allow the reservoirs to fill as more predictable snowmelt washed downstream.

But as climate change drives temperatures higher, precipitation — when it comes at all — is more likely to be in the form of rain rather than snow. That means that dams built decades ago, and in many cases still operating under decades' old rules, may be seeing more water headed their way than they were built to handle. And when spring comes and they can start to raise reservoir levels again, there's less snowmelt to fill them with.

Storm temperatures in the Sierra Nevada tend to hover close to the freezing point, said Roger Bales, an engineering professor at the University of California, Merced, "so it does not take a lot of warming — just a little bit of warming — to make those big snow storms into rain storms."

"California's water system really needs an update in order to adapt to climate change in how we're storing water," he said.

At Oroville dam last week, water managers scrambled to release water from the reservoir to make space to capture all the new rainwater heading their way. But by mid-week, a gaping hole appeared on the dam's main spillway, forcing the operators to turn to the dam's emergency spill way for the first time since it was built in 1968.

Lacking concrete lining, the emergency spillway quickly eroded, raising fears the dam's infrastructure could have been within hours of failing. That prompted the California Department of Water Resources to issue the emergency evacuation order on Sunday.

DWR says the situation has stabilized now, but with several more storms expected, the dam could be threatened again. California's two senators and Republican Rep. [Doug LaMalfa](#), who represents the region around Oroville, on Monday requested federal disaster aid to deal with the situation.

"The danger of failure is likely to persist for months as California's winter and spring runoff seasons progress, and it is extremely unclear when state agencies will be able to mitigate the danger to a degree that would allow residents to return to their homes," LaMalfa wrote in his letter to President Donald Trump.

A weekslong evacuation for thousands of residents is, in fact, the best-case scenario. Should either the dam's main spillway or its emergency spillway fail, it would send a massive wall of water into the Feather River that would decimate communities downstream.

While the immediate concern has been on keeping the downstream residents safe, the Oroville debacle could also have impacts for water deliveries to cities and farms later this year. State water managers are hoping to keep the level at Oroville lower than normal for this time of year, since the damage has hampered their ability to make releases.

That could mean there will be less water stored behind the reservoir come spring, potentially cutting into water supplies that available for State Water Project contractors, which feed a million acres of farmland and provide drinking water to major cities, including Los Angeles and San Diego. A failure of one of the dam's spillways would cause much more serious water

supply impacts.

Already California's vast water infrastructure network is feeling the strain of changing climate conditions. During the entrenched five-year drought, when farmers saw just a fraction of their normal surface water deliveries, they turned to groundwater pumping to fill the gap. But a [NASA study](#) last week found that all that pumping has caused large swaths of California's Central Valley to sink — so much so that a portion of the California Aqueduct, a key part of the State Water Project, has dropped more than two feet, and the federal Central Valley Project has sunk 22 inches. That sinking reduces how much water can be delivered through the projects.

With climate change promising to exacerbate weather extremes to the West, policymakers have been eyeing a slate of potential tools.

There's little question about the need to update the water control manuals that govern many dams across the U.S. Any dam that the Army Corps of Engineers has a stake in must be operated according to that agency's rules — which are typically decades old and don't take into account modern forecasting abilities.

"The hydrology of yesterday will not be the hydrology of tomorrow, and they are operating all of these dams around the Western U.S. as if it was 1950. They won't even consider real time data from weather satellites," said Rep. [Jared Huffman](#) (D-Calif.), who has for years been pushing a measure to incorporate modern forecasting into reservoir operations.

The language was included in various iterations of legislation last year, including the Senate's Water Resources Development Act and energy package, but never made it into law. With broad agreement around the issue, it could be ripe to move this year.

Another idea backed by environmental groups is storing water underground rather than in above ground dams that wreak havoc on natural ecosystems and hydrology. Developing the capability to bank vast supplies of water underground could free up space in reservoirs so that dam operations focus more on flood control.

