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### 1. Zinke says 'campaign' drew comments favoring protections

Jennifer Yachnin and Cecelia Smith-Schoenwalder, E&E News reporters

Published: Thursday, August 24, 2017

Interior Secretary Ryan Zinke today appeared to dismiss more than 1 million public comments urging the preservation of dozens of national monuments as the result of a "well-orchestrated national campaign," as he called on President Trump to slash the acreage of a "handful" of sites.

<http://bit.ly/2wJWKkj>

### 2. Zinke pushes to shrink 'handful' of sites, no eliminations

Jennifer Yachnin, E&E News reporter

Published: Thursday, August 24, 2017

Interior Secretary Ryan Zinke today recommended that President Trump redraw the boundaries of a "handful" of national monuments but will not call for the elimination of any sites, he told the

Associated Press.

<http://bit.ly/2wrK3ej>

### **3. Exploding population risks starvation — Interior official**

Published: Thursday, August 24, 2017

Federally protected wild horses in 10 Western states pose a threat to rangelands, state and federal officials said at a conference yesterday. The wild horses' population has exploded to nearly three times more than the rangeland can support, according to federal officials.

<http://bit.ly/2xgibHL>

### **4. Special agent tried to conceal misuse of artifacts — IG**

Scott Streater, E&E News reporter

Published: Thursday, August 24, 2017

A senior Bureau of Land Management law enforcement official who was found to have previously violated federal ethics rules at the Burning Man festival and clashed with congressional leaders is the subject of a new inspector general report that found he mishandled ancient stones being held as evidence in a criminal probe.

<http://bit.ly/2xwS8et>

### **5. Northeast strengthens carbon goals as federal rules fade**

Benjamin Storrow, E&E News reporter

Published: Thursday, August 24, 2017

Nine Northeastern states delivered a boost to U.S. climate efforts yesterday. The Regional Greenhouse Gas Initiative announced a proposal to cut power plant emissions 30 percent between 2021 and 2030.

<http://bit.ly/2iuBEkE>

### **6. 'If it's a plan to save coal, it's not a very good one'**

Hannah Northey, E&E News reporter

Published: Thursday, August 24, 2017

A "schizophrenic" attempt to rescue the coal industry. A level-headed assessment. A "nothing

burger."That's a sampling of reactions to the release late yesterday of a much-hyped, long-awaited report from Energy Department staff in response to Secretary Rick Perry's concerns about coal and nuclear plant closures.

<http://bit.ly/2g9II6w>

## **7. Retrial set for 2 defendants**

Published: Thursday, August 24, 2017

A retrial for two men charged in the Bunkerville standoff, Scott Drexler and Eric Parker, has been scheduled for Sept. 25, and the two can return home to Idaho in the meantime.

<http://bit.ly/2wJTJ3B>

## **8. Rules would tame 'Wild West' of radioactive oil-field waste**

Published: Thursday, August 24, 2017

Montana environmental regulators have released their first proposal for regulating radioactive oil-field waste dumps.

<http://bit.ly/2wrY2kc>

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### **1. Zinke says 'campaign' drew comments favoring protections**

[Jennifer Yachnin](#) and [Cecelia Smith Schoenwalder](#), E&E News reporters

Published: Thursday, August 24, 2017

Interior Secretary Ryan Zinke today appeared to dismiss more than 1 million public comments urging the preservation of dozens of national monuments as the result of a "well-orchestrated national campaign," as he called on President Trump to slash the acreage of a "handful" of sites.

During his 120-day review of 27 national monuments, Zinke repeatedly highlighted his agency's decision to collect public input at [Regulations.gov](#) — arguing the website would provide a larger avenue for input than holding individual public forums.

"We have done more than any other administration reaching out to everybody," Zinke said during a visit to Utah earlier this year where he promoted the website ([Greenwire](#), May 11).

But in a two-page [summary](#) of his review process released today, Zinke appeared to dismiss those public comments.

"Comments received were overwhelmingly in favor of maintaining existing monuments and demonstrated a well-orchestrated national campaign organized by multiple organizations," Zinke wrote. "Opponents of monuments primarily supported rescinding or modifying the existing monuments to protect traditional multiple use, and those most concerned were often local residents associated with industries such as grazing, timber production, mining, hunting and fishing, and motorized recreation."

An Interior spokesperson did not respond to requests for clarification on Zinke's remarks.

WildEarth Guardians' New Mexico-based public lands guardian, Chris Krupp, fired back at Zinke's characterization of the public comments, noting that the submissions showed near unanimous support for the monuments.

