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Attached is the daily news report for August 1.

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## BUREAU OF LAND MANAGEMENT

### DAILY NEWS REPORT - UTAH

#### UTAH – TOP STORIES – AUGUST 1 2017

##### 1. This Utah-Arizona spot was just named one of the 'strangest natural wonders' in the world

*The Deseret News, July 31 | Herb Scribner*

One of the world's strangest natural wonders rests on the Utah-Arizona border.

Travel and Leisure magazine listed “The Wave” as one of the world's strangest natural wonders.

##### 2. Utah sues over massive Gold King Mine spill

*The Deseret News, Aug. 1 | Amy Joi O'Donoghue*

SALT LAKE CITY — Utah Attorney General Sean Reyes said contractors, mine operators and others working at the Gold King Mine in Colorado nearly two years ago committed a series of negligent steps, leading to the massive release of contaminated sludge that despoiled key Utah waterways.

##### 3. Judge hears arguments in fight over water along Utah border

*KSL News, July 28 | Ken Ritter, AP*

LAS VEGAS — Momentum and mitigation were two issues mentioned Monday by a federal judge who will decide whether environmental studies need to be redone for a massive eastern Nevada water pipeline proposed to draw rural water to serve thirsty Las Vegas tourists and residents.

#### E&E/NATIONAL NEWS – TOP STORIES

##### 1. OIL AND GAS: Court orders EPA to enforce methane standards

*E & E News, Aug. 1 | Ellen M. Gilmer*

The Trump administration must enforce Obama-era restrictions on greenhouse gas emissions from the oil and gas industry — at least for now.



## BUREAU OF LAND MANAGEMENT

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#### 2. CLEAN POWER PLAN: Industry to EPA: We want rule 'fixed, not just gone'

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Industry has delivered a clear message to the Trump administration during a series of recent closed-door meetings: Don't completely gut the Obama-era Clean Power Plan.

#### 3. TRADE: Did Trump just get a win on coal?

*E & E News, Aug. 1 | Benjamin Storrow and Dylan Brown*

A deal to provide 700,000 tons of coal to Ukraine's state-owned utility provides a much-needed boost to northern Appalachia's ailing mining companies. It also helps President Trump fulfill a top campaign promise.

#### 4. BLM: Official gave away stolen ancient artifacts — IG

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A Bureau of Land Management senior law enforcement manager allowed co-workers to "display" on their work desks moqui marbles being held as evidence in a criminal case, and gave away some of the ancient stones to a private contractor as a "reward" for good work, according to the Interior Department's internal watchdog.

#### 5. NATIONAL MONUMENTS: Ad campaign pushes Zinke not to alter sites

*E & E News, Aug. 1 | Jennifer Yachnin*

The Center for Western Priorities today launched a new television ad in the Washington, D.C., media market urging Interior Secretary Ryan Zinke to refrain from recommending any changes to the dozens of national monuments currently under review.

#### 6. SUPERFUND: Western Republicans urge Pruitt to scrap mining rule

*E & E News, Aug. 1 | Dylan Brown*

Forty-two House Republicans pressed U.S. EPA Administrator Scott Pruitt yesterday to abandon new hardrock mining insurance requirements despite a court order for his agency to publish a final rule by Dec. 1.



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#### 7. COAL ASH: Enviros challenge EPA approach to state permitting

*E & E News, Aug. 1 | Sean Reilly*

Environmental groups are criticizing U.S. EPA, both for its planned approach to approving state permitting programs for coal ash disposal and for its refusal thus far to release the draft guidance now under review by the White House budget office.

#### 8. WATER POLLUTION: Greens pack hearing to decry EPA bid to delay toxics rule

*E & E News, Aug. 1 | Ariel Wittenberg*

Environmentalists accused U.S. EPA yesterday of dereliction of duty for trying to delay Obama-era Clean Water Act standards aimed at curbing toxic water discharges from power plants.

#### 9. AIR POLLUTION: Ozone battle widens as states challenge EPA delay

*E & E News, Aug. 1 | Sean Reilly*

New York Attorney General Eric Schneiderman (D), joined by 15 other state attorneys general, sued U.S. EPA today over its one-year halt in implementation of the 2015 ozone standard.

#### 10. NOMINATIONS: Trump makes picks for Interior, Defense

*E & E News, Aug. 1 | Manuel Quiñones*

President Trump last night announced his intention to nominate Idaho attorney and former congressional aide Ryan Douglas Nelson to be Interior Department solicitor.

#### 11. PIPELINES: Natural gas industry defends cybersecurity readiness

*E & E News, Aug. 1 | Peter Behr*

U.S. natural gas cybersecurity safeguards are being reviewed by Congress, the Energy Department and an electric grid monitor. Yesterday, the industry issued a briefing paper declaring that its vast pipeline network is not at risk of widespread outages in the event of a major cyberattack.



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12. **INTERIOR: 'Aggressive' solicitor pick brings broad legal experience**

*E & E News, Aug. 1 Michael Doyle*

The Trump administration's new nominee for Interior Department solicitor is an aggressive and widely experienced attorney who has represented a politically assertive corporate boss, fellow attorneys say.

13. **NATIONAL MONUMENTS: Zinke, Trump admin blasted as 'big bullies' in Nev. tour**

*E & E News, Aug. 1 | Jennifer Yachnin*

LAS VEGAS — Democratic Rep. Dina Titus yesterday railed against Interior Secretary Ryan Zinke's abbreviated review of national monuments in Nevada and accused the Trump administration of acting "like big bullies" in its management of public lands.



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#### UTAH – FULL STORY

##### **1. This Utah-Arizona spot was just named one of the 'strangest natural wonders' in the world**

*The Deseret News, July 31 | Herb Scribner*

One of the world's strangest natural wonders rests on the Utah-Arizona border.

Travel and Leisure magazine listed "The Wave" as one of the world's strangest natural wonders.

"The Wave," which is also known as the Coyote Buttes, sits between Arizona and Utah. It features a sandstone formation that looks eerily similar to a wave.

The list included other worldwide locations, such as the sailing stones of Death Valley's Racetrack Playa, as well as the White Sands National Monument in New Mexico.

Here's how Travel and Leisure described "The Wave:"

"Wind and rain have worked their magic, eroding lines that swoop and swirl across the sandstone formation," the magazine said. "The result, which resembles a cresting wave, is one of the most photographed — if not easy to reach — spots in the American West."

Travelers will need a permit to hike in "The Wave," with only 20 allowed per day, according to Travel and Leisure.

The magazine previously named the Coyote Buttes as one for the world's "most colorful places," according to KTAR News in Phoenix.

The Coyote Buttes have drawn comparisons to the planet Mars' surface, according to the University of Utah. It's also known as a land where dinosaurs once commonly roamed.

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#### 2. Utah sues over massive Gold King Mine spill

*The Deseret News, Aug. 1 | Amy Joi O'Donoghue*

SALT LAKE CITY — Utah Attorney General Sean Reyes said contractors, mine operators and others working at the Gold King Mine in Colorado nearly two years ago committed a series of negligent steps, leading to the massive release of contaminated sludge that despoiled key Utah waterways.

In a lawsuit filed in federal court Monday, Reyes asserts the contractor, subcontractor and mine owner — Delaware-based Sunnyside Gold Corp. — failed to take a host of proper precautions to avoid the disastrous breach near Silverton that released 3 million gallons of metals-laden sludge.

