

**From:** POLITICO Pro Energy  
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**Subject:** Morning Energy: Zinke orders review of sage grouse management plans — Democrats boil over at oversight obstruction — Outgoing EEI official looks at power market challenges  
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By Anthony Adragna | 06/08/2017 05:45 AM EDT

*With help from Darius Dixon, Alex Guillén and Annie Snider*

**EVERYBODY'S HEARD ABOUT THIS BIRD:** Interior Secretary Ryan Zinke will release a secretarial order this morning opening a review of sage grouse conservation plans across 11 Western states, Pro's Esther Whieldon [reports](#). Though it may look like a humble bird, it's a huge deal for oil and gas interests. Zinke said governors have complained that the management plans set under the Obama administration hinder their ability to develop resources or use the lands for other activities. The order calls for the government within 60 days to report back on its examination of the 98 existing land use management plans for parts that should be tweaked or rescinded.

**But former Interior Secretary Sally Jewell** defended the existing management plans on Wednesday, telling POLITICO they were "designed to be very flexible and to allow the states and the federal land management agencies to work together" on both energy development and conservation. The Western Energy Alliance said it wasn't worried reworking the plans could take years. "What risk is there?" Kathleen Sgamma, the group's president, said. "Development is at practically a standstill already in sage grouse habitat." But conservation interests worried the review could do significant damage to existing efforts to protect the sage grouse habitat. "The review appears to be a thinly-veiled and unnecessary attempt to open up important habitat to oil and gas drilling, jeopardizing the important balance and flexibility offered in the existing plans," said Jim Lyons, a senior fellow at the Center for American Progress and former Interior official.

**COMEY'S NOT THE ONLY GAME IN TOWN:** Zinke faces his former House colleagues this morning at 9:30 a.m. at the House Appropriations Subcommittee on Interior, Environment, and Related Agencies, where he'll have to defend the Trump administration's proposed \$1.1 billion, or 10 percent, [cut](#) in his agency's budget. Watch the hearing, slated for Rayburn 2007, [here](#). Ahead of his appearance, the Vet Voice Foundation sent [a letter](#) to the committee voicing deep opposition to the proposed cuts.

**WELCOME TO THURSDAY!** I'm your host Anthony Adragna, and every single senator has a four-year degree of some sort. For today: There is one former Cabinet secretary serving in the U.S. Senate. Who is it? 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](#).

**THE INNOVATION ISSUE:** How should Washington think about innovation? What's its role in the economy—and what does it take for government to foster new technologies that help the whole nation, not just a favored few? In a month long Special Report, **The Agenda** takes a deep look at the surprising new politics of innovation, and ideas for how to drive it in a new era. In this package, you'll read about how AOL founder Steve Case became the first call for Congresspeople who want to bring innovation to the heartland; a critical look at [Challenge.gov](#), the federal government's prize competition designed to spur innovation; and

the surprisingly innovative history of the U.S. Post Office, which was long on the forefront of technology before turning into a lesson in what \*not\* to do. Read the entire package [here](#).

**DEMOCRATS BASH OVERSIGHT IMPEDIMENTS:** Numerous Democratic senators used a [hearing](#) considering OMB nominees to bash the Trump administration's [formal memo](#) allowing federal agencies to [ignore oversight requests](#) from minority-party lawmakers. "I will punch above my weight on this," top Senate Homeland Security and Governmental Affairs Democrat [Claire McCaskill](#) said. "The notion that we're going to partisan corners on oversight is disgusting." Yet, Deputy OMB Director nominee Russell Vought declined multiple times to guarantee he would respond to Democratic requests, prompting [Heidi Heitkamp](#) to call his answer "absolutely outrageous" and "almost disqualifying." Senate Democrats later Wednesday released [a compilation](#) of more than 100 oversight requests the Trump administration has ignored.

**Lack of responsiveness to oversight requests** has been especially pronounced from EPA to Senate EPW. An unusually fired-up ranking member [Tom Carper](#) said if roles were reversed and a Democratic administration ignored GOP requests, "You'd shut the place down. We probably ought to do that as well." He later told ME he would seek a commitment from all EPA officials coming before EPW to respond to all oversight requests (as DHS Secretary John Kelly [promised](#) during Tuesday congressional testimony). "Until members of this committee receive adequate responses from [EPA Administrator Scott] Pruitt so that we can all exercise our oversight responsibilities, I feel I have no choice but to oppose the consideration of any additional EPA nominees," Carper said in a statement late Wednesday after meeting with Trump's pick for agency enforcement chief, Susan Bodine.

