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E&E News Clips—June 6, 2017

Contents

1. Enviro-spar with critics over future of fracking rule case
2. Zinke's menu of Bears Ears options comes with heartburn
3. Split panel sends Bernhardt nomination to full Senate
4. LCV urges senators to oppose Bernhardt nomination
5. Obama-era rule would make 'substantial' dent in CO2 — CRS
6. Scott Pruitt and the truth about coal
7. No one is holding breath for Trump-led revival in this Ill. town
8. Dumping coal could save 52K lives per year — study
9. Consumption for electricity hits 33-year low.
10. Zinke wants to outsource park services, fire 'serpents'

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Ellen M. Gilmer, E&E News reporter

Published: Tuesday, June 6, 2017

Friends and foes of the Obama administration's hydraulic fracturing rule squared off yesterday over whether a legal battle should advance while the Trump administration reconsiders the regulation.

<http://bit.ly/2rZNKG8>

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Jennifer Yachnin, E&E News reporter

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<http://bit.ly/2rRut97>

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Kellie Lunney, E&E News reporter

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The Senate Energy and Natural Resources Committee today approved David Bernhardt as Interior deputy secretary in a 14-9 vote, paving the way for his confirmation by the full Senate.

<http://bit.ly/2sPI5iu>

4. LCV urges senators to oppose Bernhardt nomination

Kellie Lunney, E&E News reporter

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The League of Conservation Voters urged the Senate yesterday to oppose David Bernhardt's nomination to become the Interior Department's deputy secretary, citing concern over his career as an oil and gas lobbyist.

<http://bit.ly/2sdznhh>

5. Obama-era rule would make 'substantial' dent in CO2 — CRS

Hannah Hess, E&E News reporter

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Congress' in-house research shop has found that the Clean Power Plan would have a "substantial impact" on carbon dioxide emissions if it goes forward, a nearly impossible scenario under the Trump administration.

<http://bit.ly/2qU3UNk>

6. Scott Pruitt and the truth about coal

Benjamin Storrow, Dylan Brown and Niina Heikkinen, E&E News reporters

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U.S. EPA Administrator Scott Pruitt walked back his claim that the coal sector had added "almost 50,000 jobs" since the fourth quarter yesterday. An EPA spokeswoman said Pruitt had been referring to the broader mining sector that includes other industries.

<http://bit.ly/2ryiOLN>

7. No one is holding breath for Trump-led revival in this Ill. town

Jeffrey Tomich, E&E News reporter

Published: Tuesday, June 6, 2017

WEST FRANKFORT, Ill. — It's Friday afternoon in May at Terry's Barber Shop, just hours before the midway and carnival games kick off a block away at the Old King Coal Festival, an annual celebration of the area's mining heritage that goes back to 1941.

<http://bit.ly/2r2Q36r>

8. Dumping coal could save 52K lives per year — study

Sean Reilly, E&E News reporter

Published: Tuesday, June 6, 2017

Fully replacing coal-fired electricity generation with solar power in the United States could save some 52,000 lives annually, researchers concluded in a newly released study.

<http://bit.ly/2s0ZTux>

9. Consumption for electricity hits 33-year low

Published: Tuesday, June 6, 2017

Coal consumption for electricity sank last year to its lowest level since 1984, according to a new U.S. Energy Information Administration report.

<http://bit.ly/2sAMPZO>

10. Zinke wants to outsource park services, fire 'serpents'

Corbin Hiar, E&E News reporter

Published: Tuesday, June 6, 2017

Interior Secretary Ryan Zinke this afternoon suggested that the National Park Service would address its more than \$11 billion backlog of deferred maintenance projects partly by outsourcing more park functions to private companies.

<http://bit.ly/2rJ4jmU>

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E&E News Clips—June 6, 2017

Contents

1. Enviros spar with critics over future of fracking rule case	1
Challengers	2
2. Zinke's menu of Bears Ears options comes with heartburn.....	3
Climbing the Hill	4
Legislative prototype.....	4
Administrative options	5
3. Split panel sends Bernhardt nomination to full Senate	6
4. LCV urges senators to oppose Bernhardt nomination	8
5. Obama-era rule would make 'substantial' dent in CO2 — CRS.....	9
6. Scott Pruitt and the truth about coal.....	10
7. No one is holding breath for Trump-led revival in this Ill. town	12
Boom for Illinois	13
Even 'King Coal' is skeptical	14
8. Dumping coal could save 52K lives per year — study	15
9. Consumption for electricity hits 33-year low	16
10. Zinke wants to outsource park services, fire 'serpents'	16
Promoting policy talk	17
Sage grouse order coming	18

1. Enviros spar with critics over future of fracking rule case

[Ellen M. Gilmer](#), E&E News reporter

Published: Tuesday, June 6, 2017

Friends and foes of the Obama administration's hydraulic fracturing rule squared off yesterday over whether a legal battle should advance while the Trump administration reconsiders the regulation.

In legal briefs yesterday to the 10th U.S. Circuit Court of Appeals, environmental groups advocated for moving ahead with the case, which centers on whether a lower court was correct in finding last year that the federal government has no authority to regulate fracking on public and tribal lands.

The lower court's 2016 decision shocked the Obama administration and its environmental allies, which promptly appealed to the 10th Circuit. The two sides were ready to head to oral arguments in March when the

appeals court unexpectedly asked the Trump administration to clarify whether the federal appellants' position on the fracking rule had changed (*Energywire*, March 10). Arguments were then postponed.

Now, President Trump's Interior Department is reconsidering the fracking rule. While the government maintains that it has authority over the oil and gas extraction technique, it has asked the appeals court to freeze the case while Interior's review plays out (*Energywire*, May 8).

While states, industry groups and the Ute Indian Tribe yesterday endorsed the government's preference for pausing the case, the Sierra Club, the Wilderness Society, Earthworks and several other groups defending the rule **argued** that the appeal "presents a pure question of law."

