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**From:** Black, Meredith  
**Sent:** 2017-10-26T16:26:13-04:00  
**Importance:** Normal  
**Subject:** E&E News Clips—October 26, 2017  
**Received:** 2017-10-26T16:26:22-04:00  
[ee10-26-17.docx](#)

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### 1. U.S. will auction off rest of Alaska's NPR-A

Margaret Kriz Hobson, E&E News reporter Published: Thursday, October 26, 2017

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<http://bit.ly/2yO31gk>

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

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<http://bit.ly/2y6IISx>

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### **5. Hearing features GOP push for state controls, federal 'rollback'**

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Republicans used a House Natural Resources Committee hearing yesterday to lobby for states and local governments to take the lead on greater sage grouse management and to encourage the Trump administration to continue its efforts to "rollback" Obama-era federal plans.

<http://bit.ly/2gERkh6>

### **6. Zinke casts wide net in energy rule review**

Pamela King, E&E News reporter

Published: Thursday, October 26, 2017

The Interior Department yesterday pinpointed a slew of regulations ripe for review in light of

President Trump's March directive to reconsider any rule that "unnecessarily encumbers" U.S. energy production.

<http://bit.ly/2i8Lkxx>

## **7. Climate policies in limbo in Zinke's rollback playbook**

Brittany Patterson, E&E News reporter

Published: Thursday, October 26, 2017

The Interior Department released a long-awaited report yesterday outlining policies it says should be repealed or reformed because they hinder U.S. energy production.

<http://bit.ly/2gMuW9x>

## **8. Lawmakers to set stage for ANWR drilling, tax reform**

George Cahlink, E&E News reporter

Published: Thursday, October 26, 2017

The House is likely to adopt a budget later today that would pave the way for opening up drilling in the Arctic National Wildlife Refuge and allow a broad rewrite of the nation's tax laws.

<http://bit.ly/2yPJ3iV>

## **9. Wildfire legislation's NEPA provisions generate divisions**

Marc Heller, E&E News reporter

Published: Thursday, October 26, 2017

Congress risks stirring old political battles by trying to scale back environmental rules in the fight against wildfires, Sen. Jeff Merkley (D-Ore.) said yesterday.

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

## **10. Uncertainty hovers over Interior-EPA bill**

George Cahlink and Geof Koss, E&E News reporters

Published: Thursday, October 26, 2017

Uncertainty continues to swirl over when Senate appropriators will take up the annual Interior-U.S. EPA funding bill, even with the recent return of ailing committee Chairman Thad Cochran (R-Miss.).

<http://bit.ly/2z9Erar>

**11. Ad features tribal delegate urging Trump to keep sites**

Jennifer Yachnin, E&E News reporter

Published: Thursday, October 26, 2017

The National Wildlife Federation today launched a television ad campaign touting Native American support for national monuments and urging President Trump to refrain from altering sites in Utah and elsewhere.

<http://bit.ly/2z9Vr07>

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# 1.U.S. will auction off rest of Alaska's NPR-A

Margaret Kriz Hobson, E&E News reporter Published: Thursday, October 26, 2017

The Trump administration yesterday announced plans to auction off all of the National Petroleum Reserve-Alaska lands that are currently available for oil and gas development under the existing federal management plan.

Interior Secretary Ryan Zinke announced the Alaska lease sale the day after the department unveiled a massive Gulf of Mexico offshore auction that Zinke described as "the largest oil and gas lease sale in U.S. history."

The Alaska auction will include 900 tracts of land that cover 10.3 million acres in the 22.8-million-acre petroleum reserve. The rest of the NPR-A lands were protected for wildlife habitat and sensitive coastal resources under the Obama administration's 2013 integrated activity plan.

Zinke is already taking preliminary steps to rewrite that plan to allow additional drilling in the NPR-A.

The Bureau of Land Management will accept sealed bids for the NPR-A oil and gas leases until Dec. 4 and plans to announce the winning bidders two days later in Anchorage. The BLM auction coincides with a separate lease sale planned by the state of Alaska for state-owned lands on Alaska's North Slope and in the Beaufort Sea (*Energywire*, Oct. 10).

The state and federal lease sales could attract serious competition from oil companies seeking to acquire lands located near three major oil discoveries that have been announced over the last two years in northern Alaska.

Early this year, ConocoPhillips Alaska announced the discovery of more than 300 million barrels of oil on its NPR-A leases. Armstrong Energy LLC discovered at least 1.2 billion barrels of recoverable oil at its Nanushuk leases west of the petroleum reserve. ConocoPhillips and Armstrong are the top two leaseholders in northern Alaska.

Meanwhile, Caelus Energy LLC estimates that its Smith Bay leases, located in offshore state lands just north of the petroleum reserve, could hold 6 billion barrels of oil. However the company has halted work on the site due to financial issues.

Last December, BLM's annual lease sale drew \$18.8 million in winning bids for leases in the NPR-A. At the same time, the state received \$17.8 million for state lands in northern Alaska.

More recently, geologists with the U.S. Geological Survey have been assessing the oil and gas potential of the NPR-A and Alaska's northern state lands. USGS plans to hold a public geology review meeting on the region early next month.

In announcing the NPR-A lease sale, Zinke predicted that the auction will help put Alaskans back to work on the North Slope and add oil to the Trans-Alaska Pipeline System, which is now operating at one-quarter capacity.

But conservationists who worked with the Obama administration to protect parts of the NPR-A criticized the Trump administration for offering all available petroleum reserve lands for energy development.

"Combined with efforts to open the Arctic National Wildlife Refuge for oil and gas drilling, this announcement about the Western Arctic reflects the current administration's wholesale approach to turning over America's public lands to the highest bidders for development," Nicole Whittington-Evans, Alaska regional director for the Wilderness Society, said in a statement.

<http://bit.ly/2yO31gk>

## **2. Interior sets strategic goals absent data to verify its work**

*Pamela King*, E&E News reporter

Published: Thursday, October 26, 2017

The Interior Department will gauge its achievement of "energy dominance" first and foremost by assessing its response to requests by the oil, gas and coal industries to operate on public lands.

But data to check its progress on two of its key performance goals may no longer be available.

A draft of Interior's fiscal 2018-2022 **strategic plan**, obtained yesterday by E&E News after *The Nation* first reported its leak, details the agency's priority goals and performance metrics.

The document includes six "mission areas" on topics such as land and water conservation, recreation expansion, and border control. Interior's second mission area, revenue generation and natural resource

utilization, is heavily geared toward oil, gas and mineral extraction — although renewables are mentioned as well.

"Oil, gas, coal and renewable energy form the cornerstones of our nation's energy base, and the DOI will continue to expand production of both offshore and onshore conventional and renewable U.S. energy resources while ensuring safety and reliability through efficient permitting, appropriate standards, assessment and oversight," the plan says.

Interior's first strategy under that mission area is to promote "safe and robust" energy development. Under that section, the department identified 12 "key performance indicators" — more than any other strategy included in the document.

The Bureau of Land Management, an Interior agency, was assigned a pair of priority performance goals: By Sept. 30, 2019, BLM aims to eliminate its backlog of applications for permit to drill (APDs) and process within 180 days 80 percent of industry expressions of interest (EOIs) to lease federally owned lands for oil, gas or mineral extraction.

Data to check BLM's performance on those metrics may no longer be publicly available.

Claims of an APD backlog at BLM are controversial. Career staff members at the bureau say that because they are constantly receiving applications from industry, the number of APD packages they are handling at any given moment is never zero.

On April 30, BLM had 2,955 pending applications. But conservation groups point to a far larger number of approved but unused APDs — 7,950, according to testimony from a senior Interior official this summer — as evidence that companies are pushing for faster processing of permits that they are slow to drill.