**For her part**, law professor and Trump's pick to serve as the country's regulatory gatekeeper Neomi Rao said she is "committed to working with this committee on their requests." Along with the hearing, eight former administrators of the Office of Information and Regulatory Affairs backed Rao's nomination in [a letter](#), including Obama's most recent official, Howard Shelanski.

**TAKE A GLANCE!** Pro's Darius Dixon [sits down](#) with retiring David Owens, a top executive with the Edison Electric Institute, on what's next for the power business and what looming challenges lie on the horizon. "Our members are totally focused on a clean energy pathway, irrespective of the Paris agreement," he said. "Customers are driving it. Customers want it."

#### **GREENS SLAM DOJ DECISION TO END 'THIRD-PARTY' PAYMENTS:**

Environmental groups are slamming Attorney General Jeff Sessions' Thursday [decision](#) to stop requiring violators of laws like the Clean Air Act to pay for projects unrelated to the violation, a practice known as "third party settlements." Restitution funds should go to victims or taxpayers, "not to bankroll third-party special interest groups or the political friends of whoever is in power," Sessions said. Green groups quickly lashed out, saying the move will only reduce spending on environmental clean-ups. "This radical reversal of a decades-old policy could deprive communities of direct assistance for improvements in air and water quality, and is nothing more than an effort by the Trump administration to let companies like Fiat-Chrysler and Mercedes off the hook," said Pat Gallagher, director of the Sierra Club's Environmental Law Program. Environmental Integrity Project Executive Director Eric Schaeffer, meanwhile, said Session's letter is similar to a House bill backed by conservative groups. "It's disheartening to see the Justice Department reading from their playbook."

**For example:** One recent prominent example is the last year's record \$14.7 billion settlement with Volkswagen over its diesel emissions cheating scandal included \$2.7 billion for projects to reduce pollution in areas where the cars had been, as well as \$2 billion for electric vehicle infrastructure. However, the payments are typically much smaller than that. Just last week the Cause of Action Institute, a free-market group, [urged](#) EPA to re-open an [August settlement](#) reached with Harley-Davidson over illegal after-market defeat devices because it included \$3 million to the American Lung Association's Northeast chapter to pay for upgrading wood-burning appliances.

**GETTING FASTER AT THIS:** Just one day after [announcing](#) his selection, the White House formally sent Jeffrey Bossert Clark's nomination to run DOJ's Environment and Natural Resources Division to the Senate.

**Moving on up!** North Dakota District Court Judge Ralph Erickson went out on a limb last year when he issued the first stay of the Obama administration's controversial Waters of the U.S. rule, just hours before it was set to go into effect, even as several other district courts denied stay requests or ruled that they didn't have jurisdiction over the issue. Now, the Fargo-based George W. Bush appointee, known to colleagues as a "Chamber of Commerce Republican," is being nominated by Trump for the 8th Circuit Court of Appeals. Erickson's 13-state hold on the rule helped pave the path for opponents of WOTUS to ultimately win a nationwide injunction from the 6<sup>th</sup> Circuit Court of Appeals that's still in place today.

**FEINSTEIN WARNS OF 'FAILING' NUCLEAR...EVERYTHING:** Sen. [Dianne Feinstein](#), the top Democrat on energy appropriations, issued a lengthy broadside against a range of nuclear issues during a budget hearing for the Nuclear Regulatory Commission Wednesday afternoon. She reiterated her longstanding concerns about the delayed and over-budget MOX project in South Carolina — which even Trump's fiscal 2018 budget calls for axing, a decision in line with the Obama administration—before she rattled off a list of the nuclear industry sore spots. Between the waste problem, the economic woes of power reactors in the electricity markets, and a Westinghouse bankruptcy that has undermined nuclear projects in the South, the California Democrat declared: "Is this going to be a failing industry?" There are dozens of sites where nuclear waste is stored with nowhere yet to go, Feinstein noted. "Maybe that's a symptom of what's happening to the industry ... What I see is a big downhill slope for the [nuclear] industry." She supports temporary waste storage facilities, however, Feinstein demurred when reporters later asked whether she would accept having fiscal 2018 funding for reviving the Yucca Mountain project.

