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Attached is the daily news report for July 22 - 24. Happy Pioneers Day!

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UTAH – TOP STORIES – JULY 22-24, 2017

1. **Golden eagle released in honor of firefighters who fought Brian Head Fire**

KSL News, July 21 | Alex Cabrero

ESCALANTE — Hiking near Escalante in Garfield County will give you the kinds of views you usually see in adventure magazines.

2. **Op-ed: Will Utah elevate life outdoors?**

The Salt Lake Tribune, July 22 | Jerry Stritzke

Utah is home to unparalleled natural beauty, magnificent settings and amazing places to recreate. Those natural assets and Utahns' hospitality have created one of the country's strongest recreation economies.

By all rights, Utah should be at the forefront of promoting the outdoor industry, including public policies that are at its foundation. Instead, the state has gotten stuck in age-old discussions of state versus federal authority.

3. **Teen known for visiting national parks stops in Utah**

KSL News, July 22 | Sam Penrod

AMERICAN FORK CANYON — A teenager known around the country for visiting national parks made several stops in Utah this weekend.

4. **Drilling threatens Dinosaur National Monument — again**

High Country News, July 24 | Elizabeth Shogren

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E&E/NATIONAL NEWS – TOP STORIES

1. **Op-ed: They'll Shoot Horses, Won't They?**

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SONOMA, Calif. — Should the federal government encourage the slaughter of a living symbol of the American West?

2. **Trump administration seeks to repeal Obama fracking rule**

The Hill, July 24 | Timothy Cama

The Trump administration is proposing to completely repeal Obama-era standards governing hydraulic fracturing on federal land.

3. **NATIONAL PARKS: Zinke announces \$50M in grants for park maintenance**

E & E News, July 24 | Jennifer Yachnin

ROCKY MOUNTAIN NATIONAL PARK, Colo. — Interior Secretary Ryan Zinke on Saturday announced the disbursement of more than \$50 million in funds to address the National Park Service's maintenance backlog, more than half of which will be provided by nonprofit organizations.

4. **OIL AND GAS: Industry lawyers track Trump admin's evolving policy changes**

E & E News, July 24 | Ellen M. Gilmer

SANTA FE, N.M. — As the Trump administration works to bolster domestic energy production, legal and regulatory certainty for the oil and gas industry remains out of reach for now.

5. **PUBLIC LANDS: Trump admin unveils fracking rule rollback plan**

E & E News, July 24 | Ellen M. Gilmer

A federal hydraulic fracturing rule is overly burdensome and should be scrapped, Trump administration officials said today in a long-awaited proposal to rescind an Obama-era regulation for fracking on public and tribal lands.



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6. PUBLIC LANDS: Trump admin unveils fracking rule rollback plan

E & E News, July 24 | Jennifer Yachnin

DENVER — Interior Secretary Ryan Zinke told E&E News that he discussed public lands policy during his private remarks to the American Legislative Exchange Council last week, asserting he remains at opposition with the group's support of wholesale disposal of the federal estate.

7. SAGE GROUSE: Interior review could turn lands into 'oil patch' — report

E & E News, July 24 | Scott Streater

A former senior Obama administration official argues in a report released today that Interior Secretary Ryan Zinke's review of federal greater sage grouse conservation plans appears aimed at placing oil and gas development above other uses of public lands, and could have significant negative impacts on the bird.

8. NATURAL RESOURCES: Coal, carbon and Minn. mining bills get hearing

E & E News, July 24 | Dylan Brown

House lawmakers will take up bills this week to block coal leasing moratoria, the social cost of carbon metric and attempts to ban mining in Minnesota.

9. LAW: GOP lawmakers gear up for repeat attack on 'sue and settle'

E & E News, July 24 | Amanda Reilly

A House panel this week will hold its second hearing of the year on the so-called sue-and-settle phenomenon that Republican lawmakers say has occurred in environmental law over the last several years.

10. INTERIOR: HQ sidelines climate experts during Zuckerberg visit

E & E News, July 24 | Lisa Rein, Washington Post

When Facebook CEO Mark Zuckerberg flew to Glacier National Park earlier this month to view melting ice fields, he was slated to take a tour with two of the park's climate experts.



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11. **NATIONAL PARKS: Zinke touts corporate help for backlog — with limitations**

E & E News, July 24 | Jennifer Yachnin

ROCKY MOUNTAIN NATIONAL PARK, Colo. — Interior Secretary Ryan Zinke on Saturday promoted the ability of public-private partnerships to address the National Park Service's prohibitive \$11.5 billion maintenance backlog, but he stopped short of endorsing prominent in-park recognition for major corporate donors.

12. **INTERIOR: Deputy secretary nominee has history battling department**

E & E News, July 24 | Michael Doyle

The nominee for the No. 2 slot at the Interior Department has a history of suing the agency he's now poised to join.



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UTAH – FULL STORY

1. **Golden eagle released in honor of firefighters who fought Brian Head Fire**

KSL News, July 21 | Alex Cabrero

ESCALANTE — Hiking near Escalante in Garfield County will give you the kinds of views you usually see in adventure magazines.

Outdoors guide Jim Clery has been guiding people through the area for years, but last month, he saw something he had never seen before.

"I could tell he was exhausted and really wasn't moving and not trying to get away from me," he said.

Not a person, a bird — a Golden Eagle, to be precise.

Michael Thompson is the ranger at Grand Staircase-Escalante National Monument. He went to get the eagle after Clery called him that day and couldn't believe the condition the bird was in.

"She was emaciated and atrophied," Thompson said. "Her muscles, her breast muscles were gone. She was trying to flex her wings, but I was amazed she lasted that long. It wouldn't have made it another day."

After spending a month rehabilitating with the Southwest Wildlife Foundation, the bird was well enough to fly and be on her own again.

But first, there was a dedication.

The bird's flight into the air was dedicated to the firefighters who fought the Brian Head Fire that sparked last month.

"This eagle is for all the firefighters that have risked their lives to save our lives and property, and we're incredibly grateful to them for that," said a person in the crowd.

Friday was the first day Clery saw the eagle since finding it in such bad shape.



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"It's nice seeing her healthy and she's definitely a bit fuller," Clery said. "You can tell she's a bit stronger now this go around."

The rehabilitation went so well for this bird, wildlife experts think she has as good a chance as any to make it in the wild. It's all because someone cared to do something, just like firefighters cared to try and save homes.

"It's a positive thing after everything that has happened (here)," Thompson said.

Video of the Eagle Release is listed below:

<https://www.ksl.com/?sid=45117691&nid=148>

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2. **Op-ed: Will Utah elevate life outdoors?**

The Salt Lake Tribune, July 22 | Jerry Stritzke

Utah is home to unparalleled natural beauty, magnificent settings and amazing places to recreate. Those natural assets and Utahns' hospitality have created one of the country's strongest recreation economies.

By all rights, Utah should be at the forefront of promoting the outdoor industry, including public policies that are at its foundation. Instead, the state has gotten stuck in age-old discussions of state versus federal authority.

