

To: Ryan Sutherland[rrsutherland@blm.gov]; blm_elt@blm.gov[blm_elt@blm.gov]; blm_field_comm@blm.gov[blm_field_comm@blm.gov]; BLM_All_Managers@blm.gov[BLM_All_Managers@blm.gov]; BLM_WO_100@blm.gov[BLM_WO_100@blm.gov]; Lesli Ellis-Wouters[lellis@blm.gov]; Amber Cargile[acargile@blm.gov]; Martha Maciel[mmaciell@blm.gov]; Donna Hummel[dhummel@blm.gov]; Ronald (Rudy) Evenson[revenson@blm.gov]; Jody Weil[jweil@blm.gov]; Megan Crandall[mcrandal@blm.gov]; Kristen Lenhardt[klenhard@blm.gov]; BLM_WO_610[BLM_WO_610@blm.gov]; Peter Mali[pkali@blm.gov]; Stephen Clutter[sclutter@blm.gov]; Wilkinson, Patrick[p2wilkin@blm.gov]; Jill Ralston[jralston@blm.gov]; Lola Bird[lbird@blm.gov]; Marjorie Chiles[mdchiles@blm.gov]
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Scott Streater, E&E News reporter

Published: Monday, October 23, 2017

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<http://bit.ly/2h3PN4S>

2. House panel to discuss 'empowering' states to manage bird

Scott Streater, E&E News reporter

Published: Monday, October 23, 2017

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<http://bit.ly/2y0Ttil>

3. Senate Democrats urge Trump to leave Utah sites alone

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Democratic senators today pressed President Trump to refrain from altering a pair of national monuments in Utah, asserting that any changes to the sites' boundaries would put cultural sites "at risk" for being damaged.

<http://bit.ly/2ixk7J3>

4. DOE, Interior threatened with subpoenas over private emails

Kevin Bogardus, E&E News reporter

Published: Monday, October 23, 2017

The House's top watchdog has threatened to subpoena the Energy and Interior departments for his committee's investigation of private email use in the Trump administration.

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

5. Deputy takes bigger role while department awaits nominee

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Published: Monday, October 23, 2017

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

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

7. Colo. tightens emissions standard but is pressed to do more

Mike Lee, E&E News reporter

Published: Monday, October 23, 2017

Colorado will impose tighter regulations on oil and gas operations as part of a plan to reduce ozone pollution in Denver and other cities in eastern Colorado, but state officials rejected calls from environmentalists and homeowners to do more.

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

8. Murkowski pitches ANWR plan; Trump makes U-turn on Denali

Margaret Kriz Hobson, E&E News reporter

Published: Monday, October 23, 2017

ANCHORAGE, Alaska — Senate Energy and Natural Resources Chairwoman Lisa Murkowski on Saturday promised to hold "open and transparent" committee hearings on the best way to raise \$1 billion in new revenue to pay for federal tax cuts.

<http://bit.ly/2h2zk0T>

9. Settlement reached in Okla. wastewater-well lawsuit

Published: Monday, October 23, 2017

An Oklahoma couple has reached a settlement with the second of two oil companies whom they accused of triggering a 5.7-magnitude earthquake with their operation of wastewater-injection wells.

<http://bit.ly/2gDZ4E7>

10. Votes set on GOP bills targeting 'sue and settle'

Amanda Reilly, E&E News reporter

Published: Monday, October 23, 2017

The House is poised to take up legislation this week that makes law settlement policies similar to those outlined in two recent memos issued by U.S. EPA and the Justice Department.

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

11. GOP senators offer bill to spur thinning projects

Marc Heller, E&E News reporter

Published: Monday, October 23, 2017

Four Senate Republicans released draft legislation today aimed at lowering environmental hurdles for forest-thinning projects ahead of a hearing scheduled for Wednesday.

<http://bit.ly/2xikwS2>

12. EPW panel to hold hearing on draft wildfire bill

Marc Heller, E&E News reporter

Published: Monday, October 23, 2017

The Senate Environment and Public Works Committee will hold a hearing Wednesday on wildfire legislation, taking on a long-brewing issue that's gained new attention with fire damage to California's wine country.

<http://bit.ly/2lbql1Y>

13. Committee to vote on OPM nominees

Kevin Bogardus, E&E News reporter

Published: Monday, October 23, 2017

President Trump's nominee for personnel chief looks set to take another step closer to confirmation.

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

14. 2 defendants plead guilty to misdemeanor, avoid 3rd trial

Jennifer Yachnin, E&E News reporter

Published: Monday, October 23, 2017

Federal prosecutors struck a plea deal today with two defendants who participated in the 2014 armed standoff between ranchers and federal agents near Bunkerville, Nev., averting the need for a third trial for the duo that had been slated to begin next week.

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

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Meredith C. Black
U.S. Department of the Interior
Division of Public Affairs, Washington Office
Bureau of Land Management
M Street Southeast Washington, D.C.
20003

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1. BLM sets public hearings while group sues for records

Scott Streater, E&E News reporter

Published: Monday, October 23, 2017

The Bureau of Land Management next month will hold public hearings in four states as part of an effort announced earlier this month to reopen Obama-era greater sage grouse conservation plans and potentially alter them significantly.

The hearings will be held in Idaho, California, Oregon and Colorado. They follow BLM's announcement that it wants the public to weigh in on the federal plans, which amended 98 BLM and Forest Service land-use plans to incorporate grouse protection measures covering nearly 70 million acres in 10 Western states (*E&E News PM*, Oct. 5).

