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Attached is the daily news report for August 4.

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## BUREAU OF LAND MANAGEMENT

### DAILY NEWS REPORT - UTAH

#### UTAH – TOP STORIES – AUGUST 4, 2017

##### 1. Utah State Parks' Military Appreciation Day is Aug. 12

*The Deseret News, Aug. 3 | Deseret News Staff*

SALT LAKE CITY — The Utah Division of Parks and Recreation has announced its third annual Military Appreciation Day is set for Saturday, Aug. 12.

##### 2. No changes for Montana's national monument. Is Utah next?

*The Deseret News, Aug. 3 | Herb Scribner*

Interior Secretary Ryan Zinke just made a move that will surely gather the attention of Utahns.

##### 3. U.S. national parks, led by Utah's Zion, weigh limits on visitors

*Reuters, Aug. 3 | Laura Zuckerman*

(Reuters) - Zion National Park in Utah, one of the premier outdoor attractions of the American West, is considering a first-ever admissions cap in a move supported by conservation advocates and veteran park employees to stem overcrowding at a time of record visitation.

##### 4. Consider this: Utah's outdoor recreation economy is thriving

*Utahpolicy.com, Aug. 3 | Val Hale, Executive Director Utah Governor's Office of Economic Development*

With towering red rocks and snowy mountains, Utah is known worldwide for its wondrous beauty. It's clear that Mother Nature played favorites with our state, and it provides an 84,899-square-mile product testing lab for a thriving outdoor industry.

##### 5. Op-ed: Blame politics for Outdoor Retailer exit

*The (St George) Spectrum, Aug. 3 | Doug Owens*

The Outdoor Retailer trade show marked its final exposition for the foreseeable future in Utah last month, ending a two-decade run in Salt Lake City. The show's owners moved in response to political differences with Utah leaders over public lands.



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#### 6. USU 'optimistic' state trust lands D.C. legislation will pass

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Two federal lawmakers from Utah want to make it possible for Utah State University to financially benefit from land in Utah County that has not been transferred from federal to state control in nearly two decades due to a legal roadblock.

#### 7. Can Daggett County become Utah's latest recreation powerhouse? Maybe with some help from the state, officials say

*The Salt Lake Tribune, Aug. 4 | Taylor W. Anderson*

Despite state interest in throwing a financial lifeline to a struggling rural county, a state board balked at giving money to pay for planning a trail network over fears the money would further hurt jail-scandal rocked Daggett County.

#### 8. Panel: Monument designations don't divide rural, urban Utah

*The Deseret News, Aug. 4 | Amy Joi O'Donoghue*

CEDAR CITY — A pair of public policy experts said Friday that controversial monument designations in Utah and the recent departure of the Outdoor Retailer trade shows from Salt Lake City may make it look like the residents are divided, but they are not.

### E&E/NATIONAL NEWS – TOP STORIES

#### 1. Trump Administration Hits Snags in Effort to Halt Environmental Rules

*The Morning Consult, Aug. 3 | Iulia Gheorghiu*

While the Trump administration has been aiming to make good on promises like rolling back clean air protections, legal pressure from conservation and public health advocates shows that hitting the brakes on existing regulations is easier said than done.



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#### 2. Natural selection? Critics say Zinke's national monument review resembles a reality TV show

*The Washington Times, Aug. 3 | Ben Wolfgang*

In many respects, the Trump administration's second look at national monuments across the country is playing out less like a typical government review and more like a season of "Survivor."

#### 3. Prosecutors Want Possible Bullet From Ryan Bundy's Arm As Evidence

*Oregon Public Broadcasting, Aug. 3 | Conrad Wilson*

A piece of metal lodged in Malheur occupation leader Ryan Bundy's shoulder could be a key piece of evidence in the case against an FBI agent accused of misconduct in a shooting.

#### 4. Elite firefighter killed while battling western Montana blaze

*Reuters, Aug. 4 | Brendan O'Brien*

(Reuters) - An elite California firefighter was killed by a falling tree while battling a blaze in western Montana, the second firefighting death in the area over the last two weeks, officials said.

#### 5. Union, feds at odds on countering surge in coal mine deaths

*SF Gate News, Aug. 3 | Dylan Lovan*

LOUISVILLE, Ky. — Deaths in U.S. coal mines this year have surged ahead of last year's, and federal safety officials say workers who are new to a mine have been especially vulnerable to fatal accidents.

#### 6. DEFENSE: Sage grouse, chemicals amendments await NDAA debate

*E & E News, Aug. 4 | Nick Sobczyk*

Sage grouse riders have a history of at least trying to find their way into the annual defense policy bill, and this year will be no different.





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#### 7. INTERIOR: Energy rhetoric irrelevant in world of \$50 oil — analysts

*E & E News, Aug. 4 | Pamela King*

Six months into Trump's presidency, Interior Department actions to bring the United States to "energy dominance" have done little to boost confidence in a market where the price of a barrel of oil hovers just below \$50.

#### 8. FORESTS: Bill would cut 'red tape' to help prevent wildfires

*E & E News, Aug. 4 | Scott Streater*

South Dakota Sen. John Thune (R) introduced legislation to shield national forest managers from some environmental reviews in an effort to expedite forest health projects that reduce the risk of catastrophic wildfires.

#### 9. WILDFIRES: White House supports ending 'fire borrowing'

*E & E News, Aug. 4 | Maxine Joselow*

The Trump administration supports ending the practice of "fire borrowing," a Forest Service employee confirmed yesterday during a Senate Energy and Natural Resources Committee hearing.

#### 10. REGULATIONS: Obama rules could yield \$300B annually in benefits — study

*E & E News, Aug. 4 | Niina Heikkinen*

The benefits of Obama-era rules to curb greenhouse gas emissions would greatly exceed the costs in the coming years, according to a new analysis.

#### 11. FORESTS: The West burns as lawmakers struggle to fix wildfire policy

*E & E News, Aug. 4 | Brittany Patterson*

As wildfires burst to life in the mountainous West, lawmakers are searching for legislative fixes to old challenges related to forest management and fire suppression funding.



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12. **ENERGY POLICY: Interior moves to scrap fossil fuel valuation rule**

*E & E News, Aug. 4 | Ellen M. Gilmer and Dylan Brown*

The Trump administration will carry through on reversing recent changes made to how the federal government values coal, oil and natural gas for assessing royalties.

13. **INTERIOR: Watchdog to investigate Zinke's calls to Alaska senators**

*E & E News, Aug. 4 | Kellie Lunney*

The Interior Department's watchdog said yesterday it would start a "preliminary investigation" into Secretary Ryan Zinke's phone calls to Alaska's Republican senators involving votes on the failed GOP health care bill.

14. **CLEAN WATER RULE: Jurisdictional fight makes for strange bedfellows**

*E & E News, Aug. 4 | Amanda Reilly*

Federal agencies and environmental groups have been on opposite sides of court battles since day one of the Trump administration.

15. **EPA: Enviros urge court to boot another Obama-era air reg delay**

*E & E News, Aug. 4 | Amanda Reilly*

Fresh off a victory in their bid to kill the Trump administration's delay in methane standards for the oil and gas industry, greens are asking a court to declare as unlawful another delay of an Obama-era air regulation.

16. **WHITE HOUSE: Trump champions coal exports in W.Va. rally**

*E & E News, Aug. 4 | Zack Colman*

President Trump credited his administration yesterday for overseeing a boom in coal exports and said coal miners "are coming back strong" during a rally in Huntington, W.Va.



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#### UTAH – FULL STORY

##### 1. **Utah State Parks' Military Appreciation Day is Aug. 12**

*The Deseret News, Aug. 3 | Deseret News Staff*

SALT LAKE CITY — The Utah Division of Parks and Recreation has announced its third annual Military Appreciation Day is set for Saturday, Aug. 12.

As part of the celebration, all active military, veterans and their families in the same vehicle will be allowed free day-use access to 43 state parks, except for This Is the Place Heritage Park.

In addition, many of the parks will also be hosting special events, including pancake breakfasts, 5K races, flag ceremonies, canoe rentals, disc golf tournaments and more.

“We have set this day aside to honor those currently serving in the military as well as those who have served in the past,” Jeff Rasmussen, deputy director of Utah State Parks, said in a statement. “Their sacrifices have given us the freedoms and safety that we all enjoy day in and day out. We think it’s important to recognize their service and dedication.”

Visiting a state park in your local community is always a great choice, he said, but experiencing a new park can bring a whole new element of fun. With 43 different state parks and plenty of activities to enjoy, you are sure to find your next adventure.

For a list of activities at the parks, visit the Utah State Parks website at [stateparks.utah.gov](http://stateparks.utah.gov).

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##### 2. **No changes for Montana's national monument. Is Utah next?**

*The Deseret News, Aug. 3 | Herb Scribner*

Interior Secretary Ryan Zinke just made a move that will surely gather the attention of Utahns.

On Wednesday, Zinke said he will not recommend that Montana’s Upper Missouri River Breaks National Monument be changed after visiting the site and identifying it as “one of the only free-flowing areas of the Missouri that remains as explorers Lewis and Clark saw it more than 200 years ago,” according to The Houston Chronicle.



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Zinke's plan not to recommend changes will sit well with Montana Gov. Steve Bullock, who wanted the monument to remain unchanged.

Zinke is currently in the middle of reviewing 27 designated national monuments after President Donald Trump ordered a review of the areas.

"I am grateful that the president has demonstrated his commitment to work with me on this vitally important issue and deliver real results for the Utahns most affected by these massive federal land grabs," Sen. Orrin Hatch, R-Utah, said in a statement at the time of [Trump's announcement](#).

Zinke will now review 23 other national monuments, including Utah's Bears Ears and Grand Staircase-Escalante. He will also consider the Katahdin Woods and Water area in Maine.

Read more at the [Houston Chronicle](#).

Earlier this week, [The Denver Post](#) posed the question on why people care about Bears Ears. The article said the monument is home to beautiful locations that could be disrupted if Zinke recommends changes.

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### 3. **U.S. national parks, led by Utah's Zion, weigh limits on visitors**

*Reuters, Aug. 3 | Laura Zuckerman*

(Reuters) - Zion National Park in Utah, one of the premier outdoor attractions of the American West, is considering a first-ever admissions cap in a move supported by conservation advocates and veteran park employees to stem overcrowding at a time of record visitation.

Public Employees for Environmental Responsibility (PEER), a watchdog group representing U.S. park rangers, foresters and other land managers, endorsed setting visitation limits for Zion while urging similar restrictions for national parks across the board.

In a statement on Thursday, PEER credited Zion as one of the few national parks seeking to remedy "crippling overcrowding" but faulted the National Park Service as failing to widely heed a little-known mandate requiring "carrying capacities" to be established for all 108 of its major park units in the United States.



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Zion, famed for its scenic canyons, steep red cliffs and river gorges in southwestern Utah, has seen record visitation during four of the past five years and a 60 percent increase in admissions over the past decade, according to a park newsletter.

More than 4.3 million tourists flocked to Zion last year.

“The incredible increase in crowd size supports the need for developing a plan to proactively manage visitor levels to protect park resources and provide the exemplary experiences visitors expect,” Zion Superintendent Jeff Bradybaugh wrote in the newsletter.

The public has until Aug. 14 to comment on options the park is considering, including an online reservation system limiting the number of tourists who would be permitted at any given time in the most heavily visited parts of the park.

PEER director Jeff Ruch said the Park Service has long resisted such restrictions due to “extreme political sensitivity” on the subject.

