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Attached is the daily news report for June 16.

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DAILY NEWS REPORT - UTAH

UTAH – TOP STORIES – JUNE 16, 2017

1. BLM oil and gas lease sale in Utah nets over \$48,000

The Deseret News, June 16 | Staff Writer

SALT LAKE CITY — The Bureau of Land Management's quarterly oil and gas lease sale in Utah netted \$48,027 on competitive bids for 7,478 of the 23,733.19 acres offered.

2. Forest Service approves transmission lines

JDSupra, June 16 | Staff Writer

The U.S. Forest Service has released its final approvals for two major electricity transmission lines proposed for development across several western states, issuing Records of Decision for the TransWest Express and Energy Gateway South projects.

3. Bears Ears prompts Bennet to challenge USDA on protecting monument's forests

The (Colorado) Gazette, June 15 | Joey Bunch

Colorado's Sen. Michael Bennet wants to know if the U.S. Forest Service is asleep at the switch as the Trump administration aims to trim Bears Ears National Monument.

E&E/NATIONAL NEWS – TOP STORIES

1. Zinke moving dozens of senior Interior officials in shake-up

The Washington Post, June 16 | Juliet Eilperin and Lisa Rein

Interior Secretary Ryan Zinke is reassigning top career officials within his ranks, a shake-up that appears to be the start of a broad reorganization of a department that manages one-fifth of all land within the United States.



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2. INTERIOR: Potential BLM pick has fought for ranchers, property rights

E & E News, June 16 | Jennifer Yachnin

Karen Budd-Falen, a Wyoming-based property rights attorney and member of the Trump administration's transition team at the Interior Department, is in the running to take the helm of the Bureau of Land Management, according to sources in both the conservation movement and ranching industry.

3. EMISSIONS: New measurements uncover higher pollution from wildfires

E & E News, June 16 | Adam Aton

The wildfires that tear through the western United States leave more than charred devastation in their wake.

4. INTERIOR: Zinke wants oil revenue to fund NPS backlog

E & E News, June 16 | Brittany Patterson

A pair of ducks floated over a submerged sidewalk on a sunny day in East Potomac Park recently.

The water isn't supposed to be there. But the 124-year-old cement sea wall encircling the park is crumbling. A nearby sea wall located just 4 miles from the Interior Department's headquarters in Washington is at the top of a long list of backlogged maintenance projects amounting to more than \$11 billion.

5. INTERIOR: Former FWS director says shake-up will 'intimidate' staff

E & E News, June 16 | Corbin Hiar

Former Fish and Wildlife Service Director Dan Ashe this afternoon slammed changes Interior Secretary Ryan Zinke is making to the leadership of the bureau Ashe headed during much of the Obama administration.



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6. **HOUSE: New staff chief picked for Natural Resources panel**

E & E News, June 16 | Arianna Skibell

The House Natural Resource Committee is getting a new staff director, Chairman Rob Bishop (R-Utah) announced today.

Utah native Cody Stewart will replace Jason Knox. Stewart most recently worked as director of federal affairs for Utah Gov. Gary Herbert (R).

7. **HOUSE: New staff chief picked for Natural Resources panel**

E & E News, June 16 | Corbin Hiar

The Interior Department's Office of Inspector General yesterday disclosed violations of federal policies by a technology supplier and a National Park Service employee.

8. **FORESTS: GOP plan to thin more acres 'too big a gulp' — ex-official**

E & E News, June 16 | Marc Heller

Rep. Bruce Westerman (R-Ark.) said yesterday he's standing by a proposal to greatly expand the amount of national forest the federal government can thin without a full environmental review.



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UTAH – FULL STORY

1. **BLM oil and gas lease sale in Utah nets over \$48,000**

The Deseret News, June 16 | Staff Writer

SALT LAKE CITY — The Bureau of Land Management's quarterly oil and gas lease sale in Utah netted \$48,027 on competitive bids for 7,478 of the 23,733.19 acres offered.

Proceeds from the sale will be distributed between the federal government and the state.

The BLM offered 20 parcels in Garfield, Piute, Sanpete and Sevier counties. The highest bid per acre was made by Magnum Producing at \$10. The company also submitted the highest total bid per parcel — \$12,400 — for a piece of land located in the Richfield field office area.

According to a statement from the BLM, oil and gas lease sales support domestic energy production and American energy independence. The leases are awarded for a term of 10 years and as long thereafter as there is production of oil and gas in paying quantities.

The federal government receives a royalty of 12.5 percent of the value of production. Each state government receives a 25 percent minimum share of the bonus bid and the royalty revenue from each lease issued in that state.

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2. **Forest Service approves transmission lines**

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The U.S. Forest Service has released its final approvals for two major electricity transmission lines proposed for development across several western states, issuing Records of Decision for the TransWest Express and Energy Gateway South projects.

The TransWest Express Transmission Project is a high-voltage, direct current regional electric transmission system proposed by TransWest Express LLC. The 600-kilovolt, bidirectional transmission line would connect the Marketplace Hub near Las Vegas, Nevada, to south-central Wyoming. A core value of the project is its ability to provide the transmission infrastructure and 3,000 MW of capacity necessary to deliver approximately 20,000 GWh/yr of clean and



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sustainable electric energy generated in Wyoming (mostly from wind) to Arizona, Nevada and southern California. Future plans could include another interconnection near Delta, Utah. The project has links to the Chokecherry and Sierra Madre Wind Energy Project, a proposed 3,000 MW wind farm to be sited in southern Wyoming.

