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Attached is the daily news report for July 25.

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## BUREAU OF LAND MANAGEMENT

### DAILY NEWS REPORT - UTAH

#### UTAH – TOP STORIES – JULY 22-24, 2017

1. **The Nine Mile Canyon In Remote Utah Is The World's Largest 'Art Gallery'**

*Forbes, July 24 | Trevor Nace*

The Nine Mile Canyon located in the desert of eastern Utah is the world's longest art gallery in the world. This canyon boasts tens of thousands of petroglyphs and pictographs along a stretch of 40 miles.

2. **Utah Biologists working to save Boreal toads from annihilation**

*The Standard Examiner, July 24 | Leia Larsen*

At twilight on a warm evening in the Monte Cristo Range last week, a group of biologists whooped and cheered after finding a palm-sized boreal toad with a distinctive red spot on his head.

3. **At Bears Ears in Utah, Heated Politics and Precious Ruins**

*New York Times, July 25 | Stephen Nash*

My entourage and I blew into Bears Ears National Monument in Utah just as Interior Secretary Ryan Zinke and his entourage departed.

4. **Op-ed: Keep oil and gas away from Dinosaur National Monument**

*The Denver Post, July 24 | Charlie Preston-Townsend*

One of the single most fascinating experiences in nature is when water meets rock. The water effortlessly carves away sharp corners of rock and creates some of our country's most beautiful scenery and America's most iconic landscapes.



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#### E&E/NATIONAL NEWS – TOP STORIES

1. **Who is David Bernhardt, the new deputy Interior secretary?**

*CNN, July 25 | Grace Hauck*

The Senate Monday confirmed controversial lawyer David Bernhardt as deputy secretary of the Interior -- the number two executive in charge of managing natural resources. The vote passed 53-43.

2. **INTERIOR: Senate confirms Bernhardt for deputy secretary**

*E & E News, July 25 | Kellie Lunney*

The Senate last evening approved the nomination of David Bernhardt for Interior Department deputy secretary, delivering Secretary Ryan Zinke his long-awaited second in command.

3. **PUBLIC LANDS: BLM looks to 'existing authorities' in bid to rescind fracking rule**

*E & E News, July 25 | Pamela King*

In a call to rescind an Obama-era regulation governing hydraulic fracturing on public lands, the Bureau of Land Management is calling for public input on how best to rely on "pre-existing authorities" to manage unconventional drilling.

4. **POLITICS: Inside 'energy dominance' and other DOE buzzwords**

*E & E News, July 25 | Maxine Joselow*

U.S. energy policy under President Trump can best be summarized by the term "energy dominance."



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5. **COLORADO: Anti-fracking activists continue to pressure state regulators**

*E & E News, July 25 | Mike Lee*

More than 30 people pressed Colorado's oil and gas regulators to crack down on drilling in urban areas in the wake of a deadly home explosion and drop an appeal of a court decision dealing with public health.

6. **LOBBYING: Famed for lawsuits, enviro group morphs into advocacy**

*E & E News, July 25 | Michael Doyle*

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

7. **CLIMATE: Report accuses utilities of denying fossil fuel risks**

*E & E News, July 25 | Arianna Skibell*

An energy watchdog group has launched an "Exxon knew"-like campaign against the utility sector, accusing the industry of willfully ignoring the dangers of climate change since the 1960s.



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#### UTAH – FULL STORY

##### 1. The Nine Mile Canyon In Remote Utah Is The World's Largest 'Art Gallery'

*Forbes, July 24 | Trevor Nace*

The Nine Mile Canyon located in the desert of eastern Utah is the world's longest art gallery in the world. This canyon boasts tens of thousands of petroglyphs and pictographs along a stretch of 40 miles.

The art in the canyon was created by the Fremont culture and the Ute people and depict everything from local wildlife to cultural displays and beliefs. As you can imagine, this site of over 10,000 images is a treasure trove of information for archaeologists and an opportunity for tourists to step back in time a thousand years ago.

In the 1880's this canyon was used to transport goods through the eastern Utah mountains. A road was constructed through the canyon in 1886 to connect Fort Duchesne to the railroad line located in Price, Utah. However, today the canyon is primarily visited by tourists interested in learning more about the Ute and Fremont people.

The area is currently being appraised for the natural gas that lies within the Tavaputs Plateau. Development of this natural gas resource could impact local art, causing ongoing debates on how best to proceed.

The canyon formed from the small Nine Mile Creek, a tributary of the larger Green River which empty into Desolation Canyon. Although the creek is not a major body of water, it is one of the few year-round and reliable sources of water in an otherwise desert climate.

The Nine Mile Canyon consists of interbedded sandstone, mudstone, and shallow water limestone. The changes in rock type record changes in the expansion and contraction of the ancient Lake Uinta. The Green River Formation, which sits higher than the sandstone units used for petroglyphs is an Eocene sedimentary group. The formation is located in Colorado, Wyoming, and Utah in the location of Nine Mile Canyon.

The Green River Formation is the largest oil shale in the world with an estimated reserves of up to 3 trillion barrels of oil. This is larger than the entire oil resource in Saudi Arabia and holds a significant portion of the United States oil resources.



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Why, then, have you likely never heard of the Green River Formation and oil and gas development therein? The hydrocarbons in the Green River Formation are in a solid form (as opposed to liquid or gaseous for most hydrocarbon development), which poses significant issues with development. In order to unlock the oil one must heat the shale and essentially "cook" out the hydrocarbons, an incredibly expensive process.

In total there are 10,000 individual images within Nine Mile Canyon located at over 1,000 archaeological sites. Many of the depictions were produced by the Fremont from 950 to 1250 AD. The Fremont, advanced for their time, practiced established agriculture, growing crops of corn and squash in the canyon floor. The Fremont build irrigation ditches along the canyon edges as a way to divert water to crop areas.

As we step forward to the 16th century the Utes dominated the region and added to the rock art that was previously created by the Fremont. Several hundred years later in the late 19th century there is first mention of the Nine Mile Canyon in journals of American fur traders.

The petroglyphs and pictographs are carved and painted on an easily weathered sandstone, making the depictions vulnerable to destruction. The walls of the canyon are adorned with hunting scenes and a wide array of animals including birds, sheep, bison, and lizards.

In 2004 the Nine Mile Canyon included on the National Trust for Historic Preservation list of America's Most Endangered Places. This was largely due to increased natural gas development in the area and tourist activity.

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## 2. **Utah Biologists working to save Boreal toads from annihilation**

*The Standard Examiner, July 24 | Leia Larsen*

At twilight on a warm evening in the Monte Cristo Range last week, a group of biologists whooped and cheered after finding a palm-sized boreal toad with a distinctive red spot on his head.

They call the creature "O'Shaughnessy," reasoning that the spot makes him a redhead in the amphibian world and thus deserving of an Irish moniker. The biologists have developed an affection for the toad. They first caught and tagged him in 2004.



