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Attached is the daily news report for May 20-22.

In the upcoming month, the External Affairs office will be short on manpower. With that shortage, there may be days where the report is late, or I just can't get to it due to other priorities. With that said, I will continue to do my best to send this out daily.

Thank you for your understanding.

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BUREAU OF LAND MANAGEMENT

DAILY NEWS REPORT - UTAH

UTAH – TOP STORIES – MAY 20-22, 2017

1. **Utah school-trust lands agency wants millions more for hunting access**

The Salt Lake Tribune, May 20 | Brian Maffly

A long-standing agreement that has assured hunter access to Utah trust lands could be unraveling as state officials squabble behind closed doors over how much this access should cost taxpayers.

2. **Lawmaker hosts lands transfer town hall**

The Herald Journal News, May 19 | John Zsiray

With a nearly full auditorium, four economists discussed how they made their evaluations in an 18-month study on transferring public lands from federal control to the State of Utah.

3. **Op-ed: What Utah and Trump can learn from Wyoming about the value of national monuments**

The Deseret News, May 22 | Erik Molvar

Last month, President Donald Trump signed an executive order directing the Interior Department to conduct a “review” of national monuments designated since 1996. The Utah congressional delegation has been fulminating that national monument designations at Bears Ears and Grand Staircase-Escalante prevented their favorite industrial exploiters from grabbing public lands for themselves and destroying every use on these public lands except their own. They claim monument protections will gut local economies and harm rural communities.

4. **Sold to the highest bidder: new research shines the spotlight on Utah’s continuing history of state land disposal**

The Wilderness Society, May 22 | Press Release

MAY 22, 2017. More than four million acres of state land formerly open to the public in Utah are now in private ownership.



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5. Backcountry CEO Defends Bears Ears

SGB Media, May 22 | Carly Terwilliger

As the May 26 deadline for comments relating to the designation of Bears Ears National Monument in Utah nears, outdoor industry powerhouses have continued to urge people to make their voices heard.

E&E/NATIONAL NEWS – TOP STORIES

1. WILDLIFE: Songbirds may use power-line areas as critical habitat

E & E News, May 22 | Michael Casey, AP/Denver Post

CONCORD, N.H. — Transmission lines may be eyesores for most people but for songbirds, the forest around them might just be critical habitat.

2. COAL: Stream rule dies, but ex-miners keep fighting

E & E News, May 22 | Dylan Brown and Arianna Skibell

NAOMA, W.Va. — A stroke of President Trump's pen earlier this year erased a regulation that took Barack Obama's entire presidency to draft.

3. OIL: Warning to drillers - Be wary of debt

E & E News, May 22 | Nathaniel Gronewold

HOUSTON — The rush to drill for oil at \$50 per barrel is prompting warnings from energy analysts that oil and gas may be rolling the dice, and some companies could end up losing everything.

4. NATURAL RESOURCES: Panel to examine whether federal land laws have 'gone astray'

E & E News, May 22 | Kellie Lunney

A House Natural Resources panel will hold a hearing to review whether Congress should amend long-standing laws affecting the management of federal and tribal lands, as well as designated wilderness areas.



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5. COAL: House mining panel to mull good Samaritan cleanup proposal

E & E News, May 22 | Dylan Brown

A House subcommittee this week will examine how to put the private sector and nonprofit groups to work cleaning up old, abandoned coal mines across the country.

6. PUBLIC LANDS: Panel to consider BLM land transfers, road in conservation area

E & E News, May 22 | Scott Streater

A House Natural Resources subcommittee tomorrow will debate the merits of four public lands bills, including one designed to spur economic development by conveying federal lands to Nevada, and another to address population growth in southern Utah by authorizing a traffic corridor in a national conservation area.

7. LAW: Republicans revive 'sue and settle' debate

E & E News, May 22 | Amanda Reilly

House Republicans this week will go another round on "sue and settle," the term used to describe the phenomenon of friendly litigants filing lawsuits against the government with the aim of negotiating binding deals.

8. EPA: GOP pushes rulemaking reform; Dems showcase fired scientists

E & E News, May 22 | Arianna Skibell

A House panel this week will review the relationship between U.S. EPA and state environmental quality departments on how they implement federal environmental regulations.



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9. AIR POLLUTION: Hearing to focus on bills targeting ozone standard, Clean Air Act

E & E News, May 22 | Sean Reilly

A Senate Environment and Public Works subcommittee will hold a hearing tomorrow on two bills that share a common purpose: delay implementation of U.S. EPA's 2015 ground-level ozone standard and revamp a keystone requirement of the Clean Air Act.



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UTAH – FULL STORY

1. **Utah school-trust lands agency wants millions more for hunting access**

The Salt Lake Tribune, May 20 | Brian Maffly

A long-standing agreement that has assured hunter access to Utah trust lands could be unraveling as state officials squabble behind closed doors over how much this access should cost taxpayers.

For the past two decades, hunters and anglers paid fees attached to their permits — now totaling \$800,000 a year — for access to select lands owned by all Utahns, but managed for the benefit of schools.

But now the Utah School and Institutional Trust Lands Administration (SITLA) board wants to more than double that rent, upping it by \$1 to \$3 million per year. The agency argues it could make that kind of money by leasing its holdings that harbor big game herds — revered hunting grounds such as the Book Cliffs and Tabby Mountain — to private outfitters.

With the Division of Wildlife Resources strongly pushing back, tensions have escalated recently as a 10-year memorandum of understanding between the agencies approaches expiration.

Earlier this month, the SITLA board directed its staff to pursue more lucrative options for state lands used by hunters and to investigate forming what are called cooperative wildlife management units, which could lead to more exclusive land access in apparent violation of SITLA's agreement with the state.

A SITLA spokesman said the move was simply a contingency in case negotiations with Gov. Gary Herbert's office fail.

SITLA has every hope of renewing its access pact with the state, SITLA deputy director Kim Christy said. But, he said, "if an agreement is not reached, SITLA is obligated to explore options to secure fair market value."

"We are not trying to be combative, bullying or anything of that nature," Christy said. "We are trying to create a win-win outcome for both sportsmen and the education community."



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While payments for hunting access go into an endowment supporting the state's public schools, many sports enthusiasts feel SITLA's threats to restrict that access defy decades of tradition and commercialize wildlife, which should be managed for all, not just those with the fattest wallets.

Some hunting groups liken SITLA's demand to extortion and they aren't the only ones upset with the state agency, which is tasked with managing 3.4 million acres for the benefit of Utah schools.

Sen. Jim Dabakis, D-Salt Lake City, said SITLA's stance shows the agency is "myopic and has no soul," and has lost sight of the public interest in pursuit of cash.

"I am tired of all this blackmail," Dabakis said. "To try to extort millions from the sports public or sell it off to private interest is outrageous."

The lawmaker said he intends to draft legislation to rein in some of SITLA's powers.

"They are making bad deals for the school children of Utah," Dabakis said. "The governor needs to take control because they are out of control." Trust lands, which the federal government ceded to Utah at statehood to be administered "in trust" for schools, might be publicly owned, but they are not managed for multiple use and public access as federal lands are.

Instead, the "quasi-governmental" SITLA is tasked to "optimize" revenue off these 3.4 million acres. And over the past decade, the agency has seen huge success generating wealth, doubling the school endowment to \$2.2 billion and pushing its annual payments to schools above \$50 million, covering slightly more than 1 percent of Utah's education budget.

A 1971 statute that guarantees hunter access to all state-owned land does not apply to trust lands because they are to be managed for the "exclusive benefit" of schools, according to a 2012 opinion by then-Attorney General Mark Shurtleff.

"SITLA has the option of prohibiting hunting, fishing, and trapping on trust lands altogether if it determines that such a decision is in the best interests of the trust," Shurtleff wrote.