Industry groups say it's not a direct comparison.

BLM has indicated it will no longer collect the latter data set (*Energywire*, Oct. 11).

The federal government's responsiveness to EOIs can be roughly gauged by comparing the number of acres in which industry has expressed interest against the number of acres BLM has offered for lease.

The second data set was last updated in 2015.

"There is some ground truthing to be done about where the delays come in and whether that's an issue shared by industry," said Kate Kelly, director of public lands at the Center for American Progress and former adviser to Interior Secretary Sally Jewell under President Obama.

Data on the average number of days it takes BLM to consider an APD show that in fiscal 2016, 118 days of the 257-day process were attributable to operator delays.

BLM typically contributes to less than half of the wait time, the data show.

A turning point on energy

For industry, the draft strategic plan is a good indication of the Trump Interior's new direction — and it's a welcome about-face from where the Obama administration was headed.

"Rather than the platitudes and empty phrases of the prior plan, [Interior Secretary Ryan] Zinke's plan is straightforward: Protect the environment while getting on with the business of developing American natural resources," said Kathleen Sgamma, president of the Western Energy Alliance.

"Federal oil, gas and coal provide orders of magnitude more revenue and jobs than renewables, and the plan is aligned accordingly," she added. "Comparing the energy section, this plan contains solid performance measures for enhancing American energy dominance, while the previous plan had very little about increasing energy production except in the case of renewables."

Comparisons with the energy goals laid out in the department's current strategic plan are telling.

Unlike the Trump administration's draft plan, the current plan, which covers fiscal 2014-2018, contains specific action items for achieving each secretarial priority. Under the energy section, Jewell tasked her Interior staff with crafting new regulations for development on public lands.

Many of those rules are slowly disappearing, in accordance with executive orders from the Trump administration (Energywire, Oct. 24).

"The new plan lays out energy production goals and performance measures, but does not disclose how DOI will achieve them — perhaps because shortcutting environmental protections will be a key tool," said Alexandra Teitz, a former adviser to BLM Director Neil Kornze under Obama.

Performance indicators under the draft strategic plan include no mention of environmental compliance for onshore oil and gas development.

"[E]nsuring compliant environmental review" is listed as a metric for renewable energy development. "Number of high risk inspections conducted" is a priority in offshore drilling.

Shortened permitting times could indicate an appetite to shortcut environmental safeguards — or not, said Lewis & Clark Law School professor Michael Blumm, a public lands expert.

"They've already announced they're going to keep environmental impact statements (EIS) short, which in and of itself isn't a bad thing — as long as they investigate alternatives," Blumm said, referencing a decision this year by Interior to impose time and page limits on its environmental reviews (Greenwire, Sept. 6).

"My guess is they'll investigate fewer alternatives," he said. "You could write a good EIS that's 150 pages, but if you only use the page limits to reduce the number of alternatives considered, that cuts into the heart of the National Environmental Policy Act."

Additional metrics could be forthcoming. The document, dated Sept. 27, appears to be incomplete, although the extent to which it will be updated is unclear.

"It's a draft, and maybe they're waiting to put in some more conservation objectives," said Nada Culver, senior counsel and director of the Wilderness Society's BLM Action Center.

When asked about *The Nation's* report on the document, Interior spokeswoman Heather Swift said she was "unaware of their supposed 'leaked document.'"

She did not respond to a request to confirm the document's authenticity.

#### Use of language

While mentions of "climate change" appeared 46 times in Interior's current strategic plan, the phrase was scrubbed from the draft document under President Trump's Interior (Greenwire, Oct. 25).

"Climate" appears once in the draft, but only in reference to the business environment.



"Stable economies and fiscally prudent insular governments foster a more hospitable climate for investment in" island economies, Interior wrote under its third goal, to strengthen economic and health capacity in U.S. territories.

Interior's new strategic plan does contain one important new keyword: "energy dominance."

"The DOI is committed to achieve and maintain American energy dominance through responsible productivity of the public lands for the multiple use and economic benefit of present and future generations," Interior wrote in its introduction of its second mission area.

Zinke has been one of the most consistent users of the term since it entered the political lexicon, so it's no surprise that it would land in the department's guidance, said Peter Shulman, associate professor at Case Western Reserve University and an expert on the origins of "energy dominance."

"It's not clear to me how much energy dominance is a chest-pumping rhetorical move," he said. "If anything, what's missing from Interior's plan is more striking."

The plan mentions an "all-of-the-above" energy strategy, but in the absence of mentions of climate change, the goal has new meaning, Shulman said.

Obama used the term to multiple ends, Shulman said. On one hand, it helped the former president not to alienate any constituents from states with large energy industries. On the other, it was an acknowledgement that the United States will have to diversify its portfolio in order to move away from greenhouse-gas-emitting fossil fuels, he added.

"Once you take away the strategy of climate change, 'all of the above' begins to mean 'support industry,'" Shulman said.

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

### **3. County seeks BLM OK to rebuild stretch of '57 miles of hell'**

Published: Thursday, October 26, 2017

Grand Staircase-Escalante National Monument's most traveled road is sometimes referred to as "57 miles of hell," but Utah's Garfield County now has the money to rebuild a 16-mile stretch of the road, pending Bureau of Land Management approval.

Utah's Hole-in-the-Rock Road sees up to 200 vehicles per day, according to county engineer Brian Bremner. Many visitors are not pleased with the road's conditions.

The county's plan would repair previous flood damage, narrow the roadway and add support to culverts.

Bremner said his crews regrade the road up to 20 times during peak season, and six more times each year for Garfield County's section.

"We finish grading on a Thursday evening, and by Monday it's ready for us to go back to," Bremner said. "It keeps getting lower and lower. We need to build it back up so we can maintain it."

BLM is accepting public comments on the plan through Nov. 9.

Repairing the road could boost a plan to develop a Hole-in-the-Rock state park at the road's southeastern end (*Greenwire*, Feb. 20). The historic spot is in a remote location (Brian Maffly, *Salt Lake Tribune*, Oct. 25). —  
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<http://bit.ly/2y6l1Sx>

#### **4. BLM advances large-scale project left for dead last year**

Scott Streater, E&E News reporter

Published: Thursday, October 26, 2017

The Bureau of Land Management, in a rare move under the Trump administration, is advancing a commercial-scale solar power project in Southern California that appeared dead last year after its Spain-based developer went bankrupt.

BLM is scheduled tomorrow to publish a draft supplemental environmental impact statement analyzing the Palen Solar Power Project. The photovoltaic solar plant is proposed to be built on about 4,200 acres of federal land in Riverside County, according to an advance **notice** in today's *Federal Register*.

EDF Renewable Energy Inc. last year filed a permit application with BLM to revive the project, which would have the capacity to produce about 500 megawatts of electricity — enough to power roughly 150,000 homes and businesses.

EDF's proposal came after the previous project developer, Seville, Spain-based Abengoa Solar, filed for bankruptcy protection last year (*E&E News PM*, June 24, 2016).

Abengoa had originally proposed building a 750-foot-tall power tower and 85,000 heliostat mirrors that would move with the sun, heat water and create steam to drive electric generators.

But EDF filed a permit application for a new version of the project, which abandons Abengoa's solar trough proposal for photovoltaic solar technology, the *Federal Register* notice says.

The proposed project also includes construction of a 6.7-mile-long, 230-kilovolt power line that would connect the project to the Southern California Edison Red Bluff substation.

Publication of the draft supplemental EIS tomorrow will kick off a 45-day public comment period, according to the *Register* notice. The project will also require amending the California Desert Conservation Area plan.

BLM is partnering with Riverside County on the environmental review.

"The BLM is committed to supporting responsible energy development, including for transmission, that stabilizes the grid and strengthens America's energy infrastructure," Beth Ransel, BLM California Desert District manager, said in a statement. "We welcome opportunities to help make public lands work for local communities."

