

From: Sutherland, Ryan
Sent: 2017-04-20T18:08:15-04:00
Importance: Normal
Subject: Daily News Report - April 20
Received: 2017-04-20T18:08:34-04:00
[Daily News Report April 20.docx](#)

Attached is the daily news report for April 20.

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DAILY NEWS REPORT - UTAH

UTAH – TOP STORIES – APRIL 20, 2017

1. BLM seeks public comments on Joe's Valley Bouldering Plan

The Pyramid, April 19 | Press Release

PRICE — Bureau of Land Management's Price Field Office (BLM) is seeking comments on an Environmental Assessment (EA) that analyzes a joint plan by the BLM and U.S. Forest Service (USFS). The proposal includes designating and improving two campsites, designating trails and parking areas, and restoring areas impacted by visitor activities in Joe's Valley, west of Castle Dale in Emery County, Utah.

2. Outdoor Industry Organizations Plan Utah State Capital March During OR

SGB Media, April 19 | SGB Media Staff

Outdoor Retailer, Outdoor Industry Association (OIA), The Conservation Alliance and Outdoor Alliance announced that cooperatively they will host a march to the Utah State Capitol to celebrate public lands on Day Two, Thursday, July 27, at Outdoor Retailer Summer Market. The This Land is Our Land march will provide show attendees with a platform to express their support for the outdoor industry's backbone and foundation: federal public lands.

3. Utah coal industry employment in long-term decline

Utah Foundation, April 19 | Staff Writer

Employment in Utah's coal mining and coal power industries has been declining for decades, due in part to shrinking demand for coal and improvements in mining technology. Policy changes promised by the Trump administration are unlikely to change that.

E&E/NATIONAL NEWS – TOP STORIES

1. Warmack: Why we need methane rules (column)

The Summit Daily, April 20 | Wayne Warmack

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2. Poll: Oregonians would turn against politicians who vote to sell public land

The Oregonian/OregonLive, April 19 | Andrew Theen

Most Oregonians, regardless of political party, would be less likely to support an elected official who votes to sell off public lands such as forests, parks or wildlife refuges.

3. Online Montana magazine fills niche in forest reporting

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A new Montana-based online magazine aims to dig deeper into stories about trees and forests that its CEO says are no longer getting covered in-depth by a mainstream media struggling to adapt to staff downsizings and digital deadlines.

4. RENEWABLE ENERGY: Court rejects 'ill-informed' BLM approval of Ore. wind project

E & E News, April 20 | Amanda Reilly

A federal court this week threw out the Bureau of Land Management's approval of a controversial wind power project in southeast Oregon.

5. HOUSE: Lawmakers create bipartisan outdoor recreation caucus

E & E News, April 20 | Kellie Lunney

A new bipartisan House caucus launching next week will focus on outdoor recreation and the industry's significant economic impact across the country.

6. INTERIOR: Zinke picks former campaign manager for Reclamation deputy

E & E News, April 20 | Corbin Hiar

With nominations for Senate-confirmed Interior Department positions still held up at the White House, Secretary Ryan Zinke today appointed his former campaign manager to the second highest job at the Bureau of Reclamation.



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7. CLEAN WATER RULE: Trump EPA plots path to Scalia-inspired regulation

E & E News, April 20 | Ariel Wittenberg

The Trump administration laid out its vision yesterday for lining up federal Clean Water Act oversight with the views expressed by the late Supreme Court Justice Antonin Scalia.

8. REGULATIONS: OIRA pick likely to 'spearhead' efforts to repeal rules

E & E News, April 20 | Arianna Skibell

Neomi Rao will play a significant role carrying out President Trump's deregulatory agenda if confirmed to lead the White House's regulatory review shop, experts agree.

9. NATIONAL MONUMENTS: Outdoor Retailer plans Utah march to support Bears Ears

E & E News, April 20 | Jennifer Yachnin

An outdoor-retail industry group announced yesterday it will stage a protest march in Salt Lake City this summer as it continues to push Utah Gov. Gary Herbert (R) and state legislators to reverse their stance on abolishing the Bears Ears National Monument.



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UTAH – FULL STORY

1. **BLM seeks public comments on Joe's Valley Bouldering Plan**

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Joe's Valley is a national bouldering destination that hosts visitors from around the world who enjoy climbing, hiking, and camping in the area. An increase in recreation has impacted the area's resources, resulting in undesignated trails and campsites, soil erosion, and human waste issues. The EA analyzes a range of recreational opportunities while minimizing impacts to resources. The EA also examines cultural resources, livestock grazing, sensitive plants, and wildlife, which the public discussed during public scoping.

The EA, associated maps and other information are located on the BLM's ePlanning website (<https://go.usa.gov/xXseh>). Comments can be submitted through the ePlanning website, as well as by mail and email. Written comments should reference "Joe's Valley Bouldering EA" and be mailed to: BLM Price Field Office 125 South 600 West Price, UT 84501 or emailed to: BLM UT PR MAIL@blm.gov. The BLM will accept comments through April 13, 2017.