The plans, finalized in September 2015, were strong enough to convince the Fish and Wildlife Service not to list the bird for protection under the Endangered Species Act.

A review team established by Interior Secretary Ryan Zinke has recommended significant changes to the plans.

The public hearings have been scheduled for:

- Idaho: Nov. 2, Twin Falls; Nov. 6, Idaho Falls; Nov. 7, Marsing.
- California: Nov. 3, Alturas.
- Oregon: Nov. 7, Burns.
- Colorado: Nov. 9, Craig.

Meanwhile, a watchdog group today filed a federal lawsuit against the Interior Department, claiming it has not responded to a Freedom of Information Act request seeking records concerning the oil and gas industry's involvement in the proposed changes to the federal grouse plans.

Western Values Project filed the complaint in the U.S. District Court for the District of Columbia. It says Interior has yet to provide the documents the group sought in an Aug. 19 FOIA request seeking correspondence between agency officials and oil and gas industry representatives, particularly Denver-based Western Energy Alliance.

The watchdog group has maintained that the Zinke review team's recommended changes to the plans mirrored almost exactly recommendations Western Energy Alliance sent the team in July (*E&E News PM*, Aug. 17).

"It's been very clear that Secretary Zinke has been taking orders from special interests and lobbyists since being confirmed to his post, and his sage-grouse mandates are nothing short of the oil and gas industry's wish list," Chris Saeger, WVP's executive director, said in a statement. "It's critical that the public, stakeholders, and communities affected by the proposed rollback of public land protections have access to public documents that were the basis for these changes."

Kathleen Sgamma, WEA's president and the author of her group's four-page letter to the review team, has said there was nothing in the letter that the alliance had not already discussed publicly. "The letter was simply a summary provided after the sage grouse review team was publicly announced," Sgamma has said.

The complaint requests that the court order Interior to "disclose all non-exempt records" that are responsive to the request.

The complaint says WVP has "exhausted" all administrative remedies.

"Defendant has wrongfully withheld the requested records from plaintiff by failing to comply with the statutory time limit for rendering a determination or response to plaintiff's FOIA request," the complaint says.

<http://bit.ly/2h3PN4S>

2. House panel to discuss 'empowering' states to manage bird

Scott Streater, E&E News reporter

Published: Monday, October 23, 2017

The House Natural Resources Committee this week will discuss giving states more power to manage greater sage grouse as the Trump administration moves to dismantle Obama-era conservation plans covering millions of acres across the West.

GOP congressional leaders, and some Western governors, have long complained the federal sage grouse plans finalized in 2015 ignore key aspects of state grouse management plans in states like Colorado, Idaho, Montana, Utah and Wyoming.

Idaho and Utah filed federal lawsuits challenging the federal blueprint, which amended 98 Bureau of Land Management and Forest Service land-use plans to include grouse protection measures covering nearly 70 million acres in 10 states.

The federal plans were strong enough to convince the Fish and Wildlife Service not to list the bird for protection under the Endangered Species Act.

But because the sage grouse is not a federally protected species, critics say, the bird and its sagebrush steppe habitat should be managed by the states under their grouse management plans.

Utah's legal complaint argues the federal plans undermine state conservation efforts. "I have always believed that, as a state, Utah is better positioned to manage our sage grouse population than the federal government," Gov. Gary Herbert (R) said in announcing the lawsuit (*Greenwire*, Feb. 5, 2016).

Committee Chairman Rob Bishop (R-Utah) is certain to tout that viewpoint at Wednesday's hearing, titled "Empowering State Based Management Solutions for Greater Sage Grouse Recovery."

Bishop told E&E News last summer that the "state plans" should be the lead, and that "it's going to require some kind of legislative fix" to make that happen (*E&E Daily*, June 8).

Molly Block, a spokeswoman for the committee's majority members, said in an email that the oversight hearing will focus on examining the state plans. "These state plans are working well in Utah, Nevada, Idaho and Montana and states are more than capable of managing wildlife within their borders," she wrote.

She cited Utah's grouse plan, which "emphasized rangeland fire control" and has proved to be "highly successful in preserving the bird's habitat this year" despite "catastrophic" wildfires.

Bishop in January filed **H.R. 527**, which would give governors the authority to bar any provisions in the federal plans that do not conform to state-approved grouse conservation strategies (*Greenwire*, Jan. 16). Sen. Jim Risch (R-Idaho) filed a companion bill, **S. 273**.

Both bills — which also would prohibit FWS from listing the bird for protection before Oct. 1, 2027 — are stuck in committee.

But the Trump administration is making moves to dismantle the Obama-era sage grouse plans.

Wednesday's hearing comes less than three weeks after BLM announced it is reopening the federal grouse plans to public review, with the likely outcome that the plans will be altered (*E&E News PM*, Oct. 5).

At the same time, BLM announced it is formally nixing a study evaluating the withdrawal of 10 million acres of prime sage grouse habitat, called "sagebrush focal areas," from new mining claims.

Interior Secretary Ryan Zinke, who as a Republican congressman from Montana bashed the federal plans, formed a review team last spring to evaluate them. Their report to Zinke in August recommended, among other things, exploring amending resource management plans "to remove or modify sagebrush focal area designations" (*Greenwire*, Aug. 7).

Schedule: The hearing is Wednesday, Oct. 25, at 10 a.m. in 1324 Longworth.

Witnesses: TBA.