The state of Utah, through SITLA, is charged with ensuring the trust gets maximum value for use of its lands for hunting, trapping and fishing, the opinion said. Failure to do so, Shurtleff wrote, could be viewed as a breach of SITLA's fiduciary duty.



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The state Board of Education intends to hold SITLA to this obligation to receive full value in exchange for public hunting access — or to privatize access and get that value on the open market, according to Tim Donaldson, the board's school children's trust director.

"The U.S. Supreme Court has clearly said repeatedly that the state must get the full benefits of the trust lands ... to help fund schools, and may not divert those assets or benefits elsewhere without full fair compensation," wrote Donaldson in an e-mail.

Under the 10-year agreement set to expire Aug. 31, the state pays SITLA a sum that increases by 5 percent a year to secure its lands for fishing, hunting, trapping and wildlife viewing. But SITLA says the \$800,000 payment due next year is not nearly enough, citing a recent appraisal that pegs the worth of that access at between \$1.8 million and \$3.9 million annually.

That sum comes from SITLA-hired outside consultant Ken Clegg, an expert in managing private lands for wildlife. Clegg is the past president of the Utah Cooperative Wildlife Management Unit Association and is now the principal of the Springville-based firm Private Lands Consulting.

SITLA used his appraisal to win a \$1 million appropriation from the Legislature last session, a funding request Gov. Gary Herbert refused to endorse. Utah Department of Natural Resources Director Mike Styler said Clegg's appraisal leans on faulty assumptions that inflate the value of hunting access.

"We thought it was accurate if this was private ground. The premise is flawed because it's not private ground, it's owned by the state of Utah," Styler said.

As such, he said, the land is not eligible for inclusion in cooperative wildlife management units, arrangements that allow private landowners to sell permits to hunt on their land for as much \$15,000.

But according to Christy, the soon-to-expire agreement is now the only obstacle keeping large blocks of trust lands from being eligible for the cooperative wildlife management program.

Meanwhile, SITLA's counterparts in other Western states earn far less than what the Utah agency is demanding for hunter access. Colorado is at the high end at \$1.3 million, while Idaho, Wyoming and Arizona charge nothing, according to Utah Division of Wildlife Resources Director Greg Sheehan.



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Yet state wildlife officials offered SITLA \$2 million a year in 1996, the year Utah overhauled its trust lands administration after a century of mismanagement that depleted its holdings and generated next to nothing for Utah schools.

But Don Peay, a wildlife policy power broker who was then a SITLA board member, negotiated that sum downward to \$200,000, a payment described as a "necessary evil" by sports advocates.

"They latched onto us because there is an easy mechanism to raise money," said Bill Christensen, Utah-based regional director of the Rocky Mountain Elk Foundation. "It's extortion because they tell us, 'Pay us or else.' ... I'm afraid the SITLA board is getting greedy."

On Thursday, SITLA sought to hammer out a deal with Herbert's staffers, who insist the state payment should be capped at \$1 million.

"We are hopeful by end of August we can have this buttoned down," Christy said.

The governor's office declined to comment, except to say it was working closely with SITLA staff.

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2. **Lawmaker hosts lands transfer town hall**

The Herald Journal News, May 19 | John Zsiray

With a nearly full auditorium, four economists discussed how they made their evaluations in an 18-month study on transferring public lands from federal control to the State of Utah.

Over the course of the nearly two-hour town hall hosted Thursday by Rep. Ed Redd, R-Logan, four of the six authors of "An Analysis of a Transfer of Federal Lands to the State of Utah" discussed components from the 784-page study published in 2014, which detailed the feasibility of transferring the 31.2 million acres of federal land to state control proposed in H.B. 148, passed in 2012.

During the presentations, Utah State University's Paul Jakus, along with the University of Utah's John Downen, Michael Hogue and Levi Pace fielded questions that oftentimes went more political rather than sticking with the informative intent of the town hall.



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Many of questions presented from the audience hinged around the price of oil at the time of the study along with the costs of fire suppression efforts on the land if it were acquired.

When the study was conducted, oil was just under \$100 per barrel, and the economists used \$92 as a reference price and \$62 as a low-price forecast. The price of oil dropped sharply in the latter half of 2014, however, and is currently about \$50 per barrel, causing many to be skeptical of the study's findings that a transfer of public lands to Utah could be economically feasible.

Many who posed questions for the panel asked about the feasibility of Utah sustaining a nearly \$280 million price tag of managing the lands annually.

Within the study, the economists showed that of the 31.2 million acres — roughly 64.5 percent of the state — an estimated \$8 per acre was spent to manage these lands, amounting to \$247 million annually.

The presenters all agreed that for Utah take over the management of the land, the ability to cover the \$280 million would be “tightly tied to the commodity prices” and that it would leave the state stretching their budget.

The tide of the audiences' pointed political questioning turned when Rep. Curt Webb was able to wrangle the microphone to discuss the “importance” of the town hall process to keep the dialogue open for both residents and elected officials.

“Why are we here? We are having this dialogue because we passed H.B. 148. Did we need the dialogue? I believe that we did, and this is why we are all here,” Webb said.

Webb talked about how in the early West, decision makers used to meet with the “locals” and meet their needs and the government's requirements for the land. He said a shift occurred and that began to alienate the public from providing their input.

“Resentment started to build; wouldn't it be nice if we got back to where we started and we actually talked with each other and decided what a good management program would be? I think we are starting to do that,” Webb said.

Webb went on to state that when H.B. 148 was passed, he “always believed, even though I voted for it, that (the land transfer) would not happen.”



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"I think this is a great reality check for the legislature and everyone else," Webb said. "We want everyone to have their opinions expressed. It kind of makes tonight academic. I think there is wisdom on both sides and we should listen to each other."

At the conclusion of the town hall, Logan resident and columnist Thad Box, 88, presented his viewpoint, rather than ask a question of the panel.

"I think there are more chances to get together with the people who manage the lands now than there have been in my lifetime, and I'm about the oldest person in this room," Box said with a smirk.

Box challenged the crowd to take advantage of forums that are available "nearly every night to talk" to discuss their viewpoints and get answers about topics important to them.

Box, the former dean of the College of Natural Resources, went on to receive applause as the meeting closed with his statement about the land in question.

"We're not talking about federal land or the federal government. We are talking about land that belongs to the people of the United States of America, and it is the people of Utah that will either take that land from their neighbors or learn to live with them."

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3. Op-ed: What Utah and Trump can learn from Wyoming about the value of national monuments

The Deseret News, May 22 | Erik Molvar

Last month, President Donald Trump signed an executive order directing the Interior Department to conduct a "review" of national monuments designated since 1996. The Utah congressional delegation has been fulminating that national monument designations at Bears Ears and Grand Staircase-Escalante prevented their favorite industrial exploiters from grabbing public lands for themselves and destroying every use on these public lands except their own. They claim monument protections will gut local economies and harm rural communities.

In Wyoming, we have a little experience with the "economic devastation" caused by national monument designation, a lesson that Utah and the Trump administration would do well to heed.



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In 1943, President Franklin D. Roosevelt designated the Jackson Hole National Monument. The wealthy and conservation-minded Rockefeller family bought these lands from willing sellers and gifted them to America. Just like today's anti-environmentalists in Utah, Wyoming's conservation opponents of the 1940s exploded in paroxysms of vitriol against the new Jackson Hole National Monument.

Wyoming Sen. Edward Robertson stood up on the floor of Congress to make a speech, calling the new monument a "foul, sneaking Pearl Harbor blow." Remember, the cream of our nation's youth were embroiled in desperate fighting in the Pacific Theater of World War II, so comparing the monument designation to the sneak attack that started the war in the Pacific — with 2,403 Americans killed and 1,178 wounded — was, at the very least, inappropriate and inflammatory.

