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Amanda Reilly, E&E News reporter

Published: Monday, July 10, 2017

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

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Published: Monday, July 10, 2017

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<http://bit.ly/2tAxyL4>

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Kellie Lunney and Sean Reilly, E&E News reporters

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The House Interior and Environment Appropriations Subcommittee on Wednesday afternoon will mark up its fiscal 2018 spending bill for the Interior Department and U.S. EPA.

<http://bit.ly/2t6tDSS>

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Scott Streater, E&E News reporter

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Published: Monday, July 10, 2017

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

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Nathanial Gronewold, E&E News reporter

Published: Monday, July 10, 2017

U.S. shale oil production is expected to continue its surge, as analysts foresee stronger output growth than initially expected.

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## **8. Land, tribal bills set for floor vote**

Cecelia Smith-Schoenwalder, E&E News reporter

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The House will vote on a variety of land and tribal bills this week under fast-track consideration, along with a bill adding protections for federal workers.

<http://bit.ly/2u0TP5L>

## **9. Energy bill on standby with health care, budget in flux**

Geof Koss, E&E News reporter

Published: Monday, July 10, 2017

While congressional Republicans struggle to check off big-ticket agenda items from their to-do list before the August recess, bipartisan Senate energy legislation reworked from last year could fill the legislative vacuum in the coming weeks.

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

## **10. OMB releases guidance for more cuts, 'bold reform'**

Arianna Skibell, E&E News reporter

Published: Monday, July 10, 2017

The White House is furthering its efforts to reorganize the federal government, reduce the workforce and streamline operations.

<http://bit.ly/2uJ89xt>

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### **1. Enviro, tribes sue over delayed BLM methane rule**

Amanda Reilly, E&E News reporter

Published: Monday, July 10, 2017

Environmentalists and tribal groups today filed a lawsuit challenging the Trump administration's decision to indefinitely delay an Obama-era rule limiting methane emissions from oil and gas operations on public lands.

Led by the Sierra Club, the groups alleged several violations of the Administrative Procedure Act and asked for a court order immediately reinstating the rule.

"Trump and his administration cannot blatantly ignore the law just to benefit polluters at the expense of everyone else," said Earthjustice attorney Robin Cooley, who is representing environmental groups in the litigation. "Compliance with public health rules cannot be indefinitely delayed while the Trump administration and bad actors within the industry try to undo them."

Other groups joining the litigation include the Center for Biological Diversity, Environmental Defense Fund, National Wildlife Federation and Natural Resources Defense Council.

The lawsuit was filed in the U.S. District Court for the Northern District of California, where California and New Mexico last week also launched litigation challenging the delay ([Energywire](#), July 6).

The Bureau of Land Management last year finalized the rule, which is known as the Methane and Waste Prevention Rule, to address venting, flaring and leaking of methane from oil and gas operations on public and tribal lands.

Key provisions went into effect in January after a federal court in Wyoming rejected industry's bid to put in place an injunction barring its compliance. By a narrow vote in May, the Senate rejected a measure to kill the rule via the Congressional Review Act.

But in June, BLM indefinitely paused January 2018 compliance deadlines for measuring flared gas, upgrading equipment, capturing vapors from storage tanks, and implementing leak detection and repair programs (*Greenwire*, June 14).

The agency stayed the compliance dates under a provision of the Administrative Procedure Act that allows for delaying rules pending judicial review.

Days after the announcement of the stay, BLM successfully convinced the U.S. District Court for the District of Wyoming, which is hearing litigation over the underlying rule, to delay the merits briefing in the case by 90 days to allow the agency to focus on administratively repealing the rule. Judge Scott Skavdahl cited uncertainty around the rule's fate as a reason to delay briefing deadlines (*Energywire*, June 28). In today's **complaint** in California district court, environmental and tribal groups argued that BLM illegally postponed the effective date of a rule that had already been in effect.

The Trump administration cannot use its APA authority to justify giving BLM more time to rescind or revise the rule, the complaint argues.

The groups also alleged that BLM failed to apply the test established by courts to justify a stay, to offer a rational explanation for its changed position on the methane rule and to take into account the effects of the stay.

"Interior's BLM methane waste rule delay flies in the face of overwhelming public support, Congress' recent rejection of an attempt to repeal the rule, a federal court's determination that an injunction halting implementation of the rule was not warranted, and, fundamentally, core precepts of federal law," Erik Schlenker-Goodrich, executive director of the Western Environmental Law Center, said in a statement.