<http://bit.ly/2y0Ttil>

3. Senate Democrats urge Trump to leave Utah sites alone

Jennifer Yachnin, E&E News reporter

Published: Monday, October 23, 2017

Democratic senators today pressed President Trump to refrain from altering a pair of national monuments in Utah, asserting that any changes to the sites' boundaries would put cultural sites "at risk" for being damaged.

Senate Minority Whip Dick Durbin (D-Ill.) and 15 of his Democratic colleagues issued a letter to Trump, urging him to reject recommendations from Interior Secretary Ryan Zinke that called for shrinking the boundaries of six monuments and altering management plans at other sites.

Although Zinke made the recommendations in August, the report has not been released to lawmakers by the White House or the Interior Department, instead leaking to the media last month (Greenwire, Sept. 18).

In their letter, Durbin and others focused on a pair of monuments in the Beehive State, the 1.35-million-acre Bears Ears National Monument in southeastern Utah and the 1.9-million-acre Grand Staircase-Escalante National Monument in southwestern Utah.

"We feel any changes to these monuments puts the resources and cultural sites they were created to protect at risk," the lawmakers wrote.

Durbin and others rejected Zinke's suggestion that the Bears Ears monument, established by President Obama in his final weeks in office, is larger than it needs to be to protect tribal antiquities.

Instead, the Democrats noted that tribes had asked for 600,000 acres more than what was included in the monument's boundaries.

"Archaeologists agree they've barely scratched the surface of the abundance of artifacts in the monument," the Democrats wrote. "The thousands of discrete granaries, petroglyphs, pots, and dwellings add up to a complete picture that can only be understood if the boundaries remain intact."

The letter also disparaged suggestions that the Grand Staircase-Escalante monument, created by President Clinton in 1996, had reduced grazing in the area or triggered road closures.

"It is clear that any changes to these monuments threaten their important natural, archeological, and cultural resources. We encourage you to maintain the current boundaries and management plans for all our monuments to ensure they will be protected for future generations," the lawmakers concluded.

In addition to Durbin, the letter is signed by Connecticut Sen. Richard Blumenthal, Hawaii Sen. Brian Schatz, Illinois Sen. Tammy Duckworth, Maryland Sen. Chris Van Hollen, Michigan Sen. Debbie Stabenow, Minnesota Sen. Al Franken, New Jersey Sen. Cory Booker, New Mexico Sens. Tom Udall and Martin Heinrich, Oregon Sens. Ron Wyden and Jeff Merkley, Vermont Sens. Patrick Leahy and Bernie Sanders (I), Washington Sen. Patty Murray and Wisconsin Sen. Tammy Baldwin.

Unlike their House counterparts, led by Arizona Rep. Raúl Grijalva, the senators did not raise questions about whether Trump has the authority to reduce or rescind a monument.

While House Natural Resources Chairman Rob Bishop (R-Utah) has asserted that the Antiquities Act of 1906 allows presidents to both establish and diminish monuments, Democrats and environmentalists have challenged that view and vowed lawsuits if Trump attempts to shrink any sites.

Zinke has said his recommendations will protect the sites while also providing "a much needed change for the local communities who border and rely on these lands for hunting and fishing, economic development, traditional uses, and recreation" (Greenwire, Aug. 24).

<http://bit.ly/2ixk7J3>

4. DOE, Interior threatened with subpoenas over private emails

Kevin Bogardus, E&E News reporter

Published: Monday, October 23, 2017

The House's top watchdog has threatened to subpoena the Energy and Interior departments for his committee's investigation of private email use in the Trump administration.

House Oversight and Government Reform Chairman Trey Gowdy (R-S.C.) sent letters this Friday to four federal agencies, including DOE and Interior, saying they were not compliant with his panel's records request last month.

"If you have not complied with the request or satisfactorily provided a good faith commitment for complying in full on or before November 3, 2017, the Chairman intends to issue a subpoena for the materials," Gowdy said in his [letter](#) to Interior Secretary Ryan Zinke.

Gowdy sent a similar [letter](#) to Energy Secretary Rick Perry. NASA and the Department of Veterans Affairs also received warnings from the Oversight chairman.

Gowdy also followed up with U.S. EPA, which missed a deadline to fully comply with his request for documents on private email use at the agency.

"That time has passed, and your department has not yet fully complied with our request," Gowdy said in his [letter](#) to Administrator Scott Pruitt.

"Thank you in advance for providing these additional documents to the Committee no later than 5:00 p.m. on November 3, 2017," the letter said.

Using personal email for government business could run afoul of federal record-keeping and transparency laws. Federal employees are expected to forward any personal email used for work to their government accounts so those records are retained.

The subpoena threats come after Gowdy and Rep. Elijah Cummings (D-Md.), the committee's ranking member, last month asked the White House and 24 agencies about their officials' use of personal email for government business ([Greenwire](#), Sept. 26).

Reports indicate several senior White House aides, including President Trump's son-in-law, Jared Kushner, have used private email for work purposes. During the 2016 campaign, Trump blasted his Democratic opponent Hillary Clinton for using a private email server when she was secretary of State during the Obama administration.

Gowdy is pushing the White House on its aides' reported use of private email. In a separate letter, the chairman said he understands the White House is conducting its own review and is expected to share its findings with the Oversight panel.

"It was also brought to our attention that certain allegations of recordkeeping noncompliance are under review, and when the review is completed your office will be following up with the Committee in response to the Committee's September 25 request," Gowdy said in a [letter](#) to White House counsel Don McGahn.