Vowing revenge, the Wyoming delegation fought bitterly to undo the protections. The state attorney general sued the feds and ultimately lost. Congress cooked up a bill to abolish the Jackson Hole National Monument, but Roosevelt vetoed the bill just as promptly, stating, "In the establishment of the Jackson Hole National Monument consideration was given to the interests of the people of the United States as a whole in order that the area might be preserved and made available to our citizens for the realization of its highest values, including its scenery, its scientific interest, its wildlife and its history."

The Jackson Hole leaders howled with predictions of economic devastation: "The formation of a national park out of the lands now proposed or any part thereof will forever debar home seekers and investors, impoverish our ranges, destroy the values of our stock raising and agricultural industries, preclude the prospecting and location of minerals, destroy all prospect of future municipal and county government and greatly retard the development of the county and state, compelling residents of communities outside of proposed park extension to lose great values of their property both real and personal, compelling those within the proposed extension to be extinguished as citizens of state and compelling them to accept by arbitrary appointment insufficient and fictitious values for their property interests and otherwise impoverishing them."

Today, Wyoming's Teton County is the wealthiest county per capita of any county in the United States. The lowlands at the foot of the Tetons, originally protected as Jackson Hole National Monument, now bloom with wildflowers and harbor a wealth of elk, bison and grizzly bears as part of Grand Teton National Park. A seasonal migration of Americans comes to delight in these protected lands, a linchpin of Wyoming's second-largest economic sector.



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None of the dire predictions were borne out, and in 1967, Sen. Cliff Hansen, himself a former Teton County commissioner who testified in favor of abolishing Jackson Hole National Monument, said, "I want you all to know that I'm glad I lost, because I now know I was wrong. Grand Teton National Park is one of the greatest natural heritages of Wyoming and the nation and one of our great assets."

The lesson for Trump and the politicians of Utah is simple: Ignore the ominous economic prognostications from industries with a vested interest in preventing environmental conservation. Instead, stand firm behind protections for Bears Ears, Grand Staircase–Escalante and other national monuments, and you will enrich local economies, honor indigenous tribes and safeguard an endless supply of natural beauty, wildlife diversity and cultural heritage for generations to come.

Erik Molvar is the Laramie, Wyoming-based executive director of the Western Watershed Project.

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4. Sold to the highest bidder: new research shines the spotlight on Utah's continuing history of state land disposal

The Wilderness Society, May 22 | Press Release

MAY 22, 2017. More than four million acres of state land formerly open to the public in Utah are now in private ownership.

New research shows that the number of state-owned acres sold to the private sector continues to grow despite the risk that poses to Utah's \$20 billion tourism and outdoor recreation economies, which depend upon access to public lands.

This Wednesday, May 24, about 1,500 more acres of state land managed by the Utah School and Institutional Trust Lands Administration (SITLA) will be sold at auction in Salt Lake City. Among the offerings, the iconic Needles Outpost — a 640-acre camping and outdoor recreation site nestled between the borders of Canyonlands National Park and Bears Ears National Monument — will open to bidding beginning at just more than \$1 million.



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As detailed in the new Wilderness Society report “Our Wild for Sale: Utah lands on the chopping block,” such land sales are an established management practice in the state. More than 54 percent of the original 7.5 million acres granted to Utah by the federal government at statehood has already been sold. Meanwhile, Utah officials continue to demand transfer of an additional 31.2 million acres out of public ownership and into state possession, where future sales, development and restrictions to access loom.

The report pulls back the curtain on Utah’s continuing history of land disposal, serving as a forewarning that once under state control, irreplaceable public lands are easily sold to private profiteers. After these land sales, public access typically vanishes for activities like camping, hiking, biking, hunting and fishing — the very activities that drive Utah’s robust outdoor recreation economy, which generates more than 122,000 jobs and \$12 billion in annual consumer spending in the state.

“This report demonstrates quite clearly that state land is not public land,” said Brad Brooks, director of the public lands campaign with The Wilderness Society. “The state of Utah has sold off some very high value recreation parcels throughout its history, providing a telling sign of what would happen to access for hunters, bikers, climbers and other recreationists if state officials ever got their hands on public lands.”

Along with access, what’s at stake?

Tourism built around Utah’s public lands is currently one of the largest industries in the state, accounting for a record \$8.17 billion in spending in 2015.

Counties in Utah with at least 30 percent protected national land have seen job growth four times faster than counties with no protected land.

As of 2016, 76 percent of Utahns recognize public lands as essential to the state economy.

“Beyond the associated conservation issues, the economic stakes of the public lands takeover proposed by the state of Utah are alarmingly high,” said outdoor industry and Utah business leader Peter Metcalf, the founder and former long-time CEO of Black Diamond Equipment Co. “As this report by The Wilderness Society demonstrates through vivid examples, Utah’s governor, congressional delegation and state leaders fail to understand the critical relationship between our healthy public lands and the vitality of Utah’s growing economy. Any significant



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loss of those public lands would translate to an even greater loss to both the people and the economy of Utah.”

State land sales at auctions held twice a year have ramped up with the recent rebound of the real estate market, motivating Utah’s land managers to carve off scenic parcels and cultural resources near national parks, monuments and other protected landscapes in places like Comb Ridge, Cave Valley, Bryce Creek and now Needles Outpost.

What’s more, over half of all state trust lands sold since 2014 were snatched up by a single buyer — a land speculator recently incorporated under the title Lyman Family Farm. Should Utah succeed in its attempt to seize control of our national public lands, there’s every reason to expect more selloffs to cozy buyers with little regard for public interests.

“The all-out assault on America’s public lands propagated by Gov. Gary Herbert, Congressman Rob Bishop and the rest of Utah’s D.C. delegation is rationalized with false truths and fictional ideology that threaten the high quality of life in Utah and our nation’s cultural heritage,” Metcalf said. “This report undermines that destructive bogus narrative by revealing the historical reality of state control: Development, extraction and privatization through outright sales.”

Download the [PDF version](#) of report here.

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5. **Backcountry CEO Defends Bears Ears**

SGB Media, May 22 | Carly Terwilliger

As the May 26 deadline for comments relating to the designation of Bears Ears National Monument in Utah nears, outdoor industry powerhouses have continued to urge people to make their voices heard.

Yesterday, Jonathan Nielsen, the CEO of Park City, UT-based online retailer Backcountry.com, released a statement regarding the United States Department of the Interior’s review of monument designations.

Nielsen commented:



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Spending time outside is at the heart of our business and is central to the lives of our customers and employees alike; public lands are the setting to many special moments. These public lands are a vital part of who we are, and we need to cherish and protect them. Generations before us have had the foresight to protect these places, and now it's our turn. As a Utah-based company, we've shared some of our best outdoor adventures with family and friends in two of the National Monuments currently under review by the recent Executive Order: the Bears Ears and Grand Staircase-Escalante National Monuments.

Bears Ears contains the complex cliff dwellings and petroglyphs of Grand Gulch, in addition to over 100,000 other archaeological and cultural sites. One of the world's premier climbing destinations, Indian Creek, lies within its boundaries. Likewise, the Grand Staircase-Escalante National Monument is a place of incomparable beauty and one of our favorite places in the state. We have canyoneered through the tributaries of the Escalante, gazed up at the sheer red walls while hiking through the Buckskin Gulch, and gained perspective seeing the geological layers of the White and Vermillion Cliffs on the horizon. These places are unparalleled in their unique beauty.

We continue to partner with The Nature Conservancy to support their work at the Canyonlands Research Center (CRC) located at Dugout Ranch in the newly formed Bears Ears National Monument. The CRC provides a research facility for scientists to develop solutions for land management within the changing climate on the Colorado Plateau.