"The sole question in this appeal — whether BLM can set standards for hydraulically-fractured wells on public lands — will be just as central to BLM's new rulemaking process as it is to this case," the environmental intervenors said. "BLM's consideration of whether and how to alter the Rule necessarily turns on the scope of its authority. Here, the agency is not working on a blank slate, but rather in the shadow of a judicial opinion concluding that it lacks legal authority over the topics addressed by the Rule."

The groups, represented by Earthjustice, reiterated their strong objections to the lower court's decision, which they say "conflicts with nearly a century of precedent, and represents a radical shift in the law that threatens to upend BLM management of public lands nationwide in ways that go well beyond invalidating the 2015 Rule."

That fundamental question of federal fracking authority, they argue, should be decided now to keep the Trump administration from making an "end-run" around the Administrative Procedure Act, which requires agencies to go through formal processes to undo regulations. Otherwise, they say they'll suffer serious hardship.

"Leaving the district court's decision setting aside the Rule in place harms the Citizen Groups (and the public interest) by allowing thousands of new oil and gas wells to be drilled each year without adequate federal protections for public health and the environment," they said.

They added that if the 10th Circuit declines to decide the case, it should instead dismiss it as moot and vacate the underlying decision from the district court. The Trump administration indicated last month that it would not oppose that approach if the appeal becomes moot after the regulatory review process.

Challengers

In their own briefs to the 10th Circuit yesterday, fracking rule challengers supported the Trump administration's request to freeze the case.

Wyoming, Colorado and Utah argued in a **brief** that the legal questions at issue in the case are unripe for review given Interior's imminent plans to revamp the fracking rule. The agency's Bureau of Land Management has said it will kick off an official rulemaking process by June 13.

North Dakota lawyers similarly **argued** that, given the administration's review process, "the ruling requested by the Citizen Groups is the very definition of an improper advisory opinion."

The Ute Indian Tribe **agreed**, noting that "the Tribe anticipates that BLM will issue a rule revoking in whole the challenged fracking regulations, and that BLM will then adopt that revocation as quickly as it can consistent with rulemaking."

The Independent Petroleum Association of America and Western Energy Alliance — the first to sue after the fracking rule's unveiling in March 2015 — also **urged** the court to pause the case, spending a full page citing examples of other regulatory lawsuits in which federal courts have paused proceedings while agencies reconsidered the rules at issue.

The fracking rule opponents also weighed in on the court's question of whether the environmental groups could continue the appeal if the Trump administration pulls out of the case. They all agreed that the groups would be

unable to move ahead with the litigation because they would be unable to show that they had independent standing to defend the rule.

"Intervenors' general preference for the policies reflected in the hydraulic fracturing rule does not constitute the basis for [constitutional] standing," the industry groups told the court. "Intervenors have no legal right to have any particular policy implemented through regulation. And to the extent Intervenors wish to advocate for their preferred policies, the administrative rulemaking process, not the federal courts, is the appropriate forum for that advocacy."

The Utes added that the environmental groups have no standing to litigate claims related to the fracking rule's application to tribal lands because the groups failed to address the issue in earlier briefs to the 10th Circuit.

The environmental groups fired back in their brief, arguing that the Trump administration and the fracking rule challengers are misinterpreting relevant legal precedent and adopting an overly narrow view of standing.

"The Citizen Groups, who are full parties to the case, have standing to appeal the district court's order because it causes them an immediate, concrete and particularized injury by eliminating a variety of new protections that benefit the groups and their members," they said.

The 10th Circuit is expected to make its decision this summer on whether to allow the case to move forward.

<http://bit.ly/2rZKNG8>

2. Zinke's menu of Bears Ears options comes with heartburn

Jennifer Yachnin, E&E News reporter

Published: Tuesday, June 6, 2017

Interior Secretary Ryan Zinke is set to issue preliminary recommendations for the future of Bears Ears National Monument to the White House this week — but conservationists and Democrats are threatening legal action unless any changes are considered by Congress.

During a visit last month to Utah, where he toured both Bears Ears and Grand Staircase-Escalante National Monument, Zinke asserted that national monument status may not be the "right vehicle" to protect the 1.35-million-acre site designated by President Obama late last year.

"All of the above," Zinke said last month in response to which alternatives he expected to recommend to President Trump about Bears Ears. "The president has given me the flexibility to make a recommendation to him, and we have a lot of options" (*Greenwire*, May 10).

But Zinke ruled out seeking national park status for any of the lands — an option that would need to be pursued by Congress. That leaves him weighing a host of tricky recommendations, from other measures that would need to wind their way across Capitol Hill to contentious executive actions.

Friends of Cedar Mesa Executive Director Josh Ewing met with Zinke during the secretary's visit to Utah.

"Part of the conversation we had was me encouraging him that nobody questions Congress' authority to act to protect the Bears Ears area, whereas, obviously, executive action to un-protect the area would be highly controversial," Ewing told E&E News.

But he added: "He wasn't particularly open to the idea of congressional action being on his menu of items that he could recommend. But who knows what he might change."

Conservationists, as well as House Democrats including Arizona Rep. Raúl Grijalva, have warned that any effort by the Trump administration to revoke or reduce the monuments' boundaries will face legal challenges (*Greenwire*, May 25).

"It's virtually guaranteed that if executive action is taken, this will be tied up in the courts for many years and the land is the collateral damage," Ewing said.

To avoid a legal battle, Zinke could recommend that Congress pursue changes to the Bears Ears monument. But that would spur a political fight.

Climbing the Hill

Utah lawmakers have already made a failed attempt to address the area via legislation known as the Utah Public Lands Initiative.

While a president may designate monuments only via the Antiquities Act of 1906, which allows the nation's chief executive to protect federal lands with scientific, historic or cultural value, Congress claims exclusive power to manage public lands under the Constitution's Property Clause.

Among its options, that means Congress can itself declare — or rescind — national monuments and parks, as well as create national conservation areas, wilderness areas and national recreation areas.

In designating such sites, Congress may set the boundaries, then exclude or include any activities, such as grazing or oil and gas development, as it deems necessary.

