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Jennifer Yachnin, E&E News reporter

Published: Wednesday, August 16, 2017

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

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7. Oil industry's next goal: Shape cap-and-trade cost cushions

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The biggest oil industry trade group in California won major concessions in the wording of the new law extending the state's carbon cap-and-trade program, critics say.

<http://bit.ly/2w28fUj>

8. Trump admin narrows hunt for EIA head

Hannah Northey and Sam Mintz, E&E News reporters

Published: Wednesday, August 16, 2017

The Trump administration is narrowing down candidates to lead the U.S. Energy Information Administration, according to the outgoing acting head of the agency.

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

9. Defense declines closing arguments

Published: Wednesday, August 16, 2017

Defense attorneys yesterday declined to give closing arguments for four of the men who took part in the 2014 Nevada armed standoff between ranchers and federal agents near Bunkerville, Nev.

<http://bit.ly/2vIW9wP>

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1. No change for Calif. Sand to Snow site — Zinke

Jennifer Yachnin, E&E News reporter

Published: Wednesday, August 16, 2017

Interior Secretary Ryan Zinke granted a sixth reprieve in his review of public lands today, declaring he will recommend no changes to California's Sand to Snow National Monument.

Zinke is set to deliver a final report to President Trump on his assessment of dozens of national monuments Aug. 24 but has offered early decisions on a handful of sites in recent weeks.

In addition to the California site, he has stated he will not seek changes to the Craters of the Moon National Monument and Preserve in Idaho, Hanford Reach National Monument in Washington state, Canyons of the Ancients National Monument in Colorado, Upper Missouri River Breaks National Monument in Montana and Grand Canyon-Parashant National Monument in Arizona.

"The land of Sand to Snow National Monument is some of the most diverse terrain in the West, and the monument is home to incredible geographic, biologic, and archaeological history of our nation," Zinke said in a statement.

President Obama created the 154,000-acre monument, located east of Los Angeles, in early 2016.

In late April, Trump ordered a review of all monuments created since 1996 that are larger than 100,000 acres, with an eye toward reducing or even eliminating some sites.

In an interim report issued in mid-June, Zinke called for significant cuts to the 1.35-million-acre Bears Ears National Monument in southeastern Utah, but he has yet to reveal the specifics of his proposal.

Twenty-seven monuments, including five ocean sites, were included in the review. In addition to Bears Ears, observers see Utah's Grand Staircase-Escalante National Monument as a likely target for revisions.

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

2. Sally Jewell thought Zinke cared about Interior. Not anymore

Brittany Patterson, E&E News reporter Published: Wednesday, August 16, 2017

Sally Jewell is going back to college. Well, sort of.

Last week, the Harvard Kennedy School's Institute of Politics announced that the former chief executive of outdoor retailer REI and Obama-era Interior secretary has accepted a fellowship to teach a series of undergraduate seminars this fall.

She'll be sharing living quarters with one of the biggest critics of the Obama administration's public lands policies: former Utah Republican Rep. Jason Chaffetz.

Twice a year, Harvard's fellowship program brings six individuals from across the political spectrum together for an immersive semesterlong experience. Jewell will share a dorm-style apartment complex in Cambridge, Mass., with the five other resident fellows, including Chaffetz, who railed against the Obama Interior Department when he was chairman of the House Oversight and Government Reform Committee.

Jewell said she expects the experience to be "very interesting." The pair might even engage in some lively political conversations over beverages. "Well, it probably won't be drinks. I don't think he drinks," Jewell said of Chaffetz, whose Mormon religion shuns alcohol consumption. "Milkshakes, yes, we can settle on that," she said.

Speaking by phone from the office she currently shares with her husband, Warren, in their Seattle home, Jewell said she has been focused on putting the final touches on her eight Tuesday night lectures.

Broadly, the focus will be on the ways government, business and civil society can together shape a future that's both economically successful and environmentally sustainable.

Lecture titles include "Why getting sued can be good" and "If you're not at the table, you're on the menu."

It's a broader view than Jewell could take while head of the wide-ranging Interior Department during President Obama's second term, but one she feels "uniquely qualified" to tackle.

Speaking with E&E News, Jewell discussed what she hopes to cover during her first semester, her view that President Trump's monuments review is "ridiculous" and why she's no longer optimistic about her successor, Ryan Zinke.