**Energy spending chairman Sen. [Lamar Alexander](#)** said the bipartisan quartet of senators who have worked on comprehensive nuclear waste legislation — most, since 2011 — plan to reintroduce the bill again this year. Timing? TBD. The Tennessee Republican also said that he plans to chat with Energy Secretary Rick Perry later this month about what the Energy Department can do with existing authorities to move ahead with a privately run nuclear waste storage site.

**DAM THOSE SEA LIONS:** California sea lions might look sweet and innocent to tourists at a San Francisco pier, but to endangered Columbia River salmon, they are conniving killers. In recent years, the mammals have been swimming up the Columbia River in record numbers to feast on endangered salmon, steelhead and other native fish species as they move up the fish ladder at Bonneville Dam. As dam customers and local communities invest heavily in efforts to save the fish species, lawmakers are pushing to allow wildlife managers to kill more of the seafood-loving sea lions, with a measure from Rep. [Jamie Herrera-Butler](#) getting [a hearing](#)

before a House Natural Resources Committee panel this morning.

But some environmentalists and Native American tribes with fishing rights in the basin argue that the measure is trying to fix the wrong problem; the real problem, they say, is four dams upstream on the Snake River that advocates have long eyed for removal. "You can kill all the sea lions you want to - and we have already been killing the most problematic sea lions - but unless we summon the courage to act on the best scientific information and finally address the very significant impacts of the hydroelectric dams on our salmon, they will not come back," Gary Dorr, chairman of the Nez Perce Tribe General Council will testify.

**MAPPING DRINKING WATER CONTAMINANTS:** The Environmental Working Group is out this morning with new [research](#) and an [interactive map](#) showing the 47 locations across the country where toxic chemicals known as PFCs or PFASs have been detected in drinking water. All told, the group estimates the contaminants — used in Teflon manufacturing and firefighting foam — are in 15 million Americans' drinking water at some level. EPA has told local water officials that levels of PFCs above 70 parts per billion are likely unsafe, but has issued no federal regulation for the contaminants.

**INHOFE WARY OF SLOW EPA SELECTIONS:** Former EPW Chairman [Jim Inhofe](#) told ME Wednesday the White House has been "too slow" in selecting people for various roles at EPA and elsewhere. "We need to get a lot of people [more staff]," the Oklahoma Republican said. "Not just Pruitt." He added he's been very pleased with the administration's efforts to sell the decision to leave the Paris agreement.

**McCAIN THINKS PARIS PULLOUT BAD FOR U.S. LEADERSHIP:** Count Sen. [John McCain](#) among the Republican lawmakers worried about the broader impacts pulling out of the Paris agreement may have on U.S. international efforts. Asked what leaving says about the country's leadership on tough international problems, McCain told reporters: "Not much." He also said the country's international leadership was stronger under former President Barack Obama than Trump.

**And there's more concern in private:** Sen. [Brian Schatz](#) told ME many of his GOP colleagues are privately "terrified" about the message leaving the climate deal sends to the rest of the world. "Everyone is really worried," he said. "This was not a purely climate-related decision. This is a geopolitical miscalculation that diminished our standing."

**MAIL CALL! COALITION URGES ENERGY RESEARCH FUNDING:** An array of business and energy groups sent [a letter](#) to top congressional Appropriators urging strong federal support for energy research and development programs. "Continued support for investments in energy research programs across DOE can accelerate innovation and secure America's competitive advantage at this critical moment for our energy and economic future," the letter, signed by entities including Exelon, Shell, the U.S. Chamber of Commerce, the Nuclear Energy Institute and the Consumer Energy Alliance, says.

**SENATORS FIGHT ANOTHER PROPOSED CUT:** A bipartisan group of more than 20 senators sent a letter to Perry voicing opposition to a Trump budget provision calling for the auction of transmission assets of Power Marketing Administrations. "There are improvements that can and should be made to the operations of some PMAs, but the dismantling of them is simply not sound governmental policy," the letter, led by Energy and Natural Resources ranking member [Maria Cantwell](#), said. Side note: ME can't remember the last letter signed by both [John Barrasso](#) and [Martin Heinrich](#).