The Utah Department of Environmental Quality is continuing to take water samples from the San Juan River, which was impacted, and Lake Powell, where most of the sludge was deposited.

While Utah agencies and other entities, such as San Juan County, were compensated by the U.S. Environmental Protection Agency \$464,000 for costs related to the initial response, Reyes' suit asks for punitive damages for the ongoing environmental impacts, stigma associated with the spill and interference with the public's ability to enjoy the waterways.

The suit asserts the EPA's on-site team:

- Assumed that because the mine was draining it was not under pressure from the contaminated water behind it
- Didn't believe it was necessary to test the level or volume of contaminated water from the blockage
- Did not take a measurement to determine the pressure of the water against the blockage of the adit, or horizontal mine entrance

Additionally, Reyes' suit says the on-site team failed to take the precaution of installing a secondary containment system to prevent large quantities of toxic wastewater from reaching the Animas River and did not develop or implement an emergency response plan.



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Although the Occupational Safety and Health Administration, as well as EPA, requires a health and safety plan in conjunction with hazardous waste site operations, the plan in place failed to meet those requirements, the suit asserts.

On Aug. 5, 2015, the day of the spill, the EPA's on-site team was performing work on the Level 7 adit, where none of the proper measurements or precautions were taken, according to the lawsuit.

"Members of the EPA on-site team have given conflicting reports regarding their work. Some believed the objective was to excavate the adit to create an opening. Others believed the objective was to use a backhoe excavator to scratch the earth around the adit," the suit reads. "On information and belief, this conflict was caused by miscommunication among the EPA on-site team."

The suit says the mine blowout continues to pose environmental, economic and other damages to Utah that are not inconsistent with a "national contingency plan," that will require additional investigation and remediation that will include soil and water testing.

Although the defendants named in the lawsuit should have known the Gold King Mine presented a "high risk of significant harm to the state of Utah and other downstream communities," they acted in disregard of those risks, the suit says.

New Mexico and the Navajo Nation brought lawsuits against the EPA for the spill, and New Mexico also sued Colorado, asserting negligence.

In late June, the U.S. Supreme Court refused to hear arguments related to the dispute between the states.

The EPA in January said it would not pay \$1.3 billion in claims related to the spill because it is protected by a federal tort law.

In addition, the agency's inspector general concluded there was no wrongdoing with the Gold King Mine spill, but also conceded there were no specific standards in place for dealing with a collapsed mine portal.

Daniel Burton, a spokesman for the Utah Attorney General's Office, said the state is continuing to negotiate with the EPA to see if a settlement can be reached without the need for litigation.





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The mining district that includes where the breach happened was declared a Superfund Site nearly a year ago, which will accelerate cleanup efforts.

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### 3. Judge hears arguments in fight over water along Utah border

*KSL News, July 28 | Ken Ritter, AP*

LAS VEGAS — Momentum and mitigation were two issues mentioned Monday by a federal judge who will decide whether environmental studies need to be redone for a massive eastern Nevada water pipeline proposed to draw rural water to serve thirsty Las Vegas tourists and residents.

U.S. District Judge Andrew Gordon showed with his questions to attorneys that he is weighing environmentalists' warnings that the project would create dustbowls in valleys along the Nevada-Utah state line against Southern Nevada Water Authority assurances that if there wasn't enough water, the state's top water official wouldn't approve the rights to pump.

State Engineer Jason King "can only approve water rights if recharge equals discharge," authority attorney Hadassah Reimer said when the judge asked if the Spring, Cave, Dry Lake and Delamar valleys could really go dry.

"The authority's position is it is the state engineer's responsibility to make sure that doesn't happen," Reimer said.

King's approval for the proposal in March 2012 is being challenged separately, in Nevada state court.

Attorney Simeon Herskovits, representing the Great Basin Water Network, told Gordon that the water underground dates to ice ages and isn't replenished today. He called environmental damage inevitable.

"The project is designed to take the maximum amount of water from these basins in perpetuity," he said.

Environmental studies took eight years before the bureau in December 2012 granted permission for the pipeline to cross 263 miles of federal land from sparsely populated White Pine and



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Lincoln counties to the Las Vegas area, home to 2 million residents and host to 40 million tourists a year.

In response to another question from the judge, government lawyer Luther Hajek said the federal Bureau of Land Management "just issues the right-of-way. It doesn't have final say on how much water is pumped."

State and federal go-aheads brought challenges in state and federal courts from environmentalists, activists, local governments in rural towns in the two counties, plus the Duckwater and Ely Shoshone tribes and the Confederated Tribes of the Goshute Reservation in Utah.

No tribe in the area was properly consulted, and none signed off on the plan, Rovianna Leigh, attorney for the Goshutes, said Monday.

She described tribal elders' fears that a meadow wetland in Spring Valley will go dry. The site is revered and used in sacred ceremonies, and remembered as the site of massacres 150 years ago.

"When the water is gone, it is gone forever," Leigh said.

Water agency officials concede it will cost billions of dollars to build a pipeline to carry 75,000 gallons of water daily a distance comparable to a drive from Los Angeles to Las Vegas. But they say it may become essential if drought keeps shrinking the Lake Mead Reservoir on the Colorado River, which supplies 90 percent of Las Vegas drinking water.

Project planners say that once wells are drilled and water begins flowing, engineers can measure the effects on the environment and correct, or mitigate, any damage that might result.

"Can the (Bureau of Land Management) stop this project before water is drawn?" the judge mused from the bench. "Isn't this a case of momentum at this point? A ball rolling downhill?"

Gordon, who also has more than three years' worth of written court filings from all sides, said he expects to issue a written decision within several weeks.

That would be before King holds hearings in late September on a state judge's order that he reconsider whether there is enough underground water to supply the pipeline.

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#### E&E/NATIONAL NEWS – FULL STORY

##### 1. **OIL AND GAS: Court orders EPA to enforce methane standards**

*E & E News, Aug. 1 | Ellen M. Gilmer*

The Trump administration must enforce Obama-era restrictions on greenhouse gas emissions from the oil and gas industry — at least for now.

The U.S. Court of Appeals for the District of Columbia Circuit last night issued a mandate striking down U.S. EPA's attempt to pause methane restrictions for the sector. The agency's 90-day stay of key provisions of New Source Performance Standards is now formally vacated, and the rule is in effect.

According to the D.C. Circuit, EPA exceeded its authority when it paused the rule to consider industry concerns (Greenwire, July 3). The three-judge panel reached that conclusion in early July but had given EPA extra time to weigh its legal options before enforcing the regulation — which the Trump administration ultimately plans to reconsider through a public process.

States and industry intervenors that oppose the Obama administration rule last week asked all the court's active judges to rethink the decision. To the surprise of many court watchers, EPA has not made its own request.

Nine of the court's 11 active judges last night decided to issue the panel's mandate and unfreeze the methane rule. But the court is still weighing intervenors' request for rehearing and asked environmental groups and a coalition of states to file a response by tomorrow afternoon. The order notes that Judges Janice Rogers Brown and Brett Kavanaugh, both George W. Bush appointees, would not have issued the mandate.

