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CALIFORNIA

Thunderstorms spark concerns over lightning-caused fires, flash flooding

Reno Gazette-Journal, July 24 Scattered thunderstorms in Northern Nevada are creating concerns over lightning-caused fires and possible flash flooding, according to the National Weather Service. On Monday, fire crews with the Nevada Bureau of Land Management responded to at least 17 brush fires that sparked from lightning. Mostly of those fires ignited in areas north and east of Susanville near the California and Nevada state line, according to BLM spokesman Jeff Fontana. "The biggest fire this afternoon was about 90 acres near Shaffer Mountain, but we have a line around that fire," Fontana said early Monday evening.

Fire Danger Sparks Target Shooting Ban

KNCO, July 24

For the first time in at least decades, the Bureau of Land Management has closed off target shooting on all public lands in 15 Mother Lode Field Office counties, including Nevada County. Acting Field Manager Jim Eicher says the ban will likely not be lifted before the end of the wildfire season, which prompted the action.

California crews hold wildfire in check, let more residents go home

Reuters, July 23

California authorities battling a massive wildfire near Yosemite National Park lifted evacuation orders on Sunday for more residents but said firefighters may need almost two more weeks to fully contain the blaze. The Detwiler Fire was 45 percent contained, a slight improvement from Saturday, after burning 76,250 acres (30,857 hectares) and more than 130 structures, including 63 homes, since it broke out on Monday, the California Department of Forestry and Fire Protection (Cal Fire) said.

At Berryessa National Monument, Wildflowers and Rebirth

The New York Times, travel editorial, July 25

This week, we visit three national monuments (more than two dozen are under review by the Trump administration and could be made smaller and opened to logging and mining): Berryessa Snow Mountain in California (below), Gold Butte in Nevada and Bears Ears in Utah. The sideways dawn light as it winks across the vineyards from the

east: It was the first thing I noticed as I pulled off a California freeway.

New California Gold Rush Sparked by Wet Weather, Leaky Dam

The Weather Channel, July 24

...Furthermore, the Bureau of Land Management, which owns much of the land surrounding the spillway, told SF Gate that aspiring miners should take pause before heading out with a pan in their hand and visions of riches on their minds. "The river channels affected by the flooding were extensively mined during the late 19th and 20th centuries, and having high flood waters would not expose additional gold," a BLM spokesperson told SF Gate in an email. Professional miner Mike Abernathy definitively disagrees. "There's good gold in that gravel," he told SF Gate.

Federal agent's loaded gun, left unsecured in a car, killed Kate Steinle

48hills, opinion, July 21

Kate Steinle was killed two years ago in San Francisco after a gun stolen from a car was discharged on Pier 14, a popular tourist attraction. Homeless immigrant Juan Francisco Lopez Sanchez handled a discarded bundle that contained the firearm, resulting in the unintentional shooting. A single bullet ricocheted off the ground, travelling 100 feet before striking Steinle. The SIG Sauer handgun, which a court found had been left loaded and unsecured in a backpack under the seat of a vehicle parked in downtown San Francisco, was stolen during an auto break-in. It belonged to a Bureau of Land Management employee.

Kate Steinle Murder Trial Possibly Getting Postponed

Sfist, July 24

The defendant in the murder case of Kathryn Steinle, who was fatally shot two years ago on Pier 14, made an appearance in court Friday, and as the Mercury News reports, his attorneys asserted his right to a speedy trial despite some initial delays. Juan Francisco Lopez-Sanchez is due back in court this Friday, but a couple of factors may be slowing the legal process for the time being. First, per the Examiner, Assistant District Attorney Diana Garcia told the court that she has a conflicting trial and is hoping for a postponement in this case. Secondly, the defense is hoping to get a federal agent to serve as a witness, and the government is insisting on further documentation to justify the testimony.

NATIONAL

Senate approves nominee for No. 2 at Interior

Associated Press, July 24

The Latest on the controversy and the Senate vote on the Trump administration's

nominee for the No. 2 position at the Interior Department (all times local): 6:40 p.m. The Senate has approved David Bernhardt, a lawyer/lobbyist from Colorado, as deputy Interior secretary, second in command to Interior Secretary Ryan Zinke. The Senate confirmed Bernhardt's nomination by President Donald Trump Monday, 53 - 43.

Congressional committee votes to allow destruction of wild horses

The Durango Herald, July 24

A Congressional committee vote on Tuesday amounts to a death warrant for the mustangs and wild burros that roam America's range land, an advocate for the animals said. The House Appropriations Committee voted to reverse a ban on destroying healthy wild horses and burros that was contained in a spending bill signed into law by President Trump in early May. "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 Suzanne Roy, director of the American Wild Horse Campaign in a news release.