The most useful comments are those that identify issues relevant to the proposed action or contain new technical or scientific information. Comments that contain only opinions or preferences will not receive a formal response, but may be considered in the BLM decision-making process. Before including an address, phone number, email address, or other personal identifying information in any comments, please be aware that the entire comment—including personal identifying information—may be made publicly available at any time. Requests to withhold personal identifying information from public review can be submitted, but the BLM cannot guarantee that it will be able to do so.

For further information, please call the Price Field Office (435) 636-3600. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-



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877-8339 to leave a message or question. The FRS is available 24 hours a day, seven days a week. Replies are made during normal business hours.

About BLM

The BLM manages more than 245 million acres of public land, the most of any Federal agency. This land, known as the National System of Public Lands, is primarily located in 12 Western states, including Alaska. The BLM also administers 700 million acres of sub-surface mineral estate throughout the nation. The BLM's mission is to sustain the health, diversity, and productivity of America's public lands for the use and enjoyment of present and future generations. In Fiscal Year 2015, the BLM generated \$4.1 billion in receipts from activities occurring on public lands.

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2. **Outdoor Industry Organizations Plan Utah State Capital March During OR**

SGB Media, April 19 | SGB Media Staff

Outdoor Retailer, Outdoor Industry Association (OIA), The Conservation Alliance and Outdoor Alliance announced that cooperatively they will host a march to the Utah State Capitol to celebrate public lands on Day Two, Thursday, July 27, at Outdoor Retailer Summer Market. The This Land is Our Land march will provide show attendees with a platform to express their support for the outdoor industry's backbone and foundation: federal public lands.

"The This Land is Our Land march at summer Outdoor Retailer spotlights that public lands across America are truly the foundation of the outdoor industry, providing incredible landscapes and waterways for people to come together and experience the awe of the outdoors," said Amy Roberts, OIA executive director. "We aim to communicate that America's national treasures require investment and effective management today and for generations to come—and they must remain accessible for all Americans."

The march will convene in the South Plaza of the Salt Palace Convention Center at 4:30 p.m. and will proceed along a designated route to the Utah State Capitol. Confirmed route information will be available soon. The walk to the Capitol is expected to take approximately 30-45 minutes. At the Capitol, industry leaders and experts will hold a 45-minute rally to raise issues that spark further public lands discussion and action. Speakers include Utah tribal leaders, outdoor industry



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leaders, athletes and policy makers. All show attendees as well as interested citizens are welcome to attend. All march participants are asked to abide by the established Code of Conduct.

Outdoor Retailer is the only gathering where the entire outdoor industry comes together to conduct commerce, share best practices and exchange ideas. Outdoor Retailer 2017 will continue to serve the industry's business needs while also serving as an important observance of public lands and our industry's values. The show will remain open for normal business for those attendees wishing to conduct meetings. The show floor will close at its standard time of 6:00 p.m.

"The outdoor community has been in the national spotlight because of its fervent passion for protecting the public lands we all enjoy," said Marisa Nicholson, show director for Outdoor Retailer. "This is not a one-and-done issue. While Bears Ears National Monument status has been a catalyst for our community, it's just the most currently visible example of what will be a long, hard series of national debates. This march will harness that passion by providing a responsible yet energized path to celebrate what is so important to all of us, and about which we need to be heard."

"Protecting public lands is central to The Conservation Alliance's mission, and the Outdoor Retailer tradeshow provides a great venue to connect with the tribe and share our passion for this mission. At this pivotal moment, it is important that we join forces with Outdoor Retailer, the Outdoor Industry Association and Outdoor Alliance to rally the industry around a long-term agenda to protect and preserve the mountains, deserts, forests and waters that grace our nation's public lands," commented John Sterling, executive director of The Conservation Alliance.

In addition to the march, Outdoor Retailer, OIA, The Conservation Alliance and Outdoor Alliance are exploring additional ways to highlight public lands during the show. Updates will be shared on unity.outdoorretailer.com.

"Outdoor Alliance works on behalf of millions of paddlers, mountain bikers, hikers, climbers, and backcountry skiers who get outside on public lands each year. Public lands are the foundation of this large and passionate community, and we're excited to lend our voice to this effort to unify the industry around this important issue," said Adam Cramer, executive director of Outdoor Alliance. "We have been working for two years to unify outdoor business and advocacy groups to protect public lands. Summer Market is the perfect opportunity to rally together as a community to protect the landscapes that are home to our adventures."



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3. **Utah coal industry employment in long-term decline**

Utah Foundation, April 19 | Staff Writer

Employment in Utah's coal mining and coal power industries has been declining for decades, due in part to shrinking demand for coal and improvements in mining technology. Policy changes promised by the Trump administration are unlikely to change that.

Those are among the conclusions of a [new research report from Utah Foundation](#), the second in a series of three on Utah's coal industry and on the communities that have depended on it for generations. The key findings include:

Approximately 1,000 people work in Utah's coal mines. Many trucking and other kinds of jobs exist to support coal mining operations.

Productivity improvements resulted in increased coal production in the 20th century, particularly in the 1980s. At the same time, the number of coal mining jobs in Utah decreased.

Recent reductions in coal mine employment are due to a decrease in demand, the result of low natural gas prices and increased regulation of coal-fueled electricity generation.

Approximately 1,500 people work in Utah's five coal-fueled power plants.