It's been announced that you're going to be a fellow at the Institute of Politics in the fall. Can you tell me more about what you hope to be working on there?

I've got an overarching theme, which is: "We don't inherit the Earth from our ancestors; we borrow it from our children." That is something that guided me as a proverb, if you will. But basically, it takes a variety of different aspects of civil society in a democracy to shape a sustainable future. It's business, it's government, it's nonprofits and civil society broadly.

I'll be hosting leaders from a variety of different aspects of that who are working together to build understanding to set priorities and to craft policies that shape a nation, a planet that we're proud to leave for future generations.

Are you going to focus on the intersection of public lands with that and climate change, or is this broader?

It's broader, but I'll be using things like that as examples.

One example I may use — and I have not yet approached Dave Archambault [the tribal chairman of the Standing Rock Sioux Tribe] — but would be for Dave Archambault to talk about the Dakota Access pipeline and how going through the regular process did not result in the tribe getting the respect and the dialogue it deserved or needed and the pressure they put on the company to come to the table.

That's still playing itself out in the courts, so it's an unresolved circumstance, but it certainly spoke to — you've got powerful oil interests, who are used to sort of buying their way through the permit process, and then, all of a sudden, 10,000 people amassing to say, "Wait a minute. This is not upholding the trust and treaty obligations we have to Indian tribes." That put tremendous pressure, obviously, on the company and whether, in the short run, you lose a battle, do you win in a way by actually putting it on people's radar and making sure that they're paying attention to tribes in the future as they may not have in the past?

I've got another session that is called "Why getting sued can be good." That is about the importance of nonprofit organizations in accountability and shaping policy. I'll talk about my own experience. In business, you do everything you can to not get sued. You settle, and you want to keep yourself out of the courts, but in shaping public policy, laws are not always clear. They're ambiguous, or sometimes government officials may not be upholding the law in the way people think it was intended. I got sued at Interior on average three times a week. At any given time, there was like 3,500 open lawsuits against the secretary of the Interior.

It sounds like a lot of what you're going to run through really touches on a lot of your time at Interior.

It's both at Interior and in business. It's bringing a perspective that I have that many people in politics don't have, which is I've run a good-sized business, and I've been a banker, and I've worked with a variety of different industries. It's — do things work within our economy? How do they intersect with government? How can we make it all work better?

I enjoyed watching your road trip on Twitter. What was your favorite stop?

You know, I'll give you my standard answer: I love all my children equally. I would say that Warren and I — Warren's my husband — we took the southern route. We did about 10,000 miles, and I think that [one of the] two things that emerged for us as being really powerful on the trip was the African-American journey from slavery through emancipation, Reconstruction, the Jim Crow era and the ongoing civil rights movement, which of course flared this weekend in Charlottesville, [Va.].

One of the most dramatic examples of that, for me, anyways, was Anniston, Alabama, which was where the Ku Klux Klansmen tried to burn Freedom Riders alive in a bus, both black and white, who were trying to hold the South accountable for desegregation.

That was a very powerful spot. Freedom Riders National Monument is a new national monument proclaimed by President Obama toward the end of his term. He did three, and we went to all three. And that was ... all three of those, but also Selma to Montgomery, Martin Luther King's church in Montgomery, Alabama ... this was all part of our journey. So that was very, very powerful, especially because of current events, not just this weekend, but current events over the last few years of Black Lives Matter.

And then the other thing that I would say that was really powerful was that we spent more time in the newer designated areas, like Organ Mountains-Desert Peaks National Monument in Las Cruces, New Mexico, and Rio Grande del Norte [National Monument] in northern New Mexico, Bears Ears [National Monument] and Grand Staircase-Escalante [National Monument] in Utah. These are places that are not as well-developed. There's just a real wildness and opportunity to sort of immerse yourself in the science, the culture and the history of these places, much of that around the ancient Pueblo people.

The most important thing is these are artifacts that are still in place, and they are left as they should be, with their archaeological and their anthropological context. That was extraordinary. This is an area that is controversial. It's part of President Trump's monuments review, which is ridiculous and I think illegal, but nonetheless, we spent time in those places, and that was really powerful.