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

## 2. Public comments flood Interior as deadline nears

*Jennifer Yachnin*, E&E News reporter

Published: Monday, July 10, 2017

More than 1.3 million submissions — including some that contain tens of thousands of comments — have poured into the Interior Department ahead of the agency's midnight deadline for public input on its review of the boundaries and management of dozens of national monuments.

Interior Secretary Ryan Zinke has promoted the regulations.gov **website** as a key indicator of public sentiment as he conducts the review mandated by President Trump.

"The secretary is encouraged by the interest in the department's work and appreciates advocates on all sides of the issue weighing in," Interior spokeswoman Heather Swift told E&E News. "The department is hard at work reviewing all the comments, and we will have them read by the end of the review period."

Under an executive order issued in late April, Zinke must submit a review of all monuments created since 1996 that include more than 100,000 acres, as well as those the secretary deemed did not include sufficient public input in their creation.

Zinke issued an interim report last month recommending that Bears Ears National Monument in southeast Utah, which President Obama created in his final weeks in office, be significantly reduced from its current 1.35 million acres (*E&E News PM*, June 12).

He is expected to include specifications for those reductions in his final report due Aug. 24.

That report will also include recommendations for the other 21 land sites as well as five marine national monuments.

But how much weight the public comment process will have in Interior's final recommendations remains to be seen.

Ahead of Zinke's proposal to shrink the Bears Ears monument, an analysis conducted by the Center for Western Priorities found public comments skewed heavily in favor of maintaining the site's current boundaries (*Greenwire*, May 26).

In a new analysis released today, CWP likewise found 98 percent of submissions in favor of maintaining the existing monuments being reviewed, with 1 percent opposed and 1 percent neutral.

The analysis sampled 1,000 comments and has a 3.1-point margin of error.

Wilderness Society President Jamie Williams said that among the 2.3 million comments, most support maintaining the monuments under review without changes.

"The Trump administration and Secretary Zinke have shown an alarming disrespect for America's shared public lands and cultural resources, which must be handed down to future generations healthy and intact," Williams said. "The purported 'review' of national monuments and the rhetoric surrounding its announcement is yet another means to hand these lands over to the oil, gas, mining and logging industries under the false pretense that they will create millions of jobs."

<http://bit.ly/2tAxyL4>

### **3. House panel to mark up Interior-EPA spending bill**

*Kellie Lunney and Sean Reilly, E&E News reporters*

Published: Monday, July 10, 2017

The House Interior and Environment Appropriations Subcommittee on Wednesday afternoon will mark up its fiscal 2018 spending bill for the Interior Department and U.S. EPA.

The legislation, which the committee will unveil tomorrow, is expected to diverge from the Trump administration's budget blueprint, which proposed steep cuts for various EPA and Interior programs popular with lawmakers and constituents.

The White House wants to slash EPA's budget by 31 percent and is seeking an approximate 13 percent cut overall for Interior in fiscal 2018. But Republican and Democratic appropriators in both chambers have said they are uncomfortable over a bevy of proposed cuts targeting a wide range of programs, from regional water cleanup initiatives to land acquisition and conservation efforts.

EPA

The markup will furnish the first concrete look at lawmakers' receptiveness to the White House's bid to slash EPA's budget from \$8.1 billion this year to \$5.7 billion in 2018 (*Greenwire*, May 23).

At a subcommittee hearing last month, even Chairman Ken Calvert (R-Calif.) conceded that EPA Administrator Scott Pruitt had a tough sales job. And ranking member Betty McCollum (D-Minn.) said that a proposed 40 percent cut to some state grants was a "nonstarter" (*Greenwire*, June 15).

The administration's budget request, for example, would zero out regional cleanup efforts like those to reduce pollution in the Great Lakes, Chesapeake Bay, Puget Sound and other areas. The programs are getting close to \$436 million this year, and lawmakers from those regions have indicated they will fight to maintain funding. Rep. Marcy Kaptur (D-Ohio), a subcommittee member, blasted the proposed Great Lakes cuts on a press call hosted by the Sierra Club last month (*E&E Daily*, June 14).

The panel is also likely to reject the administration's bid to cut Diesel Emissions Reduction Act grants from \$60 million to \$10 million; the program, which provides money to replace or retool older higher-polluting diesel equipment, enjoys strong support from both industry groups and environmentalists.

Similarly, Calvert defended Targeted Air Shed grants, which the administration wants to eliminate (*Greenwire*, May 24). That program, which is getting \$20 million this year, steers money to areas with severe ozone and particulate pollution. At the June hearing, Pruitt made little attempt to defend specific cuts in the administration's blueprint but said EPA could still handle its mission "with a trim budget."

