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Attached is the daily news report for August 31 - September 1.

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DAILY NEWS REPORT - UTAH

UTAH – TOP STORIES – AUGUST 31 – SEPTEMBER 1 2017

1. BLM hands over land patent to Virgin's 'most scenic track'

The St George News, Aug. 31 | Hollie Reina

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2. Tank Hollow fire affects Sanpete air quality

The Pyramid, Aug. 31 | Staff Writer

SOUTH JORDAN — U.S. Forest Service recently released an update on the Tank Hollow fire, burning in the Sheep Creek drainage, located north of Highway 6 in Spanish Fork Canyon. The fire is in the Spanish Fork Ranger District of the Uinta-Wasatch-Cache National Forest.

3. In our opinion: We respect Congressman Rob Bishop's decision to move on

The Deseret News, Aug. 31 | Deseret News editorial board

In an age of incumbency, it's all the more important to have fresh choices for Utah voters. When Utah Rep. Rob Bishop mentioned in off-the-cuff fashion during a recent town hall meeting that his next term in office will be his last, it was not quite a bombshell, but certainly an interesting decision given the dynamics of tenure in the U.S. Congress and the almost infallible strength of incumbency. Bishop said his last term shall be his next term beginning in 2018, should he be re-elected, which the odds would strongly favor, as they would favor his being re-elected again after that.

4. Groups gird for legal battle over monuments

The Deseret News, Aug. 31 | Amy Joi O'Donoghue

SALT LAKE CITY — Although there's been no formal announcement from the White House on what may happen to monument boundaries based on recommendations from Interior Secretary Ryan Zinke, a coalition of conservation groups Thursday said it's readying a lawsuit.



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5. Moab Valley Fire seeks 'equitable' reimbursement for Grand County calls

The (Moab) Times-Independent, Aug. 31 | Molly Marcello

Requesting \$200,000 annually from the county council, the Moab Valley Fire Protection District wants Grand County to provide what they say is a more equitable reimbursement rate for fire suppression and emergency services throughout the year.

6. Love Talks Clean Environment, Climate Solutions

KUER News, Aug. 31 | Judy Fahys

U.S. Rep. Mia Love, R-Utah, spoke Thursday about the importance of protecting the environment. One of only a few high-profile Republicans who's addressed climate change, the 4th District Congresswoman talked about her family's love of camping and enjoying Utah natural amenities at the Snowbird Resort, where around for 300 people gathered at the Outdoor Recreation Summit for northern Utah.

7. Destination: Navajo Land, Utah

Indian Country Today, Sept. 1 | Alysa Landry

The Utah portion of the Navajo Nation is among the most remote areas in the country, with many communities located more than 100 miles from the nearest amenities. But the strip of Navajo land in southeastern Utah also contains some of the most ruggedly beautiful and iconically Western vistas in the world. From the sandstone cliffs surrounding Lake Powell to the towering rock formations of Monument Valley, this isolated area has much to offer for visitors who don't mind journeying off the beaten path.

8. National Monuments: BLM plans to offer parcel for lease near Utah's Dinosaur

E & E News, Sept. 1 | Scott Streater

The Bureau of Land Management is advancing one of three parcels near Utah's Dinosaur National Monument for a December oil and natural gas lease sale despite objections from the National Park Service and Gov. Gary Herbert (R).



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9. BLM to auction oil and gas leases next to Utah's Dinosaur National Monument and in San Rafael Swell

The Salt Lake Tribune, Sept. 1 | Brian Maffly

Federal land managers are moving forward with a proposed sale of controversial oil and gas leases in Utah's San Rafael Swell and on the doorstep of Dinosaur National Monument, the agency announced Friday.

E&E/NATIONAL NEWS – TOP STORIES

1. Op-ed: The Antiquities Act is not a blank check to create federal land

The Hill, Aug. 31 | Erin Hawley

On Aug. 24, Interior Secretary Ryan Zinke recommended reducing the size of a handful of national monuments under review pursuant to President Trump's executive order. A two-page summary of the report contains no details, but promises to maintain environmental protection while providing "a much needed change" for the local communities who rely on federal lands.

2. Colorado's biggest methane emitter may get a discount

High Country News, Aug. 31 | Elizabeth Shogren

In western Colorado's North Fork Valley sits the state's single largest emitter of methane, a potent greenhouse gas. The West Elk coal mine spews enough methane each year to equal the greenhouse gas pollution of about 90,000 cars, according to government data. For several years, environmental groups and local communities have sought to have the mine's owner, Arch Coal, capture that methane to use as fuel instead of sending it into the atmosphere.

3. NATIONAL MONUMENTS: Mont. voters oppose Zinke proposal to shrink sites — poll

E & E News, Sept. 1 | Scott Streater

Interior Secretary Ryan Zinke's recommendation to reduce the size of an unnamed number of national monuments is not supported by a majority of voters in Zinke's home state of Montana, according to a new poll.



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4. **NEVADA STANDOFF: Judge sets October trial date for Cliven Bundy and sons**

E & E News, Sept. 1 | Jeremy P. Jacobs

Cliven Bundy and his sons Ammon and Ryan will stand trial beginning Oct. 10 for their actions at the 2014 armed standoff with federal authorities at their Bunkerville, Nev., ranch.

5. **PUBLIC LANDS: Trump admin violated law in delaying royalties rule — court**

E & E News, Aug. 31 | Ellen M. Gilmer

The Trump administration violated the law when it tried to delay a fossil fuel regulation that had already taken effect, a federal court ruled yesterday.

6. **PUBLIC LANDS: Interior appoints panel, sets meeting on royalties reform**

E & E News, Sept. 1 | Ellen M. Gilmer

The Interior Department today took its first major steps toward reviewing the management of royalties from mineral and energy production on public and tribal lands, announcing the roster of a committee devoted to tackling the issue.

7. **CLIMATE: Trump killed Obama carbon reviews, but courts still want them**

E & E News, Sept. 1 | Amanda Reilly

Federal courts are complicating the administration's decision to step back from Obama-era efforts to incorporate climate change into federal agency decisions.



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UTAH – FULL STORY

1. **BLM hands over land patent to Virgin's 'most scenic track'**

The St George News, Aug. 31 | Hollie Reina

VIRGIN — In a brief ceremony held at the Virgin BMX Track located at the foot of the Kolob Terrace section of Zion National Park Wednesday evening, the Bureau of Land Management officially handed over the land patent for the 10-acre parcel of land the track sits on to the town of Virgin.

Originally leased to Virgin through the Recreation and Public Purposes Act, acquiring the land was the culmination of a dream which began about 15 years ago.

“This came about by a grassroots effort, you know, a grassroots interest in riding BMX bikes,” said Brian Tritle, St. George Field Office manager with the BLM. “It was a group of riders who had a dream and said, ‘Hey let’s see if we can get a real track built.’”

Included among the dreamers was Jay Lee, the mayor of Virgin at the time who helped organize efforts to get the track built and lease the BLM land. Lee is a current member of the Virgin Town Council.

Lee recalled that young BMX riders would hike out into the desert and use old tires to mark out a track to practice on. Those budding riders would then head to Mesquite, Nevada – the closest place they had to race – to test their skills.

As the idea to create their own place to race began to grow, riders and town leaders approached the BLM with the desire to lease the land and build a BMX track on it.

“And we (the BLM) said, ‘Hey you know, we have this recreation and public purposes authority. Why not a BMX track?’” Tritle said.

The Recreation and Public Purposes Act is a law administered by the BLM that allows it to sell or lease public lands to certain state and local government and nonprofit agencies specifically to be used for recreation or public purposes.



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Other areas in Southern Utah that have benefited from this act include the Southern Utah Shooting Sports Park, the Washington County Landfill and some city parks, Tritle said.