But the infrastructure for groundwater infiltration isn't cheap. The Bureau of Reclamation has funded some such projects in recent years and the drought package approved by Congress last year as part of an end-of-year water resources measure included more than \$300 million in authorizations for California water infrastructure, which groundwater recharge projects could compete for.

But water banking also relies on robust monitoring and regulation of underground reservoirs to keep track of inflows and outflows — a challenge in California, which only recently passed major groundwater regulations and is working on implementation.

Meanwhile, Golden State Republicans are pressing to expand existing dams and build new ones across the state, moves they say will be a crucial part of dealing with the volatility in the weather.

"If it's this year, it was a good cold winter with a lot of precipitation, so we have a lot of snow, other years we might have a bit warmer season so it stays more as rain; it's a cyclical thing, so that's why we [need to be] prepared with enough places to store water in that worst-case scenario," LaMalfa said.

The new drought package includes authorizations for new storage and mechanisms aimed at easing the planning process. Meanwhile, the state in 2014 passed a \$7.5 billion water bond with funds tagged for storage. In the wake of the Oroville problems, some environmentalists are arguing that a portion of those dollars should be targeted at upgrading existing, decades-old infrastructure to deal with more climate extremes by expanding and shoring up spillways like those at issue at Oroville.

Ultimately, the failures at Lake Oroville are a reminder that there's only so much protection that infrastructure can offer against nature, some advocates say.

"Oroville and other dams and levees are brittle infrastructure," said John Cain with American Rivers. "They are not suitable for fool-proof public safety flood protection because we cannot control nature during these extreme events."

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Senate won't get to methane rule vote this week [Back](#)

By Nick Juliano | 02/14/2017 12:44 PM EDT

The Senate will not have time this week to take up a resolution blocking an Obama administration rule to limit methane emissions from oil and gas drilling, putting off action on the House-passed measure until at least the end of the month.

Due to procedural rules, there is time for only one Congressional Review Act resolution to get through the chamber before a recess that begins at the end of this week, and the Senate today began debating a separate resolution to block a rule requiring background checks for gun purchases by mentally disabled Social Security recipients.

That means Senate action on the Bureau of Land Management's methane rule will come after Congress returns from the weeklong President's Day recess.

Senators also are continuing to negotiate timing on confirmation votes for several of members President Donald Trump's Cabinet, including Rep. [Ryan Zinke](#) for Interior secretary, Rick Perry for Energy secretary and Scott Pruitt for EPA administrator.

Democrats are asking for a vote on Pruitt, the Oklahoma Attorney General, to be delayed until they receive copies of emails between his office and a variety of fossil fuel interests. As of now, debating time on Pruitt's nomination would expire around the same time Thursday that an Oklahoma judge has scheduled a hearing in a lawsuit seeking those records, Sen. [Tom Carper](#) told reporters.

He also suggested that Democrats may agree to quicker votes on less controversial nominees like Perry or Zinke in exchange for delaying the Pruitt vote.

"That's probably above my pay grade," Carper said. "But I wouldn't be surprised if that's something that's being discussed by leadership."

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Why Donald Trump let Michael Flynn go [Back](#)

By Josh Dawsey, Alex Isenstadt and Tara Palmeri | 02/14/2017 02:28 AM EDT

Michael Flynn, President Donald Trump's national security adviser, carried on this past weekend as planned, despite reports that [he had inappropriate conversations with Russia's ambassador](#) before Trump took office. Flynn trekked to Mar-a-Lago, hopped on phone calls with foreign leaders, huddled with senior Trump officials and was in on the presidential daily briefing.

At the same time, Flynn's political future was crashing down around him: Trump's aides and top allies urged the president to get rid of Flynn, after it became clear he discussed sanctions with Russian officials and lied about it to Vice President Mike Pence and other administration officials.

By Monday night, Trump had made his first big staff shake-up, causing chaos in a nascent presidency and raising further questions about the president's ability to handle national security matters in the first month of his tenure.

