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Attached is the daily news report for July 17 19.

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DAILY NEWS REPORT - UTAH

UTAH – TOP STORIES – JULY 17-19, 2017

1. **Study shows public land user fees leave low-income citizens feeling priced out**

The Standard-Examiner, July 16 | Leia Larsen

Imposing fees at public lands — like those looming for Pineview Reservoir — could dissuade low-income residents from recreating.

2. **Let's talk about Bears Ears designation**

The (St George) Spectrum, July 18 | Tom Butine, Conserve Southwest Utah

Eric Clarke, District 71 legislative chair for the Washington County Republican Party, and Evan Vickers, District 28 state senator each wrote recent op-eds printed in The Spectrum & Daily News declaring that the Bears Ears National Monument should be reduced or rescinded.

3. **Wildlife rehab center in Utah rescued Golden Eagle severely burned in 2012 fire**

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However, the unique brace on his left foot offers a hint at the challenges he has endured.

4. **EPA administrator in Utah to get input on water rule, other regulations**

KSL News, July 19 | Amy Joi O'Donoghue

SALT LAKE CITY — Utah's conservative political leaders, farmers and ranchers are hopeful a Tuesday roundtable discussion with the head of the U.S. Environmental Protection Agency will result in a new regulation that provides clarity on which bodies of water fall under federal oversight.



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E&E/NATIONAL NEWS – TOP STORIES

1. **Old West-style land war in Colorado Rockies pits ranch widow against oil company**

The Denver Post, July 17 | Kirk Mitchell

PICEANCE CREEK — The frenzied cows circled recklessly in a dust cloud, desperately searching for their missing calves amid a tangled maze of sagebrush on a mountain slope.

2. **Retrial begins for 4 defendants in Nevada Bundy standoff**

The Salt Lake Tribune, July 18 | The Associated Press

Las Vegas • Armed assault and lawful protest were the opposing scenarios presented to a federal jury hearing the retrial in Las Vegas of four men who bore assault-style weapons during a standoff that stopped government agents from rounding up Nevada rancher Cliven Bundy's cattle in April 2014.

3. **Op-ed: Will Interior Secretary Zinke live up to expectation on oil and gas?**

The Hill, July 18 | Ryan Alexander

As the new Secretary of the Interior, Ryan Zinke is responsible for managing all federal lands and waters along with the development of the resources on and underneath them. After only four months, Zinke has not wasted any time issuing 10 secretarial orders, considering more than a dozen rule changes and posting almost 300 notices.

4. **NEVADA STANDOFF: Roger Stone urges Trump to pardon the Bundys**

E & E News, July 17 | Jeremy P. Jacobs

Roger Stone, a former longtime and controversial adviser to President Trump, urged the president over the weekend to pardon Cliven Bundy and his sons as they prepare to stand trial for the 2014 armed standoff at the family's ranch in Nevada.



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5. **ENDANGERED SPECIES: FWS backs contentious Republican reform package**

E & E News, July 19 | Michael Doyle

The Fish and Wildlife Service today backed "in general" a package of Republican-authored Endangered Species Act reform bills that critics contend would gut the 1973 law.

6. **APPROPRIATIONS: Panel approves Interior-EPA spending bill**

E & E News, July 19 | Kellie Lunney and Sean Reilly

The House Appropriations Committee late yesterday approved a \$31.4 billion spending bill for U.S. EPA, the Interior Department and related agencies, giving them over \$800 million less than fiscal 2017 but rejecting many of the administration's steeper cuts for programs popular with lawmakers and constituents.

7. **ENERGY POLICY: Democrats look to weaken pipeline permitting bills**

E & E News, July 19 | Sam Mintz

Two bills aimed at reforming pipeline permitting are heading to the House floor as Democrats and environmentalists gear up to oppose them.

8. **FORESTS: Lawmakers tuck wildfire compromise in flood insurance bill**

E & E News, July 19 | Marc Heller

Lawmakers looking for a better way to pay for wildfires may have found an answer in the nation's insurance program for floods.

9. **LAW: Administration defends lifting of coal leasing freeze**

E & E News, July 19 | Ellen M. Gilmer

The Trump administration fired back yesterday at environmentalists' claim that it illegally lifted an Obama-era moratorium on federal coal leasing.



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10. **AIR POLLUTION: EPA seeks to freeze Utah regional haze litigation**

E & E News, July 19 Sean Reilly

U.S. EPA has agreed to revisit a contested plan to cut pollution from two Utah coal-fired power plants and is seeking to freeze litigation surrounding the plan, newly filed court documents indicate.



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UTAH – FULL STORY

1. Study shows public land user fees leave low-income citizens feeling priced out

The Standard-Examiner, July 16 | Leia Larsen

Imposing fees at public lands — like those looming for Pineview Reservoir — could dissuade low-income residents from recreating.

Research conducted by the Institute of Outdoor Recreation and Tourism at Utah State University revealed the impacts fees on national forests can have. A survey of people using various sites in the Central Wasatch Mountains found even nominal fees, like the \$3 charged to use Millcreek Canyon, dissuade many users.

“Even though (a fee) is pretty small and marginal relative to what people are spending to participate in outdoor recreation, it has a psychological effect, particularly on those with low income,” said Jordan Smith, director of the institute.

He co-authored a paper with the research results, published this week in the journal *Landscape and Urban Planning*.

The study found that many low-income public land users — those earning less than \$25,000 — will drive up to three times farther to avoid fees, even when travel costs considerably more.

The institute surveyed visitors to the Uinta-Wasatch-Cache National Forest in areas around Salt Lake City and Park City. The findings, however, are still relevant to other urban centers near public lands, like Ogden and Logan, Smith said.

Fees are just another factor that leave low-income and minority groups shut out of outdoor recreation and public lands, he added.

“It’s a pattern we see at the institute ... when we gather data from the Uinta-Wasatch-Cache (National Forest) generally,” he said. “We tend to see that incomes are higher and ethnic diversity is not as diverse compared to the surrounding population.”

PAYING FOR PINEVIEW



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Pineview Reservoir is a short drive and popular recreation site for those living in Ogden. Certain access points along the reservoir, like Anderson Cove and Cemetery Point, are managed by a concessionaire. They charge visitors between \$13 and \$16 for day use.

Weber County and the U.S. Forest Service plan to impose parking fees at three sites along the reservoir that currently provide free access — Windsurfer Beach, Pelican Beach and the North Arm trailhead — to help grapple with overcrowding and litter.

But Smith said his study suggests coming fees to the site could mean many members of the community feel excluded. Around 28 percent of Ogden households make less than \$25,000, according to U.S. Census data.

“We have some data that actually show when we start to charge fee for those sites, a good portion of the population feels like they can’t participate anymore,” Smith said. “That has some big ramifications for what that agency (the U.S. Forest Service), which manages land for the public good ... is providing to its constituents.”

The solution, he said, is making sure the U.S. Forest Service still maintains fee-free areas throughout the forest, even as they grapple with a growing urban population nearby.

The debate about fees on public lands isn’t new. Fees have long stoked the ire of those living in Utah and beyond, who view it as a double-charge or requirement to “pay twice,” the study notes, since taxes fund the U.S. Forest Service.

“There’s an open-access ethos in the West that it should be open and free to use,” Smith said. “But in reality, a lot of those fees go back to direct management of those specific sites.”

Lawmakers keep tightening public land agencies’ budgets. Funds allocated to the U.S. Forest Service in particular are increasingly diverted to wildland fires.

Day use and overnight fees at public lands are often the solution. The fees stay local and are used to improve the specific sites where they’re required.

“They’re important that way. With the forest service budgets the way they are right now, we don’t have funds or capacity to maintain our facilities,” said Ogden District Ranger Sean Harwood.