During Wednesday's ceremony, Tritle handed the patent to current town of Virgin Mayor Bruce Densley, signifying that the town had completed the necessary terms of the lease and could take full ownership of the land.

It was an exchange that Tritle said he was happy to make.

"We're blessed to have a lot of public lands in Washington County ... It's a great thing," he said. "It's also great to hand some of that over when we know its going to be put to public use. It's kids, outside, there's nothing better."

If you build it, they will come

Lee said that in the beginning, going through the process with the BLM took about a year. Then the track had to be built, he said, and Virgin's dirt proved to be very useful in the process.

"Normally they have to haul dirt in," Lee said of building BMX tracks, "It would probably cost \$10,000-\$20,000 to haul dirt in. All our dirt came from right here, and it's the perfect dirt for the track too."

In the early track days, Lee said, they would sometimes get only two racers to show up at a time.

Today, dozens of riders, young and old, come out almost every Wednesday to race.

The growing popularity of the Virgin BMX Track is due to a host of people who have helped Lee with his dream of creating a place where locals and visitors alike can come race and spend time with their family.

Not least among those who helped build the BMX dream is Adam Pace, the current track operator at Virgin BMX. Virgin BMX maintains the track, operates the accounting and business side of racing and acts as the liaison between the track and USA BMX which is the sport's governing body.

The town of Virgin owns the land and operates the water, Pace said.



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Though Pace said he doesn't expect much to change regarding the racing, he does hope now that the city has ownership of the property, they will be able to improve upon and possibly expand the facilities to potentially include a pump track or freestyle jumps.

Pace would like to attract even more of the bicycling community to the track, he said.

Densley said he has even bigger plans for the area. Though receiving the land patent Wednesday was the culmination of one process, he said, it was also the beginning of plans to acquire 70 more acres in the surrounding area to be used for additional recreation opportunities such as hiking trails, equestrian riding, camping and sports fields.

A family sport

In the meantime, on any given Wednesday, Pace and a whole host of passionate BMXers can be found racing laps around the track that he bills on social media with the hashtag #mostscenictrack.

Virgin BMX sits at the gateway to Zion National Park's Kolob Terrace and is surrounded by the unique geographic landscape of Zion that attracts millions of visitors per year, making a strong argument for the veracity of Pace's hashtag.

Lee is often there too, helping with the gate and watching families enjoy the space that he helped bring to fruition.

Lee doesn't have any kids who race, but he said the racers at the track are like his own children.

"I just love these kids," Lee said.

It is the family-friendly atmosphere that Pace, Lee and Densley love so much about BMX racing and the Virgin BMX Track in particular.

"It's a family sport," Pace said. "The whole family can do it – moms, dads, kids all the way down to 2 years old on balance bikes – and it's a great vibe."

Virgin BMX holds races every Wednesday evening. A full race schedule and more information about the track can be found [here](#).



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2. Tank Hollow fire affects Sanpete air quality

The Pyramid, Aug. 31 | Staff Writer

SOUTH JORDAN — U.S. Forest Service recently released an update on the Tank Hollow fire, burning in the Sheep Creek drainage, located north of Highway 6 in Spanish Fork Canyon. The fire is in the Spanish Fork Ranger District of the Uinta-Wasatch-Cache National Forest.

It is about 4, 172 acres in size and 20 percent contained. Smoke from the fire affects the air quality in Sanpete County when the wind blows in a southern direction.

The lightning-caused fire started on Aug. 11. Fire managers, along with 180 personnel from the U.S Forest Service, State of Utah Department of Natural Resources, Utah Division of Forestry, Fire, and State Lands, and the Bureau of Land Management, are assigned to the fire. Currently the Great Basin Incident Management Team is managing the fire.

The fire is holding well on the northwest edge from approximately Unicorn Ridge Campground down to the bottom of and west of Sheep Creek Road. The fire backed into the Sheep Creek drainage and continues to move south and east toward Highway 6 and Tie Fork Road.

Fire managers and crews are working to prevent fire spread toward critical values such as the transmission and distribution lines as well as homes along Highway 6.

These efforts include construction of fire barrier lines with hand crews and dozers, and creating temporary water sources off Tie Creek Road. This will reduce turn-around time for the helicopters delivering water to the fire, previously drawing from Strawberry Reservoir.

Road and campground closures are currently in effect. The area at the Junction of Sheep Creek road (Forest Service Road #051) and Indian Creek road (Forest Service road #042) know as Unicorn Ridge campground and dispersed camping area, including entire segments of Forest Service road #032, Forest Service road #761, Tie Fork road (Forest Service road #725) and Upper Tie Fork Single Track trail (Forest Service trail #023) located in Township 10 South, Range 6 East, Section 19, northeast quarter all within the Salt Lake Based Meridian.

Planned actions include monitoring and burnout operations as needed. Establish anchor points and create safety zones for direct attack. Keep fire from crossing Forest Service roads in area.



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Fire fighters will utilize retardant and helicopters to assist crews in lighter fuels and attempts will be made to create better, safer access to the fire lines.

For current information, including a map, visit <https://inciweb.nwcg.gov/incident/5542/>. The public is asked to not report or extinguish the fire.

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3. **In our opinion: We respect Congressman Rob Bishop's decision to move on**

The Deseret News, Aug. 31 | Deseret News editorial board

In an age of incumbency, it's all the more important to have fresh choices for Utah voters. When Utah Rep. Rob Bishop mentioned in off-the-cuff fashion during a recent town hall meeting that his next term in office will be his last, it was not quite a bombshell, but certainly an interesting decision given the dynamics of tenure in the U.S. Congress and the almost infallible strength of incumbency. Bishop said his last term shall be his next term beginning in 2018, should he be re-elected, which the odds would strongly favor, as they would favor his being re-elected again after that.

Incumbents win re-election 94 percent of the time, even during periods as we are in in which Congress suffers extraordinarily low public approval ratings. Bishop is popular in his solidly Republican district. His decision, upon which he has not elaborated, may be based on personal considerations as opposed to any philosophical commitment to the notion that nearly two decades in Congress is enough time for any individual member.

While Bishop has served conscientiously, we respect his decision to move on and welcome the opportunity for new blood in Utah's 1st Congressional District. The former high school history teacher and speaker of the Utah House has been quietly effective in areas of natural resources and lands policies, although his plans for a grand compromise concerning Bears Ears never materialized, resulting in a politicized monument designation process and ongoing debate. One consideration that may have influenced his decision to walk away from Capitol Hill is the fact that because of congressional rules, he will be able to serve only one more term as chairman of the House Natural Resources Committee.

If he completes his ninth term, he will have served roughly twice as long as the average member of Congress, though that hall has seated members who have stayed far longer. Rep. John Dingell,



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D-Mich., left Congress last year after 59 years in the House — a career longer than most workers in any field of labor. Extraordinarily long terms of congressional service are a phenomenon of the modern age. All of the six congressmen who served for more than 50 years did so within the last 75 years. Earlier in our history, lengthy terms in the House were far less common.

That phenomenon is the result of several factors, including the way parties have become so effective in drawing district boundaries. In Bishop's case, as with others in Congress, re-election is little more than an exercise in affixing a rubber stamp. In typically laconic fashion, Bishop made his decision public in a somewhat impromptu manner with no fanfare or drama. For that, he deserves credit. The accolades he has earned for his service will more appropriately be bestowed upon the actual time of his departure. In the meantime, those attracted to the concept of term limits for elected officials should appreciate his decision, particularly as it comes at a time when departure from Congress is more often the choice of the member than the choice of the electorate.

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4. **Groups gird for legal battle over monuments**

The Deseret News, Aug. 31 | Amy Joi O'Donoghue

SALT LAKE CITY — Although there's been no formal announcement from the White House on what may happen to monument boundaries based on recommendations from Interior Secretary Ryan Zinke, a coalition of conservation groups Thursday said it's readying a lawsuit.