"When Congress enacts wilderness areas or national conservation areas, often it includes specific management provisions in its designations," explained former Interior Department Deputy Solicitor for Land Resources Justin Pidot, who is now an associate professor at the University of Denver Sturm College of Law. "It could be a wilderness area with uranium mining. If Congress did that, the designation is not worth a lot."

But given that congressional leeway, it can be difficult to compare how the lands included in the Bears Ears monument could fare under a different status.

"Without seeing the specifics of what a legislative vehicle looks like, it's really hard to know how to compare a national monument designation to other designations," Pidot said. "One of the strengths of national monuments is we know how they work: They're managed for multiple uses so long as those uses are consistent with the care and protection of the cultural historic resources that are present. It's a well-trod path."

Legislative prototype

In the event Zinke does recommend that Congress pursue changes to the monument, observers both on and off the Hill pointed to House Natural Resources Chairman Rob Bishop's (R) former Public Lands Initiative as a potential model.

Republican lawmakers last year failed to push that legislation through the House and did not see a version introduced in the Senate, following long negotiations with outside groups.

The boundaries of that proposal included roughly the same area: nearly 1.3 million acres, **compared with** the more than 1.35 million acres the Obama administration designated. The PLI would have created two new national conservation areas and a wilderness designation.

"The PLI leaves some very important areas that are protected by the monument unprotected; conversely, the PLI also protects some areas that the monument doesn't protect," Ewing said.

Both plans included large swaths of Bureau of Land Management lands, including wilderness study areas as well as Forest Service land and Forest Service wilderness area. The PLI would have also included 115,000 acres managed by the National Park Service.

"We always favored a legislative solution because a legislative solution by its nature is built on compromise. ... And if it can get the bipartisan support necessary to pass Congress, you can't really question it," Ewing said.

But he pointed to "loopholes" built into the legislation that opponents viewed as poison pills, arguing that "the wilderness that the PLI defined was not first-class wilderness."

Other points of contention over the legislation included allowances related to grazing, logging, mineral development and land transfers outside of those protected areas.

Ewing noted the re-establishment of grazing rights in sensitive portions of the Grand Gulch Primitive Area that are home to archaeological relics, as well as the transfer of public lands near Bluff, Utah, which he said would have allowed "massive industrialization right in our watershed."

"We support a legislative solution and still think that would be the best tack, but the national monument protection is the only practical solution in the short term," Ewing said. "Congress is not getting things done, and if you take away the national monument solution, it's likely there will be another 100 years this area is not protected."

Natural Resources Committee spokeswoman Molly Block said, "Chairman Bishop remains committed to addressing these and other issues, and he views DOI's review as an important step forward in doing so with transparency, accountability and local input."

Bishop vowed in April to introduce legislation "right-sizing" the Bears Ears monument as well as reforming the Antiquities Act (*E&E Daily*, April 26).

The Utah lawmaker has also asserted, however, that the president could roll back the monument's designation under the Antiquities Act, or alternatively slash its current size.

Administrative options

Conservative scholars at the Pacific Legal Foundation and American Enterprise Institute have suggested that the Trump administration has more options than simply seeking congressional assistance.

In an analysis published earlier this year, the organizations asserted that a president maintains a "general discretionary revocation power" under the Antiquities Act that would allow for the wholesale elimination or reduction of any monument (*E&E News PM*, March 29).

At his confirmation hearing in January, Zinke likewise expressed openness to the idea that the president can undo the designations of his predecessors, something no commander in chief has previously attempted.

"It will certainly be interesting to see whether the president has the authority to nullify a monument," Zinke said (*E&E Daily*, Jan. 18).

While past presidents have reduced the size of some monuments — President Kennedy was the last president to do so when he modified Bandelier National Monument in New Mexico — legal experts note that those decisions occurred before the enactment of the Federal Land Policy and Management Act of 1976 (FLPMA) and suggest such changes are no longer allowable.

But should Zinke opt to recommend that Trump undo the Bears Ears designation — and likely trigger a legal battle should the president act on that advice — the Interior Department would likely turn to administrative options for redesignating the 1.35-million-acre site.

That means "basically treating them as multiple-use lands," said Pidot, who emphasized that he was speaking hypothetically because he believes such a switch would be illegal given the monument's existing designation under the Antiquities Act.

Under such an scenario, he added, "BLM and the Interior Department have broad authority under FLMMA to manage for whatever resources they think the lands are best suited for" and the Forest Service would likewise manage its lands under the National Forest Management Act.

During his visit to Utah last month, Zinke noted that several wilderness study areas already exist within the monument's boundaries.

While wilderness areas must be designated by Congress, under FLPMA, BLM may recommend areas of 5,000 acres or more for preservation, informally preserving those areas until Congress takes action, potentially for decades.

Wilderness areas, which are also typically greater than 5,000 acres, are among the most restrictive options and are deemed to be areas where "man himself is a visitor who does not remain."

Similarly, Forest Service wilderness areas prohibit activities like logging and road construction, as well as farming or grazing.

Other options via BLM include designating areas of environmental concern to prevent irreparable damage to important historic, cultural or scenic resources, as well as research natural areas to preserve natural ecosystems. BLM lands may also be designated as recreation areas to encourage both active use and protection of recreational resources.

Southern Utah Wilderness Alliance Executive Director Scott Groene said the area's existing resource management plan would also serve as a guide for the Bears Ears lands.

But Groene added: "It's hard to think about what realistically [Zinke] would propose that's not just a ridiculous excuse to whack the monument."

Nearly 50 natural resources law scholars from institutions across the nation likewise warned Zinke in a letter earlier this month that attempting to act without Congress would invite "divisive litigation."

"A monument revocation designed to appease a narrow local economic interest or ideological opposition to the Antiquities Act is unlikely to survive judicial review," said the letter, written by Lewis & Clark Law School professor Michael Blumm and others.

Blumm told E&E News that while it's legal for the Interior Department to study the monument and recommend changes, any action by Trump to alter the existing site would exceed his authority.