BLM has scheduled a Nov. 14 public meeting on the project in Palm Desert, Calif.

Proponents of previous versions of the project have argued it would help California meet its renewable portfolio standard. But Native American tribes and environmental groups have argued in the past the site is not appropriate for a utility-scale solar project.

Lisa Belenky, a senior attorney with the Center for Biological Diversity in Oakland, Calif., said the group will need to read the entire draft supplemental EIS before it can draw any conclusions.

"The Center is looking forward to reviewing the new proposal for this PV solar project, and particularly the alternatives that could avoid habitats associated with rare Desert washes and sand dunes," Belenky said today in an email.

The advance notice states the actual project footprint is about 3,100 acres, and BLM's preferred alternative "avoids the central and largest desert wash and incorporates a more efficient use of the land for the solar array."

The draft supplemental EIS comes at a time when the Trump administration has called for increased domestic energy production but has focused on advancing oil and gas development and mining activity on federal lands.

Interior Secretary Ryan Zinke last month questioned whether large-scale solar power development is a wise use of public land (*Greenwire*, Sept. 28). Speaking at a Clean Energy Week conference in Washington, Zinke said land used to host solar panels has no other use outside of energy production, adding that rooftops — not public land — are the best platforms for producing solar power going forward.

BLM officials said last month the agency is not turning away from solar project development despite Zinke's comments.

They noted the Palen solar project is one of three large-scale solar proposals in California that BLM has targeted to be approved by 2019, along with First Solar Inc.'s 300-MW Desert Quartzite Solar Project and Recurrent Energy's 450-MW Crimson Solar Project — all in Riverside County.

Katharine MacGregor, the Interior Department's deputy assistant secretary for land and minerals management, told a House Natural Resources subcommittee last summer the Trump administration is "supportive of all energy jobs" (*E&E Daily*, June 30). MacGregor added, however, that Interior will not be "engaged in picking winners and losers in any way" — a common jab from Trump administration officials at President Obama's unprecedented push to spark commercial-scale renewables development.

The Obama administration approved 60 solar, wind and geothermal power projects on federal lands that will have a total capacity to produce about 15,500 MW of electricity — enough to power more than 5 million homes and businesses. Of those approved projects, 36 were solar power projects.

Renewable energy development on federal lands has slowed under the Trump administration, which has approved one renewable energy project — First Solar's 210-MW White Wing Solar Project in Arizona. That project is on private land, and BLM's right-of-way grant was limited only to allowing a 3.5-mile-long transmission line from the photovoltaic power plant to cross federal land.

Christopher Mansour, vice president of federal affairs for the Solar Energy Industries Association, said the industry is pleased to see continued movement on solar projects.

"America's public lands are meant to be for the benefit of the people and we're happy to see continued interest by BLM in the important purpose of domestic energy production," Mansour said in a statement.

For the Palen project, the move by EDF Renewable Energy is just the latest in a long and bizarre saga that has seen the project left for dead at least twice over the past six years.

After the original project backer, Solar Trust of America LLC, went bankrupt in 2011, Oakland, Calif.-based BrightSource Energy Inc. purchased the rights to the Palen project at a 2012 bankruptcy auction.

BLM then prepared a draft supplemental EIS analyzing the cumulative environmental and visual impacts of the newest proposal, which involved using solar thermal technology. BrightSource Energy later backed out,

and Abengoa took over. But Abengoa filed for bankruptcy protection and transferred ownership of the project to an EDF subsidiary while the company underwent a reorganization, including selling off assets.

The project was essentially left for dead in early 2016 after the California Energy Commission denied a request by EDF to extend by one year a deadline to begin construction of the planned photovoltaic solar project.

<http://bit.ly/2yTrkt0>

## **5. Hearing features GOP push for state controls, federal 'rollback'**

*Scott Streater*, E&E News reporter

Published: Thursday, October 26, 2017

Republicans used a House Natural Resources Committee hearing yesterday to lobby for states and local governments to take the lead on greater sage grouse management and to encourage the Trump administration to continue its efforts to "rollback" Obama-era federal plans.

But undermining the federal conservation plans could unintentionally result in the bird being listed for federal protection under the Endangered Species Act, Democrats and a state wildlife official from Montana warned during the full committee oversight hearing.

The Fish and Wildlife Service determined in 2015 that the federal sage grouse management plans, which took years to develop and cover nearly 70 million acres in 10 Western states, were strong enough to protect the bird and to keep it off the endangered species list. But FWS must conduct a five-year review of the status of the grouse in 2020.

"Congress and the administration should avoid changes that undermine the foundation of the 2015 not-warranted finding," John Tubbs, director of the Montana Department of Natural Resources and Conservation, told the committee.

Tubbs, who also chairs the Montana Sage Grouse Oversight Team, said the federal plans and his state's own grouse management plan "work in concert" to protect the bird and its habitat.

"State plans alone are not sufficient," he added. "Montana believes that potential legal issues could arise from taking a hasty and narrow view toward changing federal plans."

The Natural Resources Committee hearing comes as Interior Secretary Ryan Zinke has reopened for public review the federal sage grouse conservation blueprint that amended 98 Bureau of Land Management and Forest Service land-use plans. Interior is likely to use the review to make substantial changes, including potentially giving states with grouse management plans full authority to manage the bird within their individual state boundaries.

"It is important that we applaud the current administration's efforts to correct the flaws in the resource management plans of the past," committee Chairman Rob Bishop (R-Utah) said in an opening statement that laid out the purpose and direction of the two-hour hearing.

Bishop also said he believes it is important "to provide further evidence that state and local control leads to lasting success. Not just to actually control and manage the bird but to rehabilitate the species. States have consistently proven they are masters at caring for their lands and their wildlife, and sage grouse is, in fact, no different."

To support that view, three of the four witnesses testifying at the hearing were state officials from Idaho, Utah and Nevada — states that have been vocal critics of the federal plans and have challenged them in federal court.

All three said the federal plans ignored state input, and largely overlooked what they said is the top threat to sage grouse: wildfires.

Instead, Scott Bedke, a Republican who is the speaker of the House in the Idaho Legislature, said the Obama administration cowered to environmental activists and implemented federal plans that "punish livestock grazing" with "unreasonably large" buffers around grouse breeding grounds, called leks, and "impossible minimum stubble-height requirements."

The result, Bedke said, is restricted grazing and overgrown rangelands, "making the habitat much more susceptible to larger and more frequent wildfires. The [federal] amendments are counterproductive to sage grouse conservation."

The federal plans may also undermine a very successful sage grouse protection program in Utah, said Darin Bird, deputy director of the Utah Department of Natural Resources.

He pointed to the state's 10-year-old Watershed Restoration Initiative, which he said has resulted in the investment of \$150 million to treat 1.3 million acres and make them more resistant to wildfires — the top threat to grouse in Utah.

But the initiative is paid for with fees and taxes derived from economic activities conducted on lands outside of the state's grouse management areas. Since Utah has so much federal land, when the federal plans were implemented new economic activity in these areas were brought "to a standstill," he said.

"This threatens the one program — the watershed initiative — that is doing the most to protect and restore sage grouse in the state of Utah," Bird said. "Good intentions do not make good policy."

#### Democrats push back

Democrats on the committee rejected that the federal plans, and the years of work and collaboration with various stakeholders that went into developing them, are fundamentally flawed.

Prior to the hearing, Rep. Raúl Grijalva (D-Ariz.), the committee's ranking member, released a press statement that "questioned in whose interests Republicans are acting" when it comes to the federal plans. He noted a number of state leaders, including Wyoming Gov. Matt Mead (R), have raised concerns about some of the proposed changes.

