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1. LNG a test case for Trump's energy 'dominance'
2. Appeals court ruling spells compliance confusion
3. EPA ruling is not precedent for new lawsuit on BLM delay
4. Collapse in prices blamed on 'fake news'
5. Warming could mean bigger, tougher-to-fight blazes
6. Shell CEO wants climate risks disclosed
7. Zinke orders 30-day oil and gas permit approvals
8. BLM considers leasing near Utah's Recapture Canyon
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11. 400+ groups urge congressional leaders to fully fund key law
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13. Denver scores sought-after outdoor show from Utah
14. Renewable generation tops nuclear for first time since 1984
15. Zinke signs order to ensure quarterly lease sales
16. Grijalva wants Zinke to clarify 'energy dominance'

**1. LNG a test case for Trump's energy 'dominance'**

Peter Behr and Jenny Mandel, E&E News reporters

Published: Thursday, July 6, 2017

In his visit to the Energy Department last week, President Trump reveled in the "America First" image of the United States as the new global energy superpower, with rising cargoes of U.S. oil, coal, natural gas and petroleum products criss-crossing the seas.

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

**2. Appeals court ruling spells compliance confusion**

Mike Soraghan, E&E News reporter

Published: Thursday, July 6, 2017

The appellate ruling reinstating Obama-era regulations on methane emissions from new oil and gas operations has put the industry on a compliance roller coaster.

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

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Pamela King, E&E News reporter

Published: Thursday, July 6, 2017

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Facing shareholders' pressure to lessen his company's carbon footprint, the CEO of Royal Dutch Shell PLC acknowledged that firms need to reveal more about how they'll deal with climate change's threats to the global economy.

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

**7. Zinke orders 30-day oil and gas permit approvals**

Jennifer Yachnin, E&E News reporter

Published: Thursday, July 6, 2017

Interior Secretary Ryan Zinke announced today that he will sign an order directing his agency to follow its mandate of holding quarterly lease sales, in an effort to boost fossil fuel extraction on federal lands.

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

#### **8. BLM considers leasing near Utah's Recapture Canyon**

Scott Streater, E&E News reporter

Published: Thursday, July 6, 2017

The Bureau of Land Management is considering offering parcels for oil and natural gas leasing in a sensitive Utah canyon that has been at the center of some of the most heated protests in recent years over BLM's land management practices.

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

#### **9. Court tests loom for Trump rule delays**

Amanda Reilly, E&E News reporter

Published: Thursday, July 6, 2017

The Trump administration's strategy of delaying compliance deadlines for Obama-era environmental rules is facing tests in federal courts.

<http://bit.ly/2tvY7o0>

#### **10. Legal experts say shrinking sites illegal; lobbying heats up**

Jennifer Yachnin, and Nick Bowlin, E&E News reporter

Published: Thursday, July 6, 2017

Interior Secretary Ryan Zinke advocated for an "illegal and unconstitutional action" when he proposed reductions to Bears Ears National Monument last month, according to a new assessment endorsed by more than 120 academics with expertise in environmental, natural resources and administrative law.

<http://bit.ly/2tv0ouS>

#### **11. 400+ groups urge congressional leaders to fully fund key law**

Kellie Lunney, E&E News reporter

Published: Thursday, July 6, 2017

More than 400 conservation groups across the country are urging House and Senate leaders to fully fund the Endangered Species Act and oppose any efforts to weaken the landmark law.

<http://bit.ly/2tml091>

## **12. Cessna tours give ‘the land a voice’**

Jennifer Yachnin, E&E News reporter

Published: Thursday, July 6, 2017

Seen from high above the Flathead Valley, the area's namesake river cuts across the rich green summer landscape, and its national forest blends seamlessly into neighboring Glacier National Park.

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

## **13. Denver scores sought-after outdoor show from Utah**

Published: Thursday, July 6, 2017

The Outdoor Retailer trade show, a twice-a-year outdoor recreation extravaganza, is moving to Denver next year.

<http://bit.ly/2tNp589>

## **14. Renewable generation tops nuclear for first time since 1984**

Christa Marshall, E&E News reporter

Published: Thursday, July 6, 2017

Monthly renewable generation in the United States this spring exceeded nuclear power for the first time in more than 30 years, the Energy Department reported this morning.

<http://bit.ly/2sLj9gg>

## **15. Zinke signs order to ensure quarterly lease sales**

Jennifer Yachnin, E&E News reporter

Published: Thursday, July 6, 2017

The Western Energy Alliance acknowledged today it could end its lawsuit against the federal government over canceled or delayed lease sales as Interior Secretary Ryan Zinke signed a new secretarial order aimed at ensuring they occur quarterly.

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

## **16. Grijalva wants Zinke to clarify ‘energy dominance’**

Kellie Lunney, E&E News reporter

Published: Thursday, July 6, 2017

The top Democrat on the House Natural Resources panel wants Interior Secretary Ryan Zinke to explain how the administration plans to balance its "energy dominance" strategy with environmental and multiple-use requirements for public lands under a key law.

<http://bit.ly/2uvp6eN>

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### **1. LNG a test case for Trump's energy 'dominance'**

[Peter Behr](#) and [Jenny Mandel](#), E&E News reporters

Published: Thursday, July 6, 2017



"We are now on the cusp of a true energy revolution," President Trump said last week at the Department of Energy. DOE

In his visit to the Energy Department last week, President Trump reveled in the "America First" image of the United States as the new global energy superpower, with rising cargoes of U.S. oil, coal, natural gas and petroleum products criss-crossing the seas.

"We are now on the cusp of a true energy revolution," Trump said, speaking to an audience of energy industry leaders and union officials who, he said, "have gone through eight years of hell" at the hands of the Obama administration. "Our team is working to right the wrongs," he said, cutting through energy regulations and development restrictions that he said has stifled energy development across the country.

At this point, however, the president and Energy Secretary Rick Perry find themselves riding a wave of increased U.S. oil and natural gas production from unconventional drilling operations that has been growing for a decade, despite the "stifling" environment and climate policies of President Obama.

"I don't know what he thinks we were doing in 2014, 2015, 2016 when we became the largest combined oil and gas producer in the world," said former Energy Secretary Ernest Moniz, speaking of Trump's rhetoric. At the same time, wind and solar power have expanded tremendously, and even U.S. coal production, down substantially, is still second largest in the world. "If you want to call that energy dominance, we've been doing it for a while," Moniz said in an interview last month.

There is no doubt that the coal, oil and gas industry executives who applauded Trump at DOE anticipate that his administration will deliver more opportunities to drill and build.

"The direction that Perry and Trump are headed is a good direction, streamlining regulations and lowering costs," said John Auers, executive vice president of Turner, Mason & Co., a Dallas-based energy consulting firm.

### **Playing an LNG card**

One telling opportunity is on the White House's doorstep — and China's, too. That is the possibility, broached by Commerce Secretary Wilbur Ross, that China will sign long-term commitments to buy a game-changing supply of U.S. liquefied natural gas and double down by investing part of the capital needed to start a new round of LNG export terminal expansion in this country.

A May 11 trade agreement between the Trump administration and China's government sets the stage for expanding LNG shipments. It described China on favorable terms as a buyer invited to strike gas-export deals with U.S. exporters, a confidence builder after Trump's targeting of China's trade and currency policies.

U.S. companies ship about 7 percent of China's LNG imports, according to a Wood MacKenzie analysis. And with Chinese LNG demand perhaps tripling by 2030, the opportunities are enormous, according to an analysis by the firm.

Nicholas Potter and Blerina Uruci, analysts with Barclays Research, wrote recently that "Chinese buyers have been noticeably absent from the first round of U.S. LNG contracting," deferring to buyers from Japan, South Korea and India. A clear welcome from the Trump administration could change that, they said. The ability of Chinese companies not only to sign long-term purchase contracts but also to contribute billions of dollars of investment capital to the huge costs of new LNG facilities, could move some projects from plans to construction, they said.