It's time to start climbing back to the top — for Utah's leaders to declare their commitment to a welcoming outdoors, and to support the public lands that sustain one of this state's largest, healthiest, most sustainable sectors.

This week, the Outdoor Retailer Summer Market hosts its final trade show in Salt Lake City. In 2018 and for at least five years to come, trade shows will be held next door in Denver.

There's no mistake. Colorado's Front Range is spectacular. Denver also won because Colorado leaders of all stripes — Republican and Democrat — have embraced outdoor recreation as integral to quality-of-life and business.



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They recognize the value of an industry that contributes \$887 billion to national GDP and supports 7.6 million jobs. They've followed that up with support for public lands at the state and federal levels.

It's now history that the trade show was put up for bid only after different Utah leaders continually raised doubts about whether national public lands – rich with natural wonder and sustainable recreation opportunity – would be stewarded for those purposes, or treated as expendable.

Ostensibly, states' rights was the goal. That misses the point. America's great outdoors is about so much more. The outdoors is integral to American heritage and our shared future.

Envied around the world, our outdoor places are the reason why so many people travel huge distances to take in our trails, mountains and landscapes. And in our increasingly disconnected and too-often sedentary society, research shows people feel spiritually, mentally and physically healthier after spending time outdoors.

The outdoors is good for ourselves, our families and our communities. At REI, we believe, "a life outdoors is a life well lived."

This Thursday, thousands of us attending the show will walk to Utah's Capitol to celebrate public lands. It will be a nonpartisan statement about why investing in our natural infrastructure is vital to livelihoods, quality-of-life and the outdoor economy.

We see these questions as neither left nor right, blue nor red. We talk about being "united outside."

REI co-op has been in Salt Lake City since the early '80s. Now, we employ over 200 Utahns; have 290,000 co-op members statewide; and continually invest in local nonprofits. We buy product from over 50 Utah-based companies. We deeply value and are grateful to be part of the community.

For the health of our public lands and what they mean to future generations, we simply call on all policymakers, here and in Washington, to stand up strongly for our sector — a pillar of a strong economy and for the outdoor way of life.



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Jerry Stritzke is the president and CEO of REI, a specialty outdoor clothing and equipment retailer, with headquarters in Kent, Wash.

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3. Teen known for visiting national parks stops in Utah

KSL News, July 22 | Sam Penrod

AMERICAN FORK CANYON — A teenager known around the country for visiting national parks made several stops in Utah this weekend.

Junior Ranger Aida Frey first visited a national park in Iowa when she was 9 years old. On Friday, Aida made a stop at Timpanogos Cave National Monument.

Aida, a Chicago native, has visited 276 national parks in just seven years. The 16-year-old is currently on a three-week visit to the west and plans to visit 23 national parks on her trip.

In 2010, Aida received her first Junior Ranger badge. After receiving the badge, she set a goal to visit all 417 locations in the U.S. operated by the National Park Service. As a result, Aida has become an unofficial spokesperson for the Junior Ranger program.

Aida has even written a book recounting her experiences over the past six years in America's national parks.

One reason she's made it to so many national parks — her family always drives instead of flying on trips, she said.

"I thought the cave was absolutely beautiful," Aida said. "I have been to many caves and this one was really different because we did have to hike 3 miles round trip but it was worth it. It was all worth it."

Aida's book, "America, Can I Have Your Autograph?", is available on Amazon.

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4. Drilling threatens Dinosaur National Monument — again

High Country News, July 24 | Elizabeth Shogren

For several years, Dinosaur National Monument enjoyed a respite from the oil and gas leasing that had threatened this natural wonder straddling the Utah-Colorado border. People visit not just to behold its extraordinary fossils but also to take in the deep canyons carved by the Yampa and Green rivers, high desert plateaus and distant mountain peaks. The Obama administration declined to lease parcels near the monument until it could consider competing priorities in a public process.

Now, under President Donald Trump, the Bureau of Land Management has proposed offering one lease abutting the monument and several more within view of its visitors' center. Monument Superintendent Mark Foust has asked the BLM to remove two of these parcels from a lease sale scheduled for December, fearing that drilling will damage the pristine air quality, dark night skies and nearly limitless views. "These vistas are fundamental to the visitor experience at the Monument," Foust wrote in a May letter. Monday is deadline for public comments.

Dinosaur National Monument's new drilling threat provides a preview of how the Trump administration's approach to fossil fuel development on public land and in federal waters may impact beloved and fragile Western places. In executive orders in March and April, Trump called for expanding and expediting drilling in federal lands and waters, and Interior Secretary Ryan Zinke fleshed out the pro-drilling strategies in secretarial orders in March and July.

This determination to ramp up drilling likely will revive old conflicts, sparking more protests and lawsuits. Already the Trump team is backtracking from Obama administration efforts to head off litigation by getting earlier public input on which areas are appropriate for drilling and which others are better left for recreation, wildlife, grazing or other uses. If these struggles end up in court, they could snarl energy projects for years, backfiring on industry and Trump. "I would predict a great increase in litigation, as an attempt to slow it all down: That's what (President George W.) Bush found out," said John Freemuth, a professor of public policy at Boise State University.

As a first order of business, Trump's Interior Department launched an assault on Obama-era regulations designed to heighten environmental protections and drilling safety. Targets include the BLM's methane and hydraulic fracturing rules, protections for drilling inside national parks and national wildlife refuges and an Environmental Protection Agency methane rule.



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The Trump administration has already asked the GOP-controlled Congress to open the Arctic National Wildlife Refuge to drilling. It also plans more offshore leasing in the Arctic and Atlantic Oceans and may reject a rule designed to prevent disasters like the 2010 BP spill in the Gulf of Mexico.

But rolling back such rules takes months or years, because the administration is legally required to conduct environmental analyses and get public comment. Proposed rollbacks will likely prompt lawsuits from states and environmental groups, creating delays and uncertainty for all involved.

Nonetheless, the oil industry is optimistic. "Without the political will to move forward during the Obama administration, we saw activity slow or even grind to a halt in some areas," said Kathleen Sgamma, president of the Western Energy Alliance, a trade group. "Just the wherewithal to clear some bureaucratic hurdles and not throw up new obstacles should help encourage energy development."

Meanwhile, Zinke is trying to speed up the work of BLM field offices. In early July, Zinke ordered them to hold quarterly lease sales and reduce response times to 30 days for drilling permit applications. "Oil and gas production on federal lands is an important source of revenue and job growth in rural America but it is hard to envision increased investment on federal lands when a federal permit can take the better part of a year," Zinke said. In 2016, processing an application took an average of 257 days, according to Interior, in part because complex modern projects require more sophisticated analysis.

But Democrats and environmentalists counter that industry already has plenty of places on federal land to drill. During this time of low oil and gas prices, companies have yet to drill on nearly 8,000 leases where they already have permits, according to the BLM.

Still, Zinke has asked for \$16 million extra from Congress to accelerate leasing and permitting. Katharine MacGregor, Interior's deputy assistant secretary for land and minerals management, told a House committee in June that the BLM is relocating staff, filling vacancies in offices with serious backlogs.