One coal-fueled power plant closed in 2015, another coal-fueled operation is projected to end by 2025, and another by 2030. This will mean a loss of jobs but could also decrease the demand for coal from Utah's mines.

Trump administration policies may do little to "bring back" jobs for coal miners and coal-fueled power plants.

Changes in federal leasing policy may extend the lives of some coal operations in Utah, including the state's only surface-mining operation, the Coal Hollow mine near Alton in Kane County. But a [graphic included in the Utah Foundation](#) report shows many mines have operated only intermittently in recent decades.

"Overall, coal mining and coal-fueled power plant jobs don't account for much of the state's employment," said Shawn Teigen, author of the report. "However, those jobs alone account for about 5% of the employment in Utah's coal mining and coal-fueled electricity producing counties.



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In addition, there are a lot of indirect coal jobs and related tax revenues that these communities rely upon, making coal of the utmost importance to residents.”

The [first report in the three-part series](#) looked at Utah’s dependence on coal as its primary source for electric power and the resulting low energy prices that have benefited the state’s economy. Natural gas, however, is increasingly used as a replacement for coal in power generation and renewable sources such as wind and solar are playing a more important role.

The third report in the series will look more closely at the rural communities that have depended on coal as an economic base. While there are fewer jobs in mines and power plants, they are often the best-paying jobs in the community.

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E&E/NATIONAL NEWS – FULL STORY

1. **Warmack: Why we need methane rules (column)**

The Summit Daily, April 20 | Wayne Warmack

For almost three decades, I worked in the oil and gas industry, moving 22 times to job sites that ranged from Bloomfield, New Mexico, to the Norwegian Sea. In the Four Corners area, I helped make sure that 3,000 wells sent their oil and gas by truck and pipelines to trade centers and final markets.

Wherever I worked, one thing remained constant: It was clear that voluntary measures to address problems were never enough. The oil and gas industry, driven by profit, needed firm but fair regulations to ensure a safer and cleaner environment.

This is why I am such a strong supporter of new requirements from the U.S. Bureau of Land Management to limit the waste of taxpayer-owned natural gas containing one of the worst global climate-changing pollutants — methane. The Methane and Waste Prevention rule, developed during the Obama administration, would require oil and gas companies to monitor for leaks, which include noxious chemicals like benzene, and to repair outdated detection equipment.

So far, the industry's record on voluntarily reducing methane waste has been poor to nonexistent. For example, the federal government's current voluntary program, the Natural Gas STAR program,



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has achieved a paltry 1 percent participation rate among the oil and gas industry — not exactly overwhelming.

In addition, the voluntary measures taken by the industry have not been sufficient to capture vast amounts of wasted methane. A recent survey of 65 of the biggest oil and gas companies found that none had taken even the first step in reducing methane waste by disclosing their intent to do so. In fact, less than a third of those companies even report their methane waste. It seems highly unlikely that voluntary approaches will be effective.

The oil and gas industry has lobbied strongly against regulation, arguing that the rule is burdensome. In February, the U.S. House of Representatives heeded industry's call by voting 221-191 to overturn the rule, using a blunt tool known as the Congressional Review Act. The Senate is next to cast its vote, so we're down to the wire. If successful, the review act would prevent any similar rule limiting methane waste from being put in place without congressional action.

Yet the fears of industry are not supported by on-the-ground evidence. Leak detection, for instance, can make oil and gas production much more efficient. One survey found that seven out of 10 Colorado operators said the benefits of regularly checking equipment for leaks outweighed the costs.

The oil and gas trade associations in Colorado tried to argue the same points when this state was finalizing state methane rules. But three years later, leaks in Colorado are down, while production continues to be strong. In fact, Colorado industry trade groups now tout the success of the Colorado methane rules.

As for the concerns about additional costs leading to the shutting down of the hundreds of low-production "stripper wells" that exist, the BLM's rules expressly allow these wells to be exempted from specific provisions if the operator can demonstrate that the rules could put it out of business.

In fact, oil and gas companies have acknowledged that federal regulations have little to no impact on the level of production, according to their filings with the U.S. Securities and Exchange Commission.

So there is no reason to believe that complying with the BLM rules across the Four Corners would be any less successful than complying with Colorado's statewide rule. Meanwhile, we know now,



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thanks to scientific studies, that the Four Corners area emits the largest cloud of methane pollution in the United States. This pollution has been tied directly to poorly maintained oil and gas infrastructure. Curbing this poison to our atmosphere is bound to require a regional approach — exactly the sort of effort the BLM's rule could spearhead.

Production of natural gas is expected to increase by 56 percent in the United States by 2040, while also increasing by 64 percent outside of the United States. If we foster the development of the methane-mitigation industry here over the next decade, the world will be buying American-made — not foreign-made — products and services to capture valuable methane emissions. Here at home, that will create high-paying jobs and spur economic growth.

The BLM methane waste rule makes sense for industry and local economies throughout the West, while also making sense for our air. Our U.S. senators should oppose any efforts to roll it back.

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2. **Poll: Oregonians would turn against politicians who vote to sell public land**

The Oregonian/OregonLive, April 19 | Andrew Theen

Most Oregonians, regardless of political party, would be less likely to support an elected official who votes to sell off public lands such as forests, parks or wildlife refuges.