We are expecting a report on Trump's monument review on Aug. 24. One of the claims that I hear a lot from folks is that the agency under your leadership didn't go far enough with public outreach. How do you respond to something like that when thinking about a place like Bears Ears?

There was a media account of my trip to the area, the number of public meetings I held, exactly what my schedule was, which we provided to anybody that asked on a very detailed basis, unlike what I think what's happening now.

In June of 2016, I spent four days in the area. I met with the Emery County Commission, the Grant County Commission and the San Juan County Commission. I met with the Bears Ears Inter-Tribal Coalition. I met with tribal members who were opposed to a national monument designation. Embedded with me were reporters from the *Deseret News* in Salt Lake and *The Salt Lake Tribune* and the [Associated Press] and also members of Chaffetz's staff, [Utah Republican Rep. Rob] Bishop's staff, [Utah Republican] Sen. [Orrin] Hatch's staff and [Utah Republican] Gov. [Gary] Herbert's staff.

So I did extensive meetings there, and I held a very large open public meeting at which 1,500 people attended, and we took comments, both orally and in writing. We had to use a lottery system, because more people wanted to speak than we would have had time for, but we spent four hours listening to very different points of view in a very thoughtful and open way. It was extensive outreach for Bears Ears in particular.

Under your tenure, you pushed hard to have climate change be a part of everything at Interior. A lot of that was through regulatory policy and through secretarial orders, and we're seeing a lot of that being rolled back. What impacts do you think that might have for public lands or for the agency?

Well, I think it's shameful to see the rollback on the very, very important science that's going on and the people that are so knowledgeable in these areas be marginalized by the current administration. I said early on in my tenure, like six weeks, in the first major address that I gave to all Interior employees, that tackling climate change was one of the reasons that I stepped out of the private sector to take this job — and that in my first six weeks on the job, as I went around to public lands sites, you cannot deny that climate change is going on. We see it everywhere we go. We see it in profound droughts, in sea-level rise, in ocean acidification, in increased salinity, in forest fires. It is so dramatic and so obvious. It's everywhere, and to have these scientists or public

lands managers have to continue to try and do the right thing without acknowledging it's happening on the ground puts them in a very, very difficult and awkward situation. I think it's shameful, and I will say that the behavior of the current administration doesn't change the reality of what's happening on the ground.

In your outgoing speech to staff, you said that you thought Zinke was someone you "believes cares about Interior and its mission." Is that something you still believe?

No. I'm very disappointed that his actions do not match his words. Actions speak louder than words. ... You can say you're a Teddy Roosevelt Republican, but the actions — whether it's around national monuments or the budget recommendations that have come out of the Trump administration specific to Interior land management agencies — those are actions that do not back up the words about being a Teddy Roosevelt Republican or "Nobody cares more about public lands than I do." That is not what I'm seeing in the actions that he's taking.

This interview has been edited and condensed for clarity.

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

3. House to tee up spending bills when recess ends

George Cahlink, E&E News reporter

Published: Wednesday, August 16, 2017

When the House reconvenes next month, it will immediately consider a broad package of fiscal 2018 domestic spending bills, including the measure funding U.S. EPA and the Interior Department, Republican leaders signaled today.

GOP leaders announced the floor schedule for the week of Sept. 4, which will include consideration of eight of the 12 annual appropriations bills the chamber has yet to pass.

The Rules Committee posted the text of those eight combined bills today and said it will meet when the House returns to consider possible floor amendments.

Those amendments could potentially include bids to restore or further cut funding for EPA and add or strip out contentious environmental and land-use riders.

The Rules Committee set an Aug. 25 deadline for receiving amendments.

Republicans leaders are eager to have all 12 spending bills passed before the new fiscal year begins Oct. 1. Their decision to place the package on the floor signals they believe they have the votes to pass it.

The eight-bill spending package will be combined in the House with already-passed security spending legislation, which contains funding for the Energy Department, Army Corps of Engineers, Defense Department and Homeland Security. Joining the eight domestic bills with the security package could help ease passage of the domestic bills in the House, with many conservatives loath to oppose any legislation linked to military funding.