The legal back-and-forth means continued uncertainty for the oil and gas industry, which for months has aggressively lobbied EPA Administrator Scott Pruitt to scrap the standards, which are designed to reduce methane leaks from wells and other infrastructure. The American Petroleum Institute and other critics have argued that Obama's EPA ignored voluntary efforts oil and gas operators were taking to slash emissions.



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"API continues to support an extension of the compliance deadlines, as a stay or extension is appropriate to allow EPA time to review and, as necessary, revise the 2016 EPA final rulemaking," Howard Feldman, API's senior director for regulatory and scientific affairs, said in a statement last night.

Feldman added that EPA's separate, ongoing consideration of a two-year stay of the methane standards will avoid "subject[ing] businesses to on-again, off-again, requirements until EPA can reconsider the rule."

Environmental groups, meanwhile, celebrated the news as a win for climate and clean air protections.

"Today's issuance of the mandate by the full D.C. Circuit protects families and communities across America under clean air safeguards that EPA Administrator Scott Pruitt sought to unlawfully tear down," Environmental Defense Fund attorney Peter Zalzal said in a statement.

EPA did not respond to a request for comment.

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## 2. **CLEAN POWER PLAN: Industry to EPA: We want rule 'fixed, not just gone'**

*E & E News, Aug. 1 | Zack Colman*

Industry has delivered a clear message to the Trump administration during a series of recent closed-door meetings: Don't completely gut the Obama-era Clean Power Plan.

To be sure, leading industry associations are pushing White House and U.S. EPA officials to drastically roll back the landmark climate change rule. They're advocating a new approach that still limits power plants' emissions but is narrower than the one envisioned by President Obama's team.

The heavy-hitting U.S. Chamber of Commerce and the National Association of Manufacturers advocated an "inside-the-fence" approach to power plant regulations during a July meeting with the Office of Management and Budget and EPA staff, they told E&E News. Critics of the Obama rule have argued that it overstepped by allowing emissions reductions "outside the fence line" of coal-fired power plants.



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"We were trying to also lay the foundation for what we think would be an acceptable replacement rule because we want to see this rule fixed, not just gone forever," Ross Eisenberg, vice president of energy and natural resources policy with NAM, said in an interview.

Matt Letourneau, spokesman for the Chamber's Institute for 21st Century Energy, said in an email: "It's safe to say we" pushed for inside-the-fence-line.

In rescinding the rule, EPA chief Scott Pruitt plans to argue that the Obama administration went too far in setting carbon reduction goals by looking at what the broader power system could achieve instead of focusing solely on improvements at coal plants, an administration official told E&E News in June (Climatewire, June 12).

The recently publicized meetings with industry hint of a nearing Trump administration decision on how and whether to regulate carbon emissions from power plants, though devising a formal rule could take several months. While OMB and EPA meet with a variety of interest and business groups affected by pending regulations, the Chamber and NAM carry considerable weight in the business community that President Trump has courted.

The Trump administration is facing pressure from conservatives to trash EPA's endangerment finding, which gives the agency the authority to regulate greenhouse gas emissions. If the Trump administration adopts an inside-the-fence approach, it would mean those angling to challenge the endangerment finding have lost a key battle.

The meetings came after recent reports that EPA was planning to pursue a legal strategy known as the "112 exclusion," which argued the agency couldn't regulate power plants under Section 111(d) of the Clean Air Act — as the Clean Power Plan proposed — because they were already hit with limits for mercury and air toxins under Section 112.

Those pushing for a full Clean Power Plan repeal have acknowledged that a twin effort to scrub the endangerment finding may be necessary to ward off lawsuits that EPA wasn't doing enough to address emissions. A move to develop any carbon rules for power plants, however, would amount to an implicit admission that greenhouse gas emissions deserve curbing.

"If they had already decided that's what they wanted to do, then there would be no reason to develop this inside-the-fence-line approach," Jeff Holmstead, a partner at Bracewell LLP and former EPA air chief under President George W. Bush, said in an interview.



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The White House referred E&E News to EPA, which did not return a request for comment.

#### **'Skepticism' about axing endangerment finding**

EPA officials under Obama argued the electricity system required regulation as an interconnected entity, thereby achieving emissions reductions beyond power plants' physical parameters. Opponents, though, said that view was too expansive — some have argued regulations must apply to power plants themselves, while others maintain EPA lacks authority to regulate power plant carbon emissions because it already caps mercury emissions.

Utilities have pushed for the inside-the-fence-line approach rather than a full dismantling of the Clean Power Plan because they say it provides more certainty. They argue that something like requiring on-site efficiency improvements could prevent future presidents from pursuing ever-more aggressive rules. Detractors in the environmental community note, however, that emissions reductions under this scenario would be small.

The Edison Electric Institute, a trade group representing investor-owned utilities, declined to say what it advocated for in its July 26 meeting — for which White House energy adviser Mike Catanzaro was present — though it has in the past advocated for an inside-the-fence tactic.

An industry source who wasn't present for that meeting noted Catanzaro had expressed "skepticism" about the administration's ability to overturn the endangerment finding. The source said Catanzaro was concerned about getting into endless litigation, as the administration would need to compile anthologies of climate change science that refuted greenhouse gas emissions' effects on a warming planet — a heady if not impossible task.

That said, the industry source wasn't ready to take bets on where the administration would end up on the Clean Power Plan.

"There's wide agreement among the utility industry that inside-the-fence-line would make more sense," the source said. "But there's certainly other people pushing for a different approach, including people who have sway with this White House. I'd be very cautious saying anything definitive."

An inside-the-fence-line plan is "ultimately not enough in the long term" when it comes to restricting regulation on energy, said Tom Pyle, president of the conservative Institute for Energy



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Research. Pyle said in an interview that he's "not surprised" the business community is lobbying for that approach, though.

"Obviously wherever as aggressively EPA could go is where I'd be comfortable with," said Pyle, who also ran Trump's Energy Department transition team, stating his desire to whack the endangerment finding.

Some haven't given up hope on the Section 112 exclusion and an ultimate challenging of the endangerment finding. Myron Ebell, director of the Competitive Enterprise Institute's Center for Energy and Environment, said in an email that the White House could ask for input on both the inside-the-fence-line approach and Section 112 exclusion in the public comment portion of the rulemaking process after rescinding the Clean Power Plan.

To environmental groups, a move to regulate inside the fence line would signal that the administration is taking policy cues from industry rather than the far right. Utilities and manufacturers, after all, were chief advocates of such a plan when the Obama administration rolled out its regulation, which sought a 32 percent reduction of power plant emissions below 2005 levels by 2030. That largely relied on shifts from coal-fired power to natural gas and renewable energy.

"An inside-the-fence-line approach with an argument in the alternative that industry lacks authority to regulate carbon emissions under Section 111 follows the industry talking points to a T," John Walke, senior attorney and clean air director with the Natural Resources Defense Council, said in an interview.

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### 3. **TRADE: Did Trump just get a win on coal?**

*E & E News, Aug. 1 | Benjamin Storrow and Dylan Brown*

A deal to provide 700,000 tons of coal to Ukraine's state-owned utility provides a much-needed boost to northern Appalachia's ailing mining companies. It also helps President Trump fulfill a top campaign promise.



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The agreement between Xcoal Energy & Resources LLC, a Pennsylvania-based marketing firm, and Centrenerg PJSC follows years of falling domestic demand and represents one of the Trump administration's most consequential forays into the coal market to date, industry analysts said.