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The forest service uses fees to maintain campgrounds, toilets, fences, parking areas and information boards. At Pineview Reservoir specifically, they'll mostly be used for Weber County to conduct law enforcement.

"Pineview is a high-use area," Harwood said. "We don't have enough enforcement on the district, so we have to partner with Weber County and Weber County Sheriff. It costs money to have those guys help us out."

Although Pineview Reservoir is part of land managed by the U.S. Forest Service, Weber County will collect the parking fees. The funds will also be used to maintain parking areas — repairing pavement, maintaining restrooms and adding fencing, Harwood said.

Weber County and the U.S. Forest Service haven't determined how much they'll charge for the parking fees.

"It's not going to happen this season for sure, we don't have infrastructure in place," he said. "It will be minimal."

There are also long-term plans for parking fees at Causey Reservoir, but Harwood said he doesn't think the future fees will impact low-income individuals from Ogden and nearby areas in the county.

"What we've found is a lot of people who come to Pineview aren't from Ogden, they come from the Salt Lake area," he said. "I don't see it as a deterrent. It's something I feel is necessary. We absolutely can't keep up with the issues that are at Pineview without some type of help — partnering with the county is going to be good for everybody."

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2. **Let's talk about Bears Ears designation**

The (St George) Spectrum, July 18 | Tom Butine, Conserve Southwest Utah

Eric Clarke, District 71 legislative chair for the Washington County Republican Party, and Evan Vickers, District 28 state senator each wrote recent op-eds printed in The Spectrum & Daily News declaring that the Bears Ears National Monument should be reduced or rescinded.



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We recently sent them a letter asking for a dialogue to better understand the basis for their positions in facts and values, and to share ours with them. A review of the basis for their positions follows:

Mr. Clarke's central point is that an American founding principle, "government closest to the people is best," demands that the Bears Ears National Monument designation be changed. He doesn't provide a reference to this principle, and we haven't been able to find one.

Let's assume it's true and address the key questions:

Who are the people and what is best? Since these lands have been owned by all Americans since they became part of the country, the people should mean all Americans. Yet he implies an entitlement exists: If you have chosen to live near these lands, you are entitled, more than all other Americans, present and future, to use them as local officials think best.

He further implies that best means that those entitled people, and the corporations that would employ them, are to profit from them, more than other owners, even if this renders them damaged. These implications would surely be disputed by the majority of owners. Federal agencies are mandated by those owners to manage them in interest of all Americans, current and future.=

The Bears Ears designation as a national monument follows that mandate. What proposed mandate justifies overturning this designation? What interpretation of this founding principle would support it?

Here's an alternate principle: Decisions based on perceived benefits to narrow populations are more likely influenced by short-term economic pressures, driving those decisions to adversely affect wider interests.

Sen. Vickers' op-ed focused on a supposition that these lands should be managed for multiple use. He doesn't mention which multiple uses he supports, but implies that Bears Ears is too restrictive. However, its designation allows almost every kind of public land use, including all existing rights, only excepting new applications for destructive uses such as mining, logging and excessive grazing.

These uses violate the mandate established by the owners of these lands. Of these restricted uses, fossil fuels and uranium mining are probably key. The facts underlying their future economic and environmental viability open another conversation.

The size of the Bears Ears is very close to that specified in Public Lands Initiative by our congressional delegation. The allowed uses of the land are broad. The owners of the lands are overwhelmingly in favor of protection. Communities near protected lands grow economically. Native Americans overwhelmingly support it (and deserve it). Utahns are largely in favor.



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We're seeking to understand the factual basis for changing the designation. We're in favor of state and local input regarding the protections, but only federal management can ensure they are managed properly for the owners.

Tom Butine is board president of Conserve Southwest Utah and co-leader of the St. George Chapter of the Citizens' Climate Lobby.

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3. Wildlife rehab center in Utah rescued Golden Eagle severely burned in 2012 fire

The Standard-Examiner, July 18 | Matilyn Mortensen

OGDEN — To the casual observer, Phoenix appears to be a happy, well adjusted, adult golden eagle.

However, the unique brace on his left foot offers a hint at the challenges he has endured. On June 21, 2012, when Phoenix was a few months old, he was critically injured in the Saratoga Springs Utah Dump Fire. Too young to fly away from the danger, Phoenix suffered third degree burns.

Death would have been certain for most animals injured so severely. But unlike other animals, Phoenix had someone who knew to come looking for him.

On June 1, a few weeks before the fire, Phoenix had been marked by Kent Keller, a licensed Utah eagle bander.

Keller, a lifelong Utahn and wildlife photographer, started studying golden eagles in the wild in 1997 — the third longest study of these birds in the world.

When the fire was finished, Keller came back to the nest on June 28, assuming he would retrieve the band from a dead eagle.

“When I saw the size of (the fire) on the news...I was pretty sure it had got that nest,” Keller said.

Instead Keller found a badly charred, but alive Phoenix.



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Under federal laws protecting eagles even a rescue can be considered disturbing a bird. Although there are criminal charges associated this, had Keller disregarded these guidelines he would have risked losing his banding permit. Keller said it was evident that Phoenix's parents were still bringing him food, so he was not concerned Phoenix would die during the wait.

On July 4, Keller was granted permission to retrieve Phoenix and take him to the Wildlife Rehabilitation Center of Northern Utah.

"If it had not been for him, Phoenix would have perished," Buz Marthaler, co founder of the rehabilitation center said.

Marthaler and other team members at the center began working to save Phoenix's life. Due to the uniqueness of the bird's situation, much of the treatment was experimental.

"No one had ever seen an avian victim burned like this that survived," Marthaler said. "The protocols we were using were human protocols for burn victims."

The initial treatment included application of an antibacterial salve and hydrotherapy, Marthaler said.

Over the next three years, Phoenix underwent extensive rehabilitation for his burn injuries and made full recovery with the exception of his beak. Rather than the top beak growing neatly over the bottom beak, it grows slightly to the side.

This incorrect alignment would have eventually prevented Phoenix from being able to feed himself. Fortunately it can be treated with routine shaping and filing by caretakers to keep it aligned. This necessity is why he was deemed unreleasable.

And the trouble wasn't over for Phoenix after that.

He contracted West Nile Virus on Sept. 11, 2015. Fortunately the center had medication to treat virus from a previous incident affecting bald eagles in 2014.

The virus deploys a neurological attack and it left Phoenix blind in his right eye and unable to stand on his left foot. Marthaler said Phoenix did physical therapy for a year in hopes of regaining control of his foot. His condition has improved, but he still wears special brace to keep



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his talons from curling up. His progress continues slowly but it's not known if he'll ever fully recover.

Before the West Nile sickness, the center began the process to get Phoenix certified as an education bird so he could remain with the Wildlife Rehabilitation Center of Northern Utah.

It took more than a year and the center went through plenty of hoops to get the designation. They had to become a certified museum and submit extensive paperwork to prove their ability to care for the bird.

Federal licensing also requires the bird be offered to all Native American tribes in the United States before it can become an educational bird — many tribes have been building up eagle aviaries Marthaler said, so that they have easier access to eagle feathers.

The center received the final permit needed on Aug. 24, 2016. Marthaler said the center was excited to keep him because they worried if he went to a large aviary the incredible story of his survival would be lost.

Keller is disappointed to see Phoenix unable to return to the wild, but hopes the children and adults who observe him up close will be touched by his story.

"Phoenix has a story that really needs to be told. He's an eagle Smokey the Bear, if not even more intense than that with everything he has been through," Marthaler said.

Right now Phoenix has only done one-on-one educational programs. Marthaler said the center is still working on the details for a larger program. One obstacle they face is because of Phoenix's foot injuries, he can't sit on the arm of a handler.

One reason it is important for people to learn about Phoenix, Marthaler said is the majority of animal injuries they respond to each year are human caused.

"What happened to (Phoenix) in both cases is not something a normal eagle would have seen 100 years ago," Marthaler said.