Beyond the Interior, Environment and Related Agencies spending bill, the Agriculture, Commerce-Justice-Science, Financial Services, Homeland Security, Labor-Health and Human Services-Education, State-Foreign Operations and Transportation-Housing and Urban Development measures will make up the package.

The Senate has yet to consider any of the 12 spending bills.

As a result, Congress will need to pass a stopgap spending measure, also known as a continuing resolution, to guarantee temporary funding to agencies when the new fiscal year begins to avoid a government shutdown.

<http://bit.ly/2vJsx2s>

4. Blazes could diminish eclipse experience in Ore.

Published: Wednesday, August 16, 2017

Wildfires could put a damper on the solar eclipse in Oregon.

The eclipse next week is widely considered one of the largest tourism events in the state's history. But the event is set to coincide with peak fire season in the Cascades and central Oregon.

Just days before throngs of tourists descend on the area, more than 1,000 firefighters are battling to contain a string of blazes.

Four fires in particular could present tourists with smoky skies, road closures and shuttered campsites.

"A lot can happen with wildland fires in the week," said Carol Connolly, information officer at the Northwest Interagency Coordination Center, which tracks wildfires in the region. "We're planning for the what-if scenarios and hoping for the best" (Shane Kavanaugh, Portland Oregonian, Aug. 15). — **MJ**

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

5. Colo. senator booed at town hall over EPA, energy issues

Jennifer Yachnin, E&E News reporter

Published: Wednesday, August 16, 2017

LAKEWOOD, Colo. — Colorado Sen. Cory Gardner (R) faced off with constituents yesterday in a series of raucous town halls across the Front Range as he fielded questions on North Korea, health care reform and U.S. EPA — often to the sound of audience boos that drowned out his answers.

His appearance before a crowd of a few hundred here in the gymnasium of Colorado Christian University marked the end of his first series of in-person town halls in more than a year, following events in Colorado Springs and Greeley, Colo., earlier in the day.

During the final meeting of the day, Gardner faced off with a largely antagonistic crowd that repeatedly cheered and gave standing ovations to questioners while booing Gardner's responses.

"What we have to do in this country is not shout each other down but work in a bipartisan way to have solutions," Gardner urged at several points during the 90-minute meeting.

The majority of randomly selected audience questions to the senator, who also serves as chairman of the National Republican Senatorial Committee, focused on health care or the White House's response to the recent white supremacist rally in Charlottesville, Va. But Gardner also addressed inquiries on his support of U.S. EPA Administrator Scott Pruitt and his views on domestic energy production.



Denver resident Jessica Rosenblatt waits to enter Sen. Cory Gardner's (R) Lakewood, Colo., town hall meeting where, like many, she hoped to hear him address health care. Jennifer Yachnin/E&E News

"My concern is your continued support of Scott Pruitt and the actions that he's taken at the EPA," said Denver resident Mary Donahue, who noted she has protested outside Gardner's local office.

She added: "I don't understand how you can support a person who is daily eliminating, reducing, taking away, canceling regulations that protect the clean water and the clean air not only of Colorado but the whole country."

Gardner responded by vowing to protect the "outdoor legacy" of the national parks and forests in the Centennial State.

"I'm going to continue to do what's right by those children to make sure it's available and better off for the next generation," he said.

Gardner then pivoted to criticizing EPA, pointing to his recent visit to southwestern Colorado with Pruitt to discuss the aftermath of the 2015 Gold King mine spill.

"What he said in southwest Colorado is that the EPA walked away from a spill that they caused," Gardner asserted. He vowed to fight for funding for a Superfund designation for the area ([*Greenwire*](#), April 21).

"I do believe the EPA has overreached at times," Gardner continued, prompting boos from the audience he struggled to speak over. "I don't think we should put things in place that hurt our farmers, our ranchers, our economy, when the benefits don't outweigh the costs."

An unidentified man in the audience shouted at Gardner: "Protect our environment! Get rid of Pruitt!"

Gardner also addressed a pair of questions about renewable energy production and whether the United States could still lead efforts to address climate change despite President Trump's decision to exit the Paris climate agreement.

"I'm going to continue to fight for clean energy, a cleaner environment," Gardner said, pointing to his support for the Energy Department's National Renewable Energy Laboratory, located in Golden, Colo.