While Trump has made headlines for rolling back a host of Obama-era climate regulations, those moves have done little to alter the long-term trajectory of an industry devastated by low natural gas prices and mounting competition from renewables. The Ukrainian deal, by contrast, ensures a new customer for coal companies at a time when buyers are increasingly scarce.

"It would be one of the first direct impacts they have had," said Joe Aldina, an analyst who tracks the coal industry at S&P Global's PIRA Energy Group.

To be sure, 700,000 tons is a relatively small figure in the context of the U.S. coal market, where American miners last year produced in excess of 700 million tons. Production in northern Appalachia, where much of the coal for the deal is likely to be mined, was nearly 42 million tons last year. And the Ukrainian market for thermal coal used in electricity generation represents a drop in the bucket compared to the millions of tons lost to domestic coal plant closures, analysts said.

But, coming against the backdrop of annual production declines, the agreement represents something of a lifeline for northern Appalachian miners, who have witnessed output fall from 54.7 million tons in 2010 to almost 42 million tons last year. Those declines have largely coincided with natural gas's rise in the PJM Interconnection, a regional transmission organization serving 65 million people across the eastern United States.

In 2005, according to PJM, coal accounted for more than 90 percent of the organization's generation capacity. Last year, natural gas and coal each made up roughly a third of PJM's generation mix.

"When you throw in a new consumer, at 700,000 tons, that's a nice uptick, especially in this environment when we have consumers retiring," said Hans Daniels, CEO of Doyle Trading Consultants, a research firm. "This is not the equivalent of a big power plant, but it's a nice little extra."





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He predicted that production in northern Appalachia would rise 48 million tons in 2017, helped in part by the Ukrainian deal.

The agreement is an outgrowth of Ukraine's conflict with Russia. American and Ukrainian officials first broached the prospects of a supply arrangement in 2014, when Ukrainian coal shipments were disrupted by fighting in the mining region of Donbass, according to U.S. officials with knowledge of the talks. Ukraine initially elected to fill the lost tons with shipments from South Africa. But earlier this year, Kiev instituted a blockade on all trade with the country's separatist regions, prompting Ukrainian officials to again raise the issue of coal imports with their American counterparts.

Officials from the Energy and Commerce departments responded by putting Ukrainian officials in direct contact with U.S. coal suppliers, arranging a five-day tour of Pennsylvania's coal mines in June.

"They were very critical in the introduction and helping tie things up through our trips to Kiev to finalize the deal," said Xcoal spokesman Ted O'Brien.

Administration officials trumpeted their involvement, saying it was part of Trump's larger pledge to revive the coal industry.

"This announcement will also boost our own economy by supporting jobs in the coal and transportation industries," Commerce Secretary Wilbur Ross said in a statement. "This Administration looks forward to making available even more of our abundant natural resources to allies and partners like Ukraine in the future to promote their own energy security through diversity of supply and source."

In Pennsylvania, the Ukrainians found a region uniquely suited to meet their needs. Ukraine's power plants burn anthracite coal, an energy-rich variety of the mineral that is less common today. While anthracite mining is now relatively limited in Pennsylvania, the state's mines still produce an energy-packed brand of coal that can be used as a substitute by Ukrainian plants, analysts said.

That helps explain the high price of \$113 per ton that Xcoal will receive for its first shipments to Ukraine, they noted. Had the country's power plants been able to burn another variety of coal, they might have bought shipments from Europe, where prices are hovering around \$80 a ton, or from



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other regions of the United States, where exports averaged almost \$60 a ton in the first quarter of 2017.

It remains to be seen if the export market can provide a long-term boost for American coal miners. U.S. shipments abroad totaled 42.7 million tons over the first half of 2017, a 50 percent increase compared to the first six months of 2016, according to the U.S. Energy Information Administration. Thermal exports used in power generation, which have doubled over the first half of the year, accounted for 42 percent of all U.S. coal exports.

Analysts attributed the rebound to an increase in international coal prices, which have made American shippers more competitive in the global market.

Yet the long-term trends remain daunting. American coal companies are better placed to compete in Europe than in Asia thanks to shorter shipping routes. The Netherlands was the largest market for U.S. thermal exports, with 6.1 million tons in 2016, followed by India (2.7 million tons) and Germany (1.8 million tons). Shipments to Ukraine were 32,211 tons.

"The problem is Europe is not a growing market," Daniels said.

For now, a short-term boost will do.

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#### 4. **BLM: Official gave away stolen ancient artifacts — IG**

*E & E News, Aug. 1 | Scott Streater*

A Bureau of Land Management senior law enforcement manager allowed co-workers to "display" on their work desks moqui marbles being held as evidence in a criminal case, and gave away some of the ancient stones to a private contractor as a "reward" for good work, according to the Interior Department's internal watchdog.

The moqui marbles — compacted sandstone balls millions of years old that are found primarily in Utah, as well as parts of Arizona, Colorado and Nevada — were "taken illegally" by poachers from an undisclosed BLM site and later seized by the agency as part of a criminal investigation into their theft, the report from Interior's Office of Inspector General said.



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But while the chocolate-colored stones were in storage as evidence, the senior law enforcement manager, who is not named in the report, "allowed subordinate employees to display the marbles at their workstations against basic chain of custody standards," the report said. Some marbles were also "given, without authority, to other senior law enforcement officials in other geographic locations," it said.

The senior BLM official also "gave marbles to a contractor as a reward for doing a good job on a project," according to the report, which called these actions a "serious failure to safeguard evidence in accordance with basic law enforcement standards."

The IG's report was sent to William Woody, BLM's director of law enforcement and security, who expressed concern about the investigation's findings in an email to E&E News.

"There is simply no excuse for mishandling evidence," Woody said.

He pledged that his office "will work closely with the OIG to address deficiencies and deal with this incident appropriately."

He concluded, "We take the findings of this investigation very seriously, and comprehensive improvements to our evidence storage and collection program will be made where necessary."

It's not clear whether the unnamed senior law enforcement manager has been disciplined. The report provided no details on the manager, including the location where the manager worked. A BLM spokeswoman said the manager remains an employee of the agency.

The IG report also did not provide information on the impact BLM's mishandling of the marbles had on the criminal case. A spokeswoman with the IG's office said she could not comment about the investigation.

But the criminal probe did not appear to be a matter of great concern to some BLM employees, the IG found.

"At least five BLM employees were aware of the mishandling of evidence but did not report or question the misconduct, which demonstrates an alarming lack of integrity and accountability,"



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the IG report said. "Senior law enforcement officials who received marbles chose not to question where the marbles came from and kept them until we collected them during our investigation."

What's more, IG's investigators said they "found several instances" in which other moqui marbles resembling those collected for evidence were on display in the same BLM office. While employees told investigators these marbles were not part of the evidence collection and had been "obtained elsewhere," the report noted that federal law "prohibits removal of artifacts or other materials from BLM land."

The report did not name the "undisclosed" BLM site from which the marbles at issue in the criminal case had been removed illegally.

A possible candidate is southern Utah's 1.9-million-acre Grand Staircase-Escalante National Monument, which contains multiple beds of marbles. Removal of the stones there has been a problem, with stolen marbles reportedly sold on a black market that reaches as far as Germany (Greenwire, June 10, 2014).