**FIGHT HEARTLAND'S CLIMATE MATERIALS IN SCHOOLS:** Four Senate Democrats — [Sheldon Whitehouse](#), [Elizabeth Warren](#), [Brian Schatz](#) and [Ed Markey](#) — asked Education Secretary Betsy DeVos in [a letter](#) Wednesday whether her agency played any role in the distribution of materials disputing the scientific consensus on climate change to 300,000 public school science teachers across the country. "It is our sincere hope that neither White House staff nor Department of Education officials have turned to the Heartland Institute on the issues of climate change and climate science, or had any role in this mailing to educators," they wrote.

**FORUM LOOKS AT BENEFITS OF MONUMENTS:** On the 111th anniversary of the Antiquities Act today, top House Natural Resources Democrat [Raul Grijalva](#), [Nydia Velázquez](#) and [Tim Walz](#), convene a public forum examining the "recreational, preservation and economic benefits of national monument designations" under that statute. It comes just days before Zinke is expected to offer his perspective to Trump on how the administration should handle the hotly contested Bears Ears and Grand Staircase-Escalante national monuments.

**ILLINOIS DEMOCRATS PUSH RAUNER ON PARIS:** Eleven Illinois House Democrats, led by [Mike Quigley](#), sent [a letter](#) to Republican Gov. Bruce Rauner urging him to formally commit the state to meeting existing emissions reduction goals outlined in the Paris Agreement. "Because it is good for the residents of Illinois and because it is the right thing to do, we feel that the State of Illinois should publicly commit to do its part to meet the existing Paris Agreement goals with or without formal U.S. participation in the Agreement, and to subsequently take actions to do so," they wrote.

**CONGRATS:** The Standing Rock Sioux, who fought for months against the Dakota Access pipeline, will today at 11:30 a.m. receive the Wallace Global Fund's inaugural Henry A. Wallace Award commending those that stand up to political power. David Archambault II, the tribe's chairman, will speak about how the "significant financial award coupled with investments in renewable energy" will allow them to decrease reliance on fossil fuels. More details [here](#) after 11:30 a.m.

## QUICK HITS

— Jerry Brown in China with a climate message to the world: Don't follow America's lead. [Los Angeles Times](#).

— North Korea: Trump withdrawal from Paris agreement 'height of egoism'. [USA Today](#).

— Mayor Emanuel signs order committing Chicago to Paris Agreement, welcomes global leaders to Chicago. [WLS](#).

— The Mayors of Pittsburgh and Paris: We Have Our Own Climate Deal. [New York Times](#).

— U.S. Oil Exports Double, Reshaping Vast Global Markets. [Wall Street Journal](#).

— Investors expect to meet with Exxon on climate-impact report. [Reuters](#).

## HAPPENING TODAY

9:30 a.m. — House Appropriations Committee's Interior, Environment, and Related Agencies



Subcommittee holds [a hearing](#) on the Interior Department budget, 2007 Rayburn

10:00 a.m. — "[Hearing to study cost reductions in emerging energy technologies with a specific focus on how recent trends may affect today's energy landscape](#)," Senate Energy and Natural Resources Committee, 366 Dirksen

10:00 a.m. — "[Legislative Hearing on H.R. 2083 and Discussion Draft of Reclamation Title Transfer Act](#)," House Natural Resources Subcommittee on Water, Power and Oceans, 1324 Longworth

1:00 p.m. — "[A Time to Reform: Oversight of the Activities of the Justice Department's Civil, Tax and Environment and Natural Resources Divisions and the U.S. Trustee Program](#)," House Judiciary Subcommittee on Regulatory Reform, Commercial and Antitrust Law, 2141 Rayburn

2:00 p.m. — "[Oversight Hearing on Burdensome Litigation and Federal Bureaucratic Roadblocks to Manage our Nation's Overgrown, Fire-Prone National Forests](#)," House Natural Resources Federal Lands Subcommittee, 1324 Longworth

## **THAT'S ALL FOR ME!**

*To view online:*

<https://www.politicopro.com/tipsheets/morning-energy/2017/06/zinke-orders-review-of-sage-grouse-management-plans-023202>

## **Stories from POLITICO Pro**

### **Zinke orders review of sage grouse plans [Back](#)**

By Esther Whieldon | 06/07/2017 07:17 PM EDT

Interior Secretary Ryan Zinke signed a secretarial order on Wednesday launching an internal review of the agency's sage grouse conservation plans across 11 Western states that aims to foster increased energy development.

The order, which will be released Thursday morning, directs the Bureau of Land Management, U.S. Fish and Wildlife Service and the U.S. Geological Survey to identify parts in BLM's 98 land use management plans that should be tweaked or rescinded because of their effect on development or due to differences with each state's own plans.

