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Attached is the daily news report for Feb. 10.

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DAILY NEWS REPORT - UTAH

UTAH – TOP STORIES – FEBRUARY 10, 2017

1. Utah gov says outdoor retailers' threats ignore state's efforts to protect public lands

The Salt Lake Tribune, Feb. 9 | Lee Davidson

Gov. Gary Herbert is pushing back against threats by outdoor retailers to move their huge twice-a-year conventions out of Utah, calling the controversy a "political ploy" that ignores massive efforts by the state to protect public lands and public access to them.

2. Under threat Outdoor Retailer show may leave Utah, Herbert touts state's public lands successes

The Deseret News, Feb. 9 | Amy Joi O'Donoghue

SALT LAKE CITY — Utah Gov. Gary Herbert said Thursday he is anxious to meet with organizers of the Outdoor Retailer show to detail why Utah remains the best public lands state to host the lucrative convention.

3. BLM delays oil-drilling leases near Zion National Park amid growing concerns

The Salt Lake Tribune, Feb. 10 | Brian Maffly

The Bureau of Land Management is giving the public another month to weigh in on a controversial proposal to issue oil and gas leases west of Zion Canyon after the National Park Service raised concerns about potential drilling on Zion National Park's periphery.

4. NATIONAL MONUMENTS: Utah town hall crowd boos Chaffetz as he defends lands stance

E & E News, Feb. 10 | Jennifer Yachnin

Utah Republican Rep. Jason Chaffetz last night sought to defend his efforts to abolish the recently created Bears Ears National Monument but was repeatedly drowned out by opposition voices during a packed town hall meeting in suburban Salt Lake City.



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E&E/NATIONAL NEWS – TOP STORIES

1. **Judge orders feds to identify agent in Cliven Bundy case**

AZ Central, Feb. 9 | Robert Anglen

A federal judge in Las Vegas ordered prosecutors in the Bundy Ranch standoff trials to turn over an investigative report accusing a key government witness of wrongdoing.

2. **FBI admits no arrest warrant signed when Duane Ehmer was arrested, contrary to agent's testimony**

The Oregonian/OregonLive, Feb. 9 | Maxine Bernstein

FBI agents admit in court papers that they had no arrest warrant when they took Duane Ehmer into custody at a checkpoint outside the Malheur National Wildlife Refuge on Jan. 27, 2016, contrary to an agent's testimony earlier this week.

3. **Trump Just Made The Biggest Sale Of Drilling Rights On Federal Land In 4 Years**

The Daily Caller, Feb. 10 | Andrew Follett

The Bureau of Land Management (BLM) made its largest lease sale in four years, marking the start of President Donald Trump's plans to expand drilling on federal lands.

4. **DAKOTA ACCESS: Other activists learn from waste left behind by protesters**

E & E News, Feb. 10 | David Hunn, Fuel Fix

When the first big snow hit the protest encampments of Standing Rock this winter, campers hunkered down and tried to last out the storm. They woke the next morning to two feet of snow. Everything was buried: tents and sleeping bags, but also ad-hoc kitchens, latrines, propane tanks, living quarters and waste, gathered over the months of protests.



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5. **TRIBES: Navajo slam FEMA over mine spill, other disasters**

E & E News, Feb. 10 | Cecelia Smith-Schoenwalder

When 3 million gallons of toxic mine waste spilled from the Gold King site in Colorado into the Animas and San Juan rivers in 2015, the Navajo Nation deployed its emergency management department — just three people — to identify affected livestock watering points and set up new ones.

6. **REGULATIONS: SEC rule repeal sets stage for unprecedented legal fight**

E & E News, Feb. 10 | Arianna Skibell and Geof Koss

Congress' successful use of a rare legislative tool last week may drive a clash between two statutes or serve as a test for what happens when laws conflict, experts say.

7. **CLIMATE: Study casts doubt on emission benefits of natural gas**

E & E News, Feb. 10 | Hannah Hess

New research on the Marcellus Shale region in Pennsylvania challenges the relative climate benefits of natural gas production.