Grijalva accused Republican leaders during the hearing of pursuing a "crusade to transfer U.S. public lands, or management of these lands, from federal agencies representing all Americans, to states and localities that represent a few."

Though he did not say so directly, Grijalva hinted the effort to dismantle the federal grouse plans is being done at the behest of the oil and gas industry and mining interests.

He criticized GOP leaders for believing "the myth that the West is a land of inexhaustible natural resources that could produce infinite wealth and job opportunities if only the federal government would get out of the way."

The federal plans, he said, "protect core sage grouse habitat without impacting existing mining and energy claims, and still maintain access to the vast majority of these recoverable resources. That's not a job killer, that's the definition of multiple use and a sustainable, responsible management of our natural resources."

Rolling back these plans will likely lead to the eventual listing of the sage grouse for ESA protection, he said.

Massachusetts Rep. Niki Tsongas (D) agreed.

"The Trump administration's effort to overturn the federal land management plans, I believe, is putting all of these efforts at risk, creating uncertainty for those working on the ground to conserve this iconic species and its habitat, and increasing the likelihood that the species will need to be listed under the Endangered Species Act, something we all want to avoid," she said.

But a cadre of Republicans on the committee rejected that notion, including Reps. Doug Lamborn of Colorado, Rob Wittman of Virginia, Paul Gosar of Arizona and Liz Cheney of Wyoming.

Though not cited at the hearing, California Republican Rep. Ken Calvert's **H.R. 3354**, an Interior Department-U.S. EPA funding bill approved by the full House, includes a provision that would prevent Interior from allocating funds toward the listing of sage grouse as endangered or threatened.

"If we really want to solve this problem, you have to let these state plans go into effect, and you have to give them a chance to show that they can actually accomplish the results, and that's going to take a couple of years to do that," Bishop said. "But what we are doing right now is wrong, and I applaud this administration for trying to see if we can roll it back."

<http://bit.ly/2gERkh6>

## 6. Zinke casts wide net in energy rule review

Pamela King, E&E News reporter

Published: Thursday, October 26, 2017

The Interior Department yesterday pinpointed a slew of regulations ripe for review in light of President Trump's March **directive** to reconsider any rule that "unnecessarily encumbers" U.S. energy production. Interior's 44-page **report**, the details of which the department had previously kept close to the vest, contained few surprises. It suggested ways Interior could loosen its strictures for energy operators — but particularly those that produce oil, gas and coal on public lands.

The agency has already gotten to work on a few of its regulatory priorities, which include a plan to rescind an Obama-era rule governing hydraulic fracturing on federal and American Indian lands and a proposed suspension of some efforts by the previous administration to curb methane emissions from production of publicly owned oil and gas resources.

"Our public lands are meant to be managed for the benefit of the people. That means a multiple-use approach where appropriate and making sure that multiple-use includes energy development under reasonable regulations," Interior Secretary Ryan Zinke said in a statement yesterday. "Following President Trump's leadership, Interior is fostering domestic energy production by streamlining permitting and revising and repealing Obama-era job killing regulations — all while doing so in an environmentally responsible way."

A day after the release of Trump's March 28 order, Zinke signed his own **secretarial order** to begin executing the president's instructions.

Yesterday's review offers more granular details on Interior's deregulatory agenda.

The report appears to bow to desires expressed by oil and gas industry advocates to remove hurdles to production on federally controlled tracts.

Western Energy Alliance President Kathleen Sgamma said Interior's list looked nearly complete to her.

"I can't think of too much more to add, other than bureaucratic intransigence, but that's perhaps not as easy to fix," she said. "I would add the disadvantage on Indian lands caused by the extra bureaucratic layer of the Bureau of Indian Affairs. Tribes that are trying to develop their oil and natural gas resources have that extra burden, and consequently the holdups on Indian lands are worse."

BLM might also consider addressing the National Environmental Policy Act process in developing resource management plans (RMPs), Sgamma said. RMP updates take a minimum of five years, holding up lease nominations and project approvals in the meantime, she added.

Zinke's energy adviser, Vincent DeVito, said yesterday's report demonstrates Interior's commitment to becoming a better business partner.

"Secretary Zinke's bold approach to achieving American energy dominance is making our nation freer, more secure and more prosperous," DeVito said. "Regulations should not unnecessarily burden energy production, but that is what occurs in many cases. The recent actions outlined in this energy report show how Interior is rolling back some of these burdensome regulations that add little or no value, while promoting responsible energy development."

Green groups have questioned Interior's emphasis on smoothing the path for industry.

The department's regulatory review "amounts to a sweeping playbook for how to turn over, wholesale, the management of public lands and water to industry," said Kate Kelly, director of public lands for the Center for American Progress. "The Trump administration is intent on putting oil, gas and coal companies in charge of when, where and how they exploit taxpayer-owned resources."

Nada Culver, senior counsel and executive director of the Wilderness Society's Bureau of Land Management Action Center, asked why the agency seemed to be classifying some of Interior's fundamental responsibilities as burdens.

"Considering any delays in leasing, opportunities for public oversight and protections for other resources as impediments to be removed as quickly as possible is a path to destruction of our public lands and a fundamental abandonment of the responsibilities of the Department of the Interior," Culver said.

Interior's report followed reviews yesterday by the Energy Department, NOAA and U.S. EPA. Each agency released its own update on how it is putting Trump's "energy independence" executive order into effect.

[Click here](#) to view an annotated PDF of the executive order.

## **Presidential Executive Order on Promoting Energy Independence and Economic Growth**

### EXECUTIVE ORDER

#### PROMOTING ENERGY INDEPENDENCE AND ECONOMIC GROWTH

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. (a) **It is in the national interest to promote clean and safe development of our Nation's vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation. Moreover, the prudent development of these natural resources is essential to ensuring the Nation's geopolitical security.**

(b) **It is further in the national interest to ensure that the Nation's electricity is affordable, reliable, safe, secure, and clean, and that it can be produced from coal, natural gas, nuclear material, flowing water, and other domestic sources, including renewable sources.**

The order sets out lofty goals for promoting development of all types of energy, but its recommended regulatory rollbacks focus on streamlining fossil fuel development.

(c) Accordingly, it is the policy of the United States that executive departments and agencies (agencies) immediately review existing regulations that potentially burden the development or use of domestically produced energy resources and appropriately suspend, revise, or rescind those that unduly burden the development of domestic energy resources beyond the degree necessary to protect the public interest or otherwise comply with the law.

(d) It further is the policy of the United States that, to the extent permitted by law, all agencies should take appropriate actions to promote clean air and clean water for the American people, while also respecting the proper roles of the Congress and the States concerning these matters in our constitutional republic.

(e) It is also the policy of the United States that necessary and appropriate environmental regulations comply with the law, are of greater benefit than cost, when permissible, achieve environmental improvements for the American people, and are developed through transparent processes that employ the best available peer reviewed science and economics.

**Sec. 2. Immediate Review of All Agency Actions that Potentially Burden the Safe, Efficient Development of Domestic Energy Resources.** (a) **The heads of agencies shall review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (collectively, agency actions) that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources. Such review shall not include agency actions that are mandated by law, necessary for the public interest, and consistent with the policy set forth in section 1 of this order.**

(b) **For purposes of this order, "burden" means to unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources.** This clause gives the order broader reach, prompting regulatory reviews from many agencies beyond U.S. EPA and the Interior Department.

(c) Within 45 days of the date of this order, the head of each agency with agency actions described in subsection (a) of this section shall develop and submit to the Director of the Office of Management and Budget (OMB Director) a plan to carry out the review required by subsection (a) of this section. The plans shall also be sent to the Vice President, the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, and the Chair of the Council on Environmental Quality. The head of any agency who determines that such agency does not have agency actions described in subsection (a) of this section shall submit to the OMB Director a written statement to that effect and, absent a determination by the OMB Director that such agency does have agency actions described in subsection (a) of this section, shall have no further responsibilities under this section.