As it prioritizes drilling, the new administration has put on the backburner a time-consuming process initiated by its predecessor. Master leasing plans were designed to reduce conflicts by doing early assessments of what places might be appropriate for leases in landscapes that are



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important for recreation, wildlife, or cultural or scenic values. If a master plan was pending for a certain area, the BLM temporarily deferred most leases. In Utah alone, that kept millions of acres off the auction block for several years — including near Dinosaur National Monument. Now the new administration has stopped automatically excluding those parcels. “We are aligning our available resources to support the administration's America First Energy Plan,” said Kent Hoffman, BLM-Utah deputy state director for lands and minerals.

The Trump team also ditched another new BLM process called Planning 2.0 that was created to get more upfront public input. And it’s scuttling another informal practice that helped minimize controversy. In recent years, the BLM had automatically deferred parcels in Utah known to have a high density of prehistoric dwellings or other archaeological remains, according to Bryant.

In 2015, the BLM yanked 36 of 54 parcels from a sale because of public outcry about the archaeological resources at risk. One was Alkali Ridge in southeastern Utah, a national historic landmark since 1985 that contains complex structures used by ancient Puebloan people more than 1,000 years ago. In 1991, the BLM designated it an area of critical environmental concern, “significant in the history and archaeology of the southwestern U.S.” Now the agency is considering offering leases there and in other rich archaeological areas of southeastern Utah. It’s taking public comment until July 27.

The BLM will consult with local tribes and other experts to see if it can both protect cultural resources and allow development, Bryant says. But archaeologists are skeptical. “In 20 years, (an oil) well will be dry, but if a 1,000-year-old site is destroyed, it is destroyed forever,” said Kevin Jones, Utah’s former state archaeologist.

So far, the new administration has not yet sparked major litigation by opening important areas to drilling, and there are places even Trump won’t drill. The BLM backed off offering leases near Rocky Mountain National Park in April and Zion National Park in June, after protests from Utah Gov. Gary Herbert, a Republican, and local communities and businesses.

As for Dinosaur National Monument, the BLM says it isn’t ignoring the Park Service’s concerns. The agency has asked for additional requirements on leases, such as hiding oil and gas equipment with rugged topography or camouflaging paint, and turning off lights and equipment at night. “BLM is working closely with (the Park Service) to determine if appropriate resource protection measures exist or can be developed to address their concerns before making any final leasing decisions,” said Lisa Bryant, a BLM spokeswoman in Utah.



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Conservation groups warn that leasing special landscapes like those near Dinosaur will just stall energy development. That happened before: “People went to court and protested and dragged stuff out and created a big stink,” said Nicholas Lund of the National Parks Conservation Association. “It’s exactly what master leasing plans and cooperative processes were designed to avoid.”

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E&E/NATIONAL NEWS – FULL STORY

1. **Op-ed: They’ll Shoot Horses, Won’t They?**

The New York Times, July 21 | Ellie Phipps Price

SONOMA, Calif. — Should the federal government encourage the slaughter of a living symbol of the American West?

While blunt, this question is unfortunately not hyperbole when it comes to America’s wild horses. This week the House Appropriations Committee approved an amendment that would eliminate longstanding restrictions on killing wild horses and burros.

And it could get worse: Interior Secretary Ryan Zinke is also pushing to end the ban on selling these animals for slaughter for food in Mexico and Canada; at the same time, Mr. Zinke wants to cut funding for fertility control — the only scientifically recommended, humane tool available to manage wild horse herds.

Lawmakers in Congress must decide: Are they — and more important, their constituents — comfortable with the killing of animals that for nearly 50 years have been under congressional protection?

For years, the answer has been no, as legislators from both parties have sided with the 80 percent of Americans who, polls show, oppose horse slaughter. But they are being lobbied heavily by the Interior Department’s Bureau of Land Management and a small but vocal group of ranchers who graze their livestock on public lands, who say the current practice of annual roundups of wild horses isn’t working.



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Representative Ken Calvert, a California Republican who heads the Appropriations subcommittee that controls the bureau's budget, said, "We simply cannot continue to shove more and more wild horses and burros into holding facilities and act as if that's somehow a good outcome for these animals or taxpayers."

He's not entirely wrong: A new approach to protecting America's 73,000 wild horses and burros is in fact needed.

The bureau spends \$80 million a year to drive wild horses by the thousands each year off the public lands they call home. Under its Wild Horse and Burro Program, these animals are herded by helicopters for hundreds of miles over rugged terrain into pens. The cruel roundups cause injury, suffering and death.

The bureau argues that wild horses are damaging Western grazing lands — a questionable claim, and one that ignores the millions of head of private livestock that it allows to graze on those same public lands. Even though, compared with wild horses, livestock graze on eight times as much federally managed land and consume 55 times the amount of food, a blinkered bureau sees the wild horses as the problem — despite explicit orders from Congress to protect them.

The result has been a self-defeating feedback loop that wastes taxpayer dollars and endangers the welfare of thousands of animals. As the National Academy of Sciences explained in a 2013 report funded by the bureau, a policy that focuses solely on moving wild horses to corralled land is "likely to keep the population at a size that maximizes population growth rates, which in turn maximizes the number of animals that must be removed to holding facilities."

Thankfully, unlike many of the policy issues plaguing Congress, this problem does have solutions that are both fiscally sound and grounded in science. As advocates and even some local bureau offices have shown, there are effective methods to reduce fertility in wild horses. Using dart guns, small teams of workers can effectively control large populations of wild horses without having to permanently corral them.

Such an approach is "a more affordable option" than current bureau policy, according to the National Academy of Sciences, and it doesn't involve euthanasia or selling animals to slaughterhouses.



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But the Interior Department seems adamant, and in response has undertaken a campaign to spread misinformation to confuse the issue. At a recent House hearing, Secretary Zinke conveniently ignored the National Academy of Sciences report, instead telling lawmakers that fertility control efforts were a failure and nearly impossible to carry out.

Nonprofit organizations like ours have disproved that claim. With less than \$50,000 and a team of six volunteers, our Virginia Range project is undertaking a birth-control program for a herd of more than 3,000 horses spread across over 300,000 acres in Nevada. Already this year we've vaccinated more mares with birth control than the bureau did all of last year.

Given this, lawmakers should question why the bureau is so eager to strip these protections from the wild horses and burros Congress acted unanimously to protect in 1971. More important, lawmakers should ask themselves whether it makes more sense to embrace a fiscally sound, science-based plan that would protect wild horses, or an approach that ends in slaughter for these cherished icons of the American West.

Ellie Phipps Price, a vintner, is the president of the American Wild Horse Campaign.

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2. Trump administration seeks to repeal Obama fracking rule

The Hill, July 24 | Timothy Cama

The Trump administration is proposing to completely repeal Obama-era standards governing hydraulic fracturing on federal land.

The proposal from the Interior Department's Bureau of Land Management (BLM) is due to be published Tuesday in the Federal Register.