Energy Gateway South is one segment of the larger Energy Gateway Transmission Expansion under development by PacifiCorp. The 500-kilovolt alternating-current transmission line would run about 400 miles from the planned Aeolus Substation in southeastern Wyoming into the Clover Substation near Mona, Utah.

In each case, the project proponents applied to the Bureau of Land Management and Forest Service for a right-of-way grant and special-use permit to construct, operate, and maintain high voltage transmission lines on federally managed land. The BLM signed Records of Decision on December 13, 2016 for both projects authorizing the agency to issue a 250-foot-wide right-of-way for the line and areas for other project components.

On May 31, the USFS released its final Records of Decision for the TransWest Express and Energy Gateway South projects. In each case, the Forest Service approved the project and issued a special-use authorization.

Renewable portfolio standards and clean energy mandates are driving the development of wind farms like Chokecherry and Sierra Madre, as well as transmission lines like TransWest Express and Energy Gateway South. Some of these projects raise issues of siting, rate impacts, and how costs should be allocated. At the same time, a number of other major transmission lines have been proposed around the country, many of which are similarly motivated by the opportunity to connect new renewable generating resources with distant utilities and consumers.

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3. Bears Ears prompts Bennet to challenge USDA on protecting monument's forests

The (Colorado) Gazette, June 15 | Joey Bunch

Colorado's Sen. Michael Bennet wants to know if the U.S. Forest Service is asleep at the switch as the Trump administration aims to trim Bears Ears National Monument.



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Bennet and Sen. Debbie Stabenow, a Democrat from Michigan, sent a letter Thursday to Agriculture Secretary Sonny Perdue, who oversees the Forest Service, asking pointed questions about how much of a fight the agency put up to defend its part of the southeast monument.

The 1.35-million acre monument was designated by President Obama in December. In April President Trump asked for a review 27 national monuments of more than 100,000 acres each that were designated by previous presidents since Jan. 1, 1996. The review includes a pending decision on the Canyons of the Ancients near Cortez.

"Coloradans respect and value our public lands, because we understand that our public lands system is unique among all the countries in the world," Bennet and fellow Colorado Sen. Cory Gardner said in a letter to Zinke last month. "Canyons is a significant piece of that uniqueness given the history that is preserved there.

Gov. John Hickenlooper got a personal assurance from Interior Secretary Ryan Zinke that the Canyons of the Ancients would be spared.

Monday Zinke said the size of Bears Ears, however, could be reduced, but he didn't say by how much or where. Conservationists had worried about the elimination of the monument, which includes sacred American Indian historical sites.

"The area around Bears Ears has the highest density of archaeological sites. I don't think there's any dispute about that," Zinke said, according to USA Today. "But if you look at the Bears Ears as a whole, there is a lot more drop-dead gorgeous land than there is historic landmarks and historic structures."

The conservation-versus-commerce fight in Utah has been a national flashpoint in the public lands debate for years, but with a supportive Trump administration, the scales are tipped toward drilling and development.

Bennet points out in his letter that Bears Ears includes almost 300,000 acres of forested highlands in the Manti-La-Sal National Forest.

He specifically presses the question of legal authority.



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"While the Antiquities Act authorizes the president to designate national monuments, there does not appear to be any authority within the act to reduce the size of the monuments," Bennet's letter states, signaling a fight he's eager to have with the Trump administration.

Bennet is the ranking Democrat on the subcommittee on Conservation, Forestry and Natural Resources. Stabenow holds the same position in the Senate Committee on Agriculture, Nutrition and Forestry.

Scott Braden, the wilderness and public lands advocate for Conservation Colorado, the state's largest environmental organization, called Zinke's proposal a "slap in the face to all of us who care about and cherish our country's national parks and monuments."

He said Zinke is shortchanging cultural sites and public opinion to "attempt to appease Utah's hard-right congressional delegation, a few county commissioners and Trump's base."

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E&E/NATIONAL NEWS – FULL STORY

1. **Zinke moving dozens of senior Interior officials in shake-up**

The Washington Post, June 16 | Juliet Eilperin and Lisa Rein

Interior Secretary Ryan Zinke is reassigning top career officials within his ranks, a shake-up that appears to be the start of a broad reorganization of a department that manages one-fifth of all land within the United States.

The decision to move members of the Senior Executive Service (SES) is only legally permitted after a political appointee has been in office for 120 days; Zinke won't reach that mark until June 28. But the letters that three dozen or more Interior officials got Thursday night — one of which was obtained by The Washington Post — provides them with 15 days notice of their job change. The notice means their reassignments could take place at the earliest date that's legally permissible.

An official with the Senior Executives Association, which represents 6,000 of the government's top leaders, said the reassignments at Interior could involve as many as 50 people.



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The shake-up comes two weeks before agencies across the government must submit initial plans to the White House showing how they intend to reorganize, reduce their workforce, assess which programs are necessary and look for changes that save money.

While the exact number of Interior letters sent was not immediately clear Friday, the push appears much broader than what both Republican and Democratic administrations have pursued in the past. Administrations usually wait until the Senate has confirmed appointees that oversee individual agencies within a department; at this point, Zinke remains Interior's only Senate-confirmed appointee.