If the boundaries of monuments in Utah, New Mexico, Nevada or elsewhere are reduced, opponents vow that a legal war is on.

"The Conservation Lands Foundation and its partners are prepared to make every effort possible to ensure that our national monuments remain as they are," said Bryan Sybert, the foundation's executive director. "We are prepared to pursue that protection and defense in the courts if necessary."

Sybert moderated a teleconference hosted by the foundation on the looming announcement by the White House and the fear that monuments, particularly in Utah, will see significant boundary reductions.



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One number that has been attributed to unnamed congressional aides by multiple media outlets is 160,000 acres — the possible new size proposed for the 1.35 million-acre Bears Ears National Monument designated late last year by former President Barack Obama.

The Conservation Lands Foundation, joined by Utah Dine Bikeyah, Friends of Cedar Mesa, Archaeology Southwest, Patagonia Works, the Access Fund and National Trust for Historic Preservation, have retained the services of Doug Wheeler, a partner with Hogan Lovells, a multinational law firm with headquarters in London and Washington, D.C.

"Monuments that are modified substantially need to be protected as a matter of law," Wheeler said, noting that the Antiquities Act does not give a U.S. president the authority to significantly alter boundaries designated by a predecessor.

Wheeler said past presidents have made boundary adjustments out of necessity, but the Antiquities Act makes clear that significant changes are in the purview of Congress, not the U.S. president.

Monument critics, however, argue otherwise, and no monument boundary modification has been tested in court.

In 1938, President Franklin D. Roosevelt asked the U.S. attorney general whether he had the power to abolish a national monument. Homer Cummings said no, but critics of that "cursory" opinion say it was flawed and never adopted by any court.

Proponents of downsizing Utah's national monuments argue that the monument review zeroed in on places like Bears Ears and Grand Staircase-Escalante because of their size. Together, they exceed 5,000 square miles.

Language in the Antiquities Act says presidents should make designations that are "compatible with the smallest" area to protect the at-risk antiquities.

Gavin Noyes, executive director of Utah Dine Bikeyah, said the probable reductions in the size of monuments is contrary to what the American public wants based on the millions of comments received during a public comment period.

The organization is continuing to make its voice heard over the monument's fate, Noyes said.



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Zinke's list of recommendations were given to the White House on Aug. 24 after an executive order from President Donald Trump directed a review of 27 national monument designations of 100,000 acres or more.

The monuments under review are bookended by Utah's Grand Staircase-Escalante, designated in 1996, and Bears Ears, created last year.

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5. **Moab Valley Fire seeks 'equitable' reimbursement for Grand County calls**

The (Moab) Times-Independent, Aug. 31 | Molly Marcello

Requesting \$200,000 annually from the county council, the Moab Valley Fire Protection District wants Grand County to provide what they say is a more equitable reimbursement rate for fire suppression and emergency services throughout the year.

Not only does Moab Valley Fire occasionally respond to areas outside their taxing district — like some private lands in Grand County — but Moab Valley Fire representatives say they are the only provider of much-needed services like structure fire and hazmat response in the community.

Although Grand County is responsible for fire suppression on private lands outside of existing fire districts, they do not have a fire department of their own. That, says fire chief Phil Mosher, means that Moab Fire often picks up the slack.

“They don’t have a fire service in Grand County. We do,” Mosher said. “It’s hard to justify to our taxpayers, it’s been years of getting the service for free.”

Grand County does have a fire warden – Cody Greaves – but his position is limited only to wildland fire on private and state lands. Speaking with The Times-Independent, Greaves listed the various situations that Moab Valley Fire could legally respond to, ticking off structure fires like oil and gas wells, telephone poles, railroad infrastructure, as well as hazardous materials in general.

“There was a big grassfire that was started by a car on fire,” Greaves recalled. “Moab Fire put out the car fire and I responded with the [Bureau of Land Management] and put out the grass fire ... Brush fires are usually caused by vehicle fires, equipment pieces like dragging chains ... So they’re responding to the equipment starting the fires.”



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Two other districts provide fire suppression services in the community — the Castle Valley Special Service District for Fire Protection and the Thompson Springs Special Service Fire District.

But similar to the county's fire warden, neither district is legally able to respond to structure fires or able to provide hazmat response. And with just one person currently serving in the Thompson Springs fire department, Moab Valley is picking up coverage in northeast Grand County for structure and wildland fire as well.

According to Mosher, Moab Fire responded to approximately 64 incidents outside of their district last year, or about 29 percent of their calls. Calculating the value of those responses at 29 percent of their budget, Mosher asked Grand County for a \$200,000 annual reimbursement during the council's regular meeting Aug. 15.

"We're putting out hard numbers and saying 'this is what Moab Valley Fire District provides to Grand County,'" Mosher said. "... We are a taxing entity and we don't want to have to push that back to our tax base ... We have a way to recoup from federal lands, we have a way to recoup from San Juan [County] ... but when we come to Grand County and say 'hey we need a little help' and we can't even get that."

Last year, the council allocated \$30,000 to the Moab Valley Fire Protection District — exactly \$170,000 less than the current request.

Although county council members said they are taking Mosher's request "seriously," they are hoping for greater clarity on the reimbursement costs as they enter their fall budget discussions.

Council member Curtis Wells specifically requested Mosher provide the percentage of calls on state and federal lands, which are outside of Moab Fire's district but not necessarily a fiscal responsibility of Grand County.

"You're coming in and you're saying 'we need to pay our fair share' which I couldn't agree more and I appreciate greatly what you guys do," Wells said. "So I want to know, how much of that [29 percent] of incidents outside the special service district boundary is happening on federal lands? Because essentially you're asking us to pay for the federal government or the state's responsibility in compensating you guys for the incidents that take place on that land."



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Although Mosher said he would bring that data to the county, he argued that Grand County still benefits from Moab Fire's suppression efforts on federal and state lands.

"On those calls, we're still providing this to Grand County to keep it from getting it to those private properties. We're making sure that we try to keep those fires small," Mosher said. "... If we didn't respond [to those calls], how much bigger would that fire be?"

Mosher described their response to the June 22 fire near Thompson Springs, which charred 141 acres on public lands but threatened structures in town.

"That's on federal and state lands, and if it goes into Thompson [and] we're not there to make that quick response and start hitting that, what kind of damage occurs then?" Mosher asked.

Council member Greg Halliday, who volunteers with Castle Valley Fire, said that more discussions are needed to really solve Grand County's issues with fire coverage and adequate reimbursement.

"We need to have some more sit-down discussions with them to come up with something that is mutually agreeable," Halliday said. "Moab Fire is critical to everything we do in Grand County ... they're the only qualified structure fire department. They are the only ones that have a scuba team to pull things out of the river. They are just critical to being able to live in Grand County."

Wells agreed that these issues are "not black and white," and said — like other council members — that making this situation more equitable will be a "primary priority" during Grand County's upcoming budgeting process beginning this September.

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6. **Love Talks Clean Environment, Climate Solutions**

KUER News, Aug. 31 | Judy Fahys

U.S. Rep. Mia Love, R-Utah, spoke Thursday about the importance of protecting the environment. One of only a few high-profile Republicans who's addressed climate change, the 4th District Congresswoman talked about her family's love of camping and enjoying Utah natural amenities at the Snowbird Resort, where around for 300 people gathered at the Outdoor Recreation Summit for northern Utah.



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"I think that we all have a part to play in making sure that we are good stewards of the land that we live in and that we can do something," said Love, whose remarks were interrupted by clapping. "And that it's our responsibility to do everything we can to make sure that our children are not just inheriting an economically viable country but an environmentally viable country."

Love pointed out that she was listening to her constituents – and climate scientists. So far, she's the only current member of Utah's congressional delegation to say publicly that climate change is a problem and one of just a few congressional Republicans to do so.

"I take no shame in that," she said, "and I hope that you're okay with that also."

