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Attached is the daily news report for Feb. 7.

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## BUREAU OF LAND MANAGEMENT

### DAILY NEWS REPORT - UTAH

#### UTAH – TOP STORIES – FEBRUARY 7, 2017

1. **Outdoor Retailer show may leave Salt Lake City, seeks bids from other cities**

*The Salt Lake Tribune, Feb. 6 | Erin Alberty*

Organizers of the Outdoor Retailer show are soliciting proposals for a possible new location for the massive, twice-yearly conventions held for two decades in Salt Lake City.

2. **Reyes and Noel moving closer to taking posts with the Trump administration?**

*Utah Policy, Feb. 6 | Bryan Schott and Bob Bernick*

The worm is turning for two Utahns who could have important jobs in the Donald Trump Administration – Attorney General Sean Reyes and state Rep. Mike Noel.

3. **Navajo Nation defends Bears Ears National Monument**

*Navajo-Hopi Observer, Feb. 7 | Staff Writer*

WINDOW ROCK, Ariz. — On Jan. 5, the Navajo Nation Council's Naabik'iyáti' Committee voted 19-0 to pass a resolution supporting the presidential proclamation establishing the Bears Ears National Monument and opposing any congressional action that seeks to reverse the designation.

4. **Emery County to push forward with lands bill**

*The Emery County Progress, Feb. 7 | Patsy Stoddard*

Emery County is heading back out on their own with their public land use bill. Approximately three years ago, Congressman Rob Bishop asked Emery County to join his public lands initiative. Emery County stalled their individual county drive for a land use bill and joined forces with Bishop's bill.

5. **Patagonia drops out of Outdoor Retailer due to Utah officials' opposition to Bears Ears**

*The Salt Lake Tribune, Feb. 7 | Erin Alberty*

As Outdoor Retailer show organizers open the search for a host city, one major player in the industry says it will boycott the convention as long as it takes place in Utah.



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#### 6. Op-ed: Thanks, Rep. Chaffetz, for dropping lands-disposal act

*The Salt Lake Tribune, Feb. 7 | Andy Rasmussen*

The phone calls and emails started immediately after Utah Rep. Jason Chaffetz announced HR 621, Disposal of Excess Federal Lands Act. Sportsmen and women across the West were alarmed the bill could sell off some of our most treasured places on public lands.

I was among those who made the call.

#### 7. Comment period extended on Zion area oil/gas lease

*The Spectrum, Feb. 7 | David DeMille*

The Bureau of Land Management announced this morning it would extend its comment period on a controversial proposal to sell oil and gas leases on parcels just outside of Zion National Park. Per a press release from Tuesday morning:

#### 8. Grand Staircase impact: Boon or drag?

*The Salt Lake Tribune, Feb. 7 | Brian Maffly*

*This is a continuation to an article published on Feb. 2.*

In Utah's fight to rescind Bears Ears National Monument, Republican politicians have refocused a long-standing campaign against another big monument two decades after President Bill Clinton appeared on the rim of Arizona's Grand Canyon to set aside Utah's Grand Staircase, Escalante canyons and the coal-rich Kaiparowits Plateau.

#### 9. BLM nearing decision on Recapture Canyon

*The San Juan Record, Feb. 7 | Staff Writer*

The Bureau of Land Management (BLM) is very close to announcing a resolution to the longstanding controversy over motorized travel in Recapture Canyon, east of Blanding.



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#### 10. Op-ed: Fossil fuels aren't right for Washington County

*The Spectrum, Feb. 7 | Lisa Rutherford*

For several decades, Washington County has been growing rapidly, much of that growth driven by the outdoor opportunities this area offers.

#### 11. Chaffetz says Bears Ears was first topic in meeting with Trump

*The Deseret News, Feb. 7 | Lisa Riley Roche*

SALT LAKE CITY — Rep. Jason Chaffetz said the effort by state leaders to overturn the Bears Ears National Monument designation was at the top of his list when he met with President Donald Trump in the White House on Tuesday.

### E&E/NATIONAL NEWS – TOP STORIES

#### 1. Op-ed: Give Zinke a say on new BLM rules

*The Montana Standard, Feb. 6 | Dave Chadwick*

Even before Ryan Zinke starts his first day as Interior Secretary, some members of Congress are pushing to throw out an important and broadly backed rule that gives Americans a bigger voice in how public lands are managed. That's unfair to Mr. Zinke, unfair to Montanans, and unfair to millions of public land users across the West.

#### 2. OIG: Agent scored Burning Man perks, threatened colleague with 'grenades'

*Federal Times, Feb. 6 | Carten Cordell*

A report alleges that a supervising agent at the Bureau of Land Management unethically used his position to obtain tickets and perks to the Burning Man festival and then threatened his colleagues while under investigation.





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#### 3. Jury selection begins for trial of 6 in Bundy ranch standoff

*The Spectrum, Feb. 6 | Ken Ritter, Associated Press*

LAS VEGAS (AP) — Protesters with fluttering flags and a bellowing bullhorn faced off Monday outside U.S. court in Las Vegas, while jury selection began inside for six defendants accused of stopping federal agents at gunpoint from rounding up cattle near Cliven Bundy's ranch in April 2014.

#### 4. Oregon standoff defendant Duane Ehmer gets into heated exchange with prosecutor

*The Oregonian/OregonLive, Feb. 6 | Maxine Bernstein*

Duane Ehmer, one of four remaining defendants set for trial this month in the takeover of the Malheur National Wildlife Refuge, got into a testy exchange with a federal prosecutor when he took the witness stand Monday during a pretrial hearing.

#### 5. U.S. EPA employees protest Trump's pick to run agency

*Reuters, Feb. 6 | Valerie Volcovici*

Former and current employees of the U.S. Environmental Protection Agency expressed opposition to President Donald Trump's pick to run the agency on Monday - in an open letter and a small street protest - reflecting divisions over the new administration's plans to slash regulation.

#### 6. SCIENCE: 'Whistleblower' says protocol was breached but no data fraud

*E & E News, Feb. 7 | Scott Waldman*

The federal climate scientist hailed by conservatives as a whistleblower for allegedly revealing manipulated global warming data said yesterday he was actually calling out a former colleague for not properly following agency standards for research.



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#### 7. NEVADA STANDOFF: FBI agents posed as journalists to get testimony — defense

*E & E News, Feb. 7 | Sam Levin, London Guardian*

FBI agents posed as journalists and tricked the Bundy ranching family and their supporters into giving on-camera interviews that prosecutors may use in upcoming trials, according to defense attorneys and court records.

#### 8. TRIBES: Federal Indian Minerals Office mismanaged — IG

*E & E News, Feb. 7 | Cecelia Smith-Schoenwalder*

A little-known federal office created by the Interior Department to assist Navajo oil and gas beneficiaries did not follow a 2005 agreement outlining its responsibilities or have adequate oversight, Interior's Office of Inspector General has found.

#### 9. OREGON STANDOFF: Juror details how prosecutors failed to make their case

*E & E News, Feb. 7 | Jeremy P. Jacobs*

As the government prepares for the second trial stemming from last winter's armed standoff at the Malheur National Wildlife Refuge, an interview with a pivotal juror from the first trial reveals significant missteps that cost federal prosecutors the convictions of the occupation's leaders.

#### 10. New Approach Assesses Land Recovery Following Oil and Gas Drilling

*USGS News, Feb. 7 | Press Release*

A new scientific approach can now provide regional assessments of land recovery following oil and gas drilling activities, according to a new U.S. Geological Survey study published in the journal *Science of the Total Environment*.



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#### 11. DAKOTA ACCESS: Trump to grant final approval for oil pipeline

*E & E News, Feb. 7 | Ellen M. Gilmer and Hannah Northey*

The Trump administration plans to grant final approval for the Dakota Access pipeline.

Lawyers for the Army Corps of Engineers told a federal court this afternoon that the agency has notified Congress of its intention to grant an easement for the oil pipeline to cross Lake Oahe just north of the Standing Rock Indian Reservation.



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#### UTAH – FULL STORY

##### 1. **Outdoor Retailer show may leave Salt Lake City, seeks bids from other cities**

*The Salt Lake Tribune, Feb. 6 | Erin Alberty*

Organizers of the Outdoor Retailer show are soliciting proposals for a possible new location for the massive, twice-yearly conventions held for two decades in Salt Lake City.

The call for bids follows outcry from some industry leaders who say the show should leave Utah in protest of state public lands policies, particularly its vocal opposition to the newly anointed Bears Ears National Monument.

The shows, which organizers say bring at least 45,000 visitors and \$40 million annually to the state's economy, may still remain in Utah's capital, they said Monday. But multiple groups associated with the convention stressed the need for choosing a venue whose policies support the outdoor industry's "culture" and "values."

"We've heard member discontent as well as comments from Utah's [political] delegations and efforts on public-land policy that are out of alignment with what our industry stands for," said Amy Roberts, executive director of the Outdoor Industry Association, which has close ties to the show and encouraged the show's owner, Emerald Expositions, to seek a range of potential host cities.

Prominent outdoor-industry executives Peter Metcalf, founder of Black Diamond Equipment, and Yvon Chouinard, founder of Patagonia, have called publicly in recent weeks for the shows to depart Utah, citing concerns over public-lands access.

Roberts specifically cited several recent moves by Utah politicians: a bill passed last week in the Legislature urging President Donald Trump to rescind his predecessor's designation of Bears Ears National Monument; a rules change proposed in Congress by Rep. Rob Bishop, R-Utah, to change how federal lands are valued and make them easier to sell; and other efforts to have federal lands turned over to the state, where "they would eventually be sold off and privately held and not accessible to recreationists," she said.

"The overriding theme," Roberts said, "is a disagreement over keeping public lands public, and we really see that as a foundational issue for our industry."

Gov. Gary Herbert, though, says "Utah is a public-lands state and always will be," according to Paul Edwards, his spokesman



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The large amount of public land in Utah, Edwards said, is one reason why the state is often in the crosshairs of criticism. Two-thirds of Utah is federally owned land, compared to one-third of Colorado.

"There's just less interface with these public-lands issues in that state," Edwards said. "It's just a different environment there in terms of how much of the land comes under federal jurisdiction and, hence, the possibility for questions about its appropriate use and management."

A spokesman for Salt Lake City Mayor Jackie Biskupski said show organizers should take into account what the city offers, including proximity to mountain recreation and progressive policies on environmental stewardship, preserving open space and reducing carbon emissions.

"When they take a thoughtful look," Biskupski spokesman Matthew Rojas said, "we're confident they will see we really do share the same values."

Scott Beck, president of Visit Salt Lake, said he learned Friday the show was seeking other suitors, in the form of requests for proposals, or RFPs — and he welcomed the move.

"We love the RFP process; we do a good job on the RFP process," Beck said. "... We know, based on our long history with the show, that the Salt Palace Convention Center is one of, if not the most, sustainable [convention centers] out there."

Herbert agrees.

"It's going to be tough for them to find as strong a venue," Edwards said.

Beck also noted that Outdoor Retailer entertains proposals from other cities every time its contract is up for renegotiation — though in previous years proposals have been accepted by invitation only.

"It's still not open to every city in the country," Beck said. "... It's still a small circle of [cities] that can physically host what will be requested in the RFP."

Darrell Denny, executive vice president for Emerald Expositions' Sports Group, confirmed Monday that this is the first time since the convention has been held in Salt Lake City that organizers have made a public request for proposals from any city interested.