The officials who received notices include Interior's top climate policy official, Joel Clement, who directs the Office of Policy Analysis, as well as at least five senior Fish and Wildlife Service officials — nearly a quarter of that agency's career SES staff. Among the Fish and Wildlife officials are the assistant director for international affairs, Bryan Arroyo; the southwest regional director, Benjamin Tuggle; and the southeast regional director, Cindy Dohner.

Other moves include the transfer of BLM New Mexico state director Amy Lueders to Fish and Wildlife and the reassignment of Bureau of Indian Affairs Director Weldon "Bruce" Loudermilk, Acting Assistant Secretary of Indian Affairs Michael S. Black and Acting Special Trustee for American Indians Debra L. DuMontier.

"The President signed an executive order to reorganize the federal government for the future and the Secretary has been absolutely out front on that issue," Interior spokeswoman Heather Swift said in an email. "Personnel moves are being conducted to better serve the taxpayer and the Department's operations through matching Senior Executive skill sets with mission and operational requirements."

Dan Ashe, who headed Fish and Wildlife Service under the Obama administration and worked at the agency for more than two decades, said in an interview that having closely watched every transition since Ronald Reagan took the helm of the federal government from Jimmy Carter in 1981, "anything at this scale is unprecedented."

"I've never seen anything like it," Ashe said, adding that the officials being moved from posts at Fish and Wildlife "have records of exceptional service."



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The Senior Executive Service was established in 1978 “to create a mobile group of senior executives who could take on the most important, complicated jobs in the government,” according to Max Stier, president and chief executive of the nonprofit Partnership for Public Service.

Stier said Friday that while the idea was to move these officials among agencies and highly compensate them, “it never fulfilled that vision” because pay caps meant they got more responsibility without additional pay. Ninety-two percent of SES officials are career employees, he said, and only 8 percent change agencies once they reach SES rank.

In phone calls to SES officials at the Bureau of Land Management on Thursday, according to an individual briefed on the matter, BLM acting director Mike Nedd informed them that Zinke liked the idea of moving officials between agencies.

Clement was informed he would go to the Office of Natural Resources Revenue, which collects royalty payments, according to two individuals familiar with the move, while Fish and Wildlife’s chief of law enforcement, Bill Woody, is slated for BLM.

The notices were issued by Interior Associate Deputy Secretary James Cason, who also served in Interior under President George W. Bush.

Stier said it would be “appropriate” if Interior officials want to “reallocate the resources of the department against their priorities,” but they are prohibited from targeting employees because of their beliefs or the work they carried out under President Barack Obama.

“It’s one thing to say we’re trying to do different things,” he said “It’s another thing to say they’re going after people for their policy views or the policies of the prior administration.”

SEA president Bill Valdez said in an email that “based on the limited information we have right now” it appears the changes at Interior are “being executed according to applicable law and regulation.”

“SEA will monitor this situation to ensure that these personnel decisions are indeed being lawfully executed and are being made in the best interests of the government and taxpayers,” Valdez wrote.



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According to the association's handbook, the 120-day moratorium on moving senior career staff "promotes a 'get acquainted' opportunity and prevents the reassignment of a career senior executive at the beginning of each new administration, without adequate knowledge of the abilities of the employee involved."

A reassignment requires 15-day notice, while a relocation requires 60-day notice; individuals can move earlier if they waive the right to these time restrictions. SES staff can appeal a reassignment to the Office of Special Counsel if they think they've been targeted unfairly.

Senior career officials are also being moved at other agencies, in part because of reorganization efforts. At the Energy Department, for example, the Office of International Climate and Technology is being eliminated.

David Sandalow, who served as acting undersecretary of energy under Obama and oversaw the international climate office as the Energy Department's assistant secretary for policy and international affairs, said in an email that career officials are being unfairly penalized under the new administration.

"Civil servants deserve our thanks, not the disrespect they're being shown by the Trump administration," said Sandalow, now the inaugural fellow at Columbia University's Center on Global Energy Policy. "At Interior, they protect national treasures. At the Energy Department, they invest in innovative technologies. The White House should be supporting their work, not trying to 'deconstruct the administrative state.'"

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2. **INTERIOR: Potential BLM pick has fought for ranchers, property rights**

E & E News, June 16 | Jennifer Yachnin

Karen Budd-Falen, a Wyoming-based property rights attorney and member of the Trump administration's transition team at the Interior Department, is in the running to take the helm of the Bureau of Land Management, according to sources in both the conservation movement and ranching industry.

A White House spokeswoman declined to confirm that President Trump has decided on a nominee for the post. Sources familiar with the selection said it would be unlikely to be made



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official until after Trump's nominee for deputy secretary of the Interior, David Bernhardt, is confirmed.

In the meantime, Utah state Rep. Mike Noel (R), who heavily promoted his own interest in the BLM post after the November elections, praised the potential selection of Budd-Falen.

"If it's Karen, she'd do an outstanding job," Noel told E&E News. "She's a champion for our issues."

Noel acknowledged that he had actively sought the post, including a one-on-one meeting with Interior Secretary Ryan Zinke during his recent visit to the Beehive State, and said he would still like to serve the Trump administration in some capacity.

"I'm still interested in doing what I can for the president or for the secretary in any way I can help," he said. "But it's not about me, it's about getting a job done, and Karen Budd-Falen is certainly well-qualified."

A Wyoming native, Budd-Falen grew up as the fifth generation on her family ranch in Big Piney. She received her undergraduate and law degrees from the University of Wyoming before going on to spend three years in the Interior Department during the Reagan administration.

Budd-Falen did not return a request for comment this week.