The national Citizens Climate Lobby, which advocates a carbon fee-and-dividend approach to reducing the pollution that causes climate change, recognized Love with its Climate Leadership Awards in June. And this summer she voted against stripping climate language from the Pentagon spending bill.

"I applaud her leadership and willingness to step out, because it goes against the grain of what we have been hearing consistently from so many of our leaders for so long," said former Salt Lake City Mayor Ralph Becker, who also attended the summit and continues to work on local solutions to global warming even though he's not in public office anymore.

Roughly 48 percent of Utahns are worried about global warming, according to polling done for the Yale Climate Opinion Maps.

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7. **Destination: Navajo Land, Utah**

Indian Country Today, Sept. 1 | Alysa Landry

The Utah portion of the Navajo Nation is among the most remote areas in the country, with many communities located more than 100 miles from the nearest amenities. But the strip of Navajo land in southeastern Utah also contains some of the most ruggedly beautiful and iconically Western vistas in the world. From the sandstone cliffs surrounding Lake Powell to the towering rock formations of Monument Valley, this isolated area has much to offer for visitors who don't mind journeying off the beaten path.



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If you've always wanted to be in four places at once, start your trip at Four Corners Monument, the only place in the country where four states meet. For an admission fee of \$5 per person, visitors can sit, stand, lie down or even do acrobatics in Arizona, Colorado, New Mexico and Utah simultaneously.

The original marker was erected in 1912 to mark the intersection of the four states; it has since been redone in granite and brass.

A visitor center is open year-round, and vendors sell jewelry, crafts and traditional foods from booths surrounding the marker. Picnic tables and restrooms are available, but there is no running water or electricity.

The San Juan River cuts through the Navajo Nation in the southeast corner of Utah, and then marks the reservation's northern boundary as the river flows west into Lake Powell. For an adventure that spans both ancient and modern worlds, try rafting the San Juan River from the town of Bluff to Mexican Hat.

This 27-mile trip downriver takes you through deep canyons carved into sandstone and offers intimate views of archaeology and geology. Although the river has some rapids, most of the trip is family-friendly and camping is available at Sand Island and Comb Ridge campgrounds.

As you float, take note of the cliff dwellings and petroglyphs visible from the river. Pause at Butler Wash Petroglyph Panel, which contains panels more than 1,000 years old. At River House, stop and walk inside the ruins, which date from the 1200s.

Disembark at Mexican Hat for views of the stunning Goosenecks State Park, located off the reservation, and easy access to Valley of the Gods and Bears Ears National Monument.

From Mexican Hat, take U.S. 163 to the Utah-Arizona border. As you approach Monument Valley Navajo Tribal Park from the north, you may recognize "Forrest Gump Highway," the remote section of the road made famous in the 1994 film.

Monument Valley, located on the state border, encompasses 30,000 acres of stunning rock formations and breathtaking vistas. Although the site is among the most-photographed in the U.S., it is a tribal park and subject to restrictions.



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“We do not accept drones for any reason,” said Louise Tsinijinnie, a spokeswoman for the Navajo Parks and Recreation Department. “Don’t take things out of the park, and don’t leave things inside. Visitors are welcome, but we ask that they remember that this area is sacred.”

Admission is \$20 per vehicle. Accommodations are available at The View hotel, located inside the park.

The western-most edge of the reservation in Utah borders the turquoise waters of Lake Powell. No trip to this manmade lake would be complete without also visiting Rainbow Bridge National Monument.

At 290 feet tall, Rainbow Bridge is considered one of the world’s highest natural bridges, but this sandstone structure also is a Navajo sacred site. It is accessible via a two-hour boat ride on Lake Powell, followed by a mile-long walk; or by an overland trail on the south side of the lake. Hiking and camping permits are available from Navajo Parks and Recreation.

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8. **National Monuments: BLM plans to offer parcel for lease near Utah's Dinosaur**

E & E News, Sept. 1 | Scott Streater

The Bureau of Land Management is advancing one of three parcels near Utah's Dinosaur National Monument for a December oil and natural gas lease sale despite objections from the National Park Service and Gov. Gary Herbert (R).

BLM is releasing a final [environmental assessment](#) (EA) later today that removes the two closest parcels on the southwest boundary of the monument from the planned lease sale.

Overall, 75 parcels, totaling about 94,000 acres in Duchesne, Uintah and Emery counties, will be included in the December lease sale, BLM said.

The parcels are now open for a public protest period running through Oct. 2.

But the EA advances a parcel covering about 1,300 acres located about 2.5 miles from the monument's visitor center on mostly BLM-managed lands. About 238 acres is on private land.

Critics say it will be visible from the visitor center.



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BLM officials say the EA is part of the evaluation process and no final decision has been made whether to offer the parcels at the lease sale.

"There's still time for change" if changes are warranted, said Ryan Sutherland, a BLM spokesman.

"Regarding the parcels that were nominated near the southwestern boundary of the Dinosaur National Monument, the two parcels closest to the park have either been deferred or removed from this lease sale, and the BLM will continue to consult with the National Park Service, as well as other agency partners and stakeholders, regarding potential impacts of leasing," he added.

The proposal has been a source of controversy ever since BLM released a draft EA in June (Greenwire, June 23).

Herbert, in a two-page letter to Ester McCollough, BLM's Vernal Field Office manager, wrote that he wants the agency to take a closer look at the parcels near Dinosaur to ensure that if the leases are granted and the sites developed, they won't affect the monument (Greenwire, July 27).

"As the parcels are near the boundary of Dinosaur National Monument, the State wishes to ensure leasing of these parcels does not impact visual resources or cause light or sound disturbances within the National Monument," he wrote.

He added, "Even though the EA includes lease stipulations and notices for all three parcels that could sufficiently mitigate impacts from oil and gas drilling within the parcels, the State encourages BLM to provide a thoughtful review of these parcels to ensure energy developments can successfully coexist with outdoor recreation."

Herbert's concerns have been supported by the National Park Service, which has said the parcels near Dinosaur would be visible from the monument's visitor center and entrance road, as well as from other points within the monument.

But BLM's final EA drops a 1,500-acre parcel 1.5 miles west of the visitor center and another 1 mile south of the center.

Environmental groups are not pleased.



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"This is an outrageous proposal to lease and develop some of Utah's most culturally rich and wildly scenic federal public lands," said Landon Newell, a staff attorney with the Southern Utah Wilderness Alliance. "BLM has quickly come full circle and brought us back to the 'drill now-drill everywhere' days of the early 2000s, and once again Utah is front and center on the national stage for these disastrous policies."

Sharon Buccino, director of the Land and Wildlife program at the Natural Resources Defense Council, said, "This is more evidence of the Trump administration's true agenda: putting the fossil fuel industry before the public."

She added, "Secretary Zinke's handout of public lands to private industry is troubling. It will mean a loss of wilderness-quality lands, harm to a treasured national park, air and water pollution — and all without a clear public benefit."

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9. BLM to auction oil and gas leases next to Utah's Dinosaur National Monument and in San Rafael Swell

The Salt Lake Tribune, Sept. 1 | Brian Maffly

Federal land managers are moving forward with a proposed sale of controversial oil and gas leases in Utah's San Rafael Swell and on the doorstep of Dinosaur National Monument, the agency announced Friday.

The move comes despite misgivings from Uintah County and National Park Service officials, who fear that energy development would detract from the monument's scenic allure.

Gov. Gary Herbert had asked the BLM to "re-evaluate" three leases bordering the Utah half of Dinosaur. BLM agreed to "defer" two of the leases, but a third is to be sold along with 74 others at the BLM's quarterly auction to be held online Dec. 11.

In a decision released on Friday, Kent Hoffman, the BLM's deputy state director for minerals, said the agency had put adequate conditions on the leases to reduce potential impacts from oil and gas development and to protect nearby natural resources and public lands.