“The National Park Service believes there can be no such thing as too much visitation and, as a result, no matter how bad the overcrowding gets and how much damage is done, their approach is: ‘Don’t worry, be happy,’” Ruch told Reuters.

Park Service spokesman Thomas Crosson was not immediately available for comment.

A 2016 PEER report found just seven of the 108 national parks, preserves, reserves, recreation areas and seashores had established carrying capacities of any sort, and just one – Golden Gate National Recreation Area near San Francisco – had set a capacity limit covering the entire unit.

Luke and Dorrie Prange of Salmon, Idaho, who have visited roughly a dozen national parks, said their trip to Zion last year was not marred by large crowds but said they would support a reservation system.

“Our national parks are world treasures that should be available for everyone who wants to see them but, at the same time, we have to minimize the impact of each individual,” Luke Prange said.

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#### 4. Consider this: Utah's outdoor recreation economy is thriving

*Utahpolicy.com, Aug. 3 | Val Hale, Executive Director Utah Governor's Office of Economic Development*

With towering red rocks and snowy mountains, Utah is known worldwide for its wondrous beauty. It's clear that Mother Nature played favorites with our state, and it provides an 84,899-square-mile product testing lab for a thriving outdoor industry.

Visitors find incredible recreation opportunities in our Mighty Five ® national parks, Greatest Snow on Earth ® and beyond. In the 2016 season, the state's 14 ski resorts saw a record-breaking 4.5 million skier days. Utah's national and state parks have enjoyed double digit growth in visitation year-over-year for the last four years. The tourism, travel and recreation economy contributed \$8.17 billion to Utah's economy in 2015, generating \$1.15 billion in state and local tax revenue—in other words, approximately \$1,269 in tax relief per Utah household.

Revenue and visitor numbers tell us recreation is alive and well in Utah, but to our residents, outdoor recreation is a way of life. Utah ranks No. 1 in the nation for healthy behaviors, and more than 72 percent of Utah residents participate in recreational activities. Gov. Herbert created the Utah Office of Outdoor Recreation, the first of its kind, in 2013 to support Utah's outdoor industry and promote a healthy recreation lifestyle statewide. Utah's outdoor industry receives unique support from the state, and the resulting business environment is a magnet for more and more outdoor companies.

Big names such as Vista Outdoor, which encompasses 50 brands, have their global headquarters here. Salt Lake City and Park City have long been associated with the outdoor industry, but the Wall Street Journal, New York Times and others have noticed the growth further north. World-class companies such as Amer Sports, Osprey Packs, Rossignol and ENVE put Ogden on the map as a major outdoor products hub.

The state doesn't take lightly its role as an outdoor industry leader. Earlier this year, the State Legislature created the Outdoor Recreation Grant, which is expected to generate up to \$5 million each year for the next five years to support recreation infrastructure statewide. The state also invests more than \$2 million in general funds each year for watershed and habitat restoration efforts, and the Department of Wildlife Resources works with non-profit conservation groups to provide an additional \$2 million. Since 2005, the Utah has restored more than 1.3 million acres, the vast majority of which are located on federal public lands.



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Mother Nature indeed played favorites with Utah. In gratitude for that, we are committed to preserving our lands and supporting our outdoor recreation economy for the benefit of future generations.

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#### 5. **Op-ed: Blame politics for Outdoor Retailer exit**

*The (St George) Spectrum, Aug. 3 | Doug Owens*

The Outdoor Retailer trade show marked its final exposition for the foreseeable future in Utah last month, ending a two-decade run in Salt Lake City. The show's owners moved in response to political differences with Utah leaders over public lands.

Losing the Outdoor Retailer show is a tremendous economic loss for Utah. Twice each year, the show has drawn 40,000 attendees who directly contribute nearly \$50 million annually in spending to our state and local economies; its total direct and indirect economic value to Utah has been estimated at \$300 million each year.

Like many Utahns, I am deeply disappointed at losing the Outdoor Retailer shows. While some are eager to place blame on Utah's elected leaders or the Outdoor Industry Association, I don't blame either side. Instead, I point to the politics that forced both groups to retreat to their respective corners without truly hearing each other out in a meaningful conversation. I blame political parties and partisan rhetoric.

For the past three decades, Utahns have been inundated with political rhetoric focused on state vs. federal control of our lands. Lost in this conversation have been important economic considerations, and the fact that Utah's lands are vital to keeping our economy strong. The political debate has pitted environmentalists against industry, narrowing the argument to one between jobs and wilderness. But that has never reflected the reality of Utah's economy.

As Utahns, we know that our state offers a variety and accessibility of outdoor activities and scenery that is second to none. Utahns are intensely passionate about outdoor recreation. A recent study by the David Eccles School of Business shows that most Utahns recreate outdoors at least once every week and nearly 90 percent of Utah residents say that outdoor recreation is "very important" to them.



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Each year, outdoor recreation directly generates \$12.3 billion in consumer spending, supports more than 110,000 good local jobs, and contributes \$3.9 billion in wages and salaries, as well as \$737 million in state and local tax revenue. Outdoor recreation produces twice as many jobs in Utah than the mining and energy industries, combined.

But the real value of Utah's lands isn't limited to outdoor recreation and tourism - it's much, much bigger. Businesses of all kinds love Utah because they recognize the broad, far-reaching economic value of our lands. Utah's world-class outdoor recreation is a vital draw for businesses looking to lure out-of-state talent and a big incentive for local talent to stay.

Utah's natural landscapes attract new businesses. Entrepreneurs choose to locate or expand their companies here because they and their teams want access to the outdoors. Utah's lands also drive new construction. New construction in areas nearest our national monuments and parks has outpaced the rest of the state, with new housing units increasing from 53 percent in Grand County (near Arches and Canyonlands) to a whopping 318 percent in Kane County (near Grand Staircase-Escalante).

If Utahns are so passionate about outdoor recreation, and if Utah's lands are such a powerful economic engine, why is there such a profound disconnect when it comes to the economic reality of Utah lands and the attitudes of so many Utah voters and leaders?

The answer is that Utahns' opinions about our lands have been shaped by decades of partisan political debate. Too often the conversation surrounding Utah's lands has been driven or derailed by political parties and politicians.

As Utahns, we know that our state is special. We know that no other place offers such an incredible diversity of landscapes and unparalleled access to outdoor recreation. But too few Utahns fully understand that our lands are the key to strengthening our economy today and keeping it strong tomorrow.

In the conversation about Utah's national parks and monuments and public lands, it's time to end the political distractions and start focusing on economic facts. Only then will we truly know that Utah's great outdoors are our greatest economic asset.

*Doug Owens was born and raised in Salt Lake City.*

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#### 6. USU 'optimistic' state trust lands D.C. legislation will pass

*The Herald Journal, Aug. 3 | Kevin Opsahl*

Two federal lawmakers from Utah want to make it possible for Utah State University to financially benefit from land in Utah County that has not been transferred from federal to state control in nearly two decades due to a legal roadblock.

Since 1998, the School and Institutional Trust Lands Administration, or SITLA — a nonpartisan organization that manages the state's land trusts — has tried to use credits to acquire 524.05 acres of land in Saratoga Springs and Eagle Mountain from the Bureau of Land Management. BLM wants to convey the lands to the state but has been given "legal guidance" that the agency's Pony Express Resource Management Plan does not include disposal of state land.

Rep. Mia Love and Sen. Orrin Hatch seek to turn that legal entanglement around and allow Utah to select state lands under the BLM thanks to Love's House Resolution 2582 and Hatch's Confirming State Land Grants for Education Act.

"We appreciate Senator Hatch and Congresswoman Love working to create a solution to this land identified by BLM for transfer to SITLA in Utah County," wrote Neil Abercrombie, USU director of government relations, in an email to The Herald Journal. "While USU is not involved in the land management or transfer or sell process of this land we recognize the significant financial support we receive through SITLA and SITFO's (School and Institutional Trust Funds Office) management of funds. Therefore, we are following this legislation closely and optimistic this legislation will solve a process that has been stalled for over a decade."

Ryan Sutherland, a public affairs specialist for BLM, told the newspaper in a prepared statement that his agency does not comment on pending legislation.

"That said, the BLM strives to be a good neighbor in the communities that we serve, and will continue to look at ways to streamline our business processes in order to better serve our local communities," he wrote.

If the legislation becomes law, the land transferred to SITLA would likely be developed for residential use and an endowment would allow the school to use whatever proceeds came of it for educational purposes.



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Abercrombie said the amount in the endowment can vary from year to year and it's too early to tell how much money could be generated into it if BLM hands over the land in Utah County to SITLA.

John Andrews, a lawyer for SITLA, said the endowment is not a large sum of money.

"But these properties, when developed, will be quite valuable," he said.

Andrews said SITLA's effort to obtain the 500-plus acres of land in Utah County is not so much a "passionate" renewed push by his organization as it is "the normal course of business to try to acquire property that potentially would be very valuable."

"We work with the congressional delegation all the time," he said.

Andrews explained why, almost 20 years later, SITLA is still in a legal entanglement over the Utah County BLM land in question.

He said BLM was working on the land selection "on and off" until about 2007. Then BLM's lawyer raised the issue that the Resource Management Act only allows for exchanges of land, not state selections, Andrews said.

"We were disappointed, and we did push the issue a little bit, but the properties are still a ways from development," Andrews said. "A large part of the time lag was we had not pushed the issue."

In 2013, SITLA tried again and made a "formal request" for BLM to re-evaluate its decision, according to Andrews. But two years later, the agency came back with the same decision, and that's when SITLA reached out to representative Love.

"Development was getting closer so we decided to make the request again, and then when BLM was non-responsive, to move forward with a congressional solution," Andrews said.

Andrews is hopeful that the legislation sponsored by Hatch and Love will pass and go to the president's desk, but "given how slowly Washington works," that might not happen until next year.

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#### **7. Can Daggett County become Utah's latest recreation powerhouse? Maybe with some help from the state, officials say**

*The Salt Lake Tribune, Aug. 4 | Taylor W. Anderson*

Despite state interest in throwing a financial lifeline to a struggling rural county, a state board balked at giving money to pay for planning a trail network over fears the money would further hurt jail-scandal rocked Daggett County.

Members of the panel that distributes Utah's share of federal mining royalties were also concerned about an entity fronting the application – the Seven County Infrastructure Coalition (SCIC) – and its past methods of choosing contractors for lucrative projects.

After a lengthy round of rapid-fire questions, including whether the grant was too large for the work involved in planning, but not yet building, trails for recreation in the region, board members punted a decision until September, at the soonest.

But it was concern that the grant might lead the federal government to decrease its payment to the county for lost taxable revenue due to the large amount of public land that gave pause even to Daggett County Commissioner Jack Lytle.

Utah's least populated county — with about 1,100 residents — received \$138,500 in the so-called PILT payments during the most recent budget, according to the Interior Department.

"We need to protect our PILT payment in the best sense of the word," Lytle said. "If there is a way to do it within the law, we want to pursue that."

Lytle entered the Thursday meeting thinking his county – which consists of about 80 percent federal land – wouldn't lose federal money if it benefited from the state grant.

Toward the end of debate over the request for \$100,000 for the planning, Assistant Attorney General Thom Roberts warned lost revenue was a possibility. He noted other counties have avoided losing the federal PILT money (Payment In Lieu of Taxes) by creating special districts or using existing ones to apply for grant funding.

"Utah is fairly well known for their efforts at minimizing PILT reductions," Roberts said. "One system they've developed is the system of special-service districts."



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Daggett County is going to consider its options for receiving \$100,000 from the Community Impact Fund Board that distributes royalty money at its meeting next month without jeopardizing the federal revenue. Officials from Utah State Parks have already promised \$100,000 toward the trails effort.