Your involvement is also critical. Now is the time to make your voice heard on the importance of preserving our public lands. The Department of the Interior has created a forum for public comment on the Monument designation. No matter your opinion, please express it and make your voice heard.

Patagonia has been one of the more prominent entities standing in opposition to the possibility of Bears Ears and other National Monuments losing their official status. The outdoor apparel and gear company tweeted to its 352,000 followers over the weekend: "Thank you to everyone who commented on the @Interior website in favor of public lands. You crashed the site! #DefendBearsEars."

The weekend also saw Arc'teryx CEO Jon Hoerauf asking the brand's consumers in a blog post to "speak up to save Bears Ears now."

The post reads:



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Friends and customers,

I'm certain many of you have been following the recent challenges facing America's wild spaces, most notably the Bears Ears National Monument.

Bears Ears includes some of America's most beautiful landscapes. Climbers travel from far and wide to climb Indian Creek's iconic, vermillion-hued splitter cracks, boaters float the winding San Juan river and others come for the world-class mountain biking, canyoneering and skiing. The region is home to some of the most beautiful scenery on the planet and it has inspired generations of Americans to participate in outdoor sports.

Bears Ears, like all American national monuments, provides a place where we have the opportunity to respectfully explore a protected landscape. National monuments ensure the land will be protected for future generations. National monuments guarantee our children can visit the ancient sequoias in California, mountain bike the Grand Staircase, climb at the Creek and visit archeological sites in Colorado's Canyons of the Ancients.

I grew up alongside America's public lands, spending most summers with my family exploring Sleeping Bear National Lakeshore. My first backcountry adventure took place on Isle Royale National Park – and that trip unlocked my spiritual connection with nature. These experiences helped to form my core values and it's one of the reasons I came to work at Arc'teryx.

Arc'teryx is a collective of people committed to using our influence and resources to conserve and protect public lands. To this end, we committed \$150,000 over the next three years to the Conservation Alliance's Public Lands Defense Fund focused on:

- Defending previous presidents' national monument designations.*
- Defending USA bedrock conservation laws (ie, The Wilderness Act, Antiquities Act, National Environmental Policy Act).*
- Opposing proposed transfers of federal lands to the states or to private hands.*

The reason we have committed our resources to public lands is because we are at risk of losing them.



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Our urgent work begins now: On May 11th, the U.S. Department of Interior opened a 15-day public comment period for individuals and organizations to weigh-in on the future of Bears Ears. We have 10 days left to tell Secretary Zinke, who will report back to President Trump on the monument's future, why keeping Bears Ears intact is important to our community.

There is a way to save America's national monuments, but it won't happen unless we mobilize collectively. Now, more than ever, is time to use our voice to protect wild spaces.

Those wishing to comment to the Department of the Interior on this subject can do so online at [regulations.gov](https://www.regulations.gov) by entering "DOI-2017-0002" in the Search bar and clicking "Search," or by mail to Monument Review, MS-1530, U.S. Department of the Interior, 1849 C Street NW, Washington, DC 20240."

The deadline for comments relating to Bears Ears National Monument is May 26, 2017. Comments relating to all other National Monuments must be submitted before July 10, 2017.

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E&E/NATIONAL NEWS – FULL STORY

1. **WILDLIFE: Songbirds may use power-line areas as critical habitat**

E & E News, May 22 | Michael Casey, AP/Denver Post

CONCORD, N.H. — Transmission lines may be eyesores for most people but for songbirds, the forest around them might just be critical habitat.

A team of researchers want to see if these birds are populating land cleared along the route of a powerline — as well as areas that have been recently logged — in New Hampshire and Maine.

In other parts of the country, the shrubby habitat of these younger forests have been found to offer much-needed protection for the birds from predators, as well as a steady diet of insects and fruit. One of the researchers says these habitats are "incredibly important" for the songbirds in those parts of northern New England.



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“Our goal is to get a better understanding for how these habitats function in our landscape,” said Matt Tarr, a wildlife specialist at the University of New Hampshire Cooperative Extension.

Tarr and his colleagues will catch the songbirds in mist nests starting later this month, band them and then track them over the next two years. They will be focused on 24 transmission line rights of way and 12 areas that been logged in southeastern New Hampshire and southern Maine.

Tarr said there are as many as 40 species of songbirds that nest in young forests and another group that nest in mature forests.

“However, there is growing evidence suggesting that after their birds finish their nesting and the young leave the nest, they leave mature forests and come into the young forest to complete their development.”

The nearly \$250,000 study is being funded by the federal Natural Resources Conservation Service as well as the National Fish and Wildlife Foundation’s New England Forests and Rivers Fund. A contributor to the New England fund is the utility Eversource, which has proposed the Northern Pass energy transmission project that has sparked criticism from property owners, tourism officials and others.

Northern Pass entails building a 192-mile electricity transmission line from Pittsburg to Deerfield, New Hampshire, carrying enough Hydro-Quebec energy to southern New England markets to power about a 1.1 million homes.

Tarr said the study isn’t about finding an upside to transmission lines but rather trying to determine how birds use the forests that emerge after a project is built.

“It helps us understand how transmission lines function in providing that habitat on the landscape,” he said.

The information they get could be critical to policymakers as they work to create more young forests for birds as well as other species like cottontail rabbits in New England.

“Do they have positive effects or do they have negative effects?” he said. “We might find these rights of way aren’t used as we think they are for mature forest birds. That would be important for us to know.”



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2. **COAL: Stream rule dies, but ex-miners keep fighting**

E & E News, May 22 | Dylan Brown and Arianna Skibell

First of three stories.

NAOMA, W.Va. — A stroke of President Trump's pen earlier this year erased a regulation that took Barack Obama's entire presidency to draft.

Flanked in a White House ceremony by coal miners, their bosses and a handful of lawmakers, Trump proclaimed that his repeal of the fledgling Stream Protection Rule would save the coal industry and thousands of jobs. "Special people, special workers, and we're bringing it back," he said to applause. "We're bringing it back fast."

Industry and environmentalists battled for almost eight years over the regulation, aimed at protecting waterways from coal mining pollution, and there was celebrating and mourning in Washington over the rule's swift demise.

In the heart of Appalachian mining country, the death of a policy that had never taken effect elicited shrugs. But the perception of what Trump may bring is inspiring optimism in miners and others whose livelihoods are connected to coal.

That renewed energy is driving environmentalists like ex-miners Chuck Nelson and Junior Walk into a renewed frenzy. They are bracing for another long fight to protect mountaintops and waterways from strip mining.

But with the tradition and promise of coal so ingrained in their neighbors, these activists find themselves literally and figuratively lost in the wilderness.

Riding their four-wheelers along a ridgeline above Naoma last month, the two rumbled up to a dirt mound blocking a trail that was wide open several weeks ago. Walk, 26, and Nelson, 61, scrambled up the heap and stared at a cliff of newly exposed rock, earth and coal.

"I swear it was a trail," Walk said. "Went straight right here and down through there."



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Nelson crouched, chin in hand. Walk lit a cigarette in silence. There were seven strip mines on the horizon, all permitted years ago.

The two men have seen plenty of mountaintop-removal coal mining. After three decades as a miner, Nelson said he's dedicated his life to ending the dynamiting of mountains to expose coal seams, which fill streams below with debris. Walk works with the local group Coal River Mountain Watch against an industry that he says is poisoning his hometown.

Both men knew the mountain beneath their feet would eventually disappear — just not this fast.

"Every coal seam around here has already been permitted," Walk said. "It's just a matter of time when they end up getting to it."

Under Obama, the industry lay dormant, but with Trump, Walk's sense is that it's "full steam ahead."