But he added: "I believe we have to do some things very carefully. We can't destroy our economy with an overreach as we pursue either regulations or as we pursue new types of approaches. We really have to be careful on the regulatory overreach."

Gardner also noted that he had raised the issue of renewable energy with Interior Secretary Ryan Zinke and Energy Secretary Rick Perry — which drew loud boos from the audience and prompted one man to stand and perform a dance reminiscent of Perry's past role on the television program "Dancing with the Stars."

Fracking, monuments

As participants lined up ahead of yesterday's final town hall session, most said they hoped to hear Gardner address health care reform, but others also raised concerns over energy development in the state as well as protection of public lands.

Littleton, Colo., resident Bob Myers said he wanted to hear Gardner address the future of hydraulic fracturing in the state, which has been the subject of both ballot initiatives and court battles.

"I'm going to ask why fracking is allowed when they voted against it," Myers said, referring to a ballot initiative that barred the practice in Longmont, Colo., but was later overturned by the state Supreme Court (*Energywire*, Feb. 15).

Denver resident Richard Peterson-Cremer, who previously served as legislative director for the Southern Utah Wilderness Alliance, said he hoped to hear Gardner address the Trump administration's ongoing review of dozens of national monuments.

In particular, Peterson-Cremer said he hoped Gardner would express support for maintaining both Bears Ears National Monument and Grand Staircase-Escalante National Monument, two sites that Utah Republicans have advocated for significantly reducing or eliminating entirely.

"I think it's really important to Coloradans. I'm tired of politicians saying to leave it to the locals, when the lands belong to all of us," Peterson-Cremer said.

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

6. All eyes on pending challenges after enviros lose LNG case

Ellen M. Gilmer, E&E News reporter

Published: Wednesday, August 16, 2017

A federal court's rejection of a challenge to liquefied natural gas exports does not spell doom for similar lawsuits working their way through the courts, environmental lawyers say.

Yesterday's **decision** by the U.S. Court of Appeals for the District of Columbia Circuit to toss the Sierra Club's calls for federal regulators to take a closer look at greenhouse gas emissions associated with exports from a terminal in Freeport, Texas, is a definite blow to climate action advocates.

But, they say, it's not fatal to a collection of other cases teed up for oral argument before the same court in October.

"Nothing in today's opinion directly addresses those other cases," Sierra Club attorney Nathan Matthews told E&E News. "Our view is that additional questions need to be resolved in the cases that are currently set for argument in October."

At issue is the Department of Energy's consideration of indirect greenhouse gas emissions when it approves LNG exports from new terminals that have cropped up around the country.

Environmentalists have pushed the government to more closely analyze impacts from the production of the natural gas that feeds the projects, pointing to National Environmental Policy Act obligations to consider direct, indirect and cumulative impacts.

After losing several challenges against the Federal Energy Regulatory Commission, which oversees terminal construction, environmental groups turned their sights on DOE, which handles applications for exports to countries that do not have free-trade agreements with the U.S.

Factual distinctions

Yesterday's Freeport LNG (FLEX) ruling was the first major decision in a line of cases that raise many overlapping claims.

Writing for a three-judge panel, Obama appointee Judge Robert Wilkins agreed with DOE that gas production uncertainties made it too difficult to precisely analyze greenhouse gas emissions that could result from increased exports.

"The Department was not required to 'foresee the unforeseeable,'" Wilkins wrote (*Greenwire*, Aug. 15). "Its determination that an economic model estimating localized impacts would be far too speculative to be useful is a product of its expertise in energy markets and is entitled to deference."

Three more LNG cases against DOE — challenging exports from Corpus Christi, Texas; Sabine Pass, La.; and Cove Point, Md. — are set for oral argument on Oct. 18 in the D.C. Circuit.

Matthews, the Sierra Club lawyer, maintained that the pending LNG export challenges still have a strong case before the D.C. Circuit, largely because of factual distinctions.

He noted, for example, that Sierra Club's challenge to exports from Maryland's Cove Point LNG terminal includes information about contracts with natural gas suppliers that could sway a court's acceptance of DOE's argument that production impacts are too speculative to analyze.

He declined to comment on whether the group will seek a rehearing in the Freeport case.

Uphill battle?

Others have put tougher odds on the next group of LNG challenges.