The attention comes as high-ranking state officials, including Gov. Gary Herbert, have targeted Daggett County for economic development following the indefinite closure of its money-making jail, which had accounted for about a third of Daggett's budget.

The Department of Corrections, which contracts with most counties to house state prisoners in their jails, removed all 80 of its inmates from the Daggett County jail in February following alleged improper conduct by correctional officers and jail management. The scandal led to the resignation of former Sheriff Jerry Jorgensen, who subsequently was charged.

The county is now debating a possible future without a jail, and state officials are looking for ways to drive development in one of Utah's most remote counties.

Included in its application to the board was a July 19 letter from Lt. Gov. Spencer Cox, who called the concept of driving recreational tourism to Daggett County "a great idea," and he hoped the trail planning could be finished by year's end.

"If state trails folks are willing to match those funds, that is how government should work to help the private sector," Cox wrote. "Please know that I believe this to be an important project and the quicker Daggett County can get this plan in place and use it to increase recreational tourism, the county will be better."

Lytle said the county needed the funds as quickly as possible because of ongoing planning by the Bureau of Land Management and U.S. Forest Service that will guide the future of the federal land in northeastern Utah.

Mike McKee, SCIC executive director, said the proposal would benefit multiple counties in the region by connecting their off-road trails through the Uinta Mountains. McKee is a former Uintah County Commissioner and also was a member of royalty-allocating Community Impact Board.

The trail-funding request came from McKee's group, which works for regional construction and economic development projects. Lytle is a member of the group's board.



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It was the group's past that drew fierce questioning from the Community Impact Board, including State Treasurer David Damschen. For the second straight month, Damschen lobbed questions about past SCIC expenditures and the process used to award contracts paid for by public money.

"I continue to have concerns about procurement where the coalition is concerned," Damschen said. "We learned last month that [legal] counsel to the coalition has been paid over \$400,000 ... without competitive procurement."

Other board members also noted Daggett County commissioned a study of its potential for using the surrounding Ashley National Forest for 450 miles of mountain bike trails.

Aaron Averett, who works for Sunrise Engineering in Vernal, said the work would involve taking existing mapping and coming up with a plan to create and connect trails for hiking, biking and off-road vehicles.

Lytle said he was hopeful any future trails developed would draw more visitors to the mountains, forests and shores of the Flaming Gorge in the near future, bringing more money into the county's foundering economy.

For now, though, Lytle said, the county couldn't pay for even planning such a network.

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#### 8. **Panel: Monument designations don't divide rural, urban Utah**

*The Deseret News, Aug. 4 | Amy Joi O'Donoghue*

CEDAR CITY — A pair of public policy experts said Friday that controversial monument designations in Utah and the recent departure of the Outdoor Retailer trade shows from Salt Lake City may make it look like the residents are divided, but they are not.

LaVarr Webb, publisher of UtahPolicy.com, political consultant and former managing editor of the Deseret News, said he doesn't believe the public lands feud over monuments is creating a "divide" between urban and rural Utah.

"I think the issue with Bears Ears and other national monuments can be resolved reasonably," he told participants at the Utah Rural Summit in Cedar City.



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"I don't understand why any reasonable person wouldn't support some reduction in size," at Bears Ears, he added.

Frank Pignanelli, a Democrat who spent 10 years in the Utah Legislature — six of those years as minority leader — said Utah is the best-managed state in the country, but leaders have not done a good job of getting the message out about their environmental stewardship.

"Most people don't even know where the hell Bears Ears is, but they want it protected," Pignanelli said.

If asked the question if the region should be protected, Pignanelli said people will say yes, but respond with a resounding no if it means the federal government should have total control.

On the flip side, Pignanelli said environmental groups have "done a good job of convincing people" that Bears Ears will be "pillaged" should it not remain a monument.

"We have to do a better job of messaging," he said.

The two were featured speakers at the closing day of the rural summit at Southern Utah University, where they talked about Washington, D.C., politics, the 3rd District congressional race, a possible retirement for Sen. Orrin Hatch, R-Utah, and ballot initiatives.

In a question-and-answer period afterward, the controversy of Utah's public lands came up, and specifically if the views of urban and rural Utah were set on a collision course due to monuments and the state's rift with the Outdoor Industry Association.

The group pulled out of Utah because of widespread political condemnation over the recent Bears Ears Monument designation and continued opposition to the Grand Staircase-Escalante Monument declared in 1996 by then-President Bill Clinton.

Webb predicted the state will shrug off the economic impacts of the trade show's departure, adding his own view was "don't let the door hit you on the way out."

The rural summit, in its 30th year, attempts to broker solutions to unique challenges facing rural regions of Utah.



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While a "disconnect" may exist between the urbanized Wasatch Front and the rest of Utah, Webb said he doesn't believe the public lands controversy is contributing to widening any division between the regions.

Pignanelli said since 90 percent of Utah residents now live in cities, they understandably want outdoor regions protected, but they have a continuing distrust of the federal government built into their DNA.

Earlier in the day, Steven Styler, co-chairman of the Utah Governor's Rural Partnership Board, detailed ongoing funding challenges to address struggling areas of the state.

The Industrial Assistance Fund, which sat at \$15.9 million in fiscal year 2015, has dwindled to \$6 million this fiscal year.

The fund provides grants to create high paying jobs in the state, including the Rural Fast Track program specifically aimed at rural areas.

An electronics engineering and consulting business started in Manti several years ago built a warehouse and boosted its number of employees with assistance from the grant program.

The summit marked the official statewide rollout of Utah Gov. Gary Herbert's rural jobs initiative, which seeks to create 25,000 jobs in 25 counties off the Wasatch Front over four years.

On Thursday, Herbert announced he wants to convene a statewide rural summit in Salt Lake City to hammer out additional ways to help Utah's rural economies.

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#### **E&E/NATIONAL NEWS – FULL STORY**

##### **1. Trump Administration Hits Snags in Effort to Halt Environmental Rules**

*The Morning Consult, Aug. 3 | Iulia Gheorghiu*

While the Trump administration has been aiming to make good on promises like rolling back clean air protections, legal pressure from conservation and public health advocates shows that hitting the brakes on existing regulations is easier said than done.



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Following pressure from lawsuits, the Environmental Protection Agency on Wednesday said it won't be implementing a previously announced one-year delay for the agency to weigh in on smog pollution compliance. States, as well as public health and environmental advocacy groups, challenged the initial announcement and other regulatory delays in federal court.

The EPA has not convinced judges of the lawful merits of delaying Obama-era environmental protections while it crafts its own proposals to overhaul regulations. However, if the EPA stops trying to fast-track regulatory rollbacks, experts say the agency could eventually replace existing regulations through the lengthier rulemaking process.

"It just takes time to revise or repeal regulations because there are procedural steps that need to be followed and analysis that needs to be done," Janet McCabe, acting assistant administrator for the Office of Air and Radiation during the Obama administration who's now a senior law fellow at the Environmental Law & Policy Center, said in an interview on Tuesday.

On the campaign trail, President Donald Trump promised to promote economic growth through deregulation. His EPA chief, Scott Pruitt, even sought to overturn several of the agency's regulations when he was Oklahoma's attorney general.

The EPA and the White House said they plan to roll back regulations that affect the coal, oil and natural gas industries. But the process to create substitute rules is complex and could take several years, experts and former officials say. The EPA has started crafting rule proposals but none have been submitted to the Office of Management and Budget.

The EPA and the White House did not comment on efforts to roll back regulations.

Myron Ebell, who led Trump's EPA transition team and is now director of the Center for Energy and Environment at the Competitive Enterprise Institute, said in a Tuesday interview that in the six months since Pruitt started leading the agency, he has been making good progress complying with Trump's executive orders to cut regulation.

The EPA's announcement Wednesday regarding the withdrawn one-year delay of pollution rules followed lawsuits from advocacy groups and 15 states.





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“We think that them backing down the day before a response to our lawsuit was due signals that they had no good response,” Seth Johnson, an attorney with Earthjustice, which represents several of the plaintiffs, said in a Thursday interview.

The methane emissions rule is another example where the EPA’s fast-track approach to scrapping Obama-era regulations is facing hurdles. The rule created additional requirements for inspecting leaks of methane gas from new and modified oil and gas wells in order to reduce emissions of the greenhouse gas.

But industry groups argued that implementing the rule was unreasonably costly, especially given the low price of gas. The Trump administration sought to implement a preliminary 90-day stay of the rule, along with a two-year stay.

A federal court on Monday ruled the 90-day stay was unlawful. The Justice Department had until July 28 to challenge the ruling, and the DOJ’s decision not to challenge it was viewed by environmental advocates as a sign that the administration had no better justification for the stay.

The Justice Department declined to comment.

Environmental advocates followed through on promises to file several lawsuits over what they view as poorly reasoned and legally unsound regulatory delays by the Trump administration.

“These rules and regulations that were instituted by previous administrations, that Pruitt and the EPA are trying to take the hatchet to ... really thorough administrative work went into those standards,” Andres Restrepo, an attorney with the Sierra Club, said in a Tuesday interview.

But Restrepo and other attorneys challenging the EPA expect the agency to continue pursuing its two-year stay of the methane rule.

Ebell called the methane ruling “a little adversity” that wouldn’t dissuade the administration from following through on Trump’s deregulatory pledges, saying the EPA has easier targets for deregulation besides the methane rule, which the agency could challenge with a new proposal once they have more staff in place.

“I see they’re going to have more trouble with that rule than they are with the Clean Air Act rules for power plant stuff,” Ebell said.



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The Trump administration may agree with that assessment: In April, it announced an indefinite stay of the compliance deadlines for a coal plant rule that seeks to reduce toxic water pollution. A lawsuit challenging the stay was put on hold by the D.C. Circuit.

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#### **2. Natural selection? Critics say Zinke's national monument review resembles a reality TV show**

*The Washington Times, Aug. 3 | Ben Wolfgang*

In many respects, the Trump administration's second look at national monuments across the country is playing out less like a typical government review and more like a season of "Survivor."

So far, four monuments have been spared, while a fifth — the sprawling Bears Ears National Monument in Utah — has been recommended for massive cuts. Interior Secretary Ryan Zinke, has rejected the idea of issuing one comprehensive study at the end of his work and instead is announcing winners and losers as he goes.

The most recent announcement was Wednesday afternoon, when Mr. Zinke said he believes the Upper Missouri River Breaks National Monument should be left alone.

"I am recommending to the president that no changes be made to the monument," he said. "The monument is one of the only free-flowing areas of the Missouri that remains as Lewis and Clark saw it more than 200 years ago."

Critics argue that such an announcement is a wholly inappropriate way of treating the entire process and one that harks back to President Trump's history with reality TV, with individual contenders being allowed to stay or being dismissed on an almost weekly basis.

In addition, opponents argue that Mr. Zinke hasn't adequately explained his decision-making process and has left monument backers — including lawmakers, Indian tribes and other stakeholders — in the dark.

"The Trump administration is playing a cruel game with America's public lands and the American public," said Randi Spivak, public lands director with the Center for Biological



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Diversity. “Zinke is making up his own rules and ignoring more than 2.5 million people who urged him to leave these monuments as they are. At least on TV game shows, the contestants are told what the rules are. This so-called review process is appalling.”

Mr. Trump signed an executive order this year kick-starting the first-of-its-kind monument review, which is designed to figure out whether past presidents — especially President Obama, who designated more land and sea as national monuments than any of his predecessors — abused the century-old Antiquities Act, which gives presidents the power to create monuments.