The review will focus on principal threats to the sage grouse habitat, such as invasive grasses and wildland fire, and will consider options like captive breeding and setting population targets — something the governors of Wyoming and Colorado [warned](#) may not be the right approach. Zinke directed the team to report back within 60 days.

Some governors have complained that the current management plans set under the Obama administration hinder their ability to develop oil and gas resources and create hurdles for timber harvesting and recreation, Zinke said in a press call.

But former Interior Secretary Sally Jewell told POLITICO on Wednesday the existing management plans were "designed to be very flexible and to allow the states and the federal land management agencies to work together" to support both sage grouse conservation and

energy development.

However, she acknowledged the agency's 2015 decision not to list the sage grouse as endangered or threatened was not fully hashed out. "When you do something on this scope and scale, you haven't refined all the details yet," Jewell said. What matters is that "everybody understands that they need to protect critical habitat if that decision to not list the bird is going to stick."

The Western Energy Alliance, an oil and gas industry group, has challenged some of the existing plans in court and says the agency ignored the technological advances that reduce the impact of fossil fuel extraction on the sage grouse habitat, which spans all of the major producing basins in Wyoming, Utah, Montana and parts of Colorado.

Alliance President Kathleen Sgamma said Interior should defer more to states since they know where the sage grouse is most active, and she isn't worried that reworking the plans could take years.

"What risk is there?" Sgamma said. "Development is at practically a standstill already in sage grouse habitat."

Conservation groups contend Zinke's move will prioritize energy development over conservation.

"Zinke seems to believe that the highest and best use of America's public lands is for the development of dirty fossil fuels and so it's unsurprising that he's proposing to take a look at gutting protections for an imperiled species to benefit that industry," said Ted Zukoski, an Earthjustice staff attorney who has represented conservation groups in legal battles over sage grouse plans in Wyoming and Utah.

Collin O'Mara, president and CEO of the National Wildlife Federation, said Zinke's idea to set population targets for states could actually increase the likelihood the FWS will later list the bird, since the agency would have to revisit the decision if states fail to meet their targets.

"The very thing that some folks and industry are fearing, which is not being able to do anything, would almost definitely occur if they went on the path they're proposing," O'Mara said.

Nada Culver, senior counsel and director of The Wilderness Society's BLM Action Center, said the existing plans do not need to be scrapped but rather the agency can better clarify how fossil fuel and renewable energy projects can be developed in sage grouse habitat. "There's room in the plan to do that," she said.

*To view online [click here](#).*

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**Trump seeks 10 percent cut to Interior budget** [Back](#)

By Ben Lefebvre | 05/23/2017 11:38 AM EDT

President Donald Trump's fiscal 2018 budget requests \$11.7 billion for the Interior Department, a \$1.1 billion or 10 percent decrease from the 2017 annualized CR level.

BLM would receive \$963 million for activities like managing energy development and grazing on federal lands, down 10 percent from this year. The only part of BLM's budget to increase would be for energy and minerals management.

BOEM would see its budget to offer offshore drilling and wind development leases remain flat at \$171 million, and the Office of Surface Mining budget would fall 11 percent to \$109 million.

The proposal follows up on Trump's promises to slash clean energy and climate change programs launched under the Obama administration and to unwind regulations hampering fossil fuel development such as Interior's coal leasing moratorium.

Congress is unlikely to go along with the deep cuts, however. Any final spending bill would have to secure 60 votes in the Senate to overcome a Democratic filibuster.

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### **Democrats outraged by Trump ban on info requests [Back](#)**

By John Bresnahan | 06/02/2017 06:58 PM EDT

Hill Democrats are outraged by a new Trump administration policy to ignore information requests from members and senators unless they come from committee or subcommittee chairs.

They argue it's part of a broader pattern by the White House, designed to make the executive branch less responsive to Congress. And they say it effectively locks them out of information necessary for government oversight.

From refusing to release White House visitor logs to scrubbing agency websites of health and safety data and refusing to respond to simple media requests on government operations — or even admitting whether President Donald Trump is playing golf or not — the Trump administration has made it harder for Democrats and the press to find out what is going on inside the White House and federal agencies.