"Of course Zinke neglects to mention specifics. Yes, there was an organized campaign, but you don't get 99 percent opposition to anything unless it's completely reprehensible," Krupp said. "And if any significant public support for abolishing national monuments could have been found I guarantee that resource industries that will benefit from this would have organized it. But that public support is just not there."

The secretary revealed today that he will recommend that President Trump reduce the acreage of a "handful" of monuments but has not publicly revealed which sites could be cut (*Greenwire*, Aug. 24).

House Natural Resources Chairman Rob Bishop (R-Utah) confirmed the report would not be publicly released until the White House has determined whether it will carry out those recommended cuts.

President Trump ordered a review of all national monuments created since 1996 that include more than 100,000 acres.

In recent weeks, Zinke has dismissed six sites from the review: the Craters of the Moon National Monument and Preserve in Idaho, Hanford Reach National Monument in Washington state, Canyons of the Ancients National Monument in Colorado, Upper Missouri River Breaks National Monument in Montana, Grand Canyon-Parashant National Monument in Arizona, and Sand to Snow National Monument in California. He also issued an interim report in which he called for unspecified cuts to Bears Ears National Monument in Utah.

Zinke also told AP he wants to protect tribal interests and historical land grants, citing two monuments in New Mexico, where Hispanic ranchers opposed President Obama's designations. Sources told the *Bangor Daily News* that a site in Maine is expected to remain unchanged.

## Reaction

While Zinke did not call for the elimination of any monuments, environmentalists still criticized his decision to push reductions as well as Interior's refusal to release its full report.

"Secretary Zinke needs to level with the American people. Which priceless national monuments does he recommend shrinking? How many acres of stunning wilderness and cultural sites does he want stripped of protections?" said Drew Caputo, Earthjustice's vice president of litigation for lands, oceans, and wildlife.

He added: "Over 2.7 million Americans lifted their voices in support of national monuments in the largest public comment period in the Interior Department's history this summer. It's only right that Secretary Zinke now tells the American people what he is thinking about doing to some of our most cherished protected lands, instead of keeping his recommendations shrouded in secrecy."

Conservatives for Responsible Stewardship, a Republican environmental group, also slammed Zinke's decision to reduce the size of monuments.

"Never before has an American president been so hell-bent on scrapping protections to our nation's natural and cultural heritage, nor has a president so clearly abandoned the conservation ethic of Theodore Roosevelt," CRS President David Jenkins said in a statement. "There is certainly nothing conservative about this illegal — and overwhelmingly unpopular — attempt to rollback our beloved national monuments."

Similarly, Center for Western Priorities Executive Director Jennifer Rokala dismissed Zinke's announcement that he would not advise the elimination of any monuments as a positive outcome.

"If Secretary Zinke expects Americans to be thankful because he wants to merely erase large chunks of national monuments instead of eliminating them entirely, he is badly mistaken," she said.

In the event Trump does push to reduce the size of any monuments, several conservation groups including the Wilderness Society as well as Democrats like New Mexico Sen. Tom Udall have suggested that lawsuits will be filed in an effort to block those changes.

"This summary is not transparent, and this is not how our government should do business. The threat to New Mexico's monuments is very real," said Udall, pointing to Zinke's comments in reference to the Organ Mountains-Desert Peaks and Rio Grande del Norte national monuments.

Udall added: "If Secretary Zinke has recommended serious reductions to any of our national monuments, he has badly misjudged the authority granted to the administration under the Antiquities Act. I do not believe the administration can legally shrink any monument designation, and I intend to pursue all available avenues to fight what would be an unprecedented attack on our public lands."

But the conservative Pacific Legal Foundation, which has argued Trump is permitted under the Antiquities Act of 1906 to both designate and diminish monuments, praised the expected cuts.

"This review has been sorely needed and the Department of the Interior's clear endorsement of the president's power to modify these monuments is a positive sign that it takes Antiquities Act abuse seriously," said Pacific Legal Foundation attorney Jonathan Wood, who specializes in environmental and constitutional law.

#### Antiquities Act revamp

Bishop announced today that he plans to pursue legislation to overhaul the Antiquities Act but said he does not plan to do so until the full report has been released by the White House. Bishop said he had talked with Zinke about the review but had not seen the report himself as of this morning.

"The process is broken. It is not working as intended. It needs to be reformed," said Bishop, a longtime critic of the Antiquities Act as well as the Bears Ears and Grand Staircase-Escalante national monuments in his home state.

Bishop added that he does not have a specific timeline for his legislation — which would likely include some sort of requirement for public input on monuments ahead of their designation.

"It has to be sooner rather than later because the problem will not be solved until we actually have Congress step up and do it," he said.

#### Protesters

The Sierra Club and other groups protested today in front of Interior's Washington headquarters against any changes to national monuments.