The legislation specifically says presidents should use the smallest area possible in designating a monument, but Mr. Obama frequently used the act to cordon off huge swaths of wilderness, shutting down federal land to energy exploration and other activities.

The first monument in the crosshairs was Bears Ears, a 1.35-million-acre tract in Utah that Mr. Zinke said includes hundreds of thousands of acres that don’t appear to meet the proper definition of a monument. The secretary’s interim recommendations would dramatically shrink the size of Bears Ears, a decision he announced shortly after visiting the site.

Mr. Zinke recently announced that other monuments would be left as is.

He said Washington’s Hanford Reach National Monument, Idaho’s Craters of the Moon National Monument and Preserve, and Colorado’s Canyons of the Ancients each would remain intact.

In each instance, the secretary made the announcement through widely circulated press releases that induced sighs of relief from monument supporters.

“This is great news for Colorado, and I’m thrilled the Department of the Interior listened to Coloradans and will make no changes to Canyons of the Ancients National Monument’s designation,” Sen. Cory Gardner, Colorado Republican, said after the monument’s fate was announced.

Other Republicans argue that the process, while perhaps a bit unorthodox, is the right way to go about such a consequential study. They say the individual announcements show that the administration is committed to a transparent process that incorporates voices from all sides and then comes to decisions quickly and publicly.



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“What’s happening is positive and historic — unprecedented transparency,” said Katie Schoettler, a spokeswoman for the House Natural Resources Committee.

The Interior Department says it’s simply fair to make announcements as soon as decisions are made.

“As monuments are reviewed and found to require no modification, the department is removing them from the review and letting press and local stakeholders know the department’s decision. We get questions from the press and other stakeholders, and it’s our job to keep them all informed. It’s common sense,” said Heather Swift, the Interior Department’s press secretary.

Mr. Zinke’s monument tour continued last weekend as he visited New Mexico’s Organ Mountains-Desert Peaks National Monument. His trip included helicopter and ground tours of the area, and meetings with local lawmakers, tribal leaders and other officials.

A decision on that monument’s fate is expected soon.

He also has visited Nevada’s Gold Butte and Basin and Range monuments. Similar to what critics of the Bears Ears decision said, Mr. Zinke’s opponents said his fact-finding tour and listening sessions in Nevada seemed more like formalities than sincere attempts to gather information.

“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,” Rep. Dina Titus, Nevada Democrat, said following Mr. Zinke’s trip to the state, as quoted by E&E News.

Decisions on the Nevada monuments also are expected soon.

Environmentalists, many of whom have vowed to wage an unprecedented legal war against any attempts to downsize monuments, say Mr. Zinke’s handling of the process proves that Interior’s true motive is to free up protected federal land for energy exploration.

“This Interior Department is clearly in the pocket of the oil and gas industry, so communities will have to fight harder than ever to defend their public lands from corporate exploitation,” said Diana Best, a senior climate campaigner with Greenpeace. “The bottom line is that the national monument review is completely in tune with the rest of the dysfunction coming from the Trump administration in that it is both incompetent and malicious.”



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#### 3. Prosecutors Want Possible Bullet From Ryan Bundy's Arm As Evidence

*Oregon Public Broadcasting, Aug.3 | Conrad Wilson*

A piece of metal lodged in Malheur occupation leader Ryan Bundy's shoulder could be a key piece of evidence in the case against an FBI agent accused of misconduct in a shooting.

During the Jan. 26, 2016 traffic stop outside of Burns, Oregon, that left occupation spokesman Robert "LaVoy" Finicum dead, Bundy was also wounded in the shoulder. He was riding in the back seat of Finicum's truck at the time.

Bundy was acquitted in Oregon for his role in the occupation of the refuge. He's awaiting trial for his role in a 2014 standoff with federal agents in Nevada.

During a Thursday hearing in U.S. District Court in downtown Portland, federal prosecutors said they want the "metal object" removed from Bundy's arm and analyzed.

It's unclear whether the material is a bullet fragment, part of Finicum's pickup truck or something else.

Following the shooting, Bundy was treated at an emergency room in Bend, a source with knowledge of the case said. The source disclosed details on the condition of anonymity.

The object has been X-rayed several times, the source said. It's also been reviewed by at least one surgeon, who reportedly didn't remove it because it was not medically necessary to do so.

Prosecutors say W. Joseph Astarita, a member of the FBI's elite Hostage Rescue Team, fired his gun twice at Finicum's truck, but lied about it later.

Astarita and his attorneys dispute that account. So prosecutors want to link the metal object in Bundy's arm to the FBI agent's firearm.

Astarita is charged with two counts obstruction of justice and three counts making false statements to state and federal investigations. He has pleaded not guilty.



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Astarita has requested a trial by jury, which is scheduled Feb. 28, 2018, before U.S. District Court Judge Robert Jones.

After Finicum's shooting, prosecutors opened an investigation into the use of force incident.

At a press conference in March 2016, investigators said there were eight shots taken at Finicum's truck as he approached a roadblock staffed with FBI agents and Oregon State Police.

The shooting and Finicum's death were deemed a justified use of force. But only six shots were accounted for at the time.

The U.S. Department of Justice Office of the Inspector General opened an investigation into the other two shots, which resulted in the charges against Astarita.

Assistant U.S. Attorney Pamala Holsinger said in court Thursday that the investigation remains open. Six shell casings have never been recovered.

Astarita waived his right to appear in court Thursday.

But one of his defense attorneys, David Angeli, said they weren't aware of any direct evidence linking Astarita to the two shots the government said he fired.

"We're not aware of any evidence of anyone seeing or hearing our client actually shoot," Angeli said. "We're not aware of any evidence that he ever told anyone that he shot. We're not aware of any ballistic evidence tying any bullet or shell casing to his rifle."

Two people with knowledge of the case, described an aerial video of the crime scene taken after Finicum was killed. The sources spoke on condition of anonymity because they weren't authorized to speak on the record.

After Finicum was shot, five FBI HRT agents reportedly volunteered to stay and guard the crime scene, one source said.



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In the video, at least two of the agents can be seen searching the pavement with the flashlights attached to their rifles, the source said.

“You see all five of the HRT members have a meeting and immediately thereafter it appears that four of them go look to make sure no one is approaching,” the source said. “One of them goes, bends over, obviously picks something up off the pavement where the missing rifle brass should have been.”

The unidentified agent then “moved a few feet over, bent over and picked up a second item off the pavement,” the source said.

Crimes scenes like this are not meant to be touched so that investigators can document it “so that everything can be put into a 3-D diagram,” the source said.

Another source described the same video and events. While it’s difficult to see individuals, the second source said, it’s clear they are FBI HRT agents.

“It doesn’t look good, I’ll tell you that,” the source said.

Details of the video were first reported by The Oregonian and have since been confirmed by OPB.

Angeli, the defense attorney, said Thursday the trial centers around expert testimony.

He said it appears the government’s case will turn on modeling of the shooting done by a deputy or deputies at the Deschutes County Sheriff’s Office.

Angeli indicated the defense may challenge whether the deputy, or deputies, were qualified to do that kind of work.

Federal prosecutors are scheduled to turn over the rest of their discovery by Sep. 15.

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#### 4. Elite firefighter killed while battling western Montana blaze

*Reuters, Aug. 4 | Brendan O'Brien*

(Reuters) - An elite California firefighter was killed by a falling tree while battling a blaze in western Montana, the second firefighting death in the area over the last two weeks, officials said.

Brent Witham, 29, of Mentone, California, was killed on Wednesday while fighting the so-called Lolo Peak Fire about 30 miles (50 km) south of Missoula in the Lolo National Park. It was sparked by lightning on July 15, the Missoula County sheriff and coroner said.

Witham was given CPR at the scene, but could not be revived, the Missoulian newspaper reported.

"Please keep wildland firefighters on the Lolo Peak fire and firefighters across the nation in your thoughts and prayers," Leigh Golden, the fire department's public information officer, said in an emailed statement to the newspaper.

Witham was a member of the Vista Grande Hotshots, an elite firefighting crew, one of 113 20-member specially trained squads in the United States that fight wildfires at close range with hand tools.

Witham's death comes two weeks after Trenton Johnson, 19, was struck by a tree and killed while fighting the Florence Fire, a blaze in the Lolo National Forest, on July 19.

An elite squad of 19 Arizona firemen were killed in Arizona in 2014, the worst U.S. wildland firefighting tragedy in 80 years.

Witham was one of about 350 firefighters battling the Lolo Peak Fire that has burned 6,500 acres (2,600 hectares) of high elevation timber 10 miles (26 km) southwest of Lolo, forcing some evacuations.

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#### 5. Union, feds at odds on countering surge in coal mine deaths

*SF Gate News, Aug. 3 | Dylan Lovan*

LOUISVILLE, Ky. — Deaths in U.S. coal mines this year have surged ahead of last year's, and federal safety officials say workers who are new to a mine have been especially vulnerable to fatal accidents.

But the nation's coal miner's union says the mine safety agency isn't taking the right approach to fixing the problem.

Ten coal miners have died on the job so far this year, compared with a record low of eight deaths last year.

The U.S. Mine Safety and Health Administration is responding to the uptick in deaths with a summer initiative, sending officials to observe and train miners new to a particular mine on safer working habits. The push comes during a transition for the agency, amid signals from President Trump that he intends to ease the industry's regulatory burden.

The miner's union, the United Mine Workers of America, says the agency initiative falls short. It notes federal inspectors who conduct such training visits are barred from punishing the mine if they spot any safety violations.

"To take away the inspector's right to issue a violation takes away the one and only enforcement power the inspector and the agency has," union President Cecil Roberts wrote in a recent letter to the federal agency.

Patricia Silvey, a deputy assistant secretary at the Mine Safety and Health Administration, said eight of the coal miners who died this year had less than a year's experience at the mine where they worked.

"We found from the stats that category of miners were more prone to have an accident," Silvey said before the 10th death occurred at mine in Pennsylvania on July 25.

Silvey pointed to a death in May at West Virginia's Pinnacle Mine where a miner riding a trolley rose up and struck his head on the mine roof. She said the fatality could have been due to the



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miner's unfamiliarity with the mine. The miner had worked there nine weeks, according to an accident report. And in the most recent death, a miner less than two weeks into the job at a mine in eastern Pennsylvania was run over by a bulldozer July 25.

Five of the 10 coal mining deaths this year have occurred in West Virginia, and two more in Kentucky. Alabama, Montana and Pennsylvania each had one coal mining death. Nine of the miners killed this year had several years' experience working at other mines.

The mine safety agency's injury numbers show that workers who were new to a mine had more than double the injuries. Going back to October 2015, miners who worked at a specific mine less than a year suffered 903 injuries, compared with 418 for miners working at a mine one to two years.

The mine safety agency says it will visit mines and "offer suggestions" on training miners who have been at a mine less than a year. Silvey said the union is correct that inspectors won't be writing safety violations, but that the initiative "has in no way undermined our regular inspection program."

The miner's union said the federal agency should not expect safety suggestions to carry the same weight as citations and fines.

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#### 6. **DEFENSE: Sage grouse, chemicals amendments await NDAA debate**

*E & E News, Aug. 4 | Nick Sobczyk*

Sage grouse riders have a history of at least trying to find their way into the annual defense policy bill, and this year will be no different.

A proposed amendment from Sen. Mike Lee (R-Utah) — one of hundreds submitted ahead of Senate debate on the fiscal 2018 National Defense Authorization Act this fall — would decentralize greater sage grouse conservation and implement state management plans for the rangeland birds.