The BLM posted its final environmental assessments for lease sales tied to its Vernal and Price field offices, totally 75 parcels spanning 94,000 acres in Uintah, Duchesne and Emery counties.



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Some of the lands to be leased are within areas that the BLM has been eying for so-called “master leasing plans,” initiated by former Interior Secretary Sally Jewell in an effort to more carefully guide oil and gas drilling near national parks and other sensitive areas valued for outdoor recreation and cultural resources, such as ancient rock art and archaeological sites.

But her successor Ryan Zinke has instructed Interior agencies to ease obstacles to energy development on public land and it appears uncompleted master leasing plans are being discarded. Conservation groups slammed Friday’s ruling.

“Issuing oil and gas leases on wilderness-quality lands loved and used by the public, and at the doorsteps to these iconic places continues a disturbing trend to blindly sacrifice our public lands to the fossil fuel industry, without considering impacts to the environment, people or these irreplaceable landscapes,” said Nada Culver, The Wilderness Society’s director of policy and planning.

E&E/NATIONAL NEWS – TOP STORIES

1. **Op-ed: The Antiquities Act is not a blank check to create federal land**

The Hill, Aug. 31 | Erin Hawley

On Aug. 24, Interior Secretary Ryan Zinke recommended reducing the size of a handful of national monuments under review pursuant to President Trump’s executive order. A two-page summary of the report contains no details, but promises to maintain environmental protection while providing “a much needed change” for the local communities who rely on federal lands.

The Antiquities Act of 1906 made good sense when enacted. A lucrative market for original artifacts led to the widespread desecration of Native American burial sites across the West. The Act criminalized such acts on federal land. It also authorized the President to set aside national monuments to protect historical sites.

Under the act, President Obama set aside a record 553 million acres of federal land and water. But other presidents have also made liberal use of the statute. President Carter’s designated 56 million acres of land in Alaska (leading Congress to require congressional approval for monuments greater than 5,000 acres in the 49th state). And President Johnson added 264,000 to Arches and Capitol Reef National Monuments ninety minutes before he left office.



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The text and legislative history of the Antiquities Act, however, make clear the statute was not intended to set aside hundreds of millions of acres of federal land and water. The text cabins the executive's discretion in two ways. First, the president may preserve only identifiable "objects" of historical or scientific interest. Second, adjacent land is limited "to the smallest area compatible with the proper care and management of the objects to be protected."

The summary of Secretary Zinke's report indicates that he takes the act's limitations seriously. "No President should use the authority under the Antiquities Act to restrict public access, prevent hunting and fishing, burden private land, or eliminate traditional land uses, unless such action is needed to protect the object," said Secretary Zinke.

The trouble with land preservation by executive proclamation is its absence of procedural protections. Local communities may be surprised by a national monument designation, and neither they nor their elected representatives have any say in its creation or size. Of course, a designation can adversely affect already-struggling rural communities by reducing or eliminating long-held uses such as grazing and timber, reducing natural-resource-related jobs and royalty payments, and decreasing taxes.

Secretary Zinke's seemingly modest recommendation to reduce in size a handful of national monuments is hardly the blow to environmental protection that activists suggest. It is no longer 1906. And Congress has enacted a number of other statutes that protect sensitive federal lands and waters and historical sites — including on an emergency basis. The difference: all of these more comprehensive statutes provide for public notice and comment. These modern statutes may be more unwieldy, but they better balance the important interests of preservation and procedure.

In fact, environmentalists – and all Americans – should embrace this trend toward better process. Our land policies should not depend on the whims of the president, but rather input from all stakeholders through a more robust process.

President Trump would not be the first president to diminish the size of a monument to comply with the terms of the Antiquities Act. Far from it: A 1938 opinion from the attorney general assumes this authority, noting that, the president "from time to time has diminished the area of national monuments established under the Antiquities Act by removing or excluding lands."

President John F. Kennedy, for example, issued a proclamation removing nearly four thousand acres from the Bandelier National monument. He relied on the Antiquities Act as authority.



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Similarly, Mount Olympus National Monument was reduced three times. In fact as many as seven different presidents, have reduced national monuments at least 18 times — sometimes by tens or hundreds of thousands of acres.

In an era when procedural protections are a given, the Antiquities Act is an odd darling. It is a relic from a prior time when speed was of the essence and other land protection statutes did not exist. As Secretary Zinke explained, however, the act is not a blank check. Its text includes clear internal limitations and the Trump administration is right to review prior designations for executive largess.

Erin Hawley is a legal fellow at the Independent Women's Forum, an associate professor of law at the University of Missouri, and a former clerk to Chief Justice John G. Roberts Jr.

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2. Colorado's biggest methane emitter may get a discount

High Country News, Aug. 31 | Elizabeth Shogren

In western Colorado's North Fork Valley sits the state's single largest emitter of methane, a potent greenhouse gas. The West Elk coal mine spews enough methane each year to equal the greenhouse gas pollution of about 90,000 cars, according to government data. For several years, environmental groups and local communities have sought to have the mine's owner, Arch Coal, capture that methane to use as fuel instead of sending it into the atmosphere.

Now, as Arch Coal struggles to survive in a declining coal market, it's asking the federal government to reduce the royalties it pays on some of the coal it extracts. And that could provide a leverage point to finally get the mine to capture its methane. At least that's the hope of Colorado Gov. John Hickenlooper and some local officials, who want to make methane capture a condition of the royalty cut.

The Bureau of Land Management is poised to cut Arch's royalties from 8 percent to 5 percent for a part of the mine where the geology makes extracting coal technically challenging and thus more expensive. The West Elk mine is on federal land, so its royalties are split between the federal Treasury and the state, which shares its portion with local government. Hickenlooper on Friday gave his support for the discount, but with a condition. He wants the mine to commit to developing a strategy to capture its methane. Colorado has led the nation in requiring oil and gas



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producers to control methane emissions, but has not put similar requirements on coal mines, which aren't in the business of collecting and selling gas, and have been suffering financially because of a drop in demand for coal.

Although the BLM sought Hickenlooper's input, the agency says the final decision, which it expects to release within a few weeks, is its own and it won't require capturing methane as a condition of the discount. "For us, it's a different issue and it's not related to the royalty reduction," says Courtney Whiteman, a BLM spokeswoman.

Hickenlooper's staff would not comment beyond his letter to the BLM, in which he stressed that his support for the royalty discount is contingent on Arch's "stated commitment to work collaboratively with Gunnison and Delta Counties, the State of Colorado and others to explore and develop a methane capture strategy at the mine, as well as to explore opportunities to put the methane to beneficial use."

The coal industry is reeling from competition from cheap and abundant natural gas and declining prices for renewable energy sources like wind and solar. In asking for the discount, Arch said it would allow West Elk to "maximize coal recovery while attempting to remain competitive in the current coal market," and keep the mine "viable" and its workers employed.

Without the discount, the company might stop extracting coal from the geologically challenging part of the mine, and taxpayers would get no royalties, according to Whiteman. If the BLM approves Arch's request, its royalty discount would be retroactive to February 2015. The federal government and Colorado, which each get about half of the royalties, would owe the company \$8 million for royalties paid on coal already mined. The mine's discount would apply until 2020 and Whiteman had no estimate of the total savings for the company.

Arch Coal is committed to working with state and local government on ways to analyze and control methane at the West Elk mine, says company spokeswoman Logan Bonacorsi.

But without any deadlines or legal requirements for capture, conservation groups that have worked on the issue for more than a decade are skeptical of the deal. "It's a classic empty promise from the governor," says Jeremy Nichols of Wild Earth Guardians. "Sadly, the governor just gave cover to Arch Coal to continue to be subsidized by American taxpayers."



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Conservation groups have targeted West Elk to control its methane because although all coal mines emit methane, West Elk is especially gassy. It also wants to expand into a designated roadless area of Gunnison National Forest, which conservation groups oppose.