Potentially more vulnerable is funding for broader environmental programs and management. Trump's proposed budget would chop that sector from \$2.6 billion to \$1.8 billion. Among the casualties would be all funding for the Clean Power Plan, an Obama administration initiative that the subcommittee last year unsuccessfully sought to block via a rider. Federal support for air quality management, a category that includes EPA's air toxics program and support for development of state implementation plans, would fall 24 percent, from \$132 million to \$100.4 million.

On its own, however, the Appropriations subcommittee has never pursued EPA cuts on the scale sought by the Trump administration. Last year, for example, panel members trimmed just 2 percent from the Obama administration's initial \$8.1 billion draft budget for the agency (*Greenwire*, May 24, 2016).

This year, environmental groups will also be keeping a keen eye on the EPA and Interior spending bill to see if it includes a policy rider similar to one written into the energy and water spending bill last month.

That bill would exempt the Trump administration's repeal of the Clean Water Rule from the Administrative Procedure Act (APA). It comes as the Trump administration seeks to rescind the controversial regulation, also known as the Waters of the U.S., or WOTUS, rule, which seeks to clarify which wetlands and small waterways are protected by the Clean Water Act.

Exempting the regulation from the APA could not only remove the requirement that it undergo certain public scrutiny, but also make it easier for the new administration to ignore the Obama team's justifications for its Clean Water Rule.

That could include the cost-benefit analysis of the 2015 regulation and an accompanying 408-page technical report, as well as a review from EPA's Science Advisory Board.

House Energy and Water Development Appropriations Subcommittee Chairman Mike Simpson (R-Idaho) also sits on the House Interior and Environment Appropriations Subcommittee.

He said last week that the provision was included because "some people wanted some support for [withdrawing] WOTUS" (*E&E Daily*, June 29).



## Interior

House appropriators from both parties outlined concerns during a June hearing with Interior Secretary Ryan Zinke about the department's \$11.7 billion budget request and proposed cuts affecting a host of programs, including the Land and Water Conservation Fund, climate research centers, the payments in lieu of taxes program, and Indian health and education, not to mention programs specific to lawmakers' districts, such as projects funded by the Southern Nevada Public Lands Management Act.

Calvert said at the time that Zinke's appearance to discuss the fiscal 2018 budget marked "the beginning of a very candid conversation about your department's funding priorities."

The subcommittee chairman also told the Interior secretary that the department's fiscal 2018 budget "might not be exactly what you would have proposed, but ultimately, Congress will have the final say" (*Greenwire*, June 8).

During that hearing, House Appropriations Chairman Rodney Frelinghuysen (R-N.J.) said he was worried about recommended cuts to the National Park Service and the Fish and Wildlife Service. The White House budget aims to slash \$360 million from the levels NPS received in the fiscal 2017 omnibus deal, leaving NPS with a \$2.55 billion budget in fiscal 2018.

The proposed Trump budget also would scale back new federal land acquisition and support for LWCF — cuts that have infuriated public land and conservation advocates. The omnibus spending deal that lawmakers agreed to earlier this year provided \$400 million for LWCF in fiscal 2017, while the Trump fiscal 2018 budget request seeks to reduce funding to \$64 million.

"The budget is unacceptable, and I expect my colleagues on both sides of the aisle to reject it," McCollum said in June.

The Minnesota Democrat, who said she wouldn't support a bill "that funds Interior less than our 2017 omnibus," was particularly perturbed by the administration's proposal to zero out the Great Lakes Restoration Initiative, which affects her home state.

The White House is recommending \$11.7 billion overall for the department, \$600 million less than the \$12.3 billion Congress gave Interior in the omnibus spending bill this year. Roughly \$10.6 billion of the \$11.7 billion request falls under the Interior Appropriations Subcommittee's purview.

The budget seeks to reauthorize the 2000 Federal Land Transaction Facilitation Act, which expired in 2011, and appropriators are likely to support it. Republicans and Democrats are fans of the FLTFA, which authorizes the federal government to sell surplus lands to states, localities and private entities and use the proceeds for a variety of activities, such as conservation or access to outdoor recreation.

It's unclear whether the House Interior spending bill will include any language on potential drilling in the Arctic National Wildlife Refuge, which is highly controversial.

The Trump budget blueprint assumes cost savings of \$1.8 billion over the next decade by allowing oil and gas drilling in a portion of ANWR starting in 2022.

**Schedule:** The markup is Wednesday, July 12, at 3 p.m. in 2007 Rayburn.  
*Reporter Ariel Wittenberg contributed.*

<http://bit.ly/2tGnM8O>

#### 4. Greens say documents discredit bill limiting ESA lawsuits

Scott Streater, E&E News reporter

Published: Monday, July 10, 2017

An environmental group that's often criticized as among the most litigious today released documents that it says debunks lawmakers' claims that lawsuits from green groups are hampering forest management.