The Lee proposal would also prevent the Fish and Wildlife Service from listing the species as endangered until at least 2027.



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Even though sage grouse management is more the purview of natural resources panels and bills, lawmakers who worry about the bird protections affecting development on public lands say they could also affect military installations.

Though nearly identical provisions have come close to making it into the final bill in recent years, this latest sage grouse rider is unlikely to even get a vote on the Senate floor.

Senate Armed Services Chairman John McCain (R-Ariz.) has long fought against what he sees as unrelated policy riders, and leadership is hoping to move NDAA quickly to President Trump's desk after the recess.

McCain has thwarted sage grouse efforts from Lee and fellow Utah Republican Rep. Rob Bishop during conference talks in each of the last two years.

And given the massive roster of amendments submitted by Senate lawmakers this year, McCain is likely to focus attention on other issues (E&E Daily, Nov. 18, 2016).

Bishop, for his part, shied away from the sage grouse issue during the committee stage of the defense authorization bill in the House earlier this year.

The final version, passed last month, did not include any contentious environmental riders, save for one Democratic provision on climate change that eventually drew bipartisan support (E&E Daily, June 28).

The Senate's NDAA has provisions on wildfire, and the Armed Services Committee included climate language in its report on the bill. The Senate bill would also authorize the Coast Guard to acquire up to 6 new polar icebreakers, a longtime need for the agency (E&E Daily, July 12).

Senate lawmakers may also look to prevent Russia from providing energy resources to U.S. military bases in Europe with a proposed amendment from Sen. Pat Toomey (R-Pa.).

That measure would encourage the Department of Defense to reduce dependence on Russian fuel sources and report to Congress on its work to mitigate the risk that comes with buying fuels sourced in Russia.



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The goal, said a Toomey spokesman, would be for DOD to work with the Senate Armed Services Committee so Congress could appropriate funds for projects aimed at moving to alternative sources of fuel.

#### **Chemicals, Yucca Mountain**

Toomey last week also proposed an amendment to NDAA that would assess exposure of residents near eight former military installations to perfluorinated chemicals (PFCs), which were used for years in Air Force firefighting foam.

The measure is one of two on PFCs proposed ahead of debate on the bill. The other, from Sen. Kirsten Gillibrand (D-N.Y.), would set maximum contaminant level goals for PFCs.

Both provisions are part of a larger push in Congress this year to get the military to double down on cleanup efforts around contaminated installations.

House lawmakers last week approved \$30 million to help mitigate drinking water pollution from PFCs as part of their minibuss spending package (E&E Daily, July 28).

The House-passed version of the NDAA also includes a number of amendments related to PFCs, including one that would require a health impact study (Greenwire, July 14).

And on Tuesday, 14 members of Congress penned a letter to President Trump urging him to hasten the Pentagon's ongoing investigations into PFC contamination around bases nationwide.

"It is critical that DOD take immediate action to prevent further exposure," the letter says. "Despite the dangers PFCs present, DOD has been slow to provide safe drinking water to those areas with contaminated water."

Senate lawmakers have proposed a slew of other environment and energy-related provisions ahead of debate on NDAA, including:

- A provision from Sen. Maria Cantwell (D-Wash.) to require DOD to collaborate with the Department of Energy on cybersecurity for energy delivery systems and infrastructure.
- An amendment from Sen. Rand Paul (R-Ky.) to allow DOD to produce and use natural gas located under Kentucky's Fort Knox.



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- A provision from Sen. Amy Klobuchar (D-Minn.) to establish a health center for prevention and diagnosis of diseases related to military burn pits and other environmental hazards.
- A measure from Sen. Mazie Hirono (D-Hawaii) to give DOD authority to use the energy savings investment fund for energy management initiatives.
- Another provision from Hirono to require a report from DOD to Congress on projects to improve energy resilience.
- An amendment from Sen. Dean Heller (R-Nev.) to require the Air Force secretary to report on the impact of the Yucca Mountain nuclear waste repository on nearby military installations.
- A measure from Sen. Elizabeth Warren (D-Mass.) to require a report on significant vulnerabilities to the electric grid.

#### **Road ahead**

The schedule for debate on the bill remains in flux, however, after Paul delayed a procedural motion last week to take up the NDAA.

Majority Leader Mitch McConnell (R-Ky.) and Minority Leader Chuck Schumer (D-N.Y.) had both hoped to move on the measure last week after the Senate rejected the Republican health care reform effort in the early hours of Friday morning. That would have allowed McCain to preside over debate before heading home Monday to start treatment for brain cancer.

Paul objected in an effort to secure debate on his bipartisan measure to roll back authorizations for the use of military force enacted during the George W. Bush administration.

McCain in a statement last week said he planned to come back to the Senate after the August recess, and on Wednesday, he told Arizona's 550 KFYY that he would be back next month.

McCain, who had pushed to finish up work on NDAA last week, expressed frustration with Paul, though he declined to mention him by name.

"It is unfortunate that one senator chose to block consideration of a bill our nation needs right now, the National Defense Authorization Act," McCain said in a statement last week.

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#### 7. INTERIOR: Energy rhetoric irrelevant in world of \$50 oil — analysts

*E & E News, Aug. 4 | Pamela King*

Six months into Trump's presidency, Interior Department actions to bring the United States to "energy dominance" have done little to boost confidence in a market where the price of a barrel of oil hovers just below \$50.

Vincent DeVito, counselor to Interior Secretary Ryan Zinke for energy policy, has said the "level of optimism" the department hears from investors will be an important metric for measuring the success of the agency's energy policies (Energywire, June 29).

But analysts say federal regulators can do little in light of the reality that crude prices are now about half what they were at the peak of the U.S. drilling boom.

"If oil prices were as low as they were 18 months ago, the best rhetoric in the world could not change the fact that companies are suffering from low oil prices," said Pavel Molchanov, senior vice president and equity research analyst at Raymond James & Associates Inc. "When oil was \$100 a barrel, the fact that the rhetoric out of the Obama White House was not as friendly to oil did not make any difference. The industry was in fantastic shape. It was going gangbusters.

"Fundamentals are what count. For this industry, commodity prices are what count."

The number of active rigs in the United States — the best indicator of a revival in the oil patch — is up 495 from last year, according to Baker Hughes data. But that has nothing to do with politics, Molchanov said.

"It has everything to do with the level of oil prices," he said.

Interior's moves to open up offshore drilling in the Alaskan Arctic and along the Atlantic coast are also unlikely to spur major new activity, Molchanov said.

"Industry does not want to drill in those places right now because prices are relatively weak," he said. "The idea that companies would jump at the chance to drill in the Arctic is somewhat of a fantasy."



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Limitations to Interior's power over the energy industry stem from the agency's restricted scope. Interior controls activity on federal lands, but the hottest U.S. shale plays — such as North Dakota's Bakken Shale and Texas' Permian Basin — are located primarily on state and private land, Molchanov said.

Industry groups say formations with lots of public lands overlap — like Utah's Uinta Basin and Colorado's Piceance Basin — have been burdened from the start because of additional federal regulations.

"What we're looking for is a fair playing field in public land states," said Kathleen Sgamma, president of the Western Energy Alliance. "We're competing with other areas of the country without public lands. We're asking the federal government to rationalize its policies so that we're not at such a disadvantage."

The market needs time to absorb Interior's actions, she said.

"We're in the stage of being hopeful these policies will bear fruit," Sgamma said. "It was a huge lift just not to have a third term of the Obama administration, and we've seen several positive developments regarding the regulatory environment."

Sean Moran, chairman of the oil and gas practice group for Buchanan Ingersoll & Rooney PC in Pittsburgh, said even though his clients aren't directly affected by Interior actions, he has noticed an increased sense of optimism since President Trump took office.

Approval of the Keystone XL pipeline and a recent deal to ship 700,000 tons of U.S. coal to Ukraine signal that the new administration is moving on its energy goals, Moran said (Greenwire, March 24; Climatewire, Aug. 1).

"It creates an environment where people are more willing to deploy capital," he said.

Because oil prices are tied to the global economy, Trump's foreign policies are the most likely avenues for change in the U.S. energy industry — but there's no telling what form that change could take, said Thomas Pugh, commodities economist for Capital Economics Ltd. in London.

An embargo by Saudi Arabia and its neighbors on oil-rich Qatar — a move that followed Trump's visit to the Persian Gulf — could lead to a sharp increase in oil prices and a rebound in



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U.S. production, he said. On the other hand, the blockade could disrupt a deal to cut output from OPEC, keeping supply high and prices low.

"Prices will have a far bigger impact on domestic U.S. oil and gas production than anything Trump does," Pugh said. "You can make as much government land available for drilling as you want, but if West Texas Intermediate prices go back to \$45 per barrel or stay low, things are going to stay the same."

#### **Regulatory uncertainty**

Interior's respective rewrite and rescission of the Bureau of Land Management's methane and hydraulic fracturing rules will likely have a real impact on production costs, but their value is mostly symbolic and speculative at this point, said Kevin Book, managing partner of ClearView Energy Partners LLC.

"Neither of those changes really move the needle on oil and gas production," he said. "They matter in the abstract."

If anything, scaling back federal rules may introduce more uncertainty for an industry that relies heavily on a predictable regulatory environment, said Kate Kelly, public lands director at the Center for American Progress and former senior adviser to Interior Secretary Sally Jewell under President Obama.

"They're introducing a huge level of uncertainty with the myriad reviews that are going on behind closed doors," Kelly said. "There are questions about what the rules will be, what will be rolled back, what will replace them."

"Industry doesn't mind commonsense regulations. They just want to know what those rules are."

BLM is planning to rewrite its rule to curb methane emissions from oil and gas operations on public lands, but the agency hasn't said whether it will redo the fracking rule it plans to rescind. Obama's versions of those rules are currently tied up in litigation.

It isn't obvious whether the fracking rule would have stood up in court, but dismantling it altogether allows uncertainty to persist, Book said.





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"By providing regulatory certainty, the Trump administration could encourage or at least invite future investments," he said. "If the Trump administration veers more toward a 'rip it up' approach to rulemaking, the implication could be that uncertainty limits future investments."

The Independent Petroleum Association of America has argued in court that BLM was never able to demonstrate a difference between what the federal government was trying to do under the fracking rule and what state regulators had already done.

"There really never was a major problem," said Dan Naatz, IPAA senior vice president of government relations and political affairs. "It was just the Obama administration trying to address a perceived problem. The states are always in a better position to regulate."

Because the fracking rule never went into effect, its rescission doesn't reintroduce regulatory uncertainty — it simply maintains the status quo, Naatz added.

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#### 8. **INTERIOR: Zinke, Murkowski share beers, tweet selfie**

*E & E News, Aug. 4 | Scott Streater*

South Dakota Sen. John Thune (R) introduced legislation to shield national forest managers from some environmental reviews in an effort to expedite forest health projects that reduce the risk of catastrophic wildfires.

Thune's [bill](#) would "address the forest health crisis" on national forestlands, in part by allowing forest managers to expand the use of categorical exclusions to 10,000 acres from 3,000 acres. Doing this "would greatly increase forest management and treatment landscapes," according to a summary of the bill from Thune's office.

Categorical exclusions exempt forest managers from National Environmental Policy Act (NEPA) requirements to prepare a detailed environmental analysis before conducting smaller-scale forest management activities.

The use of categorical exclusions in Thune's bill would be limited mostly to "commercial thinning" and wildlife habitat improvement projects. It would also allow exclusions for "the



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incidental removal of trees" for road clearing and construction "of a temporary road that is not longer than 1 mile to carry out that commercial thinning," the bill text states.