Outdoor Retailer organizers have heard an "increased volume" of complaints from convention participants this year over state-level land management policies in Utah, Denny said.

That wasn't the only factor in re-evaluating the show's host city, he said. Product-release schedules have changed over time, and Outdoor Retailer is adding a November show in 2018, when its contract with Salt Lake City expires.



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"[We said], 'Let's just stop and take a fresh look at what the wider universe is ... before we make a decision about the future,'" Denny said.

He acknowledged several advantages to staying in Utah's capital.

"Salt Lake City has worked long and hard to make itself attractive for Outdoor Retailer, to create means by which we could house exhibitors as we grew beyond the Salt Palace Convention Center," Denny said. "The hotel community has been very supportive."

And, he said, the city's proximity to recreation sites is important, both for the shows' product "Demo Days" and for representatives with the 1,000-plus exhibitors, many of whom recreate in Utah before and after the shows.

"Public-lands issues are one factor," Denny said.

One official said show logistics may make some venue changes inevitable. Outdoor Retailer has gotten so large, serving different subsets of the outdoor industry, that breaking up the event into multiple venues may be inevitable, said Brad Peterson, who ran the Utah Office of Outdoor Recreation from 2013 to 2015.

"It's like the European Union, where you're making policy for one country, although it might not make sense for another country," he said.

Even if the convention finds a new host city, parts of it likely will remain in Utah, Peterson believes, because Salt Lake City offers much that other cities can't. The Salt Palace is a nonunion venue, for example, allowing exhibitors to pay up to 25 percent less to store, transport, put up and take down their displays, he noted. And Salt Lake City still holds a rare combination of proximity to an international airport, public lands and world-class ski venues.

Still, comments last week by Colorado Gov. John Hickenlooper appeared to advertise Denver — which has a \$1.1 billion event center in the works — as a possible alternative to Salt Lake City.

"We are always going to make the argument, 'Here's why Colorado is better,'" Hickenlooper told The Denver Post, noting: "I think we need more public land, not less."

And Lt. Utah Gov. Spencer Cox last week acknowledged that the Outdoor Industry Association and Outdoor Retailer show "sometimes have disagreements over the size, scope and administration of public lands."

Herbert, Edwards said, will meet next week with representatives of Outdoor Industry Association and Emerald Expositions.



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His lieutenant governor said he was optimistic that the convention would stay in Salt Lake City, based on his meetings at the Outdoor Retailer Winter Market in January.

"It became clear," Cox said, "that we are not far apart in our ultimate goals of preserving the best parts of Utah for future generations."

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## 2. **Reyes and Noel moving closer to taking posts with the Trump administration?**

*Utah Policy, Feb. 6 | Bryan Schott and Bob Bernick*

The worm is turning for two Utahns who could have important jobs in the Donald Trump Administration – Attorney General Sean Reyes and state Rep. Mike Noel.

Last week Reyes flew off in a private plane to points unknown (Washington, D.C.?) and Noel went to Denver for a meeting of Mountain States Legal Foundation – who supports Noel's appointment to director of the Bureau of Land Management.

Reyes is being considered for the Federal Trade Commission, an independent body that oversees proposed mergers, restraint of trade and other such issues.

Noel recently told UtahPolicy that he believes he has a "good chance" of being appointed BLM director. If that happens, and as director Noel is given his reins by Trump and incoming Interior Sec. Ryan Zinke, there could be big changes in Utah, where the BLM controls thousands of acres of land.

Noel is actually a retiree of the BLM, where he worked for 20 years; he knows the agency intimately and says one of his first actions would be to eliminate the bureau's law enforcement personnel and armed officers.

The Foundation, made up of public land users, like ranchers, miners and oil producers, takes on a variety of legal challengers – and back's Noel's appointment, he said.

The group has produced some public lands leaders in the past, including one former head of the BLM and the Interior Department.

"They asked me to come to speak to them, and I did," said Noel.



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The BLM director's appointment won't be made until Zinke is officially approved by the Senate, which should happen this week, Noel added.

Zinke could come to Utah within several weeks, as he has promised various Utah officials that the Beehive State will be one of his first visits.

Here's what we know about Reyes' mystery trip last week.

Reyes' chief of staff Missy Larsen reportedly told people at a cybersecurity symposium in Park City on Friday that Reyes was getting on a private plane that day, but she did not know where he was heading.

UtahPolicy.com reached out to Larsen for comment. She would neither confirm or deny that she made such a statement. At first, Larsen tried to deflect the question, saying she was not in the office on Friday. When we clarified that this declaration was reportedly made at the Park City event, which she was attending, Larsen would not answer further questions.

Multiple attempts to Reyes' political consultant, Alan Crooks, for comment also have not been returned.

UtahPolicy.com reported last week that the chatter surrounding Reyes' possible pick by Trump to head the FTC had intensified, with sources saying he could be tapped for the position within the next two weeks.

If Reyes is picked for the chairman of the Federal Trade Commission, his appointment would be subject to Senate confirmation. The job would likely include a small bump in salary for Utah's top cop.

Reyes would be replacing Edith Ramirez, who will be resigning from the FTC on Friday of this week. Ramirez earned \$165,300 last year, while Reyes had a reported salary of \$154,790.

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### 3. Navajo Nation defends Bears Ears National Monument

*Navajo-Hopi Observer, Feb. 7 | Staff Writer*

WINDOW ROCK, Ariz. — On Jan. 5, the Navajo Nation Council’s Naabik’iyáti’ Committee voted 19-0 to pass a resolution supporting the presidential proclamation establishing the Bears Ears National Monument and opposing any congressional action that seeks to reverse the designation.

The Navajo Nation’s action came as Utah’s congressional delegation and Utah’s state legislature continue to lobby President Donald Trump and Interior Secretary nominee Ryan Zinke to take action to reverse the Bears Ears National Monument designation.

“The Navajo Nation remains committed to defending Bears Ears, and we oppose any action to diminish or eliminate the designation,” said Navajo Nation Council Speaker LoRenzo Bates (Nenahnezad, Newcomb, San Juan, Tiis Tsoh Sikaad, Tse’Daa’Kaan, Upper Fruitland).

The Bears Ears cultural landscape has been the subject of administrative, legislative, and local efforts to protect it for more than 80 years, and former President Barack Obama’s proclamation on Dec. 28, realized that protection in the form of the new Bears Ears National Monument.

The new monument includes recognition of Native American traditional knowledge as a value to be protected by the monument and a resource to be used in its management. The monument also, for the first time in history, establishes an intertribal Bears Ears Commission, including representatives from the Navajo Nation, Hopi Tribe, Zuni Tribe, Ute Mountain Ute, and the Ute Indian Tribes to help manage the monument alongside federal land managers.

“Utah’s attempts to diminish our Nation’s sovereignty and belittle our tribes are upsetting,” said Council Delegate Davis Filfred (Mexican Water, Aneth, Teecnospos, Tólikan, Red Mesa). “You have to wonder whether their opposition is rooted in the fact that Native Americans have finally established themselves as a political force in Utah, which is long overdue.”

In the previous session of the U.S. Congress, Rep. Rob Bishop (R, UT) introduced legislation that would have protected Bears Ears, however, the legislation failed. In a recent joint release, Utah’s congressional delegation stated: “As a congressional delegation, we value our public lands, and we want to do everything we can to protect them. Bears Ears is no exception.”

“Utah’s Congressional delegation can’t claim that they want to protect Bears Ears while working to get rid of protections already in place,” said Council Delegate Walter Phelps. “Instead of



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deepening divides, they should be uniting their constituents and working together with Native Americans to make Bears Ears National Monument the best it can be.”

The Navajo Nation has reached out to U.S. Secretary of the Interior nominee Ryan Zinke to meet and discuss these concerns and demonstrate the overwhelming support of the Bears Ears National Monument designation.

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#### 4. **Emery County to push forward with lands bill**

*The Emery County Progress, Feb. 7 | Patsy Stoddard*

Emery County is heading back out on their own with their public land use bill. Approximately three years ago, Congressman Rob Bishop asked Emery County to join his public lands initiative. Emery County stalled their individual county drive for a land use bill and joined forces with Bishop's bill.

Since the creation of the Bears Ears National Monument in San Juan County which was an integral part of Bishop's bill, the PLI isn't going anywhere.

The Emery County Public Lands Council met for a work meeting before their regular meeting to discuss where Emery County should head with their land use bill.

County Commissioner Paul Cowley said he was disappointed to hear about the Bears Ears National Monument. He believes it to be locking up a lot of property in the state of Utah.

Lands council member JR Nelson suggested the lands council write a letter to the department of the interior voicing opposition to Bears Ears.

Randy Johnson, public lands consultant to the county said, "The PLI is no longer a vehicle for us to move forward. Where do we want to be? Do we want to move forward as an individual county? I have talked to Rep. Chaffetz office and they were supportive as was Sen. Hatch and Rep. Bishop's office. It's my recommendation Emery County needs to finish the process. We need to move forward with the best elements of the Emery County bill. Emery County has been in the process a long time and we have a prepared product. The PLI is not going anywhere."

There were concerns from council members that the San Rafael Swell is still on the top of the list for some type of designation. Johnson said he believes the Desolation Canyon area is a concern for wilderness designation.



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Council member Bruce Wilson made a motion the lands council prepare and submit a county only land use bill to the Emery County commission for their approval and consent to move forward with the bill.

Original members of the public lands council said when the council was created in 1995 they didn't know in 2017 they would be dealing with the same land use issue.

Johnson said if there's ever a time, the county's bill gets out of control back in Washington, the commissioners will pull the bill.

Val Payne suggested anything in Emery County's bill that was changed or removed as part of the PLI be reinserted and keep any improvements to the bill the PLI provided. Payne said over the years those working on Emery County bills have learned the language to use and the proper protocols for presenting a bill in Congress. The language and provisions in the bill will be designed in the format required by Washington as a feasible bill that has a chance of passing.

Johnson said the language concerning the Antiquities Act will be ran as a separate bill. The representatives in Washington are trying to exempt Utah from being subject to the Antiquities Act.

The council agreed the Emery County bill is ready to go and may need only some minor tweaks to language.

Payne said in the previous process the county was moving forward and almost ready to send the bill to Congress when the Utah State Legislature intervened and asked the county to take certain steps. The county complied to these legislative requirements. It was during this time the county joined with the PLI.

Johnson said the public lands in Emery County are a federal issue. It is important to have the state support but doesn't think it's Emery County's job to go and get the state support, he thinks this should come from the federal delegation asking for the state support.

Johnson said Washington will be in a transition period the next couple of months. Emery County hopes to have a bill ready to present by early spring, hopefully between March and May. "I don't see anything that can stop us, we've had the discussion with the legislators and they are ready to move forward," said Johnson.



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Rod Player, public lands chairman discussed the meeting schedule for 2017. All meetings will be at 10 a.m. on the first Tuesday of the month. July will be a field trip onto the forest and the date for it will be set at a later time.

Jake Palma from the BLM said they are experiencing some changes in their office. Matt Blocker the outdoor rec planner is going to the state office. Ahmed Mohsen will be leaving the Price Field Office to become the district manager for Color Country in Cedar City. The San Rafael desert was busy over the holidays. The alternatives are out for the San Rafael Master Leasing plan and the comment period open until Jan. 20. The scoping for the Temple Mountain Goblin Valley expansion is closed. The comments will be looked over and summarized. A set of alternatives will be developed from the comments. Palma said all comments must be a substantive comment and meet certain criteria. Form letters of the same type will count as one comment.