The Center for Biological Diversity says it has obtained documents that discredit the need for a bipartisan bill, S. 605, sponsored by Montana Sens. Steve Daines (R) and Jon Tester (D), that seeks to discourage Endangered Species Act lawsuits against the Forest Service and the Bureau of Land Management. Specifically, the bill would overturn a 9th U.S. Circuit Court of Appeals opinion that found the nonprofit Cottonwood Environmental Law Center had legal standing to sue the federal government over a critical habitat designation for the Canada lynx, which the Fish and Wildlife Service has listed as a threatened species under the Endangered Species Act (E&E Daily, March 10).

In particular, the group complained about a project in Montana's Gallatin National Forest to clear vegetation across nearly 900 acres.

The appeals court ruling requires agencies to formally consult with FWS whenever a new species is protected or new critical habitat is designated in the 9th Circuit region — a process that the Obama administration argued could "cripple" the local Forest Service and BLM offices (Greenwire, Oct. 11, 2016). But the Center for Biological Diversity says it has Interior Department documents showing that the Forest Service and FWS last month completed a consultation in just 10 days on nine national forests in the Sierra Nevada region following the designation of critical habitat for the Yosemite toad and Sierra Nevada and mountain yellow-legged frogs.

The resulting 75-page biological opinion issued by FWS will allow the Forest Service to continue implementing its management plans as long as the agency avoids logging activities when frogs are resting in burrows and avoids using certain types of plastic netting that can trap and injure frogs.

"Considering how best to protect key areas where endangered species live may not be a big deal for federal land management agencies, but it's critical to the survival of animals that are facing extinction," Brett Hartl, CBD's government affairs director, said in a statement.

"The Fish and Wildlife Service just proved Sens. Daines and Tester wrong," he added. "Programmatic endangered species consultations can be done quickly without the sky falling, putting important conservation measures in place to protect our most endangered wildlife."

Daines argued in March that the "Litigation Relief for Forest Management Projects Act" is necessary to "protect Montana jobs and the common-sense collaborative forest management projects that have been harmed by this court decision."

CBD today quoted Daines during a Senate Agriculture Committee hearing last week saying that "litigation by fringe groups is slowing down forest management."

<http://bit.ly/2tGw5kO>

#### 5. Feds to offer new evidence as retrial begins

Jennifer Yachnin, E&E News reporter

Published: Monday, July 10, 2017

Federal prosecutors this week will begin their second attempt to jail participants in the 2014 armed standoff between ranchers and federal agents near Bunkerville, Nev., after the first trial ended in April with the jury deadlocked over charges against four defendants.

Jury selection is scheduled to begin today in the retrial of four men who participated in the incident sparked when agents from the Bureau of Land Management attempted to seize rancher Cliven Bundy's cattle over more than \$1 million in unpaid grazing fees.

Federal prosecutors will attempt to prove defendants Richard Lovelien, Scott Drexler, Eric Parker and Steven Stewart conspired with Bundy and others "to threaten, and use, force and violence to interfere with the officers while they executed their duties to enforce the court orders," court documents say.

But in the new trial, federal prosecutors plan to introduce new evidence tying the defendants to other protests of government management of public lands, including events at the Sugar Pine mine in Josephine County, Ore., in April 2015 and the White Hope mine near Lincoln, Mont., in August 2015.

In a notice indicating it planned to file new evidence, federal prosecutors asserted that information highlighting Drexler, Parker and Stewart's participation in the Idaho III%, an anti-government militia group, is "inextricably intertwined" with the conspiracy charges each faces.

But Drexler's attorney, Todd Leventhal, told the *Las Vegas Review Journal* that he remains confident the case is unlikely to see a guilty verdict in its second attempt.

"As we saw in the last trial, the government had an exceedingly difficult time in communicating their case to the jury," Leventhal said. "That's because linking our clients to any crime or conspiracy is just not supported by the facts. I imagine the same will hold true in round two."

Jurors could not reach agreement on conspiracy charges against any of the six defendants in the original trial.

In that case, jurors found former FBI informant Gregory Burleson guilty of obstruction of justice and interstate travel in aid of extortion, as well as assault on a federal officer, threatening a federal officer and firearms counts; and found Idaho resident Todd Engel guilty of obstruction of justice and interstate travel in aid of extortion (*E&E News PM*, April 24).