Thune's "Forest Management Improvement Act of 2017" would also allow categorical exclusions for projects meant to salvage "trees that are dead, dying, or both, and were damaged by wind, an ice storm, fire, or another event." And it would expand the use of the exclusions for projects that are designed to slow insect infestations like pine beetles that have killed millions of trees across hundreds of thousands of acres.

Where an environmental assessment (EA) or environmental impact statement (EIS) is conducted, Thune's bill would restrict the scope of the analysis to only the proposed project and a "no-action" alternative, a move that appears aimed at reducing the length of the NEPA document.

Thune said in a statement that the legislation, which he wants included in the 2018 farm bill, is badly needed to protect and restore national forestlands.

"Truly effective forest management must include overcoming the pine beetle infestations in the Black Hills and other national forests," Thune said.

But the Forest Service, he said, "is excessively burdened with NEPA compliance obstacles" that prevent it from "pursuing proactive land stewardship goals for habitat management, recreational improvement, road maintenance, forest health, and wildfire protection, among other areas."

He added, "By expediting and simplifying implementation of common-sense timber management tools, as my bill would allow, we can achieve these land stewardship goals, protect our environment, and grow our economy."

Streamlining forest management requirements in the name of preventing wildfires and slowing insect infestation has been a source of legislative debate for years.

More than 86 million acres of national forestlands are considered to be at high risk for wildfires as well as insect infestation. Dead trees killed by fire or pine beetles are especially vulnerable to wildfires.



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Rep. Bruce Westerman (R-Ark.) in June introduced the "Resilient Federal Forests Act," [H.R. 2936](#), which like Thune's bill would authorize the Forest Service to expand the use of categorical exclusions to 10,000 acres.

The higher limit would apply to areas at risk of wildfire because of disease or recent fires. In cases where various agencies and local authorities are collaborating on such projects, the area eligible for categorical exclusions could be up to 30,000 acres (E&E Daily, June 23).

The House Natural Resources Committee in June passed Westerman's bill, 23-12 (Greenwire, June 27).

The Thune and Westerman bills both would establish an arbitration pilot program as an alternative dispute resolution process meant to bypass litigation.

Thune, like Westerman, said he doesn't want to completely exempt forest management projects from environmental review. He said he wants to streamline the level of detail — and thus the time and money involved — that's required to complete an EA or EIS.

"The changes I've proposed would go a long way to provide relief from unnecessary and burdensome red tape and improve national forest management," Thune said.

His bill has the support of Tom Troxel, executive director of the Intermountain Forest Association.

"This bill would allow the U.S. Forest Service to implement projects on the ground more efficiently to achieve forest plan goals and reduce the potential for catastrophic fires and mountain pine beetle epidemics," Troxel said.

#### **Ending 'fire borrowing'**

Meanwhile, a bipartisan group of senators is pushing for approval of legislation that would end the Forest Service's practice of borrowing money from non-fire-related accounts to pay for fire suppression, which takes up more than half of the agency's budget (see related story).

Critics say that with so much money tied up in fire suppression, the Forest Service can't adequately fund forest health projects that could help prevent wildfires.



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Led by Sen. James Risch (R-Idaho), four senators sent a [letter](#) yesterday to the chairman and ranking member of the Senate Banking, Housing and Urban Affairs Committee, urging them to advance a National Flood Insurance Program reauthorization bill that includes a provision ending "fire borrowing."

At issue is [S. 1571](#), introduced last month by Senate Banking Chairman Mike Crapo (R-Idaho), which includes a section that would treat wildfires on federal lands as a "major disaster."

Doing so would allow the Agriculture and Interior secretaries to petition the president to declare wildfire-ravaged lands as national disaster areas eligible for disaster relief funding once congressionally appropriated wildfire suppression funds have been exhausted. The president could then transfer money from a Disaster Relief Fund subaccount to either agency "to conduct wildfire suppression operations," instead of pilfering from other programs.

"Over the years, we have worked to fix fire borrowing in any way we could find," the senators wrote in the letter to Crapo and Ohio Sen. Sherrod Brown, the committee's ranking Democrat.

In addition to Risch, Democratic Sens. Martin Heinrich of New Mexico and Jeff Merkley and Ron Wyden of Oregon signed the letter.

"We have worked together on amendments, letters to the administration, spoken repeatedly at committee hearings, and given speeches on the Senate floor to bring attention to the severity of this problem," they wrote. "Yet year after year, fire season after fire season, the fires continue to worsen and any attempt at a fix gets snarled in Washington politics."

They concluded: "Fixing the broken system of wildfire funding through the National Flood Insurance Program Reauthorization Act of 2017 will ensure that federal agencies have the stable funding they need to not only fight wildfires but also complete forest health projects that will reduce the risk and severity of future fires. We stand ready to help in any way we can to get this over the finish line."

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#### 9. **WILDFIRES: White House supports ending 'fire borrowing'**

*E & E News, Aug. 4 | Maxine Joselow*

The Trump administration supports ending the practice of "fire borrowing," a Forest Service employee confirmed yesterday during a Senate Energy and Natural Resources Committee hearing.

The White House is "absolutely committed" to addressing the practice, in which the Forest Service and the Interior Department dip into money from other programs to cover the increasing cost of wildfires, said Victoria Christiansen, deputy chief of state and private forestry at the Forest Service.

Her remarks came in response to a series of questions from Sen. Ron Wyden (D-Ore.). "The Obama administration supported finding an end to fire borrowing," Wyden said.

"Every year, more and more of the budget is used to pay for wildfires, leaving forests in poor health and at an even greater risk of catastrophic wildfires," he said. "I'd just like to get for the record, because I don't think you all have been asked on this, is the Trump administration's position the same as the Obama administration's position on this?"

Wildland fire management has so far defied congressional attempts at compromise. Lawmakers remain mired in debate over how to pay for the blazes and how to alter the Forest Service's management of fire-prone areas (E&E Daily, July 31).

Last month, Sens. Mike Crapo (R-Idaho) and Sherrod Brown (D-Ohio) included a wildfire funding solution in a bill reauthorizing the National Flood Insurance Program (E&E Daily, July 19).

Their bill proposes treating wildfires similarly to natural disasters like floods and hurricanes, which are paid for by a disaster relief fund.

The idea got little mention during yesterday's hearing. Instead, Chairwoman Lisa Murkowski (R-Alaska) emphasized the need to address technological challenges facing firefighters.

The Forest Service relies on a fleet of tanker airplanes that drop a mix of chemicals and water on fires. But these airplanes have their limitations, Murkowski said.



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"You've got some technological issues that you're dealing with," she said. "Batteries take two hours to recharge. You're limited to line of sight, which means that you can only do this during the day.

"For us in Alaska during the summertime, we've got the benefit of 24 hours up there," she added. "But in other places, you have more limited application."

The Forest Service has also expressed interest in using drones for firefighting. But it has yet to establish a formal system governing the technology's use.

Bryan Rice, director of Interior's Office of Wildland Fire, said the agency continues to explore the possibilities of unmanned aircraft as the technology advances.

"The use of unmanned aircraft systems is becoming increasingly important in our day-to-day fire operations," he said.

This week, Sen. John Thune (R-S.D.) released a forest management bill with fire components. And Wyden helped pen a letter urging action.

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#### 10. **REGULATIONS: Obama rules could yield \$300B annually in benefits — study**

*E & E News, Aug. 4 | Niina Heikkinen*

The benefits of Obama-era rules to curb greenhouse gas emissions would greatly exceed the costs in the coming years, according to a new analysis.

Regulations designed to control emissions from power plants, oil production and motor vehicles could together lead to close to \$300 billion in net benefits per year by 2030, according to the report by Columbia University's Sabin Center for Climate Change Law.

The paper comes as President Trump has sought to roll back any regulations his team says could hinder domestic energy development and is part of a broader shift in focus away from action on climate change throughout the administration.

While the Trump administration has taken other actions to depart from the Obama administration's climate change priorities — like pulling out of the Paris Agreement — the



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analysis cites the elimination of these rules as having the greatest impact on the nation's ability to address climate change.

"We wanted to challenge the argument made by the opponents of the rules that these rules impose undue costs on industry and society as a whole. We also wanted to look at these rules as a complete package," said Jessica Wentz, a staff attorney at the Sabin Center and co-author of the paper, in an email.

In "[The Price of Climate Deregulation](#)," Wentz and Nadra Rahman, a Sabin Center intern, analyzed the projected economic impacts of major regulations aimed at controlling carbon dioxide and methane: U.S. EPA's Clean Power Plan, the Bureau of Land Management's Methane and Waste Prevention Rule, EPA's 2016 New Source Performance Standards for the oil and gas sector, and EPA's emissions standards for both light-duty and heavy-duty vehicles.

The authors aimed to make federal data on the regulations' impacts more accessible to the general public, Wentz said.

"I wouldn't say the results were unexpected, but I do think this project helped us (and the public) to better understand the magnitude of the social impact of rescinding or modifying these rules," she wrote.

Rahman and Wentz primarily aggregated EPA and Interior's own cost-benefit projections of the Obama-era regulations. They also compared the values to separate cost-benefit analyses developed by independent researchers, a number of whom challenged the agencies' analyses of the regulations, alternately stating that EPA and BLM had overestimated benefits or underestimated costs.

The \$370 billion in gross benefits includes the positive impacts of reducing 980 million metric tons of carbon dioxide equivalent by 2030, along with the health benefits of also reducing other pollutants, such as nitrogen oxides.

These benefits would be four times greater than the projected \$84 billion in total costs of implementing major regulations crafted under the Obama administration, said researchers in a paper published on the center's website yesterday.

On a year-to-year basis, the economic benefits can either significantly exceed, or at the very least match, the cost of implementation. Some of the highest potential benefits come from



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implementing the Clean Power Plan and from standards for medium- to heavy-duty vehicles. The total does not include other benefits like job creation and long-term climate change mitigation benefits.

#### **Clean Power Plan**

Based on EPA's estimates, the net economic benefits of the rule could be around \$7 billion in 2020, and then rise to \$46 billion in 2030.

These figures included: compliance costs, an estimated reduction of 74 million metric tons of CO2 emissions in 2020 and a reduction of 375 million metric tons in 2030. The dollar values also counted health benefits resulting from the reduction of other pollutants like sulfur dioxide and nitrogen oxides.

The economic benefits don't include other potential positives of the rule like avoided premature deaths, lower exposure to hazardous air pollutants and impacts on ecosystems.

The researchers note that the economic benefits are calculated using a social cost of carbon, a complex metric that puts a dollar value on the emission of 1 ton of carbon. The value takes into account how rising global temperatures will affect the planet and society (Climatewire, Feb. 13).

In the president's "energy independence" executive order, Trump signaled that the administration would seek to alter this method of calculating the costs of climate change, though agencies could use a related metric that would only take into account domestic impacts of climate change (Climatewire, April 6).

#### **Motor vehicle emissions**

Light-duty vehicles: The fuel efficiency improvements alone for light-duty vehicles are enough to offset the costs of implementing rules on emissions from these vehicles, according to the EPA figures the researchers cited.

The net economic benefits of fuel efficiency standards for model years 2012 to 2016 are expected to be \$34.7 billion in 2020 and \$100.4 billion in 2030. Meanwhile, standards for model years 2017 through 2025 could lead to net benefits of \$168 billion in 2020 and \$81.4 billion in 2030.