Alex Taurel of the League of Conservation Voters led a chant aimed at Trump: "Keep your tiny hands off our public lands."

Mark Magaña, president and CEO of GreenLatinos, said he wanted the monuments to stay the same so that the next generations can enjoy them. Taking the opportunity away from children to visit these monuments would be a shame, he said.

"I don't believe that you have a right to do that, and I don't believe that at the end of the day it will withstand public pressure or will withstand courts," he said.

Lena Moffitt, the director of Sierra Club's Our Wild America campaign, had a more blunt message for the Trump administration.

"No surprise, these guys continue to pander to the private, extractive industries that want to take away our public lands — our shared spaces that so many people hold dear — so that they can open them up to mining and drilling and logging and commercial fishing," she said.

Moffitt said that the Sierra Club is ready to take the issue to court.

"Right now, some of our lawyers are probably not here because they are back at their desks getting ready to sue the bastards," she said.

<http://bit.ly/2wJWKkj>

## **2. Zinke pushes to shrink 'handful' of sites, no eliminations**

*Jennifer Yachnin*, E&E News reporter

Published: Thursday, August 24, 2017

Interior Secretary Ryan Zinke today recommended that President Trump redraw the boundaries of a "handful" of national monuments but will not call for the elimination of any sites, he told the Associated Press.

Zinke, who is traveling in Montana to observe the state's wildfires, did not specify which of the 27 reviewed monuments he believes should be reduced. The Interior secretary previously proposed unspecified cuts to the 1.35-million-acre Bears Ears National Monument in southeast Utah.

"There's an expectation we need to look out 100 years from now to keep the public land experience alive in this country," Zinke told the AP. "You can protect the monument by keeping public access to traditional uses."

House Natural Resources Chairman Rob Bishop (R-Utah) said today that the report will not be publicly released until the White House has had time to review the recommendations and determine whether it will pursue any of the proposed cuts.

"They need time to read the report," said Bishop, who noted he had spoken with Zinke but was not familiar with the details of the report. "It is appropriate to give people time to think and see this report before they make it public."

A White House official confirmed to E&E News today that the president has received a copy of the document but did not respond to inquiries about when it would be publicized.

"President Trump has received Secretary Zinke's draft report for the Antiquities Act and is currently reviewing his recommendations to determine the best path forward for the American people," said the official who spoke on the condition of background.

Zinke also told AP he wants to protect tribal interests and historical land grants, citing two monuments in New Mexico, where Hispanic ranchers opposed President Obama's designations.

The *Bangor Daily News* reported that no major changes are expected to be made to the Katahdin Woods and Waters National Monument. Maine Gov. Paul LePage (R) is an outspoken opponent of the monument.

The secretary's report follows a 120-day review mandated by Trump in late April. The assessment included 27 monuments designated since 1996, all but one of which encompass more than 100,000 acres.

Interior released a summary of Zinke's report but did not include any details about which monuments he has targeted for reductions. The two-page document outlined Zinke's review process and noted he had visited eight of the sites under review.

"No President should use the authority under the Antiquities Act to restrict public access, prevent hunting and fishing, burden private land, or eliminate traditional land uses, unless such action is needed to protect the object," Zinke said in a statement. "The recommendations I sent to the president on national monuments will maintain federal ownership of all federal land and protect the land under federal environmental regulations, and also provide a much needed change for the local communities who border and rely on these lands for hunting and fishing, economic development, traditional uses, and recreation."

Conservationists suggested that even without the detailed report, any reductions to monuments would result in the "exploitation" of public lands.

"Secretary Zinke is selling out Montana values and putting at risk the economies of Western communities solely to appease a few special interests," said Western Values Project Executive Director Chris Saeger.

He added: "While it's not surprising that Secretary Zinke was willing to let lobbyists in Washington, D.C., decide the fate of Western public lands, we remain confident that the administration has no legal path to implement this unprecedented attempt at executive overreach."

Although presidents have previously reduced the boundaries of a monument, none has done so since President Kennedy altered the acreage of the Bandelier National Monument in New Mexico in 1963. Conservationists argue that the adoption of the Federal Land Policy and Management Act in 1976 has since eliminated that ability.

Both Democratic lawmakers and conservationists have said that should Trump attempt to slash the size of any monuments, it could prompt legal action.

"A presidential decision to partially revoke a national monument by shrinking its size is no more lawful than a decision to revoke one altogether," said former Interior Department Deputy Solicitor for Land Resources Justin Pidot, who is now an associate professor at the University of Denver Sturm College of Law.