The American Petroleum Institute, which has intervened to fend off environmental challenges to exports, celebrated the Freeport decision and its potential impacts on future cases.

In a statement, API's Marty Durbin said the decision was "great news for other planned LNG export projects around the country."

ClearView Energy Partners analyst Christi Tezak said this week's decision does not bode well for the other cases.

"We think that Sierra Club's chances of forcing reconsideration of the NEPA reviews of DOE's license approvals may fail as well, given the court's rationale in today's FLEX ruling," she wrote in a memo.

She noted that the Cove Point case includes very similar arguments about DOE's public interest consideration for LNG exports but that the other two cases rely on a slightly different analysis.

"We will be watching to see whether argument in these cases suggests that the Sierra Club's subsequent appeals resolve the deficiencies enumerated by the court today, or whether, like FERC's reviews, the DOE's license approvals will stand," she said.

University of California, Berkeley, law and public policy lecturer Steven Weissman, who has researched how agencies can account for the climate impacts of natural gas, agreed that the Freeport decision may create a new hurdle.

"The fact that this decision was issued will have a tendency to perhaps shift the burden a little bit more in the other cases: Why should this case be any different from the first Sierra Club case?" he said, describing the judges' possible approach.

He added, however, that specific factual differences in the cases could be enough to set them apart — an outcome he would support.

"There seems to be a consistent willingness on the part of courts and the part of agencies to just assume beneficial outcomes from expanded use of natural gas, and that seems to color the assessment you get out of these agencies and out of the courts," he said.

<http://bit.ly/2uPY7Kz>

7. Oil industry's next goal: Shape cap-and-trade cost cushions

Anne C. Mulkern, E&E News reporter

Published: Wednesday, August 16, 2017

The biggest oil industry trade group in California won major concessions in the wording of the new law extending the state's carbon cap-and-trade program, critics say.

Now that coalition will work to shape key cost elements of the system as those are crafted, the group's president said.

The Western States Petroleum Association (WSPA) will focus on setting the new price ceiling for allowances auctioned under the market system. It also wants to influence details on two "speed bumps," or price containment points, where the state's Air Resources Board will offer more allowances.

A.B. 398, passed last month, included mechanisms to establish those elements but was silent on the dollar amounts. ARB will determine the exact triggers.



Catherine Reheis Boyd. @WSPAprez/Twitter

"Any expert we have in this field will be at the table trying to actually write this thing so we can comply with it," WSPA President Catherine Reheis-Boyd said. "The top priorities now really are how do you implement everything in 398 and [A.B.] 617," she added, referring to a companion measure that sets up a system to address local air pollution.

Reheis-Boyd in a lengthy interview for the first time talked about WSPA's role in shaping the bill and what's next on it for the trade group.

The oil alliance at the same time emphasized a study it commissioned that detailed industry jobs and how much it pays in taxes. The analysis said the sector is constrained by California mandates to cut greenhouse gas emissions 40 percent below 1990 levels by 2030.

The emissions rule "may already be limiting the permitting of new petroleum refining facilities, making any potential increase in oil refining capacity in the future in California highly unlikely," the report from the Los Angeles Economic Development Corp. said.

Reheis-Boyd said the cap-and-trade extension — which the oil group supported as an alternative to direct regulations — will impose a financial challenge on many businesses.

"I'm very worried about the costs, even with all cost containment. This program going forward with these aggressive goals is going to be very costly," Reheis-Boyd said. It also will hurt consumers, she said, by raising fuel costs.

One climate action advocate said the oil sector isn't hurting.

"It's really hard for me to muster up any sympathy for this industry," said R.L. Miller, president of Climate Hawks Vote, a political group building grass-roots advocacy. "They got everything they wanted in A.B. 398. They wrote the original wish list that became A.B. 398."

And, she said, WSPA and member companies Chevron Corp. and Tesoro Corp. were among the top spenders on lobbying efforts in California in April through June, before the cap-and-trade vote.

"It's really hard for me to see this as an industry under attack when they own the Legislature and they play such an outsized role in electing corporate Democrats," Miller said, explaining that the sector backs Democratic candidates it sees as more sympathetic to the oil industry.