This effort is sometimes being aided by Republicans on Capitol Hill, or undertaken at their behest. For instance, House Financial Services Committee Chairman Jeb Hensarling (R-Texas) has asked federal agencies to refuse to comply with Freedom of Information Act requests designed to find out what data his panel is seeking from those agencies.

Such FOIA inquiries are routinely made by journalists, lobbyists and political operatives. News organizations have strenuously objected to Hensarling's demand.

But the latest initiative by the Trump administration — backed by a May 1, 2017, [opinion drafted](#) by the Office of Legal Counsel of the Justice Department — has crossed a once



unthinkable line, Democrats argue.

Under this new policy, Democrats — as the minority party — would be limited in their ability to get information from the agencies unless the request was supported by a Republican chairman. Since the GOP controls both the House and Senate, this would effectively give Republicans a veto over such information requests.

"Every member of Congress represents hundreds of thousands of American citizens who expect their representatives in the House and Senate to fulfill their duty under the Constitution to act as a check on the executive branch in order to promote the proper functioning of federal agencies and departments," said Rep. Elijah Cummings (D-Md.), ranking member on the Oversight and Government Reform Committee.

"We cannot do our jobs if the Trump administration adopts this unprecedented new policy of refusing to provide any information to Congress unless a request is backed by the implicit threat of a subpoena. This has never been the standard for responding to congressional inquiries — and it should not take the threat of a subpoena to pry information free from this administration."

Cummings added: "This is the latest in a series of abuses by the Trump administration to operate in a shroud of secrecy, hiding their actions from federal ethics officials, the Government Accountability Office, the media, Congress, and the American people."

However, relying on the OLC opinion, White House officials say they do not have to respond to any requests from individual lawmakers, or those that do not come through a committee.

"'Oversight' is a constitutional power which Congress exercises through its established committees and their chairmen," said Lindsay Walters, a White House spokeswoman. "This legal advice provides much needed clarity to the executive branch so that the administration can ensure resources are effectively dedicated to accommodating authorized congressional oversight requests and responding to nonoversight requests, independent of the political party of the requester."

According to the OLC opinion, no minority lawmaker — including the ranking member of a full committee — may request information without the approval of committee or subcommittee chair.

"Individual members of Congress, including ranking minority members, do not have the authority to conduct oversight in the absence of a specific delegation by a full house, committee, or subcommittee," OLC asserted. "Accordingly, the Executive Branch's longstanding policy has been to engage in the established process for accommodating congressional requests for information only when those requests come from a committee, subcommittee, or chairman authorized to conduct oversight."

OLC added: "Members who are not committee or subcommittee chairmen sometimes seek information about executive branch programs or activities, whether for legislation, constituent service, or other legitimate purposes (such as Senators' role in providing advice and consent for presidential appointments) in the absence of delegated oversight authority. In those nonoversight contexts, the Executive Branch has historically exercised its discretion in determining whether and how to respond, following a general policy of providing only documents and information that are already public or would be available to the public through

the Freedom of Information Act ... Whether it is appropriate to respond to requests ... from individual members will depend on the circumstances. In general, agencies have provided information only when doing so would not be overly burdensome and would not interfere with their ability to respond in a timely manner to duly authorized oversight requests."

The OLC memo was drafted by Curtis Gannon, the acting assistant attorney general.

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### **Kelly to Senate: We'll respond to all inquiries** [Back](#)

By Seung Min Kim | 06/06/2017 07:21 PM EDT

At least one top Trump Cabinet official is bucking administration policy when it comes to oversight requests from Congress.

Homeland Security Secretary John Kelly told senators on Tuesday during congressional testimony that his department will respond to any inquiry from members of Congress, no matter who sends the request. A May 1 opinion from the Justice Department argues that only chairmen - all of which are Republicans, since the GOP controls Congress — have the power to conduct oversight of the Trump administration.

"We're leaning forward," Kelly told members of the Senate Homeland Security and Governmental Affairs Committee. "Regardless of who the letter comes from, and it doesn't have to just come from a ranking member or chairman, we'll respond to any congressional inquiry."

Kelly noted during his testimony that under his tenure, DHS has appeared more than 37 times before Congress, sent 57 witnesses and has been involved in 973 "Hill engagements." The Homeland chief also noted that Senate Judiciary Committee Chairman Chuck Grassley (R-Iowa), known for his zealous oversight of the executive branch, "gave me nothing but high marks" on the matter.

"We're going to make that better," Kelly said. "I think in every case thus far, and certainly in the last 90 days, 60 days anyways, we're getting high marks. I will not freeze you out."