The landmark 2015 regulation set standards in areas such as disclosure of fracking chemicals and integrity of well casing.

It was the Obama administration's attempt to update decades-old regulations to account for the explosive growth in fracking for oil and natural gas in recent years.



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The repeal is the latest in a long string of environmental regulations from Obama that Trump is working to undo.

Interior's stream protection rule for mountaintop removal mining was repealed by Congress, and the agency has taken action on its own to stop Obama's pause on coal mining on federal land.

The Environmental Protection Agency, meanwhile, has started to undo major regulations on carbon dioxide emissions from power plants, water pollution, methane pollution and more.

Trump officials say in the proposal released Monday that the Obama regulation is largely duplicative of state and tribal standards, and would cost the oil and gas industry up to \$45 million a year to comply.

"Considering state regulatory programs, the sovereignty of tribes to regulate operations on their lands, and the preexisting authorities in other federal regulations, the proposed rescission of the 2015 final rule would not leave hydraulic fracturing operations entirely unregulated," the BLM writes in the proposal.

The BLM did not indicate that it intends to replace the rule

The rule's enforcement has been on hold since last July, when a federal judge in Wyoming overturned it, ruling that the BLM does not have the authority to regulate fracking at all. The Obama administration appealed that decision, but the case is now on hold due to the Trump administration's reconsideration of the rule.

The rollback follows on President Trump's campaign promise to repeal regulations that limit the production and use of fossil fuels.

He signed an executive order in March to that effect, specifically naming the BLM fracking rule as one that needed formal review.

Publication Tuesday of the fracking rule repeal proposal will kick off a 60-day period when the agency will gather comments from the public. At that point, it will make any necessary changes to the rule before publishing a final version.

After the final version is published, environmental groups, Democratic states and other supporters of the Obama rule may sue the BLM to try to undo the repeal.



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3. **NATIONAL PARKS: Zinke announces \$50M in grants for park maintenance**

E & E News, July 24 | Jennifer Yachnin

ROCKY MOUNTAIN NATIONAL PARK, Colo. — Interior Secretary Ryan Zinke on Saturday announced the disbursement of more than \$50 million in funds to address the National Park Service's maintenance backlog, more than half of which will be provided by nonprofit organizations.

Nonprofits will dedicate \$33 million to projects like trail maintenance and building restoration at 42 park units across 29 states, supplementing \$20 million distributed under the NPS Centennial Challenge Program.

"My job is to highlight the importance of our National Park System, and we're going to catch up because the American experience of our national parks is worth prioritizing our infrastructure," Zinke said Saturday, referring to the park system's \$11.5 billion maintenance backlog.

"And it's not just visitor centers: It's things like sewer systems, it's water systems, roads. Things we kind of take for granted," he added. "All those pieces are important to maintain the experience as people come through the park."

Among the projects that will be targeted with the \$50 million in funds is the Alluvial Fan Trail here, where Zinke held a news conference along with Rocky Mountain National Park Superintendent Darla Sidles; Sen. Cory Gardner (R-Colo.); Estes Park, Colo., Mayor Todd Jirsa; and Rocky Mountain Conservancy Executive Director Estee Rivera Murdock.

Paved trails to the Alluvial Fan were largely destroyed by historic floods in the area in 2013. A combination of \$200,000 in grants from the Centennial Challenge Fund and \$200,000 in matching funds from the Rocky Mountain Conservancy will be used to restore those trails to an accessible state.

"This is an example of everything good about public-private [partnerships and] people that are passionate about our public lands, coming together, not only volunteer hours, but fundraising to do these projects we need," Zinke said.



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Murdock praised Zinke's attention to RMNP and the maintenance backlog in brief remarks.

"This area was devastated by flooding in the past, and this trail has not met the needs of the park for quite some time. So we're really happy to revitalize this area," she said.

After the news conference, Rocky Mountain Conservancy board member Jim Pickering added that the announcement showcased the partnership between the group and NPS: "We exist to provide a margin of excellence for the park, to do things for the park and other public lands which they simply cannot afford to do themselves."

"We have a real challenge ahead of us," Pickering added, "but that's what we're all about."

Other projects that received funds include the National Mall and Memorial Parks, which received \$4.84 million in federal funds along with \$16 million from the National Park Foundation to address maintenance at the Lincoln Memorial, and Yellowstone National Park, which received nearly \$2.6 million in combined federal funds and \$2.6 million from Yellowstone Forever for maintenance of trails, retaining walls and overlooks, as well as the Stephens Creek Bison Facility.

The Cuyahoga Valley National Park in Ohio received nearly \$1.5 million in federal funds and \$1.5 million from the Conservancy for Cuyahoga Valley National Park for orientation and interpretation programs, while the Delaware Water Gap National Recreation Area received \$1.4 million in federal funds and \$1.4 million from the Pocono Environmental Education Center for maintenance of its cabins.

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4. OIL AND GAS: Industry lawyers track Trump admin's evolving policy changes

E & E News, July 24 | Ellen M. Gilmer

SANTA FE, N.M. — As the Trump administration works to bolster domestic energy production, legal and regulatory certainty for the oil and gas industry remains out of reach for now.



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That's a recurring message here at the annual Rocky Mountain Mineral Law Institute, where nearly 900 lawyers from industry, academia and the public sector have gathered to unpack a year of legal developments in their field and work to navigate changes on the horizon.

Industry lawyers are antsy for broad reforms promised by Trump officials, including expedited environmental reviews and permitting, but their current focus is on deregulatory efforts moving forward in federal agencies and courts.

Bryan Cave LLP attorney Ivan London noted during a conference session that the regulatory landscape is in flux in part because of President Trump's "energy independence" order, which aims to boost U.S. energy production.

Among regulations on the chopping block are Interior Department and U.S. EPA rules for greenhouse gas emissions from the oil and gas industry, along with restrictions on hydraulic fracturing and changes to royalty calculations. All of the rollbacks are facing legal challenges.

London noted that EPA Administrator Scott Pruitt, in particular, is aggressively pushing for states to take a leading role in environmental oversight, while the federal government steps back.

"We can expect that as his tenure unfolds, there will be a rebalancing — arguably the pendulum might swing the other way, past rebalancing toward states' rights for environmental regulation," he said.

London added that EPA and other agencies will have to provide clear justifications for their actions or face Administrative Procedure Act challenges — many of which are already in motion.

WildEarth Guardians attorney Samantha Ruscavage-Barz said increased citizen suits from individuals and environmental groups will also play a role in pushing back on the administration's agenda.

"Originally, citizen suits were intended to supplement, rather than supplant, agency enforcement actions, but what we're going to be seeing more is that citizen suits are going to be the primary vehicle for enforcing environmental laws," she said during a separate session.

Planning



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Federal land-use planning also faces an uncertain future. The Obama administration's "Planning 2.0" rule, an update to 34-year-old planning procedures, was scrapped via the Congressional Review Act earlier this year.

The regulation was aimed at increasing public involvement and reducing the amount of time needed to craft resource management plans for public lands, but critics said the final version didn't adequately involve state and local interests.