"The Antiquities Act provides no such authority," he added. "It's also important to remember that under the Antiquities Act, the objects of historic or scientific interest identified by a president are themselves the national monument. To shrink the boundaries of a monument to leave such an object unprotected is precisely the same as revoking the monument as to that object."

The Antiquities Act says that the "smallest area compatible" with the care of the objects to be protected should be designated as a monument.

No president to date has tried to rescind a monument designated by one of his predecessors.

Although President Franklin D. Roosevelt inquired about abolishing a monument created by President Coolidge in 1938, he did not seek to do so after an opinion issued by then-Attorney General Homer Cummings indicated he could not.

Cummings wrote at the time that because designations are equivalent to an act of Congress, only lawmakers could abolish a monument.

Zinke had previously dismissed reviews of six monuments without recommending any alternations to boundaries or management plans: the Craters of the Moon National Monument and Preserve in Idaho, Hanford Reach National Monument in Washington state, Canyons of the Ancients National Monument in Colorado,



Upper Missouri River Breaks National Monument in Montana, Grand Canyon-Parashant National Monument in Arizona, and Sand to Snow National Monument in California.

<http://bit.ly/2wrK3ej>

### 3. Exploding population risks starvation — Interior official

Published: Thursday, August 24, 2017

Federally protected wild horses in 10 Western states pose a threat to rangelands, state and federal officials said at a conference yesterday.

The wild horses' population has exploded to nearly three times more than the rangeland can support, according to federal officials.

Attending the invitation-only National Horse and Burro Summit in Salt Lake City were members of Utah's congressional delegation, including Rep. Rob Bishop (R), as well as an Interior Department official.

Speakers said wild horses and burros, which compete for food with other animals, are at risk of starvation. "There is nothing humane or majestic to see a wild horse starving to death or a wild burro dying of thirst," said Aurelia Skipwith, Interior deputy assistant secretary for fish, wildlife and parks.

Congress should grant a budget request from President Trump that would let wild horses be sold without making buyers promise they won't resell the horses for slaughter, Skipwith said.

Horse protection groups were not invited and protested against the event, dubbing it a "slaughter summit" (*Greenwire*, Aug. 22).

"It's a collection of politicians and lobbyists for the agriculture industry, and the sole purpose is to advance their agenda of slaughtering America's wild horses," said Suzanne Roy, director of the American Wild Horse Campaign (Price/Sonner, *AP/Las Vegas Review-Journal*, Aug. 23). — MJ

<http://bit.ly/2xgibHL>

### 4. Special agent tried to conceal misuse of artifacts — IG

*Scott Streater*, E&E News reporter

Published: Thursday, August 24, 2017

A senior Bureau of Land Management law enforcement official who was found to have previously violated federal ethics rules at the Burning Man festival and clashed with congressional leaders is the subject of a new inspector general report that found he mishandled ancient stones being held as evidence in a criminal probe.

Dan Love, who also oversaw security during BLM's failed 2014 roundup of Nevada rancher Cliven Bundy's illegally grazing cattle, is the senior law enforcement manager at the heart of the new IG investigation, House Natural Resources Chairman Rob Bishop (R-Utah) confirmed in a statement.

The Interior IG today posted on its website a copy of the **final report** of a monthslong probe that does not name the senior law enforcement manager whom investigators say removed moqui marbles from evidence storage and gave them away "as gifts to several people."

But Bishop, in a **letter** sent yesterday to Interior Deputy IG Mary Kendall, requested an unredacted copy of the report be sent today to the committee.

The report says that Love gave three marbles to Sal Lauro, BLM's former director of law enforcement and security and Love's boss at the time. Lauro told investigators he assumed that Love had gotten the marbles from a university and that they were not evidence in the criminal probe.

Lauro was one of a handful of BLM Senior Executive Service officials transferred out of BLM in June to the Fish and Wildlife Service as part of an ongoing Interior reorganization effort.

In addition, the IG report confirmed that Love "instructed his subordinate," who is not named, to review his emails "and to 'scrub' any messages that could harm the senior manager or any in which he used demeaning or derogatory language" in a separate employment-related matter, the report says.

The Interior IG presented its findings to the U.S. Attorney General's Office in Utah, "which declined to prosecute this case," the report says.

The report has also been sent to the Interior Department "for any action deemed appropriate," but it's not clear if any action has or will be taken. A BLM spokeswoman said Love remains an agency employee but said she could not provide more information.

Bishop said it's time for Interior to take action.

"After numerous reports substantiating serious allegations of misconduct including the destruction of federal records, defiance of congressional document requests and misuse of ancient artifacts under investigation as office decor, I expect Interior to hold Dan Love accountable," he said in a statement.