BLM has said the federally protected spheres are irreplaceable, can get anywhere from a few dollars to \$100 per marble and occasionally can be found for sale on eBay.

As for handling evidence in criminal cases, the IG report acknowledged that BLM "updated its evidence policy" in April 2016.

But more action is needed, the report said.

"The vast amount of evidence collected in the moqui marble investigation was problematic from the time of seizure," the IG report said.

The marbles were "being stored in an unsecured area of a multiuse warehouse for a lengthy period of time" and "were kept in multiple unsealed containers in an area routinely accessible to non-law-enforcement personnel," it said.

The marbles were eventually moved from the warehouse to a BLM evidence room in Salt Lake City. But, as was the case in the warehouse, "the evidence containers were not sealed and individual marbles were not accounted for," the report noted.



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The IG report listed three recommendations for "corrective action by BLM management" to address the "mishandling of evidence in a criminal case and the attitudes of the BLM employees and law enforcement officials involved."

They include establishing a policy "that items of evidence are not to be used for any purpose other than prosecution" of a case, and training law enforcement officers and managers "on how to secure large amounts of evidence while protecting the evidence from loss, theft, or improper removal."

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#### 5. **NATIONAL MONUMENTS: Ad campaign pushes Zinke not to alter sites**

*E & E News, Aug. 1 | Jennifer Yachnin*

The Center for Western Priorities today launched a new television ad in the Washington, D.C., media market urging Interior Secretary Ryan Zinke to refrain from recommending any changes to the dozens of national monuments currently under review.

The 30-second [spot](#) highlights the more than 1.3 million public comments submitted to the Interior Department last month as part of its review of 27 national monuments (E&E News PM, July 10).

Although Zinke has announced that he will not make changes to at least three of those monuments in Idaho, Colorado and Washington state — and has informally said he will not alter a site in Montana — he has until Aug. 24 to complete a final report on the remaining sites.

In an interim report in June, Zinke indicated he would recommend significant reductions to the 1.35-million-acre Bears Ears National Monument in Utah. And in an appearance near Nevada's Gold Butte National Monument on Sunday, he reiterated his refrain that such sites should focus on the "smallest area" necessary.

In its new ad, the CWP notes that the majority of the public comments favors retaining the monuments as designated by President Obama and other former presidents.



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"Excuse us, Secretary Zinke, the West is calling," a male narrator says, as an image of Zinke in a dark suit appears on screen. "You asked whether we wanted to keep our national monuments. We do: All of them."

The ad switches to images of landscapes and individuals hunting or hiking, as the narrator continues: "One million Westerners answered your question: 98 percent asked you to respect our national monuments and the history and heritage they represent. So when it comes to our public lands, will you listen to Washington insiders or will you listen to the West?"

In a statement, CWP Executive Director Jennifer Rokala pointed to the Trump administration's vow to expand fossil fuel production on public lands.

"If the Secretary recommends anything other than full protection for our monuments, he will be siding with Washington insiders who want to exploit America's protected lands for oil, gas, coal and uranium," she said.

It remains to be seen whether President Trump will attempt to rescind or reduce any monuments, or if he will seek congressional assistance.

Republicans and Democrats on Capitol Hill have split over whether the Antiquities Act — which allows presidents to set aside federal land as monuments to protect areas of cultural, scientific or historic value — may also be used to undo prior designations. To date, no president has ever sought to repeal a monument created by his predecessors.

Zinke acknowledged Sunday that the judicial branch would need to settle that question.

"I don't think there's too much question that a monument can be adjusted. Whether a monument can be rescinded or not, that is a question for the courts. I'm going to do the right thing," Zinke said (Greenwire, July 31).

Still, no president has reduced the boundaries of a monument since President Kennedy did so with the Bandelier National Monument in New Mexico in 1963, and conservationists suggest that the adoption of the Federal Land Policy and Management Act in 1976 has also eliminated that ability.

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#### 6. **SUPERFUND: Western Republicans urge Pruitt to scrap mining rule**

*E & E News, Aug. 1 | Dylan Brown*

Forty-two House Republicans pressed U.S. EPA Administrator Scott Pruitt yesterday to abandon new hardrock mining insurance requirements despite a court order for his agency to publish a final rule by Dec. 1.

The Congressional Western Caucus, led by Rep. Paul Gosar (R-Ariz.), sent a letter yesterday to EPA as the lawmakers ramp up their long-standing criticism of the proposed changes to Section 108(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (Greenwire, April 28).

In 2015, environmentalists sued to force EPA to draft financial assurance requirements — money-backed promises to clean up mines — three decades after the Superfund law passed.

Over industry opposition, the U.S. Court of Appeals for the District of Columbia Circuit ordered EPA to draft and publish bonding standards.

The most recent White House Unified Agenda showed the Trump administration is still working on the rule.

"I am hopeful that Administrator Pruitt and the Trump Administration will heed our call and scrap this fundamentally flawed, duplicative and unnecessary rule that usurps states' rights," Gosar said in a statement.

The National Mining Association; American Exploration & Mining Association; Industrial Minerals Association-North America; and the state mining associations of Arizona, Colorado, Idaho, Minnesota, Montana and Utah all backed the letter.

"EPA had to ignore modern mining practices, existing state and federal environmental, reclamation and financial assurance requirements, and a sensible reading of the law," NMA said in the Western Caucus statement.

Environmental groups argue that taxpayers too often foot the bill for abandoned mine reclamation and that mining continues to be the nation's most toxic industry.



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"The CERCLA 108b rule is essential because it would help prevent catastrophic mining pollution by providing mining companies, and their insurers, compelling financial incentive to do so," Earthworks spokesman Alan Septoff said. "Mining disasters can cost billions of dollars to clean up, when they can be cleaned up."

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#### 7. **COAL ASH: Enviros challenge EPA approach to state permitting**

*E & E News, Aug. 1 | Sean Reilly*

Environmental groups are criticizing U.S. EPA, both for its planned approach to approving state permitting programs for coal ash disposal and for its refusal thus far to release the draft guidance now under review by the White House budget office.

EPA has not responded to a May 17 Freedom of Information Act request for a copy of the guidance, representatives of Earthjustice and 11 other organizations wrote in a [letter](#) last week to agency chief Scott Pruitt.

In addition, they said that issuing only guidance for state delegation of a major permit program under the Resource Conservation and Recovery Act "would violate an important precedent" established for that law and other major environmental statutes. Instead, they argued, the agency should proceed with a formal rulemaking that includes public notice and a public comment period.

"EPA rules addressing state program delegation are critical for numerous reasons," they said. Not only do those rules secure "meaningful public participation in the delegation process," the letter said, but they assure consistent "enforceability" for delegated programs.

"In contrast, EPA's issuance of unenforceable guidance cannot and will not accomplish these essential goals," the environmental groups said.

The letter, also addressed to Office of Management and Budget Director Mick Mulvaney, was recently posted on the [reginfo.gov](http://reginfo.gov) website run by OMB.

It was sent prior to a July 24 meeting between the environmental groups and staff at EPA and OMB's Office of Information and Regulatory Affairs, according to Earthjustice senior counsel





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Lisa Evans, the lead signer. Other participants in the meeting over the draft guidance included representatives of the Waterkeeper Alliance, Clean Water Action and the Kentucky Resources Council.