Democrats have expressed outrage about stonewalling from the Trump administration on their oversight requests — yet senators gave high marks to Kelly for his pledge to be responsive to Congress, no matter who sends the ask.

"Whether you're on that committee or whether you're a member of Congress, oversight is our big job," Sen. Jon Tester (D-Mont.) told Kelly. "I appreciate you not doing that and I hope that policy continues."

Added Missouri Sen. Claire McCaskill, the committee's top Democrat: "I do appreciate that you all have not frozen us out. Many of my colleagues are being frozen out across the government. You have not frozen us out, and I'm deeply grateful for that."

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## **POLITICO Pro Q&A: Edison Electric Institute executive David Owens** [Back](#)

By Darius Dixon | 06/08/2017 05:00 AM EDT

Climate change and consumer demands for cleaner power will define the future of the electric grid nearly as much the rivalry between Thomas Edison and Nikola Tesla defined its origin, says David Owens, a top executive with the utility industry's leading trade association in Washington.

Owens is retiring this month after 36 years with the Edison Electric Institute, where he serves as executive vice president for business operations, and he was instrumental in developing a landmark 2013 report that sought to warn utilities about the looming challenges to their business model. Before he heads off to spend more time with his family and learn to play golf, Owens sat down with POLITICO to discuss where the power business goes from here.

*This interview has been edited for length and clarity.*

### **What's maybe the biggest challenge or change you've seen in your 30-plus years with EEI?**

I think now is the most transformative period that I've ever seen in the industry. And it harkens back to the turn of the last century and the big debate between Tesla and Edison. It was about alternating current versus direct current ... and these were two geniuses who had different views of how the industry evolved.

The subplot of that debate of AC versus DC was centralization versus decentralization — building large plants to serve customers, building larger grids to serve customers — that was evolving at that time. We're in the same place today, but it's even more challenging because we're in a place today where we're saying that the grid has a whole different functionality with a whole new set of new technologies which customers want.

The grid is being redesigned to be a multi-directional grid, and to be a grid that customers can plug into and get a broad array of services. The regulatory climate requires some major reform so all aspects — your relationship with the customers is changing, the infrastructure is changing, and the regulatory process is changing — all at the same time. That's what makes it so exciting and makes it challenging. And then to even build on this, there's cybersecurity that really complicates it. ... So this is the most, in my view, exciting time. It's also the most challenging time for the industry.

A residential customer class is no longer homogeneous. Some residential customers want private solar, some can't afford it. Some residential customers want an electric vehicle. They're all very, very different. Every customer class has unique aspects where they're more individualized.

**Your "[Disruptive Challenges](#)" report argued that the financial health of the industry was at stake if electricity providers didn't change how they did business. What new**

### **issues would you include?**

I would have spent more time talking about integrating distributive resources into the grid. I underestimated the challenge there. It's one thing to connect, it's another thing to integrate, and that's a huge challenge. I under-commented on the changes that are necessary to make the grid more dynamic and more transactive. If I had to do any rewriting, I would build on those. [And that] the states have a bigger role.

### **Beyond what the government may or may not do on carbon, customers are driving renewables on the grid?**

My view is that your vision's got to be customer-focused. That's the only way. If you look at all the great giants — Tesla and Edison were customer-driven.

### **There's been eight years of an administration very friendly to wind and solar and that had all sorts of programs for renewables. Now the Trump administration is here. How much gets curtailed by not having a federal government offering that kind of support?**

Our industry's been firmly committed now. We kind of have three areas that we've been committed to for the last several years. ... First, it's a commitment to clean energy. If you look today, you'll see that one-third of our supply is provided by zero-carbon-emitting technologies.

### **But lot of new renewables were fueled by tax credits.**

It doesn't matter. We buy a lot of that. We're probably the dominant supplier of wind. We're a very significant producer of solar energy. And those are state mandates, and even with those state mandates, those are customer choices.

Forty percent of the Fortune 500 companies have sustainability goals. We work with our customers, they have those goals, we respond to those goals. A number of shareholders are looking at the power supply sources that their retirement funds are in, and they are looking at utilities and they're looking at the overall supply mix of companies.

### **What is the practical implication for utilities of the White House leaving the Paris climate agreement? The administration had already promised to roll back the Clean Power Plan, for example.**

Our members are totally focused on a clean energy pathway, irrespective of the Paris agreement.

