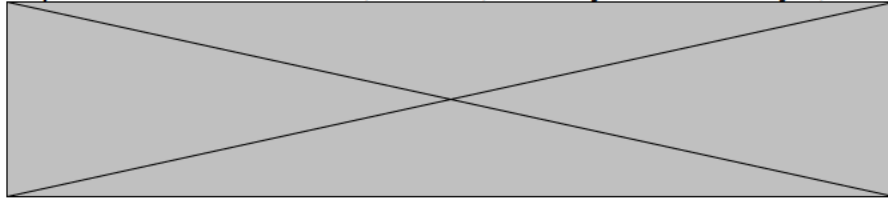


To: Mat Maucieri[mmaucieri@usbr.gov]
From: kris.polly@waterstrategies.com
Sent: 2017-11-29T09:09:20-05:00
Importance: Normal
Subject: Water Strategies Client Report
Received: 2017-11-29T09:10:37-05:00

Client Report

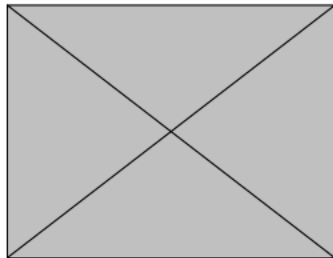
6TH ANNUAL OPERATIONS AND MANAGEMENT WORKSHOP

The workshop will be held in Phoenix, Arizona, January 31 - February 1, 2018



The agenda and all details have been posted on our website and registration is now available. Find all the details [HERE](#).

2018 IRRIGATION EDUCATION TOUR TO AUSTRALIA



We also have our 2018 Irrigation Education Tour to Australia posted on our website with registration available now and the agenda posted soon. Find the current details [HERE](#).

Please feel free to contact us if you have any questions.

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INTERIOR

Republicans to Trump: Move agencies out of D.C.

Kellie Lunney, E&E News reporter

Published: Thursday, November 16, 2017

The Republican leadership of the House Natural Resources Committee urged the White House today to consider relocating some Interior Department agencies from Washington as part of the administration's effort to reorganize the government.

"Any thoughtful DOI reorganization should give serious consideration to relocating select agencies away from Washington, D.C. and closer to the American people they were created to serve," wrote Chairman Rob Bishop (R-Utah) in a [letter](#) to President Trump.

"Simply put, federal employees should know and live around the people, lands, and economies they regulate," he said.

The other Republican lawmakers who signed the letter were the committee's Chairman Emeritus Don Young of Alaska and the five subcommittee leaders: Paul Gosar of Arizona, California's Doug LaMalfa and Tom McClintock, Doug Lamborn of Colorado, and Bruce Westerman of Arkansas. Office of Management and Budget Director Mick Mulvaney was copied on the letter.

The Westerners said that moving some of the department's agencies - they did not specify which ones - will "go a long way towards restoring balance to the partnership between the states and federal government."

The lawmakers added that they were "eager to review" the administration's reorganization plan for Interior.

To date, that plan has been shrouded in mystery, though Secretary Ryan Zinke has indicated publicly and privately he wants to shift more department resources and personnel to field offices across the country.

Zinke has said repeatedly he wants to give more decisionmaking authority to the department's front lines.

This summer, he floated the idea of moving the headquarters of the Bureau of Land Management, Fish and Wildlife Service and Bureau of Reclamation from Washington to Denver, according to employee notes obtained by E&E News in August ([Greenwire](#), Aug. 15).

The Trump administration is expected to include federal agencies' reorganization plans and workforce reshuffling in its fiscal 2019 budget request due in February. OMB has been working with agencies on their plans.

The lawmakers' letter makes clear they want Washington to play a less central role in agencies' decisionmaking, especially as it relates to public lands.

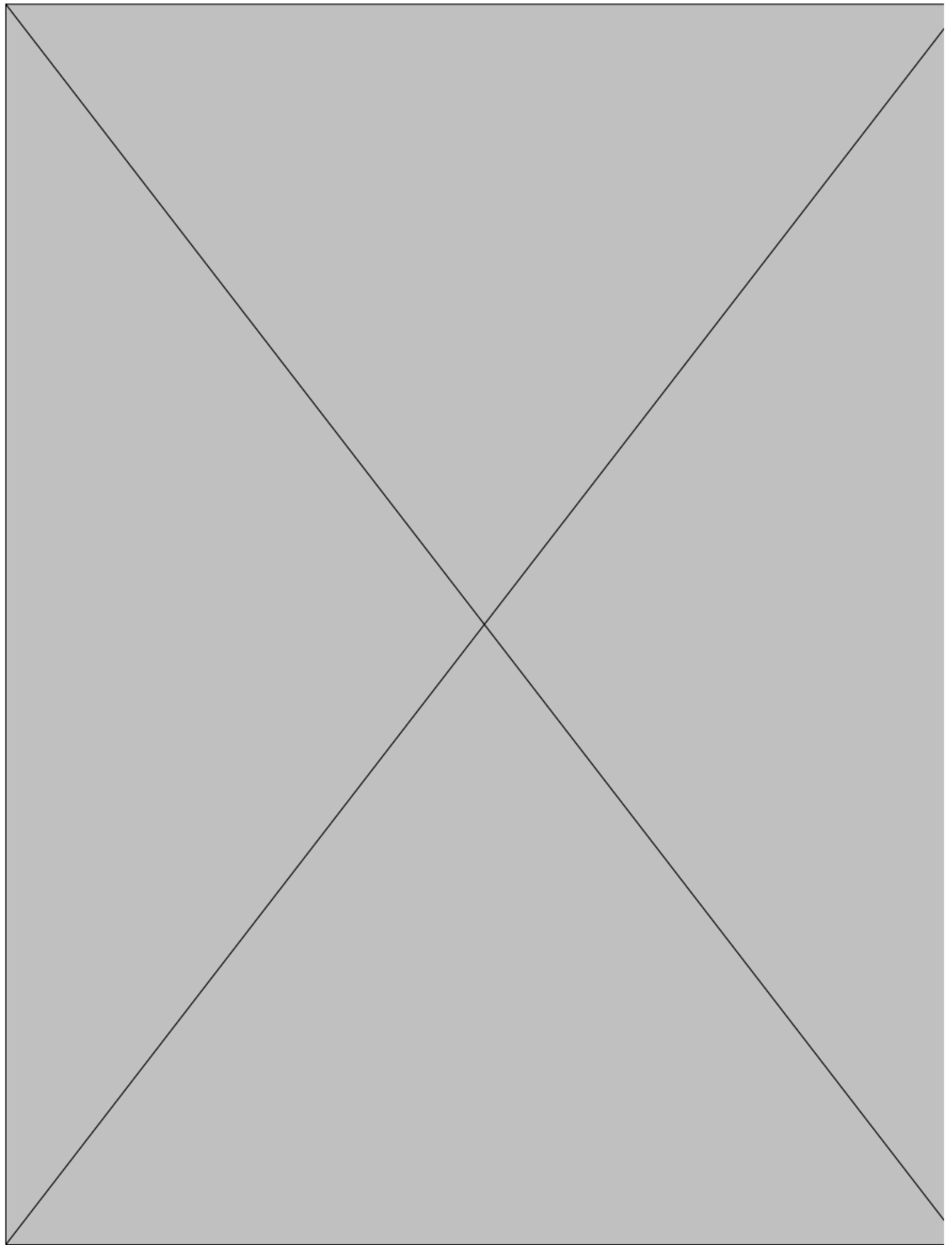
"As members of Congress, we have seen firsthand how rigid, top-down directives issued by Washington bureaucrats have resulted in ever-expanding missions for federal agencies. Often, these directives undermine federal and state partnerships in the responsible management of our natural resources," the Republicans wrote.