EPA officials drafted the guidance in response to a provision tacked on to a water projects bill last December allowing states to create their own permitting programs to govern coal ash disposal, subject to federal approval. Lawmakers had followed up in May with language accompanying a fiscal 2017 spending bill that urged EPA to move quickly to create "streamlined procedures for prompt approval of those states programs."

The current version of draft guidance was sent to OMB in mid-June for a standard review, according to the [reginfo.gov](http://reginfo.gov) site. It is unclear how much longer that review will last.

Asked about the environmental groups' concerns, EPA spokeswoman Amy Graham said in an email this morning that the proposed guidance "reflects ongoing efforts with states to establish an efficient approval process and flexible state-run programs" and that EPA will also implement a permit program for coal ash disposal facilities located in Indian Country.

"EPA looks forward to continuing its close working relationship with the states and tribes on this effort," Graham said.

Once established, the state permitting option is supposed to provide an alternative to citizen lawsuits, which are currently the primary enforcement vehicle for the EPA coal ash disposal regulations published in 2015. While the water projects law, known as the Water Infrastructure Improvements for the Nation Act, would allow states to diverge from the federal standards, the alternative must be "at least as protective," the act says (E&E Daily, May 2).

Coal ash, produced by the coal-fired power plants, ranks among the nation's largest waste streams.

At least two industry groups have also met with EPA and OMB staff over the proposed guidance, according to the [reginfo.gov](http://reginfo.gov) site. A July 6 meeting included Jim Roewer, executive director of the Utility Solid Waste Activities Group, an industry trade organization affiliated with the Edison Electric Institute. An EEI spokesman had no immediate comment today on that meeting's purpose.



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The next day, John Ward, government relations committee chairman for the American Coal Ash Association, also met with EPA and OMB employees, in part to discuss the group's interest in restarting a program known as the Coal Combustion Products Partnership that promoted reuse of coal ash in building products and for other purposes.

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#### 8. **WATER POLLUTION: Greens pack hearing to decry EPA bid to delay toxics rule**

*E & E News, Aug. 1 | Ariel Wittenberg*

Environmentalists accused U.S. EPA yesterday of dereliction of duty for trying to delay Obama-era Clean Water Act standards aimed at curbing toxic water discharges from power plants.

The 2015 water pollution guidelines were the first in more than 30 years for reducing toxics from steam power plants' wastewater.

The regulation would require power plants to install and operate wastewater treatment technology by 2023 to remove heavy metals from discharges. But the Trump administration has proposed indefinitely postponing the regulation's deadlines (Greenwire, April 13).

The Trump EPA's proposal drew environmentalists' ire at a public hearing at agency headquarters in Washington yesterday.

"Do you care that you are not doing your job? Do you care that you are allowing contamination of the waterways that make up my home?" asked Cody Hance, a member of the Maryland chapter of the Sierra Club. "Are you OK with potentially ruining our lives? I hope you are not."

Robert F. Kennedy Jr., senior attorney of the Waterkeeper Alliance, told the three EPA staffers running the hearing that they probably joined the agency because "you are idealists."

"You guys are not doing your job, and I don't know how you reconcile that professionally or morally, but I know it must be troublesome for you because it is really troublesome for those of us who will suffer from your irresponsibility," he said to the applause of about 70 people at the hearing. "The law says the waterways of this country, the fisheries of this country belong to the people; they don't belong to [EPA Administrator] Scott Pruitt."



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Others used the agency's original 2015 final rule to argue that the regulation and its deadlines are needed.

Mary Anne Hitt, director of the Sierra Club's Beyond Coal campaign, quoted the regulation's explanation of the harm that heavy metals like lead and mercury can do to aquatic resources and findings from its cost-benefit analysis that the rule would affect 12 percent of power plants.

"You did the right thing in putting the rule in place," she said. "We urge you not to roll it back."

Environmental groups sued over the delay in May (Greenwire, May 3).

And yesterday's hearing came just days after the agency filed a motion to dismiss environmental groups' lawsuit over the stayed guidelines. In its motion, EPA argued that the stay was a "temporary measure intending to preserve the status quo" while additional lawsuits against the regulation brought by the power industry play out.

The agency also argued that the lawsuit, filed before EPA finalized its decision to delay the deadlines, is premature because environmental groups could potentially change the agency's mind through participation in public comment periods and hearings.

Of the more than 40 people who commented on the proposed delay yesterday, three spoke in favor of the EPA proposal.

Speaking on behalf of the electric utilities, they said it would be unfair for EPA to keep compliance deadlines as the agency considered changing the regulation.

"Without the postponement, electric companies will continue to invest millions of dollars in a rule that ultimately may change," said C. Richard Bozek, director of environmental health and safety at the Edison Electric Institute. "It would be a waste of customer and consumer resources."

Said Carolyn Slaughter, director of environmental policy at the American Public Power Association, "Postponing deadlines will ensure communities don't experience job losses while EPA considers the rule."

Several people had traveled to Washington from Missouri, North Carolina, Georgia, the Navajo Nation and other areas to speak about how the delays would affect their communities.



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Missouri resident Patricia Schuba, president of the Labadie Environmental Organization, explained how coal ash stored in the Missouri River floodplain put her community and surrounding farmland at risk. She expressed frustration that she was forced to travel to Washington to testify on a regulation finalized two years ago.

"When we testified in 2015, we thought we were protected, and we are not," she said. "When you make these decisions, you are actually putting us at risk."

Sarah McCain, from Harriman, Tenn., lives about a mile from the site of the Tennessee Valley Authority's massive 2008 coal ash spill at its Kingston coal plant.

"I think if you lived where I live, you might think a little bit different instead of being tucked up here in this town where the disaster didn't occur," she said. "It is not a left thing, it is not a right thing, it is a people thing."

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#### 9. **AIR POLLUTION: Ozone battle widens as states challenge EPA delay**

*E & E News, Aug. 1 | Sean Reilly*

New York Attorney General Eric Schneiderman (D), joined by 15 other state attorneys general, sued U.S. EPA today over its one-year halt in implementation of the 2015 ozone standard.

The [lawsuit](#), filed with the U.S. Court of Appeals for the District of Columbia Circuit, doesn't lay out the grounds, but Schneiderman in a statement denounced the delay as illegal and said it would endanger "the health and safety of millions."

Announced in June by EPA Administrator Scott Pruitt, the delay rolls back the agency's area attainment designations for the 70-parts-per-billion standard from this October until October 2018. He cited a Clean Air Act clause that allows for a yearlong pause if the agency needs to collect more information. States had turned in their attainment recommendations last year.

In a Federal Register notice, Pruitt said EPA is evaluating "a host of complex issues" — such as the impact of background ozone on compliance and the effect of ozone that originates in other countries — that need analysis before the agency makes the final designations.



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Critics view that rationale as specious. In a separate suit filed last month, a dozen public health and environmental groups asked the D.C. Circuit to either stay or vacate Pruitt's decision (E&E News PM, July 12). The agency's initial response is due Thursday, according to the latest filings.

An EPA spokeswoman declined to comment today on Schneiderman's suit, saying the agency doesn't discuss pending litigation.

From an enforcement standpoint, the attainment designations are important because they start the clock on compliance efforts for areas that don't meet the 70 ppb threshold. Those efforts could ultimately require energy companies and other businesses to curb emissions of volatile organic compounds and nitrogen oxides that contribute to ozone formation.