They're moving aggressively forward for cleaner energy technologies. I mean, let's just take an example I mentioned under the Clean Power Plan. President Obama had a goal of reducing carbon emissions from our sector 32 percent by 2030. I just demonstrated to you that we've reached 25 percent and it's not 2030, so we are on a clean energy pathway and we will continue to be on a clean energy pathway.

### **Because customers are driving it?**

Customers are driving it. Customers want it.

### **But in a world where customers have rooftop solar panels, efficient lighting, smart meters and electric vehicles, they are also buying fewer kilowatt-hours. How are utilities**

## **adapting to these more advanced communities?**

There's a lot of potential for "smart" communities. And you see them evolving.

All communities are looking at aging infrastructure, so you want to take an integrative approach if you're looking at infrastructure. You want to look at transportation, communications, energy and water — all of those sectors working together — and it will provide a whole array of jobs.

There are less kilowatt-hours you're selling, but you're providing a broader array of services now. You move increasingly towards providing a broad array of services to the customer — if you are able to help them build a micro-grid, that's another technology that didn't really exist 10 years ago. ... You'll have some customers that will want to make sure they have better resiliency so they're willing to have their own power supply, to have their own little grid tied into the main grid. We're building those for those customers.

We're all about electrification. The big change is you may have the customer using less energy, but the customer has more plug-in devices than they've ever had before.

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## **Feds reach settlement with Harley-Davidson over defeat devices [Back](#)**

By Alex Guillén | 08/18/2016 12:32 PM EDT

Harley-Davidson riders may have to do a little less freewheel burning after the motorcycle maker agreed to stop selling defeat devices that had EPA spitting flames.

In a [lawsuit](#) and [settlement](#) announced today, the Justice Department and EPA allege that Harley-Davidson sold 340,000 "super tuners," after-market defeat devices that can be installed on motorcycles to boost their performance. But they also increase emissions of hydrocarbons and nitrogen oxides, which contribute to smog formation.

The company has agreed to buy back and destroy the devices, which it sold at dealerships across the U.S. since 2008. It also will pay a \$12 million civil penalty and spend \$3 million on air quality mitigation projects.

"Given Harley-Davidson's prominence in the industry, this is a very significant step toward our goal of stopping the sale of illegal aftermarket defeat devices that cause harmful pollution on our roads and in our communities," said John Cruden, DOJ's top environmental prosecutor.

The violations were discovered following a "routine" inspection, according to the agencies.

Any tuners Harley-Davidson looks to sell in the future will have to be approved by the California Air Resources Board.

DOJ and EPA also say Harley-Davidson sold more than 12,000 bikes from 2006 to 2008 that were not covered by a key EPA certification. The company agreed to have all future

motorcycle models certified by EPA.

The deal is open to a 30-day public comment period and judicial approval.

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## Trump picks lawyer involved in carbon rule challenge for DOJ enviro chief [Back](#)

By Alex Guillén | 06/06/2017 06:38 PM EDT

President Donald Trump plans to nominate longtime Washington lawyer Jeffrey Bossert Clark, who is involved in the lawsuits challenging EPA's Clean Power Plan, to run DOJ's Environment and Natural Resources Division, the White House announced today.

Clark has been a partner at Kirkland & Ellis since 1996, except between 2001 to 2005, when he was the deputy assistant attorney for ENRD.

Clark is involved in the litigation over EPA's Clean Power Plan, and likely will have to recuse himself from that lawsuit while running ENRD. He represented Consumers' Research, a self-described "independent educational organization," in filing a ["friend of the court" brief](#) along with the state of Nevada that urged the D.C. Circuit Court of Appeals to strike down the carbon rule.

He previously successfully argued on behalf of the Bush EPA before the D.C. Circuit in *Massachusetts v. EPA*, though that ruling was later overturned by the Supreme Court and ultimately established EPA's mandate to regulate greenhouse gases.




Clark has testified before Congress several times recently, including last year, when he [supported legislation](#) that would end Chevron deference, the doctrine in which courts are supposed to accept an agency's reasonable interpretation of ambiguous statutes.

Coincidentally, Jeffrey Wood, the Trump appointee currently acting as head of ENRD who has had to recuse himself from the Clean Power Plan lawsuit because he represented Republican lawmakers in a filing, will testify on Thursday at a House Judiciary oversight hearing.

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