Because people are often the ones hurt animals, Marthaler said it is important for humans to also step in and help them. Additionally, he wants people to think more deeply about wildfire consequences for animals.



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"Unless it's got a human price, they don't think about all the devastation that is going on out there," Marthaler said.

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4. **EPA administrator in Utah to get input on water rule, other regulations**

KSL News, July 19 | Amy Joi O'Donoghue

SALT LAKE CITY — Utah's conservative political leaders, farmers and ranchers are hopeful a Tuesday roundtable discussion with the head of the U.S. Environmental Protection Agency will result in a new regulation that provides clarity on which bodies of water fall under federal oversight.

EPA Administrator Scott Pruitt visited Utah as part of multistate tour to get input on how the agency can be more responsive to states' needs in general and in specific how the controversial Waters of the United States rule should be retooled.

During his tour of Utah, Pruitt stopped off at the Bitner Ranch and Conservatory in Park City to get a firsthand look at a small pool of water that falls under federal regulation due to the rule, as well as a subdivision development hampered by permitting requirements.

"We want to provide clarity to private property owners across the country that the overreach, that the definition offered by the previous administration is going away," said Pruitt, who in his former role as Oklahoma attorney general crafted one of many states' challenges to the Obama-era rule.

"When you define waters of the United States to include dry creek beds, drainage ditches and puddles — and that is not really an editorial comment — that impacts literally how you use your land all over the country," he said.

Pruitt is acting under the direction of an executive order issued in February by President Donald Trump that called for a rollback of the so-called WOTUS rule, which inspired a firestorm of controversy when it was adopted in 2015.

Although celebrated by sportsmen's groups and environmental organizations as the most comprehensive and significant overhaul of the Clean Water Act in more than 40 years, the rule



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raised the ire of states, farmers, ranchers and industry officials who complained about its scope and ambiguity.

At the time of its adoption, federal regulators insisted the rule only clarified protections for seasonal waterways that are critical to downstream communities. The EPA and Army Corps of Engineers contended the rule did not expand the scope of jurisdictional oversight — an assertion hotly contested by the National Association of Counties, which argued even ditch maintenance projects would require a Army Corps of Engineers permit.

In late June, Pruitt initiated a proposal to repeal the Waters of the United States rule and later invited states to offer their input on a new regulation that would incorporate a standard in a 2006 U.S. Supreme Court decision. That test said federal jurisdiction would only apply to "relatively permanent, standing or continuously flowing bodies of water."

Pruitt said the problem with the EPA during the fledgling existence of the rule is that it was applied on a case-by-case basis.

"What I hear consistently is that we need regulatory certainty. We need to know where federal jurisdiction begins and ends. Decisions were being made after the fact," he said, stressing that land-use decisions were being impacted by the rule all across the country.

"That really isn't beneficial."

Utah Farm Bureau President Ron Gibson accompanied Pruitt on the tour Tuesday and praised the EPA action.

"The flawed WOTUS rule created uncertainty for farmers and ranchers across the country, allowing federal agencies to micromanage farming practices and impose unworkable regulations," Gibson said.

The rule was troubling for Utah's farmers and ranchers because it extended jurisdiction to any low spot where water collects, including farm irrigation ditches and fields, ephemeral drainages, livestock watering ponds on private and public lands, as well as isolated wetlands, Gibson said.

The American Farm Bureau Federation was among the most ardent critics of the rule, pointing to a California farmer who faced fines of nearly \$3 million for plowing a wheat field that created a discharge into a regulated waterway. In that case, the waterway was the Sacramento River



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located 8 miles away and connected to a creek that only carried water during times of heavy runoff, according to the organization.

Utah, as the second driest state in the nation, is home to multiple washes and drainages that only contain water intermittently. Critics feared those would fall under federal regulation.

Environmental groups and conservation organizations that include the Theodore Roosevelt Conservation Partnership favored the regulation, citing its protection of wetlands — particularly the Prairie Pothole Region that is home to upward of 70 percent of the ducks in North America.

Seven scientific organizations that include the Society of Wetlands Scientists argued in a letter to Trump that the rule should be left intact.

In a separate announcement during his visit, Pruitt said the EPA will revisit a previous ruling on Utah's regional haze plan, allowing the state to come up with additional visibility modeling to look at impacts from a pair of PacifiCorp-owned power plants to nearby national parks.

"Historically, the state of Utah, their voice has not been heard," Pruitt said.

The regional haze rule, which only carries a visibility standard, is designed to protect views in scenic regions of the country.

Lindsay Beebe, organizing representative for the Utah Sierra Club, said Pruitt's visit ignored the voices of outdoor recreation leaders whose businesses are harmed by pollution in the parks and other organizations that want the state's public lands safeguarded from power plant emissions.

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E&E/NATIONAL NEWS – FULL STORY

1. Old West-style land war in Colorado Rockies pits ranch widow against oil company

The Denver Post, July 17 | Kirk Mitchell

PICEANCE CREEK — The frenzied cows circled recklessly in a dust cloud, desperately searching for their missing calves amid a tangled maze of sagebrush on a mountain slope.



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Their high-pitched wails were like nothing Susan Robinson had ever heard in five decades of working her mountain ranch in Rio Blanco County, and the pitiful bellowing left her frightened and nauseous.

Boot prints in the dirt told her what she had already suspected: Someone had stampeded her prime Black Angus cattle through a barbed-wire fence, driving them away from windmill-fed water holes and leaving them parched, injured and separated.

It was the latest in a series of what Robinson considers cruel provocations aimed at forcing her and her livestock off land the family has ranched for more than a century.

The Robinsons have used barbed wire, guns and gumption to protect their land and livestock since the early 1910s, when Joseph Robinson drove thousands of sheep from Paraguna, Utah, to Rifle. They survived the sheep and cattle wars, the Depression and countless trespassers.

But now the family faces a new adversary, one with deep pockets, a high-powered Denver law firm and a determination to explore and drill beneath the pastureland.

This clash between oilmen and ranchers could have been torn from the pages of a Zane Grey novel, but it reflects the present-day conflicts between commerce and tradition as oil and gas operations expand across Colorado. It pits a subsidiary of ConocoPhillips Co., headquartered in Texas, against Robinson, a softspoken, 69-year-old widow and grandmother who stands 5-feet-2 and — when she remembers — carries the pistol one of her four adult children gave her for protection on the sprawling ranch.

Although this land war is playing out along dusty canyon arroyos, its resolution likely will come in a federal magistrate courtroom in Grand Junction. Robinson's attorneys filed a civil lawsuit in June in U.S. District Court in Denver. A trial will confirm or deny her ownership of the piece of land for which she has no deed or title.

Land wars

The property war began a few weeks after the death last year of Larry Robinson, Susan's husband, a brawny rancher who had always handled trespassers with a commanding voice and the unspoken threat of a rifle sticking out of his horse-saddle scabbard.



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Susan lives alone now in a spacious log cabin timbered from mammoth pine trunks on their property that is decorated with the skins and stuffed carcasses of coyotes and mountain lions trapped or shot after slaughtering or threatening Robinson sheep.

Four generations of Robinsons have ranched 560 acres of land 20 miles north of Rifle. Robinson also claims the ranch includes 2,535 acres (nearly 4 square miles) of foothills and canyons a few miles south of their deeded property. Tens of thousands of Robinson sheep and cattle carrying the family brand have pastured up and down the winding canyons and grassy fields on the Piceance basin over the years. Three creaky windmills erected by the Robinson clan decades ago still draw spits and bursts of water through a pipe extending deep beneath the ground and up into ponds and rusty steel watering troughs. There are more than a dozen catch ponds scattered through the lands accessible by a matrix of dirt roads constructed and maintained by the Robinsons.