The U.S. Energy Information Administration has predicted a slight uptick in coal production — 4 percent nationwide this year — and the Bureau of Labor Statistics found 600 coal miners have gone back to work so far under Trump.

But Nelson maintains he already sees signs of life for mining here — including more and more young miners in local convenience stores. "You know they just got off work, they're filthy," he said.

Huntington Regional Chamber of Commerce President Bill Bissett said it's still too early to tell the extent of the impact Trump's policies could have, but he argued that the president surely ended the chill his predecessor put on coal investment and local morale.

"It's hard to quantify, it's hard to be specific about it," said Bissett, who until recently was president of the Kentucky Coal Association. "But I do think something is happening, because I'm seeing coal trains and coal trucks when I'm in southern West Virginia, and I'm talking to people that have coal companies as customers tell me that things are getting better."

Without the Stream Protection Rule, the law of the land for protecting waterways in coal country remains the 1983 Stream Buffer Zone Rule.



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Nelson said even that old standard, like so much of the Surface Mining Control and Reclamation Act, was never enforced adequately by either state or federal enforcement.

Now, Nelson said, Trump is stacking the deck for industry. And the environment, he said, will pay "a heavy price."

The National Mining Association argues that Trump is simply restoring the balance between mining and mitigation written into the SMCRA. The era of Obama overreach at the federal Office of Surface Mining Reclamation and Enforcement is over, coal's top trade group proclaims.

"Our industry is comprehensively regulated," NMA spokesman Luke Popovich said.

'Inside out'

Whatever feeling comes next — pride or disgust or something else — mountaintop removal is awe-inspiring at first glance, a sandbox of epic proportions.

To reach buried coal seams, miles of earth are moved aside, at larger mines by the gargantuan shovels of draglines. Rock is blasted apart by drilling rigs, then scooped into tall trucks to be hauled away.

Exposed veins of coal are broken up, pushed into piles and loaded into semitrailers or, depending on the mine, directly onto railroad cars or barges by conveyor belt, bound for power plants.

The top of the mountain is piled up into the neighboring valley, or hollow, as it is known in Appalachia.

Flattened, the topography left behind — even after reclamation — is irrevocably changed.

Whether that is good or bad depends on who is asked, especially when it comes to the Hobet mining complex here, an hour south of the state capital of Charleston.

Since she started volunteering with the Ohio Valley Environmental Coalition two decades ago, Vivian Stockman has watched Hobet sprawl over roughly 25 square miles — three-quarters the size of Charleston.



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West Virginia highlands, she said, became a moonscape before the various companies that have owned the mine coated everything in bright green hydroseed. Spray-on grass replaced more than 60 tree species that ruled some of the world's most diverse temperate forests.

"We're looking at mountains turned inside out and left to die," Stockman said.

Former West Virginia Gov. Earl Ray Tomblin (D) saw Hobet as an opportunity. He dedicated his last year in office to turning the site into West Virginia's largest industrial park.

New Gov. Jim Justice (D), a former coal executive, has picked up the torch of the Rock Creek Development Park, which so far has only a proposed West Virginia National Guard training site as a prospective tenant.

Flat land is hard to come by in the Mountain State. Coal companies are supposed to leave landscapes roughly how they found them, but in many cases landowners are eager to turn the sites into grazing land or even a golf course like Twisted Gun in Mingo County. To many people, these developments are better than what came before.

"The No. 1 reason people don't come to West Virginia for big projects is they don't have a site," former state Commerce Secretary Keith Burdette recently told The Charleston Gazette-Mail.

Extinction

But the price, Stockman said, is steep, due to another resource that development requires: water.

"You've turned the landscape upside down," she said. "You've exposed all that stuff that was locked in and now is leaching out."

Coal companies carve rock-lined channels that drain into sediment ponds at the base of every valley fill. There, pollutants are supposed to settle out before water flows downstream.

"It does not work," said Stockman, her conductivity meter dunked into water coming out of a Hobet sediment pond.

People downstream are suffering the consequences, said Stockman, who helped collect data for research that connected coal mining pollution directly to elevated rates of cancer and other diseases downstream. Many people living near mountaintop removal have moved to escape the dust and blasting.



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"Communities are driven to extinction," Stockman said, and an added consequence is the "cultural extinction" of life in the woods.

Those health studies and other science helped motivate the Stream Protection Rule, designed to force companies to restore streams to pre-mining conditions.

Stockman cannot help feeling jaded about it.

"A regulation and a rule can only be as good as its enforcement, and that has never been even close to good around here," she said.

While the revived 1983 rule forbids mining "within 100 feet of a perennial stream or an intermittent stream," coal companies rarely struggled to obtain permit variances from state agencies, federal coal law's primary regulators.

At the toe of a valley fill at the Hobet mine, a former stream now dead-ends.

"How in the hell could they have a buffer zone or any rule of protection?" Stockman wondered. "It's obliterated."

'Diminishing returns'

Kentucky Secretary of the Energy and Environment Cabinet Charles Snavely argues the Stream Protection Rule bulldozed the will of states, which is why so many united against it.

Snavely, a native of the coal fields of eastern Kentucky, spent 35 years working in the coal industry before Kentucky Gov. Matt Bevin (R) appointed him in 2015.

His last job before government service was as president of eastern operations for Arch Coal Inc., former owner of Hobet.

Snavely called OSMRE's outreach "disingenuous," because federal officials reached a final rule that imposed a crippling expense on his agency and near-impossible standard for coal companies to meet.

"The health of our economy is ignored in pursuit of this agenda," Snavely said.



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Companies argue water compliance costs continue to skyrocket but provide little reward for the taxpayers.

"We have reached the point of diminishing returns," Snavely said. "These improvements that are being sought are much more minute and come at exponentially greater cost."

Existing rules allow for states to grant variances to keep mines open, but the Stream Protection Rule could have rendered up to half of all remaining U.S. coal off-limits for financial reasons, according to industry estimates.

Annual federal reports on state oversight routinely acknowledged steady improvement in reclamation and pollution cleanup.

And studies drawing a straight line from mountaintop removal to illnesses in nearby communities are fiercely questioned.

"They are related to the fact that we're sedentary and we eat too much and we smoke," Snavely said.

Overlooking the 9 billion gallons of coal slurry at Brushy Fork, Walks conceded the dangers associated with his smoking habit. But, he said, "this is a poison I choose."

Energy sacrifice zone

With the Trump administration broadcasting the end of the "war on coal," environmentalists are more fearful than ever about mountaintop-removal mining.

"If you want to have a war on anything going on here in West Virginia, it's a war on common sense, it's a war on water and it's a war on human health," Stockman said.

Making matters worse, she said, is the expansion of natural gas drilling in the region. She said the northern part of the state is already being "devastated by drilling," and she fears this is just the beginning.

"The whole state is a giant sacrifice zone for the fossil fuels," Stockman said.

Most West Virginians don't see it that way.



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"It's a source of pride as a state that we've been able to power this country," said Sen. Shelley Moore Capito (R-W.Va.), who has applauded Trump's energy plans at every step.

Stockman said lawmakers' attitudes demonstrate that energy companies are calling the shots in Charleston and on Capitol Hill.

Still, it's not only the politicians who want more natural resource extraction in the state.

Sheila Warren is the general manager for the Howard Johnson Express hotel in Beckley, W.Va. She said West Virginia needs to extract as much as it can, whether it's coal or gas — or anything else.

"We need any source or any type of anything we can do for energy. I mean, if you want to put your windmills, put your windmills. Do what you want to do, but it's all about the money," she said.

"West Virginia has to bring coal back. It has to. This state is done, if not," she said. "There's nothing else here."

What is West Virginia without coal? And what's the course for opponents in the face of the industry's small resurgence?

These are the questions that gnaw at the miners-turned-activists like Nelson and Walk.