Gary Cohn, director of Trump's National Economic Council, has pointed to the potential for U.S. LNG output, noting that it offers European customers security of supply in contrast to Russia's past use of its gas exports as a political weapon. But last week, Cohn also downplayed Trump's personal role in promoting U.S. LNG exports.

"It's not the president's job to broker LNG supply contracts," he said. "It's the president's job to make sure that the U.S. authorizes facilities to be built in the United States because they need federal approval. And then once those facilities are built, hopefully those facilities enter into long-term supply contracts around the world. Because, uniquely, the rest of the world needs something we have, which is our huge supply of LNG."

But deals with China could headline the "dominance" storyline. New U.S. companies' agreements with China on LNG could be a "tit for tat" consequence in a more complex negotiation with China, Auers said, providing much-welcomed new capital to the U.S. LNG industry, which has see-sawed in recent months between agonizing over a global "supply glut" that is holding prices down and warning of future shortfalls unless the long process of sanctioning new projects begins soon.

The current oversupply stems from a wave of new export terminals that have come online in Australia, along with one in the U.S. and another four domestic terminals under construction. But multibillion-dollar export terminals take years to permit, finance and construct, and many analysts expect the global supply-demand balance to shift toward shortfall in the mid-2020s as global demand for natural gas gradually grows.

Part of the sellers' problems now, as the world's biggest LNG buyers pause to consider their options for the future, stem from a newly liberalized market for natural gas.

Crude oil has long been a highly liquid market, with tankers full of product sold and resold on open markets and with ships known at times to even turn at sea as their cargoes change hands from one intended buyer to another. LNG has been a different story, with sales managed largely through contracts spanning 20 years that pinned buyers to particular ports for delivery, often without a possibility of resale. Such take-or-pay contracts underpinned the financing mechanisms that allowed multibillion-dollar LNG plants to be built.

Over the last decade, a flood of diverted LNG cargoes that U.S. buyers were no longer importing as domestic production boomed and the advent of more flexibly structured U.S. LNG supplies on world markets have pushed the industry toward deals pegged to spot-market prices. These contracts give more power and flexibility to buyers to pick up gas supplies as their needs require. They have also given significant heartburn to would-be sellers who question how they can line up enough contracted demand to support loan underwriting for new projects ([Energywire](#), March 29).

### **Limited policy tools?**

Charlie Riedl, who represents major U.S. LNG exporters as head of the Center for LNG, said the domestic industry has not publicly called for Chinese investment but may have shied away from the optics of it. At a



recent LNG summit in Houston, he said, an official from PetroChina suggested that the company was actively seeking the right U.S. opportunity to invest.

Christopher Smith, who led DOE's Office of Fossil Energy at the end of the Obama administration and is now a fellow at Rice University's Baker Institute for Public Policy, sees the current talk on China as largely for show.

"Of the 20 billion cubic feet per day [of LNG exports] that have been authorized by DOE to date, all of that is authorized free of restrictions to be sent to China," Smith noted.

"Now, it could be a sign that DOE is going to look more at energy as a bilateral, party-to-party set of negotiations, rather than a holistic system," he added. "If you're of the opinion that this is a signal of a new type of energy diplomacy coming from the White House, I'm really strongly of the belief that an open, transparent system ... is important for American stakeholders to have a very clear view of how the administration is making decisions."

Smith said if Perry is charged with expanding U.S. LNG exports, his tools to do so are limited. "What the department can do is they can authorize even more gas [exports]. Does that change the amount of capital that gets allocated, the amount of concrete that gets poured? No," he said. The U.S. will certainly be a force in LNG markets, but "that's really at this point a decision that the private sector is going to have to make," he said.

Smith said any mandate to expand opportunities for U.S. companies in China will be hurt by the Trump administration's failure to nominate anyone below the secretary level to serve at DOE. "If you want to do things, if you want to execute in a way that drives things the way you want them to go, then you've got to have your team on board. You can't do it with one person," he said.

The ability of any U.S. president to shape the outcome of world energy markets has definite limits. Auers and other analysts point out that U.S. producers will have to beat out global competitors to capture larger shares of world energy markets. "World demand is going to be a key part for all three — gas, product and crude — in determining how fast U.S. exports will grow," Auers said.

And the competition is not only external. Rather than presenting a united front to the world, U.S. oil and gas producers have risen to global prominence in part by beating each other's brains out, Auers adds. Currently, gasoline and other refinery products are the most potent U.S. energy exports. "We have the most competitive refining system in the world," he said. "Through a process of survival-of-the-fittest dynamics, the most efficient refiners have become stronger and more efficient, and the weaker ones have shut down."

Ironically, the effect of environmental controls on U.S. refiners has increased their capacity to deliver lower sulfur content fuels, Auers said, and that will create a competitive advantage as more countries tighten their own environmental regulations. "At this point it's positive," Auers said of the environmental rules in this country. "Sure, it has imposed costs on the industry. But it provides additional opportunities for the U.S. We can make those products."

That the U.S. is in the crude oil export game at all is due to an amendment in 2015 spending legislation that lifted a 40-year-old ban on oil exports, which became politically palatable to Democrats when Republicans agreed to extend tax credits for wind and solar power until the end of the decade. "Nobody expected that," Auers said. "Give credit to [President] Obama and Congress for that."

Trump's narrow election victory has put him in a position to reverse Obama's energy and environmental priorities. Off the table now is the question of whether the U.S. long-term interest is advanced by pushing fossil fuel exports into a world where most nations recognize a threat from carbon emissions.

"Sure, there is presently a market for fossil energy elsewhere in the world, especially as the developing world seeks to ramp up electricity production to meet the new expectations of their citizens for an electricity-based lifestyle," said Dan Delurey, president of the Wedgemere Group, an energy consultancy, in a recent blog.

"If clean energy is going to be the dominant source, shouldn't we want to have dominance of that which will be dominant? Well, in terms of federal leadership, that does not appear to be the hill to be king of," Delurey said. "Which means that the top of the clean energy hill is going to be occupied by someone else."

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

## 2. Appeals court ruling spells compliance confusion

Mike Soraghan, E&E News reporter

Published: Thursday, July 6, 2017

So much for regulatory certainty.

The appellate ruling reinstating Obama-era regulations on methane emissions from new oil and gas operations has put the industry on a compliance roller coaster. The U.S. Court of Appeals for the District of Columbia Circuit agreed with environmentalists and nixed a stay U.S. EPA Administrator Scott Pruitt had put in place.

Right now, methane restrictions and reporting requirements are in effect. But EPA is likely to impose a two-year stay in August or September. Environmentalists will almost certainly challenge that stay, too. If they're successful, the restrictions will be back in place.

"This is the quagmire EPA was trying to avoid," said Whit Swift, an energy lawyer who advises companies on air quality matters for Bracewell LLP. "It's a giant headache for those trying to figure out what their obligations are."

Environmentalists say the answer is simple — the law is in effect, so companies should comply.

"Administrator Pruitt has talked a lot about rule of law. EPA is required by law to enforce the law. So we expect that they will enforce it," said Darin Schroeder, an attorney with the Clean Air Task Force, which is representing Earthworks in the case.

But the work involved might be for naught if, in the fall, the rules are stayed again. And the Trump administration, Swift said, is not likely to aggressively enforce a rule it clearly disdains.

"A lot of it depends on the company's appetite for risk," Swift said.

The appellate ruling was the first loss in court for President Trump's deregulatory agenda. And it was the first stumble in Pruitt's drive to lift Obama-era regulations from the oil and gas industry.

Environmentalists say it showed that courts are going to closely monitor the procedures that Trump and Pruitt use as they seek to dismantle regulations.