They see the discount as a subsidy to mine a dirty fuel that would be better left in the ground. “The markets are already over supplied with low-cost coal. To subsidize something that is too expensive to mine under current market conditions is a waste of public dollars,” says Tom Sanzillo, director of finance for the Institute for Energy Economics and Financial Analysis, a clean energy research group.

Most local towns and counties support the discount. But Gunnison County, where the mine is located, withheld its support. In a letter, county commissioners chided the BLM for refusing to provide economic data to justify the discount.

Still, like Hickenlooper, Gunnison County Commissioner John Messner hopes the royalty discount can be used as leverage to prod Arch to start capturing its wasted methane. Gunnison and neighboring Delta County are organizing a methane working group and hope local mines will join in and develop a strategy to capture methane and use it as natural gas or to produce electricity. Messner sees it as an opportunity to fight climate change while preserving jobs: “It’s a win-win situation,” he said. “You have the opportunity to capture something and utilize it as a fuel source.”

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3. **NATIONAL MONUMENTS: Mont. voters oppose Zinke proposal to shrink sites — poll**

E & E News, Sept. 1 | Scott Streater

Interior Secretary Ryan Zinke's recommendation to reduce the size of an unnamed number of national monuments is not supported by a majority of voters in Zinke's home state of Montana, according to a new poll.

Released by a watchdog group that has been a vocal critic of the secretary's monthslong review of monument sites, the [poll](#) of 502 Montana voters — 74 percent of whom identified themselves as Republican or independent — was conducted in the days after Zinke submitted a report to



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President Trump that recommends redrawing the boundaries of a "handful" of unspecified national monuments (Greenwire, Aug. 24).

Whitefish, Mont.-based Western Values Project commissioned the survey conducted by Global Strategy Group, a Democratic polling firm whose client list includes Sen. Kirsten Gillibrand (D-N.Y.), the Democratic National Committee and Montana Gov. Steve Bullock (D).

An Interior Department spokeswoman dismissed the poll as "misleading."

But the poll found that 58 percent of respondents said they oppose reducing the size of existing monuments — 46 percent strongly.

It also found that 55 percent of the respondents said they view Zinke in a "less favorable" light since he announced his recommendations to downsize some monuments.

The latest poll, conducted Aug. 25-29, has a margin of error of 4.4 points.

The poll numbers represent a drop in Zinke's approval rating in Montana since a Global Strategy Group survey conducted in July, Western Values Project says.

Zinke is a former Republican congressman from Montana.

"The details of Secretary Zinke's plan may be murky, but one thing is clear — the more Montanans learn about his proposal to shrink national monuments, the less they like it," Chris Saeger, Western Values Project's executive director, said in a statement.

"Access to public lands is essential to our economy and way of life in the West, and Secretary Zinke's short-sighted actions are putting that at risk," he added. "Zinke may have forgotten his Montana values, but Montanans will not forget the choices he is making to hand over our public lands."

E&E News shared a copy of the new poll with Heather Swift, an Interior spokeswoman, who rejected its conclusions.



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"The questions are misleading and lead respondents to the conclusion that the group who paid for the poll wants," Swift said in a brief emailed statement.

She did not cite any specific examples. But one poll question suggests that Zinke's recommendations "could mean reducing their size and opening them up to drilling. Knowing this, do you strongly support, somewhat support, somewhat oppose, or strongly oppose this announcement?"

Zinke's report has yet to be made public, and the secretary has not said which national monuments he recommended downsizing, other than previously proposing unspecified cuts to the 1.35-million-acre Bears Ears National Monument in southeast Utah.

Interior last week released a general [summary](#) of Zinke's report that did not include any details about possible reductions. Zinke has said he did not recommend eliminating any of the 27 monuments under review since April.

"The recommendations I sent to the president on national monuments will maintain federal ownership of all federal land and protect the land under federal environmental regulations, and also provide a much needed change for the local communities who border and rely on these lands for hunting and fishing, economic development, traditional uses, and recreation," Zinke said last week in a statement.

Western Values Project has been a major critic of Zinke, including the secretary's 120-day review, mandated by Trump, of the national monuments designated since 1996, all but one of which encompass more than 100,000 acres.

The group has commissioned other critical polls, including a nationwide survey of 1,013 registered voters in July that found 53 percent opposed Trump's order mandating the review (Greenwire, Aug. 3).

Global Strategy Group and Garin-Hart-Yang Research Group, a firm with Democratic ties, conducted that poll for Western Values Project.

"If Secretary Zinke thinks he can bury a decision to gut national monuments and put this issue to bed then he is dead wrong," Saeger said in his statement. "We will not stop holding him



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accountable for these irresponsible decisions until he gets on the side of the West and says 'no' to the special interests in Washington, D.C. asking him to hand over public lands."

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4. **NEVADA STANDOFF: Judge sets October trial date for Cliven Bundy and sons**

E & E News, Sept. 1 | Jeremy P. Jacobs

Cliven Bundy and his sons Ammon and Ryan will stand trial beginning Oct. 10 for their actions at the 2014 armed standoff with federal authorities at their Bunkerville, Nev., ranch.

U.S. District Judge Gloria Navarro scheduled the start date for the Bundys and four other defendants during a hearing yesterday in what will be the most high-profile trial the Bundys have faced.

The defendants are charged with a variety of misdemeanors and felonies, including conspiracy, threatening federal officials and firearms charges.

Thus far, federal prosecutors have struggled to obtain convictions.

Last October, a jury in Portland, Ore., acquitted Ammon and Ryan Bundy and five other defendants for their actions in the 41-day standoff at the Malheur National Wildlife Refuge that ended Feb. 11, 2016 (Greenwire>, Oct. 28, 2016).

Prosecutors have since turned to trials concerning the 2014 standoff at the Bundys' Nevada ranch. Those proceedings have been divided into tiers of defendants, depending on their involvement in the standoff.

The third tier, or least culpable, went first, but that resulted in a mistrial in April after a jury deadlocked (E&E News PM, April 24).

A retrial of those four defendants again failed to yield any convictions, with the jury acquitting two of the defendants on all 10 charges they faced, and the remaining two on most charges (Greenwire, Aug. 23).



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The latter two defendants — Eric Parker and Scott Drexler — will join the "tier 1" defendants — the three Bundys, internet radio host Pete Santilli and occupation leader Ryan Payne — in the Oct. 10 trial in Las Vegas.

The dispute with the Bundys stems from more than \$1 million in grazing fees that the family owes the Bureau of Land Management. In 2014, Cliven Bundy, the patriarch of the family, summoned some 200 followers to his ranch to take back about 400 cattle that BLM had impounded because of court orders.

The standoff appeared on the verge of bloodshed, as armed BLM agents came close to clashing with Bundy supporters who had taken sniper positions with assault weapons. BLM ultimately relented, granting the Bundy family and their supporters a victory in their crusade against federal management of public lands.

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5. **PUBLIC LANDS: Trump admin violated law in delaying royalties rule — court**

E & E News, Aug. 31 | Ellen M. Gilmer

The Trump administration violated the law when it tried to delay a fossil fuel regulation that had already taken effect, a federal court ruled yesterday.

In a decision with major implications for other regulatory rollbacks, the U.S. District Court for the Northern District of California found that the Interior Department failed to go through proper procedure when it postponed an Obama-era rule aimed at reforming royalty calculations for oil, gas and coal produced on federal and tribal lands.

The administration delayed the Office of Natural Resources Revenue measure in February — a month after it took effect — relying on an Administrative Procedure Act provision that allows agencies to postpone the "effective date" of rules that are facing legal challenges. Earlier this month, the agency went a step further and moved to formally rescind the regulation.