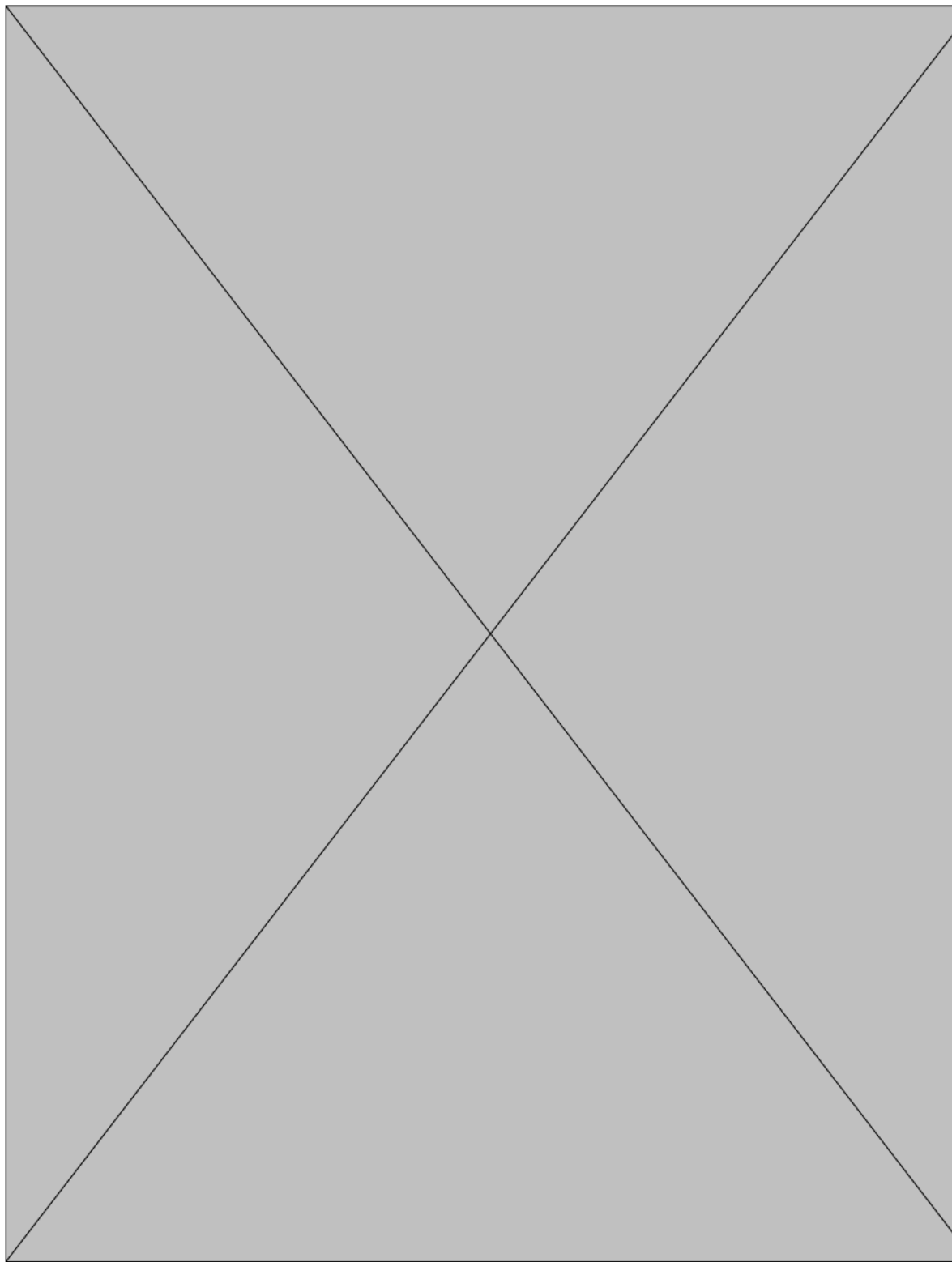
As Westerners, they are particularly sensitive to Interior's control over so much land in their part of the country.