"What we saw here is the courts considering whether the agency is complying with the rules," said Meleah Geertsma, an attorney for the Natural Resources Defense Council.

But others say the ruling doesn't necessarily spell trouble for the administration's deregulatory efforts.

Kevin Book, analyst at Washington, D.C.-based ClearView Energy Partners LLC, notes that EPA's reconsideration process for the methane rules is continuing, and the agency has proposed two other stays, one for 90 days and another for two years.

Swift said the two-year stay is the important one for industry. And he said EPA has justified it with a different legal authority than the stay that the appeals court nixed.

But environmental groups consider the two-year stay to be simply an extension of the one rejected by the appeals court. So they think the longer stay should be rejected, as well.

The Obama administration issued the standards in 2016 to halt leaks of methane, a potent greenhouse gas, from new oil and gas operations. The rule also aimed to reduce emissions of volatile organic compounds that contribute to the formation of smog.

But in May, Pruitt granted a request by energy industry trade groups to reconsider parts of the rule.

Green groups — the Clean Air Council, Earthworks, the Environmental Defense Fund, the Environmental Integrity Project, NRDC and the Sierra Club — filed a lawsuit over the first delay, along with an emergency motion to overturn EPA's decision and put the standards back in place.

Judges David Tatel and Robert Wilkins, two Democratic appointees, heard the case with Judge Janice Rogers Brown, a George W. Bush appointee.

Brown issued a dissenting opinion, disagreeing with her colleagues that the court had jurisdiction to hear the case in the first place.

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

### **3. EPA ruling is not precedent for new lawsuit on BLM delay**

*Pamela King*, E&E News reporter

Published: Thursday, July 6, 2017



The legality of pauses to U.S. EPA's and the Bureau of Land Management's methane rules is an apples to oranges comparison, attorneys say. Department of the Interior

A decision this week to restart an Obama-era U.S. EPA regulation capping methane emissions from new oil and gas sources offers few clues as to where a district court may fall on a new challenge around the Interior Department's postponement of limits on the same greenhouse gas on public lands.

The states of California and New Mexico — respondents in an industry lawsuit to scrap the Bureau of Land Management's Methane and Waste Prevention Rule as it first stood — yesterday sued the Trump

administration for delaying the regulation introduced under President Obama. The complaint for declaratory and injunctive relief, filed in the U.S. District Court for the Northern District of California, contends that Trump's Interior improperly put off forthcoming compliance dates under the rule, which went into effect earlier this year.

"President Trump should put the health of the American people over the profits of private companies," California Attorney General Xavier Becerra said in a statement yesterday. "This is a commonsense rule that both helps our children breathe cleaner air and protects our planet. It should be implemented as is legally required. We refuse to let blatant violations of the law go unchallenged."

Judge Scott Skavdahl last week cited uncertainty around the rule's fate as a reason to delay briefing deadlines in litigation before the U.S. District Court for the District of Wyoming ([Energywire](#), June 28).

"The states clearly waited until the delay to the litigation was granted before filing their complaint in a cynical maneuver to get to a more sympathetic court," said Kathleen Sgamma, president of the Western Energy Alliance. "The Northern District of California doesn't have the federal oil and gas expertise of the Wyoming court, and this tactic will not be looked upon favorably by Judge Skavdahl."

"On the other hand, this does present us with a reason to go back to Judge Skavdahl and push forward to briefing on the merits," she added.

The lawsuit came just days after a trio of judges for the U.S. Court of Appeals for the District of Columbia Circuit found that EPA's decision to stay its own methane rule for 90 days was "arbitrary and capricious" ([Greenwire](#), July 3).

But whereas Trump's EPA leaned on the Clean Air Act to postpone its methane controls, BLM invoked the Administrative Procedure Act to suspend its rule.

Because BLM and EPA relied on different laws to support their delays, the legal analysis in each case is completely separate, according to attorneys involved in the pending industry challenge of the original BLM rule.

"From a policy perspective, the EPA and BLM rules and how they were rolled back are all intertwined," said Eric Waeckerlin, a Holland & Hart LLP attorney representing the Western Energy Alliance and the Independent Petroleum Association of America.

But from a legal standpoint, "there's quite a big difference" between the APA and the Clean Air Act, he said.

Section 307 of the Clean Air Act provides that any petition to reconsider a final EPA rule or action does not postpone its effectiveness, unless additional evidence — such as the discovery of a new technology — comes to light that could not have been considered during the initial rulemaking.

Lawyers for oil and gas trade groups cited that provision in their argument supporting a stay of the EPA rule.

But the D.C. Circuit ruled that industry was simply rehashing issues that had been previously raised and addressed.

The court did not preclude EPA from delaying its rule under a formal rulemaking process like the one BLM has proposed for provisions of its methane rule that took effect earlier this year ([Energywire](#), June 22).

That rulemaking could also include an extension of the rule's future deadlines, nullifying concerns about improper delays from BLM, Waeckerlin said.

"It's going to be broader than the 705 notice because that only purports to extend compliance deadlines that haven't yet hit under the rule," he said.

Under Section 705 of the APA, an agency is granted power to postpone the effective date of actions under judicial review. Critics of the move to suspend BLM's methane rule say this section does not apply to the regulation because the rule itself has already taken effect, even if it contains compliance deadlines to be phased in at some future date ([Energywire](#), June 15).

"Legally, EPA's action, which purported to rely on the Clean Air Act, is distinct from BLM's action, which purported to rely on the APA," said Earthjustice attorney Joel Minor.

"I am confident that the courts will hold all agencies accountable to the law," he said.

<http://bit.ly/2uP3CZF>

#### **4. Collapse in prices blamed on 'fake news'**

Published: Thursday, July 6, 2017

The recent drop in oil prices was caused by "fake news," according to energy analysts with the investment firm Raymond James & Associates.

In a Monday note to investors, Raymond James analysts invoked one of President Trump's favorite phrases to explain oil's descent into a bear market.

"The recent collapse in oil prices was triggered by a breakdown in the technical charts but fueled by the 'negative feedback loop' of bearish headlines that usually follow price declines," the analysts wrote in the note.

The analysts also argued that concerns about a rising global supply have been overblown (Luke Kawa, [Bloomberg](#), July 5). — MJ

<http://bit.ly/2tR36Nq>

#### **5. Warming could mean bigger, tougher-to-fight blazes**

Published: Thursday, July 6, 2017

Since the mid-1980s, wildfires in the western United States have grown larger and burned longer — and that trend will continue to worsen as springs begin earlier and summers grow hotter, researchers say.

LeRoy Westerling, a professor at the University of California, Merced, found that the last three decades have seen a fivefold spike in the number of fires between the Pacific Northwest and the Sierra Nevada that burned more than 1,000 acres of federally managed land.

Between 1973 and 1982, the average wildfire burned six days. Between 2003 and 2012, it was 52 days.

Since the 1970s, the 10-year average length of fire seasons — the time between the first and last large fire — has grown to 222 days from 138.

And even as the number of ignitions remained steady over that period, the amount of land burned by large fires jumped about 1,200 percent.

As a result, certain regions' forests could lose larger, older trees and see them replaced with younger, smaller trees that burn more readily. If that happens, California's woodlands might send more carbon into the atmosphere than they absorb, Westerling said.

"Over time, what happens in our modeling is the Sierra Nevada stores less and less carbon, and then these areas start becoming carbon sources instead of carbon sinks," he said. "So it starts contributing to climate change over the next couple of centuries" (Joshua Emerson Smith, [San Diego Union-Tribune](#), July 4). — AAA

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

## **6. Shell CEO wants climate risks disclosed**

Published: Thursday, July 6, 2017

Facing shareholders' pressure to lessen his company's carbon footprint, the CEO of Royal Dutch Shell PLC acknowledged that firms need to reveal more about how they'll deal with climate change's threats to the global economy.