In an interview with The Aspen Times in 2007, Budd-Falen acknowledged she was at times impatient with her work at Interior, where she served as a special assistant to the assistant secretary for land and minerals management, and later at the Mountain States Legal Foundation. Those postings prompted her decision to open her own law firm with her husband, Frank Falen.

"I like making decisions and then acting on it," Budd-Falen told the newspaper. "I'm really cause-oriented, I really believe in ranchers and farmers and what they do. That's the reason I went to law school. I don't love the law. To me, the law is the way I'm helping the people I love."

Recent press releases on the Budd-Falen Law Offices website tout the Trump administration's review of dozens of national monuments, criticize the now-defunct Obama-era BLM Planning 2.0 rule and cheer Budd-Falen's appointment to the transition team.

New ways to battle



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Budd-Falen is well-known in the West for her work representing ranchers and is seen by some observers as a hero of the Sagebrush Rebellion, which has pushed for major changes to federal land control since the 1970s.

Mountain States Legal Foundation President William Perry Pendley said Budd-Falen's background, as well as her efforts representing ranchers, rural residents and local governments across the West, make her a strong candidate for the post.

"She brings an understanding of how these policies affect people on the ground," he told E&E News. "It's not just some 30,000-mile-high attitude that we're going to do this or we're going to do that, and it will be good. She understands how these foolish policies affect people who work for a living and, frankly, the tiny communities that depend on them."

In particular, Pendley pointed to Budd-Falen's work on a case representing rancher Harvey Frank Robbins, who once owned a property in Hot Springs County, Wyo.

At the time Robbins bought the ranch in 1994, BLM had failed to record an easement on a road across the property it had struck with the previous owner. The road accessed a publicly owned area known as the Upper Rock Creek region.

Robbins refused BLM's efforts to discuss a new right of way and faced what he saw as backlash for that decision in the form of citations for violations of grazing regulations, interference with cattle drives and even criminal charges after an altercation with a BLM employee, although a jury quickly declared Robbins not guilty in that case (Greenwire, Oct. 11, 2016).

But Budd-Falen stepped in with a new way to push back against BLM, by suing the employees as individuals under an anti-racketeering law normally used against organized crime syndicates, the Racketeer Influenced and Corrupt Organizations Act.

At the time, Budd-Falen argued that the Fifth Amendment protects landowners against retaliation for excluding the government from their private property (Greenwire, Dec. 6, 2006).

"You have lots of cases on First Amendment rights saying the federal government cannot retaliate against you for using your First Amendment rights, but there's never been a case that the federal government can't retaliate for using your Fifth Amendment rights," she told E&E News in late 2006.



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But while Budd-Falen claimed victory in the 10th U.S. Circuit Court of Appeals, the Supreme Court ultimately rejected her argument in 2007.

"She did a very good job on that," Pendley said. "Regrettably, not all of the justices agreed with her."

Watersheds case

More recently, Budd-Falen gained attention for her work to stop the Western Watersheds Project by filing a case in Wyoming state court alleging the environmentalists trespassed on private land to collect water samples (Greenwire, Nov. 18, 2014).

The case was settled in 2016 after two years of wrangling in court, with both sides ultimately claiming a victory.

Under the settlement, Western Watersheds agreed to abstain from driving on private roads where federal rights of way are in doubt (Greenwire, Aug. 24, 2016).

"We are very happy," Budd-Falen told the Casper Star-Tribune in September 2016. "The settlement gives the landowners even more than they could have gotten if Western Watersheds Project had allowed the case to go forward."

But Western Watersheds then-interim Executive Director Greta Anderson told E&E News at the time that the agreement did not represent new restrictions.

"Settling this case without paying a single dollar of damages and getting it off our dockets means we can go back to doing the important work of documenting the environmental abuses of cattle and sheep operations in Wyoming and around the West," Anderson said.

'What law gives you the right?'

Budd-Falen is also known for her work with Catron County, N.M., which passed a series of ordinances in the early 1990s that sought to supersede federal authority on public lands, including ordering the arrest of federal agents who violated the civil or property rights of residents.

Newspaper reports at the time state that Budd-Falen helped to draft the ordinances, and in 1994 the Chicago Tribune reported she was "assisting" Catron and other counties.



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"It's a real reaction to the federal government coming in without giving any notice or right to participate at all to county governments," Budd-Falen told the newspaper.

She added: "The county and its citizens feel like they are good stewards of the environment, that they are as concerned about the environment as any environmental group in Santa Fe or New York City or anywhere else. If they didn't take care of the land, they wouldn't have anything to pass on to their children."

Western Watersheds Montana Director and Public Policy Consultant Josh Osher warned that while Budd-Falen has not advocated for the outright disposal of the federal estate, her past work indicates "a bend toward private property over public lands."

"She's really associated herself with the extreme fringe of a lot of the public lands movement," said Osher, who also raised concerns about her opposition to Endangered Species Act protections.

He pointed to Budd-Falen's more recent appearances before groups like the Constitutional Sheriffs and Peace Officers Association. In 2011, she appeared at an event called "Sheriffs Stand Tall for the Constitution" along with sheriffs from Oregon and California.

During the event, Budd-Falen encouraged attendees to challenge the federal government by asking what laws agencies are relying on for their decisions.

"We can do anything that the law does not prohibit. And I gotta tell you, I think in Washington, they kinda got that swapped," she said. "And I think we have to start enforcing that. We have to start asking, what law gives you the right to stop my use? What law gives you the right to come into my county and all of a sudden start closing roads?"