For 14 years, the Robinsons paid for a grazing permit from the Bureau of Land Management. But in 1986, The Oil Shale Corp. of Midland, Texas (TOSCO), a ConocoPhillips subsidiary, acquired the 2,535 acres along with thousands of other acres of land.

"It's our land. It's not theirs. It belongs to us," Robinson said. "It's all about money to them. I'm sure."

Robinson now hopes to acquire title to the contested 2,535 acres through a Colorado statute based on a legal concept rooted in English common law called "adverse possession." It requires her to prove her possession of the property has been "hostile, actual, exclusive, adverse, under a claim of right, and uninterrupted" for 18 years, said Glenwood Springs attorney David McConaughy, who defends her interests along with Avon attorney Jason Buckley.

Her attorneys also are relying on a second legal theory, a prescriptive easement, which would allow Robinson to continue limited use of the land for watering and grazing.

"TOSCO came back with both barrels blazing," said McConaughy, referring to its hiring of Colorado's largest law firm, Holland and Hart.

TOSCO's attorneys, Christopher Chrisman and Kurt Tyler, wrote in their brief that Robinson can't even articulate the elements of adverse possession, let alone prove them. The brief claims



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the oil company allowed the Robinsons to graze their livestock on the land between 1986 and 2016.

TOSCO has asked Magistrate Judge Gordon Gallagher to dismiss Robinson's lawsuit. It says in the 30 years that TOSCO allowed Robinson cattle to graze on the land, family members never notified the company that they owned the land.

Meantime, TOSCO built a pipeline and did some exploratory drilling on the property, and the Robinsons never told them to leave, the company motion says. Joint possession thwarts Robinson's adverse possession claim, which must be exclusive, it argues.

"The mere continuation of her previous grazing practices is simply not sufficient to establish an adverse possession or prescriptive easement claim," the motion says.

TOSCO's motion says Robinson's adverse-possession claim fails because she hasn't been adverse at all.

The Robinsons argue they have been adverse, hostile and have chased people off the land for more than just over the past 18 years.

When Robinson drives her pickup truck into Rifle, she often stops in at the Shooter's Grill for a chili burger. On the wall is a metal sign that aptly reflects community sentiment: "Prayer is the best way to meet the Lord; Trespassing is faster."

She traces the land battles all the way back to Joseph Robinson, her late husband's grandfather.

"They moved right in the middle of the sheep and cattle war. Even though he was 6-feet-8 he didn't leave it to chance. He had his gunslinger, so they (cattlemen) didn't bother him. Nobody trespassed on him," Robinson said.

"Larry was a believer that nothing was gray. It was black or white, right or wrong. Trespassing was wrong. Nobody pushed him around," Robinson said.

Survival



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Robinson arrived on the ranch in December 1965, shortly after her marriage to Larry. It was 28 degrees below zero the first night.

"I thought I'd died and gone to hell," she said. She has been living here ever since then.

"There's a peace and tranquility here that you can't find anywhere else on earth," she said. Years ago when oil-company trustees offered Robinson and her husband \$4 million for the ranch, the couple turned them down.

But in 1999, Larry suffered a heart condition, which sapped his energy. He died on Feb. 22, 2016. He was 70.

During calving season not long after, when Robinson and her daughter brought scores of calves into the world amid bitter cold, a woman showed up at her cabin's doorstep.

The TOSCO employee wanted Robinson to sign a lease agreement.

"I was dead tired and I was pretty sure we owned all of this land," Robinson said. "I asked her, 'Were you aware my husband died recently?' " The TOSCO employee replied, " 'Oh, yeah, sorry.' She was pretty brassy about it."

Robinson said that in the 31 years TOSCO claimed the land, she had never seen oilmen. No wells pump oil on the land. She refused to sign the lease and called an attorney. Later, she said, she learned that TOSCO had acquired the land from the BLM through a controversial 1800s mining law for \$2.50 an acre.

"TOSCO acquired title to the surface land from the BLM along with mining claims in the area," ConnocoPhillips spokeswoman Davy Kong said in a statement. She declined to divulge the cost of the sale.

BLM spokesman Steven Hall said he couldn't confirm that the TOSCO land was acquired in 1986 along with tens of thousands of acres through the 1872 federal mining law, but added that it is "certainly likely." Oil shale companies bought mining claims and then converted the acreage into private property through a series of lawsuits in the 1980s, he said.



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In early June this year, Robinson went to check on her cattle and found a fence with no gate that had been built directly across the road and up steep canyon walls on both sides.

"I was fenced out of my own property," she said. "They openly admitted they built the fence to force me to sign the lease."

A few days later an acquaintance told her he saw her cattle on a dry plateau with no water. She drove up the canyon and heard loud bellowing before she saw her cattle.

"The calves' eyes were bugging out. I brought all those babies into the world. Some of them have been orphaned from their mothers. I haven't been able to find all of them," Robinson said. She added that without water, her cattle could have died. Many were injured and had lost weight.

TOSCO claims its employees gave Robinson numerous notices before building fences. Her ranching neighbors signed identical leases without complaint, according to Kong's statement.

"... Due to her refusal to sign a lease, we notified her months ago that TOSCO would exclude her and her cattle from the property. This notice was given far in advance so that she would have adequate time to make other arrangements for her cattle. Ms. Robinson instead chose to release her cattle onto the TOSCO property before a fence could be completed.

"In an effort to ensure that no cattle are harmed by the fence, TOSCO has intentionally left gaps in the fence to allow the cattle to move freely for the remainder of this year's grazing season. Furthermore, TOSCO employees and contractors have neither herded the cattle nor interfered with them," the written statement says.

The same day that Robinson's cattle stampeded she saw two of TOSCO's fence builders and asked them if they were responsible. They denied it, but one walked behind a truck, hiding his boots.

"It was like the wild west in a way. It was all just harassment," Robinson said.

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2. Retrial begins for 4 defendants in Nevada Bundy standoff

The Salt Lake Tribune, July 18 | The Associated Press

Las Vegas • Armed assault and lawful protest were the opposing scenarios presented to a federal jury hearing the retrial in Las Vegas of four men who bore assault-style weapons during a standoff that stopped government agents from rounding up Nevada rancher Cliven Bundy's cattle in April 2014.

Acting U.S. Attorney Steven Myhre displayed photos and told jurors during opening statements on Monday that evidence will show the defendants used what he called "the working end of a rifle barrel" to bend the law to their will, the Las Vegas Review-Journal reported.

"These four defendants . got on a bridge, armed with semi-automatic rifles, and threatened to shoot law enforcement officers who stood below them in a wash," Myhre said as he urged the jurors to focus on the conspiracy, assault on a federal agent, weapon and other charges against the defendants.

Defense attorney Richard Tanasi, representing Idaho resident Steven Stewart, countered that the defendants were just individuals protesting the U.S. government.

"This case is about standing up for what you believe in. Nothing more, nothing less," Tanasi said.

The defense openings represented a condensed version of statements that attorneys gave in February, at the onset of a trial that resulted in a jury finding two co-defendants guilty in April of some charges, but failing to reach verdicts for Scott Drexler, Richard Lovelien, Eric Parker and Stewart.

Rulings since then by Chief U.S. District Judge Gloria Navarro have barred the defense from referencing constitutional rights to freely assemble and to bear arms.

Defense attorneys are also barred from mentioning alleged misconduct or excessive force by law enforcement.

Those arguments represented the core of the defense case in the first trial, as lawyers said their clients came from other states to Bunkerville, Nevada, after viewing online postings depicting



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law enforcement officers using stun guns and police dogs to control angry protesters and Bundy family members.

Defense attorney Todd Leventhal, representing Drexler, told the jury on Monday that his client "saw images that shocked his conscience" and traveled from Idaho to Nevada because he believes "no man is above the law, badge or not."