WSPA wanted more offsets

A.B. 398, which extends cap and trade through 2030, passed last month in a two-thirds bipartisan vote. Eight Republicans crossed party lines to approve it, while three Democrats opposed. It was a priority in the final term of Gov. Jerry Brown (D), who signed it into law.

Several involved in the negotiations on the measure say WSPA secured controversial language in it. That includes a provision stating that only ARB can regulate carbon emissions at oil and gas facilities, and solely through cap and trade. That means the state's 35 local air districts cannot directly regulate carbon dioxide.

There also is the price ceiling and speed bumps, and more free allowances for businesses, which submit those environmental permits to cover their emissions.

A.B. 398 also extends a sales tax exemption for purchases of some equipment used in manufacturing. It was expanded to include machinery used for the generation and distribution of renewable electric energy, such as solar, wind and hydropower.

Reheis-Boyd rejected that WSPA wrote major parts of the bill.

"There were a lot of people that had a lot of issues around what this bill should include," and many businesses were involved, she said.

"Did we get everything we wanted? No," she said. "Do we like a bill that has 40 percent reduction by 2030? No, it's not our favorite bill. Those are really aggressive targets that we would probably have written differently."

She said oil companies wanted more offsets, where businesses can invest in projects that reduce carbon. Those right now are limited to 8 percent of a company's compliance. The bill cut those to 4 percent from 2020 through 2025 and 6 percent from 2026 through 2030.

Kathryn Phillips, director of Sierra Club California, said her group didn't get what it wanted on offsets either, as it wanted to get rid of them.

\$40 price ceiling?

Asked about the price ceiling ARB wants to secure, Reheis-Boyd said, "We would love it at \$25" per carbon ton, "and they'd probably laugh us out of the room."

"We've started studying what it should be," she added. "Even at \$40 it's still going to be an extremely expensive program." She said that before the bill passed she heard "everything from \$40 to \$100, so who knows what the number is."

Erica Morehouse, senior attorney at the Environmental Defense Fund, said that in setting the ceiling, one factor ARB must consider is the price of allowances under the current containment reserve. That's a pool of allowances set aside for sale if prices spike. In June those started at \$50.69.

"Having a high price ceiling to make sure that the price ceiling is only used in an emergency is critical to achieving the outcomes that cap and trade is intended to achieve," Morehouse said.

Phillips said there's concern about how oil companies will try to shape the cap-and-trade elements that ARB will write.

"The history is that they don't accurately explain to people what the impact will be," Phillips said. And, she said, "they manage to entirely ignore the cost to society of their product."

Phillips said WSPA has consistently argued California climate policies will cost more than they ultimately do. Its analyses "look at the worst-case scenario," and those "don't pan out."

"We'll just have to fight back and hope that we'll get a little bit farther to contain climate change," Phillips said.

Crafting guidelines on pollution control technology

Reheis-Boyd said WSPA also will seek to shape how A.B. 617, the local pollution control measure, is rolled out.

It requires local air districts to speed up retrofits of industrial emission sources in places out of compliance with federal Clean Air Act standards. It mandates the installation of "best available retrofit control technology" no later than 2023. It also creates local monitoring systems for conventional air pollutants in disadvantaged communities and potentially at specific stationary sources.

"We want to know if we are impacting communities," she said. "If we are, then we want to step to the plate and deal with that."

If the monitor shows the pollution is from another source, "that's equally important to know." She said refineries often are pointed to as the source when they're not.

Guidelines identifying the best available control technology that can be put on, but that also is cost-effective, are being written, "so that's one area we will be very interested in," Reheis-Boyd said.

Phillips said that WSPA, while causing local pollution, has "consistently wanted to point at other entities."

"Nobody except the oil industry would deny that they're polluting," Phillips said.

Reheis-Boyd also spoke on other California moves affecting oil. She said the Golden State "has been very clear on their goal to transition away from petroleum."

"Are we excited about that possibility?" she asked. "No, but ... we will continue to work with the governor and the Legislature to comply with whatever they think is in the best interests of the state."

She noted, however, that there are just 200,000 electric vehicles in California and 26 million internal combustion engines. Brown wants 1.5 million zero-emissions vehicles by 2025 and wants to cut petroleum use in half by 2030.