She later added: "You should be proud of what you do and proud of who you are, and you do not need a law to be able to manage your homes and manage your lives."

During her remarks, Budd-Falen also hit on the Equal Access to Justice Act, of which she has been a vocal critic.

That law permits plaintiffs to collect attorney's fees from the government in successful lawsuits against the government.



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The Wyoming attorney regularly touts figures on payments to environmental groups under the law, arguing that organizations are profiting off the fees.

"She's an attorney, she knows exactly how this works," Osher said. "This is a law that allows the public and its representatives to make sure that the federal government follows the law."

Mission

In the meantime, it remains to be seen whether Budd-Falen would fall in line with Zinke's vows to retain the federal estate, something he has often emphasized since his confirmation earlier this year.

But the Wilderness Society's senior counsel, Nada Culver, warned that merely retaining federal lands falls short of BLM's multiple-use mission.

"The concern would be that for all that the secretary has spoken about keeping public lands in public hands, he's also taken a lot of steps that would transfer control of public lands to a narrow set of interests: by, for instance, focusing public lands on oil and gas, or coal, to the exclusion of conservation and public enjoyment," Culver said.

If nominated, Budd-Falen would need to represent not only the farming and ranching interests she does now, Culver said, but recreational users and others.

"Taking on that responsibility and taking on that perspective ... conservation and wilderness and recreational and wildlife are really important aspects of managing public lands," she said.

If tapped as the nominee and confirmed, Budd-Falen would replace BLM acting Director Mike Nedd. Nedd is the second acting director to serve following the departure of BLM Director Neil Kornze (E&E Daily, March 16).

Wyoming Gov. Matt Mead (R) praised Budd-Falen generally, although he declined to speculate on the nomination before it is finalized.

"That said, the governor believes Wyoming has a number of highly qualified people who, if appointed to key positions in the Department of the Interior or other federal agencies, would be a tremendous asset to the administration, the nation and Wyoming. Karen Budd-Falen is one of those," Mead spokesman David Bush told E&E News.



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3. **EMISSIONS: New measurements uncover higher pollution from wildfires**

E & E News, June 16 | Adam Aton

The wildfires that tear through the western United States leave more than charred devastation in their wake.

They're spewing about three times more pollutants than previously thought, according to a team of scientists who flew through the plumes of smoke to gather the most accurate measurements yet. Among the emissions are methanol, benzene and ozone precursors, along with oxidants that can cause genetic damage.

Those results, published this week in the *Journal of Geophysical Research: Atmospheres*, demonstrate how much around forest fires remains murky, said the study's lead author, Greg Huey, a professor at the Georgia Institute of Technology and chairman of its School of Earth and Atmospheric Sciences.

"We don't have as good a handle on the fires as we need to," Huey said, adding that this study emerged from decades of refining measurement techniques.

As climate change creates conditions for forest fires to become more intense and more frequent, forest managers are looking at ways to mitigate those risks.

The study emphasized the importance of controlled burns, which emit fewer pollutants and tend to act as a prophylactic against larger, out-of-control blazes. Part of what might make those controlled fires less damaging to the air are the weather conditions and fuel composition, Huey said.

"Wildfires can be more intense, go for longer periods of time, and they can dry out fuels — for example, like green branches," he said.

It's unclear what effect some of those pollutants from wildfires, like aerosols, might have on the climate.

But the particulates — able to drift long distances — contain oxidants that can be dangerous to human health, especially hearts and lungs.



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Despite cool and moist conditions in the West, this summer is forecast to be a normal-to-above-normal year for forest fires in many regions, according to the federal government's National Interagency Fire Center.

NASA plans to study forest fire emissions further as part of its FIREChem program, scheduled for 2019.

For the study, the researchers loaded their instruments into NASA and Energy Department airplanes to fly above three fires burning in the West, including 2013's Rim Fire, the third-largest fire in California history.

"It can get a little bouncy," Huey said.

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4. **INTERIOR: Zinke wants oil revenue to fund NPS backlog**

E & E News, June 16 | Brittany Patterson

A pair of ducks floated over a submerged sidewalk on a sunny day in East Potomac Park recently.

The water isn't supposed to be there. But the 124-year-old cement sea wall encircling the park is crumbling. A nearby sea wall located just 4 miles from the Interior Department's headquarters in Washington is at the top of a long list of backlogged maintenance projects amounting to more than \$11 billion.

To make those fixes, the department's new secretary, Ryan Zinke, has called for additional offshore oil drilling to raise money for projects that are sometimes meant to prevent damage associated with climate change.

One example is the besieged sea wall along the Potomac River. It was built when water levels were 3 ½ feet lower. With an estimated price tag of \$341.8 million, it's just one of hundreds of projects — like bridges, roads and visitor centers — that need work across the National Park Service's holdings.



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Maintenance needs have ballooned in recent years. A combination of inadequate funding from Congress and aging assets are accelerating infrastructure decay. Record-breaking attendance across the nation's parks is magnifying the problem.

Fixing the backlog is a top priority for Zinke. But one of his solutions — boosting offshore oil and gas development and putting those dollars to use fixing park infrastructure — is raising eyebrows.

Advocates say a lack of revenues is not the problem. Rather, Congress needs to settle on a legislative fix to deal with the backlog issue. Increasing fossil fuel extraction, which boosts greenhouse gas emissions and accelerates climate change, is a poor way to fund investments in adaptation infrastructure and other projects, they say. That's especially true since our national treasures are already being affected by the growing impacts of global warming, they add.