Attorney Shawn Perez, who represents Lovelien, noted that "not a shot was fired, not a bottle was thrown, not a rock was thrown" during the standoff, and that "nobody was injured, and everyone went home."

Myhre accused the four men of conspiring with Bundy to thwart the federal government's roundup of roughly 1,000 cows from public land.

The cattle impoundment operation followed a decades-long dispute over grazing rights that pitted Cliven Bundy against the Bureau of Land Management.

Both sides on Monday characterized the grazing dispute as peripheral to the trial.

The men are charged with conspiracy, extortion, threats, assault, obstruction of justice, and weapons counts. If convicted of all counts, they face a mandatory minimum sentence of 57 years in prison.

Bundy, his sons Ammon and Ryan, and two other defendants are due for trial later this year. Six others, including two other Bundy sons, are slated for trial next year.

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3. **Op-ed: Will Interior Secretary Zinke live up to expectation on oil and gas?**

The Hill, July 18 | Ryan Alexander

As the new Secretary of the Interior, Ryan Zinke is responsible for managing all federal lands and waters along with the development of the resources on and underneath them. After only four months, Zinke has not wasted any time issuing 10 secretarial orders, considering more than a dozen rule changes and posting almost 300 notices.



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But the challenge and opportunity at the Department of Interior is tackling the well-documented shortcomings of our nation's energy and mineral management programs. For now, the jury is still out on whether these and other actions by Zinke will help fix the agency and get taxpayers the fair return we are due.

When it comes to how the department manages energy and natural resource development on federal lands, evidence of the system's flaws is almost overwhelming. The Government Accountability Office (GAO), Congress's investigative arm, has issued dozens of reports on the department's oil and gas portfolio alone, detailing problems with general oversight of onshore and offshore oil and gas production, production volume verification, liabilities, permit processing, bonding, royalty rates, general revenue, natural gas emissions and more.

In our own analysis of industry-reported data, we found that the amount of natural gas vented or flared on federal lands more than tripled from 2006 to 2015. Of all gas wasted in that time period, moreover, more than 90 percent was not charged a royalty.

The department's track record has been so precarious that in 2011, the GAO added "Management of Federal Oil and Gas Resources" to its "High Risk List," which catalogs government programs that are vulnerable to "fraud, waste, abuse and mismanagement, or are most in need of transformation." After evaluating the department's progress in addressing the issue, the GAO noted that two 2016 rulemakings – one by the Bureau of Land Management addressing venting and flaring of natural gas, and one by the Office of Natural Resources Revenue addressing oil, gas and coal valuation – would have taken some steps in the right direction.

However, under Zinke, the department has repealed the valuation rule and put the natural gas waste rule on hold, leaving the fate of efforts to reform federal oil and gas management in doubt. The same has been true of the department's actions regarding the federal coal system, where a comprehensive review of the federal coal program was in process. There are a number of problems with the federal coal program that merited such a review, such as the lack of competition in the leasing process, and the inadequacy of certain bonding requirements, just to name two.

Zinke has voiced support for managing oil, gas, coal and other natural resources with taxpayers in mind. This spring Zinke announced the chartering of a new Royalty Policy Committee to examine how the department can get fair market value for all federal resources. In a written statement, Zinke



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noted, "It's important that taxpayers get the full value of traditional and renewable energy produced on public lands."

But whether or not the new committee will lead to concrete proposals to reform energy and natural resource management remains to be seen. The secretary's words suggest he has the right intention when it comes to getting a fair return for taxpayers, but only time will tell if his intentions lead to meaningful changes. In the meantime, taxpayers await a verdict.

Ryan Alexander is president of Taxpayers for Common Sense. She testifies regularly in Congress on a wide range of topics relating to federal spending, subsidies, and fiscal policy.

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4. **NEVADA STANDOFF: Roger Stone urges Trump to pardon the Bundys**

E & E News, July 17 | Jeremy P. Jacobs

Roger Stone, a former longtime and controversial adviser to President Trump, urged the president over the weekend to pardon Cliven Bundy and his sons as they prepare to stand trial for the 2014 armed standoff at the family's ranch in Nevada.

Speaking at a Las Vegas rally for the Bundys, Stone said he would lead a petition calling on Trump to "review this case in the name of justice, in the name of mercy, in the name of fairness — pardon every member of the Bundy family."

The Bundys, including Cliven and his sons Ammon and Ryan, await trial in Nevada on more than a dozen federal charges stemming from the armed standoff in Bunkerville.

In remarks lasting about 15 minutes that were posted on his Facebook page, Stone used incendiary language to describe the alleged plight of the Bundys, specifically naming the Bureau of Land Management, U.S. EPA and FBI, which are "threatening death."

"This is the oppressive end of a military, jackbooted government, that has lost all sense of reality, of law, morality or the U.S. Constitution," he said.



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However, Stone also said violence and "gun play" are "not the answer." Instead, he encouraged Bundy supporters to sign the petition he is leading asking Trump to pardon the Bundys.

"I have known Donald Trump, the president of the United States, for 40 years. He is a just man. He is a decent man. He is an honest man. He is a compassionate man. He is a believer in the U.S. Constitution," Stone said. "He answers only to the American people."

Despite their lengthy relationship, it is unclear how much influence Stone has on Trump now that he's in the White House.

Stone, a longtime operator in Republican political campaigns dating back to Richard Nixon, and Trump have at times embraced and distanced themselves from each other. Stone has been known to peddle unverified conspiracy theories, and bigoted remarks on Twitter have led several television news organizations to ban him from their networks.

The Nevada standoff, in which supporters aimed sniper rifles at federal agents, stemmed from BLM's attempt to seize Bundy's cattle because of more than \$1 million in unpaid grazing fees. Litigation has been divided into three trials. The first, for lesser players in the event, ended in a mistrial. A retrial is underway, and the Bundys are slated for trial in the second phase, about a month after a verdict in the retrial.

Stone was also critical of Attorney General Jeff Sessions for supporting the prosecutor. Sessions, who previously voiced some support for the Bundys, said last week that he would not be "taking sides" in the litigation and praised the lead prosecutor in the case (Greenwire, July 13).

Trump's position toward the Bundys has been hard to read.

During the 2014 standoff at the Bundy ranch, Trump said of Cliven Bundy on Fox News: "I like him, I like his spirit, his spunk."

He said Bundy "ought to go and cut a good deal right now."

But Trump has opposed transferring federal lands to states or citizens, a view that is also held by his appointees, including Interior Secretary Ryan Zinke.



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5. **ENDANGERED SPECIES: FWS backs contentious Republican reform package**

E & E News, July 19 | Michael Doyle

The Fish and Wildlife Service today backed "in general" a package of Republican-authored Endangered Species Act reform bills that critics contend would gut the 1973 law.

But in a sign of negotiations to come, the agency's acting director advised lawmakers that certain "technical modifications" are still needed to meet specific concerns.

"In Western states, the law and certain species have become lightning rods for intense disagreement," acknowledged Fish and Wildlife Service acting Director Greg Sheehan, adding that "the administration is committed to making the ESA work for the American people."

The administration now supports, Sheehan noted, part of a bill — [H.R. 717](#), from Rep. Pete Olson (R-Texas) — that would remove current 90-day and 12-month deadlines for making decisions on species listing decisions.

Sheehan likewise voiced support for part of a bill, [H.R. 1274](#), from Rep. Dan Newhouse (R-Wash.), that would require the Fish and Wildlife Service to consider all data submitted by state, local and tribal governments.

At the same time, Sheehan cautioned that officials wanted to "work with" lawmakers on a proposal also in Olson's bill "to better understand how economic impacts should be appropriately considered" in deciding whether to list a species as threatened or endangered. His comment was an oblique way to raise concerns about the measure requiring the consideration of costs in listing decisions rather than later in the protection process.