Palma said they are working with the forest service on the Deer Creek mine pipeline project. There were objections to the pipeline project from the Sierra Club and Heal Utah. The BLM and forest service will do more analysis on the water. The pipeline will carry water from the Rilda portal down the Rilda Canyon road along SR-31 to the Huntington power plant where it would enter a holding pond.

Darren Olsen from the forest service said the project is under appeal and is now in the objection process. A team will review the project. The team hasn't made a decision yet. The team had some concerns about the project. The team will instruct and help Deer Creek rewrite the project or redo the project. The pipeline will run along the current right of way along the highway.

Marc Stilson from the Utah Division of water rights talked about upcoming legislation that the county needs to be aware of. One dealt with in-stream flow rights. This is currently valid for change applications only and could be used by the Division of Wildlife Resources, fishing groups, State parks for environmental and recreational purposes. The change in law would allow municipalities to do the same thing to protect or improve water quality. This change application for in-stream flow is being pushed by Salt Lake County. Craig Johansen, from Castle Dale is on the water task force that discussed this.

Stilson said the change application is only good from your point of diversion to the next point of diversion.

Stilson said he thinks they are doing this so they can show beneficial use of water without using the water.



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Roger Barton said cities have shares of water and the irrigation companies have the water rights. Nelson said along Huntington Creek there are several with water rights. The Farm Bureau representative said larger cities who want to grow want to keep water in the stream which they might take out and use in the future.

McElprang said he has concerns about water from coal mines being diverted down a different drainage. When Skyline Mine is closed the water will go down the Price River drainage.

Payne said there have been these water and coal mine issues going on for some time. It's difficult to prove the water would have gone down your drainage. The water companies need to have a lot of monitoring of streams and flows to prove their cases. Emery Town is currently dealing with this situation of water being diverted down a different drainage.

Stilson said coal mines can meet their monitoring requirements with three measurements per year.

More real time monitoring of flows is needed. Jay Mark Humphrey and the Emery Water Conservancy District do a lot of stream and flow monitoring.

Mining in the Greens Hollow area could affect water in the drainage. Stilson said the mines have spend millions on monitoring. He thinks more real time monitoring needs to be done above and below where mining will take place.

McElprang said he isn't against mining, he would like to see water protected. Payne said the lawyers for the mines will ask for data, if you don't have data to back up your case, it's a challenge to prove water has been lost.

Sherril Ward, lands council member said the pumps are running at Skyline and they pump back into Electric Lake.

Stilson said there are water rights attached to underground water, but it's hard to prove where the water is going.

The group agreed water is crucial for the county for the people, mining and livestock. Stilson will keep an eye on water bills at the legislature that can affect the county.

Wilson wondered if they needed to reorganize the water subcommittee which was used in the formation of the land use bill.



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Stilson said there was a hearing in Green River where Kane County was granted an extension on their water rights which they are leasing to the Blue Castle Holdings for the nuclear power plant. It was established that Kane County had satisfied all the requirements.

Olsen reported on the South Horn Mountain Project. They will be eliminating mountain shrub to try to bring back sagebrush to contribute to the sage grouse habitat in the area. A prescribed burn is planned for the north slopes on Trail Mountain to eliminate conifer.

With Matt Locker leaving the BLM until his replacement is hired, the Joe's Valley Bouldering area process may be delayed.

Olsen said a chunk of the Bears Ears monument is forest service land. They are still trying to figure out the impacts of this designation. The gates on the forest have been kept open for cow elk hunts. There's good snow on the forest.

Jonathon from state parks said they are grooming snowmobile trails and there's about three feet of snow up there currently. Snowut.com has updates on all the trail conditions. Millsite Reservoir was the site for an ice fishing tournament.

Ray Petersen, public lands director attended the water users meeting for the Colorado River in Las Vegas. It's a big deal with attendees from all around the West and Mexico. There are a lot of people there interested in our water stated Petersen. "There are very few rural folks that attend. If you're a member of a water users association then go. There's no more important resource than our water. It's interesting what's taking place outside of Emery County that affects Emery County (water).

Ward reported the snow levels are 141 percent of average and it's a good start.

The farm bureau representative reported there's only one permittee left on the Grand Staircase Escalante National Monument. The communities around the monument are drying up and people moving out.

Payne said these latest developments with Bears Ears and others lead to an urgency to get Emery County's bill passed. It's taken 10 years but the grazing is all but eliminated in Grand Staircase.

Loren Huntsman gave an update on the power plants. Currently they are working on complying with all regulations that are in place. They do have lawsuits filed and requested a stay on the implementation of the regional haze plan.



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Huntsman said they are in hopes regulations will be lessened in the future without additional regulations, but currently they are working to be in compliance with all current regulations.

The power company works with public perception and currently that's very green. They plan to operate their coal fired plants to the end of their useful lives. Ward wondered what happened to the water from Castle Gate power plant. There are municipalities leasing it.

There are plans to bring deer from Bountiful to Joe's Valley. This plan is OK, but the deer don't stay in the mountains and currently reside around the towns eating farmers haystacks.

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#### **5. Patagonia drops out of Outdoor Retailer due to Utah officials' opposition to Bears Ears**

*The Salt Lake Tribune, Feb. 7 | Erin Alberty*

As Outdoor Retailer show organizers open the search for a host city, one major player in the industry says it will boycott the convention as long as it takes place in Utah.

Patagonia announced Tuesday it is withdrawing from Outdoor Retailer in response to a resolution passed last week by the state legislature and signed by the governor, urging Trump to rescind the newly-designated Bears Ears National Monument.

"Because of the hostile environment they have created and their blatant disregard for Bears Ears National Monument and other public lands, the backbone of our business, Patagonia will no longer attend the Outdoor Retailer show in Utah," said Patagonia president Rose Marcario in a news release. "... We are confident other outdoor manufacturers and retailers will join us in moving our investment to a state that values our industry and promotes public lands conservation."

Patagonia's statement came one day after show organizers announced they are opening the door to proposals from potential host cities after holding the enormous, twice-yearly gear show and convention for two decades in Salt Lake City.

The search for a host city follows complaints by some in the outdoor industry — including Patagonia founder Yvon Chouinard and Peter Metcalf, founder of Utah-based Black Diamond — that political leaders in Utah are hostile to the public lands that the rec businesses depend on.



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Organizers specifically cited last week's resolution on Bears Ears as well as a rules change proposed in Congress by Rep. Rob Bishop, R-Utah, to alter how federal lands are valued and make them easier to sell, and other efforts to have federal lands turned over to the state.

"We've heard member discontent as well as comments from Utah's [political] delegations and efforts on public-land policy that are out of alignment with what our industry stands for," said Amy Roberts, executive director of the Outdoor Industry Association, which has close ties to the show and encouraged the show's owner, Emerald Expositions, to seek a range of potential host cities.

"The overriding theme," Roberts said, "is a disagreement over keeping public lands public, and we really see that as a foundational issue for our industry."

Show organizers have stressed that they have not decided to leave Salt Lake City but are opening up the floor to proposals as they reconfigure the show's timing to better accommodate shifting product launch schedules in the outdoors market.

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#### 6. **Op-ed: Thanks, Rep. Chaffetz, for dropping lands-disposal act**

*The Salt Lake Tribune, Feb. 7 | Andy Rasmussen*

The phone calls and emails started immediately after Utah Rep. Jason Chaffetz announced HR 621, Disposal of Excess Federal Lands Act. Sportsmen and women across the West were alarmed the bill could sell off some of our most treasured places on public lands.

I was among those who made the call.

Then Chaffetz used social media to announce he was dropping HR621, writing, "I am withdrawing HR 621. I'm a proud gun owner, hunter and love our public lands. The bill would have disposed of small parcels of lands Pres. Clinton identified as serving no public purpose but groups I support and care about fear it sends the wrong message. The bill was originally introduced several years ago. I look forward to working with you. I hear you and HR 621 dies tomorrow. #keepitpublic."

Trout Unlimited wishes to thank Chaffetz for his willingness to listen to sportsmen and women and respond pragmatically even in times dominated by rigid ideology. It is noteworthy when a congressman will acknowledge public input and change course accordingly. This example makes





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it clear that responsive collaboration with the public is the key to minimizing conflict and resolving fractious issues.

This is the Utah way. We have a long tradition in this state of making policy decisions based on open representation of the people, honest dialogue and collaborative processes. On contentious public lands issues, we need to work together on real solutions such as Rep. Lee Perry's (R-Brigham City) fire borrowing resolution (HCR 14), currently before the state Legislature, which looks to help ensure our management agencies have the resources to be good land stewards. These are the kinds of proposals that will lead to better public land management.

While these are positive steps in the right direction to protect our public land traditions, we have more work to do. Chaffetz has also proposed HR 622, legislation that could limit the ability of the Forest Service and Bureau of Land Management to enforce laws that protect public lands. Hunters and anglers must continue to make our voices heard on these proposals, just as we did on HR 621.

Trout Unlimited and sportsmen and women of Utah support public lands and know that access to public land is the backbone of our self-reliant, outdoors-centric culture. Eighty-four percent of Utah's sportsmen rely on public lands for hunting. And nearly 70 percent of the best remaining native trout habitat is on public lands. Public lands provide access to many of our blue ribbon fisheries, and places like the Green River, Monroe Mountain and Henry Mountains provide public hunting and fishing opportunities that are the envy of the nation.

Management of our country's public lands can always be improved; but these lands and waters are invaluable to our citizens and our state and we must keep public lands in public hands. We look forward to working constructively with all Utah elected officials to address 21st century land management challenges through sound and equitable policy.

Public land users, state and federal agencies, and lawmakers must work together to craft collaborative management solutions and ensure that we pass our public lands on to our children even better than we received them. These lands are part of Utah's way of life, and we appreciate Chaffetz's willingness to withdraw his bill and protect our public lands sporting heritage. With the congressman, we say #keepitpublic.

Andy Rasmussen is the public lands coordinator for Trout Unlimited.

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#### 7. Comment period extended on Zion area oil/gas lease

*The Spectrum, Feb. 7 | David DeMille*

The Bureau of Land Management announced this morning it would extend its comment period on a controversial proposal to sell oil and gas leases on parcels just outside of Zion National Park. Per a press release from Tuesday morning:

At the request of the National Park Service and interest from other parties, the Bureau of Land Management will extend the public comment period from the original end date of Feb. 10, to March 9, 2017, for the Environmental Assessment (EA) for the proposed oil and gas lease parcels in the St. George Field Office.

As a result of this extension, the BLM will consider offering the St. George parcels at the Sept. 14 oil and gas lease sale rather than the June sale as previously proposed. The parcels in the Richfield Field Office jurisdiction are still being considered for the June 2017 oil and gas lease sale.

There are three parcels, totaling 4,730 acres, nominated for leasing in Washington County. Two parcels are approximately two miles south and west of Zion National Park, the third is located approximately 5 miles west of the park. The BLM is working with the National Park Service and other agencies and is soliciting public comments to ensure a careful environmental analysis is conducted under the National Environmental Policy Act.

Additional information about the proposed parcels is included in the EA, which is available for public review and comment. Electronic copies of the EA can be found online at the project webpage: <http://bit.ly/2kio6pF> in the "Documents" page. Hard copies of the EA can be obtained in person at the St. George Field Office, 345 East Riverside Drive, St. George.