That's according to a poll conducted last week by Washington, D.C.-based Mason-Dixon Polling & Research, and commissioned by Oregon Wild, a nonprofit environmental advocacy and conservation group.

Statewide, 80 percent of the poll's respondents said they would be less likely to support a politician who voted to "sell off or privatize" public lands. Just 10 percent of poll respondents said they would be more likely to support that elected official. Ten percent said the stance would have no effect on their views or they were unsure.

Among rural Oregon respondents, 19 percent said they would be more likely to support a politician who sold public lands, and 21 percent said that stance would have no effect or were unsure. In the metro area, 88 percent of respondents said they would be less likely to support the politician.



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The poll comes as public lands disputes continue to be in the national spotlight and a little more than a year after the Ammon Bundy-led occupation of the Malheur National Wildlife Refuge in Harney County.

"When politicians start talking about taking away Oregonian's ability to hike, hunt, and camp on our public lands, they may win some campaign contributions, but polling shows they lose the support of Republicans, Democrats, and Independents," said Arran Robertson, Oregon Wild's spokesman. "It appears Ammon Bundy's actions have made public lands and Wilderness more popular than ever in Oregon."

Public lands disputes have remained a hot button issue in Oregon and other western states since then. The State Land Board is still considering selling the Elliott State Forest in Southwest Oregon, a move that would generate \$221 million for the Common School Fund. But that sale appears in doubt with Gov. Kate Brown and State Treasurer Tobias Read both saying they support options to keep the land in public hands.

Oregon also is vying to host Outdoor Retailer, a massive biannual trade show historically held in Salt Lake City, which is searching for a new home because organizers and powerful companies like Patagonia publicly criticized Utah politicians' views on public lands.

On Wednesday, U.S. Rep Jason Chaffetz, R-Utah -- who drew the ire of conservation groups for proposing then withdrawing the sale of more than 3 million acres of public lands -- said he would not seek reelection in 2018.

Pollsters also asked participants if they would support policies that reduced greenhouse gas emissions from logging, "even if it meant more stringent logging rules." Among rural Oregonians, 53 percent said they would oppose such policies, while 85 percent of metro respondents would support tougher logging rules.

Participants also were asked if they supported creating more protected wilderness areas in the state, with 70 percent statewide saying they backed that idea. Of the respondents who declined to support adding wilderness areas, a little more than one-quarter said their primary reason was that national forests should be transferred to the state or sold. The main driver for opponents of wilderness expansion was that those areas add restrictions on logging or mining and hurt rural economies.



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The telephone poll reached 625 registered voters in Oregon. The margin of error was plus or minus 4 percentage points.

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3. **Online Montana magazine fills niche in forest reporting**

Great Falls Tribune, April 20 | Karl Puckett

A new Montana-based online magazine aims to dig deeper into stories about trees and forests that its CEO says are no longer getting covered in-depth by a mainstream media struggling to adapt to staff downsizings and digital deadlines.

“We’ve just seen that there’s a gap in communication in the media world for that lay audience,” said David Atkins, president and CEO of Treesource.org.

“Forest journalism for a sustainable future” is the motto of Treesource.org, which is attempting to fill the gap.

The online magazine, headquartered in Missoula, went live in March.

Threats to municipal water systems in places such as Denver, Flagstaff, Ariz., and Helena, which rely on water in forest watersheds, were the focus of the first package of stories.

One story focused on how communities throughout the American West are making the connection between wildfires and the security of their drinking water, and noted that Flagstaff asked voters for a \$10 million bond issue for forest and watershed restoration.

“We found that oftentimes there wasn’t the kind of depth and nuance of stories being covered,” Atkins said.

Collaboration is occurring in forest management across the country, and it involves a wide variety of voices, Atkins said.

In today’s increasingly fast-paced world of digital journalism, time pressures too often lead to stories with quotes only from extreme ends of the spectrum, he said.



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“With original stories, photo essays, videos and podcasts, we will take readers into North America’s forests and the cities that rely upon them for everything from drinking water and building materials to carbon storage, renewable energy, recreation and biodiversity,” Treesource.org says.

If the magazine has a point of view, it is living sustainably with forests, Atkins said.

Each story will explore the three legs of sustainability — environmental, economic and the social, Atkins said.

“Our intention is to explore all three of those and recognize in our reporting that there are tensions in those three elements,” he said. “That’s part of what makes it interesting and challenging. And people need to know when those things align well and why they don’t.”

Sherry Devlin, the former editor of the Missoulian and a longtime Montana natural resources reporter, has been hired as the editor.

“She’s a reporter with 30 years experience in reporting and serving as an editor so (she) has the chops of covering the natural resource and environmental beat, and that’s critical in fulfilling that objective role,” Atkins said.

Freelance writers will cover different geographic areas of the country, he said.

Leland Buck, digital director of a parent-focused media company in Missoula called Mamalode, is the digital media consultant and content producer. He brings a strong background in social media, Atkins said.

With his background in forest resource management, Atkins will assist in making sure reporters ask the correct questions and provide proper context to the issues being covered.

Atkins, a forest ecologist, had a long career with the Forest Service in Utah, Oregon, Montana and Washington, D.C., and now serves as a forest consultant.