But Magistrate Judge Elizabeth Laporte yesterday sided with California and New Mexico, which had challenged the February delay, ruling that it was unlawful because it sidestepped the public notice and comment process required for agencies to undo regulations.



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APA Section 705, the provision the Trump administration used, applies only to rules that are not yet in force, Laporte wrote, rejecting government lawyers' attempt to apply Section 705 to compliance deadlines of the already-effective rule.

"Not only is there no support in the language of the statute for this interpretation, but ONRR cites no precedent or legislative history to support a Congressional delegation of such broad authority to bypass the APA repeal process for a duly promulgated regulation," the [opinion](#) says.

The decision is another blow to the Trump administration, which has tried to swiftly roll back several Obama-era regulations, especially those seen as burdensome to domestic energy production.

Earlier this summer, another federal court rejected the Trump administration's attempt to delay a U.S. EPA methane rule under a provision of the Clean Air Act. This week's decision makes additional rollbacks vulnerable.

"Today the Trump Administration got caught red-handed in their attempt to circumvent the law to benefit the coal and oil lobby," Center for American Progress Public Lands Director Kate Kelly said in a statement. "This is part of an emerging, troubling pattern where the Trump Administration is relying on illegal 'stay and delay' tactics to indefinitely ignore important rules that benefit public health and American taxpayers."

Critics of the delay also celebrated the decision as a win for taxpayers. The Obama administration estimated that the ONRR rule would increase royalty collections by up to \$85 million a year.

"[California] Attorney General [Xavier] Becerra and I sued President Trump because his administration broke the law trying to deny New Mexico's public school students the royalties they are owed," New Mexico Attorney General Hector Balderas said in a statement. "I'm pleased that a federal court agreed with us that Donald Trump broke the law as this is a big win for New Mexico's students, families and teachers."

But the Obama-era ONRR rule will not actually take effect. Laporte declined to vacate the delay because the agency's more recent move to completely scrap the regulation — which did go through proper notice and comment — takes effect Sept. 6 (Greenwire, Aug. 4).



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Interior officials referred questions about the ruling to the Justice Department. DOJ does not comment on active litigation.

BLM's methane rule

Environmental lawyers were thrilled about yesterday's ruling and its potential implications for litigation over the Bureau of Land Management's Methane and Waste Prevention Rule.

"It's a great decision, and it bodes well because the legal issues in our case are the same," said Earthjustice attorney Robin Cooley, who is representing an environmental coalition opposed to the delay of BLM's rule.

Government officials invoked the same APA provision to push off compliance deadlines for the Obama methane measure (Energywire, June 15). The case is also in the Northern District of California before the same judge. California, New Mexico and environmental groups are all challenging the delay.

Laporte noted the similarities in her opinion yesterday, writing that clarifying the proper application of Section 705 in the ONRR case was especially important given the administration's efforts to take the same approach for other rules.

"The likelihood that one or more Defendants will use the same strategy to effectively repeal regulations that California has a stake in maintaining in effect without statutory authority after their effective date is not remote," she wrote, noting the litigation over BLM's rule.

The Trump administration has also used Section 705 to delay an Obama-era EPA rule aimed at reducing toxic metals in power plant wastewater discharges.

Western Environmental Law Center Executive Director Erik Schlenker-Goodrich, who is also representing environmental groups in the methane litigation, cautioned that "every single case is different" but celebrated yesterday's decision as a good sign for his case.

Plus, he said, a similar decision in the methane case would have immediate benefits, reinstating BLM's methane rule and requiring compliance from oil and gas operators. Interior is working to formally rescind the rule through public notice and comment, but that process is not expected to be complete until later this year.



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A hearing in that case is scheduled for Sept. 25 in San Francisco.

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6. **PUBLIC LANDS: Interior appoints panel, sets meeting on royalties reform**

E & E News, Sept. 1 | Ellen M. Gilmer

The Interior Department today took its first major steps toward reviewing the management of royalties from mineral and energy production on public and tribal lands, announcing the roster of a committee devoted to tackling the issue.

Secretary Ryan Zinke tasked Interior energy policy adviser Vincent DeVito with running the [Royalty Policy Committee](#) and appointed 20 nonfederal members, along with 18 alternates, to consider strategies for improving royalties management.

"Working closely with the Committee, we will come up with solutions for modernizing the management of public and American Indian assets, while building greater trust and transparency in how we value our nation's public mineral resources," Zinke said in a statement. "It's important that the taxpayers and tribes get the full and fair value of traditional and renewable energy produced on public lands and offshore areas."

The appointees include representatives from states, tribes, academia, and energy and extraction industries. Leaders from the National Ocean Industries Association, ConocoPhillips Co. and Cloud Peak Energy Inc. all have seats at the table. The group also includes the solar company Intersect Power. An agency spokeswoman noted that this is the first time renewable energy has been represented on the committee.

A section of primary appointees labeled "academia and public interest groups" includes three academics and a Wood Mackenzie analyst.

The members will serve three-year terms.

"On behalf of the Secretary, I am committed to aligning this Committee with our continuing drive toward making the Department a better business partner and delivering better results for American taxpayers," DeVito said in a statement.



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The announcement comes just weeks after Interior announced the rescission of an Obama-era rule designed to reform royalty collection from coal, oil and gas production on public and tribal lands. The agency has said it wants to start with a "clean slate" to study the program and ensure a fair return for taxpayers (Energywire, Aug. 8).

The group's first meeting is Oct. 4 and is open to the public.

The primary members from states are Andrew McKee of Wyoming, Brent Sanford of North Dakota, John Crowther of Alaska, William Darby of Texas, Clinton Carter of Alabama and John Andrews of Utah.

Primary members from tribes are Russell Begaye of the Navajo Nation, Christopher Adam Red of the Southern Ute Indian Tribe, Charles Robertson of the Choctaw Nation of Oklahoma and Everett Waller of the Osage Minerals Council.

The mineral and energy group primary members are Randall Luthi of the National Ocean Industries Association, Patrick Noah of ConocoPhillips Co., Estella Alvarado of Anadarko Petroleum Corp., John Sweeney of VWR Corp., Matthew Adams of Cloud Peak Energy Inc. and Marisa Mitchell of Intersect Power.

Academic and public interest group primary members are Roderick Eggert of the Colorado School of Mines, Van Romero of the New Mexico Institute of Mining and Technology, Monte Mills of the University of Montana School of Law and Daniel Rusz of Wood Mackenzie.

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7. **CLIMATE: Trump killed Obama carbon reviews, but courts still want them**

E & E News, Sept. 1 | Amanda Reilly

Federal courts are complicating the administration's decision to step back from Obama-era efforts to incorporate climate change into federal agency decisions.

When he assumed office, President Trump swiftly moved to rescind the social cost of carbon metric for calculating the effects of greenhouse gas emissions of federal actions. He also tossed out guidance on incorporating climate change into National Environmental Policy Act reviews.



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But in two cases since, federal judges found agencies failed to adequately consider the climate impacts of fossil fuel projects in NEPA reviews. And in one of the cases — which involved a coal mine in Montana — a judge faulted an agency for not using the social cost of carbon.

While courts are still grappling with the extent to which regulators have to consider climate change in NEPA studies, the recent decisions add to other case law finding that they have to account for emissions.

"The Trump administration's apparent decision to respond to climate change by burying its head in the proverbial sand does not lessen the duty of federal agencies to acknowledge climate science in their decisionmaking processes and fairly assess economic impacts," said Shiloh Hernandez, a staff attorney at the Western Environmental Law Center.

Along with making it difficult to respond to the two cases, legal experts and environmental groups warn, Trump's removal of the Obama-era policies could open up the administration to future lawsuits and slow its energy agenda.

"By removing the apparatus that was in place to deal intelligently with these issues, the Trump administration is imperiling its ability to carry forward its vision," said Richard Revesz, director of New York University School of Law's Institute for Policy Integrity.