The public review and comment period closes at 4:30 p.m. on March 9, 2017. Please note that the most useful comments are those that identify substantive issues relevant to the proposed action or contain new technical or scientific information. Comments that contain only opinions or preferences will not receive a formal response, but may be considered in the BLM decision-making process.

Written comments should be mailed or emailed to:

Bureau of Land Management  
St. George Field Office



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345 East Riverside Drive  
St. George, UT 84790  
Attn: Dave Corry  
Email: [utsgmail@blm.gov](mailto:utsgmail@blm.gov)

Before including an address, phone number, email address, or other personal identifying information in any comments, be aware that the entire comment—including personal identifying information—may be made publicly available at any time. Requests to withhold personal identifying information from public review can be submitted, but the BLM cannot guarantee that it will be able to do so.

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#### 8. **Grand Staircase impact: Boon or drag?**

*The Salt Lake Tribune, Feb. 7 | Brian Maffly*

*This is a continuation to an article published on Feb. 2.*

In Utah's fight to rescind Bears Ears National Monument, Republican politicians have refocused a long-standing campaign against another big monument two decades after President Bill Clinton appeared on the rim of Arizona's Grand Canyon to set aside Utah's Grand Staircase, Escalante canyons and the coal-rich Kaiparowits Plateau.

Many acknowledge the Grand Staircase-Escalante National Monument is driving a burgeoning tourist economy in Garfield and Kane counties, where new hotels and restaurants are opening to serve an influx of visitors to the monument and surrounding redrock desert. But the designation has come at a price to local culture and tradition by displacing cattle ranchers, closing roads and thwarting coal mining and other commercial activities, according to backers of a resolution aimed at shrinking the 1.9 million-acre monument.

On Monday, the Kane County Commission passed a similar resolution, calling on Congress to "reduce or modify the boundaries" of the monument to the minimum area needed to protect antiquities mentioned in Clinton's proclamation.

About 125 people attended the special meeting, according to Kanab resident Noel Poe, who is also president of Grand Staircase Escalante Partners. "The majority opposed the resolution," said Poe.



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Debate on the Staircase bill has been overshadowed by a sister resolution targeting Bears Ears. Gov. Gary Herbert signed HCR11 Friday after it won quick legislative approval with largely party-line votes, while HCR12 awaits action on the Senate floor.

A Salt Lake Tribune-Hinckley Institute poll last fall found Utah voters approve of the Grand Staircase monument 47 percent to 39 percent. The survey, conducted Sept. 12-19, found stronger support among younger voters.

But HCR12's sponsor Rep. Mike Noel, R-Kanab, told colleagues last week the monument was designated only as a gimmick to help Clinton's re-election chances, and its boundaries were enlarged to take in two proposed coal mines in the Kaiparowits' vast coal deposits.

Noel said the monument has damaged the availability of well-paying employment and residents are leaving the county. Meanwhile, he said, "There are jobs to make beds and to clean toilets and to do the tourism business."

Critics believe Noel and his supporters are distorting the facts in an effort to assert greater local control over scenic landscapes owned and valued by all Americans.

They note that permitted grazing allotments have barely changed in the 20 years since the monument's creation. Hundreds of miles of roads remain open to the general public, ATV riders and permitted users. And commercial recreation abounds on the monument, supporting dozens of businesses in Escalante, Boulder, Kanab and other towns rimming the monument.

Those trends, monument supporters contend, are hard to square with HCR12's assertion that the monument "has had a negative impact on the prosperity, development, economy, custom, culture, heritage, educational opportunities, health, and well-being of local communities," and pushed Escalante High School enrollment down 44 percent.

Garfield County Commissioner Leland Pollock, who regularly testifies against the monument at the Legislature, told senators the school, which goes from seventh to 12th grade, has plunged from 140 students to 51 since 1996. The closure of a lumber mill, which pulled timber from the nearby Dixie National Forest, can account for most of the enrollment drop.

"We aren't against tourism," Pollock said, "but minimum-wage jobs don't support a family."

Citing a Utah State University study, the Legislature's Bears Ears resolution asserts that grazing on the Grand Staircase has declined by a third since the monument was created despite a presidential promise that grazing would "remain at historical levels."



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The monument proclamation itself makes no such promise, instead saying that existing grazing rights and stocking levels would be governed by applicable law.

And while grazing levels have moved up and down dramatically since the monument was designated, "it is not the creation of the monument that causes those numbers to fluctuate," said monument spokesman Larry Crutchfield. "It's fluctuating as a result of available forage due to amount of precipitation."

Still, Noel contends the Bureau of Land Management went overboard with new rules that make it difficult on ranchers hoping to improve the range and access their allotments, on power companies trying to maintain and upgrade utility lines, on hunters, and on everyday folks trying to enjoy the outdoors with friends and family.

He alleges the BLM shut down 1,000 miles of roads, put an end to filmmaking and other commercial activities and limited recreational outings to "eight or nine heartbeats."

No one disputes roads were closed, but 1,000 miles remain open to general travel, including 600 miles that can be used by non-street-legal ATVs, according to the monument's own management plan. Another nearly 700 "resource roads" — short, ungated spurs leading to a rangeland improvements, such as ring tanks and corals — remain available to those who need access for livestock or other permitted uses.

Many of these routes were closed to public use at the request of ranchers who wanted to keep monument visitors away from their cattle operations, according to Crutchfield.

The monument has issued 26 film permits since 2012 and is now managing a record 115 special recreation permits. About half are for hiking and education outings. Sixteen are for hunting guides.

Outdoor recreation and geologically gorgeous landscapes are fueling a boon in Escalante, where construction permits are at an all-time high and Main Street businesses saw record traffic last year, according to letters recently sent by Escalante Chamber of Commerce to Utah House Speaker Greg Hughes, R-Draper.

"The Grand Staircase is a draw, but it's not the only thing in Garfield County," former Mayor Jerry Taylor, now a county commissioner, told lawmakers. We need to protect that but also we have to look at the rancher, the miner, the people who work in other industries. We need diversity outside tourism."



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The region also needs coal, Pollock contends, asserting that the Kaiparowits holds two-thirds of Utah's remaining coal reserves. Noel argues the deposits of high-quality coal are worth \$2 trillion. According to the Utah Geological Survey, however, around 9 billion tons are recoverable, an amount worth closer to \$360 billion at today's depressed prices.

"We are running out of coal. We can't afford to lock it up," said Pollock, arguing the monument should be cut down to 500,000 acres to focus on the Escalante tributaries and other interesting formation sculpted in Navajo Sandstone.

But while Pollock sees the Kaiparowits as a desolate blue-clay alkali desert overrun with noxious rabbitbrush, others find the desert landscape alluring and note that it has since become world-famous for fossil excavations.

"We are rewriting dinosaur paleontology based on the science done on the Kaiparowits, that horrible gray stuff no one seems to like," Crutchfield said.

Salt Lake City resident Valerie Huitzil said she frequents the Escalante region in search of solitude and adventure. She and her friend Magdalena Jones asked lawmakers to leave the monument the way it is for future generations to enjoy.

"It's a unique and precious landscape that has shaped my life in a lot of ways," Huitzil said. "The new generation coming up is focusing on solitude and getting away from crowded national parks."

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#### 9. **BLM nearing decision on Recapture Canyon**

*The San Juan Record, Feb. 7 | Staff Writer*

The Bureau of Land Management (BLM) is very close to announcing a resolution to the longstanding controversy over motorized travel in Recapture Canyon, east of Blanding.

Ed Roberson, the new state director of the BLM, announced the process to the San Juan County Commission on February 7.

Roberson said that the agency has a recommendation for a decision. It should be announced in the next week or two, after new political leadership in the agencies are briefed on the issue.



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The new director was met with a skeptical audience of Commissioners. Commissioner Phil Lyman told Roberson, "I have no confidence in the BLM. I am confident in an Administration that will rein in the BLM."

Commissioner Bruce Adams added, "There are some very important issues regarding the BLM in San Juan County. ...how you treat those issues will tell us a lot about who you are."

Commissioner Rebecca Benally told the new state director that the Bears Ears National Monument has been an oppressive action against Native Americans in San Juan County.

"Native Americans were promised co-management of the monument, but it did not happen," said Benally. "It is just consultation, not co-management."

Regarding Recapture Canyon, motorized transportation through the canyon was outlawed in 2007 in a "temporary closure" that has extended for nearly ten years.

The closure was ordered after a trail was discovered in the canyon that environmental groups claimed was unauthorized.

A group of local residents were working on a trail system through the canyon and apparently created a trail through an area the BLM says was roadless.

Two Blanding residents were fined more than \$30,000 for the unauthorized road construction.

Since that time, San Juan County made several attempts to resolve the situation, with a variety of proposals.

For a number of reasons, the closure has remained in effect much longer than initially anticipated. The issue culminated in 2014, when a group of protesters drove through the northern portion of the canyon.

Commissioner Lyman and Monticello resident Monte Wells were convicted of organizing the ride, in which approximately 50 vehicles drove through closed portions of the canyon.

Lyman and Wells were sentenced to several days in federal prison and fined nearly \$100,000 for damages caused by the ride. The convictions are currently under appeal before the US District Court.

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#### 10. **Op-ed: Fossil fuels aren't right for Washington County**

*The Spectrum, Feb. 7 | Lisa Rutherford*

For several decades, Washington County has been growing rapidly, much of that growth driven by the outdoor opportunities this area offers.

Many people probably don't know the history of fossil fuel activities in this county. Can you even imagine a coal-fired power plant in Hurricane today? There were plans for one several decades ago. Southern Utah witnessed much oil field activity in 1907 and oil production did occur in the Virgin area at that time.

The specter of oil and gas development looms now with the BLM's summer 2017 controversial auction of three leases, two near Virgin. There were several wells drilled in or near the proposed lease locations about 50-80 years ago. None were economical. In fact, the vast majority were dry holes without any production but now new technology exists.

Washington County has not continued along the fossil fuel road but chose to become a destination area for recreation and good weather for retirees from near and far and those able to afford second homes. Now it appears the BLM may take us backward with the leases near Virgin and the Ash Creek area along I-15. When asked that leases be made available, the BLM must go through a process which includes a public comment period.

Already many areas in Utah have embraced oil and gas development wholeheartedly. But must the BLM approve some in our area? Utah's Department of Natural Resources shows that Utah has approximately 5,100 producing oil wells and 7,200 producing natural gas wells. From 2004 through 2016, the number of APDs (Applications for Permits to Drill) in Utah averaged 1,343 per year with highs of 2,062 in 2006 and 2,105 in 2012.

Having waded through the BLM's nearly 100-page Environmental Assessment (EA) I can assure readers that it is packed with information that begs for public comments challenging these leases.

The EA asserts the leases and subsequent drilling/production activities will be positive for the county but offers little to support that. Given my 20 years in the oil industry, I saw much boom and bust. Lately, Alaska, North Dakota, New Mexico and other energy-dependent states have seen jobs go, and even in Utah's energy-dependent areas, this industry does not provide any level of security.

The Washington County Water Conservancy District has the Toquer Reservoir and Ash Creek pipeline project which will provide for our county's water needs. BLM lease parcel UT-0517-





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044, just northeast of Toquerville, is dissected by Ash Creek. The EA states “water resources could be impacted” by development.