Speaking at the conference, University of Utah law professor John Ruple said it's unclear what's next for planning reforms, but the administration's ultimate approach will have a major effect on the oil and gas industry and others.

Ruple, who previously worked as a public lands policy analyst for then-Utah Gov. Jon Huntsman (R), noted that states have long been frustrated with the Bureau of Land Management's existing planning process.

"We need to find a better, viable path forward that allows states and local governments and the federal government and constituents to have some voice in the planning process that allows the process to proceed in a faster, more efficient way," he said.

Now BLM will have to go back to the drawing board to figure out how to make that happen without running afoul of the CRA's prohibition on the agency drafting a rule that is "substantially the same" as the scrapped regulation, he said.

Interior Secretary Ryan Zinke has already directed the agency to begin crafting a new rule to streamline the planning process (Greenwire, July 5).

How different must the new rule be to avoid CRA violations? "We're not going to know until they get sued," Ruple said, adding later: "Maybe eventually we'll find out what 'substantially the same' actually means."

Many experts here noted that future administrations will likely reduce the number of late-term regulations they issue to avoid similar CRA complications.



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Local control

Meanwhile, several states and local governments are still dealing with their own power struggles when it comes to oil and gas development.

Liskow & Lewis attorney April Rolen-Ogden noted that the past year has featured regulatory tug-of-wars between local officials who want to restrict fracking and state officials who say they alone have that authority.

Boulder County, Colo., for example, was forced to back away from its drilling moratorium after the state attorney general sued. Across the country, Maryland's Republican Gov. Larry Hogan approved a statewide fracking ban. Rolen-Ogden said she expects to see litigation after the ban takes effect later this year.

As for traditional legal questions affecting everyday oil and gas operations, she said courts over the past year have repeatedly "reaffirmed the basic tenets of oil and gas law."

"So while issues may change or morph over time, especially in an evolving oil and gas market, it's refreshing to see that the fundamentals remain the same," she told conference attendees.

Dakota Access

The legal gathering also touched on one of the year's most dramatic stories in energy: the Dakota Access pipeline conflict.

Modrall Sperling attorney Walter Stern told a crowd of hundreds of lawyers, many of whom represent energy companies, to be aware of growing tribal engagement on projects that affect their land or water resources.

"There is a real possibility that one or more tribes may step forward to assert a cultural connection to the lands that may be disturbed or implicated by a federally approved or supported project and seek consultation," said Stern, who represents businesses working on public and tribal lands. "And this is more likely now after DAPL, particularly if there are water resources that may be impacted."



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University of New Mexico law professor Jeanette Wolfley, an expert in federal Indian law, recommended that energy companies start their own conversations with potentially affected tribes before the federal consultation process begins.

"I believe the divide can be bridged and an energy company certainly has a role to play in this whole process, should it decide to do so," she said. "And I would urge companies to do so and not necessarily sit along the sidelines and watch the consultation process between the federal government and Indian tribes."

Wolfley outlined a number best practices for pipeline operators and others working on or near tribal lands, including holding early informational workshops with tribal leadership, hiring a tribal member to work as a liaison and considering reclamation projects on reservation land to offset potential project impacts.

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5. **PUBLIC LANDS: Trump admin unveils fracking rule rollback plan**

E & E News, July 24 | Ellen M. Gilmer

A federal hydraulic fracturing rule is overly burdensome and should be scrapped, Trump administration officials said today in a long-awaited proposal to rescind an Obama-era regulation for fracking on public and tribal lands.

The Interior Department unveiled its plan in a Federal Register notice scheduled for publication tomorrow. The [proposal](#) concludes that the 2015 Bureau of Land Management rule triggered "unjustified" compliance costs — \$32 million to \$45 million a year for oil and gas operators — that are not in line with the Trump administration's goals to boost domestic energy production.

"Upon further review of the 2015 final rule ... the BLM believes that the 2015 final rule unnecessarily burdens industry with compliance costs and information requirements that are duplicative of regulatory programs of many states and some tribes," agency officials wrote. "As a result, we are proposing to rescind, in its entirety, the 2015 final rule."

The fracking rule has been the subject of nonstop legal friction since it was finalized more than two years ago. Environmentalists say the standards — new requirements for well construction,



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wastewater management and chemical disclosure — are commonsense safety measures to keep pace with the rapid expansion of the oil and gas production practice in recent years. Industry groups, several Western states and American Indian tribes, meanwhile, say state and tribal officials are already adequately regulating fracking.

A district court struck down the regulation last year, ruling that BLM has no authority over fracking. In an ongoing appeal, the Trump administration has maintained that it has authority over the process but is urging the 10th U.S. Circuit Court of Appeals to freeze the case while the rulemaking process plays out.

Oral arguments in the case are scheduled for Thursday in Denver. Government lawyers are expected to refer to the formal proposal as they make their case for pausing the legal proceedings. Interior missed a previous target date of June 13 for publishing the proposed rollback rule.

Interior's proposal to kill the rule pushes back on environmentalists' argument that federal fracking oversight is needed to ensure safe oil and gas production on public lands.

"However, considering state regulatory programs, the sovereignty of tribes to regulate operations on their lands, and the preexisting authorities in other Federal regulations, the proposed rescission of the 2015 final rule would not leave hydraulic fracturing operations entirely unregulated," the document says.

Agency officials say state oversight of fracking has expanded since the federal rule was finalized two years ago, reducing the need for a nationwide rule. Environmentalists and other critics have long questioned whether many state regulations and enforcement are sufficient.

Earthjustice attorney Mike Freeman, who is representing environmental groups working to revive the fracking rule, slammed the proposed rollback as a giveaway to the oil and gas industry.

"This is another cynical move by the Trump administration that sacrifices clean water and public safety as a favor to their friends in the oil and gas industry," he told E&E News. "The timing is obviously linked to the upcoming oral argument. This appears to be part of BLM's effort to circumvent the law by asking the court to stay the appeal. We oppose that request, and we'll see them in court on Thursday morning."



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BakerHostetler attorney Mark Barron, who is representing industry groups against the fracking rule, said the proposal tracks with industry's longstanding argument that the regulation imposed steep costs with no real benefits.

"The step they're implementing today is consistent with what the industry petitioners have been saying all along: that the 2015 version of the rule did not provide any incremental environmental protection and was just a meaningless imposition of costs on industry," he said.

BLM will now accept public comments on the proposal and said it is specifically seeking comments on how the agency can use existing federal authorities to ensure safe hydraulic fracturing operations, "particularly in states or on tribal lands where the corresponding regulations or enforcement mechanisms may be less comprehensive." The agency will also consult with tribal governments on how the rollback would affect them.

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6. **PUBLIC LANDS: Trump admin unveils fracking rule rollback plan**

E & E News, July 24 | Jennifer Yachnin

DENVER — Interior Secretary Ryan Zinke told E&E News that he discussed public lands policy during his private remarks to the American Legislative Exchange Council last week, asserting he remains at opposition with the group's support of wholesale disposal of the federal estate.