"I look forward to seeing how this Administration responds to the unethical behavior uncovered by the report," he added. "We must take steps to restore trust in federal law enforcement officers and hold employees accountable for their mismanagement of our taxpayer resources."

For his part, Love declined to participate in the IG investigation, according to the report, which states "a BLM official informed us that the senior manager's attorney said he was not able to participate in an interview."

Today's final document follows an IG's advisory summarizing the investigation's findings sent last month to William Woody, BLM's director of law enforcement and security.

The advisory was issued "to alert" Woody that the unnamed senior law enforcement manager allowed co-workers to take moqui marbles being held as evidence in the criminal case and to "display" them on their work desks. The manager also gave away some of the ancient stones to a private contractor as a "reward" for good work, it said (*Greenwire*, Aug. 1).



Dan Love. BLM Nevada/Flickr

Woody told E&E News last month that the IG's advisory concerned him, saying there "is simply no excuse for mishandling evidence."

The moqui marbles — compacted sandstone balls millions of years old that are primarily found in Utah, as well as parts of Arizona, Colorado and Nevada — had been "taken illegally" by poachers from an undisclosed park site and later seized by BLM as part of a criminal investigation into their theft, the report says.

The IG's report is just the latest controversy involving Love.

Love was the target of an IG probe that earlier this year found he violated federal ethics laws by abusing his position to obtain special access to the Burning Man festival for his family and pressured subordinates to hire his friend (*E&E News PM*, Jan. 30).

Though the IG's report in January did not identify the supervisory agent at issue, E&E News later confirmed it was Love (*Greenwire*, Feb. 2).

Among other things, the IG found that during the investigation, the supervisor later attempted to influence his employees and learn details of their interviews with investigators.

He told one contracting officer that "if you're not on my ship you're going to sink ... so I suggest you get on my ship," the IG report said.

And a BLM state ranger "said that the Supervisory Agent told him that saying 'I don't recall' was a valid answer," the report said. The same ranger said the supervisor called him after he spoke with the IG and asked, "Do I still have a job or did you get me fired?"

But even as the IG's investigation into the Burning Man allegations kicked off in September 2015, BLM promoted Love to special agent in charge of security, protection and intelligence (*Greenwire*, May 24, 2016).

Love, who had clashed with sheriff's deputies in Utah, had drawn the scorn of former House Oversight and Government Reform Chairman Jason Chaffetz (R-Utah).

The final IG report released today also addresses a request by Chaffetz and Rep. Blake Farenthold (R-Texas) to Kendall in February asking her office to "investigate the specific allegations raised in your interviews of destruction of federal records, witness tampering, and obstruction of a congressional investigation" (*E&E News PM*, Feb. 17).

The IG report says investigators found "no evidence" that Love or anyone at BLM directed documents be deleted that were responsive to a congressional request for information.

'Shh! Don't say anything'

But the IG investigation into the handling of the moqui marbles revealed a litany of ethical problems.

The IG initiated the investigation in November 2016 on a tip from an official in the Office of Law Enforcement and Security, the report says.

BLM law enforcement officers in 2012 "seized thousands of moqui marbles" that allegedly had been "collected illegally from a national park." The marbles were eventually stored in an evidence room at BLM Utah's state office in Salt Lake City.

A University of Utah professor who studied the seized marbles in 2013 concluded they did come from the unnamed national park and that the stones had "a total retail value of \$160,000 to \$520,000," the report says.

In April 2016, a witness identified in the report as "the senior manager's subordinate" told investigators that he and two other officials — a budget analyst and a contract specialist in the Office of Law Enforcement and Security — were in the evidence room counting the moqui marbles, which were being stored in dozens of 5-gallon buckets. Love told them "they could each take a marble from the evidence room and display them on their desks."

Love's subordinate said he did not take a marble but told investigators "he later saw marbles on the desks of the other two employees. He was certain that the marbles had come from the evidence room and stated, 'They were clearly evidence,'" the report says.

The two BLM law enforcement officials confirmed to investigators "they each took a marble from the evidence room and displayed them in their offices." But the budget analyst told investigators "she had believed it was all right to take a marble because she had seen marbles on display in the senior manager's office, and the contract specialist said she had assumed it was all right because a senior law enforcement manager said it was."

The BLM subordinate acknowledged that he understood the marbles "were evidence in an ongoing criminal prosecution." But he later removed more marbles at Love's request and "did not question the instructions because the senior manager was a law enforcement official and was 'scary,'" the report says.

Love also gave away several marbles to a contractor working on a new evidence room and offices, it says. The budget analyst told investigators that one day the contractor "excitedly showed her two or three marbles he was holding and said to her, 'Hey, I'm not supposed to say anything, but ... look at what [the senior manager] gave me.'"