The EA states that BLM staff will review the parcels and see if “any circumstances have changed in the time since the subject lands were identified as open to leasing.” Much has changed in this county even before the 1999 Resource Management Plan which is used for these lease evaluations. The road to Virgin and Zion Park is now overrun with tourists with more traffic not needed. Lease parcels have wilderness characteristics and high recreational use; issues that may not get their due attention. Water demands are unknown.

The BLM has discretion in these situations. I suggest that citizens of Washington County take a minute and share written comments with the BLM on this process by the Feb. 10 deadline. Email [utgsmail@blm.gov](mailto:utgsmail@blm.gov), or send to 345 E. Riverside Dr., St. George, attn: Dave Corry.

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#### 11. **Chaffetz says Bears Ears was first topic in meeting with Trump**

*The Deseret News, Feb. 7 | Lisa Riley Roche*

SALT LAKE CITY — Rep. Jason Chaffetz said the effort by state leaders to overturn the Bears Ears National Monument designation was at the top of his list when he met with President Donald Trump in the White House on Tuesday.

"I took this unique opportunity when meeting with the president to bring it up as subject No. 1," Chaffetz said in a conference call with Utah reporters after the half-hour meeting.

Trump did not indicate whether he will rescind the monument designation made by President Barack Obama shortly before leaving office, the Utah Republican congressman said.

"He was more in the receiving mode. I think he was very sympathetic to the hardship that it creates for Utah," Chaffetz said. "It was obvious he had heard about it previously."

As he entered the Oval Office for the meeting, Chaffetz said he passed along a letter from Utah's congressional delegation opposing the monument, as well as a copy of the resolution passed last week by the Utah Legislature.

The backers of the resolution calling for the new president to rescind the monument designation that set aside 1.35 million acres in San Juan County said it had to be dealt with quickly by lawmakers to get it before Trump.



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Chaffetz said he does not believe the White House needs more information on Bears Ears. Supporters of the new monument, who turned out to oppose the resolution, are also expected to contact the new Republican administration.

For opponents of the new monument, Chaffetz said it's up to the state's all-Republican congressional delegation and Gov. Gary Herbert to continue making what he called a "very compelling" case.

Trump was told that not a single representative of the monument area supports it, Chaffetz said.

Chaffetz and Rep. Rob Bishop, R-Utah, had tried get their Public Lands Initiative through Congress that would have made portions of Bears Ears conservation areas with less restrictions on land management.

Chaffetz said he and the president spent about five minutes on Bears Ears before moving on to other topics, including the question of whether sales taxes should be collected on all online purchases.

Trump "really did sympathize with retailers who are struggling with that because of the disparity in their state," Chaffetz said.

His own bill attempting to create parity between online and brick and mortar retailers has not advanced in Congress.

What wasn't on the table, Chaffetz said, was any issue related to his role as chairman of the House Oversight and Government Reform Committee. Trump made that clear, he said, "even before my bum hit the chair."

Although Democrats on the committee have called for an investigation into Trump's business dealings, nothing dealing with the new president is on a list of 43 potential inquiries put together by Chaffetz.

But Chaffetz, who has made it clear the committee will continue to go after the Democrat who lost the presidential election, former Secretary of State Hillary Clinton, has raised questions about Trump's hotel in Washington, D.C.

Chaffetz said he does not need answers from the president.



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"Questions really need to go to (the General Services Administration). It's their contract. So I want to get their opinion, and if they think it's a problem and if they have any ideas on how to deal with it," he said. "Maybe the answer is nothing."

Chaffetz has said he wants to see an "unredacted" version of Trump's lease with the federal government for the Old Post Office building on Pennsylvania Avenue for the hotel, a possible violation of prohibitions against elected officials from such deals.

Politico reported Chaffetz told reporters he has received the "500-plus page contract" and is reviewing it to clarify the situation. He indicated he hasn't found answers to his questions about the arrangement.

"A lot of it's just basic template type of stuff. But we'll see," he said, according to Politico. "His being both the landlord and the tenant is something we're curious as to what the GSA's opinion of that is."

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#### E&E/NATIONAL NEWS – FULL STORY

##### 1. **Op-ed: Give Zinke a say on new BLM rules**

*The Montana Standard, Feb. 6 | Dave Chadwick*

Even before Ryan Zinke starts his first day as Interior Secretary, some members of Congress are pushing to throw out an important and broadly backed rule that gives Americans a bigger voice in how public lands are managed. That's unfair to Mr. Zinke, unfair to Montanans, and unfair to millions of public land users across the West.

Last year, the Bureau of Land Management (BLM) issued new rules for decision-making on the lands that the agency manages. The new rules, called Planning 2.0, provide additional opportunities, earlier in the process, for the public to provide input on how our public lands are used. This means that hunters, anglers, ranchers, hikers, boaters, coal miners, energy companies, tribes, counties, and everyone else with a stake in public land management will have more information and will be able to express their opinions how our lands should be managed.

The new rule is important to all of us who use and enjoy our public lands. For the Montana Wildlife Federation, the rule means new opportunities to protect important fish and wildlife habitat, such as migration corridors and other large habitat areas. By identifying these lands



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earlier in the planning process, we can find ways to conserve them alongside energy development and other public land uses.

Of course, Planning 2.0 also benefits other public land users. Early involvement means more opportunity for public land ranchers to weigh in and share their values. Loggers, miners, and energy companies will have an easier time if we can get out of the react-and-regulate mode of the past and start strategically identifying areas where development should take place.

Early reports show that Planning 2.0 is working. One of the early tests of the new rule is taking place right here in Western Montana. Sportsmen, conservationists, business owners, tribes, local governments, and ranchers have been showing up and participating.

But now Congress is considering a resolution to throw out the new rules, cosponsored by our own Senator Steve Daines. If the resolution passes, the BLM will be forced to go back to the old planning rule, which is more than 30 years old and well-known for keeping all public land users in the dark.

Even worse, the law that Congress is using to throw out the rule – the “Congressional Review Act — specifically prohibits any future attempt to recreate any of the good parts of Planning 2.0. We’ll be permanently locked into an old rule that didn’t work for anybody.

Why the rush to overturn the new public land planning process that is the product of years of work? Congress should leave the new planning rules in place and allow the new Secretary the opportunity to decide for himself how to move forward. I think he will agree with hunters and anglers, snowmobilers and skiers, ranchers, loggers, and other stakeholders who have already been working with Planning 2.0 here in Montana. Having BLM to listen to the concerns and ideas of the local community early in the process just makes sense.

*Dave Chadwick, Helena, is executive director of the Montana Wildlife Federation.*

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## 2. **OIG: Agent scored Burning Man perks, threatened colleague with ‘grenades’**

*Federal Times, Feb. 6 | Carten Cordell*

A report alleges that a supervising agent at the Bureau of Land Management unethically used his position to obtain tickets and perks to the Burning Man festival and then threatened his colleagues while under investigation.



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The inspector general's report details how the agent — who works at the Bureau of Land Management's Office of Law Enforcement and Security in Salt Lake City — used his position in a litany of ethical violations centering on the 2015 Burning Man Festival, followed by a host of retaliatory actions against coworkers once he learned of the inspector general's investigation.

The Jan. 30 report doesn't name the employee, but a KLM.com story claims he is Dan Love, who was also the BLM agent in charge during the 2014 Bundy Ranch standoff.

Since the 70,000-person event is annually held in the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area, the BLM helps manage attendance levels, develops special permits for the event and coordinates with state and local agencies to provide safety and service.

The OIG report contains a butcher's bill of violations, including that the agent:

- Used his position to obtain sold out Burning Man tickets for his girlfriend, his father and a family friend.
- That he required five on-duty BLM agents to provide a security escort for him and his family during the event.
- That the agent used BLM-leased facilities to provide overnight lodging for his girlfriend and required a subordinate to make hotel reservations for his family.

The OIG began its investigation after receiving two anonymous complaints in September 2015. The report goes on to detail that after the agent was made aware of the investigation, that he tried to influence the testimony of colleagues who were to be questioned by investigators.

The report alleges that Love told a BLM state ranger to respond to investigators' questions by saying, "I don't recall," and instructed other witnesses to tell the OIG that other law enforcement's spouses had attended the event.

Upon seeing a news story that local sheriff using a helicopter to transport his wife and son to Burning Man, the agent reportedly sent a text to a subordinate agent saying, "Email that [article] to [OIG]! ... Jesus! I look like a choir boy!"

The report said that the agent then became convinced that a OLES contracting officer was the source of the complaints, telling her, "If you're not on my ship, you're going to sink ... So I suggest you get on my ship."



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Most explosively, the agent reportedly told a BLM budget analyst that he had ruined the reputation of a state ranger he was convinced had reported the complaints and told the analyst that, "You know, if you don't side with me, grenades are going to go off and you'll get hit."

The report separately asserted that the agent improperly intervened on behalf of a friend to ensure that he was hired as a BLM special agent, allegedly saying he "owned" OLES Director Salvatore Lauro and that no action would be taken against him as a result of the allegations.

Love was a controversial figure during the 2014 standoff with ranchers over \$1 million grazing fees that BLM said Bundy owed the federal government.

Local law enforcement later claimed that Love exhibited a "culture of arrogance" and had helped create a rift between them and the BLM.

A Feb. 3 story from USA Today said that lawyers for 17 Bundy ranchers currently awaiting trial for the standoff had filed motions to reveal the identity of the agent in the report, adding that they would ask for charges to be dismissed if the agent is indeed Love.

The OIG said that it was forwarding the report to the assistant secretary for land and minerals management "for any action deemed appropriate."

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### 3. **Jury selection begins for trial of 6 in Bundy ranch standoff**

*The Spectrum, Feb. 6 | Ken Ritter, Associated Press*

LAS VEGAS (AP) — Protesters with fluttering flags and a bellowing bullhorn faced off Monday outside U.S. court in Las Vegas, while jury selection began inside for six defendants accused of stopping federal agents at gunpoint from rounding up cattle near Cliven Bundy's ranch in April 2014.

About 10 supporters of the jailed rancher and his philosophy that states' rights supersede federal land policy, and a similar number of counter-protesters organized by a conservation advocacy group, remained peaceful beneath the watch of heavily armed federal security officers.

"We're out here to support our fellow citizens and uphold the Constitution against all enemies," said Dan Knowles, a Bundy backer from Oakley, California, who also demonstrated outside the



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courthouse during several pretrial hearings in the case. "Our government has lost sight of the Constitution," he said.

"I (Heart) Public Lands," read a sign in the hands of Ryan Beam, a Center for Biological Diversity protest organizer from Flagstaff, Arizona. He said his group fears that elected officials want to sell, give away or privatize public property in the West.

Bundy and his sons are not among the first six defendants to go to trial in U.S. District Court in Nevada. They're due for trial after proceedings are completed involving Orville Scott Drexler, Todd Engel, Eric Parker and Steven Stewart, all of Idaho, Gregory Burleson of Phoenix and Richard Lovelein of Oklahoma.

Each is accused of 10 charges including conspiracy, firearm offenses and assault on a federal officer. Each has pleaded not guilty, and each could face up to 101 years in prison if convicted of all charges.

Land policy is a hot issue in the West, where U.S. land management, park, forest and military agencies control more than half the acreage in states like Oregon, Idaho and Utah. In Nevada, where federal ownership approaches 85 percent, the dispute has spawned other uprisings including the Sagebrush Rebellion in the 1970s.

The standoff involving federal agents, Bundy and a self-styled militia came after the U.S. Bureau of Land Management won court orders against Bundy for failing for years to pay fees for grazing on public land and began impounding his cattle from land surrounding his 160-acre cattle ranch and melon farm near Bunkerville.