Though questions about Flynn's conversations — and whether he fully communicated the details of those discussions with administration officials — overshadowed Trump's weekend meeting with Japanese Prime Minister Shinzo Abe, perhaps most damaging to the Trump administration was a report from The Washington Post [that Trump officials were informed](#) by the Justice Department of the issues at least several weeks before and had chosen not to act.

Trump's decision on what to do with Flynn was not easy, according to several people who spoke with him about it. The president values loyalty perhaps more than anything, and Flynn had been one of his most staunch surrogates on the campaign trail. The president saw Flynn as a fellow outsider who had a good sense of the national security challenges. "Trump liked the way he talked to him," one adviser said. "He thought Flynn knew what he was doing."

But Trump became increasingly convinced that the question of Flynn's contact with Russia wasn't going away. His top aides and advisers distrusted Flynn, according to senior White House officials and others who spoke with Trump, and Trump was concerned that the intelligence and national security community would always oppose Flynn, sources said.

"I inadvertently briefed the Vice President Elect and others with incomplete information regarding my phone calls with the Russian Ambassador," Flynn said in a resignation letter. "I have sincerely apologized to the President and the Vice President, and they have accepted my apology."

Pence was unhappy with Flynn for not telling him the truth and told Trump about his displeasure, a White House official said, but said he would accept whatever decision the president made.

Kellyanne Conway, counselor to the president, who is close with Steve Bannon, his chief strategist, was aware of the uncertainty about Flynn's future and the concerns in Trump's orbit but, hoping the storm could pass, tried to telegraph on TV that the adviser wasn't in trouble, one person familiar with her thinking said.

"Gen. Flynn does enjoy the full confidence of the president," Conway said earlier Monday.

Her appearance created waves in Trump's orbit, and Sean Spicer, Trump's press secretary, who

has expressed displeasure about Conway to associates, immediately put out a statement that seemed to contradict her.

"The president is evaluating the situation," Spicer said soon after Conway's remarks.

One person who frequently speaks to Trump said the president was reluctant to ditch Flynn because he doesn't "like to fire people who are loyal." Even Monday evening, Trump was still pondering the decision, the person said.

"He has this reputation of being a 'you're fired' kind of guy, but he really didn't want to have that conversation," the person said.

Heading the agency in Flynn's absence will be Keith Kellogg, Flynn's chief of staff, but he is not guaranteed the job permanently, senior officials said.

Officials are searching for a permanent head and meeting with officials, including retired Gen. David Petraeus. Also in the hunt to replace Flynn, according to a senior administration official, is Vice Admiral Robert Harward, who is the front-runner, a senior White House official said.

A number of White House and national security officials are involved in the search, including CIA Director Mike Pompeo, Defense Secretary James Mattis, Department of Homeland Security John Kelly, chief of staff Reince Priebus, Bannon, and Trump's son-in-law, Jared Kushner, a senior official said.

Retired Army Gen. Barry McCaffrey, who has known Kellogg for decades, said early Tuesday that he is a "good man" who was among the earliest Trump loyalists.

But he doubted he will be a permanent replacement for Flynn.

"He won't be the selection," McCaffrey predicted, saying Flynn's permanent replacement has to be "someone with the chops needed to deal with" Bannon and senior policy adviser Stephen Miller.

Flynn's decision to resign came after it became clear to him that he had lost the president's trust, officials said. Flynn was increasingly isolated from Trump's inner circle and became convinced by Monday afternoon that he had little support, after making a number of calls to Trump confidants and aides, according to a White House official.

Flynn was also rattled by a number of news media reports that said he was on the outs, according to a high-ranking official. He "knew things weren't heading in the right direction for him and that Trump might be changing his position."

Flynn, long a controversial figure in the national security establishment, was widely disliked by many of Trump's aides more aligned with the establishment wing of the party, according to several aides.