The budget analyst asked Love a couple of days later whether he had given the marbles to the contractor. "She said he responded, 'Shh! Don't say anything. If you say it too loud, [a BLM state ranger whose office was nearby] will hear, and he'll call OIG,'" the report says.

The contractor told investigators that Love gave him "five or six moqui marbles" but that "he was later contacted by a BLM special agent, who had him return the marbles."

The IG report says investigators found a number of other BLM law enforcement officials and agency employees had moqui marbles "that may have originally been seized as evidence."

A BLM state ranger told investigators "that other employees in the office had marbles and the senior manager was 'giving them out like candy.'"

#### Deleted emails

The IG investigators also found that Love "violated federal information security policy and DOI rules of behavior" in response to official requests for documentation on a separate "employment-related matter."

The report says Love's subordinate, on at least two occasions in 2015, was instructed by Love to review emails on his computer and to delete unflattering emails in two document requests in 2015.

The contract specialist also told investigators that Love instructed her and the subordinate "to go through the senior manager's email account and flag emails 'that could get him [the senior manager] in trouble,'" the report says.

The investigators wanted to search two government-owned MacBook computers that had been issued to Love, but they noted that Love "was unable to locate either of the MacBooks," the report says.

The budget analyst and contract specialist who earlier were allowed to take moqui marbles out of the evidence room, as well as another BLM special agent, told investigators that Love "had stated to them on several occasions that the MacBook he used would 'disappear' or be reported as broken if 'things ever get bad' or if anyone 'comes after' him or his job."

The IG report states that "BLM reviewed the matter and found in early 2017 that both of the MacBooks assigned to the senior manager had been lost due to his negligence. The BLM made multiple attempts to contact the senior manager to return the MacBooks, but he did not respond. Contact attempts sent to him via certified mail were returned unclaimed."

<http://bit.ly/2xwS8et>

## **5. Northeast strengthens carbon goals as federal rules fade**

Benjamin Storrow, E&E News reporter

Published: Thursday, August 24, 2017

Nine Northeastern states delivered a boost to U.S. climate efforts yesterday.

The Regional Greenhouse Gas Initiative (RGGI) announced a proposal to cut power plant emissions 30 percent between 2021 and 2030.

The plan puts the regional cap-and-trade program's members on pace to greatly exceed the emissions targets prescribed under former President Obama's carbon-cutting strategy, the Clean Power Plan. It also comes amid a rollback of climate initiatives under President Trump and a flurry of state pledges to comply with goals of the Paris climate accord.

"Really, one of the reasons we've been able to reach this consensus is that when it comes to cutting carbon, we can achieve more when we work together," said Katie Dykes, who leads the Connecticut Public Utilities Regulatory Authority and RGGI's board of directors.

Yesterday's announcement was notable in both symbolism and substance. It is the culmination of a 21-month review that witnessed deep political divisions over how much carbon the states should cut when annual reductions in RGGI's cap cease in 2020. Five RGGI states are led by Republicans; four are run by Democrats.

New Hampshire Gov. Chris Sununu and Maine Gov. Paul LePage, both Republicans, separately expressed skepticism about the program, while the governors of Connecticut, Massachusetts, New York and Rhode Island sought larger cuts intended to comply with their plans to reduce emissions 80 percent by 2050.

Ultimately, all nine states overcame their differences and agreed to set a carbon cap of roughly 75 million tons in 2021. That cap will then fall by 3 percent annually through 2030. By then, the region's carbon cap will have fallen 65 percent since it was first implemented in 2009. Each state will need to officially approve the changes before they go into effect. The Clean Power Plan, by contrast, required emissions to be reduced 32 percent of 2005 levels by 2030.

On an operational front, RGGI has long faced challenges born from its success. Emissions reductions have consistently come in below the program's cap. That has produced a surplus of carbon allowances. Greens have long worried that power plant owners could hoard the excess credits, ultimately weakening the program's effectiveness.

The plan outlined yesterday is largely designed to correct that dynamic. A one-time carbon cut of about 750,000 tons will be made in 2021. The number of allowances that power plant owners are allowed to bank

will be reduced. And perhaps most significantly, the plan will establish a so-called emissions containment reserve (ECR).

The ECR essentially limits the number of carbon allowances available if emission credits cost less than initially projected. Under the plan, 10 percent of allowances would be held back if the price on carbon credits falls below \$6 per ton starting in 2021. The ECR trigger price will increase by 7 percent annually thereafter. New Hampshire and Maine will not participate in the ECR program.