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He fell off their radar for a decade, then somehow showed up at a new pond more than 2 miles away. They figure he's at least 14 years old, if not pushing 20, which means he's had a long battle against the many environmental odds working against him.

"There's our old man," said Cody Edwards, native aquatics biologist for the Utah Division of Wildlife Resources Northern Region.

They're able to track O'Shaughnessy, and thousands of toads like him, by inserting electronic tags similar to those used to microchip dogs.

"We've been putting these tags in since the early 2000s. We've tagged almost 2,000 toads since the beginning of this program," Edwards said.

State biologists have put such a massive effort into tracking, measuring and tagging the toads because they're on the brink of collapse. It's a plight facing amphibians worldwide.

On the conservative side, researchers estimate 200 frog species (scientists don't distinguish between toads and frogs in taxonomy) have already gone extinct.

Hundreds more face the same fate. It's a mass extinction alarming many biologists in the United States and beyond.

"They act like an environmental indicator, so when their environment starts to degrade, they're often the first things to disappear," said Kayleigh Mullen, citizen science biologist with Utah's Hogle Zoo. "They're like an early warning sign."

As one biologist told High Country News last year, amphibians represent an entire class in the animal kingdom. If every bear, whale, human and house cat in the world faced imminent collapse, we'd certainly be paying attention. Frogs, salamanders and caecilians, however, don't seem to be causing the same outcry.

"They're not a big, charismatic species and they're not a game species. No one hunts for toads," said Chance Broderius, another DWR native aquatics biologist. "That's another part of the problem and what we need to change ... Once there's interest in the species, there's money to be had that can be offered to help."



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Boreal toads are tough to track. They blend in well with their environment, they're mostly active at night and they're not vocal like other frogs. The only sound they make is a little squeak males use to keep other males away.

That makes it hard for biologists to pin down how many toads live in Utah — but their yearly surveys indicate populations have taken a massive hit.

"It's clear they are declining. That decline is widespread. It's happening here," Mullen said. "Something has to be done."

Part of the problem causing amphibian declines around the globe, including boreal toads, is a fungus-caused disease — chytridiomycosis, or "chytrid" for short. It thickens amphibians' skin so they can't absorb water or nutrients. They basically dry out and die.

"It's a visual; you'll see a lot of areas that are effected. It looks like an abrasion on the skin," Edwards said.

The toads' biggest plight, however, isn't chytrid. It's people.

"The number one most common threat is simple habitat destruction," said Jenny Loda, reptile and amphibian staff attorney at the Center for Biological Diversity.

In the southern Rocky Mountain region, which includes Utah, the center estimates boreal toads have been reduced to one percent of their historic breeding range.

The animals require a unique blend of habitat to thrive — ponds with sloping bottoms so they can lay eggs in the shallows, land vegetation to hide from predators, burrows to hibernate.

Grazing and recreation are altering that habitat in big ways. Those impacts are clear in the Monte Cristo Range. It's likely why old O'Shaughnessy abandoned his pond years ago for one miles uphill. It's been several years since biologist found any toads at his old pond, which is right next to a road.

"In fact, this year there were tire tracks right through the middle of (that) pond," Edwards said. "I think that can kind of explain what's happening."

In south-central Utah, state biologists found a handful of boreal toads for the first time in years. They had deposited eggs in a water-filled tire rut.





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“Luckily they found those egg masses and were able to move them ... to hopefully a more suitable location where those tadpoles can survive,” Edwards said. “But I think as we expand our use of four-wheelers, there are so many unmarked trails people are blazing. I think it has a huge effect on these populations.”

Elsewhere in the state, invasive, water-sucking plant species have moved in. Humans have brought several other species to the West that are reeking havoc for the boreal toad as well, including bullfrogs.

Those massive amphibians first made their way to Utah in the 1970s, according to the DWR. Plant nurseries along the Wasatch Front gave them away to lure people into buying water features. They’ve been bad news for native amphibians — they’re voracious feeders that eat toads and tadpoles and compete for their habitat.

Bullfrogs are also more resistant to chytrid, but they carry it and spread it to native populations.

Then there are water diversions and human-caused climate change that have drastically altered the wet environments where toads thrive.

Still, toads in Utah’s northern regions are doing better than populations elsewhere in the state.

“We’re starting to see some stability with our populations,” Edwards said. “They’re not growing, but they’ve declined and now they’re somewhat holding at where their lower numbers are at.”

One population in the Grouse Creek Range seems to be adapting to its environmental demands. Those boreal toads are breeding at human-made ponds for livestock, around 2,000 feet below their normal elevation range.

When biologists moved a male and female pair across the mountain range, over Rocky Pass, to try and establish a new breeding population at another pond, they found them back at their home pond a few years later.

“They went right up over that pass. That was a 4.6-mile straight-line distance,” Edwards said. “There’s no way they made a straight line through those cliffs, so it could be well over five miles as the toad hops or crawls or however he gets around.”



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Some biologists theorize the Grouse Creek toads might be fighting off chytrid, too, because they're in a hotter and drier climate than most boreal toad populations.

"That's one hypothesis we've kind of thrown around," Broderius said. "It hasn't been tested yet ... but the fact that it's so much drier it doesn't produce conditions (chytrid fungus) would maybe need to grow on the toad."

While much of the boreal toad's lifecycle and habits remain a mystery, scientists are getting a better sense of their movements through tagging and monitoring efforts like those DWR has done. And those efforts were largely fueled by efforts to keep the toads off the endangered species list.

Environmental groups like the Center for Biological Diversity have long-fought for an endangered species listing since the 1990s.

After reaching a settlement, the U.S. Fish and Wildlife Service will likely issue a listing decision on the boreal toad by the end of September.

"A lot more information is known about them now because there has been this increased monitoring and searching for them. But what I've seen from data I've been able to get, it's not like they've suddenly been discovered to be doing super well," said Loda, the amphibian attorney for the center. "Hopefully they will be protected."

habitat is by looking for a good mix of tadpoles, juveniles and adult toads.

Among the interesting facts learned is how long some boreal toads, like "O'Shaughnessy," can live.

"Even other areas that monitor boreal toads were under the impression that their max lifespan was maybe 8 or 10 years, up until we started tracking toads," Broderius said. "So some of the work we've done here in the Northern Region of Utah has been instrumental in bringing that to light – they're a much longer-lived species than we previously thought."

And while toads might not be fluffy or fuzzy, they do become endearing for many humans who take the chance to get to know them.



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“The more you know about a toad, the more respect you have for them,” Edwards said. “They might be small, but they are fighters.”