"Those questions are at the core of the Committee's interest and we appreciate your commitment to share the findings of the internal review as soon as practicable."

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

5. Deputy takes bigger role while department awaits nominee

[Dylan Brown](#) and [Jennifer Yachnin](#), E&E News reporters

Published: Monday, October 23, 2017

A top Interior Department official will be pulling double duty as the Senate has yet to confirm a permanent assistant secretary for land and minerals management, under a secretarial order released today.

Casey Hammond, the current deputy assistant secretary for fish and wildlife and parks, will temporarily help Deputy Assistant Secretary for Land and Minerals Management Katharine MacGregor oversee various Interior agencies, an Interior spokeswoman told E&E News.

Signing **secretarial order No. 3357** on Tuesday, Deputy Interior Secretary David Bernhardt declared "an immediate need for additional executive-level supervision and direction with respect to the Bureau of Land Management (BLM), Bureau of Ocean Energy Management (BOEM), Bureau of Safety and Environmental Enforcement (BSEE) and the Office of Surface Mining Reclamation and Enforcement (OSMRE)."

The Senate has not yet voted to confirm Trump's nominee to be the permanent land and minerals assistant secretary, Joseph Balash, former chief of staff for Alaska Republican Sen. Dan Sullivan.

"The Senate minority is dragging its feet on getting qualified nominees like Joe Balash in leadership roles here at Interior," Interior spokeswoman Heather Swift said in a statement. "Rather than let that slow our progress, we are utilizing team members across the bureaus to move the ball forward for the American people."

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

6. From RVs to bows and arrows, outdoor rec becomes big business

[Michael Doyle](#), E&E News reporter

Published: Monday, October 23, 2017

Outdoor recreation is booming, with related equipment and service sales now exceeding \$887 billion a year, according to a new industry study.

Park visitation is up. Recreation vehicle sales are rolling along. More people are fishing, skiing and participating in archery, while the federal government's multiagency **[Recreation.gov](#)** reservation site is catching on.

"Outdoor recreation is a powerful force in the American economy, and this report shows it has no signs of slowing down," Derrick Crandall, president of the American Recreation Coalition, said today.

Visits to National Park Service units, for instance, are 7.7 percent higher than during a comparable period last year. RV shipments are expected to total 479,700 in 2017, an 11 percent gain over 2016. New powerboat sales are expected to increase 6 percent this year.

"Recreational activities continue to be a core part of the American lifestyle," the study states, adding that "most components of the recreation industry reported significant gains in 2017 and the general outlook for the industry in 2018 continues to be optimistic."

The optimistic projections, in turn, can be deployed in support of a legislative and executive agenda that includes support for infrastructure improvements, public lands access, concession management reforms and other priorities. Big numbers suggest there's a big constituency.

The American Recreation Coalition is a nonprofit, Washington-based association that bills itself as "providing a unified voice for recreation interests on issues such as public land management."

Its member groups range from the Recreation Vehicle Industry Association to the trade groups representing ski resorts, park concessionaires and the sporting goods business. Lawmakers and policymakers tend to listen when they speak, and vice versa.

"Not only is outdoor recreation important to foster the social ties that bring us together as one American people, it's also a major economic driver," Interior acting Assistant Secretary for Fish and Wildlife and Parks Todd Willens told industry leaders at a briefing last week.

Underscoring the departmental sentiment, Interior Secretary Ryan Zinke earlier this year established a Recreation Advisory Committee and convened a meeting at department headquarters amid an assemblage of boats and RVs (*E&E News PM*, July 18).

Zinke stressed the potential role of public-private partnerships, as well as the importance of making infrastructure improvements that could include updating RV sites in national parks to account for modern vehicle sizes.

The latest annual study, released today, pulls together data from diverse sources to make a common point about the popularity of outdoor recreation.

The Archery Trade Association, for instance, offered that archery participation in the United States climbed over 20 percent from 2012 to 2015, boosting the number of archers to 23.8 million.

A bill (S. 1514) dubbed the "Hunting Heritage and Environmental Legacy Preservation for Wildlife Act," which includes a provision concerning archery ranges on federal lands, is now awaiting action on the Senate floor (*Greenwire*, July 26).

In a similar upbeat vein, the National Marine Manufacturers Association provided the observation that new powerboat sales, which reached 247,800 last year, still appear to be accelerating.

"Economic factors, including an improving housing market, higher employment, strong consumer confidence and growing disposable income, are creating a golden age for the country's recreational boating industry," said Thom Dammrich, the association's president.

Ski areas drew 54.8 million skier and snowboarder visits during the 2016-17 season, a 3.7 percent increase over last season.

On Capitol Hill, ski resort operators are interested in bills including H.R. 3400 by Rep. Rob Bishop (R-Utah), which would among other provisions set aside funding for ski area improvements.

"Our industry stands ready to continue to partner with federal agencies to ensure visitors have access to, and enjoyment of, world-class experiences in these world-class places," Crandall said.

Recreation.gov, the unified system for making reservations on all federal lands, reports 19 million users so far in 2017, up 26 percent from last year.

On the other hand, sales of new snowmobiles in 2017 "declined slightly due to poor snow cover and higher than normal temperatures in the Northeast region of the United States," according to the International Snowmobile Manufacturers Association.