"As a result of mission drift, federal agencies have lost touch with the concerns of Americans most impacted by administrative and regulatory burdens," said the letter, citing Uncle Sam's "continued acquisition of vast tracts of land in the western United States despite not being able to effectively manage the more than 600 million acres of land it already owns" as a "prime example" of that drift.

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APPROPRIATIONS

Partisan sniping escalates ahead of funding deadline

George Cahlink, E&E News reporter

Published: Wednesday, November 29, 2017

President Trump at the White House flanked by two empty chairs where Schumer and House Minority Leader Nancy Pelosi (D-Calif.) were supposed to sit during a planned meeting. C SPAN

Bipartisan budget negotiations aimed at avoiding a government shutdown in less than two weeks stalled yesterday with each side saying the other would be to blame if federal agencies are forced to close.

Democratic leaders declined to attend a White House meeting yesterday with Republicans to begin working on hammering out a deal, accusing President Trump of being unwilling to negotiate.

The Democrats made the move after the president sent out a tweet saying, "I don't see a deal."

Trump said they backed higher taxes and illegal immigration.

In a statement, Senate Minority Leader Chuck Schumer (D-N.Y.) and House Minority Leader Nancy Pelosi (D-Calif.) responded: "We don't have any time to waste in addressing the issues that confront us, so we're going to continue to negotiate with Republican leaders who may be interested in reaching a bipartisan agreement."

Those Republican leaders went ahead with their scheduled meeting with Trump, where they took turns lambasting the Democrats for not participating. The White House set up empty chairs in the place of Schumer and Pelosi.

The president called them "all talk and no action" in a photo-op with Speaker Paul Ryan (R-Wis.) and Senate Majority Leader Mitch McConnell (R-Ky.), and the empty chairs.

While the political broadsides continued, no deal appeared close, even with current government funding set to expire on Dec. 8. Without another stopgap measure or broad agreement, most agencies will be forced to close after next Friday.

Congress has yet to pass any of its fiscal 2018 spending bills, and leaders are hoping to find common ground on an omnibus package that would contain all 12.

But differences have emerged over whether defense and nondefense spending increases should be doled out equally, how to deal with emergency aid for recent hurricane victims, and policy riders related to immigration.

Schumer told reporters after canceling the meeting he believed staff members were making good progress before Trump's tweet yesterday morning.

But Senate Majority Whip John Cornyn (R-Texas) sounded less optimistic, saying there was no agreement yet on how long a new temporary funding measure would last, and he conceded any spending bill would need Democratic support to overcome the threat of a filibuster.

Appropriators for their part insist they can move fast, with several saying in recent weeks a stopgap running through Dec. 21 would buy them enough time for Congress to negotiate and then pass an omnibus before adjourning for the year.

Sen. Richard Shelby (R-Ala.), a senior appropriator, said all options were on the table, including a 12-bill omnibus, a long-term continuing resolution to continue current funding or a hybrid to provide new spending for some agencies.

"We won't have a government shutdown unless the Democrats choose to have a government shutdown," he added.

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TAX POLICY

Senate overhaul inches closer toward passage

Geof Koss, Kellie Lunny and Nick Sobczyk, E&E News reporters

Published: Wednesday, November 29, 2017

President Trump met with Republicans on Capitol Hill yesterday to push tax reform legislation. C SPAN

Senate Republicans appear to be making headway in their efforts to rewrite the tax code - and open the Arctic National Wildlife Refuge to oil and gas drilling - after clearing a key committee hurdle yesterday.

The Senate Budget Committee voted 12-11 along party lines to report the chamber's budget reconciliation package - the vehicle for tax reform - to the floor, with GOP leaders indicating they'll try to pass it before the end of the week.

The panel's vote, which came over the howls of protesters chanting "kill the bill, don't kill us," came after two undecided GOP members of the committee, Ron Johnson of Wisconsin and Bob Corker of Tennessee, vowed to advance it in exchange for later changes.

Johnson wants to see more generous "pass-through" treatment for small businesses, while Corker wants to see a "trigger" mechanism added to help rein in debt, should the bill fail to live up to economic projections.

Those were among the issues discussed yesterday during President Trump's visit with Senate Republicans.

Trump, who earlier in the day met separately with Sens. Lamar Alexander (R-Tenn.), Lindsey Graham (R-S.C.) and Susan Collins (R-Maine), also appears to have made headway with senators who have qualms over the inclusion in the tax bill of the individual mandate in the Affordable Care Act.

Collins - who along with Senate Energy and Natural Resources Chairwoman Lisa Murkowski (R-Alaska) helped sink the Republican effort to repeal Obamacare earlier this year - has been on the fence about the tax bill.

She has concerns over the individual mandate repeal and provisions that would slash state and local tax deductions.

But she told reporters yesterday the meeting with Trump left her feeling optimistic about the bill.

"We're making progress," Collins said. "I believe that a lot of my concerns, it appears, are going to be addressed, and I'm going to be given the opportunity to offer amendments on the Senate floor on these areas."

Collins added that lawmakers had reached an agreement to push a health insurance market fix from Alexander and Sen. Patty Murray (D-Wash.) to the floor before the Senate votes on the final compromise version of the tax bill.

That could shore up support for tax reform from Murkowski, who last week expressed support for repealing the Obamacare mandate but did not explicitly say she would back the Senate's tax bill, despite the ANWR provisions.

Murkowski yesterday told E&E News she was "feeling better" about the legislation. "I'm optimistic about the week, let's put it that way," she said ahead of the lunch with Trump.

Getting to 50

Despite committee passage, Senate leaders must still convince 50 of the 52 members of the GOP caucus to support the bill on the floor later this week. With Vice President Mike Pence able to cast tie-breaking votes in the Senate, they can lose just two votes.