Charges against participants in the Bunkerville incident were divided into three separate trials, with Cliven Bundy and his sons, Ammon, Melvin and David, slated to face trial 30 days after the retrial is concluded.

The Bundys' trial is expected to begin in October or September, followed by the third and final trial in the case.

<http://bit.ly/2tGnM8O>

## **6. EPA requests more time to comply with methane order**

*Amanda Reilly, E&E News reporter*

Published: Monday, July 10, 2017

U.S. EPA is seeking to avoid "immediate compliance" with a federal court's order last week vacating a decision to delay an Obama-era rule curbing methane emissions from new oil and gas operations.

In a **motion** late Friday, the agency asked the U.S. Court of Appeals for the District of Columbia Circuit to recall the mandate it issued in the case.

EPA argued that the court took an "unusual step" in requiring compliance right after it issued the decision last Monday. Delaying compliance would allow the agency to evaluate options for appeal, the agency argued.

"EPA is currently evaluating the court's decision in order to determine whether to seek panel rehearing, rehearing en banc, or pursue other relief," Justice Department attorneys said in the motion for the agency.

The agency said its argument was "particularly compelling" given that the Trump administration is "exercising its prerogative to re-examine" the Obama-era policy.

The Obama administration issued the standards in 2016 to halt leaks of methane, a potent greenhouse gas, from new oil and gas operations.

In June, as oil and gas companies faced an initial compliance date, EPA Administrator Scott Pruitt granted a 90-day delay of key provisions of the rule, including its fugitive emissions, pneumatic pumps and professional engineer certification requirements.

Last Monday, the D.C. Circuit agreed with environmentalists that EPA lacked the authority under the Clean Air Act to issue a 90-day delay in the methane standards. In a 2-1 decision, the court threw out the stay (*Greenwire*, July 3).

The court's decision threw the oil and gas industry into uncertainty as companies attempted to figure out what their obligations were under the standards — particularly since EPA has proposed, but not yet finalized, another delay of two years (*Energywire*, July 6).

Environmentalists, on the other hand, cheered the court's decision as the first of what they hoped were many legal defeats for the Trump administration's efforts to roll back environmental regulations.

But EPA said Friday that the court's issuance of the mandate putting the decision into effect immediately gave it little time to instruct the public or regulated community how the 2016 rule should be implemented.

"The regulated community would ordinarily be afforded a reasonable amount of time to make the necessary adjustments to ensure compliance," EPA said in its motion. "Not so here. The Court has arguably placed the regulated community abruptly at risk of noncompliance with the 2016 Rule."

EPA argued that forcing companies to comply with the court decision immediately would likely impair the agency's efforts to seek further review of the decision.

And the agency said the dissent filed by Judge Janice Rogers Brown bolstered its arguments that it should be afforded time to seek rehearing in the case.

Brown, a Republican appointee, found that the court didn't have jurisdiction to hear environmentalists' challenge in the first place.

The court should "provide EPA with the standard period (or such other reasonable period as the Court deems appropriate) of relief from immediate compliance during which to consider whether to seek further review," EPA argued.

Environmentalists were quick to reject EPA's latest legal maneuver.

John Walke, the clean air director at the Natural Resources Defense Council, tweeted that the agency's motion shows it "will leave no stone unturned" as it tries to block compliance with the methane standards.

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

## **7. Debt fuels growth of U.S. shale patch**

*Nathanial Gronewold*, E&E News reporter

Published: Monday, July 10, 2017

U.S. shale oil production is expected to continue its surge, as analysts foresee stronger output growth than initially expected.

But so much hinges on global oil demand growth and what that does to oil prices in the near term. U.S. oil and gas companies may be playing a dangerous game, as the market continues to be bearish on the glut of crude in storage and weak demand growth.

Meanwhile, innovation and greater operating efficiency seem to be driving the growth spurt seen in the shale oil patch, but so is debt. Overleveraged companies are being warned to shore up their finances should overseas production cuts and demand growth fail to lift crude prices.

There's also concern that should the "rebalancing" predicted in the bottom half of this year fail to arrive, OPEC and partner nations will give up on their production cuts and open the spigots again, sending crude prices crashing in early 2018.

Energy supply and demand statistics "show no sign of rebalancing and nothing to indicate any change to the bearish status quo for the global oil markets," warned Michael Wittner, head of oil research at Société Générale.

In addition, signals are pointing to a possible recession in store for the United States, despite a government report Friday showing strong jobs growth. Weak corporate tax receipts and signals in the bond markets suggest contraction may be ahead, while stock market traders have signaled their own wariness in recent days.