(d) Within 120 days of the date of this order, the head of each agency shall submit a draft final report detailing the agency actions described in subsection (a) of this section to the Vice President, the OMB Director, the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, and the Chair of the Council on Environmental Quality. The report shall include specific recommendations that, to the extent permitted by law, could alleviate or eliminate aspects of agency actions that burden domestic energy production.

**(e) The report shall be finalized within 180 days of the date of this order, unless the OMB Director, in consultation with the other officials who receive the draft final reports, extends that deadline.**

Some agencies, including U.S. EPA and the Department of Energy, began to make their regulatory reviews public this fall.

(f) The OMB Director, in consultation with the Assistant to the President for Economic Policy, shall be responsible for coordinating the recommended actions included in the agency final reports within the Executive Office of the President.

(g) With respect to any agency action for which specific recommendations are made in a final report pursuant to subsection (e) of this section, the head of the relevant agency shall, as soon as practicable, suspend, revise, or rescind, or publish for notice and comment proposed rules suspending, revising, or rescinding, those actions, as appropriate and



consistent with law. Agencies shall endeavor to coordinate such regulatory reforms with their activities undertaken in compliance with Executive Order 13771 of January 30, 2017 (Reducing Regulation and Controlling Regulatory Costs).

Sec. 3. Rescission of Certain Energy and Climate Related Presidential and Regulatory Actions. (a) The following Presidential actions are hereby revoked:

- (i) Executive Order 13653 of November 1, 2013 (Preparing the United States for the Impacts of Climate Change);
- (ii) The Presidential Memorandum of June 25, 2013 (Power Sector Carbon Pollution Standards);
- (iii) The Presidential Memorandum of November 3, 2015 (Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment); and
- (iv) The Presidential Memorandum of September 21, 2016 (Climate Change and National Security).

(b) The following reports shall be rescinded:

- (i) The Report of the Executive Office of the President of June 2013 (The President's Climate Action Plan); and
  - (ii) The Report of the Executive Office of the President of March 2014 (Climate Action Plan Strategy to Reduce Methane Emissions).
- (c) The Council on Environmental Quality shall rescind its final guidance entitled "Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews," which is referred to in "Notice of Availability," 81 Fed. Reg. 51866 (August 5, 2016).

(d) The heads of all agencies shall identify existing agency actions related to or arising from the Presidential actions listed in subsection (a) of this section, the reports listed in subsection (b) of this section, or the final guidance listed in subsection (c) of this section. Each agency shall, as soon as practicable, suspend, revise, or rescind, or publish for notice and comment proposed rules suspending, revising, or rescinding any such actions, as appropriate and consistent with law and with the policies set forth in section 1 of this order.

Sec. 4. Review of the Environmental Protection Agency's "Clean Power Plan" and Related Rules and Agency Actions. (a) The Administrator of the Environmental Protection Agency (Administrator) shall immediately take all steps necessary to review the final rules set forth in subsections (b)(i) and (b)(ii) of this section, and any rules and guidance issued pursuant to them, for consistency with the policy set forth in section 1 of this order and, if appropriate, shall, as soon as practicable, suspend, revise, or rescind the guidance, or publish for notice and comment proposed rules suspending, revising, or rescinding those rules. In addition, the Administrator shall immediately take all steps necessary to review the proposed rule set forth in subsection (b)(iii) of this section, and, if appropriate, shall, as soon as practicable, determine whether to revise or withdraw the proposed rule.

(b) This section applies to the following final or proposed rules:

**(i) The final rule entitled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64661 (October 23, 2015) (Clean Power Plan);**

The Trump administration has formally proposed repealing the Clean Power Plan. A public comment period is open now, and EPA has not yet decided whether to replace the rule.

**(ii) The final rule entitled "Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64509 (October 23, 2015);** and  
The new source rule is still in effect. EPA is reviewing it but has not announced a plan for action

(iii) The proposed rule entitled "Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations; Proposed Rule," 80 Fed. Reg. 64966 (October 23, 2015).

(c) The Administrator shall review and, if appropriate, as soon as practicable, take lawful action to suspend, revise, or rescind, as appropriate and consistent with law, the "Legal Memorandum Accompanying Clean Power Plan for Certain Issues," which was published in conjunction with the Clean Power Plan.

(d) The Administrator shall promptly notify the Attorney General of any actions taken by the Administrator pursuant to this order related to the rules identified in subsection (b) of this section so that the Attorney General may, as appropriate, provide notice of this order and any such action to any court with jurisdiction over pending litigation related to those rules, and may, in his discretion, request that the court stay the litigation or otherwise delay further litigation, or seek other appropriate relief consistent with this order, pending the completion of the administrative actions described in subsection (a) of this section.

**Sec. 5. Review of Estimates of the Social Cost of Carbon, Nitrous Oxide, and Methane for Regulatory Impact Analysis.** (a) In order to ensure sound regulatory decision making, it is essential that agencies use estimates of costs and benefits in their regulatory analyses that are based on the best available science and economics.

(b) The Interagency Working Group on Social Cost of Greenhouse Gases (IWG), which was convened by the Council of Economic Advisers and the OMB Director, shall be disbanded, and the following documents issued by the IWG shall be withdrawn as no longer representative of governmental policy:

In light of the working group's disbandment, Bureau of Land Management's proposal to delay many provisions of its methane rule used "interim values" on the social cost of methane until an "improved estimate" can be developed. The proposed Clean Power Plan repeal also reworked the social cost of carbon analysis.

(i) Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866 (February 2010);

(ii) Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis (May 2013);

(iii) Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis (November 2013);

(iv) Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis (July 2015);

(v) Addendum to the Technical Support Document for Social Cost of Carbon: Application of the Methodology to Estimate the Social Cost of Methane and the Social Cost of Nitrous Oxide (August 2016); and

(vi) Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis (August 2016).

(c) Effective immediately, when monetizing the value of changes in greenhouse gas emissions resulting from regulations, including with respect to the consideration of domestic versus international impacts and the consideration of appropriate discount rates, agencies shall ensure, to the extent permitted by law, that any such estimates are consistent with the guidance contained in OMB Circular A 4 of September 17, 2003 (Regulatory Analysis), which was issued after peer review and public comment and has been widely accepted for more than a decade as embodying the best practices for conducting regulatory cost benefit analysis.

**Sec. 6. Federal Land Coal Leasing Moratorium.** The Secretary of the Interior shall take all steps necessary and appropriate to amend or withdraw Secretary's Order 3338 dated January 15, 2016 (Discretionary Programmatic Environmental Impact Statement (PEIS) to Modernize the Federal Coal Program), and to lift any and all moratoria on Federal land coal leasing activities related to Order 3338. The Secretary shall commence Federal coal leasing activities consistent with all applicable laws and regulations.

Interior immediately lifted the Obama administration's federal coal leasing freeze in March but has not yet held any auctions.

**Sec. 7. Review of Regulations Related to United States Oil and Gas Development.** (a) The Administrator shall review the final rule entitled "Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources," 81 Fed. Reg. 35824 (June 3, 2016), and any rules and guidance issued pursuant to it, for consistency with the policy set forth in section 1 of this order and, if appropriate, shall, as soon as practicable, suspend, revise, or rescind the guidance, or publish for notice and comment proposed rules suspending, revising, or rescinding those rules.

EPA tried but failed to stall the Obama administration's methane standards for new oil and gas. The rule is now in effect while EPA considers a broader rollback.