"It is right that it should be transparent which companies are truly on firm foundations over the long-term," CEO Ben van Beurden wrote in a LinkedIn post.

Shell, one of the world's biggest oil and gas companies, has said it assesses climate risks internally. But the firm hasn't detailed the exposure it could face from such risks.

Last week, Shell joined a Group of 20 task force seeking a framework to better assess and price climate-related risks ([Climatewire](#), June 29).

Van Beurden said Shell will help the group find a way to disclose commercially sensitive data (Karolin Schaps, [Reuters](#), July 4). — AAA

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

## **7. Zinke orders 30-day oil and gas permit approvals**

[Jennifer Yachnin](#), E&E News reporter

Published: Thursday, July 6, 2017



Pumping jacks operate on public lands in Utah. Ellen M. Gilmer/E&E News

Interior Secretary Ryan Zinke announced today that he will sign an order directing his agency to follow its mandate of holding quarterly lease sales, in an effort to boost fossil fuel extraction on federal lands.

The decision is the latest in a series of orders aimed at increasing oil and gas production on federal lands, or, in the parlance of the Trump administration, establishing "energy dominance" ([Climatewire](#), June 13).

The secretarial order will also direct Interior officials to issue new permits within only 30 days, rather than the 257-day average it achieved last year.

"The amount of bureaucracy the federal government has put into place has provided some uncertainty," Zinke said. He added, "We're going to be a fair and prudent partner, but we're not going to be an adversary to creating wealth and opportunity on public lands."

Zinke acknowledged that Interior officials must still determine how to do reduce the agency's permitting timeline to the shorter 30-day window.

"It's not just putting more people or money into the permitting process," Zinke said. "It's also looking at how we do permits."

He added: "We have really smart people. We just want to make sure the process reflects today's environment rather than last century's."

Zinke later said that the agency would not be able to immediately reduce its review period and said that he could ask Congress to review that mandate. Currently, once an application for permit to drill is approved and all National Environmental Policy Act requirements are met, the agency has 30 days to approve or deny a permit.

"We're not ready to meet the 30-day marker. I think we have to look at our system more closely," Zinke said. He also noted: "This is not going to be done overnight, because what we don't want is unintended consequences."

Zinke said his secretarial order "directs BLM to follow the law," noting that 11 lease sales were canceled in 2016. "A lot of these areas that are available for leasing are known reserves. The geology is pretty well advanced. There are wells within the area. ... When you have to look at the process that views a new well as if a well has never been drilled before in an existing basin, that's been part of the problem."

He added, "We're looking at all permits, but we want to do it fairly. The president's guidance has been, make sure that we're energy independent and energy dominant."

The order comes on the heels of President Trump's "energy week" last week, during which he touted actions that would increase domestic energy development ([Climatewire](#), June 30).

Those actions include Trump's executive order issued in late April, in which he vowed to open the U.S. outer continental shelf in the Atlantic to Pacific oceans as well as areas in the Arctic Ocean to energy extraction.

That order has prompted the Interior Department to rewrite the five-year plan that governs which areas of the outer continental shelf can be leased for offshore oil and gas development.

Last month, Zinke also announced plans to update the government's resource assessment for the Arctic National Wildlife Refuge and to open new sections of the National Petroleum Reserve-Alaska to oil and gas leasing ([Climatewire](#), June 1).

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

## **8. BLM considers leasing near Utah's Recapture Canyon**

[Scott Streater](#), E&E News reporter

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The Bureau of Land Management may lease parcels for oil and gas development in Utah's Recapture Canyon.  
@SecretaryZinke/Twitter

The Bureau of Land Management is considering offering parcels for oil and natural gas leasing in a sensitive Utah canyon that has been at the center of some of the most heated protests in recent years over BLM's land management practices.

At issue are 45 parcels covering 57,000 acres in southeast Utah that have been nominated by the industry for a March 2018 lease sale.

Three of the parcels are in the southern end of Recapture Canyon, which contains ancient Pueblo cliff dwellings that BLM says "are essential to understanding the story of the earliest inhabitants of the American Southwest."

Others run near the canyon, which in recent years has become a flashpoint for complaints about the Obama administration's lands management policies that some said were too restrictive. A Utah county commissioner served a brief stint in jail for organizing an illegal all-terrain vehicle ride through the canyon in 2014 to protest BLM's decision to close it to motorized travel and other supposed heavy-handed regulations.

BLM recently overturned a 2007 decision to close 1,871 acres in Recapture Canyon to ATVs, allowing limited access in and around the area but still closing the bottom of the canyon to motorized travel ([E&E News PM](#), April 10).

In addition, 13 parcels nominated for the lease sale are within the recently completed Moab master leasing plan (MLP), which identified where oil, gas and minerals development will be allowed within the 785,000-acre planning area. Another 19 parcels are within the pending San Rafael Desert MLP.

MLPs are designed, among other things, to guide energy development away from sensitive cultural and environmental sites and are a key component of Obama-era onshore leasing reforms adopted in 2010.

BLM stated in an email that in "previous years" the parcels would "have been automatically deferred before an environmental review."

But with the Trump administration's new priority for oil and gas leasing on federal lands, "BLM is including these parcels in the environmental review for this lease sale, and through that process will determine which are appropriate for leasing and under what terms and conditions."



Environmental groups, including the Southern Utah Wilderness Alliance and Friends of Cedar Mesa, blasted the decision to even consider leasing the parcels at issue, according to an [article](#) in The Salt Lake Tribune. Representatives of both groups did not respond to requests for comment on this story in time for publication.

BLM is analyzing the parcels in an environmental assessment and has opened a public scoping period running through July 27 to gather public comment that will be used in the analysis.

"The BLM is aware there are sensitive resources here and will be carefully reviewing each parcel, consulting with tribes and cultural resource experts, and reaching out to the public as part of our environmental review process and responsibilities under the National Historic Preservation Act," Robin Naeve, BLM Utah's fluid minerals branch chief, said in an emailed statement.

Ryan Sutherland, a BLM spokesman in Utah, said there are regulatory "stipulations" in place regarding the three parcels inside the canyon that "would push any exploration outside of the canyon."

What's more, all 45 parcels would include lease stipulations allowing BLM to modify development proposals or "disapprove any activity that is likely to result in adverse effects that cannot be successfully avoided, minimized or mitigated."

"Please remember this is our initial scoping phase," said Lisa Bryant, a BLM spokeswoman in Utah.

Christina Price, the manager of BLM's Moab Field Office, said the agency is respectful of "the ties many Native American tribes and Utah's pioneer families maintain with the lands as a shared community value."

But she added, "We are also committed to be a good neighbor to the communities we serve, providing opportunities for economic growth, energy development, recreation, grazing, and hunting and fishing."

## **Controversial history**

The proposed lease sale is just the latest development in a yearslong debate over how best to manage the sensitive canyon area.

The proposed leases cover southern portions of the canyon, from Browns Canyon south to Perkins Road, which harbors Recapture's most vulnerable archaeological sites, according to The Salt Lake Tribune.

In addition to Pueblo cliff dwellings, the canyon also contains important wildlife habitat, including sensitive riparian areas for the endangered southwestern willow flycatcher and crucial winter range for mule deer and Rocky Mountain elk.

But when BLM closed it to motorized travel in 2007, many leaders in San Juan County, where the canyon is located, as well as Utah's congressional delegation, were upset.

BLM said it closed the canyon after two Utah men used picks, shovels and other tools to blaze an illegal 7-mile off-highway-vehicle trail through it, damaging ancient Anasazi and Pueblo ruins. The agency said there are 2,800 miles of other trails open to OHVs in southeast Utah.

But San Juan County Commissioner Phil Lyman in 2014 led an illegal ATV ride through a closed section of the canyon in violation of BLM's prohibition on motorized travel. He did so as a protest of federal land-use restrictions and what he said was BLM's slow pace in addressing the county's request to reopen it.