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Medium and heavy-duty vehicles: According to EPA data, phase one of emissions standards for these vehicles, for model years 2014 to 2018, could lead to net benefits of \$10 billion in 2020 and \$27.3 billion in 2030. Phase two, for model years 2019 to 2028, could have net benefits of \$31.5 billion in 2020 and \$74.4 billion in 2030.

#### **New Source Performance Standards for the oil and gas sector**

As with the Clean Power Plan, EPA used the social cost of carbon metric to calculate the net monetary benefits of controlling methane, volatile organic compounds and toxic air pollutants emitted from new and modified sources. The net benefits of the rule could be \$37 million by 2020 and go up to \$180 million in 2025.

These numbers consider compliance costs and methane emissions reductions of 300,000 short tons in 2020 and 510,000 short tons in 2025.

Not all benefits were included. EPA did not put a dollar value on the health benefits of potential reductions in ozone, which is formed from volatile organic compounds. Estimates also did not include potential natural gas savings from captured methane.

#### **Methane and Waste Prevention Rule**

This BLM rule aims to reduce venting, flaring and leaking of methane on public and Native American lands.

Preventing the potent greenhouse gas from escaping could lead to net economic benefits of \$126 million in 2020 and \$197 million in 2025. This is based on methane reductions of about 177,000 short tons in 2020 and 179,000 short tons in 2025. It also considers factors like the resale value of recovered natural gas and costs of compliance.

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#### **11. FORESTS: The West burns as lawmakers struggle to fix wildfire policy**

*E & E News, Aug. 4 | Brittany Patterson*

As wildfires burst to life in the mountainous West, lawmakers are searching for legislative fixes to old challenges related to forest management and fire suppression funding.



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But it's unclear if past disagreements that hamstrung Forest Service budgets by redirecting funding into empty accounts for firefighting can be overcome now that Republicans, including many from the West, are operating the levers of government.

"We do have a new Republican-controlled Congress and executive branch, so that's encouraging," said Diana Madson, executive director of the Mountain Pact. "However, it's hard to really know."

There is no shortage of ideas on how to fix the problems.

In June, Reps. Mike Simpson (R-Idaho) and Kurt Schrader (D-Ore.) introduced [H.R. 2862](#), the "Wildfire Disaster Funding Act." The bill, similar to legislation introduced with the same name in 2015, would allow the Forest Service to access disaster funding when fighting wildfires exceeds the cost of its 10-year average.

Last month, Sens. Mike Crapo (R-Idaho) and Sherrod Brown (D-Ohio) included language in Section 102 of the National Flood Insurance Program bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The provision would allow federal agencies to tap into disaster relief dollars managed by the Federal Emergency Management Agency when fighting fires (E&E Daily, July 19).

Both bills would reduce "fire borrowing," a practice by which the Forest Service transfers money from its non-fire accounts to pay for firefighting. The agency has done that 12 times since 2002.

The Forest Service estimates that if no fix is found, 67 percent of the budget — including almost \$700 million in non-fire program dollars — could be devoted to suppressing fire by 2025.

Lawmakers' efforts have come as a representative from the Forest Service confirmed yesterday that the Trump administration supports finding a fix for the fire borrowing problem.

Victoria Christiansen, the Forest Service's deputy chief for state and private forestry, told the Senate Energy and Natural Resources Committee that the Trump administration is "absolutely committed" to the effort (E&E Daily, Aug. 4).

But it's unclear if that will actually happen.



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"It's promising that it's been introduced in both the House and Senate ... but I don't know how much of appetite there will be for bipartisan legislation with everything else going on," said Madson.

Cecilia Clavet, the Nature Conservancy's senior policy lead on fire and forests, expressed optimism about finding a flexible solution.

The Nature Conservancy is part of the Partner Caucus on Fire Suppression Funding Solutions, a bipartisan coalition of conservation, sportsmen's and recreation groups. Many of those organizations support the "Wildfire Disaster Funding Act" and the Crapo-Brown language in the flood insurance bill.

"We're in the same place we've been," Clavet said. "There is general agreement that we want to fix the problem, but it's just which one is the right approach, and at the end of the day, we need a comprehensive solution that works."

Challenges remain. One is the desire by some lawmakers to tackle a fix for the way wildfire suppression is funded, while also boosting efforts to treat more acres of forest.

A bill by Rep. Bruce Westerman (R-Ark.), [H.R. 2936](#), the "Resilient Federal Forests Act," would ease environmental hurdles for forest-thinning projects. It's expected to pass the House but faces a less certain future in the Senate. Environmental groups oppose provisions that would allow up to 10,000 acres of land at risk for fire to be thinned with less-rigorous environmental reviews (E&E Daily, June 23).

Different interest groups often come to the table with different perceptions of how forest restoration work should be done. Some want more logging for commercial purposes; that's a deal-breaker for others.

"Most of us believe there needs to be significant forest restoration for wildfire prevention and forest health, but there are different definitions of what that means," Madson said.

Meanwhile, fire rages across the West.

Hot, dry and windy conditions are expected to persist in Montana, and fire danger is expected to remain high across much of the West through the summer.



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Montana is bearing the brunt of fiery devastation. More than 30 fires are burning across the state, 11 of which are classified as large. Hundreds of people have been evacuated, and two firefighters have been killed.

"We're having discussions now in early August that we normally have in early September, so we have a long ways to go yet in this fire season," said Sen. Steve Daines (R-Mont.), speaking at the Senate Energy and Natural Resources Committee hearing yesterday. "We do need to address how we fund and prepare communities for wildfires."

His comments were echoed by committee members on both sides of the aisle, who uniformly expressed frustration that previous legislative fixes have not gained traction.

"This just cannot continue," said Sen. Ron Wyden (D-Ore.).

Fire seasons in the United States are 80 days longer on average than they were in 1970 and burn twice as many acres, according to the Forest Service. Agency scientists say the changing climate is a major factor driving larger and longer fire seasons.

In response to a question by Sen. Al Franken (D-Minn.), all of the witnesses — including Christiansen with the Forest Service and Bryan Rice, director of the Office of Wildland Fire at the Interior Department — agreed that climate change is a driving reason behind today's longer fire seasons.

Temperatures in Montana have increased about 2 degrees Fahrenheit since the early 20th century, and models project that they could exceed historical averages by 2050, according to NOAA's National Centers for Environmental Information.

Warmer temperatures are expected to shift some snowfall to rain and trigger earlier spring runoff. In addition, the intensity of droughts is expected to increase.

Future conditions under climate change mirror what happened this year in Montana.

Drought has been a major reason behind the state's current fires, said John Grassy, communications officer with the Montana Department of Natural Resources and Conservation.

He said everything looked good until May, when temperatures spiked and the rains didn't come. A month later, much of the eastern side of the state was in drought. Today, 85 percent of



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Montana is facing dry conditions, with nearly 12 percent under "exceptional drought," the highest intensity, according to the U.S. Drought Monitor.

"All of this has combined to dry fuels out," Grassy said. "And that's really what sets the stage for bigger, faster-moving fires."

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#### 12. **ENERGY POLICY: Interior moves to scrap fossil fuel valuation rule**

*E & E News, Aug. 4 | Ellen M. Gilmer and Dylan Brown*

The Trump administration will carry through on reversing recent changes made to how the federal government values coal, oil and natural gas for assessing royalties.

The Office of Natural Resources Revenue (ONRR) will publish a final rule undoing the Obama administration's fossil fuel valuation rule in Monday's edition of the Federal Register. Thirty days later, the agency will revert to its previous standards.

Last year, ONRR finalized new requirements that would have based royalties on the value of a commodity at the first "arm's length" transaction, among other reforms.

Critics applauded closing what they saw as a loophole allowing companies, mainly coal mining firms, to sell their product to subsidiaries or affiliates at deflated prices.

The industry responded with several lawsuits to halt what it called "complex, difficult to implement, and far less reliable" standards.

After putting implementation on hold in February, the Trump administration identified "significant defects in the rule that would have undermined its purpose and intent."

ONRR said the changes compromised the agency's mission to collect mineral revenues and conflicted with President Trump's executive order to eliminate regulations that burden energy development.

ONRR also noted that Interior Secretary Ryan Zinke has begun the process to re-establish the Royalty Policy Committee, a defunct federal advisory panel, when he lifted the previous administration's coal leasing moratorium in March (Greenwire, March 29).



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#### **Legal implications**

Supporters of the Obama rule have not yet signaled whether they plan to sue over the repeal, but the move is expected to have immediate implications for ongoing litigation over Interior's earlier efforts to delay compliance deadlines.

California and New Mexico filed suit in April, arguing that Interior had no authority to sideline the rule before completing a public notice and comment process.

Now, Justice Department lawyers representing Interior are expected to ask the U.S. District Court for the Northern District of California to dismiss the case as moot in light of the finalized repeal.

The lawsuit has been closely watched in recent months, both for its potential direct impacts and for its focus on a legal question that has arisen in debates over another Interior regulation: the Bureau of Land Management's Methane and Waste Prevention Rule.

For both rules, Interior invoked authority under Section 705 of the Administrative Procedure Act to delay compliance requirements. The APA provision allows agencies to postpone the effective dates of rules that are subject to litigation.

States and environmental groups in both cases pushed back on the delays, arguing that Section 705 did not apply to either rule because both had already taken effect before Interior moved to stall them.

Both cases are in California's Northern District, and the eventual outcome in the valuation lawsuit was expected to serve as a strong indicator of how the methane litigation would play out.

Trump administration lawyers will likely move to dismiss the valuation case Monday, when the rollback is formally published in the Federal Register.

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#### 13. **INTERIOR: Watchdog to investigate Zinke's calls to Alaska senators**

*E & E News, Aug. 4 | Kellie Lunney*

The Interior Department's watchdog said yesterday it would start a "preliminary investigation" into Secretary Ryan Zinke's phone calls to Alaska's Republican senators involving votes on the failed GOP health care bill.

Reps. Frank Pallone (D-N.J.) and Raúl Grijalva (D-Ariz.) last week jointly asked Interior's inspector general and the Government Accountability Office to look into whether top Trump administration officials, including Zinke, "are part of a larger effort within the administration to advocate for health care proposals pending before Congress."

The Democrats asked the watchdogs to address several potential legal and ethical violations related to Zinke's calls (E&E Daily, July 28).

"We will advise you about what further action the results of this inquiry lead the OIG to take," said the brief, pro-forma [letter](#) from Interior Deputy Inspector General Mary Kendall to the Democrats.

Interior did not immediately respond to a question for comment on the IG's letter.

Zinke called Sens. Lisa Murkowski and Dan Sullivan on July 26 to complain about Murkowski's "no" vote on proceeding to debate the health care bill.

The Alaska Dispatch News, which broke the story of the phone calls, reported that Sullivan said Zinke had delivered a "troubling message" that "strong economic growth, pro-energy, pro-mining, pro-jobs and personnel from Alaska who are part of those policies are going to stop."

Murkowski declined to discuss her private conversation with Zinke, but she told E&E News that it was "a difficult call" (Greenwire, July 27).

The chairwoman of the Senate Energy and Natural Resources Committee ultimately joined fellow Republicans Susan Collins of Maine and John McCain of Arizona in casting decisive votes that helped sink the health care bill early on July 28.

Pallone and Grijalva are the top Democrats on the Energy and Commerce and Natural Resources committees, respectively.



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"Yesterday's phone calls by Secretary Zinke occurred shortly after President Trump's tweet expressing displeasure with Senator Murkowski, and just one day after DOE Secretary [Rick] Perry generated concerns of impropriety with an editorial weighing in on the health care debate," Pallone and Grijalva wrote in a July 27 [letter](#) to Kendall.