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“We are in this changing media landscape and nobody knows where we are going to end up,” Atkins said. “We decided there is a niche that needs to be filled.”

The Forest Service helped finance the start-up of the magazine with a \$50,000 grant to the Forest Business Network in 2015 to explore the idea of providing information on forest health and sustainability, said Craig Rawlings, president and CEO of the network.

FBN, which assists forest businesses grow, bills itself as an expert in the use of under-utilized timber and woody biomass. It also produces a weekly email newsletter read by 10,000 forest product industry leaders. The newsletter is an aggregation of stories on forest issues.

FBN then contracted with Atkins to pursue the magazine idea.

Making the magazine a division of FBN was initially considered, Rawlings said. That was scrapped in favor of a stand-alone not-for-profit.

Atkins and Rawlings say the magazine wasn’t launched to promote the forest products industry.

Filling a gap in original, quality and independent journalism on forests is the goal, Rawlings said.

“You don’t want to be owned by any one sub-sector or (be) part of the industry,” Rawlings said.

The magazine will rely on grants, sponsorships and, in the future, some advertising revenue, Atkins said.

Recent research by Ketchum Global Research Analytics in 2016 showed the public doesn’t know much about forests, he said.

For example, many Americans believe national parks and designated wilderness areas are being logged, and that wood is not a renewable resource, he said.

Treesource.org hopes to reach both “environmental champions” and “influential Americans,” Atkins said. A Ketchum survey of 1,000 people within these groups showed 71 percent had not read, seen or heard a news story about forest in the past year, and 84 percent wanted to learn more.



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“There isn’t currently an outlet of information, for lay people, dedicated to forests,” Atkins said.

Readers can subscribe for free and get stories in their mail inbox.

Stories that fit a theme will be published monthly, with updates and follow-ups produced weekly.

The magazine, Atkins said, will cover “everything trees,” whether that be urban forests or wilderness or forests producing forest products.

Chuck Leavell, keyboardist for the Rolling Stones, was featured in the first issue.

“Whether managing his 3,000-acre pine and oak plantation in southern Georgia or touring the country preaching the need for widespread forest restoration, Leavell is a passionate advocate for the use and perpetuation of America’s forests,” the story says.

The initial batch of stories also included a video interview with Jim Hubbard, the U.S. Forest Service’s recently retired deputy chief, who talked about how unplanned wildland fire is now the primary treatment method used on public lands in the western United States.

Atkins compares the in-depth approach that Treesource.org is taking toward storytelling to that of The Economist or The New Yorker.

“We’re going to do that in the forestry world,” he said.

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4. RENEWABLE ENERGY: Court rejects 'ill-informed' BLM approval of Ore. wind project

E & E News, April 20 | Amanda Reilly

A federal court this week threw out the Bureau of Land Management's approval of a controversial wind power project in southeast Oregon.

The U.S. District Court for the District of Oregon called BLM's decision to approve the project based on an environmental review "ill-informed" because the agency failed to adequately take into account the effects on the winter habitat for the sage grouse.



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Chief Judge Michael Mosman, a George W. Bush appointee, wrote the opinion for the court.

The court's decision to vacate BLM's record of decision in favor of the project comes after the 9th U.S. Circuit Court of Appeals last year found the agency's review to be inadequate.

At issue is the proposed 104-megawatt Echanis wind project in a remote section of the Steens Mountain Cooperative Management and Protection Area in Harney County, Ore.

The Oregon Natural Desert Association and the Audubon Society of Portland in 2012 challenged BLM's analysis under the National Environmental Policy Act, arguing that the agency did not take into account the sage grouse's winter habitat.

Columbia Energy Partners LLC, the project's developer, intervened in the lawsuit on behalf of BLM.

The district court initially sided with BLM and Columbia. But in May 2016, a three-judge panel of the 9th Circuit reversed the ruling, finding that BLM did not conduct on-site inspections of the site to determine the impacts to the sage grouse.

Instead, BLM relied on surveys of two sites to the east and the west of the project.

A "fundamental flaw infects this reasoning," 9th Circuit Judge Marsha Berzon wrote for the court. That's because other surveys found that four sage grouse were found in the eastern site during February, "indicating that some sage grouse do spend the winter there" (Greenwire, May 27, 2016).

The 9th Circuit sent the case back to the district court.

In Tuesday's opinion, Mosman said that he was bound by a 1993 decision from the U.S. Court of Appeals for the District of Columbia Circuit that laid out a two-part test for determining whether to vacate BLM's record of decision for the project.

The test requires the court to measure the "seriousness of the order's deficiencies" against "the disruptive consequences."

BLM violated NEPA's procedures by relying on a faulty analysis, Mosman wrote. That meant that the public could not comment sufficiently on the environmental review for the project, also in violation of NEPA, the judge said.



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The "seriousness of BLM's error" outweighs any potential negative economic impacts from throwing out the record of decision, he said, rejecting BLM's and Columbia's arguments to the contrary.

[Click here](#) to read the court's opinion.

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5. **HOUSE: Lawmakers create bipartisan outdoor recreation caucus**

E & E News, April 20 | Kellie Lunney

A new bipartisan House caucus launching next week will focus on outdoor recreation and the industry's significant economic impact across the country.