Sheehan likewise raised doubts about a Newhouse bill provision that would automatically deem all state, local and tribal information to be "the best scientific and commercial data available" in guiding decisions. Sheehan said the provision would be a "significant departure from scientific integrity standards."



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"My goal as the acting director of the service is for the organization to be a better neighbor and partner to the states," Sheehan told the House Natural Resources Committee.

Sheehan was previously director of the Utah Division of Wildlife Resources. It is not clear how long he will oversee the federal agency, as the Trump administration has not yet nominated a permanent Fish and Wildlife Service director or an assistant secretary for fish, wildlife and parks.

Utah Republican Rep. Rob Bishop, the chairman of the panel, convened the standing-room-only session as part of the committee's ongoing scrutiny of the law. He noted that in the past four Congresses, the committee has held "more than 50" related hearings.

Getting legislation to the president's desk has proved much trickier.

"It is my hope that, in coordination with our colleagues in the Senate and this administration, we can lay the foundation for ESA reform that creates better outcomes for both species and communities," Bishop said.

The committee's senior Democrat, Rep. Raúl Grijalva of Arizona, countered that the "Endangered Species Act does not need congressional meddling to work better."

"These bills are an embarrassment and a waste of time," Grijalva said.

Jeff Corwin, identifying himself as a "wildlife biologist, author and television host," testified on how he has enjoyed "some amazing, intimate encounters with some of our world's most threatened and endangered species." Corwin hosts ABC's "Ocean Treks with Jeff Corwin."

Other witnesses spoke with more legislative specificity.

David Willms, policy director for Republican Wyoming Gov. Matt Mead, cited a set of recommendations drafted last year by the Western Governors' Association, including greater state participation and more flexible deadlines to avoid litigation (Greenwire, June 30).

But Rep. Jared Huffman (D-Calif.) noted that the WGA also recommended spending more on protecting species, while the Trump administration has proposed cuts in funding.

"We've got a disconnect there," Huffman said.



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The committee also looked at [H.R. 2603](#), from Rep. Louie Gohmert (R-Texas), to provide that nonnative species in the United States shall not be treated as endangered or threatened under the ESA. Other bills under consideration are [H.R. 3131](#), from Rep. Bill Huizenga (R-Mich.), to adjust the hourly rates awarded to lawyers in ESA-related litigation, and [H.R. 424](#), from Rep. Collin Peterson (D-Minn.), to require the Interior Department to reissue final rules to delist the gray wolf as a protected species in the western Great Lakes and Wyoming.

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6. **APPROPRIATIONS: Panel approves Interior-EPA spending bill**

E & E News, July 19 | Kellie Lunney and Sean Reilly

The House Appropriations Committee late yesterday approved a \$31.4 billion spending bill for U.S. EPA, the Interior Department and related agencies, giving them over \$800 million less than fiscal 2017 but rejecting many of the administration's steeper cuts for programs popular with lawmakers and constituents.

The panel passed the measure in a 30-21 roll call following a marathon markup that started around 4 p.m. and ended just before 9 p.m., after members recessed for nearly two hours for a series of floor votes.

Lawmakers approved a series of amendments to the measure, including on wild horses but, like in previous years of Republican control, rejected Democratic attempts to remove policy riders.

The bill would cut EPA by more than \$500 million, from \$8.06 billion to \$7.5 billion. For Interior, the bill would provide \$11.9 billion, down from the \$12.3 billion Congress appropriated in the fiscal 2017 omnibus.

The White House wanted to slash EPA's budget by 31 percent and sought an approximate 13 percent cut for Interior in fiscal 2018. But Republican and Democratic appropriators in both chambers have said they were uncomfortable with cuts targeting a wide range of programs, from regional water cleanup efforts to land acquisition and conservation.

"This markup is another step in a long process," said Rep. Ken Calvert (R-Calif.), chairman of the Interior and the Environment Appropriations Subcommittee. "I look forward to coming together



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— as we do each year — to find common ground as this process continues." The Republican added, "We have made a sincere effort to prioritize critical needs within our allocation and address member concerns after reviewing nearly 5,200 member requests."

But the subcommittee's top Democrat, Rep. Betty McCollum of Minnesota, said she was "deeply disappointed" by the overall \$824 million cut included in the spending legislation.

"A cut of this magnitude endangers our nation's natural and cultural resources," said McCollum. "Once again, the Environmental Protection Agency is hardest hit by the cuts recommended in this bill. The EPA is slashed by \$528 million, shouldering a whopping 64 percent of the subcommittee's overall cut."

Still, the Democrat said she was pleased the legislation "rejects some of the Trump administration's worst proposals."

Not only does EPA absorb the bulk of the spending cuts in the overall Interior-environment bill, but the legislation continues a downward trend, McCollum said, that has cost the agency some 2,000 employees since 2010.

Water, air, climate

McCollum was equally opposed to the numerous policy riders salted into the bill. With an amendment, she sought to jettison 16. Among them: provisions to delay implementation of EPA's 2015 ozone standard, require EPA and other agencies to treat forest biomass as carbon-neutral, and restrict greenhouse gas reporting from manure management systems.

But she singled out language aimed at expediting President Trump's effort to repeal the contentious 2015 Clean Water Rule. The language would exempt a withdrawal of the regulation from the Administrative Procedure Act, eliminating the public comment process for reviewing rulemakings, among other things.

It would "give unprecedented power to the EPA" and allow the agency "to be above the law," McCollum said. She acknowledged that the Clean Water Rule has been extremely controversial and fiercely opposed by many Republicans but questioned why GOP lawmakers would "want to give the executive branch that much power."



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McCollum said, "With Republicans controlling the House and Senate and with a Trump White House, I see no reason for these riders."

Calvert argued that the language was not so nefarious and opposed removing it because the Clean Water Rule amounts to "government overreach." He said the bill as written would merely provide "clear authority" to EPA and the Army Corps to withdraw the regulation.

McCollum's amendment would have also struck language barring any funds from being used toward the National Ocean Policy. Rep. Chellie Pingree (D-Maine), in defending it, said the Coast Guard has emphasized the importance of such a policy, a plan put in place by the Obama administration in 2010 in an attempt to improve coordinating and planning between environmentalists and the various industries that use marine resources. The amendment failed in a vote of 19-31.

Other remaining riders include:

- A one-year delay on Endangered Species Act reviews and rulemakings for sage grouse.
- Language prohibiting the department from issuing federal protections for gray wolves across the continental United States.
- A ban on using funds to terminate operations or close any facility of the National Fish Hatchery System.
- A measure directing the Interior secretary to reissue two final rules removing recovered wolves in Wyoming and the Great Lakes from the endangered species list.
- A prohibition of funds for certain historic designations.
- A prohibition on the use of funds to limit recreational shooting and hunting on federal and public lands except for public safety.
- An extension of the authorization for the Chesapeake Bay Initiative.
- Language against new financial assurance requirements for hardrock mining under the Superfund law.

Democrats were similarly unsuccessful in their efforts to increase next year's budget for the Clean Water State Revolving Fund. The bill would provide \$1.14 billion in capitalization grants, a \$250 million cut from fiscal 2017, funding that Rep. Marcy Kaptur (D-Ohio) sought to restore with a failed amendment.



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The program, which provides loans to states hoping to upgrade their water infrastructure, "is exactly the kind of program we should be putting more money into, not cutting," argued Rep. Debbie Wasserman Schultz (D-Fla.).

Democrats fell short with two other hot-button amendments. The first, offered by Rep. Mike Quigley (D-Ill.), was aimed at ensuring the survival of EPA's 10 regional offices.

Calvert last night alluded to recent testimony from EPA Administrator Scott Pruitt in arguing that there was no reason for the amendment and that Congress in any case would have the final say on any proposed closures through the appropriations process.

McCollum, however, said that the White House Office of Management and Budget had told EPA to explore regional consolidation as a way of lowering rental costs. That threat remains, McCollum suggested.