The Government Is Considering Euthanizing Thousands Of Horses Roaming Free In The West

BuzzFeed, July 24

The horses, known as mustangs, descend from animals used by ranchers, the US cavalry, and even Spanish explorers who traversed the West hundreds of years ago. According to the Bureau of Land Management, the government agency in charge of taking care of the wild animals, a record 73,000 horses and burros roam the range. Another 46,015 horses and burros (the vast majority are horses) are rounded up in dozens of government holding facilities.

Trump's Interior Dept To Chop Months Off How Long It Takes To Get An Oil Drilling Permit

The Daily Caller, July 24

The Department of Interior plans on cutting wait times for oil and natural gas drilling permits on public lands to just 30 days, according to a senior agency official. "We do want to shrink it down to 30 days and to make all the processes as short as possible, but at the same time, making sure our environmental stewardship is not breached, all of which is completely doable," Vincent DeVito, energy policy adviser to Interior Sec. Ryan Zinke, told Politico on Monday.

Trump administration seeks to repeal Obama fracking rule

The Hill, July 24

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.

We deserve to know Supervisor Debbie Arnold's position on Carrizo Plain

The Tribune, July 23

The public comment period for the Department of the Interior's review of certain national monuments, ordered by President Donald Trump, has closed. More than 1.4 million comments were received including more than 50,000 comments on the Carrizo Plain National Monument. The public response has been overwhelmingly in favor of protecting these national treasures.

Trump jokingly threatens to fire Price if health vote fails

ABC News, July 25

...Trump said that 10 members of his Cabinet were Scouts, including Vice President Mike Pence. The president introduced to the stage Interior Secretary Ryan Zinke, a former Scout who dressed in uniform, and also brought out Energy Secretary Rick Perry and Price.

Senate Democrats Call For An Investigation Of Climate Scientist Whistleblower Complaint.

The Washington Post, July 24

... "eight Democrats on the Senate Energy and Natural Resources Committee asked the Interior Department's deputy inspector general on Monday to investigate Secretary Ryan Zinke's decision to reassign roughly 50 senior career officials last month, on the grounds that it could constitute an 'abuse of authority.'" In the letter to Interior deputy IG Mary Kendall, which was "signed by all but three of the panel's Democrats, the senators note that one of the reassigned Senior Executive Service officials – Joel Clement, the department's top climate change official – has alleged he was punished for his work on the issue." The senators wrote, "Any suggestion that the Department is reassigning SES employees to force them to resign, silence their voices, or to punish them for the conscientious performance of their public duties is extremely troubling and calls for the closest examination."

Marathon markup to tackle 21 land, renewable energy bills

EE News, July 24

The House Natural Resources Committee will begin consideration of 21 bills tomorrow, including bipartisan legislation to promote renewable energy development on public lands and a measure that would develop a central database for federal land properties. Members will gather to give opening statements tomorrow before reconvening to

consider amendments and vote on the measures Wednesday. The "Public Land Renewable Energy Development Act of 2017" (H.R. 825) requires the Interior Department to identify "priority areas" for wind and geothermal power development on federal lands...H.R. 3279, from Rep. Paul Cook (R-Calif.), to amend the 1920 Mineral Leasing Act to ensure that extraction of helium from gas produced under a federal mineral lease shall maintain the lease as if the helium were oil and gas...H.R. 1491, from Rep. Doug LaMalfa (R-Calif.), to reaffirm the action of the Interior secretary to take land into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians. See *PDF for full story*.

Industry lawyers track Trump admin's evolving policy changes

ENERGYWIRE, July 24

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. 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. See *PDF for full story*.

Famed for lawsuits, enviro group morphs into advocacy

EE News, July 25

One of the Interior Department's most frequent sparring partners in court has now added congressional lobbying to its arsenal. In a filing that foreshadows Capitol Hill fights to come, the Center for Biological Diversity has registered the organization as a lobbying entity. Until now, the group has been known for filing myriad lawsuits over the Endangered Species Act and related issues. "The level of threats has grown exponentially with [President] Trump, so we had to ramp up our congressional work a lot," Brett Hartl, the organization's government affairs director, said in an email today. See *PDF for full story*.

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NATIONAL

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The "Public Land Renewable Energy Development Act of 2017" (**H.R. 825**) requires the Interior Department to identify "priority areas" for wind and geothermal power development on federal lands.