"We're not going to be collateral damage or expendable people," Nelson said. "We're not going to do that without standing up to people and telling them how we feel."

Trump's election, the death of the Stream Protection Rule and the rise of hydraulic fracturing are undoubtedly setbacks for environmentalists, even if they are viewed favorably by people over the next Appalachian mountain.

"It's going to be an uphill battle, but here it's always been an uphill battle. We've lost a lot more than we've won here," Walk said. "We gotta keep fighting, because if you stop fighting, you stop living."

Tomorrow: How miners became activists.

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3. **OIL: Warning to drillers - Be wary of debt**

E & E News, May 22 | Nathaniel Gronewold

HOUSTON — The rush to drill for oil at \$50 per barrel is prompting warnings from energy analysts that oil and gas may be rolling the dice, and some companies could end up losing everything.

At two events held here last week, experts cautioned the oil and gas industry about the big jump in drilling activity seen over the past several months, which was ramping up even before OPEC and allied non-OPEC countries like Russia announced in December combined oil production cuts to stabilize the market.

Fourteen more land rigs were added to the field in the United States last week, according to data compiled by Baker Hughes Inc. Four rigs were added to the Permian Basin, now the center of tight and shale oil drilling activity in the United States.

Oil companies' aggressive return to shale oil extraction in a mediocre price environment has some observers on edge. Continued success, they say, depends not only on production cuts by the Organization of the Petroleum Exporting Countries, but perhaps more on global oil demand rising more strongly than it has in recent years.

If solid demand growth doesn't arrive, or should it even fall due to some economic difficulties, crude prices may tumble again in 2018. Heavily indebted oil companies wouldn't survive a second sharp price crash, said Nicole Leonard, a senior consultant at S&P Global Platts.

Speaking at the annual Platts Benposium conference, Leonard reiterated the emerging consensus view of the likely near-term trajectory for oil markets: Crude demand will rise, particularly in China, Southeast Asia and India, while production outside the United States will be flat or fall. OPEC and Russia will agree to extend the production cuts for the remainder of this year. As summer driving picks up, refineries will take on more crude and draw down inventories. The tightening of crude supplies will prompt oil traders to return prices to \$60 per barrel.

Analysts and the International Energy Agency offered this forecast recently. Though oil stockpiles have been slow to diminish, the second half of 2017 should see a "rebalancing" in the oil markets starting to take hold, IEA and analysts argue (Energywire, May 17).



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S&P Global Platts even sees the potential for IEA's 2020 price spike scenario playing out.

Given the lack of upstream investment outside the United States, IEA fears that demand growth will exceed supply growth by a significant margin by the end of this decade. Other observers are making a similar call.

But Leonard says all of this depends on oil demand rising. If demand falls, all bets are off, she said.

IEA sees global crude demand climbing by 1.3 million barrels a day. Past IEA oil demand growth forecasts overshot reality.

Debt piling up

Meanwhile, nations and consumers are taking on record amounts of debt rapidly, Leonard noted, while oil companies have been assuming large debts themselves to finance the land rush in the Permian Basin. She believes oil companies have been taking on too much debt too quickly, leaving them exposed should the world experience another financial crisis or economic recession that cancels the oil demand boost IEA is counting on.

"It could put a lot of U.S. oil and gas producers out of business," Leonard said. She added that she worries companies may be "approaching a cliff" with the debt-fueled revival of shale oil.

In discussions here on the Permian Basin drilling frenzy, the word "bubble" came up more than once. But what threatens to burst that bubble can be found abroad.

Market optimism is so far ignoring negative signs from China, the world's second-largest economy and the main factor in rising oil demand. Financial analysts' reports suggest public-sector debt spending on infrastructure and private debt spending on housing are the only things holding up China's gross domestic product growth targets. Signals from the consumer market are relatively weak.

International economists have rung the alarm on the rapid buildup of Chinese debt, despite the government's pledges of reform. Rapid debt accumulation usually portends financial crisis, as was the case in the United States from 2000 to 2008 and with Greece in this decade.



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China's "One Belt, One Road" initiative seems primarily aimed at promoting China's exports, despite the government's promises to international financial institutions that it would move away from an export-driven economic growth model. Much of the infrastructure being built for the initiative is backed by loans to nations with shaky credit.

Leonard said sovereign debt has been growing rapidly in South and Southeast Asia, where much new oil demand is expected to come online. She said these developments pose the greatest risk to oil producers. "Entire countries are taking on more debt than they can pay back," she said.

The Council on Foreign Relations' Sovereign Risk Tracker sees only elevated risks in Vietnam, Bangladesh and Sri Lanka. Indonesia has recently seen a sovereign credit rating upgrade.

Assumptions

Some argued in discussions last week that the lower break-even costs for drilling wells in the Permian Basin gloss over the extremely high prices companies have had to pay to acquire land for drilling rights. There was also confirmation that the Permian bonanza was being understated, mainly because companies are accumulating drilled but uncompleted wells. Financial analysts in Houston have long speculated that oil companies strapped for cash would be tempted to quickly bring these so-called DUC wells into production, threatening to pull the oil price lower.

"The number of wells drilled is far exceeding the number of wells put into production," Stephen Beck, a senior director at IHS Markit, said during the Drilling Onshore Conference, hosted by the International Association of Drilling Contractors.

At the IADC event, Bob Williams, a director at RigData, echoed concerns that the industry is getting ahead of itself. He cautioned against over-leverage and complacency on the assumption that oil demand will rebound.

The other assumption of a supply gap in the face of rising demand by 2020 is also facing questions over how quickly consumers in major oil demand growth regions will adopt electric vehicles. In spite of worries over indebtedness, China's government is expected to roll out aggressive new sales targets for electric cars starting next year, and media reports say a prominent think tank in India is urging the government there to adopt a similar strategy, for environmental protection and to curb rising dependence on imported oil.

IEA reported that China accounted for half of all global electric vehicle sales in 2016.



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Critics of the supposed threat posed by electric cars say electric vehicle production will eventually come up against constraints on raw materials needed for the manufacture of batteries, raising costs.

OPEC meets this week to determine whether to continue efforts to take approximately 1.8 million barrels of oil a day off the market for the rest of the year. Few think OPEC will continue cutting output into 2018.

Meanwhile, caution on the oil demand outlook is in order, argued Williams.

"That light at the end of the tunnel is an oncoming train," he said.

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4. NATURAL RESOURCES: Panel to examine whether federal land laws have 'gone astray'

E & E News, May 22 | Kellie Lunney

A House Natural Resources panel will hold a hearing to review whether Congress should amend long-standing laws affecting the management of federal and tribal lands, as well as designated wilderness areas.

The Subcommittee on Oversight and Investigations, led by Rep. Raúl Labrador (R-Idaho), plans to examine at least three major laws: the 1976 Federal Land Policy and Management Act, the 1934 Indian Reorganization Act, and the 1964 Wilderness Act.

Lawmakers want to determine whether the federal government has implemented them according to congressional intent, Molly Block, spokeswoman for the committee majority, said over email.

The hearing title says the subcommittee will examine the "impacts of federal natural resources laws gone astray."

It's not clear whether the review will lead to a nip and tuck of the landmark laws, or a major overhaul.

"We seek to identify potential legislative or regulatory reforms that would circumscribe any bureaucratic abuses of the relevant federal statutes," Block wrote.



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The witness list includes local and state government officials and a Native American resident of New Mexico who has publicly shared her firsthand account of a 2016 oil tank explosion and fire in Nageezi, N.M.

The Federal Land Policy and Management Act governs how the Bureau of Land Management oversees public lands with an eye toward multiple use while ensuring sufficient environmental protection.