While Lyman had asked riders to stay on a pipeline road where the San Juan Water Conservancy District holds a right of way, roughly 32 vehicles defied him by riding farther south, damaging at least eight archaeological sites.

A federal judge later sentenced Lyman to 10 days in jail, three years' probation and a \$10,000 fine for organizing the illegal ride ([E&E News PM](#), Dec. 18, 2015).

"The BLM takes seriously its responsibility for protection of America's natural heritage and the cultural resources entrusted to our care," Naeve said in her email.

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

## 9. Court tests loom for Trump rule delays

[Amanda Reilly](#), E&E News reporter

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Environmentalists won big this week with a federal court's decision to vacate U.S. EPA's 90 day delay of a rule to curb methane emissions. Tim Evanson/Wikipedia

The Trump administration's strategy of delaying compliance deadlines for Obama-era environmental rules is facing tests in federal courts.

Environmentalists won big Monday when a court vacated the Trump EPA's 90-day delay of a rule curbing methane emissions from new oil and gas operations.

The litigation is one of at least four lawsuits that environmentalists have filed over administrative stays at EPA, questioning the scope of the agency's authority to delay compliance.

Yesterday, California and New Mexico filed suit against the Interior Department for employing a similar tactic to stall an Obama administration rule for capturing methane from oil and gas operations.

Environmentalists and state opponents view the rule delays as a way of skirting the formal rulemaking process.

"It really is this global strategy to back away from these important protections of various kinds — clean air, clean water, chemical safety," said Patrice Simms, vice president of litigation at Earthjustice. "And in each instance, with an utter failure to address the implications for public safety and public health."

Simms said environmentalists are worried that if they don't sue, the Trump administration will continue stacking delays upon delays, leading to an indefinite regulatory hiatus.

Some delays are for a set time, such as 90 days; in other cases, agencies announced indefinite stays of rules.

"Ordinarily, when an agency delays taking a particular action, it's difficult to get a court to force the agency to take that action," said Emily Hammond, a professor at the George Washington University Law School, in a recent interview. "The exception is where a statute provides a deadline, or where an agency has bound itself by its own regulation. The challenge for the Trump administration is, for many of these regulations, the regulations themselves include compliance deadlines."

Monday's decision in the methane case was the first victory for environmentalists in their legal fight against the strategy.

The U.S. Court of Appeals for the District of Columbia Circuit found that EPA Administrator Scott Pruitt unlawfully delayed key provisions of the methane rule, including its fugitive emissions requirements, by 90 days ([Greenwire](#), July 3).

The Trump administration premised the stay on a provision in the Clean Air Act that allows EPA to pause certain regulatory requirements when it has granted a petition for reconsideration of a rule.

But in its 2-1 opinion, a panel of the D.C. Circuit agreed with environmentalists that EPA lacked the authority to issue the stay because the reconsideration petition raised issues that had been hashed out extensively during the Obama administration rulemaking process.

"Under some statutes like the Clean Air Act, there are very specific provisions that set forth criteria for regulatory adjustments from previous regulatory action," said William Buzbee, a professor at Georgetown University Law Center, in a recent interview.

Environmentalists cast the decision as the first of many court defeats for the Trump administration.

"The ruling recognizes that EPA lacks the authority to simply scrap these critical protections. And it shows the courts are going to enforce the rule of law on health and environment," said David Doniger, director of the climate and clean air program at the Natural Resources Defense Council.

### **‘Elections have consequences’**

But each administrative delay and accompanying lawsuit raises slightly different legal issues, and legal experts said it's difficult to generalize how courts might react to each one. A victory in one might not mean a victory in another.

"The reality is — it's the 'elections have consequences' thing. There are zones where agencies have discretion, and there are limits to that discretion," said Michael Livermore, a professor at the University of Virginia School of Law. "But even when agencies pass those limits, it's not always easy to get a judicial remedy."

He added, "Even if you win and the court says the agency shouldn't have delayed, still a bunch of time has elapsed."

A lawsuit over EPA's decision to stay accident-prevention rules at chemical plants will also test the scope of the agency's authority to issue stays under the Clean Air Act.

Published in January, the Obama rules aimed to protect emergency responders from chemical exposure, prevent accidents at plants and help facility operators learn from accidents that do occur. The effective date was March 20, but Pruitt stayed the rules for 90 days, citing the Clean Air Act reconsideration authority as with the methane rule.

EPA followed up in June by announcing a nearly two-year delay to Feb. 19, 2019, after holding a public comment period ([E&E News PM](#), June 12).

Environmentalists and labor unions sued over the longer delay, arguing the Clean Air Act provision provides only for a three-month delay under limited circumstances.

"EPA does not have such unfettered discretion to nullify air rules through delay," the environmental and labor groups told the D.C. Circuit.

Simms of Earthjustice said EPA's decision also raised concerns under the Administrative Procedure Act.

The rule is part of an "end-run around the proper rulemaking process," he said. "Undertaking changes to regulatory programs in the manner that is contemplated by federal law requires acknowledging what you're doing and providing opportunities for the public to participate in that decisionmaking process.

"And they don't want to do that because they know that they will expose their retrograde nature," Simms said.

### **Administrative Procedure Act**

The Administrative Procedure Act (APA) is also at the center of litigation over EPA's delay of a 2015 rule that requires power plants to install and operate wastewater treatment technology to remove heavy metals from their discharge streams.

In an April 11 letter to the Environmental Council of the States, Pruitt announced EPA would rethink the rule, which was expected to prevent more than a billion tons of pollutants from entering waterways each year.

The agency followed up by issuing an indefinite stay of the Obama standards, basing it on Section 705 of the APA, which allows for delaying compliance deadlines pending judicial review.

EPA noted that the regulations had been challenged in the 5th U.S. Circuit Court of Appeals, although the court has stayed the litigation while the agency figures out what to do with the rule.

Interior likewise cited Section 705 in delaying Obama-era standards for reducing methane emissions from oil and gas sources on public lands ([Energywire](#), July 6).

In their litigation over the power plant discharge rule in the U.S. District Court for the District of Columbia, environmentalists argue EPA violated the procedural law in several ways, including failing to provide an opportunity for public comment and failing to make necessary findings to support its decision ([Greenwire](#), June 15).

Hammond of George Washington University said the APA is meant to give agencies a lot of flexibility but still hold them to their legal obligations.

In general, indefinite stays are more vulnerable to judicial review, she said.

"When agencies announce indefinite stays of compliance deadlines, particularly where we don't have a reconsideration petition and do have some kind of deadline in a regulation," she said, "you're looking at something that's more vulnerable to a holding that the agency is unlawful."

Environmentalists achieved a small victory last week when Judge Ketanji Brown Jackson denied both EPA's motion to dismiss without prejudice and the agency's motion to stay proceedings on their summary judgment motion. The judge set a schedule for all issues to be briefed at once.

The Trump administration is facing yet another lawsuit over its decision in May to delay by a year new regulations on the certification and training of pesticide applicators.

The Obama administration published the rule in January, shortly before leaving office. It was originally supposed to take effect in March.

In their lawsuit in the U.S. District Court for the Northern District of California, environmentalists and farmworker groups say the rule is necessary for EPA to comply with its obligations under pesticide law. EPA's decision to allow only four days of public comment was also an APA violation, the groups say ([E&E News PM](#), June 14).

Another lawsuit in the D.C. Circuit challenges EPA's decision to delay by 90 days standards to reduce methane emissions from landfills ([Greenwire](#), May 23).

While environmentalists have not filed any litigation yet, it's possible that EPA's recent decision to delay by a year the October deadline for designating areas of the country that don't meet the national ozone standard could soon be added to the list.