"Drilling in sensitive areas that could affect National Park resources and ecosystems would be damaging and is not a necessary revenue source for dealing with the Park Service backlog or other public lands infrastructure," said John Garder, director of budget and appropriations for the National Parks Conservation Association. "There are sufficient amounts coming from current drilling to provide for a backlog fund and many other needs."

Revenue projection 'isn't good'

Oil and gas companies pay the federal government for the right to lease waters on the outer continental shelf. They also pay royalties on the oil and gas produced from those parcels. In total, gross income from offshore oil and gas resources averaged \$8 billion per year between 2005 and 2014.

Income collected from offshore drilling goes into the general treasury, and it can vary year to year. In 2008, income from bonus bids spiked to almost \$10 billion, much higher than the 2005-2014 average of \$1.8 billion.

Zinke has outlined his version of the problem dozens of times since being confirmed: There's not enough money because of, in part, decreased drilling.

"If you go back to 2008, the department made \$15.5 billion more a year just in offshore than what we make today," Zinke said in April.



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"When you look at the parks, our revenue picture isn't good," he added. "If we lost \$15.5 billion, that was enough money for infrastructure."

One of his first acts as secretary was to begin a major review of the agency's revenue streams.

Interior press secretary Heather Swift noted that the recent White House budget proposal for NPS boosts funding for infrastructure. She outlined a multi-prong approach to tackling the backlog. It includes boosting revenues from fossil fuel drilling.

In his first few months in office, Zinke moved quickly to embrace President Trump's "America First" energy strategy, which includes opening up federal lands and waters for energy development.

Weeks after moving into his sixth-floor office, he stood beside the president as Trump canceled Interior's moratorium on federal coal leasing. In April, Trump signed an executive order directing Interior to identify areas of the outer continental shelf that could be opened for drilling. During a recent trip to Alaska, Zinke signed a secretarial order designed to kick-start oil drilling on federal lands in Alaska.

Even if the new administration makes good on its promises to boost fossil fuel development on public lands, the onus would be on Congress to make changes to how the money is spent.

"How to use those collected funds is a decision that lies clearly in the wheelhouse of the administration and Congress, and the industry leaves that decision to the federal government," said Randall Luthi, president of the National Ocean Industries Association.

Appropriations experts said it would be a heavy lift in Congress to redirect oil and gas revenues from the Treasury to NPS.

Mark Harkins, a senior fellow at Georgetown University's Government Affairs Institute, said lawmakers would have to offer some way to replace the missing revenue. That could include offering a tax break or redirecting mandatory spending from other areas.

Congress could waive the "pay-as-you-go" budget rule, suggested Harkins, who spent 17 years on the Hill. But that might mean Republicans would be put in the challenging position of supporting a measure that adds to the federal deficit.



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"It sounds like such an easy thing, and it's easy for someone in the administration to say, 'Let's just dedicate the funding,' but they don't have to take the votes," Harkins said. "It's ironic that former Representative Zinke is pushing this when he knows good and well how hard this would be."

There is a bipartisan solution in Congress. And it's supported by conservation groups.

The "National Park Service Legacy Act," introduced by Sen. Mark Warner (D-Va.) and Rep. Derek Kilmer (D-Wash.), would direct \$50 million to the Treasury from oil and gas companies that drill on the outer continental shelf. That money would go into a separate fund for the NPS backlog (E&E Daily, May 23).

The money would increase through 2047, topping out at \$500 million a year. The initial co-sponsors of the bill are Sen. Rob Portman (R-Ohio) and Reps. Will Hurd (R-Texas), Colleen Hanabusa (D-Hawaii) and Dave Reichert (R-Wash.).

The fund would help NPS plan better for maintenance projects, said Marcia Argust, who directs the Pew Charitable Trusts' Restore America's Parks campaign.

"When you're taking on a project like Grand Canyon water pipeline system, which is a \$150 million fix, there is definitely a lot of planning and design that goes into that," she said. "The more the Park Service can plan ahead of time, the better."

When asked at a recent House budget hearing by Kilmer if the agency would support the bill, Zinke was noncommittal. But he expressed support for the idea generally.

The Land and Water Conservation Fund has a similar revenue source.

"Life's a lot happier when we have money, so we are looking at direct revenue to address our infrastructure," Zinke said. "Offshore funds the LWCF. ... Wouldn't it be nice if you could direct some of that into direct infrastructure?"

'We patch that up'

On the ground, the lack of funding for park maintenance is acutely felt by park managers and their guests. Those impacts stand to be amplified as temperatures rise and sea levels climb, experts say.



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Along the tidal basin in Washington, three sea walls need to be repaired. According to NPS data from fiscal 2015, they are among the 20 most expensive projects listed on the backlog.

The East Potomac Park sea wall was constructed on reclaimed land. It's settling — and sinking. The Potomac River is also rising about 1 inch every eight years, according to U.S. EPA. By the end of the century, the sea level in the District is expected to rise between 16 inches and 4 feet, making the park nearly impossible to visit.

There has been frequent flooding. Hains Point, a recreation mecca for Washington residents and tourists, is often closed. Whole sections of sidewalk around the tidal basin often flood and must be closed, forcing tourists to create their own dirt paths inland. The rerouted traffic often tramples the grass around the iconic cherry trees.