The Wilderness Act established a National Wilderness Preservation System that has designated more than 106 million acres of federal public lands as wilderness. In those areas, the law generally prohibits roads, motorized vehicles and commercial activities but allows recreation.

The Indian Reorganization Act, passed during the Great Depression and among the most important laws affecting Native Americans, decreased the federal government's control over Indian affairs and sought to give tribes greater authority to govern themselves.

Schedule: The hearing is Wednesday, May 24, at 9 a.m. in 1324 Longworth.

Witnesses: Arizona state Rep. David Cook (R), owner of DC Cattle Co. LLC; Diane Dillon, Napa County, Calif., supervisor; Celeste Maloy, deputy attorney, Washington County, Utah; and Kendra Pinto, Native American community organizer and activist living in the Navajo Eastern Agency of New Mexico.

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5. **COAL: House mining panel to mull good Samaritan cleanup proposal**

E & E News, May 22 | Dylan Brown

A House subcommittee this week will examine how to put the private sector and nonprofit groups to work cleaning up old, abandoned coal mines across the country.

The House Natural Resources Subcommittee on Energy and Mineral Resources will hold a hearing Wednesday on a discussion draft of the "Community Reclamation Partnerships Act" from Rep. Darin LaHood (R-Ill.).



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Since the Surface Mining Control and Reclamation Act (SMCRA) was signed in 1977, states have been in charge of cleaning up coal mines left behind by companies that frequently went bankrupt to avoid performing reclamation.

Forty years later, the federal Office of Surface Mining Reclamation and Enforcement estimates that more than \$10 billion of cleanup still needs to be done nationwide at sites hazardous to the environment as well as human health and safety.

To address the issue, conservation groups have advocated for legislation clearing up liability questions that currently discourage good Samaritan groups from getting involved in the reclamation process.

U.S. EPA has clarified liability protections in the hardrock mining arena, but SMCRA remains unclear, leaving potential good Samaritan groups leery (Greenwire, Dec., 18, 2012).

House lawmakers have pressed for years to pass a hardrock mining good Samaritan bill, but LaHood's bill would extend similar protections and incentives to coal mining.

The legislation would allow states to partner with nongovernmental entities dubbed "community reclaimers" to clean up SMCRA-eligible sites.

In addition to minimizing liability, the bill would permit states to enter into agreements with EPA that would make acid mine drainage abatement part of their approved reclamation program. Those projects would also be available to "community reclaimers."

Schedule: The hearing is Wednesday, May 24, at 2 p.m. in 1324 Longworth.

Witnesses: Representatives of Trout Unlimited and the Pennsylvania Department of Environmental Protection.

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6. **PUBLIC LANDS: Panel to consider BLM land transfers, road in conservation area**

E & E News, May 22 | Scott Streater

A House Natural Resources subcommittee tomorrow will debate the merits of four public lands bills, including one designed to spur economic development by conveying federal lands to Nevada, and another to address population growth in southern Utah by authorizing a traffic corridor in a national conservation area.

Nevada Republican Rep. Mark Amodei's bipartisan [H.R. 1107](#), which among other things calls for "acre-for-acre" land exchanges between the Bureau of Land Management and Pershing County, Nev., is expected to take center stage at tomorrow's Subcommittee on Federal Lands hearing.

Amodei's bill — co-sponsored by fellow Nevada Reps. Dina Titus, Jacky Rosen and Ruben Kihuen, all Democrats — also calls for selling as much as 150,000 acres of BLM lands in Pershing County, with proceeds split between the state, county and BLM "for the benefit of the State of Nevada's general public education," as well as wildfire prevention and restoration projects and greater sage grouse habitat restoration, according to information provided by Amodei's office.

While the "Pershing County Economic Development and Conservation Act" would place 48,600 acres of "selected wilderness study areas" back into multiple-use, it would also designate 136,000 acres of BLM lands as congressionally designated wilderness areas afforded the highest levels of protection.

The proposed sales and land exchanges are necessary, according to Amodei's office, because 75 percent of Pershing County in northern Nevada is owned by the federal government, much of it in a checkerboard pattern that "has been a constant source of frustration for both private landholders and the Federal Government," according to the text of the bill.

Consolidating these lands would improve the management of the area for a variety of uses, according to the bill text.

"This legislation represents a decade of grass-roots efforts by the people of Pershing County — including residents, ranchers, miners, conservationists and commissioners — to resolve areas



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designated as suitable for transfer, checkerboard lands along I-80 and areas with wilderness characteristics within Pershing County," Amodei said in February when introducing the bill.

Sen. Dean Heller (R-Nev.) has sponsored companion legislation, [S. 414](#), in the upper chamber.

The bill is a reintroduction of legislation Amodei sponsored last year with Heller and former Senate Minority Leader Harry Reid (D-Nev.) that never gained much traction.

Among the invited witnesses at tomorrow's hearing is Robert McDougal, a Pershing County commissioner who is expected to testify in support of the bill.

So is fellow witness Shaaron Netherton, executive director of Friends of Nevada Wilderness.

The group sponsored a recent petition that thanked the lawmakers for sponsoring the legislation. The petition called it "a good bill that will ensure the permanent protection of Pershing County's high-value public lands and to provide tools for the County to bring in more jobs and economic development."

A more contentious debate likely awaits Utah Republican Rep. Chris Stewart's [H.R. 2423](#). It would direct BLM to grant rights of way approvals for a transportation corridor and related utilities in the Red Cliffs National Conservation Area in southern Utah, raising concerns about potential impacts to threatened desert tortoises.

Supporters of the "Washington County, Utah, Public Lands Management Implementation Act," which Stewart introduced last week, say the traffic corridor was authorized in the Omnibus Public Land Management Act of 2009 and is badly needed.

GOP staffers on the Natural Resources Committee released information in support of the bill that highlights U.S. Census Bureau data ranking St. George in Washington County as the sixth fastest growing metropolitan area in the nation.

In addition, "Washington County's population is expected to grow from 147,800 in 2013 to 334,800 by 2040," the staff information says.

"For over two decades, the County worked on developing a transportation corridor north of St. George to ease cross-town traffic congestion in anticipation of this rapid projected population growth," according to the committee staff information.



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Victor Iverson, chairman of the Washington County Commission, is scheduled to testify at tomorrow's hearing in support of the bill.

Iverson told the St. George News, in an [article](#) published last week, "Washington County knows that it can build the northern corridor without negative impact on the tortoise" or the national conservation area.

He added, "It's absolutely essential that we have the corridor in order to not be bottlenecked on future traffic in our area."

Other bills

The subcommittee is also scheduled to discuss:

- [H.R. 2199](#), sponsored by Rep. Kevin Cramer (R-N.D.), which would require the Interior secretary to develop a database of "federal real property" to support land management activities related to "resource development and conservation, agricultural use, active forest management, environmental protection, and use of real property," the bill text says. The "Federal Land Asset Inventory Reform Act of 2017" would "consolidate previous inventories to create a single, uniform database cataloging information related to federal land ownership and management," according to information provided by committee staffers. The bill, introduced last month and co-sponsored by Rep. Ron Kind (D-Wis.), is also designed to identify "inaccurate, duplicate, and out-of-date Federal land inventories."
- [H.R. 2425](#), sponsored by Rep. Jared Huffman (D-Calif.), which calls for "the establishment and improvement of communications sites on or adjacent to Federal lands" through the "retention and use of rental fees associated with such sites."

Schedule: The hearing is Tuesday, May 23, at 10 a.m. in 1324 Longworth.

Witnesses: Shaaron Netherton, executive director, Friends of Nevada Wilderness; Robert McDougal, commissioner, Pershing County, Nev.; Victor Iverson, chairman, Washington County, Utah, commission; Connie Stewart, executive director, California Center for Rural Policy, Humboldt State University; and John Palatiello, executive director, Management Association for Private Photogrammetric Surveyors (MAPPS).