So far, the International Energy Agency (IEA) still sees greater oil market demand-supply balance in store for the second half of 2017 and continues to bank on a possible price spike as upstream underinvestment and natural oil field depletion combine in the future to create a crude oil supply crunch by the end of this decade.

Shale oil output may still expand strongly, but only at a better crude oil price. Traders hit the crude price hard yesterday, sending the North American benchmark contract down below \$45 per barrel. The international benchmark Brent contract slid below \$47 per barrel.

"We believe that output will remain flat in a \$40/barrel environment," said Autumn Hong Morse, a manager at McKinsey Energy Insights.

Hong added that McKinsey sees production expansion of 20 percent per year out to 2019 but only if the per-barrel crude price rises to the \$65 to \$70 range. That means a price increase of at least 40 percent from current levels.

McKinsey research suggests that if crude prices average closer to \$40 per barrel, U.S. shale production will peak in 2018 and plateau out beyond 2025. Regardless of the price of crude, North America is seen as remaining the epicenter of tight and shale oil extraction for quite some time.

"Looking ahead, we believe that Argentina, Mexico, and Russia are viable candidates, but we do not expect to see any meaningful international shale oil production in the next 10 years due to several barriers, such as insufficient supply chain infrastructure and a lack of financial incentives," Hong explained.

Traders reacted negatively last week due to news that suggested drillers have no immediate intention to slow down operations.

Oil field services company Baker Hughes, newly acquired by General Electric Co., reported that the United States added 12 land rigs to the active drilling rig fleet last week. There are now 122 percent more rigs actively drilling in the United States than there were a year ago.

Total U.S. oil production is not headed on a linear upward trajectory, but it is expected to rise.

Data from April show U.S. oil output actually declined some as offshore installations halted production for maintenance. Gasoline demand also grew, as did petroleum exports.

But the slight monthly decrease is temporary. In a note to clients, Scott Hanold at RBC Capital Markets predicted that U.S. total oil production will grow by 320,000 barrels a day this year and by 1 million barrels a day in 2018, but only on firmer oil prices. RBC's price range for that forecast is \$55 to \$60 per barrel for the West Texas Intermediate contract.

Yet concerns over oil prices possibly falling lower, and not going higher, are mounting within the investment community and among oil and gas executives.

A new survey published by the consultancy DNV GL underscores the uncertain outlook.

"Has the oil price bottomed out, or is there more to come?" asks the new DNV GL report, providing the outlook for the rest of 2017 from analysts and industry. "While 27 percent believe the worst of the price falls are over, 42 percent disagree."

<http://bit.ly/2uaC1pd>

## 8. Land, tribal bills set for floor vote

*Cecelia Smith Schoenwalder*, E&E News reporter

Published: Monday, July 10, 2017

The House will vote on a variety of land and tribal bills this week under fast-track consideration, along with a bill adding protections for federal workers.

**H.R. 702**, from Rep. Elijah Cummings (D-Md.), would strengthen anti-discrimination laws for government workers by amending the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002. It gained support from the House Oversight and Government Reform Committee in February (*E&E Daily*, Feb. 3).

Other bills set for a vote this week are:

- **H.R. 954**, from Rep. Bob Goodlatte (R-Va.), to remove the use of restriction on certain land transferred to Rockingham County, Va.
- **H.R. 1397**, from Rep. Barbara Comstock (R-Va.), to handle the transfer of federal land along the George Washington Memorial Parkway.
- **H.R. 1404**, from Rep. Raúl Grijalva (D-Ariz.), to provide for the conveyance of land owned by the U.S. to the Tucson Unified School District and the Pascua Yaqui Tribe of Arizona.
- **H.R. 1541**, from Rep. Lynn Jenkins (R-Kan.), to authorize the Interior secretary to acquire certain property related to the Fort Scott National Historic Site.
- **H.R. 1719**, from Rep. Mark DeSaulnier (D-Calif.), to authorize the Interior secretary to acquire approximately 44 acres of land in Martinez, Calif.
- **H.R. 1913**, from Rep. Jimmy Panetta (D-Calif.), to establish the Clear Creek National Recreation Area in California's San Benito and Fresno counties, and to designate the Joaquin Rocks Wilderness in those counties.
- **H.R. 1306**, from Rep. Peter DeFazio (D-Ore.), to provide for the conveyance of certain federal land in Oregon.
- **H.R. 2156**, from Rep. Stephen Knight (R-Calif.), to provide for the establishment of a national memorial and national monument to commemorate those killed by the collapse of the St. Francis Dam on March 12, 1928.