"I think it's hugely significant because an ECR is a mechanism that has never been implemented in a carbon market I am aware of," said Anthony Paul, a fellow at Resources for the Future. "The allowance prices have been very low, often even on the price floor. What that represents is that compliance costs have been lower than expected. And low compliance costs bring benefits to the economy for utilities and ratepayers, but no environmental benefits.

"What the ECR does," he added, "is share the cost of low-cost compliance between the environment and the economy."

RGGI's announcement represents a win for environmentalists, many of whom had cast the negotiations as a test of states' will to follow through on their climate pledges. The cap-and-trade program had considered three basic scenarios: an annual cap reduction of 2.5 percent, 3 percent and 3.5 percent.

Because of the one-time cut in the cap and other adjustments in carbon allowances, the 3 percent scenario was considered the most stringent.

Environmentalists hailed the decision to seek a more ambitious carbon target.

"If you add it up, the RGGI states are the sixth-largest economy in the world. This is a significant development," said Peter Shattuck, who directs the clean energy initiative at the Boston-based Acadia Center. "It shows states picking up on climate action in the wake of the Paris withdrawal."

Rhea Suh, president of the Natural Resources Defense Council, called RGGI's plan "bold" and said, "Within the past month, California and the RGGI states have shown the world there are still climate leaders here in the U.S. Now we need other state, city and federal officials to follow suit."

RGGI's decision had emerged as a particularly significant test for New York Gov. Andrew Cuomo, a Democrat and potential 2020 presidential contender who has rushed to position New York at the forefront of state efforts to slash carbon emissions. Cuomo founded the U.S. Climate Alliance with California Gov. Jerry Brown and Washington Gov. Jay Inslee, both Democrats.

"RGGI's success exemplifies New York's commitment to protecting the people of this state by showing the world that we will cut pollution and improve health, while transforming our economy into one that is cleaner, greener, stronger, and more sustainable than ever before," Cuomo said in a statement.

The reaction in other corners was muted. The Environmental Energy Alliance of New York, a trade group representing power generators and utilities that had pushed for a less stringent cap, could not be reached for comment.

New Hampshire and Maine were the only RGGI members not to contribute to the organization's official statement. Sununu campaigned last year on the idea of withdrawing from the organization. A New Hampshire official could not be reached for comment. Maine officials, who had previously argued for a less stringent cap, also could not be reached.

A RGGI spokeswoman said all nine members had reached a consensus, but some had chosen not to comment.

<http://bit.ly/2iuBEkE>

## 6. 'If it's a plan to save coal, it's not a very good one'

Hannah Northey, E&E News reporter

Published: Thursday, August 24, 2017

A "schizophrenic" attempt to rescue the coal industry. A level-headed assessment. A "nothing burger."

That's a sampling of reactions to the release late yesterday of a much-hyped, long-awaited report from Energy Department staff in response to Secretary Rick Perry's concerns about coal and nuclear plant closures. Some are calling the 187-page compilation of federal data a Rorschach test for energy policy wonks.

"It's a really complicated issue," said Ari Peskoe, a senior fellow at Harvard Law School's Environmental Policy Initiative. "Finding the correlations and the causations is not obvious, and people see what they want when they're interested parties."

While the report clearly blames cheap natural gas for driving the shutdowns of coal-fired and nuclear power plants without condemning renewable energy, critics say the clarity stops there.

The report's eight policy recommendations stop short of calling for any regulatory or policy changes. Instead, the report uses "should" and "encourage" to nudge U.S. EPA toward easing rules on coal plants and the Federal Energy Regulatory Commission toward changing how wholesale power is traded. It also calls for relaxing permit rules for new nuclear, hydro and coal projects.

But Peskoe said those recommendations are hardly showstoppers.

Asked whether the document — now stripped of references to climate change — lays out a strategy for the Trump administration to save the coal industry, Peskoe replied, "If it's a plan to save coal, it's not a very good one."

Yet the dense technical language is fueling debate about DOE's intent and how the industry or the Trump administration plans to use the recommendations.

DOE career staffers said yesterday that they agree with the research, findings and policy recommendations. And the author of a leaked version of the study — Alison Silverstein, a former FERC official and Texas energy consultant — called the final product "balanced and objective" without favoring "any specific resource, sector or position" (*Energywire*, Aug. 24).

But others say the absence of climate references and the chasm between the body of the text and the report's suggestions for EPA, FERC and other agencies raise questions.

"Instead, they present a pro-coal agenda of President Trump, and show the fingerprints of a team of political appointees with long ties to the fossil fuel industry," said David Pomerantz, executive director of renewable energy policy watchdog group the Energy and Policy Institute.