#### **Help biologists track toads**

*Utah’s Hogle Zoo, with help from the Utah Division of Wildlife Resources and Wild Utah, is recruiting citizen scientists to help track boreal toads throughout the state.*

*Volunteers will help the biologists find, tag, weigh and measure the toads. They’ll set out on around four trips each week until September, visiting sites like the West Fork of the Duchesne River, Maybird Gulch in Little Cottonwood Canyon, Silver Lake and Deer Creek in American Fork Canyon and sites around Strawberry Reservoir.*

*Overnight camping trips include Paunsaugunt Plateau near Bryce Canyon National Park, Thousand Lake Mountain, Boulder Mountains and sites within the Uinta-Wasatch-Cache National Forest.*

*The trips are free and depart from the zoo in Salt Lake City. Transport, equipment, lunch and trail snacks are provided.*

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### **3. At Bears Ears in Utah, Heated Politics and Precious Ruins**

*New York Times, July 25 | Stephen Nash*

My entourage and I blew into Bears Ears National Monument in Utah just as Interior Secretary Ryan Zinke and his entourage departed.

Actually, I had brought only one companion to this enormous high-desert landscape of rust-red and clay-gray cliffs, pinnacles, mesas and ravines. It is all national public land, roughly 90 times bigger than Manhattan and a third again as large as Grand Canyon National Park.

It shelters what former President Barack Obama called “some of our country’s most important cultural treasures, including abundant rock art, archaeological sites, and lands considered sacred by Native American tribes” when he ordered increased protection for them all by creating the national monument last December.



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President Trump, however, has said that the process of designating national monuments, inaugurated during the Theodore Roosevelt administration 111 years ago, is “another egregious abuse of federal power.” He called the protection of Bears Ears and other national monuments a “massive federal land grab” that “should never have happened.”

We were just exploring. Mr. Zinke’s entourage was a more authentic one, with news releases, helicopters, photo ops and protesters. He was there at the president’s behest, to recommend whether Bears Ears — and a long list of other national monuments created during the past two decades — should be revoked or pared down to make more room for logging, mining, gas and oil development, grazing and motorized recreation.

A day after his departure, my wife, Linda, and I made our way toward the gaping Fish Mouth Cave, perched high on a slick-rock ridge. It is visible from miles away along the juddery, hairpinny dirt approach road. On the trail, only an insistent canyon wren and breezes in the cottonwoods broke an enfolding silence.

On the first day here, though, it can take a while for the gnat cloud of homely preoccupations to recede. My friend’s latest email, am I thirsty, did I lock the car?

All that was brushed aside as we followed a faint spur and walked in among a scatter of rock walls and columns within the shade of an alcove. It was an instant, vertiginous step back, about a thousand years, toward other lives and broader questions. These remnants, signals from an earlier phase of our human condition, have been endlessly ciphered by generations of archaeologists in the Bears Ears region (which is named for twin buttes near its center).

Was it the drying, warming climate that pushed the ancient farmers off their fertile mesas to live within the canyons, or was it a defensive maneuver to meet the threat of raids and other violent conflict? And the more typical question: Where did they go when they departed? For some visitors, those are diverting, and safely distant, concerns. Others may find societal distress and a changing climate rather more immediate. As for me, I’m a little at odds. I may travel to escape, say, political news, for a time: the therapy of forgetting. But in that case, Bears Ears would be a curious choice just now.

The series of ruins we encountered on the trail to Fish Mouth Cave, despite their evocative power, are modest examples. A common estimate is that the Bears Ears region includes several



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hundred thousand archaeological sites — arguably the most intense concentration in North America, and perhaps in the world.

That evidence of successive waves of human settlement begins with hunter-gatherers who pursued mammoths and mastodons here some 12,000 years ago, as the last ice age receded, and on through the inflows and ebbs of cliff dwellers who occupied the area until around 1300 A.D. Much of that span is on view even to casual, astonished visitors like us. That is Bears Ears' glory as a travel destination, and its vulnerability.

On our drive out to blacktop at the end of the day I was reminded, and not for the last time, that archaeology and anthropology are close cousins. We reached a T-junction. One way led north toward the town of Blanding, population about 3,600, whose welcome sign proclaims that it was "Established 1905." That hearkens to its incorporation by a late-arriving tribe of pioneers of European origin. Many of their descendants here in San Juan County are among the most tenacious opponents of the national monument.

"You just don't take something from somebody," Phil Lyman, a San Juan County commissioner, told a New York Times reporter in May. He equated the monument designation to grand theft. "From a principle standpoint, this needs to go away," he said. "I agree with President Trump: This never should have happened."

If you plan a vacation that takes in the landmarks of contemporary local cultures, then, you can visit Recapture Canyon, near Blanding. It has many important cliff-dweller sites, but it is also a local all-terrain-vehicle playground. Vandalism and pothunter looting were so common here that in 2014 the Bureau of Land Management, the federal agency responsible for managing most of these lands, closed an illegal track that A.T.V. enthusiasts had bulled into the canyon. Hikers and horse riders were still permitted.

It was a serene enough place during our visit. But in 2014 a protest pageant of dozens of A.T.V.s roared into Recapture Canyon, some driven by out-of-towners bearing assault rifles. (More than 2,000 miles of trails on public lands were already open to A.T.V. riders.)

One of the principal organizers was Mr. Lyman, the county commissioner. He spent 10 days in jail as a result. Mr. Lyman still holds office, and was one of the anti-monument dignitaries who met several times with Mr. Zinke. The Native American representatives had about an hour with Mr. Zinke at the end of his four-day listening tour, and the nonprofit Friends of Cedar Mesa



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representative got 35 minutes. Parts of Recapture Canyon have recently been reopened to A.T.V.s.

Back at that road junction, though, if you turn south instead, you reach the outskirts of a hamlet with different affiliations: Bluff, population maybe 300. Its city limits are marked: “Established 650 A.D.” That can easily be read now as a declaration of support for the new, adjacent monument.

Bluff is more of a home base for environmentalists, archaeologists and tour companies that specialize in gentler explorations. They include treks and road trips to ruins, rock art and spectacular geology such as the Natural Bridges and Valley of the Gods areas, as well as guided raft trips down the San Juan River with stops at rock art sites that are exceptional, even here.

With Jan Noirot, a guide for one of those outfits, Four Corners Adventures, we explored watercourses, miles across or sometimes shoulder tight, that have riven the broad mesas. Exquisite, eerie ruins are tucked within dark rock alcoves or nearly hidden by piñon-and-juniper forests out on the mesas and canyon rims: Monarch, Target, Ballroom, House on Fire and the stunning Cave Towers, for example.

Trade goods from as far as what is now Mexico belie the seeming isolation of these settlements. In the small, skillfully curated and interpreted Edge of the Cedars State Park Museum in Blanding, one of many such brilliant treasures can be seen. It’s a sash made of red macaw feathers, dated to about 1150 A.D., when local peoples came under the spell of the Chaco culture that was centered in New Mexico.

We often found ancient pottery shards along the trails. Strands of long and detailed human narrative can emerge from each of those little ceramic pieces. Some show delicate black-on-white tracteries. Others have strong “Bluff Black-on-red” designs that originated here but were widely traded far to the south, around the 800s. This is mildly disorienting. It’s like visiting a museum, freely reaching into the display cases and fingering the ancient materials — the heritage of dozens of centuries of mostly inadvertent preservation.