Though he was particularly close to Bannon, the president's top strategist and a philosophical and strategic adviser with a vast sway on the presidency, Bannon by the weekend had told Flynn to "do the right thing" and resign, according to a senior White House official.

Trump spent the weekend in difficult conversations about Flynn and talked with a number of

top aides on Monday, many of whom told the president to get rid of Flynn, according to several people who spoke with him.

Yet Flynn spent the weekend at Mar-a-Lago and was in the front row Monday when Canadian Prime Minister Justin Trudeau came to the White House.

Two people close to Trump said that many in Trump's world had turned on Flynn and used the latest story to try and drive him out. Others in Trump's immediate circle wondered "why Trump kept defending him."

Flynn seemed to take the departure in stride. The last four words of his resignation letter posted Monday night were Trump's presidential slogan: "Make America Great Again."

Bryan Bender contributed to this report.

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Spicer: Trump has been 'incredibly tough on Russia' [Back](#)

By Matthew Nussbaum | 02/14/2017 01:51 PM EDT

The Trump administration will take a tough stance on Russia even as it seeks to work with the country on some issues, Sean Spicer told reporters Tuesday.

The comments come after Michael Flynn, Trump's national security adviser, resigned Monday night after revelations that he misled Vice President Mike Pence about conversations he had with the Russian ambassador to the United States about American sanctions.

"The irony of this entire situation is that the president has been incredibly tough on Russia," Spicer said. "He continues to raise the issue of Crimea, which the previous administration allowed to be seized by Russia. His ambassador to the United Nations, stood before the U.N. Security Council on her first day and strongly denounced the Russian occupation of Crimea."

Spicer was referencing Russia's 2014 seizure of the Ukrainian Crimea peninsula, which the Obama administration responded to with sanctions on the Russian regime.

"President Trump has made it very clear that he expects the Russian government to de-escalate violence in Ukraine and return Crimea," Spicer said. "At the same time, he fully expects to and wants to be able to get along with Russia, unlike previous administrations, so that we can solve many problems together facing the world, such as ISIS and terrorism."

Trump has largely refrained from attacking the Russian regime, and he has praised Russian President Vladimir Putin. Trump has also insisted he has no relationship with Putin and no business dealings in Russia, after some questioned whether his unreleased tax returns would reveal ties to Russia.

The U.S. intelligence community concluded that Russia interfered in the 2016 election to help Trump and hurt Democratic nominee Hillary Clinton.

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Oprah gives tape with Puzder abuse allegations to Senate [Back](#)

By Burgess Everett and Marianne LeVine | 02/13/2017 03:56 PM EDT

Senators in both parties have viewed an episode of "The Oprah Winfrey Show" in which President Donald Trump's Labor Secretary nominee Andrew Puzder's former wife leveled allegations of physical abuse against him, according to sources familiar with the matter.

The decades-old video, which is not easily found, has been provided by the Oprah Winfrey Network, those sources said. The video has been provided to senators in a Capitol Hill office building, according to people who have seen it.

"I've arranged for senators on the committee to see that ... I thought that was a reasonable request. No reason not to see it," said HELP Chairman [Lamar Alexander](#) (R-Tenn.). "That happened 27 years ago. His former wife has said it was all not true. She has reiterated that in a heartfelt letter to members of the committee and has been willing to talk to members of the committee so I don't think that's an issue. "

The episode is called "High-Class Battered Women," according to a source familiar with the matter. It aired in March, 1990.

Alexander said he supports Puzder's nomination. But [Patty Murray](#) (D-Wash.), the top Democrat on the HELP Committee that will vote on Puzder's nomination, said she was "deeply troubled" by the video.

"It was important for us to know all of the information about any candidate that comes before us," Murray said in an interview.

Last month POLITICO [reported](#) that Puzder's former wife, Lisa Fierstein, appeared in disguise on Oprah to discuss her abuse allegations, which she has since retracted, most recently in a [letter](#) to the Senate HELP Committee.

