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From: Hernandez, Cynthia
Sent: 2017-11-14T16:53:42-05:00
Importance: Normal
Subject: E&E News Clips—November 14, 2017
Received: 2017-11-14T16:54:28-05:00
[ee11-14-17.docx](#)

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Published: Tuesday, November 14, 2017

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<https://goo.gl/fE2R8x>

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<https://goo.gl/JStzDB>

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1. Zinke says Bears Ears will keep at least 180K acres

Published: Tuesday, November 14, 2017

Interior Secretary Ryan Zinke thinks President Trump will take his recommendation to shrink Utah's Bears Ears National Monument, but he said it would still be bigger than the combined area of Bryce Canyon and Zion national parks.

That means the monument would retain at least 180,000 acres, still a steep reduction from its current 1.35 million acres.

Trump is expected to announce his plan to reduce Bears Ears and Utah's Grand Staircase-Escalante National Monument during a visit to the state next month.

Zinke told *The Salt Lake Tribune* that while he believes in the protection offered by national monuments, he thinks the Antiquities Act has been abused to protect land that has not yet been proven to have cultural or scientific value.

"If there's a potential for an arrowhead over here, you should protect from Manhattan, west," he said sarcastically.

But, he added, "I have dedicated an enormous amount of time and staff to make sure the local state voice was heard in the confines of following the law and making sure we protect the objects."

Local conservation groups, however, panned Zinke's comparison to the two national parks, saying the Interior secretary was simply trying to soften the blow.

"Zinke is playing a shell game by claiming what's left of Bears Ears will be bigger than Bryce and Zion combined," said Scott Groene, executive director of the Southern Utah Wilderness Alliance.

"The reality is that they are removing protections at Bears Ears for an area larger than all five of Utah's national parks combined and asking Americans to be happy with it," Groene said. "And then they're doing it again at Grand Staircase" (Thomas Burr, *Salt Lake Tribune*, Nov. 13). — NS

<https://goo.gl/fE2R8x>

2. Greens decry 'uncertainty' claim over lease sale emissions

Brittany Patterson, E&E News reporter

Published: Tuesday, November 14, 2017

One of the largest-ever oil and gas lease sales on public lands in Nevada could move ahead without sufficiently taking into account the impacts drilling will have on the climate, environmentalists are warning.

The Center for Biological Diversity and two other conservation groups filed a formal protest yesterday against a 388,960-acre Bureau of Land Management lease sale slated for next month near Ely, Nev., located near the central-eastern part of the state. Greens assert that the agency did not adequately account for both the indirect and direct impacts of fossil fuel development on climate change in its environmental assessment.

The challenge also asserts that BLM has failed to evaluate the impact that oil and gas drilling could have on surface water and groundwater and on certain species of special concern, including the greater sage grouse.

"Given this is potentially the largest lease sale in Nevada's history at nearly 400,000 acres, we need to know what the climate impacts are," said CBD Nevada State Director Patrick Donnelly.

In its revised preliminary environmental assessment, BLM determined under the most likely leasing scenario — in which 100 wells are brought online and each produce about 20,000 barrels of oil each year — there would be an estimated 860,000 tons of carbon dioxide emissions produced annually.

Using U.S. EPA's greenhouse gas equivalencies calculator, that level of emissions is the same as putting more than 184,000 cars on the road.

Despite calculating the emissions associated with future oil and gas development in the region, BLM went on to say there is "significant uncertainty" in those estimates, and therefore, the climate impacts cannot be quantified.

"It is currently not feasible to predict the net impacts from the Proposed Action on climate, as leasing is an administrative action and has no direct effects," the analysis stated. "The inconsistency in results of scientific models used to predict climate change at the global scale, coupled with the lack of scientific models designed to predict climate change on regional or local scales, limits the ability to quantify potential future impacts of decisions made at this level."

BLM's Ely District field office did not respond to a request for comment for more information.

Jessica Wentz, a staff attorney for Columbia Law School's Sabin Center for Climate Change Law, said federal agencies increasingly are providing a quantitative analysis of greenhouse gas emissions projected from a project in their environmental reviews but go on to state that the significance of those impacts cannot be determined.