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

7. Colo. tightens emissions standard but is pressed to do more

Mike Lee, E&E News reporter

Published: Monday, October 23, 2017

Colorado will impose tighter regulations on oil and gas operations as part of a plan to reduce ozone pollution in Denver and other cities in eastern Colorado, but state officials rejected calls from environmentalists and homeowners to do more.

The Colorado Air Quality Control Commission started the process of approving the new rules Friday after a two-day hearing and will finalize them at a meeting in November.

The rules require companies to use reasonably available control technology to reduce ozone-forming emissions. That will translate into more frequent checks for leaks at oil wells, storage tanks and other equipment in an area stretching from Fort Collins on the north to the outskirts of Denver on the south.

"State regulators, industry and the environmental community in Colorado have once again demonstrated that we are capable of putting politics aside and achieve important progress in reducing emissions from the oil and gas sector," Dan Grossman, director of state programs for the Environmental Defense Fund, said in a statement. "At a time when the Trump administration is rolling back protections from oil and gas pollution, it is gratifying to know that Colorado can still lead."

The Front Range communities that are home to most of Colorado's oil drilling have also seen rapid population growth, and they've been roiled by debates about oil and gas regulations for years. Several communities tried to ban drilling and hydraulic fracturing starting in 2014, only to be overruled by state regulators.

The fights took on added urgency in the spring when an oil field pipeline leak sparked an explosion that destroyed a home in suburban Firestone and killed two people.

Some conservation groups argued that the state should require even more inspections and apply the rules statewide. More than 100 people testified in favor of the regulations Thursday, during the first day of the two-day hearing, *The Denver Post* reported.

The oil industry said expanding the rules further would be too costly and would harm small oil and gas operations and dry gas producers that have been struggling with low prices.

Colorado already imposed similar regulations statewide in 2013 as part of a plan to reduce methane emissions from oil and gas operations (*Energywire*, Nov. 19, 2013).

The state Department of Public Health and Environment expects the new rules will reduce emissions of volatile organic chemicals by an additional 6,200 tons per year over the current rules. VOCs are a key component in ozone, which is more commonly known as smog and has been linked to numerous health problems.

The Denver area, which includes most of Colorado's population, has ozone levels above U.S. EPA's threshold of 75 parts per billion and could fall into "serious nonattainment" if it doesn't reduce its emissions by 2018.

The area would also violate a new, tougher standard of 70 ppb that EPA adopted in 2015. The Trump administration has delayed implementation of that standard.

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

8. Murkowski pitches ANWR plan; Trump makes U-turn on Denali

Margaret Kriz Hobson, E&E News reporter

Published: Monday, October 23, 2017

ANCHORAGE, Alaska — Senate Energy and Natural Resources Chairwoman Lisa Murkowski on Saturday promised to hold "open and transparent" committee hearings on the best way to raise \$1 billion in new revenue to pay for federal tax cuts.

The Alaska Republican indicated that her top priority for raising those funds would be to sell oil and gas leases in the Arctic National Wildlife Refuge's coastal plain.

"Is ANWR one of the options on the table? Absolutely," Murkowski told reporters at the Alaska Federation of Natives (AFN) annual convention here. "Are we going to raise that in the committee? Absolutely."

Under the fiscal 2018 budget resolution passed by the Senate last week, the committee has until Nov. 13 to draft a bill to generate \$1 billion in revenue for the cuts (*E&E Daily*, Oct. 20). The House may act on the measure this week.

Murkowski's comments came after she gave a speech to the Native federation in which she didn't mention the contentious issue of drilling in the Arctic refuge. The state's Native groups are split on that issue.

But evidence of the conflict was clear at the conference, as a coalition of Alaska indigenous groups held a protest outside the convention hall accusing the Senate of fast-tracking the federal budget bill to open oil drilling in ANWR.

Murkowski's speech to Alaska's largest Native group was followed by a presentation by Martin Durbin, executive vice president of the American Petroleum Institute. That national industry group is among the top lobbyists pushing Congress to allow oil drilling in the Arctic refuge. At AFN, however, Durbin did not mention the ANWR debate.

At the press briefing Saturday, Murkowski dismissed protesters' claims that the Senate is surreptitiously seeking to open ANWR to oil development through the budget process.

"If you look to what was included in the budget, in the budget resolution, it was a specific instruction to the energy committee to find \$1 billion in additional revenue," she said. "It does not name ANWR."

But she added that "opening ANWR is one of the ways that the energy committee can arrive at additional revenues coming from that committee instruction."

Murkowski, who has championed ANWR drilling throughout her 15 years in the Senate, said that leaders of the Gwich'in Steering Committee, a native group opposed to oil development in the Arctic refuge, will be invited to testify at upcoming energy committee hearings on the budget proposal.

Climate 'test bed,' Bristol Bay mine

In her speech to the Native federation, Murkowski also asserted that Alaska's native communities are suffering serious harm due to climate change.

"The world around us is changing socially, economically and ecologically," she said. "And we all know that climate change is at the heart of this change."

Murkowski called on the Native leaders to improve the resilience of their communities by adopting new energy efficiency and renewable energy technologies. She said Alaska is becoming an international role model as an increasing number of Native villages in the state embrace new wind, battery, and micro-grid technologies that lower their energy costs.

"We can lead in the fight against climate change here at home and be that model for the rest of the world," she said. "We can be that test bed. We can be that incubator because if we can make it work here, it can work elsewhere."

Meanwhile, after her speech Murkowski said she is reserving judgement on the latest proposal by Pebble LP to develop a gold and copper mine in the salmon-filled headwaters of the Bristol Bay area of southwestern Alaska.