Reps. Jared Polis (D-Colo.) and Mike Simpson (R-Idaho) will lead the group, which has been recruiting members for the last few weeks. The caucus will hold a press conference Tuesday, and its first briefing Thursday in Washington. Sens. Martin Heinrich (D-N.M.) and Jim Risch (R-Idaho) co-chair the Senate's outdoor recreation caucus, which has been around for the last several years.

The congressional outdoor recreation caucus aims to encourage active lifestyles but also educate Americans about the economic benefits of the industry, wildfire funding and public outdoor recreation infrastructure.

"We are seeing now more than ever the importance of wild places, rivers, ski resorts, trails and greenspaces in recruiting and retaining businesses and a skilled workforce," Simpson said in a statement.

The Outdoor Industry Association and its members will convene next week in Washington to meet with lawmakers and administration officials to discuss outdoor recreation funding and other issues. On Tuesday, the group also will release its 2017 report on the outdoor recreation economy.

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6. **INTERIOR: Zinke picks former campaign manager for Reclamation deputy**

E & E News, April 20 | Corbin Hiar

With nominations for Senate-confirmed Interior Department positions still held up at the White House, Secretary Ryan Zinke today appointed his former campaign manager to the second highest job at the Bureau of Reclamation.

Alan Mikkelsen led Zinke's first successful bid for Congress in 2014. Zinke was re-elected last year before being nominated by President Trump as Interior secretary.

The incoming Reclamation deputy commissioner was a police officer and farmer before getting into Montana politics and policy, according to his profile on the social networking website LinkedIn. For more than 30 years, he has consulted for Alpine Research LLC on land, water and tribal issues.

Mikkelsen's work at Alpine as a political consultant over the past two decades also helped elect former Rep. Denny Rehberg (R-Mont.), whom he later served in Washington as his chief of staff.

Since August 2015, Mikkelsen has worked as a fishing guide for Jarrett's Guide Service, as well.

"Alan Mikkelsen is a westerner who has decades of experience in all things water issues to include irrigation projects, Tribal water compacts, conservation, and even a long-term fishing guide," Zinke said in a statement. "His decades of experience working to conserve water and improve water infrastructure in government and private sectors will be a huge asset as we work to strengthen water security and quality in the west."

Mikkelsen previously served as the treasurer for the National Water Resources Association while representing Montana on NWRA's board of directors, Zinke's statement said. It also noted that he earned the Conservation Pilot of the Year award for his work on wildlife surveys and aerial photography from Barrow, Alaska, to Belize.

Mikkelsen studied agricultural economics at the University of Montana and Montana State University and has taken classes in water law, Indian law and Indian water law from the University of Colorado, Boulder.



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Like Zinke and many Montanans, Mikkelsen is strongly opposed to transferring federal lands to state or private control (E&E Daily, March 30).

Mikkelsen is the third deputy Zinke has hired who will eventually report to a boss nominated by the White House and confirmed by the Senate. Earlier this month, the secretary also appointed a deputy assistant secretary for land and minerals management and a deputy assistant secretary for fish, wildlife and parks (Greenwire, April 6).

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7. **CLEAN WATER RULE: Trump EPA plots path to Scalia-inspired regulation**

E & E News, April 20 | Ariel Wittenberg

The Trump administration laid out its vision yesterday for lining up federal Clean Water Act oversight with the views expressed by the late Supreme Court Justice Antonin Scalia.

Meeting with state and local officials in Washington, U.S. EPA used a slideshow to outline plans for rolling back and replacing the Obama administration's Clean Water Rule — also known as Waters of the U.S., or WOTUS — that aims to clarify what waterways and wetlands get automatic federal protection.

As amended in 1972, the Clean Water Act vaguely asserts federal jurisdiction over "traditionally navigable waters of the United States" without providing any further detail, leaving regulators struggling over decades to define the law's scope over isolated or ephemeral streams, bogs, or other seasonally flooded areas.

The Trump administration's [slideshow](#), which was obtained by E&E News, points to how it might write a definition of protected waters that would be in line with Scalia's opinion in the 2006 *Rapanos v. United States* case. He wrote that federal protection only extends to "relatively permanent" waters and wetlands with a continuous surface connection to larger rivers and streams.

EPA — which partners with the Army Corps of Engineers on WOTUS oversight — is considering three "approaches" to defining "relatively permanent" waters:



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- The most restrictive option would include only perennial streams, which flow all year except in extreme droughts.
- A second option would include perennial streams and streams with "seasonal" flow, which the slides note are waters present for at least three months a year.
- The third would include perennial streams and those measured with another metric that EPA and the corps have yet to identify, but that could include the frequency of flow or whether streams intersect with the water table.

EPA also presented three possible approaches to protecting wetlands with continuous surface connections to permanent waters:

- The first would only include wetlands that directly touch "jurisdictional waters."
- Another would include wetlands with "some degree of connectivity" to jurisdictional waterways, but might limit how far the wetlands could be from those waters to be protected.
- The most liberal option would include wetlands that have a continuous surface connection to "jurisdictional waters," even if they are separated by a "non-jurisdictional feature."

In explaining the third option, the slideshow notes, "Current practice considers directly abutting wetlands and those with a continuous surface connection, regardless of distance, to be jurisdictional."