Evidence of looting and vandalism can be seen in many places. We hiked to the Wolfman Panel, a yards-long display of bold pictographs looking out from a cliff face over Butler Wash. They are pocked with bullet holes. An off-road motorcyclist recently penetrated deep into the canyons and slalomed “doughnuts” on the grounds of a burial site. We also visited the wreckage of a



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petroglyph on a mesa wall near Bluff. Someone had attacked it with a rock saw, perhaps in a wretchedly clumsy attempt to carry it off to be sold on the lucrative market for antiquities.

The archaeologist Benjamin Bellorado, a doctoral candidate at the University of Arizona, has conducted research in this area for 20 years. He led me down the side of a trailless canyon on one bright morning, as we stayed on the slick-rock and off the fragile biological crust that secures soils against erosion. We also tried not to create any trace of a trail that would invite others.

After about an hour of bushwhacking, we reached a ruin of living rooms and grain storage that has been the focus of some of his research. It was inhabited for 50 years or so by about 20 people, perhaps an extended family. There is also a small kiva — a circular, semi-subterranean spiritual and community center — whose carefully laid roof timbers are still intact.

Mr. Bellorado's research has dated this kiva with remarkable precision. It was constructed in A.D. 1215 and rebuilt in 1229. He showed me mural depictions of a bird, a plant, a herd of sheep, all incised in the plaster walls. Then, in a layer laid on a few years later, evidence of a cultural shift that could have been the result of in-migrations: Bolder design elements appear, abstracted from decorated sandals, a cotton belt and a blanket. These insignia may have served to mark social status and the spread of new religious ideologies, Mr. Bellorado said.

"This is all so untouched, in terms of research," he told me. "In southeast Utah, we've barely scratched the surface." But this remote, tiny, hard-to-find site has been touched meaningfully in other ways. He pointed out a wall that had likely been shoved over. Pottery shards have been moved around, others perhaps pilfered, and the floor shoveled up by pothunters. "This is what looting looks like," he said. "This has changed a lot in the last few years. People really tear things up, even here."

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#### 4. **Op-ed: Keep oil and gas away from Dinosaur National Monument**

*The Denver Post, July 24 | Charlie Preston-Townsend*

One of the single most fascinating experiences in nature is when water meets rock. The water effortlessly carves away sharp corners of rock and creates some of our country's most beautiful scenery and America's most iconic landscapes.



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This interaction can be witnessed throughout the West and is especially present in Dinosaur National Monument, where the Yampa and Green rivers come together at Echo Park. Here, hundreds of wildlife species and hundreds of thousands of visitors enjoy and experience the river each year. As stewards of the river we, the Friends of Yampa, plan to continue protecting and enhancing the river's environmental and recreational integrity for generations to come.

Floating down the river, visitors can experience the history here and the effort that the Yampa has taken to create and carve out this landscape which we call Dinosaur National Monument. This monument was established in 1915 to protect a stunning quarry of prehistoric plant and animal fossils, and today the monument includes 210,844 acres of some of the finest natural resources Colorado and Utah have to offer.

For all of these reasons, Friends of the Yampa asks the Bureau of Land Management and Secretary of the Interior Zinke to side with conservation by preserving and protecting Dinosaur National Monument, one of our state's most cherished heritage sites, for people to enjoy for generations to come. Currently, the BLM is proposing to lease lands for oil and gas drilling that are right next to the monument's visitor center and entrance road; these leases would significantly impair the renowned scenery, pristine night skies and natural quiet that makes the monument such a special place. We feel this is the wrong direction for the park to be taking.

If these leases go through, this will only pave the way for additional lands and rivers to be threatened by energy development. The oil and gas industry has no business developing near these special, priceless places, whether it be our national monuments or national parks, particularly when the industry is not using so many of the leases and drilling permits that it already owns.

Instead of opening up some of our most iconic lands for drilling, we request that the BLM listen to local stakeholders who live and work on this land and strike the right balance between conservation and development by rejecting these proposed leases by Dinosaur National Monument.

Unfortunately, under the Trump Administration the BLM has started to place more favorable focus on the oil and gas industry, rather than working with local communities to safeguard places like Dinosaur National Monument.





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We are seeing these in places like southeastern Utah, where a separate oil and gas leasing proposal is threatening two other national monuments — Canyons of the Ancients and Hovenweep — and in Wyoming, where there is a renewed focus on leasing in the habitat of the threatened Greater sage-grouse. In the great state of Colorado, our economy and our heritage depend on outdoor recreation, so much of which takes places on our pristine public land and waters.

Allowing these leases to move forward would set a precedent that could compromise the future of America's public lands. We need to stand up for every American's right to protect their heritage. We need to stand up for our families and our children, so that future generations are able to experience the dark night skies, wildlife and beauty of the Yampa River and Dinosaur National Monument, just as we have.

Development on the doorstep of our national monuments should never be considered. The choice is stark, but Americans have time and again affirmed that our national parks, monuments, and iconic landscapes are some of our country's most precious and enduring assets and should receive the highest level of protection. So, the decision is actually quite clear: the BLM must protect Dinosaur National Monument and keep public lands in public hands.

*Charlie Preston-Townsend is the president of Friends of the Yampa.*

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#### E&E/NATIONAL NEWS – FULL STORY

##### 1. **Who is David Bernhardt, the new deputy Interior secretary?**

*CNN, July 25 | Grace Hauck*

The Senate Monday confirmed controversial lawyer David Bernhardt as deputy secretary of the Interior -- the number two executive in charge of managing natural resources. The vote passed 53-43.

"David Bernhardt is a native Coloradan from the Western slope who has a deep understanding of Western land issues," Sen. Cory Gardner said in a statement Monday. "His command of public policy ... will be an enormous asset to (Interior) Secretary (Ryan) Zinke."



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Alaska Sen. Lisa Murkowski, who introduced the confirmation vote Monday, referred to Bernhardt's new role as the "COO" of the Interior.

"He understands the management of federal lands ... and the balance between conservation and development," Murkowski said.

Bernhardt isn't new to DOI. He served as solicitor general under President George W. Bush, as well as counselor and deputy chief of staff to then-Sec. Gale Norton and director of the department's Office of Congressional and Legislative Affairs. As solicitor, Bernhardt authored several controversial legal opinions, including one -- later thrown out -- that made it more difficult to designate endangered species, according to USA Today.

In 2011, Bernhardt left the department to lead the natural resources law division at the DC law firm Brownstein Hyatt Farber Schreck LLP, which regularly represents California's Westlands Water District, the largest water district in the US.

He returned to the DOI in November to lead the Trump transition team. On Monday, he became the 51st official confirmed under President Donald Trump -- a number lower than the those of the President's predecessors at this point. On July 24 of their first terms, President Barack Obama had 228 nominations confirmed, and President George W. Bush had 205.