"It might be a useful enterprise to go look for some options at Bears Ears in terms of management and what status it might enjoy, but ultimately, it's up to Congress," Blumm said.

<http://bit.ly/2rRut97>

3. Split panel sends Bernhardt nomination to full Senate

Kellie Lunney, E&E News reporter

Published: Tuesday, June 6, 2017

The Senate Energy and Natural Resources Committee today approved David Bernhardt as Interior deputy secretary in a 14-9 vote, paving the way for his confirmation by the full Senate.

Democratic Sen. Joe Manchin of West Virginia and Sen. Angus King of Maine — an independent who caucuses with the Democrats — joined all 12 Republicans on the panel to advance the nomination, which several environmental groups oppose because of Bernhardt's career as an oil and gas lobbyist.

The panel's ranking Democrat, Sen. Maria Cantwell of Washington, criticized Bernhardt's nomination today, reiterating her concerns with the revolving-door nature of Bernhardt's career.

"There is nothing wrong with Mr. Bernhardt representing these clients as their lawyer, but giving him the power to adjudicate his former clients' interests as deputy secretary of Interior raises serious appearance of conflict-of-interest issues," Cantwell said before the vote. "I do not understand how Mr. Bernhardt expects to have an open process on these issues."

Bernhardt, who has served as chairman of the natural resources department at the law firm Brownstein Hyatt Farber Schreck LLP, previously promised, if confirmed, to "not participate personally or substantially in any particular matter involving" his former clients or "specific parties in which I know the firm is a party or represents a party" for two years, unless he receives authorization to do so.

Administration aides have said they thoroughly vetted Bernhardt on ethics. They and other defenders call him an experienced nominee. In addition to his lobbying career, the Coloradan has worked as a Capitol Hill aide and served as an Interior official during the George W. Bush administration. Bernhardt has taken heat over allegations of mismanagement at Interior during his tenure there, including a drug and sex scandal at the former Minerals Management Service and political interference in endangered species decisions.

He has addressed those allegations and elaborated in responses to committee questions for the record obtained by E&E News on Friday (*E&E Daily*, June 5).

But that hasn't satisfied green groups.

"Since people in this country who want a government that works for them cannot depend on Congress to hold these individuals with egregious conflicts of interest accountable, they will have to do it themselves through federal ethics watchdogs," Greenpeace USA senior climate campaigner Diana Best said after the committee reported out Bernhardt's nomination. "The list of issues Bernhardt has profited from as a lobbyist should be enough to recuse him right out of a job."

The League of Conservation Voters yesterday sent a letter to the full Senate — before the committee vote — urging it to reject Bernhardt's nomination (*E&E Daily*, June 6).

While Bernhardt's nomination has generated controversy among Democrats, the support of Manchin and King today indicated he could garner more Democratic votes than expected when it comes before the full Senate.

The Energy and Natural Resources Committee also advanced three other nominations this morning: Dan Brouillette as Energy deputy secretary (17-6) and Neil Chatterjee (20-3) and Robert Powelson (20-3) to fill two Republican vacancies on the Federal Energy Regulatory Commission (*see related story*).

"I believe all four of these nominees are capable, competent and well-qualified for the roles that they have been selected for," ENR Chairwoman Lisa Murkowski (R-Alaska) said before the votes.

More committee Democrats, including Cantwell, supported the DOE and FERC nominees. But it was the FERC nominations, not Bernhardt's, that sparked protests during today's business meeting. Protesters interrupted proceedings, shouting down Cantwell at one point, yelling, "FERC is all about the expansion of fracking" and "You are a rubber-stamp committee."

When asked after the meeting whether she was surprised by the protests over FERC, Cantwell simply said, "FERC always needs oversight."

Murkowski expressed some frustration over the administration's sluggish pace in sending over agency nominations for her committee to consider.

"Well, here we are, Tuesday, June 6. Outside of [Energy] Secretary [Rick] Perry and [Interior] Secretary [Ryan] Zinke, these are the only four that we've had come before our committee, and the only four that we've now been able to move out of committee," Murkowski told reporters after the meeting.

She added: "I don't think that's an acceptable pace. Just saying."

<http://bit.ly/2sPI5iu>

4. LCV urges senators to oppose Bernhardt nomination

Kellie Lunny, E&E News reporter

Published: Tuesday, June 6, 2017

The League of Conservation Voters urged the Senate yesterday to oppose David Bernhardt's nomination to become the Interior Department's deputy secretary, citing concern over his career as an oil and gas lobbyist.

The group said its **letter** to senators, which comes ahead of the Energy and Natural Resources Committee's vote on Bernhardt today, was a break with "usual protocol."

LCV said it believes "Bernhardt's conflicts of interest, ties to regulated industry, questionable ethics, and refusal to commit to tackling the immense challenge of climate change disqualify him from this critical position."

LCV told senators it would "strongly consider" the Bernhardt vote in its 2017 congressional scorecard for rating lawmakers' environmental voting records.

The deputy secretary position "is critical to protecting our natural resources for future generations, but Bernhardt's confirmation would put our public lands, national monuments and parks, clean air and water, and wildlife at risk," LCV President Gene Karpinski wrote.

He added: "With his long history of lobbying for the very industries under DOI's purview — creating numerous conflicts of interest — and his proximity to ethics scandals during his previous tenure at DOI, Bernhardt's ability to put the public interest first is questionable, if not impossible."

The nomination of Bernhardt — a former Capitol Hill aide, Bush Interior official and lobbyist — has generated controversy. ENR Committee ranking member Maria Cantwell of Washington and other Democrats peppered him with questions during his May confirmation hearing about potential conflicts of interest.

Bernhardt addressed allegations of mismanagement at Interior when he served during the George W. Bush administration, including a drug and sex scandal at the former Minerals Management Service, and political interference in endangered species decisions. He elaborated in responses to committee questions for the record obtained by E&E News on Friday (*E&E Daily*, June 5).