"From the perspective of what it's trying to accomplish," he said, "its approach is very shortsighted."

'Hard look'

In the first recent case, Judge Donald Molloy of the U.S. District Court for the District of Montana found that the Office of Surface Mining Reclamation and Enforcement failed to take a "hard look at the indirect and cumulative effects of coal transportation and coal combustion" (E&E News PM, Aug. 15).

At issue was Signal Peak Energy LLC's plans to expand its Bull Mountains Mine No. 1 about 30 miles north of Billings. The move would make the site the largest underground coal mine in the United States in terms of annual production.

OSMRE calculated that the expansion would result in 23.16 million metric tons of greenhouse gas emissions for an extra nine years compared with the mine's existing footprint.



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But Molloy agreed with green groups that the agency erred when it failed to weigh the costs of those extra emissions against the economic benefits of the expansion. And he noted the government had a readily available tool in the social cost of carbon calculation.

Federal agencies formed a working group in 2009 to create the metric, which represents the long-term economic damage to society, in U.S. dollars, from each incremental ton of carbon dioxide released into the atmosphere.

The working group last revised the estimate in 2015 to \$36 per metric ton of CO₂, rising to \$50 a metric ton in 2030 and \$69 a metric ton in 2050.

"Plaintiff argues that the social cost of carbon protocol ... was an available tool with which the Enforcement Office could, and should, have tied its greenhouse gas calculations to the effects of those emissions," Molloy wrote. "Plaintiff's arguments are again more persuasive than the arguments of defendants."

A ruling last week by the U.S. Court of Appeals for the District of Columbia Circuit in a pipelines case involved similar issues.

In the 2-1 split decision, the court found that the Federal Energy Regulatory Commission failed to either quantify the greenhouse gas emissions linked to the Sabal Trail pipeline project in the Southeast or sufficiently explain why it could not (Greenwire, Aug. 22).

Revesz said, "In the Montana case, the [environmental assessment] calculated the additional greenhouse gas emissions but didn't monetize them. In the pipeline case, they didn't even calculate the number of tons of greenhouse gas emissions. So obviously they didn't monetize them."

The court did not go as far as to require FERC, which has previously argued that the social cost of carbon is not useful for NEPA purposes, to monetize emissions. Instead, it asked FERC to explain its current position on the social cost of carbon.

Revesz said, "They're in slightly different places, but they're both enormously important decisions."

Legal history



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Whether federal agencies should consider upstream extraction and downstream combustion when reviewing the environmental impacts of federal fossil fuel projects has been the subject of many lawsuits in the last several years (E&E News PM, April 5, 2016).

"The Bull Mountains ruling is consistent with a long line of cases holding that agencies cannot present a misleading economic analysis of the impacts of a federal action," said Hernandez, whose group brought the lawsuit challenging the mine expansion.

"OSM did precisely that in the Bull Mountains case: trumpeting the economic benefits of the coal mine expansion, yet failing entirely to acknowledge the economic costs of greenhouse gas pollution," he said.

Molloy's decision included a detailed discussion of that prior case law, including a previous district court case in Colorado, High Country Conservation Advocates v. U.S. Forest Service, that identified the social cost of carbon as a tool for measuring greenhouse gas impacts of coal projects.

"What all these courts are saying is basically you have to take into account the harm from greenhouse gas emissions," said James Coleman, an energy law professor at Southern Methodist University. "So I think what they're implying is, look, if you want to consider that, why don't you use the social cost of carbon that you already have?"

Still, there is an ongoing debate over the role of cost-benefit analyses in NEPA, he said. Molloy noted in his opinion that NEPA does not specifically require agencies do a formal cost-benefit analysis. But, the judge said, if an agency does undertake one as part of an environmental analysis, it needs to consider all the costs and benefits.

Things get a little muddier when it comes to federal agencies' obligations under NEPA to weigh the greenhouse gas impacts of some natural gas infrastructure and power transmission lines, according to Michael Burger, executive director of Columbia University's Sabin Center for Climate Change Law.

The D.C. Circuit recently rejected a Sierra Club lawsuit challenging the Department of Energy's analysis of a proposed liquefied natural gas terminal, a case that some experts say runs counter to its decision on the Sabal Trail pipeline (Energywire, Aug. 23).



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"It does seem clear that, under NEPA, agencies cannot simply calculate the economic benefits of extraction, without balancing that against the economic costs of that coal's contribution to climate change," Burger said.

But, he said, "the role of the SCC in environmental reviews of natural gas pipelines and other fossil fuel infrastructure is unsettled."

Agencies 'in a real bind'

The Trump administration has yet to respond to either court decision. Given how long the appeals process takes, Revesz said that administration may be best off redoing the environmental reviews at issue if it wants to swiftly restart the projects.

"Appealing isn't necessarily the right decision," he said.

But Molloy's comments about the social cost of carbon complicate things for OSMRE because the president told agencies not to use the metric and disbanded the group tasked with calculating it.

Agencies are "in a real bind," said Burger. "They are not supposed to use the SCC, but the SCC is the best metric out there at the moment and has been affirmatively endorsed as a reasonable approach by the courts."

He added, "Ostensibly an agency could use some other methodology to account for the costs of climate impacts associated with greenhouse gas emissions, but why would they?"

One option for the Trump administration to comply with the Montana decision would be to reissue the environmental analysis using updated social cost of carbon figures based on a higher discount rate and focused on national effects.

Such an approach would be consistent with the guidance of a document published by the Office of Management and Budget in September 2003, Circular A-4.

The discount rate allows regulators to convert future costs and benefits into current values. Obama's working group used values ranging from 2.5 percent to 5 percent, while critics say that rate is too low, pushing for a 7 percent value.



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Critics also say that current regulatory policy states that damage and benefits should be considered in rulemaking only if they are national, not international.

But going with only national impacts and the higher discount rate would go against peer-reviewed scientific and economic models, a group of economists and legal experts earlier this month warned in a letter in the journal *Science* (Greenwire, Aug. 18).

Revesz, who signed on to the letter, said that would likely result in a new wave of lawsuits. And it's unclear yet how courts would respond.

Last year, the 7th U.S. Circuit Court of Appeals found that the Obama administration's social cost of carbon estimates were reasonable in a decision upholding Energy Department standards for commercial refrigeration equipment (Greenwire, Aug. 9, 2016).

"There hasn't yet been a challenge to using a lower number. At some point, they will find a strong challenge that what they're doing is inconsistent with the best economic theory," he said.

'Incredibly complex'

Hernandez of the Western Environmental Law Center said using a lower SCC estimate would still show that the costs of the mine expansion outweigh the benefits, which OSMRE calculated to be \$23.8 million a year.

Using a range of SCC values with different discount rates, the costs of the greenhouse gas emissions of the expansion would be between \$277 million and \$2.5 billion a year.

"It is an inconvenient fact that with even the lowest estimates of the social cost of carbon, the costs of coal exceed its benefits," Hernandez said. "In short, coal causes more harm than good."

Coleman predicted that FERC would also face a balancing act, not only with Sabal Trail but in other reviews of energy projects. First, it must examine the difficult question of whether such projects lead to any increased greenhouse gas emissions.

"That's an incredibly complex market decision," he said, "where you basically have to determine what kind of sources this new source — whether it's a coal mine or whether it's a natural gas transport system — is displacing around the world."



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Coleman said the Trump administration may stress studies showing that American coal production lowers pollution worldwide because it displaces biomass or particularly dirty forms of energy.

While a separate panel on the D.C. Circuit came to a different conclusion in the LNG exports case, the D.C. Circuit's Sabal Trail ruling and the Montana case show it may not be enough for the government to simply argue that emissions effects are difficult to determine.

"The first best for the Trump administration is to say this is all irrelevant. This is not worth studying because the effects are too speculative," Coleman said. "But what these courts are saying — they're not buying those reasons."

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