#### **Opposition to the nomination**

Many environmental groups raised concerns about what they consider Bernhardt's conflicts of interest when it comes to the Interior post. Over 150 environmental groups signed a letter to the Senate Committee on Energy and Natural Resources opposing Bernhardt's nomination in May.

"After spending years lobbying for the oil and gas industry, big agribusiness and water profiteers, Mr. Bernhardt is laden with conflicts of interest that raise serious questions about his ability to act in the public interest," the letter said.

The groups expressed concern about Bernhardt's interest in the Mojave National Preserve and Mojave Trails National Monument, where the Cadiz project, an investment of Bernhardt's firm, is seeking to pump water. For the Cadiz project to proceed, it will require permits from the DOI.



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Other groups have questioned the timeline of Bernhardt's lobbying activities. The Campaign for Accountability, a nonprofit watchdog group, filed a complaint Thursday asking the US Attorney for the District of Colombia to investigate Bernhardt for potential violation of the Lobbying Disclosure Act, which requires lobbyists to register with Congressional officials.

Although a report filed with congressional officials in January stated that Bernhardt terminated his lobbying work for Westlands on November 18, 2016, email and phone records from various sources reveal that Bernhardt continued to discuss policy matters with Westlands management after his supposed resignation, according to the Campaign for Accountability's complaint. In February, Bernhardt's firm billed Westlands \$582.09 worth of services itemized for "Westlands Trip-David Bernhardt."

Washington Sen. Maria Cantwell, the committee's top Democrat, has consistently voiced her opposition to Bernhardt's nomination for similar reasons.

"The appearance that Mr. Bernhardt was still lobbying on behalf of clients that do business with the department at the same time he wants to help lead validates some of the concerns we've been saying," Cantwell said last week. "I remain concerned."

But other lawmakers expressed support.

"It's about time Secretary Zinke has a deputy we can all count on," Montana Sen. Steve Daines, a Republican, said Monday.

#### **Reviewing national monuments**

Bernhardt will serve as top deputy to Zinke, who is currently evaluating the status of more than 20 national monuments, which protect antiquities or things of archaeological importance in peril.

Trump issued an executive order April 26 requesting the review of national monuments larger than 100,000 acres established since 1996. Zinke is now determining whether the 27 monuments in question are "the smallest area compatible with the proper care and management of the objects to be protected," and whether state and local authorities were provided enough input in the initial monument designation.



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The secretary has already announced his recommendations for four of the monument. Zinke suggested the downsizing Utah's Bears Ears in his interim report last month. In early July, he recommended "no changes" to two monuments: Idaho's Craters of the Moon and Washington's Hanford Reach National Monument, adding Colorado's Canyons of the Ancients National Monument to the list Friday.

Zinke is expected to submit his final recommendations by the end of August.

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## 2. **INTERIOR: Senate confirms Bernhardt for deputy secretary**

*E & E News, July 25 | Kellie Lunney*

The Senate last evening approved the nomination of David Bernhardt for Interior Department deputy secretary, delivering Secretary Ryan Zinke his long-awaited second in command.

Senators voted 53-43, mostly along party lines, to confirm Bernhardt— all Republicans present, four Democrats and one independent voted in favor.

Democratic Sens. Michael Bennet of Colorado, Joe Donnelly of Indiana, Heidi Heitkamp of North Dakota and Joe Manchin of West Virginia voted with Republicans, as did independent Sen. Angus King of Maine.

Sens. Martin Heinrich (D-N.M.) and Brian Schatz (D-Hawaii) voted against Bernhardt's confirmation yesterday but voted for the motion to invoke cloture to consider the nomination last week (E&E News PM, July 20). All the other Democrats voting yesterday, as well Sen. Bernie Sanders (I-Vt.), opposed the confirmation.

Senators not voting yesterday were: Lamar Alexander (R-Tenn.), Shelley Moore Capito (R-W.Va.) and Pat Toomey (R-Pa.).

Sen. John McCain (R-Ariz.), recovering from surgery and recently diagnosed with brain cancer, was absent.

Sen. Lisa Murkowski (R-Alaska), chairwoman of the Energy and Natural Resources Committee, said yesterday that as a Westerner, Bernhardt "understands the management of federal lands" and



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the "balance between conservation and development." Murkowski also touted the Coloradoan's experience and "strong reputation as a manager," which she said is particularly important for a deputy secretary. She also noted her committee advanced his nomination in early June.

"It's unfortunate that he's had to wait six weeks, and I know Secretary Zinke is anxious to put him to work," Murkowski said.

The committee's top Democrat, Sen. Maria Cantwell of Washington, led the opposition to Bernhardt.

"I've made no secret that I have concerns with this nomination," Cantwell said last week on the floor, citing Bernhardt's work as a lobbyist for the oil and gas industry as well as other groups he will oversee as Interior deputy secretary as potentially problematic.

"I'm not suggesting that just working for the private sector disqualifies someone," Cantwell said, "but when you have a wide range of issues that you worked on in the private sector, and now you are going to be on the other side of the table, it brings up concerns."

Bernhardt's nomination has attracted strong support because of his extensive public policy experience in the executive and legislative branches but also robust opposition from Democrats and green groups alarmed by his ties to oil and gas lobbyists.

The Campaign for Accountability last week filed a [complaint](#) with the U.S. attorney for the District of Columbia to investigate whether Bernhardt violated the Lobbying Disclosure Act by continuing to lobby despite formally withdrawing his registration in 2016.

Emails obtained through the Public Records Act show Bernhardt continued to advise the Westlands Water District, a California agricultural organization, after terminating his lobbying registration (Greenwire, July 18).

Bernhardt was registered as a Westlands lobbyist between June 2011 and Nov. 18, 2016, when he was a member of the Trump administration's Interior Department transition team and potential nominee. The president formally picked him in April.

**'Fox guarding the henhouse'**



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Green groups, including the League of Conservation Voters and Natural Resources Defense Council, have been upset over the nomination since it was announced and issued another round of statements yesterday opposing the Senate's confirmation.

Bernhardt's appointment at Interior is like the "fox guarding the henhouse," said Scott Slesinger, legislative director of the NRDC.

Madeleine Foote, League of Conservation Voters' legislative representative, agreed with the analogy.

"Bernhardt's long list of conflicts of interest, record of altering government science for political gain, and recent revelations that he may have lied about his lobbying activities during his confirmation hearings more than disqualify him from this position, and we are more committed than ever to hold him and the entire Trump administration accountable for putting polluter profits ahead of safeguards for our health and environment," Foote said.

Other groups mentioned specific issues they were worried about. Kristen Miller, interim executive director of the Alaska Wilderness League, said the organization was "deeply disappointed" with the confirmation. "Bernhardt's history with [Alaska's] Arctic National Wildlife Refuge has been controversial and riddled with deceptive practices," she said.