Bernhardt, who has served as chairman of the natural resources department at the law firm Brownstein Hyatt Farber Schreck LLP, previously promised, if confirmed, to "not participate personally or substantially in any particular matter involving" his former clients or "specific parties in which I know the firm is a party or represents a party" for one to two years, unless he receives authorization to do so.

Administration aides have said they thoroughly vetted Bernhardt with relations to ethics. They and other defenders call him an experienced nominee.

"Mr. Bernhardt's personal background, and public- and private-sector professional experiences, prove he is a strong voice for the West and extremely well-qualified for the nomination to be deputy secretary," Sen. Cory Gardner (R-Colo.) said last month.

<http://bit.ly/2sdznhh>

5. Obama-era rule would make 'substantial' dent in CO2 CRS

[Hannah Hess](#), E&E News reporter

Published: Tuesday, June 6, 2017

Congress' in-house research shop has found that the Clean Power Plan would have a "substantial impact" on carbon dioxide emissions if it goes forward, a nearly impossible scenario under the Trump administration.

A newly released **overview** by the Congressional Research Service examines modeling projections by U.S. EPA, the U.S. Energy Information Administration, the Rhodium Group, M.J. Bradley & Associates LLC and the National Renewable Energy Laboratory.

CRS undertook its review with the Trump administration in the process of rescinding U.S. EPA's signature rule, and the courts stalled in their consideration of whether it is legal.

CRS published the overview, titled "U.S. Carbon Dioxide Emissions Trends and Projections: Role of the Clean Power Plan and Other Factors," last week — one day before President Trump announced he would withdraw the U.S. from the Paris climate agreement.

While the agency does not make its reports available to the general public, the Federation of American Scientists' Project on Government Secrecy posted a copy online yesterday.

Researchers tried to answer the question of whether existing power-sector trends and policies would continue to put the U.S. on track to slash power-sector emissions in 2030. They looked at the impact of rescinding the rule, as Trump wants to do, and implementing it.

The report notes multiple factors have contributed to emissions falling 25 percent between 2005 and 2016, including the decline in coal generation and the growth of natural gas and renewables as a power source. CO2 emissions may continue to decrease if those trends continue, CRS said, from 16 to 26 percent below 2005 levels by 2030.

However, the models indicate that following through with the Clean Power Plan could result in a reduction of 28 to 37 percent below 2005 levels by 2030.

"Accurately forecasting future CO2 emission levels is a complex and challenging endeavor," the report states.

<http://bit.ly/2qU3UNK>

6. Scott Pruitt and the truth about coal

Benjamin Storrow, Dylan Brown and Niina Heikkinen, E&E News reporters

Published: Tuesday, June 6, 2017

U.S. EPA Administrator Scott Pruitt walked back his claim that the coal sector had added "almost 50,000 jobs" since the fourth quarter yesterday. An EPA spokeswoman said Pruitt had been referring to the broader mining sector that includes other industries.

The inaccurate remark, made by Pruitt during a trio of appearances on Sunday morning talk shows, prompted a wave of criticism and threatened to overshadow what has generally been a good first half of the year for the coal industry.

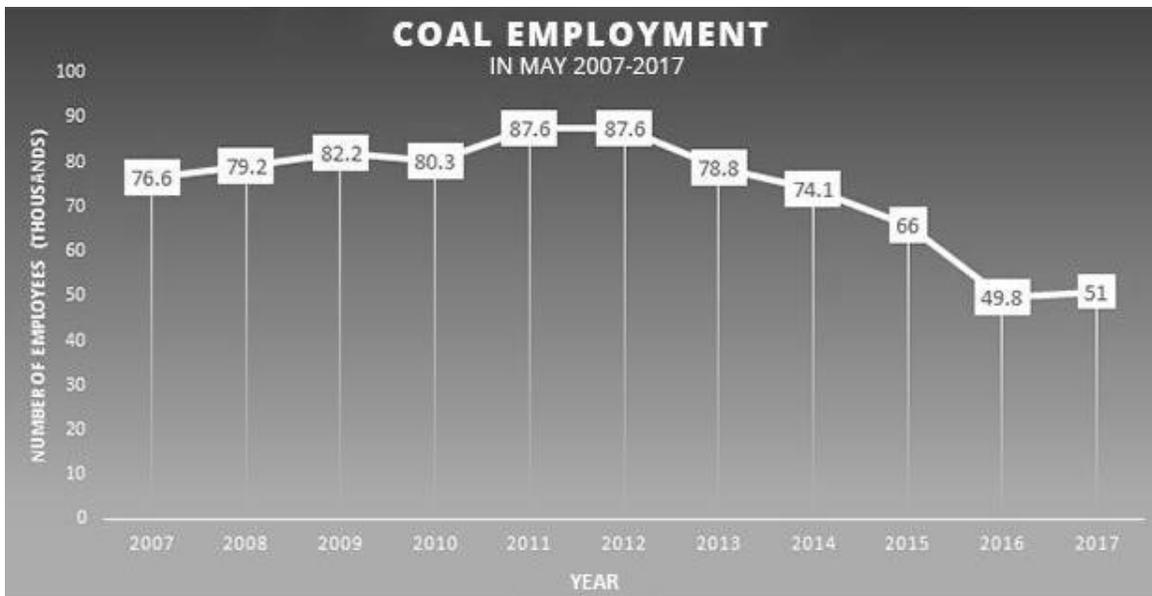
Prices for metallurgical coal used in steel production have risen after China curtailed supply and a cyclone temporarily knocked out rail service to Australia's metallurgical mines. Three mines in the United States are now scheduled to open, largely to serve the metallurgical market.

A slight rise in natural gas prices has helped coal take back market share in the U.S. power sector. Coal plant utilization averaged 45.4 percent in March, up from 35.6 percent during the same month in 2016, according to Doyle Trading Consultants, a research firm that tracks the industry. (Natural gas plants, by comparison, fell from 50.8 percent utilization last March to 48.1 percent this year.)