"I think it's really important that we send a strong signal to OMB that we need our regional offices to stay where they are," she said. The amendment failed 21-29.

Also contentious was a proposal by Rep. Matt Cartwright (D-Pa.) to add language to the bill's report requiring agencies to prepare for the threats posed by climate change to their operations. The issue isn't partisan, Cartwright said.

"It's about responding to our current situation with grace and action," he said.

But even though report language is nonbinding, Calvert said he didn't want to give agencies "a blank check." Also voicing opposition was Rep. Evan Jenkins (R-W.Va.), who blamed the decline of the coal industry on Obama-era initiatives to curb greenhouse gas emissions that contribute to global warming.

With mines now starting to reopen, Jenkins said, "we cannot fall back on the flawed policies of the last eight years that put radical environmental policies first."

Quigley countered that market forces bore ultimate responsibility for coal's decline, but Cartwright's amendment also failed on a 21-29 vote.



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Wild horses

The committee approved an amendment by Rep. Chris Stewart (R-Utah) that would give Interior more flexibility to euthanize wild horses and would prohibit them from being used for human consumption.

"The status quo is no longer acceptable," said Calvert, speaking about the overpopulation of wild horses and burros. "We have way too many horses on the range for a healthy herd. It's time that we deal with this, and I do it with a heavy heart."

The amendment generated robust debate between Republicans who supported the measure, and Democrats who argued for a greater use of a contraception to cull the population.

Suzanne Roy, executive director of the American Wild Horse Campaign, the nation's leading wild horse advocacy organization, condemned the committee's vote on the amendment.

"Let's be clear: House Appropriations Committee members just signed a death warrant for America's mustangs and it will lead to the wholesale destruction of these irreplaceable national treasures," said Roy in a statement. "The Stewart amendment is a mass slaughter amendment, and its proponents are trying to hide that fact from the American public."

She added: "We will hold these Members of Congress to account for this public deception and unacceptable assault on our wild mustangs."

Other amendments passed include a manager's amendment containing noncontroversial items, a measure to prohibit any funds from being used for offshore wind turbine construction or plans less than 24 nautical miles from the Maryland shoreline and an amendment to ensure that steel and iron used in projects is manufactured by domestic companies.

LWCF, wolves, drilling

House appropriators provided more funds than the president requested for some Interior programs, including the payment in lieu of taxes (PILT) system and the Land and Water Conservation Fund. PILT and LWCF would receive \$465 million and \$275 million, respectively.



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Still, LWCF funding in particular has steadily declined in the past few years, despite its bipartisan popularity: The fiscal 2017 omnibus funded it at \$400 million, \$50 million less than the fiscal 2016 enacted level.

"A more than 30 percent cut to America's most important conservation program would do real, irreversible damage to the parks and places Americans care about and depend on for close-to-home outdoor recreation," said Tom Cors, director of government relations for lands at the Nature Conservancy, and a spokesman for the LWCF Coalition.

Rep. Jeff Fortenberry (R-Neb.) offered an amendment to increase money for the LWCF, which he noted is funded by oil and gas revenues. Calvert said LWCF would be a priority when appropriators craft a broader budget deal.

"I wanted to send a strong message to the administration that we don't agree with essentially zeroing out this program," he said. Fortenberry withdrew his language.

An amendment from Appropriations Committee ranking member Nita Lowey (D-N.Y.) that would have prohibited oil and gas drilling in the Arctic National Wildlife Refuge failed.

An amendment offered by Wasserman Schultz that would have prohibited funds in the bill from being used for new offshore oil and gas leases in the outer continental shelf failed on a 21-29 roll call vote.

The spending bill would cut funding for several Interior agencies in fiscal 2018, including the Bureau of Land Management, National Park Service, Fish and Wildlife Service and U.S. Geological Survey, albeit not as much as the administration had proposed in most cases (E&E News PM, July 12).

The Office of Surface Mining Reclamation and Enforcement would receive \$213 million for fiscal 2018, \$40 million less than in fiscal 2017. Regulation and technology would drop to \$113.9 million from \$121 million in fiscal 2017.

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7. **ENERGY POLICY: Democrats look to weaken pipeline permitting bills**

E & E News, July 19 | Sam Mintz

Two bills aimed at reforming pipeline permitting are heading to the House floor as Democrats and environmentalists gear up to oppose them.

H.R. 2883, from Rep. Markwayne Mullin (R-Okla.), would transfer approval authority for cross-border projects away from the State Department to the Federal Energy Regulatory Commission for pipelines and the Department of Energy for transmission.

H.R. 2910, from Rep. Bill Flores (R-Texas), would reinforce FERC's role as the lead agency for permitting interstate natural gas pipelines and would allow the agency to impose deadlines on other federal and state regulators.

Republicans say the bills would streamline and modernize the approval process and make it easier to expand energy infrastructure.

But environmental groups like the League of Conservation Voters have opposed the measures. LCV called them "dangerous handouts to the oil and gas industry" in a [letter](#) to members yesterday.

The organization is considering including the bills in its 2017 scorecard, which tracks the voting records of lawmakers on environmental legislation.

Flores' bill, LCV wrote, sacrifices public input and thorough environmental review, instead allowing FERC to fast-track approvals.

And Mullins' bill "eliminates many important longstanding procedures, undermining critical environmental and economic review by abolishing the requirement that a project obtain a presidential permit and be affirmatively determined to be in the public interest," LCV wrote.

President Obama used the presidential permit to block the controversial Keystone XL pipeline in 2015; the same authority was used by President Trump earlier this year to reverse that decision.



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Mullin said his bill would mean that the State Department, which submits a recommendation to the White House under the current system, could no longer "play politics" with the permitting process.

Rep. Bonnie Watson Coleman (D-N.J.) held a conference call with environmental and community groups in her district, calling the bills "unnecessary and damaging."

"I know we are overwhelmed with coverage on health care and this administration's collusion with Russia, and the continual attacks on our democracy from the White House, but I raise this issue to you all and others because you need to know that further damage is being done in plain sight," Watson Coleman said on the call, according to a spokeswoman.

Democrats put forward a number of amendments, but the Rules Committee only made in order three for each of the bills. For H.R. 2910, they are:

- An amendment from Reps. Niki Tsongas (D-Mass.), Jim McGovern (D-Mass.) and Don Beyer (D-Va.) to exempt projects from the bill if they are to be located on federal, state or local conservation or recreation land.
- An amendment from Rep. Stephen Lynch (D-Mass.) to direct FERC to consult with the Transportation Security Administration to ensure that projects are in compliance with appropriate security measures.
- An amendment from Beyer to improve FERC's public comment and transparency process.

For H.R. 2883, the amendments up for debate are:

- An amendment from Tsongas, McGovern and Beyer that states that FERC may not approve a cross-border project if any part of the pipeline would be located on federal, state or local conservation or recreation land.
- An amendment from Rep. Eliot Engel (D-N.Y.) to keep cross-border pipeline approval authority at the State Department.
- An amendment from Rep. Marc Veasey (D-Texas) to clarify the applicability of the National Environmental Policy Act to projects affected by the bill.

Neither piece of legislation has a companion in the Senate.



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8. **FORESTS: Lawmakers tuck wildfire compromise in flood insurance bill**

E & E News, July 19 | Marc Heller

Lawmakers looking for a better way to pay for wildfires may have found an answer in the nation's insurance program for floods.

Sens. Mike Crapo (R-Idaho) and Sherrod Brown (D-Ohio) included a wildfire funding solution in a bill reauthorizing the National Flood Insurance Program, which they introduced Monday.

Their bill proposes treating fires similarly to natural disasters like floods and hurricanes, tapping a disaster relief fund to cover suppression. That's an idea that has had wide support in Congress.