On Capitol Hill, industry organizations have been lobbying for the eight-year implementation delay contained in [H.R. 806](#), which is awaiting Senate action after winning House approval last month. That lengthier postponement is also incorporated into a fiscal 2018 spending bill for EPA recently approved by the House Appropriations Committee.

Ozone is a lung irritant linked to asthma attacks in children and added breathing difficulties for people with emphysema and other chronic respiratory diseases. Under the Obama administration, then-EPA Administrator Gina McCarthy had tightened the standard to 70 ppb in October 2015, citing a Clean Air Act requirement to protect public health in light of available research on ozone's health effects. The previous benchmark, set in 2008, had been 75 ppb.

Because significant parts of the country are still in nonattainment for that earlier standard, backers of the implementation delay for the 2015 threshold say that the pause is needed to let those areas catch up and that air quality will continue to improve regardless. At Pruitt's request, the D.C. Circuit has also frozen proceedings in a broader legal battle over the 70 ppb threshold while EPA reviews its position.

In a news release announcing today's lawsuit, Schneiderman's office pointed to EPA projections that the tighter standard will annually prevent hundreds of premature deaths and yield net health savings of up to \$4.5 billion by 2025. That forecast excludes California, where some areas are expected to need longer to comply.

Joining Schneiderman in the suit filed today are the attorneys general for California, Connecticut, Delaware, Illinois, Iowa, Maine, Massachusetts, Minnesota, New Mexico, Oregon, Pennsylvania, Rhode Island, Vermont, Washington and the District of Columbia. All are Democrats.



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Most of the same officials wrote Congress this spring in opposition to H.R. 806 and a companion Senate bill, [S. 263](#) (Greenwire, April 26).

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#### 10. **NOMINATIONS: Trump makes picks for Interior, Defense**

*E & E News, Aug. 1 | Manuel Quiñones*

President Trump last night announced his intention to nominate Idaho attorney and former congressional aide Ryan Douglas Nelson to be Interior Department solicitor.

The White House, in its nomination announcement, pointed out that Nelson has worked in all branches of government. He is currently general counsel for Idaho-based Melaleuca Inc., a wellness and natural products company owned by conservative donor Frank VanderSloot.

Nelson graduated from Brigham Young University's law school and clerked for Judge Karen Henderson of the U.S. Court of Appeals for the District of Columbia Circuit.

He served as deputy assistant attorney general in the Justice Department's natural resources division during the George W. Bush administration and as deputy general counsel for the Office of Management and Budget.

On Capitol Hill, Nelson served as special counsel to the Senate Judiciary Committee in 2009, according to the White House and the website Legistorm. He has also been an associate at the firm Sidley Austin LLP.

#### **Pentagon pick**

Separately, the White House announced the president's interest to nominate John Henderson to be assistant secretary of the Air Force for installations, environment and energy.

Henderson most recently served as commander of the Omaha District of the Army Corps of Engineers, said the White House. He has worked on water projects and energy infrastructure needs for the military.



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Henderson, a veteran of both Iraq and Afghanistan, has a civil engineering degree from the South Dakota School of Mines and Technology. He is the latest in a string of Pentagon nominees who will have a say in the Defense Department's energy and environment policies.

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#### 11. **PIPELINES: Natural gas industry defends cybersecurity readiness**

*E & E News, Aug. 1 | Peter Behr*

U.S. natural gas cybersecurity safeguards are being reviewed by Congress, the Energy Department and an electric grid monitor. Yesterday, the industry issued a briefing paper declaring that its vast pipeline network is not at risk of widespread outages in the event of a major cyberattack.

While the position paper defended the industry's security posture, gas industry executives have begun behind-the-scenes discussions with federal officials and security experts about possible new steps to strengthen the sector's cyberdefenses.

In one example, Dave McCurdy, president and CEO of the American Gas Association, and AGA's cyber staff, met recently with cybersecurity experts at the Energy Department's Idaho National Laboratory. They reviewed voluntary pipeline security guidelines set by the Transportation Security Administration (TSA) and opportunities for control-system cybersecurity training, an AGA spokesperson confirmed.

Industry leaders with the Oil and Natural Gas Subsector Coordinating Council, the downstream gas industry's cyberthreat-sharing organization, have conferred with DOE staff on pipeline cybersecurity, one industry source said. The overture is a change from the industry's previous pushbacks against a DOE role in pipeline cyber policy.

The statement yesterday by the Natural Gas Council, "Natural Gas Systems: Reliable and Resilient," was issued in advance of four reports that will focus on the gas sector's security.

DOE officials are completing a detailed examination requested by Secretary Rick Perry of power grid vulnerabilities that has stirred the competitive anxieties of coal, nuclear, natural gas and renewable power generation industries. The project began with a premise that retirements of "baseload" coal and nuclear reactors threaten the ability of grid operators to keep the lights on.



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A leaked draft of the report questioned whether wholesale electricity markets were adequately paying generators to reflect the value of "on-site fuel supply." That could be read as implying coal and nuclear generators, with their ready fuel resources, were more secure than gas-fired power plants dependent on long pipeline supply links

The North American Electricity Reliability Corp., with oversight of grid security, is preparing a study on "Single Point of Disruption Special Assessment" that will examine the impacts on electric power supply from the loss of a major natural gas facility, including key pipeline segments, storage systems and liquefied natural gas terminals.

The Trump administration is completing a third report — a review of cyberthreats to critical infrastructure that reportedly will include the risk that pipeline controls could be taken over by hackers.

The gas industry is also making its case prior to a forthcoming report by the Government Accountability Office on the cyber and physical security of gas and oil pipeline networks. The GAO study was requested by Sen. Maria Cantwell of Washington and Rep. Frank Pallone of New Jersey, top Democrats on the Senate and House energy panels respectively, who cited the increasing threats of cyberattacks on critical infrastructure.

A series of articles published by E&E News centered on concerns about the voluntary oversight of pipeline cybersecurity standards by TSA (Energywire, May 23, 2017).

The industry paper said the U.S. pipeline network's many redundant connections and operators' ability to run the system with manual controls in emergencies protect it from widespread failures from "single point" attacks or natural disasters. The council is made up of the AGA, American Petroleum Institute, Interstate Natural Gas Association of America, Independent Petroleum Association of America and Natural Gas Supply Association.

"The physical characteristics of both the natural gas resource and the pipeline delivery infrastructures make our nation's natural gas system uniquely reliable," said INGAA President Don Santa in a statement.

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#### 12. **INTERIOR: 'Aggressive' solicitor pick brings broad legal experience**

*E & E News, Aug. 1 | Michael Doyle*

The Trump administration's new nominee for Interior Department solicitor is an aggressive and widely experienced attorney who has represented a politically assertive corporate boss, fellow attorneys say.

The Trump administration's new nominee for Interior Department solicitor is an aggressive and widely experienced attorney who has represented a politically assertive corporate boss, fellow attorneys say.

Tapped late yesterday by the White House for Interior's top legal slot, Idaho Falls resident Ryan Douglas Nelson is currently general counsel for Idaho-based Melaleuca Inc. The self-described "wellness company" is owned by billionaire Frank VanderSloot, who has contributed immense sums to various Republican causes and candidates.

Nelson previously served in the White House, Justice Department and on Capitol Hill.