"I have been urging the Pebble partnership to show us the plan," she said. "Put it out on the table. File it with the state so that it can be determined what it is that we're all looking at."

However, Murkowski added that "if the mine is not compatible with our strong fishery resource in the region ... it should not be allowed to be permitted."

Early this month, Pebble officials worked to drum up support for a revised plan to mine the state's massive gold and copper deposits. The company outlined a mining plan that they said would have little or no impact on Alaska's salmon fisheries and would be significantly smaller than the original design.

During the Obama administration, Murkowski raised concerns about the impact that the company's previous mining proposal would have on Alaska's salmon fisheries. But at the same time she opposed U.S. EPA's efforts to limit the project.

Trump's U turn on renaming Denali

During a 2015 visit to Alaska, former President Obama officially changed the name of Mount McKinley in Alaska to Denali, winning praise from the state's Native groups and Republican lawmakers.

But a year later, then-candidate Donald Trump asserted that if elected president he would reverse that action along with a long list of other Obama-era executive orders.

Since then, however, President Trump has had a change of heart on renaming the nation's largest mountain, apparently due to the Alaska congressional delegation.

At the AFN convention, Alaska Sen. Dan Sullivan (R) said he, Murkowski and Trump met last March for more than an hour to talk about oil and gas issues and the economic and national security potential of the state. At the end of the meeting, Trump had one more question.

"He looked at me and said, 'I heard that the big mountain in Alaska — its name was also changed by an executive action. Do you want to reverse that?'" Sullivan recalled.

"Sen. Murkowski and I jumped over the desk and said, 'No! No! We don't want to reverse that,'" Sullivan said.

"He looked at me and said, 'Well why?' And I said, 'Mr. President, the Alaska Native people named that mountain 10,000 years ago. Denali. That was the name that was given to that mountain. Not McKinley,'" Sullivan recalled.

"And by the way that was the Athabascan people," he told Trump, referring to an Alaska Native group traditionally from a region that now includes the Denali National Park and Preserve.

"My wife is Athabascan," Sullivan added. "And if you change that name back now she's going to be really, really mad."

Alaska's junior senator said that Trump replied: "All right, we won't do that."

A version of this story appears in Energywire.

<http://bit.ly/2h2zk0T>

9. Settlement reached in Okla. wastewater-well lawsuit

Published: Monday, October 23, 2017

An Oklahoma couple has reached a settlement with the second of two oil companies whom they accused of triggering a 5.7-magnitude earthquake with their operation of wastewater-injection wells.

The case, brought by Prague residents Sandra and Gary Ladra against New Dominion LLC and Spess Oil Co., was due to see trial in the Oklahoma Supreme Court this November. The Ladras had sought damages after Sandra suffered injuries to her knees and legs in the 2011 earthquake. Oklahoma's former state seismologist later linked the event to activity in the wells.

The couple's settlement with New Dominion this month follows one reached with Spess Oil in July. Details of the terms have not been released.

Sandra called it a "relief maybe to get back to our lives."

"It's been a long six years, it's been very nerve-wracking the conditions that we've had to live in," she said (Dana Hertneky, News9, Oct. 18). — **DI**

<http://bit.ly/2gDZ4E7>

10. Votes set on GOP bills targeting 'sue and settle'

Amanda Reilly, E&E News reporter

Published: Monday, October 23, 2017

The House is poised to take up legislation this week that makes law settlement policies similar to those outlined in two recent memos issued by U.S. EPA and the Justice Department.

One bill aims to halt what critics call the practice of "sue and settle," the other would limit who could get money in a settlement agreement. The Judiciary Committee passed both measures earlier this year.

The floor votes follow Judiciary Chairman Bob Goodlatte's call for the full House to take up the sue-and-settle bill last week after EPA issued a directive aimed at curbing legal settlements with environmental groups.

"Now that the EPA has taken this important step, Congress needs to do its part to make this statute's reforms permanent for all federal agencies and for all future administrations," the Virginia Republican said.

For years, House Republicans have held hearings and tried to pass legislation on sue and settle. They complained that environmental groups frequently filed lawsuits against friendly agencies sympathetic to their cause, seeking settlements to advance their regulatory agendas.

This year, Goodlatte's committee held two hearings on the issue, seeking to increase momentum for the "Sunshine for Regulations and Regulatory Decrees and Settlements Act" introduced by Rep. Doug Collins (R-Ga.).

H.R. 465, which the committee passed along party lines in July, would require agencies to publicly post and report to Congress on lawsuits, consent decrees or settlement agreements. It would also prohibit same-day filing of complaints and pre-negotiated settlements.

EPA Administrator Scott Pruitt's memorandum last week gave those efforts a boost. Among other requirements, his memo instructed the agency to publish notices of intent to sue and proposed settlements, as well as concur with regulated entities and states over proposed settlements. The memo also directs EPA to "seek to exclude" attorneys' fees or costs to any petitioner or plaintiff in litigation against the agency (*Greenwire*, Oct. 16).

"The EPA's directive reflects the principles outlined in the Sunshine for Regulatory Decrees and Settlements Act, which would ensure that the sue-and-settle mischief we witnessed during the last administration would never again take hold in a federal agency," Collins said in a statement.

Environmentalists have decried both the EPA directive and the legislation. The Government Accountability Office has twice looked at the issue and concluded that sue and settle is not occurring at EPA.