Park officials say they have adapted and are doing the best they can.

"For us, it means doing an awful lot of patch work," said Mike Litterst, a public affairs officer with NPS who represents the National Mall and Memorial Parks. "The water creates a hole, we patch that up."

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5. **INTERIOR: Former FWS director says shake-up will 'intimidate' staff**

E & E News, June 16 | Corbin Hiar

Former Fish and Wildlife Service Director Dan Ashe this afternoon slammed changes Interior Secretary Ryan Zinke is making to the leadership of the bureau Ashe headed during much of the Obama administration.

The effect of the shake-up of Senior Executive Service members, Ashe predicted, "will be to intimidate people and to send a message to them that — at least at the executive level — if you're not in line, then we'll mess with you."

Ashe, who is now the president and CEO of the Association of Zoos and Aquariums, worked his way up the civil service ranks before being confirmed by the Senate as the bureau's director (E&E Daily, July 1, 2011).



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The Washington Post reported this morning that several top FWS officials received job change notices, including Assistant Director for International Affairs Bryan Arroyo, Southwest Regional Director Benjamin Tuggle, Southeast Regional Director Cindy Dohner and Office of Law Enforcement Chief Bill Woody (Greenwire, June 16).

Sources confirmed those names with E&E News and added Assistant Director for External Affairs Betsy Hildebrandt to the list. She has been ordered to move to the U.S. Geological Survey, where she would serve as associate director of the Office of Communications and Publishing. Barbara Wainman holds that title at the moment.

Meanwhile, Woody was offered the director of law enforcement and security job at the Bureau of Land Management, a position currently filled by Salvatore Lauro. Tuggle and Dohner have been offered positions at FWS headquarters as assistant director for science applications and international affairs, respectively. Arroyo, who is in charge of the international portfolio, would need to move somewhere within the Interior Department.

Job reassignments for most of those FWS officials are set to take place June 28. Those whose new jobs would require a move have 60 days to make arrangements.

In such situations, the only recourse open to SES members — the top civil servants in the federal government — is to leave the public service or appeal their reassignment to the Office of Special Counsel if they think they've been targeted unfairly.

"None of these people, as best I can tell, have been consulted about this," Ashe said, referring to the officials mentioned in the Post story. "They were handed an ultimatum. Nobody in the Fish and Wildlife Service, at least nobody that I've heard of, was consulted by the department about this."

The reassignments were made as part of a broader shake-up of Interior.

"Personnel moves are being conducted to better serve the taxpayer and the Department's operations through matching Senior Executive skill sets with mission and operational requirements," Heather Swift, the department's press secretary, said in a statement. She noted that Zinke promised "a Department-wide, front lines-focused reorganization on his first day address to all employees."



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Ashe, however, questioned that rationale, given how short-staffed Interior's leadership ranks are at the moment. Zinke is the only Senate-confirmed political appointee in place at the department.

"It's hard to even theorize what the strategic purpose is here," he said. "The end result is to create a culture — whether it's intended or not — of intimidation with your senior executives."

Interior did not immediately respond to a request for comment on Ashe's remarks.

Ashe served as science adviser to the director from 2003 to 2009 and as director from mid-2011 until January. He predicted that the shake-up would make it harder to recruit SES members in the future.

"If I were a GS-15 at any of these bureaus, why would I compete for an SES position?" he said, referring to the top civil service pay grade below SES. "Then I'm subjecting myself and my family to this kind of treatment. So I think it sends a chilling effect to talented people who may otherwise aspire to serve in the Senior Executive Service."

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6. **HOUSE: New staff chief picked for Natural Resources panel**

E & E News, June 16 | Arianna Skibell

The House Natural Resource Committee is getting a new staff director, Chairman Rob Bishop (R-Utah) announced today.

Utah native Cody Stewart will replace Jason Knox. Stewart most recently worked as director of federal affairs for Utah Gov. Gary Herbert (R).

"Cody is a trusted advisor who brings to the Committee nearly two decades of experience in government and natural resource policy. Cody provides a seamless transition and is uniquely qualified to lead our staff and advance the Committee's agenda," Bishop said in a statement.

Stewart has worked on Capitol Hill as senior legislative assistant on energy and public lands policy under Rep. Chris Cannon (R-Utah), legislative director for Bishop and executive director of the Congressional Western Caucus. He also worked for the committee under its former chairman, retired Rep. Jim Hansen (R-Utah).



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Stewart's state government positions include chief of staff to Utah Lt. Gov. Greg Bell and as Herbert's energy adviser and policy director.

Knox has served as committee staff director since 2015. Before that, he worked on the panel from 2006 to 2011. He has also worked on the Senate Budget Committee and the House Energy and Commerce Committee.

"Jason has been invaluable to our members and staff and instrumental to the Committee's success. He will be sorely missed by all of us and I thank him for his dedication and service over the years," Bishop said. "We wish him the very best as he pursues new opportunities in the private sector."

The committee did not respond for comment on where Knox is headed.

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7. **HOUSE: New staff chief picked for Natural Resources panel**

E & E News, June 16 | Corbin Hiar

The Interior Department's Office of Inspector General yesterday disclosed violations of federal policies by a technology supplier and a National Park Service employee.

"Dell, Inc. voluntarily disclosed an inadvertent violation of the Trade Agreements Act (TAA), which requires Federal Government contracting officers to procure U.S.-made end products or those that have been produced or 'substantially transformed' in certain designated countries," the IG said in a [summary](#) of its investigation of the supplier.