"To get to 1.5 million by 2025 is an ambitious goal from 200,000 [EVs], and it's not even close to 50 percent" of gas or diesel-powered cars, Reheis-Boyd said. "So A plus B doesn't equal C here. The facts don't support that kind of a transition in that period of time in a state where 97 percent of its fuel is from our industry."

This story also appears in Climatewire.

<http://bit.ly/2w28fUj>

8. Trump admin narrows hunt for EIA head

Hannah Northey and Sam Mintz, E&E News reporters

Published: Wednesday, August 16, 2017

The Trump administration is narrowing down candidates to lead the U.S. Energy Information Administration, according to the outgoing acting head of the agency.

Howard Gruenspecht, EIA's acting administrator, told employees in an internal email obtained by E&E News that he's leaving the agency after 14 years to "pursue other professional interests and attend to some family matters."

Gruenspecht in his email said John Conti, a senior adviser at EIA, will be appointed deputy administrator and serve as acting administrator after he leaves at the end of the month.



Howard Gruenspecht, Energy Information Administration

As for President Trump's pick to lead the agency, Gruenspecht told staff there's "little information to share" but indicated that the process for choosing a successor is in the final stages.

"While no announcement has been made, I understand that the Administration is well along in the process of identifying a nominee," he wrote. "I'm hopeful that the new administrator will be nominated and confirmed before the end of the calendar year."

Gruenspecht added that he was heartened by so many "positive developments, with EIA being highly respected and well-appreciated, reasonably funded, and generally doing a good job in keeping up with continuing changes in the energy sector."

Gruenspecht said he first discussed his decision to leave with his chief of staff in May, calling Conti a "consummate EIAer with a strong commitment to the mission and welfare of the agency, as exemplified by his willingness to adjust his retirement plans and return to full-time status to take on this role."

"I am very confident that EIA's best days are still ahead of it, and wish all of you continued success," he continued.

EIA is a unique federal agency charged with providing the White House, Congress and the public with independent, unbiased data and analysis on energy matters.

The agency grabbed headlines last year when Trump transition officials challenged the agency to defend its independence and fairness in a questionnaire that leaked out of the Energy Department.

In December, a controversial questionnaire sent to DOE by President-elect Trump's transition team focused 15 of 74 inquiries on EIA, the bulging repository of energy production and price details whose monthly and annual outlook reports are the federal government's definitive word for researchers, policymakers and Wall Street.

"How has EIA ensured its independence in your data and analysis over the past 8 years?" the transition staff wrote. Another question asked EIA to justify counting U.S. EPA's Clean Power Plan as final policy in its 2016 outlook report, when CPP opponents had lined up to fight it in court.

The transition document also pressed the agency to defend its benchmark projections on future shale and oil and gas production, implying EIA was lowballing the fracking "renaissance," and questioned whether its estimates of the costs to build new wind and solar generation were too low (*Energywire*, Dec. 16, 2016).

EIA officials are frequently questioned in Congress about agency findings, but the agency has long had bipartisan support for its legislated right to publish findings without prior approval by anyone in the federal government.

A former EIA official speaking on condition of anonymity said questions about the agency's integrity were unprecedented.

But Adam Sieminski, who led EIA from June 2012 until the beginning of this year, said the agency has been careful to steer clear of being a policy shop and that's well understood by the Trump administration.

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

9. Defense declines closing arguments

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Defense attorneys yesterday declined to give closing arguments for four of the men who took part in the 2014 Nevada armed standoff between ranchers and federal agents near Bunkerville, Nev.

The move marked a dramatic end to a trial that has gone on for weeks and left standoff participants Eric Parker, Steven Stewart and Ricky Lovelien without an answer to 10 felony charges.

The fourth defendant, Scott Drexler, testified in his own defense earlier in the week.

Parker took to the stand last week, but District Judge Gloria Navarro removed him after he failed to follow rules she had set for the trial (*Greenwire*, Aug. 11).

In the wake of that incident, acting U.S. Attorney Steven Myhre asked Navarro to require the defense to preview its closing arguments. But Navarro denied that request Monday (*Greenwire*, Aug. 15).

The trial is the second for the four defendants after the first ended in April with a deadlocked jury (Ken Ritter, *AP/Salt Lake Tribune*, Aug. 15). — NS

<http://bit.ly/2vIW9wP>