Majority Leader Mitch McConnell acknowledged to reporters yesterday just before the committee vote that it was "a challenging exercise" to address the disparate concerns of different GOP lawmakers to get them on board.

Senate Budget Chairman Mike Enzi (R-Wyo.) during yesterday's markup of tax reform legislation. Budget Committee

"I'm sitting there with a Rubik's Cube trying to get to 50," the Kentucky Republican said during his

weekly press conference after the parties' policy lunches. "We do have a few members who have concerns, and we're trying to address them."

All 48 Democrats are expected to vote against the tax bill.

Fifteen moderate Democrats and Maine independent Angus King said yesterday they wanted to enact what they called meaningful tax reform, including lowering the corporate tax rate and providing greater relief to middle- and working-class Americans.

"We want to work with you," Sen. Joe Manchin ([D-W.Va.](#)) said in a direct plea to Republicans. The Democrats also lobbied for more time to negotiate.

"The problem is, the vote this week is being presented as the last chance, the only opportunity, to fix a broken tax code," said King, referring to Republican leadership's timetable for getting a tax plan passed before the end of this year. "And that is simply not true," he added.

Republicans have until the end of fiscal 2018 - Sept. 30, 2018 - to move tax legislation through the reconciliation process, the expedited legislative vehicle that allows the bill to pass by a simple majority vote without the threat of a filibuster.

But the GOP congressional leadership and the White House are eager to get a solid legislative win on the books, particularly before 2018, when the distractions and political vulnerabilities of an election year will complicate policymaking.

Senate Majority Whip John Cornyn (R-Texas) dismissed the notion that lawmakers haven't had enough time to craft a major tax plan - the first such overhaul to the tax code since 1986.

"This is completely an illusion; we've been working on tax reform for years, literally for 30 years," Cornyn told reporters yesterday afternoon, after Trump's visit to the Capitol and before the Budget Committee vote.

"We've had 70 hearings with the Senate Finance Committee, and of course a lot of working groups and white papers and the like. So, a lot of work has gone into this."

During the Democratic press conference, Manchin, as well as Sens. Joe Donnelly of Indiana and Heidi Heitkamp of North Dakota, did not directly answer a question on how they plan to vote on the motion to proceed to a final passage vote on the tax bill when it hits the floor later this week.

The three moderate Democrats are up for re-election in 2018 and represent states Trump easily won in 2016.

"We haven't seen the final version," Manchin said.

Heitkamp was a bit more expansive.

"I think it's unfair to ask that question," said the former North Dakota tax commissioner. "I've been asking all along: What is it, and I still don't know what it is," she said of the GOP tax bill. "It's still a moving target."

Heitkamp said she was "deeply concerned about a number of provisions, especially the provisions that take the bulk of dollars that we are going to invest in this and front-load them to the richest."

She added the White House had assured the three of them this would not happen.

Missouri Democratic Sen. Claire McCaskill, who also faces a tough re-election campaign next year, said she has talked to "a number" of Republican colleagues who are "uncomfortable" with both the reconciliation process and the tax bill itself. She did not, however, name any names.

"They are under tremendous political pressure," said McCaskill. "This is all about them getting a tax bill passed to show they can run government."

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NOMINATIONS

Farm-state senators warm to Trump's CEQ pick

Kevin Bogardus and Nick Sobczyk, E&E News reporters

Published: Wednesday, November 29, 2017

The Senate Environment and Public Works Committee will vote today on Council on Environmental Quality

nominee Kathleen Hartnett White. Paul Morse/Heritage Foundation

President Trump's nominee for chairwoman of the White House Council on Environmental Quality has apparently assuaged worries of key Senate Republicans on her path to confirmation. Kathleen Hartnett White faced tough questioning from farm-state senators over her past criticism of biofuels, but the senior fellow at the Texas Public Policy Foundation downplayed her opposition to ethanol and the renewable fuel standard during her confirmation hearing and in private meetings with senators since then ([Greenwire](#), Nov. 8).

This morning, the Senate Environment and Public Works Committee will vote on Hartnett White's nomination. GOP senators' worries over biofuels held up another Trump nominee - Bill Wehrum, who has since been confirmed to lead U.S. EPA's air office - but the CEQ pick hasn't sparked similar hostility.

Asked yesterday if Hartnett White's nomination has a chance, Sen. Deb Fischer (R-Neb.), who sits on the EPW panel, said, "Yes, she does."

Fischer told reporters Hartnett White gave her "good responses" regarding the RFS in a one-on-one meeting.

"I asked her a number of questions, and she had good responses," Fischer said. "It was between the two of us."

Sen. Mike Rounds (R-S.D.) asked Hartnett White about biofuels at her hearing earlier this month. He said yesterday that he will vote in favor of her nomination at today's markup.

"That's my intent," Rounds said.

The EPW member said he was helped by Hartnett White revising her position on biofuels.

"I'm comfortable with her," Rounds said, noting Hartnett White has "made some pretty clear statements" that ethanol is "economically viable" and that her prior stance was based on outdated information.

"That has helped me a lot," he said.

Other EPW members sounded positive notes on the CEQ nominee.

Sen. Joni Ernst (R-Iowa), who helped hold up Wehrum over RFS concerns, said yesterday she was still reviewing Hartnett White's nomination. But she did offer that the CEQ pick has been responsive to her questions.

"She has answered my questions, and she has stated that she will uphold the renewable fuel standard. That's what I'm most concerned about," Ernst said.

Hartnett White has also stated her newfound embrace of biofuels in her [written responses](#) to lawmakers obtained by E&E News.

In response to questions from EPW ranking member Tom Carper (D-Del.), she said ethanol has not hurt the food supply, unlike her previous comments.

"New data regarding the increased size of the corn crop and for innovative new uses of ethanol have altered my previous comments about renewable fuels," Hartnett White told Carper.