Dell accidentally shipped \$85,000 worth of non-TAA-compliant laptop computers and tablets to several federal agencies, including Interior, according to the summary. The mistake was due to country-of-origin coding errors made by three employees in China and one in India.

"As a remedy, Dell contacted the purchasing officials related to the affected orders to arrange for replacement products that meet TAA requirements," the IG wrote.

In a separate investigation [summary](#), the IG concluded that a painter in NPS's National Capital Region "falsely certified that he had not been employed outside of the government."



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The discovery resulted because agency "officials were suspicious of a workers' compensation claim" he made — the 14th of his career.

"At the time of his claim, the employee was receiving outside compensation from a company of which he was the registered agent," the IG said. "Separately, the Department of Labor denied the employee's claim due to insufficient medical documentation."

The full report was issued to the NPS director, the IG said.

But the agency hasn't acted on the results of the investigation.

Jennifer Mummart, a spokeswoman for NPS, said in an email that "the National Capital Region has not yet reviewed the full OIG report, however, once we have the opportunity to do so, we will take appropriate action."

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8. **FORESTS: GOP plan to thin more acres 'too big a gulp' — ex-official**

E & E News, June 16 | Marc Heller

Rep. Bruce Westerman (R-Ark.) said yesterday he's standing by a proposal to greatly expand the amount of national forest the federal government can thin without a full environmental review.

Westerman said he plans to keep pushing to let the Forest Service grant "categorical exclusions" from environmental reviews on up to 10,000 acres after wildfires or other catastrophic events — an increase from 250 acres in certain Forest Service regulations and from 3,000 acres allowed in the 2014 farm bill, depending on the type of work involved.

That provision in Westerman's latest [draft](#) of the "Resilient Federal Forests Act" came under attack from Democrats and a former deputy chief of the Forest Service at a hearing of the House Natural Resources Subcommittee on Federal Lands, where critics said it's far more than the agency needs to care for the land under its control.

Westerman increased the allowable area from 5,000 acres in similar legislation he sponsored in the last session of Congress, which passed the House on a largely partisan vote. Projects could proceed with categorical exclusion from the National Environmental Policy Act.



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"It gives you the tools in the toolbox, so that if you need it, it's there. It doesn't mean you're going to use it all the time," Westerman told reporters. "It's something I really hope we can keep in there, and I think if people will understand the spirit of why we wanted to increase it, it'll stay in the bill."

The provision caught the attention of the panel's ranking Democrat, Hawaii Rep. Colleen Hanabusa, who said the draft legislation "strikes at the core of environmental laws," and former Forest Service Deputy Chief Jim Furnish, who had that post from 1999 to 2002.

"That's way too big for me. That's too big a gulp," Furnish said.

Furnish, the sole witness on the four-member panel to criticize the proposal, said he supports a collaborative approach to forest management that involves environmental groups, a strategy he said worked when he oversaw the Siuslaw National Forest in Corvallis, Ore.

When the Forest Service doesn't make timber harvesting a top priority, Furnish said, stakeholders are able to agree on more moderate approaches that protect the environment while allowing some harvesting of trees to continue. That's a better way to manage forests and address the risk of wildfires, he said.

"I don't think we're going to be able to log our way out of this problem," Furnish said.

Westerman has tweaked his earlier bill in other ways as well, taking out a provision that required litigants against the Forest Service to post bonds to cover the government's potential legal costs — a measure that repelled Democrats. He replaced that with a pilot program for dispute resolution as an alternative to lawsuits.

To Westerman, a trained forester, lax management of national forests has allowed dead or dying trees to proliferate. "The fact is, we've literally loved our trees to death."

The fate of Westerman's proposal may rely on lawmakers' ability to mesh it with Senate legislation and promote provisions that saw little attention at the hearing — ending the Forest Service's practice of borrowing money from other accounts to pay for wildfire suppression. Lawmakers also face the procedural challenge of finding broader legislation to which a forest measure could be attached, a scenario that lobbyists say remains cloudy for this year.



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Senate Agriculture Chairman Pat Roberts (R-Kan.) has embraced Westerman's approach. But Sen. Lisa Murkowski (R-Alaska), chairwoman of the Senate Energy and Natural Resources Committee, floated draft legislation last year that doesn't address categorical exclusions (Greenwire, July 15, 2016).

Instead, Murkowski would expedite projects tied to wildfire prevention by limiting the Forest Service's environmental reviews to either the project as proposed or taking no action.

Westerman yesterday said he couldn't predict how his proposal may be received in the Senate.

In a theme that's also played out at prior forest-related hearings, lawmakers sparred over the role of climate change in forest fires and how best to respond. Subcommittee Chairman Tom McClintock (R-Calif.) said he couldn't understand how federally managed forests could show strain tied to climate change, while privately managed forests appear green and healthier.

"How is it that climate change can affect one property completely differently from another property, next to it?" McClintock asked one witness, Jim Neiman, president of the Federal Forest Resource Coalition and president and CEO of Neiman Enterprises, in Hulett, Wyo.

"It's hard to believe the climate can be so precise as to know exactly the property line between the public lands and the private lands," McClintock said, asking Neiman what he thinks is responsible.

"It's clearly overaged, overstocked forests," Neiman answered.

Furnish said he agrees removal of dead timber has a place in forest management, particularly in areas recently damaged by fires, but said it's not a singular solution. "It's not that simple. It's much more complex."

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