(b) The Secretary of the Interior shall review the following final rules, and any rules and guidance issued pursuant to them, for consistency with the policy set forth in section 1 of this order and, if appropriate, shall, as soon as practicable, suspend, revise, or rescind the guidance, or publish for notice and comment proposed rules suspending, revising, or rescinding those rules:

**(i) The final rule entitled "Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands," 80 Fed. Reg. 16128 (March 26, 2015);**

Interior has proposed to repeal the fracking rule and is expected to finalize the action soon. Because of recent court action, the long-sidelined regulation could soon take effect if the Trump administration doesn't move quickly enough.

**(ii) The final rule entitled "General Provisions and Non-Federal Oil and Gas Rights," 81 Fed. Reg. 77972 (November 4, 2016);**

**(iii) The final rule entitled "Management of Non Federal Oil and Gas Rights," 81 Fed. Reg. 79948 (November 14, 2016); and**

Interior has made no announcements on these rules. Efforts to repeal under the Congressional Review Act failed.

**(iv) The final rule entitled "Waste Prevention, Production Subject to Royalties, and Resource Conservation," 81 Fed. Reg. 83008 (November 18, 2016).**

After an unsuccessful Congressional Review Act push, Interior this month proposed delaying most of the Bureau of Land Management methane rule's requirements in anticipation of a revision or rescission of the regulation.

(c) The Administrator or the Secretary of the Interior, as applicable, shall promptly notify the Attorney General of any actions taken by them related to the rules identified in subsections (a) and (b) of this section so that the Attorney General may, as appropriate, provide notice of this order and any such action to any court with jurisdiction over pending litigation related to those rules, and may, in his discretion, request that the court stay the litigation or otherwise delay further litigation, or seek other appropriate relief consistent with this order, until the completion of the administrative actions described in subsections (a) and (b) of this section.

Sec. 8. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,  
March 28, 2017.

<http://bit.ly/2i8Lkxx>

## 7. Climate policies in limbo in Zinke's rollback playbook

Brittany Patterson, E&E News reporter

Published: Thursday, October 26, 2017

The Interior Department released a long-awaited report yesterday outlining policies it says should be repealed or reformed because they hinder U.S. energy production.

Unlike similar reports from some other agencies — that offered first glimpses into how they intend to carry out the Trump administration's energy policies — Interior's report from Secretary Ryan Zinke paints a picture of an agency already in the throes of reducing "regulatory burdens" for U.S. fossil fuel producers.

The impacts that regulatory rollbacks could have on climate change were not mentioned in the report.

"Following President Trump's leadership, Interior is fostering domestic energy production by streamlining permitting and revising and repealing Obama-era job killing regulations — all while doing so in an environmentally responsible way," Zinke stated in a press release.

The document was drafted in response to President Trump's sweeping "energy independence" executive order issued in March that called upon federal agencies to review all rules and policies that may affect U.S. energy production.

The report kicks off by listing the "immediate action" Interior has already undertaken, which includes implementing six secretarial orders signed by Zinke. They accomplished a myriad of things, including ending the three-year moratorium on coal leasing and review of the federal coal program, developing a new five-year plan for offshore oil and gas leasing on the outer continental shelf and opening the door for additional drilling in Alaska.

To further facilitate energy development, Interior has also created a new position, the counselor to the secretary for energy policy, held by Vincent DeVito, the treasurer of Zinke's former political action committee.

Accompanying the agency's 44-page document was another secretarial order, which establishes a committee within Interior's Office of the Secretary that will focus on improving "aggressively the efficiency, effectiveness and accountability of its management of energy resources on Federal and Indian lands and the Outer Continental Shelf."

That order, S.O. 3358, creates the "Executive Committee for Expedited Permitting," which is tasked with dealing with permitting backlogs and regulatory delays in order to "enhance our nation's energy dominance" including identifying "energy right-of-way corridors" on public lands and expediting environmental reviews.

In terms of climate change, the report noted that internal policies are still under review.

Over the last decade, Interior's 10 bureaus have developed enterprising, although arguably piecemeal, policies on how to adapt to and mitigate climate change on public lands. Many of those documents, policies and reports fell under review when Zinke issued his "American Energy Independence" secretarial order, which outlined how Interior would comply with Trump's executive action (Climatewire, March 30).

In its new report, the agency writes it is reviewing bureau reports and other documents "relevant to climate" that may be a burden to energy development but has found few regulatory requirements. The agency noted it is also reviewing handbooks, memos, manuals and guidance "that inwardly focus their units and workforce management activities" on climate change.

The document also notes that the Bureau of Land Management recently rescinded a permanent instruction memorandum signed by Obama's Interior Secretary Sally Jewell that enabled the agency to use White House Council on Environmental Quality guidance to calculate the greenhouse gas emissions and impacts of climate change when crafting environmental reviews.

BLM "will consider" issuing new guidance on how to calculate direct and indirect greenhouse gas emissions related to a proposed project, the report states.

Despite the work already underway at Interior, the agency also identified additional policies that may be hampering energy development. For example, the agency called for BLM to re-evaluate how it does out certain land designations when crafting land management plans.

The report calls out more than 6 million acres of "Area of Critical Environmental Concern" designations in particular as possibly burdensome to energy development because they often connote that special management attention is needed to protect important historical or cultural values or to protect fish, wildlife or other natural resources. Drilling or mining can be prohibited.

Interior also calls for the review of policies that allow anyone to protest the inclusion parcel in an oil and gas lease sale, noting in fiscal 2016, 72 percent of parcels offered for lease were protested, up from 17 percent four years earlier.

"This uptick in the protest process and the inability to reach conclusive resolutions in a timely manner is a burden on oil and natural gas development on public lands," the document states. "A regulatory change may be necessary to limit redundant protests that hinder orderly development."

Environmental advocates decried the report but said they weren't surprised by its contents.

"It amounts to a sweeping playbook for how to turn over, wholesale, the management of public lands and water to industry," said Kate Kelly, public lands director for the Center for American Progress. "The Trump Administration is intent on putting oil, gas and coal companies in charge of when, where and how they exploit taxpayer-owned resources."

<http://bit.ly/2gMuW9x>

## **8. Lawmakers to set stage for ANWR drilling, tax reform**

[George Cahlink](#), E&E News reporter

Published: Thursday, October 26, 2017

The House is likely to adopt a budget later today that would pave the way for opening up drilling in the Arctic National Wildlife Refuge and allow a broad rewrite of the nation's tax laws.

Republican leaders have expressed confidence throughout the week that the chamber would adopt the budget approved by the Senate last week. Some GOP lawmakers, however, were threatening yesterday to hold back support because of concerns that the budget's passage could lead to the eventual elimination of a popular state and local tax deduction.

"I am confident it will pass, but it will be close — four or five votes," said Rep. Mark Meadows (R-N.C.), chairman of the House Freedom Caucus, yesterday. Meadows said he would back the budget.

Rep. Tom Cole (R-Okla.), a senior member of the Budget Committee, said he too expects the budget to "pass without too much problem." He said any tax issues could be dealt with at the Ways and Means Committee when subsequent tax legislation is drafted in the coming weeks.

If all of the House's 433 members vote (there are two vacancies), the GOP could only afford to lose 22 votes, assuming all Democrats oppose the fiscal resolution. An earlier version of the budget was adopted by the House with 18 GOP members against it; the Senate revised that version to remove some cuts in mandatory spending.

House conservatives, who had pressed for the mandatory cuts, said this week they would reluctantly go along with the Senate version because it offers the surest path to tax reform.

Both congressional Republicans and the White House are eager to pass what could be the largest tax overhaul in more than 30 years, especially after failing short on scrapping the 2010 health law, known as Obamacare.

Under the budget, the House and Senate will write legislation by Nov. 13 that will allow for a tax overhaul and would be funded in part with \$1 billion in new revenue generated by energy exploration in ANWR.