"Thanks to the prodigious increase in the US corn crop and innovative science, America and the world are enjoying a 'win-win' gain in our energy supply and global food supply."

The EPW panel's top Democrat has been pushing back on Hartnett White's nomination, saying he has been talking to Republicans who have been left confused by the CEQ nominee.

"Just baffled by her testimony," Carper said. "How someone could be so strident in her opposition to biofuels, the renewable fuel standard, climate change, any number of issues, and she just backed away from them as if she had never held those positions for the last eight or nine years."

Carper said several Republican senators are taking "a close look, maybe a second look," at Hartnett White's nomination.

Vote on pick for EPA deputy

The EPW panel will also vote on another nomination today: Andrew Wheeler, picked for deputy EPA administrator. Wheeler was a longtime aide for the committee and is a familiar face for several of its Democratic and Republican members.

Carper said he doesn't believe Democrats will vote for Wheeler's nomination during today's markup

but that the EPA nominee may receive support from some in the minority party later on the Senate floor.

"At the business meeting this week, I would say probably not," Carper said about Wheeler's nomination. Nonetheless, if EPA continues to improve on responding to Democrats' oversight letters, that may help Wheeler's cause.

"If they make real and continued progress, I can see some Democrats voting for Mr. Wheeler later on," said the Delaware senator.

Wheeler's lobbying record as a principal with Faegre Baker Daniels Consulting has come under scrutiny from Democrats. His work on behalf of a former client, coal giant Murray Energy Corp., has garnered particular attention.

In **written responses** to Carper's questions, Wheeler was asked about his past work for Murray Energy, including whether he enlisted Administrator Scott Pruitt to speak to the National Mining Association to push for leaving the Paris climate change accord.

"I do not recall any role in enlisting Administrator Pruitt to speak at NMA," Wheeler said. In a separate answer, Wheeler said he agreed with Trump's decision to withdraw the United States from the agreement.

Wheeler also said he only recalled working in opposition to two Clean Air Act regulations issued by the Obama-era EPA, the Mercury and Air Toxics Standards and the Clean Power Plan.

Wheeler did answer several questions about climate change with the following: "I do believe that the climate is changing and that humans have an impact on the climate."

In her own responses, Hartnett White also made note of human activity impacting the climate but also said, "The ability to measure with precision the degree and extent of that impact, and what to do about it, are subject to continuing debate and dialogue."

She has also defended her membership in the CO2 coalition, which has pushed back against mandates to reduce carbon emissions. Hartnett White said the group brings "public awareness" to science that should be part of the debate over climate change and energy.

"CO2 is necessary for life on Earth," she said in a response to Carper.

Republicans hope to move the nominees through the committee today. Sen. John Barrasso (R-Wyo.), EPW chairman, said he believes both Hartnett White and Wheeler will be approved by his panel.

"I expect we'll be able to report both of the nominees," Barrasso told reporters yesterday.

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NATIONAL MONUMENTS

President to announce cuts in Utah trip

Jennifer Yachnin, E&E News reporter

Published: Tuesday, November 28, 2017

President Trump will visit Utah on Monday to announce reductions to the Grand Staircase-Escalante and Bears Ears national monuments. Bureau of Land Management/Flickr

President Trump is expected to visit Salt Lake City on Monday to announce reductions to a pair of national monuments in Utah, although the details of those cuts, expected to be hundreds of thousands of acres, remain under wraps.

The Salt Lake Tribune reported today that Trump will make a day trip to the state Monday and announce his decision from the Beehive State's capital.

The White House declined to confirm Trump's expected visit, however, and a spokeswoman for Utah Gov. Gary Herbert (R) said the governor has "not yet received formal confirmation of the president's proposed visit."

Interior Department spokeswoman Heather Swift likewise declined to comment when asked whether Secretary Ryan Zinke would attend next week's announcement.

"We have nothing to announce on either the monument report or the secretary's schedule," she said, referring to a final report outlining expected reductions of hundreds of thousands of acres at the Utah monuments and other sites.

In late October, White House spokeswoman Sarah Huckabee Sanders said the document would be "out shortly," but it has yet to be publicly released. She also indicated at that time that Trump planned to visit Utah in early December (*E&E News PM*, Oct. 27).

In a draft report leaked to the media in September, Zinke endorsed unspecified reductions to Grand Staircase-Escalante and Bears Ears national monuments in Utah, as well as the Cascade-Siskiyou National Monument in Oregon and California, Gold Butte National Monument in Nevada, Rose Atoll Marine National Monument and Pacific Remote Islands Marine National Monument (*Greenwire*, Sept. 18).

Earlier this month, an aide to Sen. Orrin Hatch (R-Utah) told the Utah Legislature's Commission for the Stewardship of Public Lands that the president will direct the Grand Staircase-Escalante site in southwestern Utah to be reduced to 700,000 acres from its current 1.9-million-acre size and that the Bears Ears site in southeastern Utah would be reduced to between 100,000 and 300,000 acres from its current 1.35-million-acre size (*Greenwire*, Nov. 15).

Greens vow legal fight

In the meantime, environmental groups that have vowed to challenge any attempt by the Trump administration to reduce monuments - arguing that the president does not have authority to do so under the Antiquities Act of 1906 - slammed the anticipated reductions.

"Next week, President Trump will try to push through the largest elimination of protections for lands and wildlife in U.S. history," said Center for Western Priorities Executive Director Jennifer Rokala. She added: "Not only is President Trump's order likely illegal, it ignores comments from more than 2.8 million Americans who asked the administration to leave these national monuments alone. The landscapes within Bears Ears contain tens of thousands of Native American ruins, rock art and artifacts that have long been ravaged by looting and vandalism. It appears President Trump wants to keep it that way."