"We're seeing more and more of that," she said. "They do a little quantitative analysis, but add a caveat like, 'For all we know, the exact same amount of coal or oil and gas could be extracted in the private sector.'"

The federal government's inconsistent handling of how to account for emissions and its failure to evaluate climate change impacts across a range of fossil fuels when preparing environmental analyses are long-standing problems that pre-date the Trump administration.

Recent court decisions have rebuked attempts by agencies to skirt evaluating climate change impacts in environmental reviews.

In August, the U.S. Court of Appeals for the District of Columbia Circuit sided with the Sierra Club and ordered the Federal Energy Regulatory Commission to closely consider downstream greenhouse gas emissions from the Sabal Trail pipeline in Florida (*Energywire*, Aug. 23).

For oil and gas leasing, the courts are still debating what obligation the government has to consider cumulative climate impacts (*Energywire*, June 13).

Trump's March "energy independence" executive order instructed federal agencies that they no longer had to use metrics to help determine the significance of greenhouse gas emissions such as the social cost of carbon and social cost of methane. The administration also revoked guidance issued by the White House Council on Environmental Quality, which spelled out that federal agencies should account for indirect climate impacts in National Environmental Policy Act reviews (*Greenwire*, March 29).

Donnelly with CBD said the loss of the social cost of carbon and methane metrics hamstrings the environmental review process; however, under NEPA, the onus is on the agency to take a "hard look" at all of the possible impacts.

In its comments on the draft environmental assessment, CBD presented its own greenhouse gas emissions estimate from the lease sale and estimated more than 3.9 million metric tons of CO2 would result from the lease sale, or 0.011 percent of the remaining U.S. carbon budget for staying well below 2 degrees Celsius.

"There's a pattern of BLM across the whole fossil fuel program inadequately analyzing impacts to climate from fossil fuel extraction," Donnelly said. "If we start having an honest assessment of what the oil and gas program is doing to our climate that could change political opinion."

<https://goo.gl/WSLGCx>

3. Whistleblower files lawsuit seeking info on staff moves

Michael Doyle, E&E News reporter

Published: Tuesday, November 14, 2017

Joel Clement, the former Interior Department employee-turned-whistleblower, filed a Freedom of Information Act lawsuit today against his former employers.

Clement, a climate policy specialist who says Interior officials illegitimately reassigned him to unrelated duties, filed the suit to obtain information about the department's transfers of dozens of his fellow Senior Executive Service staffers (*Greenwire*, Nov. 2).

"We know these documents exist and we know the public has a right to see them, but Secretary [Ryan] Zinke and his staff are determined to work in secret and take the 'public' out of public service," Clement said in a statement.

Clement's 14-page [lawsuit](#) was filed in federal court in Washington, D.C.

While he was with Interior's Office of Policy Analysis, Clement addressed the "danger posed by melting permafrost and other climate change impacts to Alaska Native communities such as Kivalina, Shishmaref, and Shaktoolik," the new lawsuit notes.

In June, Clement was reassigned to Interior's Office of Natural Resources Revenue. He subsequently resigned from the department, after filing a whistleblower complaint with the Office of Special Counsel.

In early September, as other related inquiries mounted, Clement filed a FOIA request seeking a vast array of Interior documents concerning the SES transfers. He filed a second FOIA request in October.

Clement's FOIA request, one of a number that have been filed over Interior's SES transfers, ranged from "all emails, notes and memoranda, regarding orders for medical examinations of members of the Senior Executive Service," to documents from at least 15 named Interior officials.

"To date, [Interior] has not produced a single record," the lawsuit states.

Filed by attorney Katherine Atkinson, the suit asks the judge to order Interior "to conduct a search reasonably calculated to uncover all records responsive" to the FOIA requests.

SES employees are selected through a competitive process and receive higher salaries but are also subject to involuntary transfers. They can either accept the reassignment or resign, or they can appeal if they think it was the result of discrimination or a prohibited practice.