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7. **LAW: Republicans revive 'sue and settle' debate**

E & E News, May 22 | Amanda Reilly

House Republicans this week will go another round on "sue and settle," the term used to describe the phenomenon of friendly litigants filing lawsuits against the government with the aim of negotiating binding deals.

Two House Oversight and Government Reform subcommittees will hold a joint hearing Wednesday on "examining 'sue and settle' agreements."

Rep. Blake Farenthold (R-Texas), chairman of the Subcommittee on Interior, Energy and Environment, and Rep. Gary Palmer (R-Ala.), chairman of the Intergovernmental Affairs Subcommittee, will lead the meeting.

Under the Obama administration, Republicans argued that environmentalists and other special interest groups routinely used lawsuits to force federal agencies to cut deals and settle disputes through additional regulations.

Additionally, GOP critics of the last administration's policies said agencies like U.S. EPA actually invited such "sue and settle" litigation from friendly groups.

Republicans introduced legislation early this year in both the House and the Senate aimed at preventing such lawsuits. The measure by Senate Judiciary Chairman Chuck Grassley (R-Iowa) and Rep. Doug Collins (R-Ga.) would require agencies to publicly post and report to Congress any information on cases, consent decrees or settlement agreements.

The bill would also prohibit same-day filing of complaints and pre-negotiated settlements (Greenwire, Jan. 13).

In a recent interview, former EPA general counsel Avi Garbow denounced the idea that EPA welcomed lawsuits just so it could issue new regulations.

It's difficult for the Justice Department to defend against lawsuits that allege agencies like EPA have missed statutory deadlines and other mandatory requirements from Congress, he said.



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"There are times when the Justice Department determines that it is in the public's interest to resolve matters through settlement," said Garbow, who served as EPA's top lawyer from 2013 through the end of the Obama administration.

Schedule: The hearing is Wednesday, May 24, at 2 p.m. in 2154 Rayburn.

Witnesses: William Kovacs, senior vice president of environment, technology and regulatory affairs at the U.S. Chamber of Commerce; Darcy Helmick, Simplot Livestock Co. of Grand View, Idaho; Kent Holsinger, Holsinger Law LLC of Denver; and Justin Pidot, professor of environmental and natural resources law at the University of Denver's Sturm College of Law.

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8. **EPA: GOP pushes rulemaking reform; Dems showcase fired scientists**

E & E News, May 22 | Arianna Skibell

A House panel this week will review the relationship between U.S. EPA and state environmental quality departments on how they implement federal environmental regulations.

The House Science, Space & Technology Subcommittee on Environment meets tomorrow for the hearing titled, "Expanding the Role of States in EPA Rulemaking."

Democrats, however, will likely focus on pushing back at what they see as the Trump administration's attempts to weaken the agency. They will also showcase the recent dismissal of science advisers.

The majority plans to question state regulators on their implementation of three key environmental mandates: ozone rules, regional haze standards and cross-state air pollution guidelines.

While states are charged with formulating implementation plans, the Obama administration often imposed federal plans when EPA found state programs inadequate.

"We believe the original intent of the statutes and the way those rules are written, the state is the actor that has the power to come up with the way they will reach the particular standards, rather than the EPA," said a committee aide.



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"What we've seen with the Obama administration, the EPA was continually overruling the states in regard to their implementation plan," the aide said.

Under President Obama, more than 50 federal air quality plans were implemented instead of state plans, a separate committee aide said.

Lawmakers are concerned EPA implementation plans aren't state specific and do not take into account regional differences. The goal of the hearing is to find a way for EPA to cooperate more with states.

EPA is not scheduled to appear. However, Democrats invited Deborah Swackhamer, chairwoman of EPA's Board of Scientific Counselors. The agency recently dismissed many of that body's members.

Schedule: The hearing is Tuesday, May 23, at 10 a.m. in 2318 Rayburn.

Witnesses: Misael Cabrera, director of the Arizona Department of Environmental Quality; Becky Keogh, director of the Arkansas Department of Environmental Quality; and Deborah Swackhamer, chairwoman, EPA Board of Scientific Counselors.

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9. **AIR POLLUTION: Hearing to focus on bills targeting ozone standard, Clean Air Act**

E & E News, May 22 | Sean Reilly

A Senate Environment and Public Works subcommittee will hold a hearing tomorrow on two bills that share a common purpose: delay implementation of U.S. EPA's 2015 ground-level ozone standard and revamp a keystone requirement of the Clean Air Act.

The hearing by the Clean Air and Nuclear Safety Subcommittee will focus on S. 263, introduced in February by the panel's chairwoman, Sen. Shelley Moore Capito (R-W.Va.), and S. 452, unveiled a few weeks later by Sen. Jeff Flake (R-Ariz.).

The lineup of five witnesses features representatives of state and local governments likely to voice compliance worries, along with a prominent physician speaking in the standard's defense on public health grounds.



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Both bills would roll back enforcement of the 70 parts per billion threshold until the middle of the next decade; they would also permanently stretch the Clean Air Act's broader cycle for future reviews of the standards for ozone, particulate matter and four other "criteria pollutants" from once every five years to once every decade.

Capito's bill, however, would go several steps further, allowing EPA officials to take "technological feasibility" as a secondary factor into account when deciding among a range of options for a new standard and requiring the agency to take any "adverse" economic effects into account.

The measure is a companion bill to H.R. 806, sponsored by Rep. Pete Olson (R-Texas) and now awaiting action by the House Energy and Commerce Committee after a March hearing (E&E Daily, March 23).

Ozone, a lung irritant that is the main ingredient in smog, is produced by the reaction of nitrogen oxides and volatile organic compounds in sunshine. The previous standard, set in 2008, had been 75 ppb; in lowering it in October 2015, then-EPA Administrator Gina McCarthy cited the need to protect public health in light of recent research on the pollutant's effects.

States turned in their nonattainment recommendations last fall; by law, EPA is supposed to make the final determinations by this October. The new standard is meanwhile facing lawsuits from both businesses groups, which argue that the 70-ppb limit is unlawfully stringent, and environmentalists who say it's too lax.

Under the Trump administration, however, EPA officials have won a pause in the litigation while they decide whether to keep defending the standard.

In states like Arizona, businesses and regulators have expressed concern about the impact of background ozone on their efforts to comply. Because a prime source of nitrogen oxides is coal combustion, producers in states like West Virginia fear that the tighter limit could become another inducement to reduce fossil fuel use. Proponents of a delay also note that EPA issued formal implementation guidance for the 2008 standard two years ago.

S. 263 "will provide more clarity, more regulatory certainty, and ease the economic burden of never-ending overreach," Capito said in a February statement noting the bill's introduction. Last month, however, 16 Democratic attorneys general from various states and the District of



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Columbia urged opposition to the measure, saying that ozone pollution "remains a serious and persistent problem" (Greenwire, April 26).

Capito sponsored a similar measure last year, but after a hearing, it never moved out of committee. Among those expressing concern at the time was Sen. Sheldon Whitehouse (D-R.I.), who is now the Clean Air and Nuclear Safety Subcommittee's ranking member (E&E Daily, June 23, 2016).

Schedule: The hearing is Tuesday, May 23, at 2:30 p.m. in 406 Dirksen.

Witnesses: Misael Cabrera, director, Arizona Department of Environmental Quality; Kyle Zeringue, senior vice president, Baton Rouge Area Chamber; Ahron Hakimi, executive director, Kern Council of Governments; Dr. Monica Kraft, former president, American Thoracic Society, University of Arizona College of Medicine, Tucson; and Shawn Garvin, secretary, Delaware Department of Natural Resources and Environmental Control.

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