Budget rules allow both the tax and drilling legislation to move by a simple majority vote without the threat of a filibuster, meaning they won't need any Democratic support in the Senate.

The House Ways and Means Committee is expected to release a draft of its tax proposal by the middle of next week; while Senate Energy and Natural Resources Chairwoman Lisa Murkowski (R-Alaska) has promised a hearing before writing the ANWR bill in the coming weeks.

The ANWR provision narrowly survived a Democratic attempt to be stripped out in the Senate, and House rules won't allow for a specific vote on the floor today to remove the drilling language.

Green groups have called for rejecting the entire package.

"The budget resolution includes a huge giveaway to oil and gas companies by paving the way for drilling in the Arctic National Wildlife Refuge," the League of Conservation Voters said yesterday, warning lawmakers it would count the vote in its scorecard.

"It threatens environmental and public health safeguards, allows for tax cuts for millionaires and billionaires, and slashes programs and protections that benefit communities across the country, among other harmful provisions," the group said.

<http://bit.ly/2yPJ3iV>

## **9. Wildfire legislation's NEPA provisions generate divisions**

Marc Heller, E&E News reporter

Published: Thursday, October 26, 2017

Congress risks stirring old political battles by trying to scale back environmental rules in the fight against wildfires, Sen. Jeff Merkley (D-Ore.) said yesterday.

At a hearing on wildfire legislation, Merkley urged lawmakers to concentrate on giving the Forest Service more money to manage forests — not power to thin them without extensive environmental reviews.

"Why go back to the timber wars of the past when we have the solution right in front of us?" Merkley said at a Senate Environment and Public Works Committee hearing on a draft bill by Chairman John Barrasso (R-Wyo.).

Yesterday's hearing showed that rollbacks of environmental reviews through so-called categorical exclusions remain the main sticking point as Congress tries to stem the rising cost of blazes and adopt a more active approach to removing potential fuel from national forests.

Barrasso has taken a position more in line with timber interests and sportsmen's groups, proposing to make as much as 6,000 acres at a time eligible for exclusions from the National Environmental Policy Act.

They could be used to speed projects thinning forests affected by pests, diseases and what foresters consider overgrowth that risks bigger fires.

Barrasso released the "Wildfire Prevention and Mitigation Act" in recent days (*E&E News PM*, Oct. 23). He told reporters he'll seek to combine it with legislation that provides annual emergency funding for wildfires, working with Senate Energy and Natural Resources Chairwoman Lisa Murkowski (R-Alaska) and others.

Senators say they aim to pass wildfire legislation this year, possibly on the next hurricane relief bill in late October or early November.

Deadly wildfires in California's Napa Valley, as well as a record fire season in Montana and Oregon, have raised the visibility of a long-brewing issue.

How much of Barrasso's draft measure, and several other proposed bills, emerge in a final package remains to be seen. The committee's ranking Democrat, Sen. Tom Carper of Delaware, said the chairman's proposal includes some bipartisan provisions, including limiting lawsuits over forest projects, but takes a more partisan approach on environmental policy.

"I am concerned about the negative implications of these proposed reforms, would be layered on top of existing, underutilized forest management authorities," Carper said.

Witnesses at the hearing said they believe most stakeholders agree that wildfires are growing more frequent and more thinning and removal of dead trees should be part of the solution, and that wildfires should be treated as natural disasters, like hurricanes or tornadoes.

But groups still don't completely trust each other's motives, they said, reflected in the discord over environmental regulations.

Environmentalists believe other interests are "trying to change the rules of the game," said Dylan Kruse, policy director for Sustainable Northwest, which opposes new categorical exclusions and other aspects of Barrasso's bill.

"I think we all agree that what we've done in the past has not worked," said Wyoming State Forester Bill Crapser. "I think our end goals are all the same."

Kruse said Congress should concentrate on wildfire funding and encourage the Forest Service to make more use of authority it already has — including categorical exclusions and stewardship contracting.

"We already have lots of tools," Kruse said.

Merkley is pushing legislation sponsored by Sen. Ron Wyden (D-Ore.) called the "Wildfire Disaster Funding Act," S. 1842, which provides an emergency funding stream for wildfires but steers clear of more divisive forest management issues. Rep. Mike Simpson (R-Idaho) has a companion bill in the House, H.R. 2862.

Those lawmakers say they agree forest thinning that clears potential fuel and provides timber should be part of the solution, but that funding is the immediate priority.

Disagreement over climate change's impact on wildfires also provides some political charge. A wide range of scientists say global warming influenced by humans has helped lengthen the fire season by several weeks.

Sen. Sheldon Whitehouse (D-R.I.) was unable to prod Miles Moretti, president of the Mule Deer Foundation in Salt Lake City, to pin blame there.

Moretti said poor forest management might be partly at fault for the longer fire season but added, "It's not my area of expertise."

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

## **10. Uncertainty hovers over Interior-EPA bill**

[George Cahlink](#) and [Geof Koss](#), E&E News reporters

Published: Thursday, October 26, 2017

Uncertainty continues to swirl over when Senate appropriators will take up the annual Interior-U.S. EPA funding bill, even with the recent return of ailing committee Chairman Thad Cochran (R-Miss.).

"Part of our challenge has been making sure that the chairman is free, and we've been kind of bouncing the schedule around," Sen. Lisa Murkowski (R-Alaska), who heads the Interior and Environment Appropriations Subcommittee, said when asked yesterday why a markup of her bill was postponed last week and not yet rescheduled.

Murkowski added she "stopped being too overly optimistic. We'll have it when it all works."

Sen. Tom Udall of New Mexico, the senior Democrat on the subcommittee, expressed confidence the bill would be marked up before lawmakers move a year-end omnibus spending package.

Congress has until Dec. 8 to move that catch-all appropriations legislation or face a government shutdown when current stopgap funding runs out.

It would not be unprecedented, or even that unusual, for individual spending bills to be folded into a year-end spending deal without first getting a markup.

It would, however, put the Senate at a disadvantage with the House — which has passed all of its fiscal 2018 spending bills — in year-end negotiations.

"Sometimes we have a bunch of markups and report them to the floor and one or two are held back, but at the end of the day will put them together in an omnibus," said Sen. Richard Shelby (R-Ala.), a senior appropriator.

The fiscal 2018 Interior-EPA bill is one of only four of the 12 annual appropriations measures yet to move through the Senate panel.

The committee has not moved any bills since early September, when Cochran, 79, battling a urinary infection, began an extended absence to deal with his illness.

The panel has scheduled subcommittee and full committee markups last week. It first punted on the subcommittee vote and then the full panel meeting, even though Cochran was back, because of floor action related to the budget resolution.

Cochran continues to receive medical supervision and said in an earlier statement his work schedule could be affected as a result.

Several media outlets, including CNN and *Politico*, have run stories since his return suggesting he has been confused at times and needed assistance navigating the Capitol. The senator has been present for all floor votes this week.

Republican leaders have rebuffed questions about Cochran's fitness to hold the spending panel perch, saying simply that he is their chairman.



In the Senate, seniority rules in committee assignments, and Cochran, first elected in 1978, is the chamber's second-most senior Republican.

"No, they haven't," said Shelby, the second-ranking Republican on Appropriations, when asked if GOP leaders had approached him about replacing Cochran. He said Cochran seems to be "doing a lot better" and added he had not heard him talk about retiring.

Cochran, who rarely talks to reporters, was quoted by the Associated Press last week as saying "it's to the people to decide" how long he stays in office. He's not up for re-election until 2020.

Democrats faced a similar concern with then-Appropriations Chairman Robert Byrd (D-W.Va.) in 2008. The 90-year-old lawmaker, who had become frail, reluctantly relinquished his gavel but stayed on the committee until his death in 2010.