The HELP Committee asked OWN for all episodes about domestic violence between 1985 and 1990, OWN said in a written statement, and OWN turned over 20 "for the committee members to review in confidence." OWN "did not provide copies or transcript of the episodes and has not provided information about the identities of anyone who appeared," it said.

[Susan Collins](#) (R-Maine) has reviewed the episode, as well.

Collins is among at least four GOP senators undecided on Puzder, whose confirmation hearing has been scheduled for Thursday. [Lisa Murkowski](#) of Alaska, [Johnny Isakson](#) of Georgia and [Tim Scott](#) of South Carolina are also not decided on his nomination. All serve on the HELP Committee. Puzder can only lose two GOP votes if all Democrats oppose his nomination on the Senate floor. It could take just one GOP defection to tag his nomination as "unfavorable" in a committee vote, though Senate Majority Leader [Mitch McConnell](#) could still bring the nomination to the floor.

The abuse allegations are only one of the controversies dogging Puzder. His nomination was rocked last week after his spokesman said he had employed an undocumented immigrant for years. The fast-food executive also apprenticed to a Mafia-connected lawyer early in his career, drew criticism for conditions for workers at his CKE restaurant chain and faced accusations of sexism over advertisements showing bikini-clad women eating his company's hamburgers.

Scott bristled at reports that indicated he opposed Puzder. Still, he said it was "concerning" that it took Puzder five years to pay back taxes on the undocumented immigrant who once worked for him.

"I have not come out with a position," Scott said. "I've never said I was opposed to him, at all."

Collins did not say whether the video swayed her. The Maine senator also said she'd inquired about making the video public but was told it was merely being provided so senators could come to their own decisions.

"I was told that it's owned by the Oprah Network and they will not share it. I couldn't even have my staff view it," she said.

Not all senators on the HELP Committee have seen it. Both Democratic Sens. [Bob Casey](#) of Pennsylvania and [Tim Kaine](#) of Virginia said they had not.

GOP leaders said that they were confident Puzder would prevail regardless of the swirl of controversy around him. Democratic Leader [Chuck Schumer](#) has called on Trump to withdraw Puzder's nomination, which is now Democrats' top target as Republican leaders fight to get their 52-member caucus behind him.

Senate Majority Whip [John Cornyn](#) (R-Texas) said the nomination was "all good."

"Full speed ahead. I've talked to a number of [undecided senators] and I'm confident he'll be confirmed. He's a good nominee," Cornyn said.

Collins said nothing about what Fierstein said on the tape. Another senator who has viewed the video also declined to describe it.

Fierstein's accusations first surfaced in [local news reports](#) around the time of her divorce from Puzder. She has since suggested she made them up to bolster her divorce settlement. Puzder has always denied that he abused her.

Fierstein appeared on the Oprah show in a wig and glasses, and was identified only by the made-up name of Ann.

The Campaign For Accountability, a left-leaning nonprofit, will appear Tuesday in court in St. Louis County to [try to unseal](#) divorce-related documents concerning the abuse charges that were sealed the day after President Donald Trump tapped Puzder for the job.






One document that wasn't sealed, a [1988 petition](#), shows Fierstein accused Puzder of having "assaulted and battered [her] by striking her violently about the face, chest, back, shoulders, and neck, without provocation or cause," and that as a consequence she "suffered severe and permanent injuries."

The judge in the case [dismissed the petition](#), in which Fierstein sought \$350,000 in damages, on the grounds that Puzder's divorce agreement had already settled all Fierstein's prior claims against him.

But Fierstein's allegations of abuse weren't confined to filings related to a divorce agreement. [Court documents](#) indicate that Fierstein filed an abuse claim against Puzder before the divorce

— within a couple of weeks of the alleged May 1986 domestic violence incident. Fierstein also [sought a protective court order](#) against Puzder, documents show. The couple formally separated in June, 1986.

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