Other sets of lawsuits challenge agencies' delay in publishing rules in the Federal Register, including new energy efficiency standards ([E&E News PM](#), June 13).

### ***'De facto policy reversals'?***

In a blog post last week, NRDC's Doniger slammed the full set of rule delays and administrative stays as "misrule of law."

"With the barest exceptions that don't apply here, the EPA administrator may not yank existing safeguards out of operation while he mulls over changing them," he said. "It doesn't matter who is asking, industry or environmentalists. He has no authority to do this."

Environmental agencies are not the only governmental bodies delaying compliance deadlines for Obama-era regulations.

The Labor Department, for example, delayed an investor protection rule, while the Department of Education delayed implementation of rules for for-profit colleges. States and public interest groups today just filed a lawsuit over the Education rule.

Legal experts said the administrative stays are part of a broader strategy by the Trump administration to gum up the regulatory gears.

"It seems to be across several agencies — many, many agencies — a number of strategies which are effectively regulatory pullbacks, and maybe and what really may be de facto policy reversals," said Buzbee of Georgetown Law.

In the environmental arena, he said, other strategies include all-out repeal of hot-button rules such as the Clean Water Rule and Clean Power Plan, and requests to courts to suspend litigation to buy time to decide how to ax Obama-era rules.

Courts may become more skeptical of federal agencies as the number of lawsuits over rule delays grows, said Livermore of the University of Virginia.

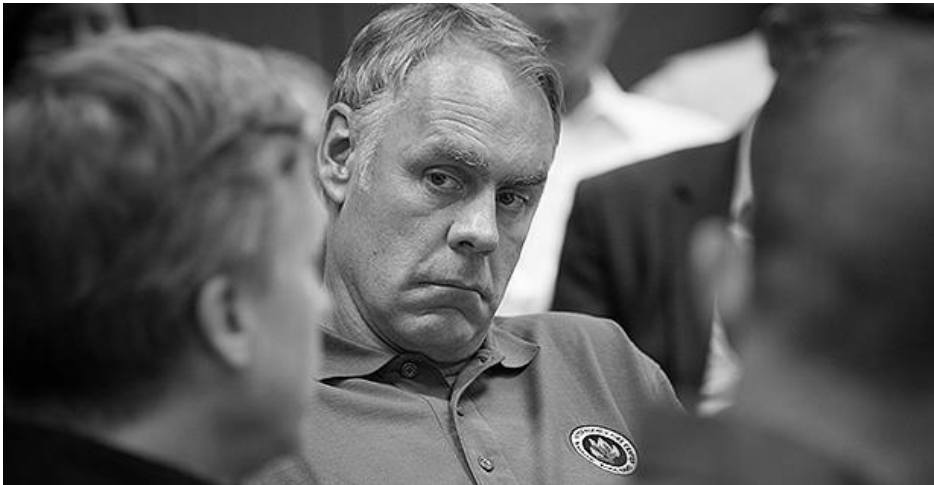
"If it becomes a course of conduct, if the agency is in essence rescinding the rule, if you can make that argument successfully to the court, you'd have their attention," he said. "It's already starting to become a pretty widespread thing."

<http://bit.ly/2tv7o0>

## **10. Legal experts say shrinking sites illegal; lobbying heats up**

[Jennifer Yachnin](#), and [Nick Bowlin](#), E&E News reporter

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Law scholars warned Interior Secretary Ryan Zinke in a letter that the Trump administration can't reduce the number or size of national monuments without sparking lawsuits. Credit: Lance Cheung/Agriculture Department

Interior Secretary Ryan Zinke advocated for an "illegal and unconstitutional action" when he proposed reductions to Bears Ears National Monument last month, according to a new assessment endorsed by more than 120 academics with expertise in environmental, natural resources and administrative law.

The scholars also raised questions over a half-dozen legal issues in President Trump's late-April order mandating a review of dozens of national monuments with an eye toward eliminating or reducing the size of those sites.

The arguments are outlined in a letter submitted today to the Interior Department via the public comment process for its ongoing review of 27 national monuments that includes Bears Ears. The missive is also addressed to Commerce Secretary Wilbur Ross.

"It is beyond question that the proclamations creating the national monuments under review — both the terrestrial monuments and the marine monuments — identify a wealth of unique and precious resources that qualify as 'objects of historic and scientific interest,' throughout the reserved federal lands," says the letter.

It's signed by people including University of Colorado Natural Resources Law Center Director Mark Squillace, University of California Berkeley School of Law professor Eric Biber and UCLA Environmental Law Clinic Co-Director Sean Hecht.

The 75-page submission, which includes supporting materials, notes that while presidents may designate national monuments under the Antiquities Act of 1906, only Congress claims the authority to manage public lands under the Constitution.

"If the new administration believes that those objects and the lands containing them do not warrant protection, or that factors external to the Antiquities Act should be considered in evaluating national monument designations, the administration must turn to Congress for a remedy," the letter says.

When Zinke recommended in an interim report on his review that the Bears Ears monument be sharply reduced from its existing 1.35-million-acre boundaries, he was advocating for an illegal action, the letter added ([E&E News PM](#), June 12).

The letter goes on to say that Trump erred in his executive order mandating the review by directing Zinke to consider "a broad range of policy considerations entirely unmoored from the Antiquities Act."

Although Congress could consider issues such as the impact of monument protections on the use of adjacent federal lands or the economic impact of new sites, the Antiquities Act allows a president to consider only the historic, scientific or cultural value of a site, the scholars say. They also note that the 1906 law contains no requirement for public input, although some presidents have sought commentary before designating monuments.

"The President expressed an intent to give power 'back to the states and to the people.' This misunderstands the nature of federal public lands law," the letter adds. "Congress possesses plenary power over federal public lands, managing them on behalf of the American people. Congress has delegated some of its authority to the executive branch, subject to specific processes and constraints. The President and federal land management agencies have no authority to abdicate those responsibilities and give states control over federal lands."

Zinke is scheduled to file a final report with his recommendations on Aug. 24.

### **Ore. site**

Oregon Sens. Jeff Merkley and Ron Wyden released their own missive to Zinke yesterday, in which the Democratic duo once again urged the secretary to refrain from recommending any changes to the Cascade-Siskiyou National Monument.

The 100,000-acre site, which spans Northern California and southern Oregon, was created by President Clinton in 2000 and expanded by President Obama last year.

"We hope that you will consider the diverse public support and the public input process that led to expanding the Cascade-Siskiyou National Monument as you review national monument designations," wrote Merkley, who serves on the Environment and Public Works Committee, and Wyden, who sits on the Energy and Natural Resources Committee.

The letter marks the second plea from the Democratic lawmakers, who in an early May letter to Zinke likewise touted the "extensive public process" that preceded the monument's expansion (Greenwire, May 9).

### **LCV campaign**

BLM was forced to implement the temporary two-year ban in 2015 due to the growing popularity of swinging and rappelling on Corona Arch and Gemini Bridges ([Greenwire](#), Jan. 7, 2015).

The League of Conservation Voters today launched a \$75,000 digital ad campaign to urge Western Republican senators to withdraw their support of Interior's monument review.

With the public comment period on the reviews set to close Monday, the environmental advocacy group is targeting GOP Sens. Dean Heller of Nevada, Jeff Flake of Arizona, and Jim Risch and Mike Crapo of Idaho, who have previously voiced support for the review.

The effort includes social media ads, local Snapchat filters, Spanish-language spots, and ads on the Arizona Republic and Reno Gazette-Journal websites.

"Senators who support this unprecedented assault on our national monuments are gambling with the future of not just these places, but all of our majestic national parks and monuments," LCV President Gene Karpinski said in a statement.

Each senator hails from a state with at least one reviewed monument: Basin and Range and Gold Butte in Nevada; Bears Ears and Grand Staircase-Escalante in Utah; Craters of the Moon in Idaho; and Grand Canyon-Parashant, Ironwood Forest, Sonoran Desert and Vermilion Cliffs in Arizona.