"He's a very good lawyer: smart and a pleasure to work with," attorney Tom Lorenzen, a former colleague in the Justice Department's Environment and Natural Resources Division, said today. "He'll make a great [solicitor general] for Interior."

In his former Justice Department job, Nelson "argued more than a dozen important cases and oversaw more than 500 overall," according to another former colleague, Ron Tenpas.

If confirmed as solicitor, the Brigham Young University Law School graduate will oversee 400 employees, including 300 attorneys. His legal team, whose other members are still being fleshed out, will include several deputy solicitors, associate solicitors and eight regional solicitors (E&E News PM, July 27).

The crucial position was once held during the George W. Bush administration by David Bernhardt, who was sworn in today as the Interior Department's deputy secretary.

"Ryan Nelson is coming to the Department of the Interior with a strong background in natural resources policy and law, stretching many years in both the public and private sector," Interior Secretary Ryan Zinke said in a statement. "Having a seasoned legal expert like Ryan, who is also a son of the West, will benefit the entire department."



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Nelson's boss for approximately the last eight years, VanderSloot, likewise praised his company's general counsel as a "true patriot."

"During his service, the company has nearly tripled in size, and Ryan has built a strong legal team and worked tirelessly to successfully guide the company's growth," VanderSloot said in a statement.

Founded in 1985, Melaleuca now calls itself "the largest online wellness shopping club in North America," with reported annual sales of \$1.75 billion. Its founder has also made himself a force to be reckoned with in Republican circles.

Last year, records show, VanderSloot and his wife contributed to numerous Republicans, including a \$446,700 contribution to the Trump campaign in August and an additional \$446,5000 to the campaign in September.

Nelson's campaign contributions have been much more modest. Last year, records show, he contributed \$500 to Trump's onetime rival, Florida Republican Sen. Marco Rubio.

Among his other legal tasks, Nelson helped represent VanderSloot in a defamation suit the businessman brought against Mother Jones magazine.

"He was on the aggressive end of the spectrum," attorney James Chadwick, who represented Mother Jones, said in an interview today, recalling Nelson's approach during hearings and depositions.

After the state-level case was dismissed in 2015, VanderSloot announced he was pledging \$1 million toward a "Guardian of True Liberty Fund" that he said would "help pay for the legal expenses of people who have been defamed by Mother Jones magazine or other liberal press because of their conservative values."

On behalf of Melaleuca, Nelson has been active in an assortment of run-of-the-mill business cases, including a lawsuit filed in 2014 against a former executive who, according to the suit, acted "unlawfully to raid Melaleuca's independent marketing force." Under Nelson's guidance, court records show, Melaleuca has filed similar suits against other competitors for attempting to lure away the company's marketing executives.



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Nelson previously served as deputy assistant attorney general in the Environment and Natural Resources Division of the Department of Justice and as deputy general counsel for the White House Office of Management and Budget. He also served as special counsel for the Senate Judiciary Committee. Nelson was formerly an associate at Sidley Austin LLP.

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#### 13. **NATIONAL MONUMENTS: Zinke, Trump admin blasted as 'big bullies' in Nev. tour**

*E & E News, Aug. 1 | Jennifer Yachnin*

LAS VEGAS — Democratic Rep. Dina Titus yesterday railed against Interior Secretary Ryan Zinke's abbreviated review of national monuments in Nevada and accused the Trump administration of acting "like big bullies" in its management of public lands.

Titus appeared at a press conference organized by the progressive group Battle Born Progress, along with a pair of Clark County commissioners and leaders of the conservation organization Friends of Gold Butte.

Donning her self-proclaimed "fashion statement" — yellow sunglasses emblazoned with "#GoldButte" — Titus slammed Zinke for his one-day visit to view both the Gold Butte and Basin and Range national monuments.

"I wanted to set the record straight about Secretary Zinke: We have written, we have called, we have talked to the Department of Interior trying to get him out here so when he makes his sweep of the monuments he can have an understanding of just how valuable and just how important Nevada's monuments are," Titus said.

Both Nevada sites are part of Zinke's ongoing review of dozens of national monuments, with an eye toward potential reductions or even eliminations. President Trump ordered the review in late April, and a final report is due on Aug. 24.

Although Zinke had planned to meet over two days with both supporters and opponents of each monument, along with local officials and tribal representatives, he cut back his visit to a day due to a White House staff shake-up and a related Cabinet meeting called for yesterday.



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Individuals who did attend portions of Zinke's tour of the Nevada monuments said the secretary appeared geared toward considering only small portions of the 297,000-acre Gold Butte or the 704,000-acre Basin and Range monuments.

But Titus and Clark County officials questioned the mix of guests whom Zinke ultimately spent time with during aerial tours of both monuments, as well as short visits to antiquities at each site.

"They turned it into a political event instead of making it what it was supposed to be, getting good information about the value of our monuments. We don't appreciate it," Titus said.

Clark County Commissioner Chris Giunchigliani (D) likewise called Zinke's companions "most disappointing," referring to former Clark County GOP Chairman David McKeon, who is seeking Nevada's 3rd District seat, and state Attorney General Adam Laxalt (R), who is seen as a likely gubernatorial contender in 2018.

"They're not working in a collegial manner. Maybe that's just how they do business in Washington, but we do it different in Nevada," said Giunchigliani, who is herself a potential gubernatorial candidate.

Democratic officials also described efforts to meet with Zinke as chaotic, with numerous meetings set and rescheduled at the last minute.

"It's really disappointing that all of us couldn't collaborate in the meetings that we were promised to come together and talk about what's important for Nevada," said Clark County Commissioner Marilyn Kirkpatrick (D). "They left out local government in that entire process."

#### **Funding from offshore drilling?**

Some criticized Zinke's focus on the possibility of funding from offshore drilling as well as other concerns.

"He brought up some issues that were bizarre and not particularly relevant to the issue we were talking about," said Friends of Gold Butte board member Jim Boone, who met Zinke during his tour of the Mount Irish Archaeological District at the Basin and Range monument.



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In particular, Boone said Zinke spoke about his "notion that environmentalists are the ones to be blamed for the lack of funding [for monuments], because funding largely comes from offshore drilling."

During multiple appearances on Capitol Hill earlier this summer, Zinke repeatedly pitched his plan to raise funds for cash-strapped agency priorities by boosting drilling in federal waters. In his testimony, Zinke has often highlighted the 2008 revenues of \$18 billion from offshore production, an outlier year that produced significantly more profit than those before or after (Climatewire, June 26).

Boone, an ecologist, said he was also concerned with Zinke's focus on preserving artifacts rather than "landscape-level issues" such as the geology of the Great Basin or even preserving "the tradition of ranching."

"He's clearly opposed to large national monuments, and under his philosophy places like the Grand Canyon would never have been established," Boone said. "Death Valley, Zion, Grand Teton, Joshua Tree, all these places would never have been established."

Boone also noted that he did not have significant time to speak with Zinke since most of the visit consisted of a Bureau of Land Management guided tour of local petroglyphs.

University of Nevada, Las Vegas, intersection resource coordinator Patrick Naranjo, who also met with Zinke during his visit, echoed Boone's remarks that Zinke opened discussions by focusing on the potential for oil and gas development to create federal revenues.

"We're trying to protect unique items that mean very important things to Nevada. I felt like he overlooked the importance of that," Naranjo said.

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