Government prosecutors argue that Bundy racked up more than \$1.1 million in grazing fees and penalties by ignoring laws he didn't like.

Bundy argues the government has no jurisdiction on land his family has grazed for generations about 90 miles northeast of Las Vegas.

The standoff came to a tense end with Bundy backers positioned on a high Interstate 15 overpass pointing military-style AR-15 and AK-47 weapons at heavily armed land management agents and contract cowboys herding cows toward a corral below.

The FBI investigated for two years before 19 men were arrested in early 2016 — at about the same time a group including Bundy's eldest sons, Ryan and Ammon Bundy, ended more than a month occupying a federal wildlife reserve in Oregon.

A federal jury in Portland, Oregon, acquitted seven people including the Bundy brothers of federal conspiracy and weapon charges in that case.



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In Nevada, two of the 19 defendants previously pleaded guilty to conspiracy charges, and they are expected to be sentenced in coming months to up to six years in prison. They are not expected to testify in the six-defendant trial.

Jury selection is expected to take several days before prosecutors begin outlining the government case, possibly on Thursday.

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#### **4. Oregon standoff defendant Duane Ehmer gets into heated exchange with prosecutor**

*The Oregonian/OregonLive, Feb. 6 | Maxine Bernstein*

Duane Ehmer, one of four remaining defendants set for trial this month in the takeover of the Malheur National Wildlife Refuge, got into a testy exchange with a federal prosecutor when he took the witness stand Monday during a pretrial hearing.

At one point, Ehmer blurted out: "That's bullshit!" in response to a prosecutor's remark and question. U.S. District Judge Anna J. Brown interrupted to remind Ehmer that he was in a courtroom and to "please refrain from using coarse language."

Ehmer's court-appointed lawyer, Michele Kohler, urged the court to throw out evidence that FBI agents collected when they arrested Ehmer on Jan. 27 at a roadblock several miles from the refuge.

Ehmer and his lawyer argue that the FBI coerced Ehmer into gaining his consent to search his red Chevrolet Tahoe and horse trailer.

They found a black powder pistol in the saddlebag on Ehmer's horse Hellboy, a rifle hidden in hay in the trailer and a maroon pouch containing checks, cash and ID cards belonging to the Friends of the Malheur National Wildlife Refuge under a passenger seat of the SUV.

FBI agents testified that Ehmer voluntarily signed a consent form allowing the search.

But Ehmer described how he thought he'd be shot as he drove out of the refuge and to the roadblock. He saw three armored vehicles and men in tactical gear aiming their firearms at him and thought they were from the military, he said.

"I believed I'd be shot on sight," testified Ehmer, wearing his signature American flag button-down shirt.





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After state police fatally shot occupation spokesman Robert "LaVoy" Finicum" when he sped away from a traffic stop on Jan. 26, 2016, "everything had kind of broken down" among those remaining at the refuge, Ehmer said. They started turning guns on each other, he said.

"Chaos ensued," he said. "It was a madhouse."

The remaining occupiers thought the FBI was going to raid the refuge. "We said our goodbyes," Ehmer testified.

"Why?" his lawyer asked.

"We were all gonna be killed," Ehmer replied, his voice shaking.

Ehmer said he didn't sleep at all that night. He had been sleeping in his truck and later in a barn with his horse during the refuge occupation.

When he drove out to the checkpoint on the east side of the refuge on the day after Finicum died, Ehmer said he felt as if he was a "prisoner of war."

Contrary to FBI agents' testimony that they ordered him to stop, get out of his SUV, remove his coat and lift his shirt so they could check his waistband for any firearms, Ehmer said he was ordered to strip completely.

"You were asked to drop your underwear?" Kohler questioned.

"Absolutely," Ehmer said.

FBI agent Todd Scott said Ehmer was calm and compliant and agreed to go back into the refuge to try to persuade others to leave as well. They gave him an hour to do so.

The agent said he told Ehmer that those who had no felony warrants would be allowed to leave the refuge and return home. At that point, Scott said he was unaware that a federal arrest warrant had been issued for Ehmer, saying the communication between his FBI SWAT unit and the command center was poor, with information delayed in reaching him.

"I was trying to get my friends out of the refuge alive," Ehmer testified.

Ehmer drove back to the refuge and returned to the checkpoint about 45 minutes later, with two others in separate vehicles following him.



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This time, the FBI took Ehmer into custody, having learned about the federal warrant for him. Agents said they also asked Ehmer if they could search his trailer and SUV, and he signed a consent form while sitting beside an agent in the back of one of the FBI's armored vehicles.

Scott said he apologized to Ehmer when he was arrested. "I felt bad about what happened there ... because he had been compliant," the agent said. "I felt like he had had been honest with me."

Ehmer thought the FBI had lied to him because he said he thought he "would be free to go as promised." He also said he had signed the consent form only after the agent told him the FBI would do the search even if he didn't. FBI agents said they made no such comment.

During cross-examination, Assistant U.S. Attorney Craig Gabriel pointed out that Ehmer knew he wouldn't be shot the second time he drove up to the checkpoint because he had convinced two other people to come out with him.

"I still don't trust the FBI," Ehmer responded.

"That wasn't my question, sir," Gabriel said.

"You had two guns in your trailer," Gabriel continued. "You're a felon."

"They were sponged off my records," Ehmer said. "No, I'm not a felon."

"You had actually performed guard duty at the refuge. ... You had a gun up in the tower?" Gabriel said.

"A black powder pistol, yes," Ehmer answered.

Wasn't it true, Gabriel asked Ehmer, that he had told the FBI at the checkpoint that he brought a black power pistol and rifle to the refuge but that the guns remained at the refuge.

"That was a lie?" Gabriel asked.

"Yes," Ehmer said.

And wasn't it true that Ehmer didn't object to the FBI searching his trailer and car, Gabriel asked.

"I didn't verbally object to anything when they're pointing rifles at me," Ehmer said.



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How, Gabriel asked, could Ehmer have thought the men with rifles were from the military when all the FBI agents wore "FBI" in "big white letters on a black patch?"

That's when Ehmer blurted out the expletive, and the judge admonished him.

The judge said she'd take further argument on Ehmer's motion Tuesday morning.

As Ehmer stepped off the witness stand, he turned to the judge and told her, "I'm sorry about the cussing."

The prosecutor conceded that an FBI agent's opening of the saddle bag, where the pistol was found, during a second sweep of the horse trailer went beyond the agent's authority.

Later Ehmer, when asked if he would consider any plea deal in light of three co-defendants pleading guilty Monday to a misdemeanor trespass charge, Ehmer told The Oregonian/OregonLive, "I will not. I got to take it all the way."

He's one of four remaining defendants set for trial on Feb. 14.

In other action Monday, the judge said she wasn't sure she had authority to order Gary Hunt to appear in court to explain why he shouldn't be held in contempt. Hunt has posted information from confidential FBI reports on a blog about informants who were part of the occupation investigation.

"The record is insufficient for me to act," Brown told Assistant U.S. Attorney Pamala Holsinger.

She directed Holsinger to either ask a federal judge in California to order Hunt to appear in a district court there, or file a supplemental motion explaining how Brown would have jurisdiction, and whether prosecutors are seeking Hunt be found in criminal or civil contempt of a court order.

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#### 5. **U.S. EPA employees protest Trump's pick to run agency**

*Reuters, Feb. 6 | Valerie Volcovici*

Former and current employees of the U.S. Environmental Protection Agency expressed opposition to President Donald Trump's pick to run the agency on Monday - in an open letter and a small street protest - reflecting divisions over the new administration's plans to slash regulation.



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Over 400 former EPA staff members sent a letter to the U.S. Senate asking it to reject the nomination of Oklahoma Attorney General Scott Pruitt as the agency's new leader, saying "he has shown no interest in enforcing environmental laws."

In Chicago, around 30 employees of the EPA's regional office there joined a protest organized by the Sierra Club environmental group and the American Federation of Government Employees to protest Pruitt's nomination.

Doug Eriksen, a spokesman for Trump's transition team at the EPA, downplayed the Chicago protest, saying "employees have a right to take action on their private time."

Trump has vowed to cut regulation to revive the oil, gas and coal industries, and has said he can do so without compromising air and water quality. He nominated Pruitt, who has sued the EPA more than a dozen times as Oklahoma's top prosecutor to block its regulations, to run the agency, sparking alarm among Democrats and environmentalists.

Last Thursday, the Senate environment committee approved Pruitt despite a boycott of his nomination by the panel's Democratic members. He is expected to be confirmed by the full Senate, in Republican control after last November's election, but a date for the vote has not been set.

The former EPA employees who sent the letter to the Senate wrote that they believed Pruitt has a history of siding with industry and has been reluctant to accept "the strong scientific consensus on climate change."

Employees at the Chicago rally raised concerns that Pruitt may cut employees and resources needed for the agency to enforce environmental regulations.

"The EPA needs to be able to enforce the rules when companies are breaking the law," said Sherry Estes, an EPA lawyer who participated in the protest.

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#### 6. **SCIENCE: 'Whistleblower' says protocol was breached but no data fraud**

*E & E News, Feb. 7 | Scott Waldman*

The federal climate scientist hailed by conservatives as a whistleblower for allegedly revealing manipulated global warming data said yesterday he was actually calling out a former colleague for not properly following agency standards for research.

In an interview with E&E News yesterday, former National Oceanic and Atmospheric Administration principal scientist John Bates had a significantly more nuanced take on the controversy that has swirled since a top House Republican hailed his blog post as proof that the agency "played fast and loose" with temperature data to disprove the theory of a global warming "pause."

Bates accused former colleagues of rushing their research to publication, in defiance of agency protocol. He specified that he did not believe that they manipulated the data upon which the research relied in any way.

"The issue here is not an issue of tampering with data, but rather really of timing of a release of a paper that had not properly disclosed everything it was," he said.

Bates, who recently retired from NOAA's National Climatic Data Center, claimed in his post that the agency rushed research disproving the global warming pause to publish in Science magazine before the December 2015 Paris climate talks. Climate skeptics have called that proof of massive fraud among federal climate researchers and said it allowed world leaders to be "duped" into signing the Paris climate agreement to reduce carbon emissions from fossil fuel use.

Bates said the NOAA study relied on land data that were "experimental." Typically, NOAA officials can publish research that relies partially on experimental data, as long as the data are properly identified, especially if there is an urgent situation that requires something to go out quickly because it is related to human health, safety and the environment.

The publishing safeguards are important, he said, because they help protect federal research against lawsuits. Bates added that science suffers if its results cannot be reproduced.

Yesterday, the House Science, Space and Technology Committee portrayed Bates' allegations as a bombshell that required immediate investigation.



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Committee Chairman Lamar Smith (R-Texas) has issued subpoenas and has for nearly two years attempted to obtain scientists' emails involved in the global warming pause research. A Science Committee aide yesterday said Bates' revelation was evidence that NOAA needed further investigation because its own employees were identifying significant policy breaches.

The aide said the committee would again seek the emails of federal researchers, and if a formal request were ignored, another round of subpoenas could be issued or scientists might be forced to testify in front of the committee.

"I think the brushback that the committee received, and the chairman received consistently, about how science is capable of policing itself and doesn't need anyone outside asking questions, even when the science being discussed is paid for and performed by scientists paid for with the taxpayer's money and used to implement far-reaching federal policies or justify implementation of far-reaching federal policies, doesn't really work," the aide said.