The LCV has a separate effort called "Our Lands, Our Vote," intended to flood Interior with pro-monument public comments. According to the group, it has rallied 250,000 comments and intends to reach 300,000 by Monday.

<http://bit.ly/2tv0ouS>

## **11.400+ groups urge congressional leaders to fully fund key law**

Kellie Lunney, E&E News reporter

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More than 400 conservation groups across the country are urging House and Senate leaders to fully fund the Endangered Species Act and oppose any efforts to weaken the landmark law.

"Given the hostile record of many members of the current Congress to the Endangered Species Act, efforts to rewrite this law would prove disastrous for imperiled wildlife and should be strongly opposed," the organizations wrote in yesterday's letter. It was sent to Republican and Democratic leaders in both chambers, as well as to the chairmen and ranking members of the House Natural Resources Committee and the Senate Environment and Public Works Committee.

Led by the Endangered Species Coalition, the letter included large organizations like Sierra Club and Greenpeace USA, as well as smaller outfits like the Lehigh Valley Audubon Society, and had signers from all 50 states.

It also called on congressional leaders to oppose any policy riders or other proposals that would reduce protections for endangered species and habitats.

House Natural Resources Chairman Rob Bishop (R-Utah) and Senate Environment and Public Works Chairman John Barrasso (R-Wyo.) both want to reform parts of the ESA, which hasn't been significantly updated since 1988 (Greenwire, April 17). Several outside groups have weighed in on the debate, including the Western Governors' Association, which developed recommendations on how to improve implementation of the ESA (Greenwire, June 30).

But the conservation groups are worried that industry and "other wildlife opponents" will influence congressional Republicans to use their majority to gut the ESA under the "guise" of reform.

"The Act faces unprecedented threat," the letter said. "Using misleading words such as 'update,' 'modernize,' or 'reform,' the Act's opponents ultimately seek to undermine its core principles, gut its scientific basis and abandon its common-sense approach to conserving imperiled wildlife."

<http://bit.ly/2tml091>

## **12. Cessna tours give 'the land a voice'**

Jennifer Yachnin, E&E News reporter

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Seen from high above the Flathead Valley, the area's namesake river cuts across the rich green summer landscape, and its national forest blends seamlessly into neighboring Glacier National Park.



That unified vision of the landscape is something that EcoFlight Executive Director Bruce Gordon wants his passengers to absorb during his regular tours of public lands across the West. He pilots a fixed-wing, single-engine 1978 Cessna.

"Our mission is to educate and to advocate for the environment using small planes," Gordon told E&E News after a recent tour for reporters and conservationists here in Montana.



Bruce Gordon. Ecoflight

In his more than 35 years conducting such flights, Gordon said, he has focused on including politicians, reporters, concerned citizens, scientists and anyone else who might benefit from an "aerial perspective" in his six-seat plane.

"When we take people up in the air, we hope they don't look at the left or look at the right, but they look at the land," said Gordon, who founded the nonprofit EcoFlight in 2002. "It gives the land a voice."

More recently, Gordon has focused on national monuments as Interior Secretary Ryan Zinke reviews dozens of sites for potential reductions or management changes.

During Zinke's visit in May to Bears Ears National Monument — which he has since recommended be significantly reduced from its 1.35 million acres — Gordon conducted flights over the southeast Utah site.

"We pride ourselves to really responding to the pertinent issues of the day," Gordon said. He noted that he is personally opposed to efforts to reduce or eliminate national monuments.

"To me, if you don't like what it is, go forward, try to change things, but don't go back and second-guess everybody," he added. Gordon pointed to the fact that many former monuments have been converted to national parks in arguing that the Antiquities Act has been used appropriately by past presidents.

While Zinke and other elected officials took a private aerial tour of Bears Ears and the Grand Staircase-Escalante National Monument during his visit to Utah, Gordon said he remains hopeful that his efforts will change the views of others interested in public lands.

He recalled flying loggers during the debate over preserving spotted owl habitat in the 1980s and '90s.

"The airplane would get you away from those scenic corridors that you would see on the ground, and people would realize the place was clearcut," Gordon said. He has also flown people tied to the oil and gas industry to try to instruct them on watersheds.

"My goal is to get everybody up in the air, talk about the issues and have a conversation. I like to call it conservation conversations in the cockpit," he said after a recent flight.

### **‘There are no roads’**

BLM was forced to implement the temporary two-year ban in 2015 due to the growing popularity of swinging and rappelling on Corona Arch and Gemini Bridges ([Greenwire](#), Jan. 7, 2015).

Peter Aengst, who serves as the Wilderness Society's senior regional director for the Northern Rockies, said he likewise hopes that passengers on EcoFlight's tours walk away with an understanding of the landscape as a whole — rather than a "color-coded map."

"There is something about being in the air to — at least with certain issues — to really show effectively the connections from a landscape perspective about how different jurisdictional boundaries really don't matter if you're concerned with the health of a watershed or effective wildlife habitat or the migration route of a certain species," said Aengst. He's been accompanying Gordon on flights for about 15 years, including his recent flight in Montana.

"It's a great way of synthesizing all the issues in a way you would never get off a fact sheet, you would never get studying maps," he added. "That's the power of doing flight."



A view over the Flathead Valley in Montana from EcoFlight's plane. Jennifer Yachnin/E&E News

In addition to Gordon's recent work on national monuments, Aengst pointed to his experience with EcoFlight surveying the 200-mile migration route of the pronghorn antelope in Wyoming.

"You're basically flying like you're doing the migration," Aengst explained, noting that the animals cross from Grand Teton National Park through areas including the Upper Green River Basin. They must also pass through a bottleneck created by housing before ending in Bureau of Land Management lands with gas fields. "You can't drive this stuff. There are no roads."

But it's not just the 20 minutes to one hour in the cockpit with Gordon that can change minds, Aengst said; it's also the time on the ground before and after flights.

"He clearly cares about the issues," Aengst said. He noted that the nonprofit covers costs including its fuel, equipment and fees, rather than asking its passengers to do so. (E&E News reporters have participated in several such flights.)

While the target audiences can range from governors to county commissioners as well as reporters, Aengst noted that the groups also include community and business leaders who can serve as advocates for public lands.

Business for Montana's Outdoors Executive Director Marne Hayes said her organization has worked with EcoFlight to build awareness about public lands and educate its own members and others.

The group recently sponsored flights in Kalispell to coincide with the Western Governors' Association's annual meeting in nearby Whitefish.

"It was a really natural partnership to team up with them, especially when we could take advantage of the WGA, and deliver this really powerful experience of our landscapes," Hayes said.

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

### **13. Denver scores sought-after outdoor show from Utah**

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The Outdoor Retailer trade show, a twice-a-year outdoor recreation extravaganza, is moving to Denver next year.

A news conference is set for today with show officials, Denver Mayor Michael Hancock (D), Colorado Gov. John Hickenlooper (D) and Colorado Outdoor Recreation Industry Office head Luis Benitez.

The show is moving from Salt Lake City in protest of Utah's efforts to shrink national monument designations and enact public land transfers. Companies like Patagonia and REI specifically noted the attempt to shrink the Bears Ears National Monument in their push to have the show moved ([\*Greenwire\*](#), Feb. 17).

The retail shows attract a combined 45,000 and bring an estimated \$45 million each year to Salt Lake City. They have become crucial meeting points for public land and conservation advocates (Jason Blevins, [\*Denver Post\*](#), July 5). — **NB**

<http://bit.ly/2tNp589>

### **14. Renewable generation tops nuclear for first time since 1984**

[Christa Marshall](#), E&E News reporter

Published: Thursday, July 6, 2017

Monthly renewable generation in the United States this spring exceeded nuclear power for the first time in more than 30 years, the Energy Department reported this morning.