The scope of wetlands that would get protection, the slides say, would ultimately depend on which streams and tributaries the administration opts to protect.

EPA spokeswoman Liz Bowman described the meeting as "an opportunity for EPA to hear from stakeholders early in the process."

"We are encouraged by the wide-ranging feedback we received and look forward to working with these and other partners moving forward as we seek to define 'waters of the U.S.' in a way that strikes the proper balance among local, state and federal protections for the environment and the communities that rely on these waters," she said.



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The administration's move to write a new regulation comes following a February executive order from President Trump directing the agencies to consider redefining "waters of the U.S." to be "consistent with" Scalia's Rapanos opinion (Greenwire, Feb. 27).

EPA is open to alternative interpretations of Scalia's opinion. Its question for officials at the intergovernmental gathering: "How would you like to see the agencies interpret 'consistent with' Scalia?"

At issue: 'Clarity'

The Trump administration's approach is a significant departure from how both the Obama and George W. Bush administrations defined "waters of the United States."

Rapanos was a famously messy case that ended in a 4-1-4 split decision. At issue was Michigan landowner John Rapanos' bid to develop a property that was designated a wetland, with EPA seeking to bring civil and criminal enforcement actions because he didn't have a permit.

Scalia, who found in Rapanos' favor, argued for a more restrictive view of federal jurisdiction for himself and the three other conservatives, Chief Justice John Roberts and Justices Clarence Thomas and Samuel Alito. The four liberal justices argued for a far more expansive vision.

Justice Anthony Kennedy wrote a stand-alone opinion agreeing with the conservatives that Rapanos was in the right, but disagreeing with them about the scope of the Clean Water Act. He stated that waters must have a "significant nexus" to navigable rivers and seas, which could include not just surface connections but also biological or chemical ones.

The Obama and Bush administrations followed Kennedy's "significant nexus" test in writing guidance and rulemakings on the reach of the Clean Water Act.

A new definition of "waters of the U.S." from the Trump agencies would only come after the administration conducts a separate rulemaking process to repeal the contested Obama administration regulation.

That regulation is currently stayed by the 6th U.S. Circuit Court of Appeals while it is being litigated.



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The EPA slideshow explains that the administration intends to repeal WOTUS in an earlier rulemaking in order to ensure that the regulation does not come back into effect if the Supreme Court rules that lawsuits against the rule should proceed in district court instead of circuit court (Greenwire, April 14).

"While the 6th Circuit stay may remain in effect for some time, its duration is uncertain," the slideshow says.

To that end, EPA intends to revert to a 1986 definition and would also rely on a 2008 guidance from the Bush administration about how to apply that definition while the Trump administration works on its own Scalia-based regulation.

"In the Step 1 proposed rule, the agencies will define 'waters of the United States' using the regulatory definition in place before the Clean Water Rule, which the agencies will continue to implement according to longstanding practice, just as they are today," the slideshow says.

Alexandra Dunn of the Environmental Council of the States (ECOS) said many officials at the meeting stressed the "importance of clarity" in a new regulation.

Along with ECOS, other groups invited to the meeting at EPA headquarters were the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the International City/County Management Association, the National Association of Towns and Townships, and County Executives of America.

The administration's two-step process for repealing and replacing the regulation was, in part, she said, an attempt by the administration to provide that certainty by reverting to the 1986 regulation between when WOTUS is replaced and a new definition is proposed.

Everyone in the room, she said, seemed comforted that the Trump administration seem to understand that the task of defining which waters are covered by the Clean Water Act "has not become any easier since the last administration."

"Figuring out where the line is drawn is going to be complicated by factors like geography, perennial and seasonal flows, and many others, just as it was for the previous administration," she said.



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8. **REGULATIONS: OIRA pick likely to 'spearhead' efforts to repeal rules**

E & E News, April 20 | Arianna Skibell

Neomi Rao will play a significant role carrying out President Trump's deregulatory agenda if confirmed to lead the White House's regulatory review shop, experts agree.

As the George Mason University law professor awaits Senate confirmation to head the Office of Information and Regulatory Affairs, her credentials and possible regulatory priorities have come under scrutiny.

The Center for Progressive Reform released a [report](#) this morning calling Rao one of the last chess pieces on Trump's "deregulatory chessboard."

"Professor Rao's record suggests that she will strongly support the Trump administration's anti-protections agenda, and, if confirmed, she will likely help spearhead the effort," the report says.

The authors predict that Trump's choice of officials like U.S. EPA Administrator Scott Pruitt, combined with his recent deregulatory executive orders, will carve out a distinctly different role for Rao as OIRA administrator.

In the past, OIRA has served as the regulatory gatekeeper, performing cost-benefit analyses and reviewing major rules. Now, the report suggests, Rao's focus likely will turn instead to implementing Trump's executive orders.

One order directs agency heads to toss out two rules for every new one, while another requires agencies to establish a task force to implement the repeals. Federal agencies have until Monday to appoint members to their regulatory task forces.

When repealing rules, agencies must comply with the standard rulemaking process and provide a sound rationale for tossing the regulations. OIRA officials could spend their time and resources supplying a "quality control check" on the legal and economic rationales that agencies need to support their deregulatory rulemakings, the report says.