#### **'An incredibly bizarre claim'**

Bates laid out his claims, which are largely technical and related to the sharing of data, on the blog run by Judith Curry, a climate scientist who has broken with many colleagues and called into question the actual extent of humanity's influence on the planet.

The report's authors, Bates wrote, put a "thumb on the scale — in the documentation, scientific choices, and release of datasets — in an effort to discredit the notion of a global warming hiatus and rush to time the publication of the paper to influence national and international deliberations on climate policy."

The NOAA administrator under former President Obama, Kathryn Sullivan, refused to turn over the emails because she said doing so could chill the scientific process by making it harder for researchers to communicate openly while they were actively engaged in research. Smith's committee threatened her with criminal charges. The issue is expected to become part of the committee's hearing today into the use of scientific research in crafting federal regulations.

Yesterday, a NOAA spokesman did not directly address the specific allegations, other than to say that they are currently under review.

"NOAA is charged with providing peer-reviewed data to the American public and stands behind its world-class scientists," said the spokesman, who declined to be named. "NOAA takes seriously any allegation that its internal processes have not been followed and will review the matter appropriately."



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Whether the research was published to influence the Paris climate talks is a moot point, said Andrew Light, a senior member of the State Department's climate talks negotiating team in 2015. He said the talks had already been underway for about four years when the paper was published and that 188 nations were relying on a tremendous amount of research to support their goal of reducing humans' carbon emissions to slow the warming of the planet. They had also already crafted proposed reductions by the time the research was published, he said.

"I never heard it discussed once, let alone this one NOAA report, discussed in Paris, the run-up to Paris or anything after Paris, so this is really just an incredibly bizarre claim," Light said.

#### **Bates: Be careful of bias**

For many years, climate scientists were puzzled by an apparent plateau in global temperature rise from 1998 to 2012 as ocean temperatures stayed consistent. The 2015 research paper addressed the issue when it found there was no pause because the method to collect ocean temperatures was flawed.

Since then, multiple independent studies have confirmed NOAA's findings, including one published last month in *Science Advances*.

That study replicated NOAA's findings by accounting for different methods of temperature collection over time. For instance, data collected in the engine rooms of ships show slightly elevated levels of warming compared with those collected by buoys. When researchers accounted for that discrepancy, the so-called global warming pause disappears, researchers found.

The American Geophysical Union, which represents thousands of scientists who study climate, pointed out that the results of the 2015 study had been discussed in peer-reviewed journals and that multiple studies had independently backed up the findings.

The reports do not change the fundamental understanding of climate change science, AGU President Eric Davidson wrote in his blog yesterday.

"These types of statements by policymakers that attempt to take one study/dispute and blow it out of proportion are both unhelpful and misleading," he wrote. "We will be working with the science committee to demonstrate the scientific consensus on climate change and to encourage them not to interfere with the scientific process."



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Yesterday, Bates said he was contacted by the Science Committee for the first time only after the story broke. He said he has not communicated with anyone there before and was not a whistleblower for the committee previously but that he expected to be invited to Washington to testify at a future hearing.

He said he would accept such an invitation, but cautioned scientists against advocating policy.

"You really have to provide the most objective view and let the policymakers decide from their role," Bates said. "I'm getting much more wary of scientists growing into too much advocacy. I think there is certainly a role there, and yet people have to really examine themselves for their own bias and be careful about that."

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#### **7. NEVADA STANDOFF: FBI agents posed as journalists to get testimony — defense**

*E & E News, Feb. 7 | Sam Levin, London Guardian*

FBI agents posed as journalists and tricked the Bundy ranching family and their supporters into giving on-camera interviews that prosecutors may use in upcoming trials, according to defense attorneys and court records.

The FBI's "fake film production company" and "wide-reaching deceptive undercover operation", as lawyers described it in a court filing, is one of multiple controversies that some say could derail the government's prosecution of Nevada rancher Cliven Bundy, his four sons and a dozen of their followers. A recent Bureau of Land Management (BLM) ethics scandal involving tickets for the popular Burning Man festival could further hinder prosecutors in the high-profile trial, which began this week in Las Vegas federal court.

The case stems from the Bundy family's infamous 2014 standoff with federal agents at their ranch in Bunkerville, Nevada. The 70-year-old patriarch became a hero to conservative cowboys in the west when he publicly refused to pay grazing fees to the federal government, arguing that the BLM has no right to regulate lands by his property.

When federal agents attempted to seize his cattle, hundreds of supporters, some heavily armed, flocked to the ranch to defend the family. The government eventually retreated and only filed conspiracy, firearms and assault charges two years later – after his sons were involved in a similar standoff in Oregon.





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In January 2016, Ammon and Ryan Bundy spearheaded a takeover of the Malheur national wildlife refuge to protest the government's treatment of Oregon ranchers, leading to federal conspiracy charges against more than two-dozen participants. In a surprise verdict in October, a jury found the Bundy brothers and their supporters not guilty, which some say could foreshadow the government's failure in Nevada.

A total of 17 men are preparing for trial in Las Vegas over their roles in the Bunkerville case, including Cliven, Ammon and Ryan and their brothers Mel and Davey. The Bundys have long argued that they were engaged in peaceful protests against federal overreach while prosecutors and environmental groups have alleged that the men executed a coordinated, violent attack on agents and have damaged public lands with their defiance of regulations.

The underlying conspiracy allegations aside, some actions of individual FBI and BLM officers could cause problems for the government's case.

Attorneys for Cliven and defendant Gregory Burleson have alleged that the FBI created a bogus film company called Longbow Productions, tricking many defendants into making "boastful, false and potentially incriminating statements" in interviews. Masquerading as journalists, agents paid defendants for their testimony, and in Burleson's case, gave him alcohol with the intent of extracting incriminating admissions, according to defense attorneys.

In one filing, prosecutors admitted that FBI agents "acting in an undercover capacity as independent documentary filmmakers" interviewed Burleson, though the full extent of the Longbow operation remains unclear.

"When the jury finds out this is a tactic they used, none of them will think it's okay," said Daniel Hill, Ammon's lawyer, adding, "It shows the lows the government was willing to go to."

In the Oregon militia trial, the role of paid FBI informants hurt the government's case, according to one juror.

"The jury did not like hearing there were undercover agents," said Lisa Bundy, Ammon's wife. "They're using yours and my tax dollars to hurt other Americans."

Bret Whipple, Cliven's attorney, said when the FBI poses as reporters, it has a chilling effect on free speech. "The government is going to an extreme when they claim to be the free press and are trying to manipulate you to say things."



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Press advocates argue it's never appropriate for police to impersonate journalists given how it can damage the public's trust in the media.

"If you think every reporter you meet could be an agent of law enforcement, it really has an immediate impact on any journalist coming to try and cover that story," said Gregg Leslie, legal defense director of the Reporters Committee for Freedom of the Press.

The US attorney's office declined to comment.

In a separate matter, federal investigators recently announced ethical misconduct and violations by a BLM supervisory agent, who is accused of using his influence to obtain tickets and special passes to the Burning Man festival in the Nevada desert. The agent, who officials did not name, also allegedly used BLM resources for his family's benefit at Burning Man and intervened in hiring to benefit a friend.

Though the investigators did not name the agent, the Salt Lake Tribune and Reno-Gazette Journal identified him as Dan Love, who held the position outlined in the government's report during the period in the inquiry.

Love oversaw the BLM's handling of the 2014 Bundy standoff, and given his role as a key witness, Bunkerville defense attorneys have said the misconduct case could unravel the prosecution.

"He has a history of intimidation and bullying," said Chris Rasmussen, attorney for defendant Pete Santilli, arguing that the agent heightened tensions at the standoff. "Instead of de-escalation, he tried to escalate the situation."

Love did not respond to an inquiry. BLM spokesman Michael Richardson declined to identify the agent who was investigated, but said he is currently an employee, adding: "These types of allegations do not align with our mission or the professionalism and dedication of our 10,000 employees doing essential work for America's public lands."

The Bunkerville trials will be happening in three phases this year, and the Bundy men are not included in the first round that began Monday.

Lisa Bundy said it was unfair the men have been forced to wait behind bars for more than a year for their trials, claiming that Cliven's health has taken a toll.

"Jail is not for a 70-year-old man who has never been too far from his childhood ranch."



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#### 8. **TRIBES: Federal Indian Minerals Office mismanaged — IG**

*E & E News, Feb. 7 | Cecelia Smith-Schoenwalder*

A little-known federal office created by the Interior Department to assist Navajo oil and gas beneficiaries did not follow a 2005 agreement outlining its responsibilities or have adequate oversight, Interior's Office of Inspector General has found.

The Federal Indian Minerals Office in Farmington, N.M., is run by employees from three partner bureaus — the Bureau of Indian Affairs, Office of Natural Resources Revenue and Bureau of Land Management — and is meant to serve as an integrated "one-stop shop" for Navajo oil and gas allottees.

FIMO did not meet the requirements set by its most recent memorandum of understanding (MOU) — from 2005 — because the memo is outdated and does not contain adequate operational detail, the inspector general said. The Executive Management Group, established to monitor and oversee FIMO management, also failed in its oversight responsibilities, it said.

The inspector general also found in its [report](#) that the FIMO partnership bureaus did not know which in a series of MOUs setting out the office's structure was in effect and referred back to previous MOUs despite some of them being superseded for many years.

FIMO employees could not agree on who is responsible for completing an audit and compliance review work plan, and the office has not reconciled its oil and gas lease inventory with BLM's inventories, the inspector general found.

Among its 14 recommendations, the inspector general said BIA, BLM and ONRR should develop a new MOU that lists each agency's roles and provides specific operational details. BIA and BLM agreed with this recommendation.

The inspector general also asked BIA and BLM to develop a process to reconcile lease inventories to ensure BLM has an accurate inventory of allotted leases. BIA did not agree with the recommendation, saying the inventory discrepancies in the report cannot be reconciled.



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"The listed inventories will never truly reconcile as they are not used as, nor have they been created to be used as, a measurement of the management of all Navajo allotted leases," BIA said in its response to the inspector general.

BIA did, however, commit to maintaining and updating the lease inventory system.

FIMO was created in 1992 as the first endeavor of its kind — the only multi-bureau partnership meant to assist allottees with oil and gas activities. It was the result of a 1985 lawsuit from Navajos who accused Interior of failing to make timely royalty and lease rental payments.

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#### 9. **OREGON STANDOFF: Juror details how prosecutors failed to make their case**

*E & E News, Feb. 7 | Jeremy P. Jacobs*

As the government prepares for the second trial stemming from last winter's armed standoff at the Malheur National Wildlife Refuge, an interview with a pivotal juror from the first trial reveals significant missteps that cost federal prosecutors the convictions of the occupation's leaders.

In an email interview with E&E News, Juror 4 demonstrated that prosecutors failed to adequately explain how intent may be proved in a conspiracy trial — leading to what legal experts say was a misunderstanding of the primary charge in the case.

The juror also revealed a deep skepticism of the FBI and its hands-off approach to the 41-day occupation.

Those factors — plus a few compelling arguments from defense attorneys — led the jury to acquit the seven defendants, including leaders Ammon and Ryan Bundy, on charges of conspiring to impede federal officers during the armed standoff.

The results underscore challenges ahead for prosecutors as they are set to begin a trial for the four remaining defendants on conspiracy and other charges next week.