Donations to third parties also targeted

The House this week will also take up the "Stop Settlement Slush Funds Act," a bill by Goodlatte to block the Justice Department from requiring donations to third parties as part of legal settlements.

H.R. 732 would bar money from settlements negotiated with the United States from going to any entity other than the federal government. DOJ settlements would be limited to those that provide restitution for harm "directly and proximately caused by the party making the payment."

House Republicans have long been pushing the legislation, passing a version of it last year. In recent months, a target of Republican ire has been the government's settlement with Volkswagen AG over the German automaker's emission-cheating scandal. The settlement directed VW to spend \$2 billion over the next 10 years on zero-emissions vehicle charging infrastructure, public education and ride-sharing projects.

Goodlatte has cast the settlement as a means of going around Congress, which twice rejected Obama administration requests to put funding into electric vehicle infrastructure.

"The Congress should make these decisions, not the bureaucrats and not the prosecutors," Goodlatte said in February when his committee approved the bill along party lines.

Unlike in previous years, Republican lawmakers have an ally in Attorney General Jeff Sessions. In June, he issued a departmentwide memo at DOJ stating the department would no longer require companies to donate to nongovernmental third parties as part of criminal and civil settlements (*Greenwire*, June 7).

Environmentalists and states, though, have said the new DOJ policy and the House legislation would hamstring the government's ability to negotiate settlements for environmental infractions. Violators are often required to fund a "supplemental environmental project" in lieu of paying more in penalties; funding for those projects would dry up under the new policy.

Shortly after Sessions' memo, DOJ announced it was revising a proposed pollution settlement with Harley-Davidson Inc. to get rid of a fund for boosting cleaner burning stoves.

David Uhlmann, a law professor at the University of Michigan, said last week another worrisome part of the memo and the legislation is language that stipulates a violator can only be held liable for harm it directly causes.

"The environmental context often involves generalized harm — harm to the environment but not to an individual victim. How do you deal with the harm to the Gulf of Mexico?" he said. "Or less specifically the Gulf but the fact of air pollution or water pollution. You can't put a dollar price on the harm."

Along with the two settlement bills, the House is also expected to consider under suspension a bill to boost Congress' subpoena power.

The bill — which passed the Judiciary Committee in a voice vote — would codify a requirement that recipients, both private individuals and those in the executive branch, comply with congressional subpoenas.

H.R. 4010 also mandates that congressional subpoenas and enforcement cases be heard in an expedited manner by federal courts, authorizes courts to impose monetary penalties against federal agency chiefs for not complying with subpoenas and allows a committee to request a three-judge panel of a district court be convened to hear a case (*E&E Daily*, Oct. 13).

Schedule: The Rules meeting is Monday, Oct. 23, at 5 p.m. in H-313 Capitol.

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

11. GOP senators offer bill to spur thinning projects

Marc Heller, E&E News reporter

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Four Senate Republicans released draft legislation today aimed at lowering environmental hurdles for forest-thinning projects ahead of a hearing scheduled for Wednesday.

Senate Environment and Public Works Chairman John Barrasso (R-Wyo.) proposed the "Wildfire Prevention and Mitigation Act," which would expand categorical exclusions from certain environmental reviews and overturn a federal court decision from 2015 that forced more consultation between the Forest Service and the Fish and Wildlife Service on forest management projects.

The **proposal** calls for categorical exclusions up to 6,000 acres for forest thinning, improvement of early successional forest, responding to disease and insect outbreaks, and improving wildlife habitat. A categorical exclusion would be provided specifically for greater sage grouse and mule deer habitat.

That's smaller than the 10,000-acre categorical exclusion called for in a forest management bill in the House introduced by Rep. Bruce Westerman (R-Ark.), but a lobbyist for an environmental group said the provision probably won't unite groups or lawmakers that have been on opposite sides of the forest policy debate.

Co-sponsoring the measure with Barrasso are Sens. Orrin Hatch (R-Utah), John Thune (R-S.D.) and Steve Daines (R-Mont.).

Some provisions in the draft have generated broader support, such as reversing the 9th U.S. Circuit Court of Appeals' 2015 ruling in *Cottonwood Environmental Law Center v. U.S. Forest Service*, which forced the agency to consult more closely with Fish and Wildlife on forest projects that might affect endangered species.

The Obama administration also opposed that ruling, and groups such as the National Wildlife Federation have supported litigation relief.

Barrasso's legislation would also limit the Forest Service's environmental assessments of forest management projects to either the work as proposed or no action, and the assessment couldn't be longer than 100 pages.

The draft provides a five-year pilot project for arbitration, rather than legal action, to resolve disputes over proposed forest management projects.

Senators also proposed changes to policy related to the closure of permanent roads in national forests through good neighbor and stewardship contracting authority, allowing the agency to close roads without certain restoration work if the roads would provide future routes for firefighters, for instance.

Barrasso's draft doesn't address the Forest Service's fire suppression budget or ending fire-budget borrowing that taps non-fire-related accounts to pay for wildfire response. But sponsors have said more forest-thinning work would reduce the risk and cost of wildfires in the long run.

The Nature Conservancy, which has called for an end to fire budget borrowing, hasn't taken a position on Barrasso's draft, a spokeswoman said.

<http://bit.ly/2xikwS2>

12. EPW panel to hold hearing on draft wildfire bill

Marc Heller, E&E News reporter

Published: Monday, October 23, 2017

The Senate Environment and Public Works Committee will hold a hearing Wednesday on wildfire legislation, taking on a long-brewing issue that's gained new attention with fire damage to California's wine country.