Zinke served as a keynote speaker at ALEC's 44th annual conference here — as well as making appearances over the weekend at both the Western Conservative Summit and Rocky Mountain National Park. But unlike the other events, the remarks before ALEC were closed to the press and public.

"I said I'm not an advocate for sale or transfer of public land. I'm an admirer of [Theodore] Roosevelt," Zinke said Saturday at RMNP, where he held a news conference to announce \$50 million in grants for park maintenance (E&E Daily, July 24).

But he went on to compare himself to the first head of the Forest Service, Gifford Pinchot, and to distance himself from environmentalist John Muir, who founded the Sierra Club.



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"I tend to move to the Pinchot side rather than Muir," Zinke said. "And people forget that while Roosevelt visited Muir, he hired Pinchot."

While Muir advocated to maintain wilderness in an unspoiled state, Pinchot was known for his pursuit of sustainable use.

"The first great fact about conservation is that it stands for development," Pinchot wrote in "The Fight for Conservation," published in 1910. "Conservation does mean provision for the future, but it means also and first of all the recognition of the right of the present generation to the fullest necessary use of all the resources with which this country is so abundantly blessed."

Zinke did not offer details about his speech to ALEC's annual conference but added that he remains in opposition to the group's efforts to significantly reduce the federal estate.

"We kindly agree to disagree on this point, but I think America is behind me with a love of our public lands, and the president is as well," Zinke added.

ALEC, which drafts model conservative bills and resolutions for state legislators to introduce, has routinely backed measures that call for the transfer of federal lands to control of their respective states, dating to a draft bill in 1995 known as the "Sagebrush Rebellion Act."

More recently, in 2015, ALEC's board of directors adopted a policy statement supporting "the restoration to the western states their most basic right" to control public lands, with the exception of national parks, wilderness areas, American Indian reservations and military installations.

A spokeswoman for ALEC did not respond to a request for comment on Zinke's remarks.

'We won'

During his weekend visit to the Centennial State, Zinke also addressed the Western Conservative Summit, an annual event sponsored by the Centennial Institute at Colorado Christian University.

In brief remarks on the summit's opening night, Zinke reiterated themes he has focused on in other public appearances, including rebuilding "trust" between the public and his agency, as well as easing the path for energy extraction on public lands.



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"We should be the nice department," Zinke said, speaking to a crowd that interrupted him often with applause. "We should be the department that says yes."

He later added: "Where did America turn where we don't trust our government, and how do we get it back? And a lot of it is working with local communities, working with our states, looking at the relationship between our people and our government and understanding that the American experience is worth fighting for."

But as Zinke touted his desire to increase fossil fuel extraction in the United States, he was briefly interrupted by a single protester. Although her initial remarks could not be heard, the unidentified woman urged Zinke to protect public lands as she was escorted from the room.

As attendees chanted, "Trump! Trump! Trump!" to overpower the protester's remarks, Zinke interrupted his own speech on stage to comment: "I'll tell you something, we won. We won."

More monuments to skip review

In remarks at Rocky Mountain National Park on Saturday, Zinke also revealed that he intends to withdraw additional monuments from his agency's ongoing review of dozens of sites nationwide, although he did not reveal any specifics.

President Trump in late April ordered a review of all monuments created since 1996 that encompass more than 100,000 acres, with an eye toward reducing or even eliminating some sites.

In recent weeks, Zinke has formally announced that at least three of the 27 monuments under review will not be subject to any potential alternations: the Canyons of the Ancients National Monument in Colorado, Hanford Reach National Monument in Washington state and Craters of the Moon National Monument and Preserve in Idaho (E&E News PM, July 21).

In addition, Zinke has previously indicated he does not expect to make changes at the Upper Missouri River Breaks National Monument in Montana.

Last month, Zinke did recommend significant reductions to the Bears Ears National Monument in southeastern Utah, although he has yet to provide details for those cuts. A final report on the monuments review is due Aug. 24.



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"I think it's appropriate to look at the extent of executive power. I commend President Trump for asking the question on it," Zinke said Saturday at Rocky Mountain National Park. "But the monuments are only a small piece of our public lands. Monuments were public lands before, they'll be public lands afterwards."

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7. **SAGE GROUSE: Interior review could turn lands into 'oil patch' — report**

E & E News, July 24 | Scott Streater

A former senior Obama administration official argues in a report released today that Interior Secretary Ryan Zinke's review of federal greater sage grouse conservation plans appears aimed at placing oil and gas development above other uses of public lands, and could have significant negative impacts on the bird.

The [report](#) from the liberal-leaning Center for American Progress comes on the heels of Zinke's secretarial order establishing a panel that is reviewing the conservation plans and will likely recommend changes (Greenwire, June 7).

Written by CAP senior fellow Jim Lyons — who helped write the grouse plans as Interior deputy assistant secretary for land and minerals management during the Obama administration — the report suggests the Zinke review is little more than an effort "to wring out more oil and gas from public lands."

Lyons takes particular aim at a section in Zinke's order that calls on the sage grouse review team to identify provisions in the plans "that may require modification or rescission ... in order to give appropriate weight to the value of energy and other development of public lands."

Lyons wrote, "Secretary Zinke is looking to remove any impediments to oil and gas development on public lands and offshore waters to fulfill President Donald Trump's 'energy dominance' commitment."

The president and Zinke, he added, "seem undeterred in making [federal lands], first and foremost, the nation's oil patch. As a result, other uses of public lands — including producing water, recreation opportunities, fish and wildlife habitat, and healthy rangelands — are likely to take a back seat to Trump's energy mandate."



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An Interior spokeswoman could not be reached for comment by press time.

But Kathleen Sgamma, president of the Denver-based Western Energy Alliance, offered a pointed rebuke of the CAP report, including noting the think tank's hostility to the new administration.

Sgamma pointed out that Lyons, while at Interior, not only helped develop and write the federal plans but defended them vigorously, including last year at a Senate Energy and Natural Resources Subcommittee on Public Lands, Forestry and Mining oversight hearing (E&E Daily, June 29, 2016).

"Jim Lyons arguing that the sage grouse plans shouldn't be overturned is like Obama saying the Senate shouldn't overturn Obamacare," Sgamma wrote in an email to E&E News.

"As the main architect behind the plans, his ridiculous charge that changing them amounts to turning public lands into the 'nation's oil patch' displays the same willful disregard for what's actually happening on the ground to protect sage grouse that went into the plans in the first place," she wrote.

"Companies have reduced surface disturbance in sage grouse states by 70 percent, and states have sage grouse protections in place to further conserve habitat," she added. "Secretary Zinke should ignore a report that reflects CAP's agenda to kill jobs and economic opportunities in the West through regulation."

'Epic collaboration'

The CAP report is the latest development in the ongoing, more-than-year-old debate over the federal plans finalized in September 2015.

They amended 98 Bureau of Land Management and Forest Service land-use strategy documents to include grouse conservation measures covering nearly 70 million acres in 10 Western states.