"I don't believe any of the jurors would say that the defense won the case, but rather it was the prosecution that lost it by applying the wrong charge," Juror 4 wrote.

E&E News communicated with Juror 4 via a court-appointed attorney. The 44-year-old Marylhurst University business administration student was a leader on the panel.



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During deliberations, he wrote a note to the judge questioning the bias of another juror, who was a former Bureau of Land Management official. The note led to the dismissal of that juror, and the jury delivered its verdict hours later (Greenwire, Oct. 28, 2016).

Juror 4 declined to be identified due to threats made to multiple members of the 12-member jury. No other juror responded to a request to answer questions, including the juror who was dismissed.

His answers strike a similar tone to emails he sent to The Oregonian immediately after the October verdict. However, they go into more depth and respond to a variety of questions about the trial, including the strategies of both the prosecution and the defense.

In particular, Juror 4 was critical of the prosecution's decision to charge the defendants with conspiring to impede federal officials through threats, intimidation or force.

Conspiracy is generally considered a relatively easy charge for prosecutors to prove because it requires only that an agreement to act illegally occurred and that the conspirators took some step in furtherance of that agreement, regardless of whether that first action was itself illegal.

The juror, however, indicated that prosecutors failed to get past step one of the charge. They didn't show that all the defendants agreed that they were at the refuge intending to block federal employees from their work, Juror 4 said, noting that there was a "diversity of motivations" for being there.

"In fairness to the prosecution, the standard of proof for a federal conspiracy seems dauntingly high," Juror 4 wrote. "How do you demonstrate agreement between two or more persons and, at the same time, prove that those persons knew that what they were scheming was illegal at that time?"

He went on: "It seems to me you would have to possess some special evidence (e.g. a document, a video, a credible witness, etc.) that reveals what was inside someone's head, and such evidence was not presented in this trial."

The U.S. attorney's office in Oregon declined to comment on the juror's remarks.

Other attorneys, however, said his remarks constituted a "misunderstanding of conspiracy" and underscored that the prosecution failed to adequately explain the charge to the jury.



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Tung Yin, a professor at Lewis & Clark Law School who closely followed the case, reviewed Juror 4's answers and said he "seems to be hung up on the proof of the agreement."

In most conspiracy cases, Yin said, there is no explicit or written contract to commit the conspiracy.

Instead, as with other criminal charges, jurors are instructed to look at circumstantial evidence to derive defendants' intent or an agreement.

"Our system imbues the jury with determining its own reading of its instructions," Yin said. "So I can't tell that the juror is wrong; they voted to convict. But I will say that this seems like an unusual way of reading what the government would have to prove to prove the agreement."

In the Malheur case, the prosecutors introduced video evidence of Ammon Bundy asking his supporters to come to the refuge with their guns to take a "hard stand."

Attorneys said what came next indicated that an agreement to impede took place on some level. That included evidence that Bundy's supporters showed up with guns and took various other actions including nailing shut the doors of government buildings and blocking the entrance to the refuge.

Drawing conclusions from such actions is common in criminal cases, said Justin Pidot, a former Obama administration Interior Department attorney who was not involved in the case.

"A jury can conclude that someone intended something that is a natural consequence of their actions," said Pidot, a professor at the University of Denver Sturm College of Law. "Otherwise, juries would never convict anyone."

Juror 4, in his thorough and articulate answers, appeared to indicate that drawing any inferences was beyond the jury's responsibility.

"All that the prosecution established was that there was agreement to go to a certain place, armed, to protest," he said. "The leap in logic required to get to conspiracy to impede is far too great, especially given the dearth of evidence presented, for jurors to say beyond a reasonable doubt they were guilty."

Further, Juror 4 seemed to believe that the defendants had many different reasons for attending the occupation that extended far beyond the refuge and its employees.



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"The sad fact is that the defendants were so caught up in their claims that it never quite registered on their radar that they could be simultaneously violating other people's rights to work at that site," he wrote.

Their "vision and purpose seemed to transcend the employees altogether," and they "were not all in agreement as to why they were there in the first place."

David Uhlmann, a former Justice Department environmental attorney, declined to comment specifically on the juror's answers. But he said the jury's verdict shows the challenge presented by a conspiracy charge — and one that prosecutors must be mindful of in the next trial.

He said juries often want "smoke-filled rooms and gangsters," which are usually lacking in conspiracy trials.

"There is no question that it is unlawful for Bundy and his co-defendants to occupy the refuge. There also is no question that they agreed to do so; they did not all end up there for weeks by happenstance," said Uhlmann, who is now a professor at the University of Michigan Law School.

"The fact that the jury nonetheless acquitted on the conspiracy charge demonstrates the difficulty of proving conspiracy, particularly in a case where the defendants argued that the government did not lawfully own the refuge," he said.

#### **'The FBI didn't believe'**

The question of ownership of the refuge land came up during the trial and seems to have resonated with Juror 4.

Defense attorneys repeatedly argued that the group was seeking to take over the refuge through "adverse possession," a legal principle that transfers ownership of property through prolonged occupation.

Prosecutors sought to bar any discussion of ownership of the refuge from the trial because there is no dispute over the federal government's ownership of the land, and moreover, the government contends it is impossible to adversely possess federal property.

Judge Anna Brown largely granted that request, but she allowed the defense to discuss adverse possession insofar as it spoke to the defendants' state of mind or intent.



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Consequently, the government did not present any evidence or testimony refuting the legality of the adverse possession defense. That struck Juror 4 and seems to have harmed the prosecution's case.

"Because intent of state of mind was built into each of the charges, adverse possession proved to be the critical component for five of the seven defendants," he said. "It was a travesty that the court would not allow an expert witness to rebut Ammon's teaching on adverse possession, leaving us jurors to only learn about it from him."

Juror 4 was particularly critical of how the FBI handled the occupation.

He said it appeared that a "longstanding animus existed between the FBI and the Bundy family" and noted that an FBI agent seemed to have been assigned to tracking Ammon Bundy since the 2014 standoff at the Bundy family ranch in Bunkerville, Nev.

Consequently, he questioned why the FBI largely let the occupation play out unobstructed for weeks.

"I began to wonder if enough legal concern existed to marshal such considerable resources as the FBI employed in tracking Ammon," he said, "why wasn't there a willingness to nip the occupation in the bud early on?"

He went on to speculate about whether the FBI viewed the Malheur occupation as a serious criminal threat.

"I feel that the FBI didn't believe at the time that the major crime committed at the refuge was a conspiracy to impede officers of the United States by force, threat, or intimidation — or else they missed all too many opportunities to arrest the key players and shut it down before Jan. 26," the day Bundy and others were arrested during a roadside stop, the juror said.

He added: "The FBI's testimony to explain this behavior was that they were not wishing to escalate anything, but it struck the jurors as inadequate and caused me to see their very escalated response that began on the 26th as overcompensating and harsh."

Juror 4's remarks echo critics of the FBI following the acquittals, who suggested law enforcement's approach to the standoff — while aimed at avoiding a shootout and bloodshed — may have hamstrung prosecutors (Greenwire, Nov. 1, 2016).

The FBI's Portland, Ore., office declined to comment on the remarks.





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The FBI's use of confidential informants during the standoff also caused problems for the prosecution, according to Juror 4. He said the "mysterious informants are what caused insurmountable doubt in at least one juror."

However, Juror 4 cheered prosecutors for adding misdemeanor trespass and other charges facing the remaining defendants in the second trial.

"These added charges are quite gratifying," he said. "I certainly wish our jury could have weighed in on these matters."

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#### 10. **New Approach Assesses Land Recovery Following Oil and Gas Drilling**

*USGS News, Feb. 7 | Press Release*

A new scientific approach can now provide regional assessments of land recovery following oil and gas drilling activities, according to a new U.S. Geological Survey study published in the journal *Science of the Total Environment*.

When developing oil and gas well pads, the vegetation and soil are removed to level the areas for drilling and operations. The new assessment approach, called the disturbance automated reference toolset, or DART, is used to examine recovery patterns after well pads are plugged and abandoned to help resource managers make informed decisions for future well pad development.

"These results may assist land managers in deciding what areas might be best utilized for energy development while also minimizing the long-term environmental impacts," said Travis Nauman, a USGS scientist and the lead author of the study.

The recovery of well pads following oil and gas development is an area of growing importance because recent technological advances such as hydraulic fracturing and horizontal drilling have initiated rapid increases in development and production. Previous studies estimate that about 11,583 square miles of land in central North America were cleared for oil and gas related purposes between 2000 and 2012.

USGS scientists examined oil and gas well pad recovery on the Colorado Plateau using a new approach that incorporates satellite imagery, digital soil mapping, predictive ecological modeling and field assessments to evaluate vegetation recovery following well pad abandonment. Scientists used DART to study 1,800 well pads in Utah, Colorado and New Mexico. Satellite



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imagery was used to compare vegetation cover of the abandoned sites to surrounding undisturbed areas with roughly equivalent climate, soil, topography and management histories.

Findings show that most abandoned oil and gas pads in the study are characterized by more bare ground and less vegetation than surrounding undisturbed areas, even after more than 9 years since abandonment. The majority of pads had 15-45 percent increases in bare ground exposure relative to comparable nearby areas. More exposed bare ground makes areas much more susceptible to soil erosion and dust emission.

Differing recovery across environmental gradients and land stewardship suggests that these can be useful for identifying conditions that may promote or hamper pad recovery. Well pads in grasslands, canyon complexes, blackbrush shrublands and shale badlands are not recovering as well as other ecotypes on the Colorado Plateau. Warmer areas with more summer-dominated precipitation were also associated with reduced well pad recovery. Well pads on federally and privately managed lands had the highest recovery index while state-administered lands had the lowest recovery of the ownership entities evaluated. These findings can help managers identify policies or procedures that may lead to improved well pad recovery.

It is still unclear exactly how long well pad disturbances persist on the landscape once well pads are abandoned, particularly in more arid regions like the Southwest, but it may take many years. Active management intervention, or rehabilitation, of vegetation and soils at abandoned well pads has become more common in recent years, but additional work could increase the success of these efforts. New technological advances like DART can help land managers better understand these disturbances by providing timely assessments to help inform management decisions.

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#### 11. **DAKOTA ACCESS: Trump to grant final approval for oil pipeline**

*E & E News, Feb. 7 | Ellen M. Gilmer and Hannah Northey*

The Trump administration plans to grant final approval for the Dakota Access pipeline.

Lawyers for the Army Corps of Engineers [told a federal court](#) this afternoon that the agency has notified Congress of its intention to grant an easement for the oil pipeline to cross Lake Oahe just north of the Standing Rock Indian Reservation.

The Army Corps also plans to skip an additional layer of environmental review that Obama administration officials committed to in December.



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The announcement comes after months of back-and-forth on the contentious oil pipeline, which would run nearly 1,200 miles from North Dakota to Illinois.

After the Obama administration slowed pipeline construction, President Trump made streamlining the project one of his first orders of business. He issued a presidential memo two weeks ago ordering the Army Corps to reconsider its December decision to do an environmental impact statement that would have considered potential impacts and alternative routes.

Energy Transfer Partners, the Dallas-based company building the oil pipeline, does not need any additional federal approvals, but congressional notification is typically followed by a two-week waiting period before construction begins.

The Standing Rock Sioux Tribe has vowed to challenge the decision in court, and activists have vowed to fight the project both in North Dakota and on Capitol Hill.

The Army Corps said it intends to waive the two-week waiting period.

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