Grant Putnam, president of the Northwest Guides and Anglers Association, criticized Bernhardt's "refusal" to recognize climate change. "His past work for clients who disregard the impacts of fish and other wildlife make him profoundly unqualified for such a position as deputy secretary of the Interior and is just another piece of evidence that the Trump administration prioritizes the needs of the fossil fuel industry over citizens," Putnam said.

Bernhardt, who had served as chairman of the natural resources department at the law firm Brownstein Hyatt Farber Schreck LLP, has previously promised lawmakers, if confirmed, to "not participate personally or substantially in any particular matter involving" his former clients or "specific parties in which I know the firm is a party or represents a party" for two years, unless he receives authorization to do so.

As a private-sector lawyer, Bernhardt has a history of litigation against Interior, which could present challenges for him as deputy secretary (Greenwire, July 24).



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In addition to his lobbying career, the Coloradan has worked as a Capitol Hill aide and served as an Interior official during the George W. Bush administration.

Bernhardt has taken heat over allegations of mismanagement at Interior during his tenure there, including a drug and sex scandal at the former Minerals Management Service and political interference in endangered species decisions.

#### **A 'great' deputy secretary**

Administration aides have said they thoroughly vetted Bernhardt on ethics. They and other defenders, including several Republican senators, call him an experienced nominee.

Sen. Cory Gardner (R-Colo.) has praised Bernhardt's experience and commitment to public service, noting that other nominees considered by the Energy and Natural Resources panel have toggled between government and the private sector.

On the Senate floor yesterday, Sen. Orrin Hatch (R-Utah) called Bernhardt one of the nation's "most experienced and authoritative" legal minds on natural resource issues, adding that the Coloradan is "well-equipped" to deal with a range of issues that come before Interior, from sage grouse management to streamlining the permitting process. "Mr. Bernhardt will be a great addition to our government," said Hatch.

Sen. Steve Daines (R-Mont.), a friend of Zinke's, said Bernhardt would make a "great" deputy secretary, in part because of his Western roots.

"Managing the Department of the Interior is a complex balancing act. We need someone who is knows how to balance competing interests, and we need someone who understands the importance of our public lands," Daines said.

He added: "The importance of our public lands and wildlife flows through his veins like a lot of us from out West. I have confidence that he will be a dedicated servant to our Western way of life where we love to hunt, fish, hike on our public lands."

Several stakeholders have voiced their support for Bernhardt as well, including the Colorado River District, Colorado Water Congress, the Southern Ute Indian Tribe, the Outdoor Recreation Industry Roundtable, Ducks Unlimited, and the Theodore Roosevelt Conservation Partnership.



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Last week, the Energy and Natural Resources Committee held a hearing on three other Interior nominees in the pipeline: Brenda Burman as Bureau of Reclamation commissioner; Susan Combs as assistant secretary for policy, management and budget; and Doug Domenech as assistant secretary for insular affairs. The committee is scheduled to vote on those nominees Thursday (see related story).

The White House last Wednesday also announced another Interior Department nomination, Joe Balash for the post of assistant secretary for land and mineral management. Balash is currently chief of staff for Sen. Dan Sullivan (R-Alaska).

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### 3. **PUBLIC LANDS: BLM looks to 'existing authorities' in bid to rescind fracking rule**

*E & E News, July 25 | Pamela King*

In a call to rescind an Obama-era regulation governing hydraulic fracturing on public lands, the Bureau of Land Management is calling for public input on how best to rely on "pre-existing authorities" to manage unconventional drilling.

Slated for publication in today's Federal Register, the proposed [rule](#) finds that the 2015 fracking regulation would create "unjustified" annual compliance costs of between \$32 million and \$45 million for the oil and gas industry (Greenwire, July 24).

"BLM is seeking specific comments on approaches that could be used under existing Federal authorities, including what additional information could be collected during the APD [application for permit to drill] process or through sundry notices," the proposed rule says.

That language seems at odds with the administration's goal of reducing the number of pending permit applications, said Michael Saul, senior attorney for the public lands program at the Center for Biological Diversity, which supports keeping the 2015 rule (Greenwire, July 6).

"I don't know if BLM has thought through the realities of how the proposed rule will work in implementation," he said. "If they're having to assess on a well-by-well basis the appropriate





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engineering specifications for casings or appropriate disclosure requirements, it would seem that's not going to speed permitting completion and processing."

Because legal wrangling in district and appellate court kept the original rule from going into effect, there is no evidence that it would have expedited application processing, said Neal Kirby, spokesman for the Independent Petroleum Association of America, an industry group.

"From an operations standpoint, nothing should change if the Interior Department chooses to move forward in rescinding the Obama-era rule," Kirby wrote in an email. "To my knowledge, APDs are still being submitted to field offices like they have been since the rule was first issued by the Obama administration in 2015.

"In fact, coupled with Interior Secretary Ryan Zinke's recent secretarial order to improve the permitting process on federal lands, we would expect the leasing/permitting process at the BLM field offices to hopefully improve," he added.

Conservation groups like the Wilderness Society have questioned whether the permitting process needs to be streamlined, given the high number of APDs BLM has processed but that industry has yet to use (Energywire, July 12).

"The risks posed by hydraulic fracturing are real and must be addressed. BLM did the right thing by stepping up to protect our public lands when other agencies were unwilling or unable to act," said Chase Huntley, energy and climate change program director for the Wilderness Society. The proposal to rescind the fracking rule, he said, "is just one more way to sell out our public lands to energy developers, over the explicit wishes of the American people."

#### **Gaps in state, tribal regulations**

As it stood, the original rule would have required operators to ensure wellbore integrity, protect water quality and improve chemical disclosure. The regulation was designed to update requirements that have been in place for at least 25 years — pre-dating the widespread use of fracking to open up tight shale formations, according to the rule's [text](#).



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All of the states with federal oil and gas leases have their own laws or regulations that specifically address fracking, the proposed rule says. But today's document also notes that the strength of those rules varies from state to state.

In its call for comments, BLM wrote that it aims "to further minimize the risks from hydraulic fracturing operations, particularly in states or on tribal lands where the corresponding regulations or enforcement mechanisms may be less comprehensive."

The Western Energy Alliance, another industry group that sued to stop the 2015 rule, said states have continued to improve their regulations since the original rulemaking.

"At the time we did our second set of comments, we found that 99.9 percent of all wells on federal lands were drilled in states that updated their fracking rules recently," said Kathleen Sgamma, president of the alliance. "Since that time, Kansas updated its fracking rule, as did Nevada, so now we've got 100 percent coverage.

"There's no regulatory gap," she said.

Stakeholders in the legal battle over the 2015 rule head to oral arguments Thursday in the 10th U.S. Circuit Court of Appeals in Denver.

BLM is accepting public comment on the proposed rescission for the next 60 days.