Backcountry Hunters and Anglers President and CEO Land Tawney also criticized Zinke's role in the expected reductions, contrasting the recommendations with President Theodore Roosevelt. "President Trump and Secretary Zinke like to compare themselves favorably to Roosevelt, our nation's greatest conservationist leader," Tawney said, noting Roosevelt was in office when the Antiquities Act was approved by Congress.

"In the spirit of Theodore Roosevelt, we urge the president and the Interior secretary to abandon this damaging course of action. Let's instead redouble our efforts to uphold Roosevelt's legacy and conserve these most important public lands and waters," he added.

The Center for Biological Diversity renewed its vow to stage a legal challenge against any decision reducing monuments.

"Trump has no clue how much people love these sacred and irreplaceable landscapes, but he's about to find out. He's shown his blatant disregard for public lands, Native Americans and the law. We look forward to seeing him in court," said CBD Public Lands Program Director Randi Spivak. Reprinted from E&E News PM with permission from Environment & Energy Publishing, LLC www.eenews.net 202 628 6500

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PUBLIC LANDS

Legislation advances to toss Obama protections near wilderness

Dylan Brown, E&E News reporter

Published: Wednesday, November 29, 2017

The House Rules Committee advanced legislation last night to block an Obama-era Minnesota

mining ban.

The House will debate Minnesota Republican Rep. Tom Emmer's [H.R. 3905](#) and a single amendment from House Natural Resources Committee ranking member Raúl Grijalva (D-Ariz.) as soon as today.

The "Minnesota's Economic Rights in the Superior National Forest Act" would halt a federal mineral withdrawal that President Obama ordered south of the Boundary Waters Canoe Area Wilderness. Chilean mining firm Antofagasta PLC is looking to build its Twin Metals copper-nickel mine project near Ely, Minn. ([Greenwire](#), Aug. 11).

Thousands of jobs and billions of dollars in tax revenue are at stake, said Natural Resources Subcommittee on Energy and Mineral Resources Chairman Paul Gosar (R-Ariz.), citing the bill's text to dispell "false" claims about risks posed to the Boundary Waters.

"Nothing in this section may be construed as permitting the prospecting for development and utilization of mineral resources within the Boundary Waters Canoe Area Wilderness or Mine Protection Area," the bill states.

But conservation groups say pollution from the mine will inevitably find its way into the wilderness and beyond.

Grijalva voiced those concerns yesterday but, predicting Republicans will pass the bill out of the House, proposed the lone amendment, which Rules made in order.

The language would charge a higher royalty rate - more than 16 percent - for mineral leases within Minnesota federal forest land.

That's about the same amount that Senate Energy and Natural Resources Chairman Lisa Murkowski (R-Alaska) proposed for drilling in the Arctic National Wildlife Refuge.

"The rock-bottom prices effectively subsidize a foreign company to mine on public land right next to an irreplaceable wilderness," Grijalva said.

Hardrock mining companies generally don't pay royalties for mining on federal land. Grijalva and many Democrats want to change that.

The Rules Committee tossed another amendment from Minnesota Democratic Rep. Rick Nolan that would have eliminated the bill's provision requiring Congress to approve any new national monument or expansion designations on Forest Service land in Minnesota.

But the pro-mining congressman had already scored a victory yesterday when the House passed his separate bill facilitating the construction of another copper-nickel project in the region, the PolyMet mine ([see related story](#)).

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REGULATIONS

Trump has rolled back more rules than any president - watchdog

Maxine Joselow, E&E News reporter

Published: Tuesday, November 28, 2017

President Trump withdrew more rulemakings early in his tenure than any previous president, according to an analysis of the new administration's first Unified Agenda.

The agenda, released in July, listed 457 rulemakings as withdrawn, the group Public Citizen said in a [report](#) released today. The number surpasses a 2002 record of 386 withdrawn rules.

The latest issue of the Unified Agenda included mostly notices to scrap or revise regulations, a sharp contrast to the Obama years ([Greenwire](#), July 20).

The Interior Department and the Department of Health and Human Services withdrew the most rulemakings of all agencies, the Public Citizen report found.

Withdrawn Interior rules include actions related to the protection of 15 endangered species and the conservation of Florida's Biscayne Bay.

"Administration officials would have you believe that the rulemakings they terminated were of little

importance to the public," said Michael Tanglis, senior researcher for Public Citizen's Congress Watch, who authored the report.

"But these rulemakings would have reduced workplace accidents, prevented fires and explosions, and protected the rights of same-gender couples," Tanglis said. "These outcomes matter, especially to Americans who needed these protections."

Observers expect the Trump administration to release its second Unified Agenda soon. President Obama was known to release the report around Thanksgiving.

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AGRICULTURE

USDA hiring freeze hurting local service, N.M. Democrats say

Marc Heller, E&E News reporter

Published: Tuesday, November 28, 2017

A Department of Agriculture hiring freeze may be undermining USDA Secretary Sonny Perdue's efforts to improve service at county-level offices.

That's the complaint from Democratic lawmakers from New Mexico, who wrote to Perdue on Nov. 15 about staffing shortages in their state. An association of state conservation district directors was set to discuss the issue with Perdue today, as well.

"The customer service is not there, particularly when providing fellow community members the technical assistance, reimbursement, or assessment needed to keep New Mexico's farmers and ranchers producing the food and fuel that powers this nation," wrote Sens. Tom Udall and Martin Heinrich, joined by Reps. Ben Ray Lujan and Michelle Lujan Grisham. Udall's office revealed the letter in a news release yesterday.

They urged Perdue to lift the freeze, which took effect in January, three months before the secretary was confirmed. Although an administrationwide freeze was lifted last spring, it still applies in some agencies.

The hiring freeze has helped create 1,446 vacancies at the Natural Resources Conservation Service (NRCS) and equivalent numbers at the Farm Service Agency, the lawmakers wrote. The freeze came on top of vacancies that already existed before the directive took effect, they said. In New Mexico, they said, USDA offices in the city of Carlsbad has had no NRCS staff for nearly a year.