<http://bit.ly/2u0TP5L>

## 9. Energy bill on standby with health care, budget in flux

Geof Koss, E&E News reporter

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While congressional Republicans struggle to check off big-ticket agenda items from their to-do list before the August recess, bipartisan Senate energy legislation reworked from last year could fill the legislative vacuum in the coming weeks.

Majority Leader Mitch McConnell (R-Ky.) set the procedural wheels in motion to bring up S. 1460 directly to the floor, skipping the committee process and expediting the chamber's consideration of the bill (*E&E News PM*, June 29).

A McConnell spokesman on Friday declined to comment on the floor schedule for the coming work period, which is currently set to conclude on July 28, launching a six-week recess, but lobbyists and staffers said they anticipate the energy bill coming up as soon as next week.

The energy bill presents an opportunity for McConnell to claim a bipartisan victory. The latest version, unveiled last month by Energy and Natural Resources Chairwoman Lisa Murkowski (R-Alaska) and ranking member Maria Cantwell (D-Wash.), largely tracks legislation that passed the Senate, 85-12, last year but died in December after House negotiators closed the door after months of negotiations.

A legislative accomplishment would be welcome as the Senate stumbles over other priorities, including passing a budget and spending bills, as well as trying to repeal and replace the Affordable Care Act.

McConnell was forced to scrap a planned health care vote before the July 4 break, and GOP senators over the weekend said the weeklong recess did little to bridge intraparty disagreements, raising doubts about a vote planned for this week.

"My view is that it's probably going to be dead," Sen. John McCain (R-Ariz.) said on CBS's "Face the Nation" yesterday.

As for the spending blueprint, House Budget Chairwoman Diane Black (R-Tenn.) told constituents last week she was hoping to mark up a budget resolution in committee this week, although nothing had been officially scheduled Friday. Conservatives and defense hawks have been squabbling for weeks over defense spending levels and the size of mandatory cuts.

Passing a spending blueprint is key for GOP plans to enact tax reform through the reconciliation process, which will allow the majority to skip a Senate filibuster and pass the overhaul along party lines.

Even without a budget, the House Appropriations Committee this week will continue to mark up spending bills in committee, as leaders scramble to head off a possible government shutdown in September.

Senate appropriators, meanwhile, continue to hear from Trump administration officials over the fiscal 2018 request but have not yet unveiled any of their bills.

An opening for energy?

Despite bipartisan interest and McConnell's efforts to smooth the way for the energy bill, long-simmering policy disputes and the general perils of legislating on energy cloud the path to a successful outcome in this Congress as well.

Later today, more than 250 groups will send a letter to Minority Leader Chuck Schumer (D-N.Y.) urging Democrats to oppose the bill, citing provisions to expedite oil and gas drilling permits, new authorities for the Federal Energy Regulatory Commission, as well as natural gas exports and research into methane hydrates.

"This energy bill is, at its core, a bad bill that expands upon the billions of taxpayer dollars already given to the fossil fuel industry," said Bill Snape, senior counsel with the Center for Biological Diversity. "This special interest bonanza would take our country and our people in the wrong direction."



(Left to right) Senate Energy and Natural Resources ranking member Maria Cantwell (D Wash.) and Chairwoman Lisa Murkowski (R Alaska) during an event earlier this year, where they predicted the rebirth of energy reform legislation. Nicole Daigle/Senate Energy and Natural Resources Committee

One contentious provision that drew the ire of environmentalists, which instructed federal agencies to consider biomass energy "carbon-neutral," is gone from the bill, having been enacted in the omnibus appropriations bill earlier this year.

Also absent in the new bill are provisions that were intended to streamline environmental permitting for renewable energy projects on public lands. One Senate aide said the measure was dropped by agreement between both parties.

A summary of the bill has not been released, but one revision that has drawn attention is the section setting building efficiency codes. Like last year's bill, the new legislation outlines steps for the Energy secretary to take to "encourage" states, tribes and local governments to adopt such codes, which advocates say hold enormous potential to save energy and reduce emissions.

The new bill would add a requirement that the Energy Department consider whether revised codes are "economically justified," a nod to a dispute that was a stumbling block in conference talks last year. It also adds language labeling such codes as "voluntary."

The National Association of Home Builders, part of a coalition that supports language in a competing bipartisan House bill, [H.R. 2361](#), last week commended Murkowski and Cantwell for attempting to bridge differences over approaches to measuring cost-effectiveness.

"They made a good attempt here, unfortunately it still doesn't address all our concerns," said Billie Kaumaya, federal legislative director for NAHB.



Kaumaya lauded the explicit language emphasizing the voluntary nature of the codes but noted that, in practice, when states receive incentive funds to adopt such standards, they often end up being mandatory.