The plans were strong enough to convince the Fish and Wildlife Service that the bird did not need federal protection under the Endangered Species Act.



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But oil and gas and mining interests have challenged them in court. So have states like Utah, which say the plans ignore their input and unnecessarily restrict the use of federal lands in grouse habitat.

In the CAP report, Lyons defended the science and the process in developing the plans, noting the "epic collaboration" among federal regulators, state agencies and private landowners "that led to the landscape-level, science-based, collaborative strategy to conserve the sage-grouse and the sagebrush habitat upon which it depends."

And he offered a list of "lessons learned" during development of the plans that he hopes will be considered by those currently reviewing them.

Among those lessons is that "habitat conservation," not population numbers alone, is the real "measure of success in protecting species of concern."

Zinke, in contrast, has hinted that population number targets for grouse should be the determining factor in managing the species.

The bottom line, Lyons wrote, is that "without healthy sagebrush habitat, the grouse and other species associated with the sagebrush ecosystem are not likely to survive."

He also wrote that pitting conservation versus development "is a false choice," noting that 79 percent of the areas designated as priority habitat management areas in the federal grouse plans "have zero-to-low assumed potential for oil and gas development based on existing data sources."

"Finally," he wrote, "despite rhetoric from some in the oil and gas and mining industries, the sage-grouse conservation effort demonstrated that it is possible to craft conservation solutions that allow for responsible mineral and energy development."

He added, "The conservation strategy is consistent with the BLM's multiple-use mission to manage lands and resources sustainably for present and future generations."

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8. **NATURAL RESOURCES: Coal, carbon and Minn. mining bills get hearing**

E & E News, July 24 | Dylan Brown

House lawmakers will take up bills this week to block coal leasing moratoria, the social cost of carbon metric and attempts to ban mining in Minnesota.

The House Natural Resources Subcommittee on Energy and Mineral Resources will review a trio of bills Thursday during an oversight hearing.

Wyoming Republican Rep. Liz Cheney's [H.R. 1778](#) would require that Congress sign off on any future moratorium imposed by the Interior Department on federal coal leasing (E&E Daily, March 31). Wyoming is the country's top coal mining state.

The Obama administration enacted such a moratorium while Interior reviewed the leasing program to make sure it was a benefit to taxpayers. In March, the pro-coal Trump team lifted the halt. Subcommittee Chairman Paul Gosar (R-Ariz.) is a H.R. 1778 co-sponsor.

Another vestige of the Obama administration that Republicans want to do away with is the consideration of the social cost of carbon, methane or nitrous oxide in federal decision-making.

President Trump earlier this year instructed agencies to stop considering the social cost of carbon as part of his larger effort to roll back the Clean Power Plan.

Rep. Evan Jenkins (R-W.Va.) sponsored [H.R. 3117](#) to make sure future administrations don't shift course (E&E Daily, June 30).

"The Obama administration used biased estimates like the social cost of carbon to push through its anti-coal regulations," Jenkins said in a statement.

His "Transparency and Honesty in Energy Regulations Act" is a companion to [S. 1512](#), from Sen. James Lankford (R-Okla.).

The final piece of legislation on the docket will be a [discussion draft](#) from Rep. Tom Emmer (R-Minn.) to require congressional approval of any mineral withdrawal or monument designation on national forest lands in Minnesota.



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A firestorm has surrounded two copper-nickel projects proposed in the northern part of the state. Last year, the Obama administration rejected a lease for Twin Metals' project in the watershed of the Boundary Waters Canoe Area Wilderness.

The Forest Service is currently conducting an environmental impact study to see whether a 20-year ban on new mining is justified in the Superior National Forest.

At the nearby PolyMet Mining Corp. site, environmentalists have sued to block a federal land transfer that local Rep. Rick Nolan (D-Minn.) wants to accelerate (Greenwire, July 6).

Schedule: The hearing is Thursday, July 27, at 10 a.m. in 1324 Longworth.

Witnesses: TBA.

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9. **LAW: GOP lawmakers gear up for repeat attack on 'sue and settle'**

E & E News, July 24 | Amanda Reilly

A House panel this week will hold its second hearing of the year on the so-called sue-and-settle phenomenon that Republican lawmakers say has occurred in environmental law over the last several years.

The joint hearing will take place tomorrow in the House Oversight and Government Reform Subcommittee on Intergovernmental Affairs and Subcommittee on Interior, Energy and Environment. The committee has yet to announce witnesses.

GOP critics have long argued that a small number of special-interest groups frequently file litigation using citizen suit provisions to force friendly federal agencies to issue new regulations.

In May, the Oversight subcommittees held an initial hearing on the topic to drum up support for legislation that aims to prevent "sue and settle" lawsuits.

A key target of Republicans' ire has been a sweeping 2011 settlement the Fish and Wildlife Service entered into with WildEarth Guardians and the Center for Biological Diversity,



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compelling the agency to make decisions on whether to list 252 species under the Endangered Species Act.

"There's a legitimate role for consent decrees and private suits," said Rep. Gary Palmer (R-Ala.), chairman of the Intergovernmental Affairs Subcommittee, at the first hearing in May. "But I think we're currently in a situation where we're outside what would be acceptable" (E&E Daily, May 25).

The House Judiciary Committee has since approved legislation along party lines that would require agencies to publicly post and report to Congress any information on lawsuits, consent decrees or settlement agreements.

The bill, sponsored by Rep. Doug Collins (R-Ga.), would also prohibit same-day filing of complaints and pre-negotiated settlements (E&E Daily, July 13).

U.S. EPA Administrator Scott Pruitt also earlier this year issued an "oral directive" instructing the agency to limit the practice (Greenwire, July 3).

Democrats and environmental groups say "sue and settle" is a made-up phenomenon pushed by foes of regulation.

The Government Accountability Office in 2011 and 2014 released reports finding no evidence that such a practice was occurring at EPA.

Schedule: The hearing is Tuesday, July 25, at 10 a.m. in 2154 Rayburn.

Witnesses: TBA.

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10. **INTERIOR: HQ sidelines climate experts during Zuckerberg visit**

E & E News, July 24 | Lisa Rein, Washington Post

When Facebook CEO Mark Zuckerberg flew to Glacier National Park earlier this month to view melting ice fields, he was slated to take a tour with two of the park's climate experts.



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But just ahead of the visit, the Trump administration told the two park staffers that they wouldn't be going after all.

Interior Department press secretary Heather Swift made it clear she did not want the tour group to include park Superintendent Jeff Mow, a climate expert who often uses the tour to highlight the impacts of climate change. The administration also bumped a research ecologist from the tour.

The department spent several days debating how to receive Zuckerberg, who has joined other Silicon Valley tycoons in criticizing Trump's withdrawal from the Paris climate agreement. The park's public affairs staff was instructed not to post anything about Zuckerberg's visit on social media, including sharing the alarmed post he wrote during the visit noting the park's shrinking glaciers.

"The park gets 3 million visitors a year, most of them coming in the summer months," Swift wrote in an email defending the department's actions. "July is peak season. A number of Park rangers were made available for the celebrity's personal tour but allocating such extensive government resources to a celebrity would have been a waste of money and a disservice to average parkgoers."