"These staff positions provide critical support and service to rural American landowners, protect our valuable soil and water resources, and invest in rural economies. Your timeliness on addressing the NRCS' and FSA's field staff vacancies is crucial to ensuring our farming and rural economies receive necessary face-to-face technical support," they wrote.

In a statement, a department spokesman said, "USDA is reviewing the letter from the members of Congress regarding vacancies and is formulating a response. Meanwhile, we are already in the process of conducting workload assessments for our customer-facing agencies to ensure that USDA maintains its superior level of customer service."

The statement adds, "We hope to have USDA's Under Secretary for Farm and Foreign Agricultural Services onboard soon to aid in the assessment process." The nominee for that position, Bill Northey of Iowa, faces a hold placed by Sen. Ted Cruz (R-Texas), who's feuding with Sen. Chuck Grassley (R-Iowa) over biofuel policies at U.S. EPA.

Since his confirmation hearings last spring, Perdue has said his top priority is to improve the department's service at the local level, even as the administration pushes the closure of small county-level USDA offices. In some cases, he has said, offices have just one or two employees and are close enough to other offices that combining the locations makes sense (*E&E News PM*, May 11).

The National Association of Conservation Districts is among the groups pushing back, and it has

urged lawmakers to oppose closures that could affect farmers seeking help with conservation programs. The organization represents state-level conservation districts that often work in tandem with USDA offices and sometimes share office space. The group's president, Brent Van Dyke, is from New Mexico.

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PIPELINES

Keystone will restart today after spill

Published: Tuesday, November 28, 2017

Oil will resume flowing through the Keystone pipeline today after 5,000 barrels of crude leaked almost two weeks ago, forcing the line to shut down.

TransCanada Corp. said it will restart the flow of oil through the 590,000-barrels-per-day line at reduced pressure, and it will gradually increase the pressure over time.

The company noted that the Pipeline and Hazardous Materials Safety Administration looked over its plans for restarting and repairing the line.

Keystone earlier this month spilled crude in rural Marshall County, S.D., prompting concern from environmentalists (*E&E News PM*, Nov. 16).

TransCanada recently said it has cleaned up 1,065 barrels of crude so far.

The cleanup "is going as fast as we would hope; they are working 24 hours a day," said Brian Walsh, environmental scientist manager with the South Dakota Department of Environment and Natural Resources (Nia Williams, *Reuters*, Nov. 27). - **MJ**

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ENDANGERED SPECIES

Trump admin to Supreme Court: Climate change could harm seals

Amanda Reilly, E&E News reporter

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The Trump administration is urging the Supreme Court to reject petitions challenging protections for the Arctic bearded seal. NOAA

Government attorneys this week urged the Supreme Court to deny petitions by the state of Alaska and oil companies challenging an Obama-era decision to protect Arctic bearded seals.

NOAA Fisheries listed two populations of the seals as threatened in December 2012. The decision was based on projections that climate change would severely threaten the seals' habitat by the century's end.

The agency acted reasonably based on sound scientific evidence, the Justice Department told the Supreme Court yesterday.

"Substantial evidence supported the agency's determination," said the [brief](#) filed by Solicitor General Noel Francisco.

DOJ's court filing comes after the Fish and Wildlife Service in October reversed course in a separate case and declared that Endangered Species Act protections weren't warranted for the Pacific walrus. As with the bearded seal, the Obama administration had found that rapid loss of Arctic sea ice tied to climate change threatened the viability of the species (*E&E News PM*, Oct. 4). "We're glad to see the administration defending the agency's decision to list bearded seals, and it's right to do so," said Kristen Monsell, a senior attorney at the Center for Biological Diversity. "The best available science clearly shows that bearded seals are threatened because climate change will

destroy the sea ice habitat they need."

In its listing decision for the bearded seal, NOAA Fisheries relied on modeling done by the Intergovernmental Panel on Climate Change. It found that the shallow ice sheets that two populations of the bearded seal - the Okhotsk and Beringia - rely on for birthing and mating would largely disappear by 2095.

As a result, the seals would either have to give birth on shore, leaving them vulnerable to polar bears and walrus, or they would have to move farther to sea, making it more difficult to find food. In October 2016, a three-judge panel of the 9th U.S. Circuit Court of Appeals unanimously upheld the agency's findings, reversing a lower-court decision in favor of oil and gas industry challengers. "The ESA does not require [NOAA Fisheries] to base its decision on ironclad evidence when it determines that a species is likely to become endangered in the foreseeable future; it simply requires the agency to consider the best and most reliable scientific and commercial data and to identify the limits of that data when making a listing determination," Judge Richard Paez wrote for the court (*E&E News PM*, Oct. 24, 2016).

The state of Alaska, Native regional organizations and municipal governments filed a petition challenging the decision in July. The Alaska Oil and Gas Association filed a separate petition with oil companies.

Alaska branded the listing decision "literal nonsense" in its petition.

The 9th Circuit decision "opens the door to almost unfettered future listings of myriad species, each of which will result in heavy burdens on a local human population," Alaska said (*Greenwire*, Aug. 1).

In its court filing yesterday, the Justice Department lawyers noted the uncertainty over future climate change impacts but said NOAA Fisheries is required to show it's "more likely than not" that the seals will become endangered in the foreseeable future.

NOAA Fisheries provided "ample evidence of sea ice loss from 2007 to 2050" using IPCC models and found that projections for the second half of the century were also reasonable and scientifically sound, DOJ said.

DOJ also countered the petitioners' claims that the agency was required to consider whether remedial measures taken pursuant to the Endangered Species Act would effectively protect the seals from the harms of climate change.

Pat Parenteau, an environmental law professor at Vermont Law School, called the court brief "maybe a little surprising" given the Trump administration's stance on climate change.

"This could have been a brief written by the Obama administration," he said.