And coal miners are logging more hours at work as a result. By Doyle Trading Consultants' count, miners clocked 30.4 million hours in the first quarter of 2017, compared with 28.2 million hours in the fourth quarter of 2016.

Little of that is attributable to President Trump, however, analysts said.

"Coal's prospects are looking up, but don't let the rosy numbers fool you into thinking things are better than they truly are," said Doyle Trading Consultants CEO Hans Daniels. "If you're driving to the point, 'Did the Trump administration benefit coal?' a lot of the market events were in place before Trump was elected."



Graph: Claudine Hellmuth/E&E News; Data: Bureau of Labor Statistics

Pruitt went considerably further, boasting of a coal revival and the administration's role in sparking it. The EPA administrator argued in a series of television appearances that the Paris climate agreement and the domestic carbon-cutting regulations related to it represented a weight on the American economy and for the coal sector in particular.

"And as I indicated, the jobs numbers show already, already, that this president's deregulatory agenda, his leadership in the energy space is making a difference for jobs across this country, almost 50,000 in the coal sector," he **told** Chris Wallace, the host of "Fox News Sunday."

Speaking to Chuck Todd on "Meet the Press," he said: "Since the last — the fourth quarter of last year until most recently, we've added almost 50,000 jobs in the coal sector. In the month of May alone, almost 7,000 jobs."

The mining sector has added nearly 47,000 jobs since October, when employment hit a multiyear low, according to the Bureau of Labor Statistics. But coal mining only accounted for 3 percent of those additions, with the oil and gas sector representing the vast majority of new jobs.

Coal has gained 1,700 jobs during those seven months, bringing total employment in the industry to 51,000 jobs. Employment in the coal sector has been on the decline since it reached a recent high of nearly 90,000 jobs in 2012.

EPA spokesman Amy Graham suggested that Pruitt was referring to the wider mining sector's gains.

"America's miners and drillers are getting back to work under President Trump with the 7th straight month of job creation, after 25 consecutive months of decline in the previous administration," Graham said in an email, responding to questions about Pruitt's remarks. "Mining added 7,000 jobs in May. Employment in mining has risen by 47,000 since reaching a low point in October 2016."

Pruitt is not the first to suggest Trump has prompted a coal boom. Perhaps the most notable figure championing the idea is Stephen Moore, who served as an economic adviser to Trump during last year's presidential campaign. In a **piece** for Breitbart titled "Liberals Were Wrong! Coal Is Back," Moore argued that 8,000 mining jobs were added in April and some 40,000 have been created since the election.

Moore, in an interview, acknowledged that those figures included jobs from the wider mining sector, which also covers oil and gas and logging.

"Someone was telling me that they were looking at those numbers, too. The oil and gas numbers are included," he said.

Moore argued that his main point was to offer a rebuttal to liberals claiming coal was already dead. Moore's Breitbart piece came in response to a report co-authored by Columbia University professor Jason Bordoff, a former Obama administration official, who argued that Trump could slow the coal industry's death but not prevent it.

"Rumors of the death of coal are greatly exaggerated," Moore said.

Ultimately, it may be another set of recent interviews that best captures the state of the coal market. Nick Akins, CEO of Ohio-based American Electric Power Co., said his company will continue shifting toward natural gas and renewables in at least four interviews following the Paris announcement, according to a **count** by *Columbus Business First*, a trade publication.

The head of one of America's largest coal-burning utilities, Akins said economics and investor preference, not regulations, were largely behind the shift away from the black mineral.

Coal will remain a part of AEP's fuel mix, he **told** NPR, but it will be smaller than it once was.

The same could be said for America's coal industry at large.

<http://bit.ly/2ryiOLN>

7. No one is holding breath for Trump-led revival in this Ill. town

[Jeffrey Tomich](#), E&E News reporter

Published: Tuesday, June 6, 2017

WEST FRANKFORT, Ill. — It's Friday afternoon in May at Terry's Barber Shop, just hours before the midway and carnival games kick off a block away at the Old King Coal Festival, an annual celebration of the area's mining heritage that goes back to 1941.

Terry Chambers opened his barbershop in the heart of downtown when he moved to town in 1972.

Over the decades, the lone barber's chair by the window has served as a front-row seat to changes that swept through this town of 8,000. Among them: the continued erosion of the coal industry that helped put the city on the map.

Ask the locals who take a turn in Chambers' barber chair these days about the future of mining in the region, and they simply shake their heads. They talk about the coal business as they would a terminally ill friend. They don't expect much improvement; they just hope it can hold on.

That's the case even under a president who promises to restore the coal industry to prominence.

Like most surrounding counties in southern Illinois, Franklin County used to be solidly Democratic. As recently as 2000, voters favored Al Gore over George W. Bush. But last fall, more than 70 percent voted for President Trump.

Some of the men who stop in for a haircut lament what they see as President Obama's "war on coal." They think coal is being regulated out of existence. But no president, they said, can single-handedly reverse the trajectory of coal mining in southern Illinois.

As one of his customers offers a lengthy explanation why, Chambers pauses from vacuuming up hair clippings. Over "Skip a Rope" playing on the radio in the corner, the barber sums up the state of the industry.

"Coal's not the big dog here anymore," he said.

There's little dispute that coal was king in West Frankfort. The city is among similar towns across the Illinois Basin, a coal-producing region that covers parts of Illinois, Indiana and Kentucky that just wants to hold on to what's left of the coal industry and the economic trickle down.

Coal's history in Illinois goes back to the late 1600s, when explorers Louis Joliet and Jacques Marquette reported observing "charbon de terre," according to the Illinois Coal Association.

Symbols of coal's significance are still obvious. Cities in southern Illinois include Carbondale and Glen Carbon. A bronze statue of a coal miner stands on the east side of the state Capitol grounds in Springfield. The local baseball team that plays in Marion, a short drive down Interstate 57, is the Miners.

Depending on who you ask, there were as many as seven or eight coal mines surrounding West Frankfort, which was at the center of the state's coal-producing region. Area power plants ran on the fuel they produced.