"The close timing of these actions suggests an apparent pattern and organized effort within the Trump Administration involving the use of federal resources to advance partisan legislation," the lawmakers said. "We request your office investigate whether such a pattern or organized effort exists, whereby Secretary Zinke is advocating for health care proposals pending before Congress."

News of the phone calls sparked a flurry of press coverage and speculation over whether the Alaska senators were being improperly pressured. Zinke last weekend dismissed as "laughable" questions about the calls and rejected characterizations of them as a "threat" (E&E Daily, July 31).

Yesterday morning, Zinke and Murkowski appeared together in a selfie posted on Twitter, smiling and drinking beers (Greenwire, Aug. 3).

"I say dinner, she says brews. My friends know me well. Thanks @lisamurkowski #Alaska #IPA #MadeInAmerica," the secretary tweeted.

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#### 14. **CLEAN WATER RULE: Jurisdictional fight makes for strange bedfellows**

*E & E News, Aug. 4 | Amanda Reilly*

Federal agencies and environmental groups have been on opposite sides of court battles since day one of the Trump administration.

But there's at least one legal issue that the Trump administration and some environmentalists agree on: the correct venue for challenges to the Obama administration's Clean Water Rule.

The Justice Department, Natural Resources Defense Council and National Wildlife Federation filed briefs last week in the Supreme Court arguing that challenges belong in federal appeals courts, not district courts. They urged justices to uphold the 6th U.S. Circuit Court of Appeals' finding that it has jurisdiction to hear litigation over the controversial rule.





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"The judgment of the court of appeals should be affirmed," DOJ said in its brief filed July 28.

"Challenges to the Clean Water Rule belong in the courts of appeals," NRDC and NWF said in a brief filed the same day.

The Obama administration's Clean Water Rule — which is also known as Waters of the U.S., or WOTUS — aimed to clarify which wetlands and streams receive automatic protection under the Clean Water Act. U.S. EPA and the Army Corps of Engineers issued the joint rule in 2015.

A wide array of industry and state opponents characterized the rule as regulatory overreach and challenged it in federal courts. Environmentalists, on the other hand, thought it was too weak and filed their own litigation.

Parties filed a total of 18 lawsuits in district courts and 22 petitions for review in federal appeals courts seeking to strike down the rule. The National Association of Manufacturers and other rule opponents sought to keep the litigation in local district courts, while the Obama administration argued challenges should be heard by appellate courts.

In a February 2016 split 2-1 decision, the 6th Circuit, which earlier put the rule on hold nationwide, found it had jurisdiction to hear challenges.

The National Association of Manufacturers petitioned the Supreme Court to decide the correct legal venue, and in January, the court agreed to take the case.

The choice of court is significant because it affects the resources needed to litigate challenges, sets the statute of limitations for filing lawsuits and helps determine whether actions can be challenged in subsequent civil or criminal proceedings.

And while the Trump administration is moving to repeal and replace the Obama rule, the Supreme Court's decision would likely influence future litigation over whatever replacement rule the Trump White House issues. It could also affect the 6th Circuit's nationwide stay of the rule.

#### **Latest arguments**

NAM's central argument in seeking to knock down the 6th Circuit decision is that the rule doesn't fit within the categories that the Clean Water Act says fall under the jurisdiction of appeals courts.



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Under the law's judicial review provisions, appeals courts have jurisdiction over challenges to "any effluent limitation or other limitation," as well as permit approvals or denials. NAM argues that WOTUS is a definitional rule and itself does not set specific discharge limits or approve or deny any permits.

But government attorneys last week countered that NAM's reading of the rule "cannot be reconciled with the provision's structure and purpose."

The rule, by establishing the boundaries of the Clean Water Act's ban on pollutant discharges and EPA's permitting authority, falls squarely within the realm of appeals courts, the Justice Department argued.

NAM seeks an "irrational bifurcation" in which challenges to specific discharge limits go to appeals courts, while rules governing the geographic scope of those limits go to district courts, DOJ said.

Upholding the 6th Circuit's decision to keep the Clean Water Rule challenges in appeals courts "facilitates quick and orderly resolution of disputes concerning important rules that govern the scope of the [Clean Water Act]," according to the government brief.

In their brief, the Natural Resources Defense Council and the National Wildlife Federation likewise said that NAM's argument turns the language of the Clean Water Act judicial provision on its head.

The green groups said that industry illogically argues, on one hand, that WOTUS will be highly disruptive and, on the other, that the rule is just a definitional provision that doesn't establish any discharge requirements.

"Rather than acknowledge that the Clean Water Rule imposes such limitations, petitioner argues that the Rule has no direct effects on regulated entities at all," the environmentalists said.

There are strange bedfellows on both sides of the jurisdiction issue.

While NRDC and NWF want to keep litigation in the 6th Circuit, other environmental groups have pressed the Supreme Court to return challenges to district courts.



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The Waterkeeper Alliance, joined by the Center for Biological Diversity, the Center for Food Safety, the Sierra Club, and local waterkeeper and restoration groups, filed a brief in April supporting the manufacturing group's position.

State opponents of the rule also want the Supreme Court to declare that district courts have jurisdiction.

Waterkeeper Alliance and the other green groups noted that unlike NAM and the states, they believe the Obama administration's waters rule didn't encompass enough bodies of water.

But "on the limited issue of whether the courts of appeals have jurisdiction," their brief said, "NAM is correct that these cases belong in the district courts."

The Supreme Court has scheduled oral arguments for Oct. 11.

[Click here](#) to read the DOJ brief.

[Click here](#) to read the brief filed by NRDC and NWF.

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#### 15. **EPA: Enviros urge court to boot another Obama-era air reg delay**

*E & E News, Aug. 4 | Amanda Reilly*

Fresh off a victory in their bid to kill the Trump administration's delay in methane standards for the oil and gas industry, greens are asking a court to declare as unlawful another delay of an Obama-era air regulation.

Environmentalists today [asked](#) the U.S. Court of Appeals for the District of Columbia Circuit to vacate U.S. EPA's 90-day stay of a 2016 rule aimed at curbing landfill methane emissions.

They argued the stay is a "carbon copy" of EPA's 90-day delay in methane standards for the oil and gas industry, which the U.S. Court of Appeals for the District of Columbia Circuit last month ruled was illegal.

"[Administrator] Scott Pruitt's suspension of EPA's landfill pollution standards is a carbon copy of his illegal attempt to block methane standards for the oil and gas industry," said David



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Doniger, director of the Natural Resources Defense Council's climate and clean air program. "The court threw out Pruitt's illegal stay of the methane rules last month, and we're asking it to do the same here."

The Obama administration landfill rule represented the first update to emissions standards for new and existing solid waste landfills in 20 years. Along with the oil and gas industry rule, the regulation was part of the Obama EPA's efforts to reduce methane, a potent greenhouse gas.

Issued in July 2016, the rule required landfills to establish gas collection systems and conduct monitoring and included requirements for dumps nearing the end of their lives (Greenwire, July 15, 2016).

Pruitt announced in May that he would delay compliance by 90 days. The agency said it planned to reconsider certain aspects of the rules, complying with requests from industry groups, including the National Waste & Recycling Association and Solid Waste Association of North America (Greenwire, May 23).

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

But the environmentalists today argued the petitions for reconsideration that EPA received were invalid.

EPA failed to "articulate any rationale at all" for five of the six issues raised by the reconsideration petitions, the greens said. And they argued that stakeholders had more than enough opportunity to comment on the sixth issue — the rule's surface emissions monitoring requirements — during the Obama administration.

Similar legal arguments persuaded the D.C. Circuit to toss out EPA's 90-day delay of the methane standards for new oil and gas operations. The court found in a 2-1 opinion that the agency lacked authority under the Clean Air Act to issue the stay (Greenwire, July 3).

"The administrator's action here suffers from the same flaws as the administrative stay vacated by this court," the environmentalists said.

The groups also noted that for both rules, EPA has proposed, but has yet to finalize, longer delays.



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Filing the motion were the NRDC, the Clean Air Council, Clean Wisconsin and the Conservation Law Foundation.

The D.C. Circuit is currently weighing petitions from industry and states to reconsider its decision in the oil and gas case (Energywire, Aug. 4).

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#### 16. **WHITE HOUSE: Trump champions coal exports in W.Va. rally**

*E & E News, Aug. 4 | Zack Colman*

President Trump credited his administration yesterday for overseeing a boom in coal exports and said coal miners "are coming back strong" during a rally in Huntington, W.Va.

Trump visited the Appalachian town on the heels of announcing that a Pennsylvania company had won the rights to supply Ukraine's state power agency with 700,000 tons of thermal coal. He had praised Appalachian coal miners throughout the 2016 campaign and since his move to the White House.

"We are putting our coal miners back to work; we've ended the war on beautiful, clean coal," Trump said. "We've stopped the EPA intrusion. American coal exports are already up."

Coal exports in the first quarter of 2017 hit 22.3 million short tons, up 57.6 percent from 14.2 million the year prior, according to the U.S. Energy Information Administration. Reuters [reported](#) a 60.3 percent increase in coal exports this year, citing unpublished EIA figures shared with the news agency.

Whether Trump is responsible for those gains is less clear. Experts contend that surging demand overseas — where the U.S. coal industry has pinned its economic hopes — has contributed to the recent upturn rather than domestic policies. In the United States, cheap natural gas is pushing coal out of the electricity sector.

For all the growth in exports, jobs in the United States coal mining sector have been more stubborn. Employment rose by 1,100 between December and May, a 2.2 percent gain, to hit 50,800 in the sector, according to the Bureau of Labor Statistics.



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While long-term trends such as increasing automation in the industry, easy-to-mine seams drying up and competition from natural gas stand in the way of a coal rebound, Trump has sought to remove restrictions on mining in several ways. His administration is working on rolling back U.S. EPA's Clean Power Plan, has rescinded the stream buffer rule that sought to rein in water pollution from mining, and has withdrawn from the Paris climate agreement.

"To protect our workers and our coal miners, I also withdrew the United States from the job-killing Paris climate accord," said Trump, who has previously couched his reasons for exiting Paris on the false claim that the pact's emissions-cutting targets are binding.

Trump has also come under criticism for not protecting coal miners, as coal industry injuries are on the rise and his administration hasn't nominated anyone to head the Mine Safety and Health Administration.

"Nothing he is doing is cutting back on the safety," deputy press secretary Lindsay Walters said, per a pool report. "Safety is a top priority, but our main focus is on creating and growing jobs in these communities that rely on the coal industry as a main source of income."

West Virginia overwhelmingly voted for Trump last year, with 67.9 percent of Mountain State voters casting their ballots in his favor. It's part of a long transition that has seen this formerly Democratic union stronghold increasingly go Republican — a reality capped off by Gov. Jim Justice switching back to the Republican Party yesterday after winning his November election as a Republican-turned-Democrat.

The state has gone increasingly Republican in federal elections partly in response to energy policies pushed by former President Obama, who was cast as an enemy to the state's coal mining industry. Declining union membership and decades of dwindling employment that long preceded Obama also blurred traditional animosities between miners and coal operators, who blamed Obama and Democratic climate change policies for coal's struggles — though most analysts finger natural gas for the industry's woes.

Yesterday's speech came on the two-year anniversary of the Clean Power Plan being finalized, raising speculation ahead of time that Trump would make an announcement related to the Obama-era power plant regulation. The rule, which seeks to curb electricity emissions 32 percent below 2005 levels by 2030, has generated a flurry of White House meetings in recent weeks and is reviled by the coal industry (Climatewire, Aug. 1).



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