NAHB also has concerns with the "economically justified" criteria in the new bill, which Kaumaya said would allow DOE to consider cost savings over the life of an entire building.

"That's just not realistic for most families," she said.

The inclusion of language highlighting the need for national energy and water conservation as a criterion is another concern. "That's a little bit problematic for us because that could sort of justify any cost," Kaumaya said.

NAHB still prefers the "simple payback" period of 10 years or less for DOE to use when considering building codes included in the House bill, sponsored by Reps. Marsha Blackburn (R-Tenn.) and Kurt Schrader (D-Ore.).

"The 10-year simple payback makes the most sense," Kaumaya said, likening it to the mileage stickers shown on cars. "It's easily understandable by the consumer."

The Alliance to Save Energy, which strongly supported the model code provisions from last year's Senate bill, continues to review the updated bill, a spokesman said Friday.

In a statement, alliance President Kateri Callahan noted the group's support for "how things worked out" with the Senate bill last year and vowed to work to "get a bill across the finish line with strong efficiency provisions that will create jobs, save consumers and businesses money, strengthen energy security and reduce harmful emissions."

#### House eyes pipeline bills

The comprehensive energy package could also become a vehicle for two contentious pieces of legislation on pipeline permitting, which have been advancing in the House.

Changing the permit process for infrastructure has been a focus for the Energy and Commerce Committee this year, particularly for pipelines and hydropower. And while the bipartisan Senate bill includes several actions on hydro, it does not take action on pipelines.

**H.R. 2883**, opposed by most Democrats on Energy and Commerce during a markup last month, would remove presidential involvement for cross-border pipe and electricity transmission, transferring those authorities to FERC and DOE, respectively. Similar language was part of the House's energy package last year.

The decision on whether H.R. 2883 will move forward as part of broader legislation will be up to panel and House leaders, an aide said, and sponsor Rep. Bill Flores (R-Texas) is preparing for both scenarios.

**H.R. 2910**, which also passed committee largely on party lines, would give FERC more authority during pipeline permitting and allow it to impose deadlines on other federal and state agencies.

A spokesman for the bill's sponsor, Rep. Markwayne Mullin (R-Okla.), would not comment specifically on whether the congressman could use broad energy legislation as a vehicle but did say that he will "continue to work to pass his language to send to the Senate."

## Russia sanctions

The House may also move this month on language that passed the Senate that would enshrine Obama-era sanctions against Russian energy projects, while also limiting the Trump administration's ability to unilaterally dismantle them.

Before the July Fourth break, the Senate passed a technical fix to its bill that addressed a provision that the House said ran afoul of the Constitution's requirement that revenue measures originate there (*E&E Daily*, June 22).

Democrats have also charged the House held up the issue in deference to the Trump administration, which opposes Senate language giving Congress time to reject any effort to ease sanctions. Major oil companies, including Exxon Mobil Corp. and Chevron Corp., are also lobbying against the Senate bill (*Energywire*, July 6).

The president's meeting with Russian President Vladimir Putin last week has made the debate even more contentious, with the White House calling for flexibility and top lawmakers demanding tough action against Russia.

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

## 10. OMB releases guidance for more cuts, 'bold reform'

*Arianna Skibell*, E&E News reporter

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The White House is furthering its efforts to reorganize the federal government, reduce the workforce and streamline operations.

Office of Management and Budget Director Mick Mulvaney released a memo Friday saying agency spending proposals for fiscal 2019 should reflect President Trump's executive order to reorganize the government.

He said the White House would pay special attention to agencies that lay out bold reform proposals. "Agencies are requested to identify additional investments in effective programs that further support their mission and fill a clear Federal role," said the memo.

"The FY 2019 budget process will give special consideration to bold reform or reorganization proposals that have the potential to dramatically improve effectiveness and efficiency of government operations," it said.

The goal is to cut costs and implement the "fiscal restraint" needed to achieve 3 percent economic growth over time, Mulvaney wrote.

While the Trump administration's fiscal 2018 request prioritizes defense spending, fiscal 2019 will provide the opportunity to present a comprehensive reform plan, he said. Agency submissions are due to OMB by Sept. 11, 2017.

Mulvaney directed agencies to "maintain sufficient funding for presidential priorities, while closely scrutinizing other spending to ensure it reflects a proper Federal role and that taxpayer dollars are spent wisely."

Agencies are also required to submit a draft strategic plan covering fiscal 2018 through fiscal 2022, a draft fiscal 2019 performance plan, and priority goals covering the fiscal 2018 through fiscal 2019 cycle.

<http://bit.ly/2uJ89xt>