Local businesses sold and serviced equipment and supplies. Stores and restaurants along Main Street depended on wages and taxes from the mines.

Everyone knew the men who worked underground. Even those who have never worked as a miner had a dad, grandfather, nephew or neighbor who did.

Today, there's just one mine left on the far eastern edge of Franklin County — Foresight Energy's Mach No. 1 mine.

Boom for Illinois

Despite a spate of coal plant closures throughout the Midwest in recent years — a trend generally blamed on tougher environmental rules like U.S. EPA's Mercury and Air Toxics Standards — Illinois coal production boomed over the last decade.

Put another way: If Obama waged war on coal, he did a lousy job in his home state.

From 2007 to 2015, Illinois coal output grew to 56.1 million tons from 32.4 million tons. The number of mines and coal mining jobs also rose during Obama's presidency, according to the coal association.



Terry Chambers, who opened his barbershop in West Frankfort in 1972, has witnessed the erosion of the coal industry and its impact on the city's Main Street. "Coal's not the big dog here anymore," he said. Jeffrey Tomich/E&E News

Indeed, the big blow for the Illinois coal industry was struck decades earlier when President George H.W. Bush signed the Clean Air Act Amendments of 1990, which established significant restrictions in emissions of sulfur dioxide and nitrogen oxides, the major precursors to acid rain.

Rather than spend millions of dollars to install pollution controls, power plants across southern Illinois and elsewhere in the Midwest switched from burning Illinois Basin coal to buying coal from Wyoming's Powder River Basin, which had a lower sulfur content.

From 1990 to 2000, Illinois coal production fell by almost half. And despite being the nation's fourth largest coal-producing state, Illinois is also the second largest importer of coal, trailing only Texas.

Reminders of this come daily. Several times a day, unit trains hauling Powder River Basin coal rumble through downtown West Frankfort, less than 30 feet from the Main Street entrance to Chambers' barbershop.

"It's almost an insult to injury," said Jim White, the city's water superintendent, a lifelong resident whose father and grandfather worked as miners.

"I think we all know the long-term harm with coal, but when you see your friends and family lose their jobs, it hurts."

Today, most of the coal produced in Illinois goes to power plants in the East that have scrubbers. Or it's sent overseas.

While output in 2015 exceeded levels from 20 years earlier, the Illinois coal industry employed some 2,000 fewer workers. A big reason is mechanization of the mining industry.

More than any Obama-era policy, what most touches a nerve here is the loss of the union.

Once a powerhouse in the region, the United Mine Workers of America has faded from southern Illinois and the broader Illinois Basin coal-producing region in recent years. While it still represents retirees, the UMWA hasn't represented an active Illinois mine since the Crown III mine northeast of St. Louis shut down just before Christmas 2013.

Steven Sawalich, a former union miner and president of the Old King Coal Festival for the past 15 years, said young men still seek out mining jobs in southern Illinois.

An employment agency ad in the Old King Coal Festival souvenir program promotes local mining jobs available at \$15 to \$25 an hour, based on experience. Another ad from nearby Rend Lake College offers courses and certifications to help local miners find a job.

But while those jobs were a stable source of income, health benefits and pensions, the coal jobs of today come and go with the commodity cycle, Sawalich said. These days, it's not uncommon for miners to be laid off multiple times in the course of a few years.

Even 'King Coal' is skeptical

Things were different during the 18 years that Charlie Bartoni Jr. worked underground. The honoree of this year's festival, Bartoni, 80, is holding court downtown in a black sash festooned with silver sequins and his title, "Old King Coal."

Accompanied by "Princess Flame," a 20-year-old Southern Illinois University student who won the honor during a pageant weeks earlier, Bartoni gets handshakes and pats on the back from his friends and former co-workers who share stories from their days working underground.

Bartoni's grandfathers were miners, as was his father. He was a teenager when, one night just before Christmas 1951, an explosion ripped through the Orient No. 2 mine in West Frankfort, killing his dad and 118 other miners. The tragedy led to passage of the Federal Coal Mine Safety Act of 1952.

He voted for Trump, but not because he believes the president can revive coal's fortunes.

"He'll have a fight on his hands," Bartoni said, lamenting that the southern Illinois mining industry won't return to its glory days even though Illinois still boasts the largest coal reserves of any state east of the Mississippi River — some 38 billion recoverable tons, according to the Illinois State Geological Survey.

The same sentiment is found virtually everywhere at the festival.

It's a reason that, despite West Frankfort's motto, "We're Moving Forward," the Old King Coal Festival is focused on the past.

Locals start arriving as the sun sets to set up their lawn chairs in a lot next to the Moose Lodge where musical acts, including an Elvis tribute band, play into the night. There's a parade Saturday afternoon after a morning memorial service to honor the men who have lost their lives in the mines.

Festival organizers sell black T-shirts with a red heart and the words "I Love Coal," this year's festival theme.

As the sun sets on West Frankfort, the crowds line up for rides, games and booths selling carnival food for several blocks behind City Hall. Current miners and retirees spend time greeting and swapping stories.

As the good times roll, it's not hard to squint and imagine a more prosperous era for this coal mining town decades ago.

That's also what makes it tough for West Frankfort residents to let go.

Said Sawalich: "At one time, you could count on coal, you could retire on it. That's what made southern Illinois, is coal mines. I just don't want to see it rot and go away."

***Correction:** The 2000 presidential election pitted Al Gore against George W. Bush, not George H.W. Bush, as stated in an earlier version of this story.*

<http://bit.ly/2r2Q36r>

8. Dumping coal could save 52K lives per year study

Sean Reilly, E&E News reporter

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Fully replacing coal-fired electricity generation with solar power in the United States could save some 52,000 lives annually, researchers concluded in a newly released study.

While the long-term price tag for that undertaking would be almost \$1.5 trillion, the conversion would ultimately be profitable, with "a substantial health and environmental benefit," said the study, published online last week in the journal *Renewable and Sustainable Energy Reviews*.