"The Trump administration has promised to carry out a devastating assault on our safeguards," the authors wrote. "With Professor Rao as its next administrator, OIRA will likely play a key



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role in that effort, perhaps even becoming a focal point in the battles that will undoubtedly ensue."

Sally Katzen, who served as OIRA administrator under President Clinton and is often invited by Democrats to testify before Congress, agreed that the office will play a crucial role in the administration's attempts to reshape the regulatory environment.

She, however, praised Rao and urged swift confirmation.

"As a past administrator of OIRA, I know the importance of having qualified leadership at the helm," she wrote in an op-ed for The Hill.

"Ms. Rao is an accomplished law professor, with prior experience in the government and private sector ... she is clearly a smart and qualified choice to fill the post," Katzen wrote.

If confirmed, Rao will have her work cut out for her, said Jerry Ellig, a senior research fellow with the Mercatus Center at George Mason University, and Rosemarie Fike, an instructor of economics at Texas Christian University.

They point out that OIRA's staff has shrunk from 90 full-time workers when it was established in 1981 to about 50, making meaningful regulatory work difficult.

"Media accounts have already begun to refer to [Rao] as President Donald Trump's 'regulatory czar.' A more apt title would be 'regulatory David' — as in the intrepid up-and-comer who confronted Goliath," they wrote in an op-ed in U.S. News & World Report.

"[OIRA] is outnumbered nearly 5,000 to 1 by the federal regulatory bureaucracy it is expected to oversee," Ellig and Fike wrote.

Restoring the office to its original staff level would cost \$8 million annually, they said.

"But since small improvements in the benefits or costs of regulations can save the public billions of dollars," they wrote, "this expenditure could easily be justified."

Regardless of staffing, the office will likely carry out a number of other roles under the Trump administration, according to the Center for Progressive Reform report.



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Rao likely will help coordinate efforts to provide "regulatory relief" to certain industrial sectors, such as oil refining or chemical manufacturing, the report says.

Additionally, OIRA could help develop guidance on broader regulatory policy topics and issue "prompt letters" to direct agencies' attention to specific deregulatory actions.

"In short, OIRA will certainly continue to be a leading anti-regulatory force during the Trump administration, but the manner in which it accomplishes this role is likely to differ significantly from how it has accomplished it in past administrations," the report says.

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9. **NATIONAL MONUMENTS: Outdoor Retailer plans Utah march to support Bears Ears**

E & E News, April 20 | Jennifer Yachnin

An outdoor-retail industry group announced yesterday it will stage a protest march in Salt Lake City this summer as it continues to push Utah Gov. Gary Herbert (R) and state legislators to reverse their stance on abolishing the Bears Ears National Monument.

The Outdoor Retailer will host the "This Land Is Our Land March for Public Lands" event during its summer market slated to take place in late July.

"The outdoor community has been in the national spotlight because of its fervent passion for protecting the public lands we all enjoy," said Marisa Nicholson, the Outdoor Retailer show director, in a statement.

The protest comes on the heels of a dispute earlier this year between Outdoor Retailer, the Outdoor Industry Association and Herbert over the governor's work to rescind the 1.35-million-acre monument in southeast Utah. President Obama designated the site in the final weeks of his presidency over the objections of Utah Republicans including House Natural Resources Chairman Rob Bishop.

Outdoor Retailer announced in February that it would look to relocate its biannual events outside of Utah, a loss of an estimated \$45 million in annual revenue for the Beehive State (Greenwire, Feb. 24)



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"This is not a one-and-done issue. While Bears Ears National Monument status has been a catalyst for our community, it's just the most currently visible example of what will be a long, hard series of national debates," Nicholson added. "This march will harness that passion by providing a responsible yet energized path to celebrate what is so important to all of us, and about which we need to be heard."

The march is set to begin at the Salt Palace Convention Center and end at the Utah State Capitol, although the specific route has yet to be announced.

According to the group's Facebook page, the event will culminate in a 45-minute rally featuring "Utah tribal leaders, outdoor industry leaders, athletes and policy makers."

"The This Land is Our Land march at summer Outdoor Retailer spotlights that public lands across America are truly the foundation of the outdoor industry, providing incredible landscapes and waterways for people to come together and experience the awe of the outdoors," OIA Executive Director Amy Roberts said in a statement. "We aim to communicate that America's national treasures require investment and effective management today and for generations to come — and they must remain accessible for all Americans."

Paper predicts economic boon

The nonprofit Public Land Solutions released a white paper today asserting that retaining the Bears Ears designation could prove to be an economic boon for the surrounding San Juan County.

[The 20-page report](#) urged local leaders to take part in the Bureau of Land Management and Forest Service planning process for the monument, as well as to create their own economic plan.

"The people of San Juan County have an unprecedented opportunity to shape their economic destiny by determining what type of visitors and residents they wish to attract — and where they want visitors to go," PLS Managing Director Jason Keith said in a statement.

"Growth in the region is inevitable, and San Juan County is well-positioned to utilize its rich cultural history and fascinating landscapes to create a well-planned future of its own making," he said.



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The report points to revenue generated by outdoor recreation elsewhere in the state, noting that tourists to Utah spent \$8.17 billion in 2015.

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