

P6/b(6)

Sent: Tue, 02 Jul 2013 11:25:07 -0400
From: "Rouse, Peter M." <peter_m.rouse@who.eop.gov>
To: [REDACTED]
Subject: Did you see this article?

<http://dyn.politico.com/printstory.cfm?uuid=E5F361C5-BE25-4CF0-B481-5983577FDDCE>

Senate leans toward Gina McCarthy confirmation for EPA

By: **Darren Goode**
July 1, 2013 06:14 AM EDT

The Senate seems likely to confirm Gina McCarthy as head of the Environmental Protection Agency in July despite warnings that President Barack Obama's new climate agenda could torpedo her nomination.

McCarthy should win support from Republicans who have traditionally opposed filibustering presidential nominees even if they have been critical of the climate change plan Obama announced last week to limit power plants' carbon emissions.

Some Republicans are sure to oppose her, such as Wyoming Sen. John Barrasso, who has complained about transparency at the agency and called McCarthy either "arrogant or ignorant" for telling senators that the EPA was not pursuing greenhouse gas emissions for existing coal-fired power plants just weeks before Obama ordered the agency to do just that. Holding up McCarthy is one of the few near-term options Republicans have to protest Obama's new EPA agenda.

There may be others like Sen. Roy Blunt (R-Mo.) — who currently has a hold on McCarthy because of a delayed water infrastructure project in the state — who are opposed at least until they get their parochial fix.

But there are likely to be enough Republicans who will maintain their philosophical opposition to filibustering a qualified presidential nominee — even if they vote against confirming them.

The Senate's confirmation of Defense Secretary Chuck Hagel — one of the most controversial of Obama's second-term picks — is a prime example. Eighteen Republicans voted against a filibuster, while only four voted to confirm Hagel.

"He's the president; he's got a right to put whoever's name forward," Sen. Lisa Murkowski (R-Alaska) said. "Our job is to basically reject them or accept them."

Murkowski still has concerns about confirming McCarthy, and she said Obama's new climate agenda doesn't help.

"It certainly raises more questions in my mind as one member knowing that she would be the individual that is effectively tasked with carrying out kind of this backdoor rewrite of our energy policy," she said.

But there are at least a couple of Republicans who seem likely to support her all the way.

Sen. Kelly Ayotte (R-N.H.) last week said she “had a good initial conversation” with McCarthy and that she is qualified for the job.

“So I’m open to supporting her; I just want to sit down and meet with her” for a second time before announcing anything, she told POLITICO.

Senate Environment and Public Works Chairwoman Barbara Boxer last week said she can count on Ayotte and Maine Republican Susan Collins to support McCarthy. “I have Susan Collins and Kelly Ayotte, so I’m working that,” she said about getting Republicans to back her nomination.

Collins bluntly rejected that statement when asked by POLITICO.

“Sen. Boxer doesn’t have the right to speak for me,” she said before climbing into a jammed Capitol elevator as she hustled to the Senate floor votes, and she didn’t respond when asked about her position on McCarthy.

Collins spokesman Kevin Kelley said the senator hasn’t said how she’d vote on McCarthy, although she “did have a lengthy conversation with Ms. McCarthy during which they covered many issues.”

But Collins is also considered one of the more environmentally friendly Republicans thanks to the prominence of green issues in her state.

The same can be said about Illinois Sen. Mark Kirk, who is working with the EPA on cleaning up the Great Lakes and was one of only eight Republicans who voted for a 2009 Democratic cap-and-trade bill when he was a member of the House.

A Kirk spokeswoman had no comment on McCarthy’s nomination, and a McCarthy spokesman said she has not met with the Illinois Republican since she was nominated.

Boxer said she is focusing on getting Republican support and isn’t worried about Democrats filibustering one of Obama’s nominees.

“We need 51 votes. So this is really about whether or not people would filibuster,” she said. “So I just think that filibustering a presidential nominee is not going to go well with the people. So I don’t really worry too much about my colleagues on the Democratic side filibustering the president’s nominee.”

That doesn’t mean coal-state Democrats like Joe Manchin of West Virginia and Joe Donnelly of Indiana are certain to support McCarthy.

But there are also fossil fuel-friendly Democrats hating the EPA who may like McCarthy herself enough to give her a pass.

“My constituents are generally very upset with the EPA and [its] overreach and [its] overregulation,” Sen. Mary Landrieu (D-La.) said.

“Having said that, I have honestly gotten nothing but positive comments back from the industry groups in Louisiana on Gina McCarthy herself. I mean, while the industry groups are very negative towards the EPA generally, they are very positive towards Gina McCarthy as a person ... that could potentially find compromises on some of these things.”

“It’s critical for the business community to have an EPA head who is accountable to the Senate through confirmation, knows the agency and can work with us in a collaborative way,” said Rich Gold, head of the Public Policy & Regulation group at Holland & Knight. “Gina has shown she is that person.”

Most, if not all, of the 52 Democrats and independents Bernie Sanders and Angus King will either support McCarthy all the way or not oppose their party leadership on a procedural move to overcome a filibuster.

Still, there’s no doubt McCarthy has had a bruising confirmation.

In fact, Monday marked the 137th day that Bob Perciasepe has been acting EPA administrator, breaking a 40-year-old record of 136 days between the first and second EPA administrators, William Ruckelshaus and Russell Train, respectively.

Monday also marks 119 days since McCarthy was officially nominated on March 4, also a record delay for a nominee to head EPA. McCarthy supporters Friday launched a widget on their website, Standwithgina.com, that counts the days since the EPA has had a permanent administrator.

“You have to have a head of EPA regardless of the president’s views on climate change,” Boxer said. “You can’t have a leaderless EPA.”

And there’s another historical precedent lawmakers may keep in mind.

“This would be the first time EPA would be denied an administrator in its 40-year history. That’s pretty big,” said Manik Roy, vice president for strategic outreach at the Center for Climate and Energy Solutions. “Especially a nominee who is very obviously qualified and who would be very sensitive to industry concerns.”

Boxer said the tentative plan was to move McCarthy in concert with two other nominees — one of whom she believed to be the Consumer Financial Protection Bureau director nominee, Richard Cordray.

Cordray was filibustered in December 2011 before Obama made him director of the bureau by a recess appointment in January 2012. Obama renominated him for Senate confirmation in January this year. Labor Secretary nominee Thomas Perez is another embattled nominee who remains unconfirmed and could be considered around the same time as McCarthy and Cordray.

But it doesn't appear that Senate Democratic leaders have yet detailed their timeline or strategy for moving any of the nominations, though the plan is to put McCarthy up for a Senate vote at some point in July.

One McCarthy supporter said the hope is she will win the vote, in part, because Republicans are also targeting Perez and perhaps others and don't want to shoot down too many nominees.

In fact, Republicans have been rather defensive regarding Democratic attacks over the pace Obama's nominees have been confirmed.

"While all you hear from the other side is phony 'obstruction' claims, I wanted you to have a list of the nominees that cleared tonight," Don Stewart, spokesman for Senate Minority Leader Mitch McConnell, emailed reporters Thursday night.

Before leaving for a weeklong July 4 recess, the Senate Thursday approved eight nominees by voice vote. That list included top officials at the Office of Management and Budget — Brian Deese to be deputy director and Howard Shelanski to head the Office of Information and Regulatory Affairs — as well as Allison Macfarlane for another term on the Nuclear Regulatory Commission.

© 2013 POLITICO LLC