The broader measure would reauthorize the flood insurance program, which otherwise expires at the end of September, for six years. The bill, called the "National Flood Insurance Program Reauthorization Act," is numbered [S. 1571](#).

Treating fires like natural disasters for budget purposes has enough support that it could pass Congress alone, lawyers and lobbyists say.

But the idea has had trouble advancing, especially in the House, where a number of lawmakers say any budget change needs to be accompanied by changes in forest management — such as fewer restrictions on thinning forests for timber.

The House Republican leadership hasn't shown much interest in passing wildfire legislation without the management provisions, which would allow projects to go forward with less-stringent environmental reviews. Rep. Bruce Westerman (R-Ark.) is one of the leaders of that effort.

Crapo told E&E News yesterday that he supports many of the forest management measures his colleagues insist on but that he would rather address those separately.

"They generate more partisan opposition," Crapo said. "As much as I'm supportive of them, I want to try to keep the wildfire-forest fire solution separate because there is such broad bipartisan and stakeholder support of it."



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The main question, Crapo said, is how a wildfire funding measure reaches the Senate floor. He said he believes the Senate leadership would support a vote on wildfire budgeting without attaching forest management.

In the House, Rep. Mike Simpson (R-Idaho) has proposed a similar solution, but lawmakers such as Rep. Tom McClintock (R-Calif.), chairman of the Natural Resources Subcommittee on Federal Lands, have said a budgeting solution alone doesn't address the fire risk posed by overgrown forests.

The Forest Service and the Interior Department have dipped into non-fire accounts 12 times since 2002 because fire costs exceeded the budget. Funds are restored later, but conservation groups say the borrowing hurts programs that maintain forest health.

Several conservation groups praised the Crapo-Brown bill.

"While most people associate wildfire funding with public land, it affects private land as well — in the form of fire borrowing or transfers," said Tom Martin, president and CEO of the American Forest Foundation, in a news release. "Diverting these funds can be extremely disruptive to programming that helps ensure forest health across the country."

The AFF and other groups representing conservation, outdoor sports and timber interests have formed a coalition called the Partner Caucus on Fire Suppression Funding Solutions.

In addition to the wildfire issue, the legislation includes many flood insurance changes including requiring that homebuyers be notified of flood risk before purchasing a property and requiring the NFIP to use the most up-to-date technology for flood mapping.

"We have held multiple hearings and worked on a bipartisan basis to hear thoughts and concerns from the Program's stakeholders, regulators and from Banking Committee members," Crapo and Brown said in a statement. "This bill represents the many areas where we have found agreement, and we look forward to working with our colleagues to address outstanding issues."

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9. **LAW: Administration defends lifting of coal leasing freeze**

E & E News, July 19 | Ellen M. Gilmer

The Trump administration fired back yesterday at environmentalists' claim that it illegally lifted an Obama-era moratorium on federal coal leasing.

In a legal [filing](#) at the U.S. District Court for the District of Montana, government lawyers argued that ending the moratorium was well within the new administration's authority.

At issue is Interior Secretary Ryan Zinke's March decision to end a federal coal leasing pause instituted by the Obama administration in January 2016 to conduct a broad analysis focused on leasing's environmental impacts and royalty calculations. Zinke's action followed President Trump's "energy independence" executive order aimed at boosting domestic energy production.

Four states, several environmental groups and the Northern Cheyenne Tribe challenged the decision in court, arguing that the Trump administration violated the National Environmental Policy Act because it did not analyze the impacts of restarting the coal leasing program.

In yesterday's brief, government lawyers stressed that former Interior Secretary Sally Jewell's decision to pause leasing was discretionary, not made to meet any legal requirements. They argue that the Trump administration's reversal merely restarts the long-standing program — which requires NEPA analysis before any new leases are offered — so a separate NEPA review of the decision to lift the moratorium is unnecessary.

"Secretarial Order 3348 does not authorize new coal leasing without environmental review," the filing says. "Rather, it allows applications for leasing of federal coal to be submitted to the Bureau of Land Management and to be processed in accordance with law, which includes a requirement that BLM conduct NEPA analysis before any new leases are offered for sale."

BLM oversees coal resources on public lands across the country, with federal leases concentrated in the Powder River Basin in Wyoming and Montana. Interior estimates that combustion of coal from federal leases accounts for 14 percent of U.S. carbon dioxide emissions and 10 percent of total U.S. greenhouse gas emissions.



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The Sierra Club, WildEarth Guardians and several other environmental groups are pushing the district court in Montana to require Interior to refreeze the leasing program until the agency completes a programmatic environmental impact statement started by the Obama administration (Greenwire, March 30). In 2016, BLM held six public meetings for the review and received thousands of comments from stakeholders.

States challenging the Trump administration are California, New Mexico, New York and Washington. Wyoming and Montana, along with the National Mining Association, have intervened on the government's side.

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10. **AIR POLLUTION: EPA seeks to freeze Utah regional haze litigation**

E & E News, July 19 Sean Reilly

U.S. EPA has agreed to revisit a contested plan to cut pollution from two Utah coal-fired power plants and is seeking to freeze litigation surrounding the plan, newly filed court documents indicate.

In a [motion](#) yesterday, agency lawyers asked the 10th U.S. Circuit Court of Appeals to hold lawsuits brought by PacifiCorp and the state in abeyance while the agency administratively reconsiders the regional haze rule published last July.

Recent letters from PacifiCorp and the Utah Department of Environmental Quality "identify new information that was not available to EPA at the time it promulgated the final rule," the lawyers wrote in explaining the agency's decision to grant reconsideration.

Last week, EPA Administrator Scott Pruitt told the company and the Utah department that they provided "sufficient information regarding existing and new evidence" on cost factors and other differences between the federal plan and a previously proposed state alternative "to warrant reconsidering our prior action," according to reply letters attached to the motion.

As of this morning, the 10th Circuit had not ruled. In May, the court agreed to EPA's request for a 60-day delay in the briefing schedule for the consolidated litigation, partly on the grounds that the agency was seeking an administrative settlement.



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Pruitt's decision to now reconsider the plan furnishes the latest evidence of the Trump administration's gentler tack to enforcing regulations under the regional haze program, which is supposed to clear the skies around 156 national parks and wilderness areas by 2064. The Salt Lake Tribune [reported](#) that Pruitt, who was in Utah yesterday, personally delivered a letter outlining his decision to Gov. Gary Herbert (R).

Under the Obama administration, EPA had imposed the haze reduction plan after deciding that the state alternative would do too little to cut releases of nitrogen oxides (NOx) from PacifiCorp's Hunter and Huntington plants in central Utah.

Under the plan, the Oregon-based power producer would eventually have to reduce NOx releases from the two facilities by almost 10,000 tons annually; EPA predicted the plan would improve vistas in eight national parks. The state's air quality chief has objected that the tighter controls would yield little visibility improvement, despite a projected \$700 million price tag.

Nationwide, the Utah legal clash is one in a series of fights over the Obama administration's interpretation of requirements that older coal-fired plants adopt "best available retrofit technology" to cut haze-forming emissions. Among the critics has been Pruitt himself: As Oklahoma attorney general, he brought a lengthy, unsuccessful court challenge to a haze plan for that state.

"It shows an attitude of indifference," he said of EPA's approach at a Senate hearing in January on his nomination to head the agency, "an attitude of trying to be dictatorial in some respects toward the state's role or manipulative of the state's role in a way that's, I think, counterproductive for air quality" (Greenwire, Feb. 14).

Last week, EPA proposed giving three power plants in Arkansas another 18 months to meet NOx reduction requirements under a haze reduction plan for that state. The agency also recently sided with PacifiCorp and Wyoming state regulators in successfully urging the 10th Circuit to freeze legal proceedings in litigation over some elements of another haze plan while a partial settlement involving Basin Electric Power Cooperative is put into effect (Greenwire, June 20).

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