The [report](#) covering January through April highlights several trends — record generation from wind and solar, surging hydropower in California because of unprecedented winter precipitation, and recent retirements of nuclear plants.

Monthly renewable power beat nuclear in March and April. The last time that happened was in July 1984.

The report from the U.S. Energy Information Administration focuses on utility-scale renewables, including hydro, wind, solar, geothermal and biomass. Wind and solar provided more than 60 percent of all new utility-

scale capacity last year. Renewed tax credits, declining costs and technology improvements are helping drive growth.

"These sources contributed to record high levels from both fuels; between March 2016 and March 2017, wind generation increased by 16%, and solar generation increased by 65%," EIA said.

Meanwhile, net power from nuclear has been "relatively flat" since the late 1990s.

"Retirements of a number of nuclear plants have resulted in a slightly lower level of overall nuclear generation capacity, and in turn, a lower level of generation," EIA said. Nuclear generation in April was at its lowest monthly level since April 2014, EIA said.

In 2016, the Fort Calhoun Nuclear Generating Station in Nebraska became the fifth U.S. nuclear plant to shut down in five years. The industry has warned that cheap natural gas is threatening more shutdowns (*Energywire*, Nov. 17, 2016).

Yet EIA projects that monthly nuclear power will surpass renewables this summer and for the entire year. Nuclear plants typically undergo maintenance in the spring, when electricity demand is down.

A surge in hydropower also gave a big boost to renewable generation this spring. Conventional hydropower totaled 30 billion kilowatt-hours in March — the highest level in six years — largely because of high precipitation in California and pockets of the West.

DOE reported last month that March was the first time that U.S. monthly electricity generation from wind and solar exceeded 10 percent.

Bloomberg New Energy Finance also estimated in June that wind and solar would "dominate" future electricity and constitute three-quarters of the \$10 trillion invested globally by 2040 in new generation.

In the United States, there are several wild cards about future growth, including the possibility of tariffs to help solar manufacturers. The Solar Energy Industries Association projected in a recent report that tariffs could wipe out one-third of U.S. solar jobs (*E&E News PM*, June 15).

<http://bit.ly/2sLj9gg>

## **15. Zinke signs order to ensure quarterly lease sales**

*Jennifer Yachnin*, E&E News reporter

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The Western Energy Alliance acknowledged today it could end its lawsuit against the federal government over canceled or delayed lease sales as Interior Secretary Ryan Zinke signed a new secretarial order aimed at ensuring they occur quarterly.

But Zinke's action, which also aims to expedite the issuance of drilling permits, could prompt a new legal challenge from conservationists who charge the order oversteps the secretary's authority.

In Order 3354, Zinke directs the Bureau of Land Management to conduct quarterly lease sales and aims to reduce the permit approval or denial period to 30 days, down from the 257-day average in fiscal 2016.

"We are also looking at opportunities to bring support to our front line offices who are facing the brunt of this workload," Zinke said in a statement. "This is just good government and will further support the president's goal of American energy dominance."

In a press call with reporters, Zinke declined to comment specifically on the WEA lawsuit, but the organization's president, Kathleen Sgamma, told E&E News that the secretarial order closely tracks the group's complaint.

The WEA lawsuit asserts the Interior Department violated federal law by canceling or delaying oil and gas lease sales in recent years, in violation of the Mineral Leasing Act requirement for quarterly sales. Zinke noted that 11 lease sales had been canceled last year.

If Interior executes the order as planned, Sgamma said, WEA could move to settle its lawsuit.

"We're open to seeing how this is actually implemented and settling hopefully in the near future," Sgamma said.

But she added that the process is more complicated than simply holding quarterly lease sales.

"The process that was put in place with the 2010 leasing reforms needs to be unraveled," Sgamma said. "They need to pull back policies put in place with the stroke of a pen ... and get on with a rational leasing process."

She added: "There are layers of red tape below the surface that need to be addressed."

Sgamma specifically pointed to rotational lease sales, which she said limit sales in areas like the Permian Basin to an annual event.

"They need to get away from that. They need to get away from holding things up indefinitely," Sgamma said.

While conservationists have argued that additional lease sales are unnecessary given that oil and gas industry representatives have bid on fewer than a third of leases offered in the last year, Sgamma rejected that criticism, characterizing the unsold leases as being located in "unpopular" areas.

"Of course you're going to have lease sales where things aren't sold," she said.

The Independent Petroleum Association of America and American Petroleum Institute also praised the secretarial order today.

"We applaud the administration's steps to help strengthen the United States' energy position," API Upstream and Industry Operations Group Director Erik Milito said in a statement. "A key component of a successful policy is repairing the federal permitting process so that companies have the confidence to invest and see their projects move forward."

House Natural Resources Chairman Rob Bishop (R-Utah) likewise cheered Zinke's announcement.

"Secretary Zinke's commitment to foster regulatory certainty and unleash our energy potential is a welcome shift in priorities at Interior," Bishop said. "We will be working in close coordination with the secretary to provide the department with the statutory tools to ensure that responsible energy development on federal lands is no longer held hostage to intransigent bureaucracy and ludicrous permitting delays."

But WildEarth Guardians' Jeremy Nichols suggested that conservation organizations could challenge Zinke's new order in court.

"He's trying to tear down any and all checks on oil and gas development on public lands," Nichols said of the announcement. "We're going to be weighing our legal options."

In particular, Nichols argued that the secretary lacks the ability to limit BLM's own discretion on when and where to offer leases for oil and gas development.

"The law does not allow an Interior secretary to bind the discretion of the BLM in such an extreme way," Nichols said.

He also questioned Zinke's stated goal of increasing energy production, suggesting that merely offering more leases won't prompt a spike in extraction.

"Right now, the main obstacle seems to be the industry's own economic quagmire. They don't seem to be in a position to develop the way Zinke says they are," he said.

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

## **16. Grijalva wants Zinke to clarify 'energy dominance'**

Kellie Lunney, E&E News reporter

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The top Democrat on the House Natural Resources panel wants Interior Secretary Ryan Zinke to explain how the administration plans to balance its "energy dominance" strategy with environmental and multiple-use requirements for public lands under a key law.

Arizona Rep. Raúl Grijalva is worried that the Interior Department's emphasis on energy development will undermine the Federal Land Policy and Management Act, which requires a multiple-use approach to public lands, by eating away at environmental protections as well as diminishing scenic and historical value.

"Not all federal land is appropriate for coal, oil, or gas development and certain areas should be managed to protect the value they provide outside of their energy resource potential," the Democrat wrote in a [letter](#) to Zinke today. "Federal lands generate billions of dollars and support millions of jobs through an outdoor recreation economy comprised of camping, hiking, hunting, and off-roading businesses."

Earlier today, Zinke announced a secretarial order aimed at furthering the administration's energy dominance initiative. It directs the department to follow its mandate of holding quarterly lease sales as a way to increase fossil fuel extraction on federal lands ([Greenwire](#), July 6). It also seeks to expedite the permitting process for new leases to 30 days, down from last year's average of 257 days.

The Interior secretary in [testimony](#) before Congress last month said that the administration's proposed fiscal 2018 budget for the department supports an "all-of-the-above" energy development strategy, "increasing funding for onshore and offshore oil and gas, strengthening coal management activities, and sustaining the current pace of renewable energy development."

Grijalva argued in today's letter that the department appears to be "inappropriately interpreting 'multiple use' to mean that energy development should be allowed on all lands." In addition to ensuring that the administration's

approach to energy development adheres to FLPMA, the Democrat asked Zinke to provide a more quantifiable measure for energy dominance: "Is there an end state at which the department would be able to state that 'energy dominance' has been achieved?"

Interior did not immediately respond to a request for comment on Grijalva's letter.

<http://bit.ly/2uvp6eN>