In June, dozens of Bureau of Land Management and other Interior SES members were informed they were being transferred to new positions. The reassigned executives included the directors of BLM's Alaska, Colorado and New Mexico state offices.

Interior officials have characterized the SES reassignments as good management and reportedly have plans for more.

"Personnel moves among the [SES] are being conducted to better serve the taxpayer and the Department's operations," the department said in a statement earlier this year.

<https://goo.gl/HFhwir>

4. Bundy supporters want freedom first, then the federal estate

Jennifer Yachnin, E&E News reporter

Published: Tuesday, November 14, 2017

LAS VEGAS — The signs along the sidewalk outside the Lloyd D. George U.S. Courthouse urge drivers on the palm tree-lined boulevard to "Honk for Justice" and free "political prisoners" like brothers Ammon and Ryan Bundy.

Opening arguments are set to begin here today in the trial of the Bundy brothers — along with their father, Cliven Bundy, and Montana resident Ryan Payne — over charges stemming from a 2014 armed standoff with federal agents near Cliven Bundy's Bunkerville, Nev., ranch.

But the men and women who have gathered at the courthouse to show their support since the middle of last month — opening arguments set for early October were delayed following a mass shooting at a Las Vegas music festival — acknowledge that they have two hopes for the looming trial.

First, they want to see Bundy and his sons declared not guilty on charges ranging from a variety of misdemeanors to felonies including conspiracy, threatening federal officials and firearms charges. Then the supporters want the government to give up its rights to vast swaths of federal land.

"We're going to win. It's going to change a lot of things," said Nevada resident Jeff Banta, who like other backers of the Bundys defended patriarch Cliven Bundy's efforts to block the Bureau of Land Management in 2014 from attempting to seize his cattle over more than \$1 million in unpaid grazing fees and fines.

"I see a total reversal of federal lands. That's what going to happen," added Banta, who held a large flag he identified as a U.S. "peacetime" standard with vertical stripes and blue stars on a white background. "It will make the government smaller."

Like a few of the prominent figures among the 20 to 30 individuals who gather at the courthouse on any given day, Banta is one of the seven co-defendants who were tried in the armed occupation of the Malheur National Wildlife Refuge in early 2016.

Banta, along with both Ammon and Ryan Bundy and the other defendants, was found not guilty of conspiring to impede federal officials in a major blow to federal prosecutors (*Greenwire*, Oct. 28, 2016).

Oregon defendants Shawna Cox and Neil Wampler are also regular faces at the Nevada courthouse. They sit on the defendants' side of the courtroom, often alongside numerous Bundy family spouses, children and towheaded grandchildren.

In a separate interview, Wampler, with a small copy of the Constitution and a green pack of Pall Mall cigarettes tucked together in his shirt pocket, expressed hope that the Bundys' trial would draw attention to what he sees as "empire building" among federal agencies.

"An entire different ideology has taken over these agencies," Wampler said. "They've weaponized their regulations."

Wampler, a California resident, said he first came to the Bundys' support after seeing accounts of the Nevada showdown on the Internet.

In his case, it was a report on a website run by the Oath Keepers, former military and law enforcement personnel who assert they are defending the Constitution but are considered an anti-government movement by the Southern Poverty Law Center.

"Most of the people there arrived there [in Oregon] under the same circumstances I did, with the same mindset," recalled Wampler. "We agreed on the horror that we saw perpetrated by this federal agency."

According to a civil lawsuit filed last week by conservative gadfly Larry Klayman on Cliven Bundy's behalf — which aims to force the withdrawal of criminal charges against Bundy — the alleged atrocities included BLM personnel and FBI agents who "brutally assaulted" both Bundy family members and cattle, which were "killed and buried in secret mass graves by BLM and FBI agents" (*Greenwire*, Nov. 13).

Moreover, Wampler argued that while he supports the 2nd Amendment, he has never been particularly interested in firearms himself: "You can't fight an ideological war with guns."