Mow, a 26-year veteran of the National Park Service, shrugged off the incident as a new administration's growing pains. "It's an issue of people learning their jobs. They're going to make mistakes along the way," he said (Lisa Rein, Washington Post, July 20).

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11. **NATIONAL PARKS: Zinke touts corporate help for backlog — with limitations**

E & E News, July 24 | Jennifer Yachnin

ROCKY MOUNTAIN NATIONAL PARK, Colo. — Interior Secretary Ryan Zinke on Saturday promoted the ability of public-private partnerships to address the National Park Service's prohibitive \$11.5 billion maintenance backlog, but he stopped short of endorsing prominent in-park recognition for major corporate donors.



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During a news conference here to announce the disbursement of \$20 million in federal grants to address maintenance projects at NPS units in 29 states, Zinke touted the contribution of \$30 million in matching funds from nonprofit groups like the Rocky Mountain Conservancy.

"This is an example of everything good about public-private [partnerships and] people that are passionate about our public lands, coming together, not only volunteer hours, but fundraising to do these projects we need," Zinke said (E&E Daily, July 24).

But Zinke later dismissed the idea that NPS could turn to corporate sponsorships to address its budget shortfall.

"On parks, we have to be sensitive to a public-private partnership because we never want it to be like Disneyland," he said.

Zinke went on to note that NPS units already bid out contracts for food vendors, campground management, boats, transportation and other services.

"You don't find the rangers making burgers," he joked.

Zinke said the Trump administration hopes to expand private management, particularly for transportation options in crowded parks like Rocky Mountain and Zion National Park, which already have some public transportation options. He has also expressed a desire to add wireless networks to NPS units to attract younger visitors.

"What we're looking at is longer-term contracts so they'll have incentives to invest in it," Zinke said. He later added: "I'm very conscious that our parks belong to us all."

But Zinke did demur from backing in-park recognition for private-sector sponsors.

Meanwhile, under an order approved by former NPS Director Jonathan Jarvis in late 2016, donors to NPS could receive in-park recognition ranging from named events to temporary signage, as well as recognition in interpretive programs or wayside signage, or even plaques, nameplates, paving stones or park furnishings.



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A note at the top of "Director's Order #21: Donations and Philanthropic Partnerships" states that the updated memorandum "reflects the evolving nature of this field and the importance of philanthropic partners to accomplish the work of the National Park Service."

Presidential scion Donald Trump Jr. also endorsed corporate sponsorships within the park system during a Theodore Roosevelt Conservation Partnership event shortly after his father won the presidential contest last year (Greenwire, Nov. 15, 2016).

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12. **INTERIOR: Deputy secretary nominee has history battling department**

E & E News, July 24 | Michael Doyle

The nominee for the No. 2 slot at the Interior Department has a history of suing the agency he's now poised to join.

The Senate is expected to approve David Bernhardt's nomination to be Interior's deputy secretary this evening (E&E Daily, July 24).

One suit remains active, involving a Wisconsin tribe unhappy over the department's rejection of a gaming compact amendment. Another suit, while closed, raised some still-unresolved irrigation drainage issues in California's San Joaquin Valley. A third, also closed, challenged decisionmaking by the department's Fish and Wildlife Service.

Taken together, the litigation record underscores the kind of policy as well as recusal challenges that will face Bernhardt as the Interior deputy secretary (E&E News PM, July 20).

"I'm not suggesting that just working for the private sector disqualifies someone, but when you have a wide range of issues that you have worked on in the private sector and now you are going to be on the other side of the table, it brings up concerns," Sen. Maria Cantwell (D-Wash.) said on the Senate floor Thursday.

An attorney with the firm Brownstein Hyatt Farber Schreck LLP, Bernhardt has assured senators he would "not participate personally or substantially in any particular matter involving" his former clients or "specific parties in which I know the firm is a party or represents a party" for two years, unless he receives permission.



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While much of the debate over Bernhardt's nomination has revolved around his work as a registered lobbyist for California's Westlands Water District and other interests, he has also been active as a litigator on behalf of parties at odds with Interior.

In 2012, for instance, court records show Bernhardt represented a California-based group called the Center for Environmental Science, Accuracy & Reliability (CESAR) in a lawsuit against FWS over delays in making an Endangered Species Act decision on the American eel.

"CESAR, its staff and its members are greatly concerned about the steep decline of the American eel and have various interests in the American eel, including aesthetic, educational, recreational, and scientific interests," Bernhardt and a colleague, Ryan Smith, wrote in the 14-page complaint.

But the group is not a standard-issue environmental organization.

CESAR's website identifies its executive director as Craig Manson, a former Interior official and general counsel for the Westlands Water District between 2010 and 2015. Several prominent San Joaquin Valley farmers were members of the board of directors in 2015, as was Bernhardt, according to an IRS filing.

The group's chairman, Jean Sagouspe, is a former Westlands board president.

The lawsuit was subsequently settled, with FWS agreeing to meet a deadline for an American eel decision and the Justice Department agreeing to pay Bernhardt's law firm \$8,000 in costs and fees, court records show.

In Congress, some of Bernhardt's Republican allies are now pushing legislation to limit Endangered Species Act-related lawsuits, as well as the amount in fees that attorneys can receive. Interior and FWS could play key roles in future negotiations over the bills (Greenwire, July 19).

Another component of Bernhardt's future Interior turf was targeted in a separate lawsuit he filed in 2015 on behalf of the Wisconsin-based Forest County Potawatomi Community.

The lawsuit, which remains active in the U.S. District Court for the District of Columbia, challenges Interior's 2014 rejection of the tribe's gaming compact amendment. The lawsuit also underscores some vital controversies facing Interior officials.



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"The issues in this case have the potential to bring into question the facts and circumstances under which the Department of Interior has approved or disapproved compacts and compact amendments in dozens of states," U.S. District Judge Colleen Kollar-Kotelly noted last year.

On behalf of Westlands, Bernhardt was part of the legal team that in 2012 filed a \$1 billion lawsuit against the federal government in the U.S. Court of Federal Claims. The suit sought damages for the Bureau of Reclamation's failure to build an irrigation drain serving the Westlands-area farmers.

A judge dismissed the lawsuit in 2013, and Westlands and Obama administration officials subsequently reached an agreement. The controversial irrigation drainage settlement is now the subject of legislation authored by Rep. David Valadao (R-Calif.), whose district includes Westlands.

"The United States and Westlands continue to believe that implementation of the Westlands Settlement is in the public interest, as well as in the interests of Westlands and its landowners, and American taxpayers," attorneys jointly stated Friday in a related case.

Bernhardt's fellow Colorado native, Republican Sen. Cory Gardner, noted Thursday that "there have been other nominees ... who practiced private law from the time between their public service appointments at the Department of the Interior and the time they would come back to the administration."

"Mr. Bernhardt has taken the same steps these nominees did in order for his nomination to move forward," Gardner said.

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