The goal of the legislation, which is sponsored by Rep. Paul Gosar (R-Ariz.), is for wind and geothermal power to receive the same focus as solar energy. The bill has 36 co-sponsors, including Natural Resources Committee ranking member Raúl Grijalva (D-Ariz.). Gosar introduced similar legislation in 2013.

Among other things, the legislation establishes a royalty system for renewables that gives 25 percent of royalties to states and 25 percent to counties. It also establishes a renewable energy resource conservation fund that would be used to protect habitat and improve access to federal lands.

Gosar's latest version of the bill is particularly noteworthy given that the Trump administration and Congress have emphasized expanding fossil fuels development on public lands.

The panel this week will also take up **H.R. 2199**, sponsored by Rep. Kevin Cramer (R-N.D.), which requires the Interior secretary to develop "a single, uniform database" listing all "federal real property." The bill, co-sponsored by Rep. Ron Kind (D-Wis.), aims to identify "inaccurate, duplicate, and out-of-date federal land inventories."

Another bill on the docket is Utah Republican Rep. Chris Stewart's **H.R. 2423**, which directs the Bureau of Land Management to grant rights of way approvals for a 4-mile transportation corridor and related utilities in the Red Cliffs National Conservation Area in southern Utah. The bill is designed to address traffic congestion and a growing population in St. George, Utah.

Stewart and other GOP allies, including Natural Resources Chairman Rob Bishop (R-Utah), have noted that the corridor through the NCA in Washington County, Utah, was included in the massive Omnibus Public Land Management Act of 2009 and that it mandated BLM approve the corridor.

The agency has yet to do so eight years after the legislation was approved, in part due to concerns about impacts to the federally protected desert tortoise.

This sparked fierce debate last spring during a Natural Resources Subcommittee on Federal Lands hearing on the bill (*E&E Daily*, May 24).

While Republicans said the legislation is necessary to fulfill the "broken promises" of the Obama administration, Democrats on the subcommittee insisted that the omnibus package only directed the Interior secretary and BLM to evaluate the road and utilities corridor.

Other bills scheduled for the markup are:

- **H.R. 873**, from Rep. Mike Gallagher (R-Wis.), to authorize the creation of the Global War on Terrorism Memorial in Washington, D.C.
- **H.R. 2083**, the "Endangered Salmon and Fisheries Predation Prevention Act," offered by Rep. Jaime Herrera Beutler (R-Wash.), to amend the 1972 Marine Mammal Protection Act to reduce predation on endangered Columbia River salmon and other nonlisted species.
- **H.R. 3279**, from Rep. Paul Cook (R-Calif.), to amend the 1920 Mineral Leasing Act to ensure that extraction of helium from gas produced under a federal mineral lease shall maintain the lease as if the helium were oil and gas.
- **H.R. 3281**, the "Reclamation Title Transfer and Non-Federal Infrastructure Incentivization Act," from Rep. Doug Lamborn (R-Colo.), which would authorize the Interior secretary to facilitate the transfer to nonfederal ownership of appropriate reclamation projects or facilities.
- **H.R. 1074**, from Rep. Rod Blum (R-Iowa), to repeal the act entitled "An Act to confer jurisdiction on the State of Iowa over offenses committed by or against Indians on the Sac and Fox Indian Reservation."
- **H.R. 965**, from Rep. Ann Kuster (D-N.H.), to redesignate the Saint-Gaudens National Historic Site as the Saint-Gaudens National Historical Park.
- **H.R. 1418**, from Rep. Don Young (R-Alaska), aimed at amending the 1971 Alaska Native Claims Settlement Act to provide that Alexander Creek, Alaska, is and shall be recognized as an eligible Native village under that law.
- **H.R. 1491**, from Rep. Doug LaMalfa (R-Calif.), to reaffirm the action of the Interior secretary to take land into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians.
- **H.R. 1547**, from Rep. Martha McSally (R-Ariz.), the "Udall Park Land Exchange Completion Act," to allow the unencumbering of title to nonfederal land owned by the city of Tucson, Ariz., for purposes of economic development.
- **H.R. 2075**, from Rep. Greg Walden (R-Ore.), to adjust the eastern boundary of the Deschutes Canyon-Steelhead Falls Wilderness Study Area in Oregon to facilitate fire prevention and response activities to protect adjacent private property.
- **H.R. 2316**, from Rep. Glenn Thompson (R-Pa.), to amend the Mineral Leasing Act and the 1992 Energy Policy Act to repeal provisions relating to the Allegheny National Forest.
- **H.R. 2371**, from Gosar, to require the administrator of the Western Area Power Administration to establish a pilot project to provide more transparency for customers.