That ideological war is the same one Cliven Bundy espouses, based on the premise that the U.S. Constitution bans the federal government from owning vast Western lands. Bundy has refused to recognize BLM's jurisdiction over the Gold Butte area where his cattle graze.

"The core issue is the federal government does not have right or entitlement to claim public lands," Wampler said. "The public land should belong to the states."

Wampler's jovial nature was evidenced when two young baristas at a Starbucks near the courthouse greeted him enthusiastically when he walked into the shop, chiming "Hi, Neil!" before handing out two coffees: one to "Neil" and one to "Not Neil." He disputes the idea that his views make him or any of the Bundys or their supporters "anti-government" advocates.

"The anti-government [label] is stupid. We're opposed to the idea of government in general?" Wampler guffawed. The name "anti-federalist" would be more apt, he added.

He pointed to what he sees as failures of government management of public lands, including the closure of the Drakes Bay Oyster Co. in California (*E&E News PM*, Oct. 6, 2014). He also noted other protests, like the one focused on the Sugar Pine mine in Josephine County, Ore., in April 2015.

But Wampler rejects the notion that more events like the standoffs in Nevada or Oregon are needed, suggesting instead that his fellow "anti-federalist" activists could turn their attention to state government.

"As we've seen, it takes a spark. It takes an incident somewhere," Wampler said. "Hopefully, we can develop enough of a voice in state government to negate the need to do something like that."

He pointed to Idaho or Montana as potential bases for such change, or even the possibility of the "state of Jefferson," a 51st state that would be created with land from southern Oregon and Northern California.

He acknowledged: "It's not going to be easy, though."

<https://goo.gl/D2PzkQ>

5. Ryan Bundy released to halfway house

Jennifer Yachnin, E&E News reporter

Published: Tuesday, November 14, 2017

LAS VEGAS — Chief U.S. District Court Judge Gloria Navarro last night ordered Ryan Bundy released from federal custody into a halfway house facility, reversing course on the eve of opening arguments in the trial over the 2014 armed standoff between the Bundy family, their supporters and federal agents near Bunkerville, Nev.

Navarro, who on Thursday had refused to grant Ryan Bundy's request for release, ruled last night that he could be driven to a local halfway house by his court-appointed attorney Maysoun Fletcher and would have to wear a GPS-tracking device during the expected four-month trial, *The Oregonian* reported. Bundy is representing himself in the trial, but Fletcher is assigned to assist him if needed.

Navarro's order was an unexpected reversal. Last week, the judge denied requests for release from Cliven Bundy, Ryan Bundy and co-defendant Ryan Payne, a Montana resident.

Local media reports indicated that Navarro's decision came on the heels of a daylong closed hearing, during which federal prosecutors and defense attorneys argued over the release of Ammon Bundy, who is also a co-defendant in the case and had sought to be released ahead of the trial.

Navarro rejected that request. Cliven Bundy and Payne also must remain in custody.

Ryan Bundy arrived at the courthouse this morning wearing a suit and a large white cowboy hat.

A [video](#) recorded by Bundy supporters who have gathered at the courthouse for the pending trial showed Ryan Bundy last night embracing his mother, Carol Bundy.

Montana resident John Lamb, who supports the Bundy family's anti-government stance and has monitored prior trials related to the Bunkerville standoff, said in his own video that Ryan Bundy expected to travel with his wife, Angie, and children to the facility last night.

According to Lamb, Navarro's surprise decision came after arguments that federal prosecutors had misrepresented evidence, including past incidents with law enforcement in their efforts to keep the defendant imprisoned.

In a post to the Bundy Ranch's Facebook account Friday afternoon, Carol Bundy urged supporters to continue to pray for the family.

"We live at a time where our politicians, celebrities and even those in the law tell us that prayer does not help. They mock those of us who receive strength and comfort from prayer and dismiss prayer as a relic of an earlier time. I feel sorry for such people," Bundy wrote. "I ask for your prayers for my husband and sons. I ask for your prayers for our families. I ask for your prayers for everyone impacted by this abuse of government power — and that includes the judge and the prosecution."

<https://goo.gl/JStzDB>