But he said the brief appeared to extend from the position the Trump DOJ took in March in a case challenging an Obama-era critical habitat designation for polar bears.

In that case - which was also brought by Alaska and oil and gas groups - government lawyers argued that the administrative record and scientific evidence backed the designation (*Greenwire*, March 29).

"They aren't writing on a clean slate here," Parenteau said. "They had already taken a position in court that leads to the same position here."

Robert Percival, director of the environmental law program at the University of Maryland, said the brief is consistent with DOJ's environmental lawyers "being above politics regardless of how the occupant of the White House feels about environment regulation."

"If agencies are going to continue to command judicial deference for their decisions, these decisions have to be based on the best scientific information, as the ESA required here," he said in an email. "While it may seem strange to see the strong scientific basis for concern over climate change being invoked to defend a decision inherited by [Commerce] Secretary Wilbur Ross, it indicates that the administration's environmental lawyering is on a solid footing here."

It takes the votes of four justices for the Supreme Court to take up a case. The high court is typically hesitant to wade into fact-specific disputes concerning the Endangered Species Act. Justices will likely give great weight to the solicitor general's brief.

Environmentalists are hopeful that, if the court declines the case, it will boost their legal argument against FWS's decision to backtrack on the walrus decision. Greens have advised the agency that

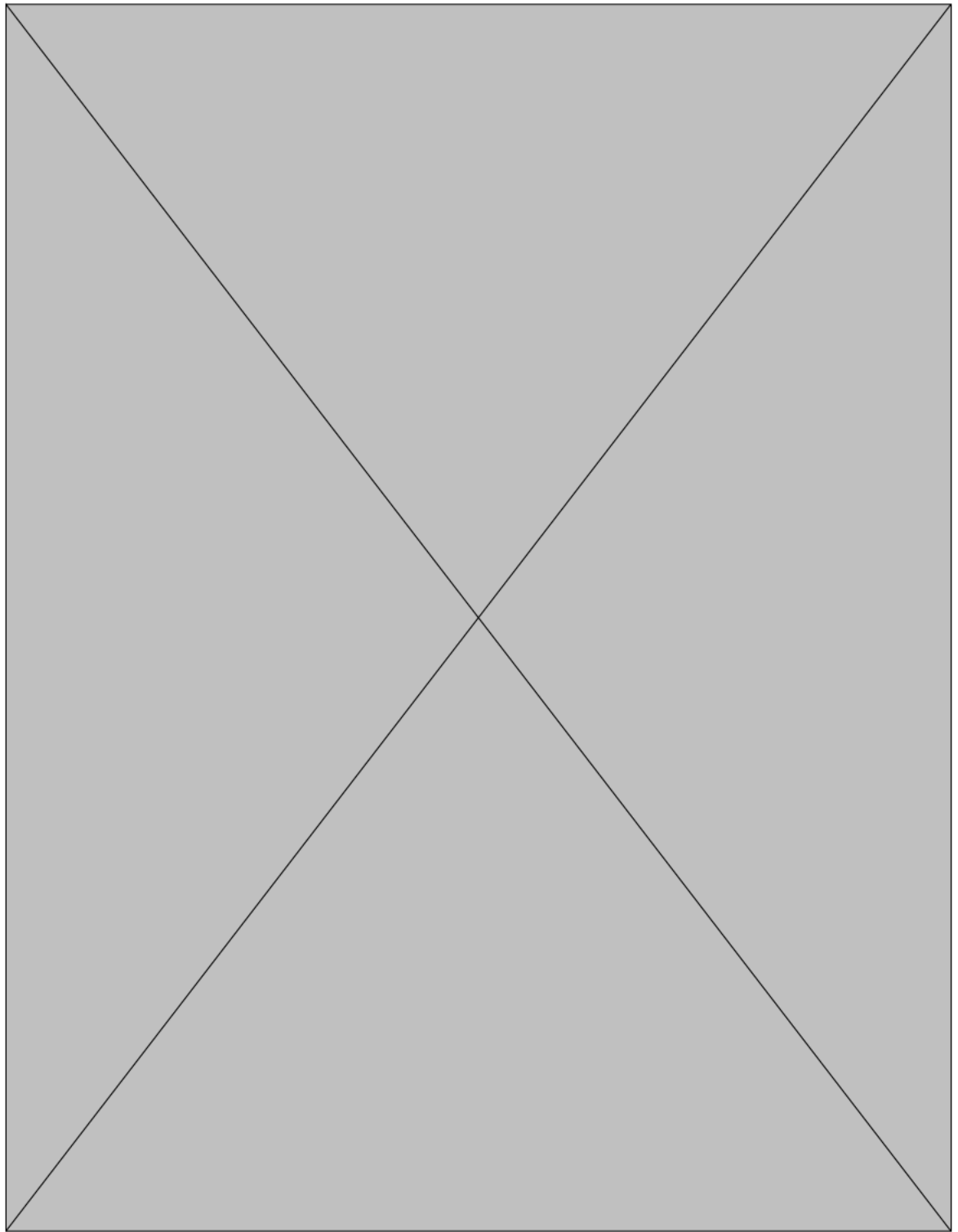
they intend to sue over the decision (*E&E News PM*, Oct. 12).

Both cases involve the same climate change threat based on the same science, the Center for Biological Diversity's Monsell said.

"We see the decision to reserve course and not list the walrus as a political one," she said. "And we think it is one that violates the act given the clear requirement to base listing decisions solely on the best available science."

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National Water Resources Association

2017

December 6-7, 2017	North Dakota Water	Joint Water Convention Bismarck, ND
December 6-8, 2017	Washington State Water Resources Association	Annual Conference Spokane, WA
January 4-5, 2018	National Water Resources Association	Leadership Forum Las Vegas, NV
April 9-11, 2018	National Water Resources Association	Federal Water Issues Conference Washington, DC

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