- **H.R. 2374**, from Rep. Ruben Kihuen (D-Nev.), to facilitate certain pinyon-juniper-related projects in Lincoln County, Nev., to modify the boundaries of certain wilderness areas in the state, and to fully implement the 2006 White Pine County Conservation, Recreation and Development Act.
- **H.R. 2582**, from Rep. Mia Love (R-Utah), that would authorize Utah to select certain lands available for disposal under the Pony Express Resource Management Plan to be used for the support and benefit of state institutions.
- **H.R. 2611**, from Rep. French Hill (R-Ark.), to modify the boundary of the Little Rock Central High School National Historic Site.
- **H.R. 2615**, from Rep. Steven Palazzo (R-Miss.), to authorize the exchange of certain land located in the Gulf Islands National Seashore in Jackson County, Miss., between the National Park Service and the Veterans of Foreign Wars.
- **H.R. 2768**, from Rep. Scott Tipton (R-Colo.), to designate certain mountain peaks in Colorado as "Fowler Peak" and "Boskoff Peak."
- **H.R. 3115**, from Rep. Richard Nolan (D-Minn.), to provide for a land exchange involving federal land in the Superior National Forest in Minnesota acquired by the Agriculture secretary through the Weeks Act.

Schedule: The markup begins Tuesday, July 25, at 4 p.m. in 1324 Longworth and continues Wednesday, July 26, at 10 a.m. in 1324 Longworth.

Industry lawyers track Trump admin's evolving policy changes
ENERGYWIRE, July 24

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.

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

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.

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."

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.

Famed for lawsuits, enviro group morphs into advocacy
EE News, July 25

One of the Interior Department's most frequent sparring partners in court has now added congressional lobbying to its arsenal.

In a filing that foreshadows Capitol Hill fights to come, the Center for Biological Diversity has registered the organization as a lobbying entity. Until now, the group has been known for filing myriad lawsuits over the Endangered Species Act and related issues.

"The level of threats has grown exponentially with [President] Trump, so we had to ramp up our congressional work a lot," Brett Hartl, the organization's government affairs director, said in an email today.

Pointedly, one specific threat targets the kind of legal fees the center has been awarded in lawsuits.

Hartl is one of six Center for Biological Diversity staffers identified as lobbyists in the July 18 registration statement. Prior to joining the center, Hartl worked for the House Natural Resources Committee on the Democratic staff. Three of the other newly registered lobbyists are attorneys.

Size-wise, the lobbying effort is starting off modestly. The center reported lobbying expenditures of \$9,533 on July 19, which is small change compared with some of its allies in the environmental community.

The Sierra Club, for instance, reported spending \$640,000 on lobbying last year, while the Natural Resources Defense Council reported spending \$898,915.

Some of the center's identified targets include Trump administration nominees, such as U.S. Court of Federal Claims pick Damien Schiff. Schiff is an attorney with the conservative Pacific Legal Foundation, the center's polar opposite on environmental issues (Greenwire, June 15).

Schiff, who once called Supreme Court Justice Anthony Kennedy a "judicial prostitute" in a 2007 blog post, is awaiting a Senate vote.

Another lobbying target identified in the registration statement could strike even closer to home for the center, which is identified as a party in hundreds of federal district-level and appellate proceedings since 1997, according to the PACER case database.

The bill authored by Rep. Bill Huizenga (R-Mich.), H.R. 3131, would adjust the hourly rates awarded to lawyers in Endangered Species Act-related litigation.

Currently, a court can award costs, including attorneys' and expert witness fees, to private parties in Endangered Species Act lawsuits. The ESA places no cap on hourly attorneys' fees. Huizenga's bill would limit the fees to \$125 an hour, which is the same cap set in most other circumstances by another federal law, the Equal Access to Justice Act.

"For too long, litigating attorneys representing nongovernmental entities have taken advantage of the Endangered Species Act, raking in millions of dollars in taxpayer-funded money," Huizenga said last week. "In many cases, attorney billing rates have climbed as high as \$400, \$500 or even \$750 per hour."

The Center for Biological Diversity was the "most active" litigant between 2005 and 2014 on lawsuits involving Endangered Species Act deadlines, according to a Government Accountability Office report issued in February. The group filed 41 such deadline suits during the period.

Acting Fish and Wildlife Service Director Gregory Sheehan told the House Natural Resources Committee that while "time and cost of litigation is one of the significant challenges we face in implementing the ESA," officials needed greater clarity in how the legislation would work.

Hartl, in a prior statement, said Huizenga's bill "would end in disaster by making it harder for citizens to ensure endangered species get the protection they need to survive in a timely manner."