EPW Chairman John Barrasso (R-Wyo.) has been looking for ways to break a congressional logjam over the issue, balancing environmental and timber interests split over how actively wildlands should be managed to reduce fire risk.

The hearing, focused on draft legislation called the "Wildfire Prevention and Mitigation Act," may shed light on how far Congress can go this year in opening the way to more thinning of woodlands and other wild areas. The committee hadn't released the draft as of yesterday.

A committee spokesman said the proposal grew out of a hearing Barrasso held in September on a range of bills dealing with wildfire policy and will aid a more active approach to forest management while providing increased protection for wildlife.

Lawmakers generally agree on one goal — to end the Forest Service's practice of borrowing from non-fire-related accounts to pay for wildfire suppression. And there is broad support for reversing a federal Circuit Court decision from 2015 that obligated the Forest Service to consult more with the Fish and Wildlife Service on potential effects on endangered species from forest management projects.

They remain split, however, on measures that would scale back the National Environmental Policy Act by expanding categorical exclusions for forest-thinning work.

Barrasso has said he intends to pass wildfire legislation before the end of the year. As a draft, the proposal will be open to changes before it's formally introduced.

Lobbyists and congressional aides say some form of wildfire legislation is likely to pass as part of disaster funding this year, a response to hurricanes as well as the California wine-country wildfires.

Last week, a bipartisan group of senators introduced legislation providing \$100 million annually to help communities prepare for and reduce risks of wildfire. Financial assistance would be targeted at the wildland-urban interface, the developed areas adjacent to forests (*E&E News PM*, Oct. 19).

The committee will hear from a state forester, a sportsmen's group and an organization that advocates a combination of thinning and managed fires to reduce risk of catastrophic wildfires.

Schedule: The hearing is Wednesday, Oct. 25, at 10 a.m. in 406 Dirksen.

Witnesses: Bill Crapser, state forester, Wyoming State Forestry Division; Miles Moretti, president and CEO, Mule Deer Foundation; and Dylan Kruse, policy director, Sustainable Northwest.

<http://bit.ly/2lbql1Y>

13. Committee to vote on OPM nominees

Kevin Bogardus, E&E News reporter

Published: Monday, October 23, 2017

President Trump's nominee for personnel chief looks set to take another step closer to confirmation.

On Wednesday, the Senate Homeland Security and Governmental Affairs Committee will hold a business meeting to vote on several nominees, including Jeff Pon to lead the Office of Personnel Management. If confirmed, Pon will play a key role in Trump's effort to reorganize the federal government.

Also on the committee markup's agenda is consideration of Michael Rigas, nominated to be deputy director at OPM, as well as Emily Murphy, picked to lead the General Services Administration.

All three nominees appeared before the panel last week for their confirmation hearing, in which ranking member Claire McCaskill (D-Mo.) voiced support for whistleblower legislation (*E&E Daily*, Oct. 19).

Schedule: The markup is Wednesday, Oct. 25, at 10:30 a.m. in 342 Dirksen.

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

14. 2 defendants plead guilty to misdemeanor, avoid 3rd trial

Jennifer Yachnin, E&E News reporter

Published: Monday, October 23, 2017

Federal prosecutors struck a plea deal today with two defendants who participated in the 2014 armed standoff between ranchers and federal agents near Bunkerville, Nev., averting the need for a third trial for the duo that had been slated to begin next week.

The agreement will not, however, derail proceedings for Bundy ranch patriarch Cliven Bundy, along with his sons Ammon and Ryan and co-defendant Ryan Payne.

Those four defendants are scheduled to face trial Oct. 30 for their roles in the incident, sparked when the Bureau of Land Management tried to seize Bundy's cattle over more than \$1 million in unpaid grazing fees and fines. The quartet are charged with a variety of misdemeanors and felonies, including conspiracy, threatening federal officials and firearms charges.

According to court documents, defendants Scott Drexler and Eric Parker — who had already faced trial on charges in the case in April and again in August, with deadlocked juries — both pleaded guilty today to one misdemeanor charge for obstruction of court order.

The misdemeanor charge carries a maximum sentence of one year in prison and a \$100,000 fine, but the government indicated it will seek only probation for both defendants and will not seek restitution.

Court documents show Drexler and Parker — each of whom was photographed in the 2014 incident holding large firearms on a freeway overpass that overlooked BLM agents in a nearby wash — acknowledged that they "did use a show of force to obstruct, impede, interfere with federal law enforcement officers with the Bureau of Land Management and National Park Service performing duties under federal court orders authorizing the impoundment of cattle trespassing on public lands in and around the Gold Butte area."

In a statement on Facebook, Parker's wife asserted that he would not be called to testify against his co-defendants.

"We are not turning on anyone. Nothing is set in stone I will update everyone tomorrow," Andrea Olson-Parker wrote yesterday.

Jurors twice failed to convict Drexler and Parker on any charges stemming from the 2014 incident.

In the first trial, which ended in April, jurors convicted Arizona resident Gregory Burleson and Idaho resident Todd Engel but deadlocked on all other charges against Drexler, Parker and two other co-defendants, Richard Lovelien and Steven Stewart.

In the second trial, which ended in August, jurors declared Lovelien and Stewart not guilty on all charges and dismissed all but four charges against Parker and two charges against Drexler.

U.S. District Judge Gloria Navarro will sentence Parker and Drexler on Feb. 2.

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