"In addition to saving lives, solar is producing electricity, which has economic value," Joshua Pearce, one of the authors and a professor of materials science and electrical engineering at Michigan Technological University, said in a news release.

Coal-fired generation, while in steady decline, still supplied about 30 percent of the nation's electricity last year, compared with less than 1 percent for solar power, by the U.S. Energy Information Administration's count.

Weaning the grid off coal would require another 755 gigawatts' worth of solar photovoltaic installations, or more than 27 times today's supply, according to figures cited in the study.

With an estimated investment of \$1.45 trillion needed to meet that goal, the initial cost per life saved would be about \$1.1 million, according to the study, a figure that Pearce said is in line with other researchers' estimates.

Once the value of solar-generated electricity is factored in, however, the prevention of such premature deaths would actually save money "in most estimations," the study added, with benefits amounting to several million dollars per life in some cases.

Coal combustion produces large amounts of both nitrogen oxides — a key ingredient in smog — and particulates that are linked to a wide variety of heart and lung problems.

For the study, the authors tapped both U.S EPA data and previously published research to come up with the number of deaths per year per kilowatt-hour for both solar and coal-fired electricity production.

For solar power generation, the environmental drawbacks mainly involve accidental operation mistakes, meaning that substituting it for coal-fired generation represents a "clear path towards a more sustainable state," the study said.

While the findings explore only the impact of a complete shift to solar generation on the reduction in premature deaths, there would also be savings resulting from lower medical bills and higher workplace productivity, the paper suggested, adding that future research can help quantify their value.

Coal companies have touted the fuel as abundant and affordable, and have promoted efforts — often as a result of regulations — to reduce pollution.

<http://bit.ly/2s0ZTux>

9. Consumption for electricity hits 33-year low

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Coal consumption for electricity sank last year to its lowest level since 1984, according to a new U.S. Energy Information Administration report.

The electricity sector also burned 35 percent less coal last year than in 2008, the pinnacle year for U.S. coal production, according to the EIA report.

The findings came as little surprise to energy analysts, who have watched as coal has faced stiff competition from cheap natural gas and renewables.

"Given all the circumstances it's not at all surprising," said Jim Thompson, coal analyst at IHS Markit (Heather Richards, [Casper \[Wyo.\] Star-Tribune](#), June 4). — MJ

<http://bit.ly/2sAMPZO>

10. Zinke wants to outsource park services, fire 'serpents'

[Corbin Hiar](#), E&E News reporter

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Interior Secretary Ryan Zinke this afternoon suggested that the National Park Service would address its more than \$11 billion backlog of deferred maintenance projects partly by outsourcing more park functions to private companies.

"As the secretary, I don't want to be in the business of running campgrounds," Zinke told members of the Recreational Vehicle Industry Association. "My folks will never be as good as you are."

The secretary indicated that NPS, which is a bureau of the Interior Department, plans to offer opportunities for companies to get involved in managing campgrounds, transportation and telecommunications.

"We are going to have more public-private partnerships soon," he said during the luncheon. "I think that's where the industry should be going."

At the same time, NPS plans to overhaul the roles and responsibilities of its workforce.

"We'll be looking at where our employees should be spending their time," he said. "Yes, cleaning the bathrooms. But actually running services, that's something we should be pushing to somebody who's updated and knows the market better."

Tomorrow, Zinke will be heading to Capitol Hill to defend the Trump administration's budget request for Interior, which would cut \$360 million from the levels NPS received in the fiscal 2017 omnibus deal. That would leave the Park Service with a \$2.55 billion budget in fiscal 2018 (*E&E Daily*, June 5).

NPS told appropriators that those cuts would cost it the equivalent of 1,242 full-time positions if Congress approves the president's budget. The Park Service's workforce currently stands equal to about 19,700 full-time employees.

The proposal would also increase workloads and reduce visitor services, NPS warned (*Greenwire*, May 24).

Zinke, however, downplayed concerns within the Park Service and on the Hill about the budget request.

"The president decided that he would be a CEO and say, 'This is what a balanced budget would look like in 10 years,'" Zinke said. "So there's all sorts of twisting going on, and people don't like a lot of it. But as a starting point, I think he's absolutely spot on."

Most of the job cuts, he suggested, could be made in Washington and at the department's Denver regional office. Hiring for Interior positions in both areas is still largely frozen (*Greenwire*, April 21).

"We're too short on the front line, but boy, we have a lot of bureaucracy," he said. "When you start to drain the swamp, you know what happens? You start to expose serpents."

He added that "there are people out there that just don't want to see change, or they don't have courage to ask the question of what Interior should be in the next 100 years. We have to adapt now."

Promoting policy talk

Zinke also suggested that bosses should talk to their workers more about the policies they support.

"As employers, I think we should occasionally talk to people and explain why is it important to make sure that our country's balance makes sense, as far as in our budget. Why do jobs matter? Why does putting America first, why is that policy good?" the secretary said.

He was responding to an RVIA member who described himself as a campground owner from Alabama. The member had asked Zinke how the association could support the "Trump agenda" and push back against the media, which he said wasn't giving the administration a "fair shake."

The secretary argued that the best thing employers could do is promote patriotism in the workplace.

"I'm an American first," he said. "The people who work for you too should feel the same way. We don't want to see jobs or other nations be more competitive than we are."

Sage grouse order coming

Speaking with reporters after the event, Zinke also confirmed that the department will be releasing a secretarial order on the greater sage grouse "within days."

Zinke said he still needs to review it and "talk to the governors."

Last week, as rumors of the order swirled, Wyoming Gov. Matt Mead (R) and Colorado Gov. John Hickenlooper (D) sent a letter to the secretary arguing that "wholesale changes" to the Obama-era sage grouse conservation efforts "are likely not necessary at this time" (*Greenwire*, May 31).

The imperiled bird is under threat mainly due to development in 10 energy-rich Western states.

Zinke said today that the forthcoming order is in large part intended to "make sure that we work more as a team."

<http://bit.ly/2rJ4jmU>