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#### 4. **POLITICS: Inside 'energy dominance' and other DOE buzzwords**

*E & E News, July 25 | Maxine Joselow*

U.S. energy policy under President Trump can best be summarized by the term "energy dominance."

Or maybe "energy independence." Or perhaps even "energy security."



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Trump administration officials rely on the same catchphrases to describe U.S. energy policy. The buzzwords, some of which are relics of past energy debates, show up in written statements and comments to the press on a regular basis.

To find out the extent of the trend, E&E News analyzed how often 10 catchphrases have appeared in Department of Energy press releases and Energy Secretary Rick Perry's remarks since Trump's inauguration.

The analysis revealed that "energy security" and "energy efficiency" are used the most in press releases out of the Department of Energy, with 22 appearances for energy security and 21 appearances for energy efficiency.

"Energy dominance" and "energy independence," which more closely align with the president's rhetoric on energy policy, also pop up frequently in the department's press releases, with nine appearances for the former and eight for the latter.

Energy historians are quick to note that these terms have a rich history, stretching back through several previous administrations. But the frequency with which they appear in 2017 offers a window into how the Trump administration views the interplay between energy, geopolitics and national security.

And what's left unsaid may be just as telling.

#### **The distorted meaning of 'energy independence'**

Independence has received lots of attention at 1000 Independence Ave. SW, DOE headquarters.

Trump's fiscal 2018 budget blueprint "focuses on positioning our nation to become more energy independent by utilizing America's greatest natural resource, our people," Perry said in a March 16 [statement](#).

"Under President Trump's leadership, we will continue to advocate for a very broad, all-of-the-above energy portfolio to allow the United States to achieve energy independence," Perry [said](#) in a speech that focused on "unleashing" American fuel sources (E&E News PM, June 29).



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Still, Perry and other Cabinet-level officials are short on specifics when it comes to what, exactly, "energy independence" means. DOE officials did not respond to multiple requests for comment seeking clarification.

Amid the ambiguity, some have assumed the phrase means the United States should break its addiction to foreign oil and become a net exporter of energy. But the man who coined the term in the 1970s had something else in mind.

The first high-profile use of the term was in a 1973 speech to the Council on Foreign Relations by Massachusetts Institute of Technology professor Carroll Wilson, said Peter Shulman, an associate professor at Case Western Reserve University and an energy historian who has researched the term's origins.

"Wilson was persuaded in 1973 that the country was heading for a crisis in energy," Shulman said. "He coined this phrase 'energy independence' to capture in a snappy way what the country needed to do.

"What Wilson proposed was a way to make the country invulnerable to some kind of disruption from abroad," Shulman said. "He did not mean 100 percent self-sufficiency. He just meant no reliance on outside sources of power that would be so concentrated or large as to be deeply disruptive of American life, economy and national security."

After delivering his speech, Wilson sent an unsolicited copy to the White House. It went unacknowledged by President Nixon.

Then, in October 1973, OPEC declared an oil embargo in response to the United States' support for Israel during the Yom Kippur War. The price of oil skyrocketed. Suddenly, Nixon was keen on Wilson's idea.

"Once the embargo began in October of 1973, all of a sudden Nixon started talking about Project Independence, which was a massive government program to cut through the red tape and invest in R&D," Shulman said. "Nixon was essentially talking about becoming energy independent by the end of the 1970s."



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When Nixon resigned from office, President Ford picked up where his predecessor left off, introducing signature "energy independence" legislation, Shulman said. "And it continued to be used by most presidential candidates and presidents up until the present," he said.

#### **What's the deal with 'energy dominance'?**

"America must be more than just energy independent. America must be energy dominant. #AmericanEnergy," Perry tweeted on March 28.

Starting in late March, Trump administration officials made a noticeable shift from "energy independence" to "energy dominance."

Christopher Jones, a professor of history at Arizona State University who has researched the history of energy transitions, said he sees a marked difference between "energy independence" and "energy dominance."

"It's part of a very substantial rhetorical shift," Jones said. "The phrase 'energy dominance' suggests a willingness to interrupt free trade to the benefit of America — more so than 'energy independence.'"

Talks to renegotiate the North American Free Trade Agreement are expected to commence this summer, at Trump's insistence (Greenwire, May 18). Dozens of senators and House members from both parties are calling on Trump to uphold energy provisions of the landmark free trade deal (Greenwire, June 9).

"It's linked to the machismo of Trump, and his broader sense that trade deals are unfair to America," Jones said. "I see it as reflecting Trump on trade more generally, and how different he is from both the traditional Republican and Democratic free trade rhetoric."

#### **Speaking of security**

"Energy security" shows up a whopping 22 times in DOE press releases since the inauguration. The phrase is most commonly used to describe DOE's role in promoting nuclear nonproliferation, managing the country's strategic petroleum stockpiles, and protecting against physical and cyberattacks on the country's energy infrastructure.



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The history of the phrase "energy security" has been closely mapped by Daniel Yergin, the Pulitzer Prize-winning historian and author of the 1991 book "The Quest: Energy, Security and the Remaking of the Modern World."

"After the 1973 oil shock, it was clear that the oil companies could not and would not manage future crises by themselves, and that it was up to governments to take on that role," Yergin writes in the book. "In the years since, the industrial countries have developed an energy security system built around the International Energy Agency and the strategic stockpiles."

Yergin makes it clear in his writing that he thinks "energy security" is a "much more successful phrase" than "energy independence," Jones said.

"When people talk about energy independence, they mean not being beholden to places like Iran and Saudi Arabia," Jones said. "But we actually get a lot of our energy from Canada and Mexico."

He added, "So energy security means we're confident that we'll be fine if hostile powers don't want to sell us their energy. The term is usually used as a more sensible alternative to 'energy independence.'"

#### **'Contradictory' talk about efficiency and innovation?**

"Energy efficiency" pops up 21 times in DOE press releases since January, the second most often of the phrases included in the analysis.

That's "contradictory," according to Alexis Abramson, director of the Great Lakes Energy Institute at Case Western.

"Energy efficiency is sort of a bipartisan term because nobody can argue against using less energy or using less energy more efficiently," Abramson said. "In that way, you do see it used across the aisle and by various kinds of politicians."

"But in the president's skinny budget, he doesn't necessarily emphasize the funding of energy efficiency," she said. "So while it's kind of a neutral term, it's a bit contradictory."



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Trump's budget blueprint slashes the funding for DOE's Office of Energy Efficiency and Renewable Energy, among other offices and programs (Energywire, March 16). The president also wants to ax Energy Star, the popular energy efficiency program run by DOE and U.S. EPA (Greenwire, March 21).

It's also "contradictory" and "illogical" for the Trump administration to tout the goal of "energy innovation," Abramson said.

"The Trump administration does spend a lot of time promoting energy innovation and companies and growth," she said. "But they seem hesitant to invest federal dollars in that innovation." For example, she said, Trump's budget plan suggests eliminating the Advanced Research Projects Agency-Energy. "If I were to point to any division of DOE that has a focus on innovation, it would be ARPA-E."