<http://bit.ly/2z9Erar>

## **11. Ad features tribal delegate urging Trump to keep sites**

Jennifer Yachnin, E&E News reporter

Published: Thursday, October 26, 2017

The National Wildlife Federation today launched a television ad campaign touting Native American support for national monuments and urging President Trump to refrain from altering sites in Utah and elsewhere.

The 30-second **spot** features Navajo Nation Council delegate Davis Filfred speaking over a series of images of animals, landscapes and a map that includes the Bears Ears formation that is the namesake of southeastern Utah's Bears Ears National Monument.

"Mr. President, we know you love America and her heritage. Our national monuments protect that heritage for future generations," says Filfred, who is also a veteran of the Marine Corps.

He continues in the spot: "If you destroy these monuments, our public land could be auctioned off. Our sacred tribal sites would be in danger. Mr. President, not all monuments divide us; some bring us together. Protect America's heritage, protect our national monuments."



Davis Filfred. National Wildlife Federation/YouTube

Interior Secretary Ryan Zinke advised Trump in late August to reduce the boundaries of six monuments including Bears Ears and Grand Staircase-Escalante in Utah. His recommendations also included management

changes to sites to allow commercial fishing and timber harvesting or ensure future grazing (*Greenwire*, Sept. 18).

The White House has yet to comment on the report, which was submitted as a draft but leaked to the media last month, or indicate whether Trump will act on the recommendations.

The NWF ad will air in the Washington, D.C., media market on cable news stations.

In a statement, Filfred pointed to the Bears Ears Inter-Tribal Coalition's work to create the monument. The group represents the Hopi, Navajo, Ute, Ute Mountain Ute and Zuni tribes that say the monument's lands have cultural or natural significance.

"Everyone in America should know the unique value found here in the Bears Ears monument and the unique collaboration that went into getting this area designated," Filfred said. "Without monument protection, this place could be destroyed due to extractive industries. I hope the president will listen."

Congressional Republicans and Zinke have repeatedly argued that local members of the Navajo tribe oppose the monument, pointing to San Juan County Commissioner Rebecca Benally.

In an interim report to the White House filed in June, Zinke called for significant but unspecified reductions to the Bears Ears site. He also urged Congress to author legislation to ensure tribal co-management of the smaller national monument (*E&E News PM*, June 12).

<http://bit.ly/2z9Vr07>

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FYI -

HR 3990 draft bill and media attached here. Please note that "fossils" are specifically included in "Objects of Antiquity". This is an important discussion. Attached is an article I published on this topic in 2006 (during the centennial of the Antiquities Act).

## NATIONAL MONUMENTS

Antiquities Act revision advances

Jennifer Yachnin, E&E News reporter

Published: Thursday, October 12, 2017

The House Natural Resources Committee last night voted in favor of legislation that would overhaul the Antiquities Act for the first time since its enactment more than a century ago, approving reforms that would sharply reduce the size of future monuments and create a formal process for reductions.

Lawmakers passed the measure sponsored by Chairman Rob Bishop (R-Utah) on a party-line vote, 23 to 17.

"The only path to transparency and to accountability that we all claim to be seeking, no matter which party controls the White House, is to amend the act itself," Bishop said in his opening remarks.

The Utah lawmaker's legislation, H.R. 3990, the "National Monument Creation and Protection Act," would limit the size of new monuments to a maximum of 85,000 acres and require approval from local and state lawmakers and governors, as well as review under the National Environmental Policy Act.

The measure, also known as the "CAP Act," would also limit designations to protect areas with relics, cultural artifacts and fossils, while eliminating the inclusion of "vast landscape domains."

As the law stands now, a president may designate existing public lands as a monument to protect areas of cultural, scientific or historical

value, without any restrictions on acreage.

During the committee's markup, Bishop noted the legislation would refocus the law on its original intent of protecting man-made relics, and that requirements for NEPA review and state or local input would provide a formal decisionmaking process for new monuments.

"It establishes a process to get information before the designation, not afterward," Bishop said. He criticized unspecified monuments created in recent years as designations made "not on scientific or archaeological" basis "but for political purposes."

Bishop has been a longtime critic of the Antiquities Act, specifically with sites in his home state including the Bears Ears National Monument created by President Obama in late 2016 and the Grand Staircase-Escalante National Monument created by President Clinton in 1996.

Arizona Rep. Raúl Grijalva, the committee's top Democrat, slammed Bishop's proposal, which he said "essentially destroys the Antiquities Act."

"We need additional national monuments, not fewer. Our national monuments should be larger, not smaller," he later added.

Democratic lawmakers and conservation groups also criticized Bishop's bill ahead of the hearing, arguing its passage would lead to fewer national parks in the future.

About one-third of national monuments created under the Antiquities Act have been converted to national parks, historic parks or sites, national preserves, or other properties controlled by the National Park Service, according to data provided by the Wilderness Society.

But Bishop rebutted those claims as "misinformation" intended to create opposition to his legislation. "With all due respect, Trump Tower could not be made a national monument because that's private property," Bishop noted wryly.

He later added: "The idea that Grand Canyon or Zion National Park would never have been created without this is misinformation. Those are national parks that can only be made by Congress. The idea that this stops the process is simply one of those things you throw out there that is a nice argument, but it's not a real argument."

Democrats did praise provisions in Bishop's bill that would prohibit presidents from reducing a monument by more than 85,000 without

agreement of local and state officials.

Opponents have argued presidents do not have authority to reduce monuments under the Antiquities Act and have vowed to challenge the Trump administration in court if it attempts to do so.

Although presidents have previously reduced the size of some monuments, none of those cases has ever been tested in federal court. President Kennedy was the last to do so when he modified the Bandelier National Monument in New Mexico.

"There is something good about this bill," said Virginia Rep. Don McEachin (D). "And that is that it points out that the president has no authority to unilaterally shrink or undesignate a national monument under current law. This admission is useful because the president may soon try to invoke that nonexistent power to the lasting detriment of our country."

Earlier in the day Bishop said that such interpretations are incorrect, stating the bill does not create a "new power" but defines one that already exists (E&E News PM, Oct. 11).

#### Democratic resolution

During the meeting, lawmakers also voted on a resolution of inquiry sponsored by Grijalva that aimed to force the Trump administration to disclose the details of its recent review of more than two dozen national monuments.

In a private report to President Trump in late August, which leaked to the media last month, Interior Secretary Ryan Zinke recommended reducing the boundaries of six monuments and altering the management plans of a handful more (Greenwire, Sept. 18).

Neither the White House nor the Interior Department has commented on that report, which has not been finalized. Noting the Trump administration conducted an "extensive review," Grijalva said Democrats were attempting to force a formal disclosure of the recommendations.

"We would like to read that report," he said. "We would like to see the information that was gathered during the review process so we can make informed decisions regarding the value of the report."

The committee voted along party lines, 23-17, to report the resolution unfavorably to the House, effectively killing the measure.

Reporter Kellie Lunney contributed.

<https://www.eenews.net/eedaily/2017/10/12/stories/1060063399>

Here is the specific language which identifies "fossils" as "Objects of Antiquity":

“(3) OBJECT OR OBJECTS OF ANTIQUITY.—  
“(A) The term ‘object or objects of antiquity’ means—  
“(i) relics;  
“(ii) artifacts;  
“(iii) human or animal skeletal remains;  
“(iv) fossils (other than fossil fuels); and  
“(v) certain buildings constructed before the date of the enactment of this subsection.  
“(B) The term ‘object or objects of antiquity’ does not include—  
“(i) natural geographic features; and  
“(ii) objects not made by humans, except fossils (other than fossil fuels) or human or animal skeletal remains.’”.

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Celebrate National Fossil Day - October 11, 2017  
<http://nature.nps.gov/geology/nationalfossilday/>