Don Furman, a former executive at the utility PacifiCorp who now heads the Fix the Grid Coalition, commended the DOE staff's "beautiful" work but said the bulk of the study doesn't support its policy recommendations.

The bottom line, he said, is that coal and nuclear can't compete in today's energy markets.

"The conclusion that coal and nuclear are needed for reliability and resiliency — I went through the report in detail and found nothing that says we have to have these power plants or the lights are going to go out," he said.

### Spin cycle

Although the study remains relatively neutral on fuel types and concludes the grid is operating reliably, at least one mining-state lawmaker embraced the language as support for coal.

"I urge my colleagues to recognize that without coal, our country will face a reliability crisis in the very near term," Democratic Sen. Joe Manchin of West Virginia said. "This study recognizes the reality that today's electric markets and market rules have tilted the playing field against traditional baseload generation, particularly nuclear and coal-fired power plants."

The senator's comments were followed by DOE's announcement of \$50 million for two large-scale coal plants.

A flashpoint in the DOE report is a recommendation that encourages EPA to ease regulatory requirements for coal-fired power plants.

Specifically, the report suggests changes to the Clean Air Act's New Source Review (NSR) program, which requires utilities to get pre-construction permits before building a new plant or making major changes to an existing one.

The report says uncertainty associated with NSR requirements "creates an unnecessary burden" that discourages installations of carbon dioxide emissions control equipment and efficiency investments "because of the additional expenditures and delays associated with the permitting process."

The authors also cited a 2002 EPA study — done at the request of a task force headed by then-Vice President Dick Cheney — that found the NSR program had led to project cancellations that would have improved grid reliability and efficiency. Without offering specific ideas, the new DOE report urges EPA to allow coal-fired plants to improve performance "without triggering new regulatory approvals and associated costs."

Asked for comment, an Edison Electric Institute spokesman in an email pointed to formal comments filed in 2014 on the Obama administration's proposed Clean Power Plan rule to curb carbon dioxide emissions at power plants.

In those comments, the utility trade group warned that New Source Review concerns would create disincentives to making coal-fired plants run more efficiently and urged EPA to clearly state in the final rule that any efficiency-related upgrades — known as "heat rate improvements" — "do not trigger NSR."

John Walke, clean air director at the Natural Resources Defense Council, labeled the report's findings "bunk" and said in an interview that he knew of no power producer that has sought to retrofit a power plant with CO2 emission controls or cited NSR requirements as a barrier to doing so. Walke also saw the authors' reliance on the 2002 EPA report as evidence of Trump administration meddling.

"They have to give the politicians what they wanted, and to do that, they had to reach back 15 years rather than making the case based on today's actual facts concerning coal-fired power plants," he said.

But Harvard's Peskoe questioned what effect the report would have on the Trump EPA, which is already moving to ease regulatory burdens for coal.



"The EPA appears like it's already heading in this direction," he said, "and this report isn't likely to alter their course."

<http://bit.ly/2g9ll6w>

## **7. Retrial set for 2 defendants**

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A retrial for two men charged in the Bunkerville standoff, Scott Drexler and Eric Parker, has been scheduled for Sept. 25, and the two can return home to Idaho in the meantime.

"I need to go see my mom before she dies," Drexler said yesterday, holding back tears. "I was helping take care of her before I was arrested."

The pair spent 17 months behind bars while waiting for two trials on 10 felony counts stemming from the 2014 armed standoff between ranchers and federal agents near Bunkerville, Nev. (*Greenwire*, Aug. 23).

The first jury wound up deadlocked, and a second panel acquitted the two men of most counts.

Prosecutors immediately asked for the men to face a third jury to determine the remaining counts.

Parker said he was "pleased" with the outcome. Jurors acquitted them on six counts and could not reach a verdict on the remaining four (David Ferrara, *Las Vegas Review-Journal*, Aug. 23). — CS

<http://bit.ly/2wJTJ3B>

## **8. Rules would tame 'Wild West' of radioactive oil-field waste**

Published: Thursday, August 24, 2017

Montana environmental regulators have released their first proposal for regulating radioactive oil-field waste dumps.

The rules from the state Department of Environmental Quality would set standards for sampling, radiation emissions and storage.

Montana regulators say they currently have operating agreements that touch on many aspects of the proposed rules, but environmental groups are cheering the move to a standardized system.

The only landfill for radioactive oil-field waste in Montana has taken on 253,000 tons of waste since 2013.

"Anything would be an improvement from just the Wild West that's been going on," said Grant Kubesh, whose family has farmed the area for 100 years. "There's no rules" (Matt Hudson, *Billings Gazette*, Aug. 24). — CS

<http://bit.ly/2wrY2kc>