#### **No one's talking about climate change**

"When it comes to climate change, I am committed to making decisions based on sound science and that also take into account the economic impact," Perry said in his [opening statement](#) during his Senate confirmation hearing.

That moment was a rarity. The phrase "climate change" appeared zero times in Perry's remarks in late June, when the White House was putting special emphasis on energy issues. It also appears zero times in DOE press releases since January.

To be fair, former Energy Secretary Ernest Moniz, an Obama appointee, only said "climate change" once in his [opening statement](#) during his 2013 Senate confirmation hearing. But his subsequent actions spoke louder than his words, as he played a pivotal role in negotiations at the 2015 Paris climate talks (Energywire, Dec. 17, 2015). And he's spoken openly with E&E News about his efforts to push for a low-carbon economy (Energywire, June 21).

When Perry mentions climate change, he often draws the ire of environmental groups and protesters, who label him a "climate denier." Appearing on CNBC's "Squawk Box" last month, Perry stirred up controversy by saying carbon dioxide is not the primary driver of climate change (Greenwire, June 19). He's also endorsed a "red team, blue team" approach to debating mainstream climate science (Climatewire, June 30).



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While Perry doesn't talk about climate change often, his remarks on the subject always get picked up by media outlets and have an outsized impact on public discourse, said Cara Horowitz, co-executive director of the Emmett Institute on Climate Change and the Environment at UCLA.

"It isn't in dispute that humans have been the dominant cause of warming in recent decades," Horowitz said. "It feeds a culture of denialism and misinformation to suggest otherwise. And I think that's exactly what Secretary Perry's recent statements about climate change have done."

She added, "It's his most misleading statements that are high profile and that make the headlines, and that pollute public dialogue and public understanding of what climate science tells us."

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#### 5. **COLORADO: Anti-fracking activists continue to pressure state regulators**

*E & E News, July 25 | Mike Lee*

More than 30 people pressed Colorado's oil and gas regulators to crack down on drilling in urban areas in the wake of a deadly home explosion and drop an appeal of a court decision dealing with public health.

Environmental groups have complained for years that the Colorado Oil and Gas Conservation Commission (COGCC) is too friendly to the industry it regulates. They've stepped up their pressure since early May, when an explosion in Firestone, about 35 miles north of Denver, was linked to a natural gas pipeline (Energywire, May 3).

"Where is the outrage for the two people that were incinerated in Firestone?" one speaker, Andrew O'Connor, asked during the commission's public comment period yesterday. About 35 people spoke, only one of whom defended drilling near homes.

Around the same time as the explosion, the COGCC voted to ask the state Supreme Court to review an appeals court ruling in a case that challenged how it handles oil and gas permits. The appeals court ruling in the case, Martinez vs. COGCC, would require the agency to prioritize health and safety in its permitting process, rather than balance those issues against the economic benefits of energy production (Energywire, May 19).





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The state's Republican attorney general, Cynthia Coffman, filed the appeal, saying it was the only way to make sure the law was interpreted clearly. Gov. John Hickenlooper, a Democrat, had urged the COGCC to let the ruling stand (Energywire, May 19).

Gina Hardin, executive director of 350 Colorado, cited a string of health statistics to argue that the COGCC should drop the appeal.

"Even if the cost-benefit analysis were the appropriate test, which Martinez says is not, the harm of continued drilling would far outweigh any benefits," she said.

Unlike most other oil-and-gas-producing states, Colorado's drilling boom has happened in fast-growing suburban areas outside Denver, leading to years of political and legal fights over the correct balance of regulation.

Tensions were high. O'Connor, a Lafayette resident, wrote a letter to the editor published in the Boulder Daily Camera in April that suggested activists were justified in blowing up oil wells and appeared to advocate violence against oil field workers. People at the meeting were warned not to applaud, and state troopers had to escort some people out of the room after the public comment period.

The COGCC has responded to the explosion in Firestone by ordering companies to test pipelines similar to the ones involved in the explosion. The company that owns the pipeline, Anadarko Petroleum Corp., shut down about 3,000 wells for safety tests and has said it will permanently close some of its wells near the explosion site.

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#### 6. **LOBBYING: Famed for lawsuits, enviro group morphs into advocacy**

*E & E News, July 25 | Michael Doyle*

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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#### 7. **CLIMATE: Report accuses utilities of denying fossil fuel risks**

*E & E News, July 25 | Arianna Skibell*

An energy watchdog group has launched an "Exxon knew"-like campaign against the utility sector, accusing the industry of willfully ignoring the dangers of climate change since the 1960s.

The Energy and Policy Institute, which works to bolster renewable energy, today released a [report](#) asserting that the electric utility industry knew as far back as 1968 that burning fossil fuels might cause the Earth to warm, but instead cast aspersions on the science and ramped up coal use.

EPI is comparing its investigation to InsideClimate News' reporting on Exxon Mobil Corp.'s early knowledge of climate change, which prompted the New York attorney general to launch an investigation.

The documents compiled by EPI show that in 1968, Donald Hornig, a science adviser to President Johnson, spoke at the annual convention of the Edison Electric Institute. Hornig, who



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died in 2013, said the federal government was looking into the possible effects of carbon dioxide emissions from burning fossil fuels.

"Carbon dioxide is not toxic, but it is the chief heat-absorbing component of the atmosphere. Such a change in the carbon dioxide level might, therefore, produce major consequences on the climate," Hornig said at the convention.

In response, the electric industry began studying the issue in the 1970s, commissioning a number of studies, EPI said. The resulting reports carried information about the possible future rise in CO2 and global temperatures, melting sea ice, and coastal flooding.

By 1988, the electric industry produced a report that concluded "there is a growing consensus in the community that the greenhouse gas effect is real," EPI said.

Instead of warning the public, the electric sector made long-term investments in coal-fired plants and lobbied against climate regulations, EPI said.

EEI shot back today by questioning EPI's funding, pointing out that EPI's founder, Gabe Elsner, is tied to the clean tech industry. Elsner is also former director of the Checks and Balances Project, a clean energy group that was funded in part by solar power giant SolarCity Corp.

David Anderson, the watchdog's policy and communications manager, said it's "typical" for a group like EEI to "try to shoot the messenger," adding, "But it doesn't seem like they're questioning the nature of the documents that come from their own publications."

EEI did not directly dispute EPI's claims but said the industry has made strides in reducing greenhouse gas emissions.

"The electric power industry has reduced carbon emissions by 25 percent below 2005 levels as of the end of 2016," EEI spokesman Jeffrey Ostermayer said in a statement.

The report is not EPI's first venture into uncovering possibly damaging information about the electric utility sector. Earlier this year, EPI found that electric customers in some states unknowingly help pay for their utility's political advocacy (Greenwire, May 9).

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# **BUREAU OF LAND MANAGEMENT**

## **DAILY NEWS REPORT - UTAH**