8. **FEDERAL WORKFORCE: Trump freeze sparks discussion on long-term reforms**

E & E News, Feb. 10 | Kevin Bogardus

Senators from both parties questioned the effectiveness of President Trump's hiring freeze yesterday at a Homeland Security and Governmental Affairs subcommittee hearing.

9. **COURTS: Kids name Trump a defendant in landmark climate lawsuit**

E & E News, Feb. 10 | Benjamin Hulac

Attorneys for the plaintiffs in a federal climate lawsuit yesterday named President Trump as a defendant in the case.



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UTAH – FULL STORY

1. **Utah gov says outdoor retailers' threats ignore state's efforts to protect public lands**

The Salt Lake Tribune, Feb. 9 | Lee Davidson

Gov. Gary Herbert is pushing back against threats by outdoor retailers to move their huge twice-a-year conventions out of Utah, calling the controversy a "political ploy" that ignores massive efforts by the state to protect public lands and public access to them.

"I think the accusation that we are, in fact, trying to take away access to public lands ... does not stand up under scrutiny," Herbert told reporters Thursday before he ticked off a list of projects and programs he says help preserve wildlands and access.

Herbert's remarks come in response to news that the Outdoor Industry Association is exploring moving from Utah because many retailers are unhappy with Utah leaders' stands on possibly privatizing lands and fighting to eliminate the Bears Ears National Monument and shrink the Grand Staircase-Escalante monument.

"The overriding theme," association Executive Director Amy Roberts said, "is a disagreement over keeping public lands public, and we really see that as a foundational issue for our industry."

One major retailer, Patagonia, said it would boycott shows as long as they remain in Utah because of elected leaders' relentless campaign to erase the new Bears Ears National Monument.

Patagonia was joined Thursday by Arc'teryx, a Canadian outerwear and equipment company that announced its withdrawal from the Salt Lake City Outdoor retailers events "due to the state's efforts to rescind protection of Bears Ears National Monument and other public lands."

Company President Jon Hoerauf said some \$150,000 the company would have spent on the conventions will be reallocated over three years to a Public Lands Defense Fund.

Herbert was among the chorus of all-Republican statewide and congressional leaders to decry in the strongest language the creation of Bears Ears National Monument by outgoing President Barack Obama in December. A resolution calling for the Trump administration to rescind the monument flew through the Legislature in record time and was quickly signed by the governor.



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But Herbert said comments from some of the outdoor retailers show they may not realize all that Utah does for their industry, and called for a meeting with them.

"This ought not to be a discussion carried on through the media," he said. "So I am asking my staff to reach out to the Outdoor Retailers Association and all those who are involved to have a meeting with me at the earliest opportunity where we can discuss the issues."

He added, "I notice misrepresentation and misunderstanding. We need to sit down face to face ... and see what their concerns are, and if we can address them. I understand their apprehension and their concern, but I think we have answers to their questions."

When asked what he thought of trying to influence Utah policy through a boycott or threats to move the shows, Herbert said, "It is a political ploy we see."

He added, "I would like to see if we could take the politics out of this issue. This debate has been going on for the last 100 years on public lands."

He said Utah is seeking an optimal balance between protecting some public lands, and allowing ranching, farming, mining and other development on others where appropriate.

Herbert defended possible use of lawsuits to seek state control over federal lands when needed, saying it is one of three arrows in the state's quiver to find a balance on public lands along with negotiation and congressional legislation.

"We're trying to be good stewards of the land," Herbert said. "We're trying to provide access to public lands for those who want to enjoy them."

He listed evidence that Utah is friendlier to public lands than retailers may think.

"We were the first state in America to have an outdoor recreation office, where we have been working with the Outdoor Retail Association and others to say, 'What can we do to foster and improve outdoor recreational activities?'"

Utah has the largest watershed and wildlife habitat restoration program in the county, the governor said and spends more each year on it than the next two or three Intermountain states combined.



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"Six current and three proposed projects, over 9,000 acres in size, are guess where? The Bears Ears region," he said.

He noted that when the federal government shut down in 2013, the state paid to reopen national parks here, primarily because of complaints of lost business and revenue to local economies.

"On our own we developed a plan in the state to protect the sage grouse habitat," he said. "We had a program without any federal mandate that allows us to protect 94 percent of the sage grouse habitat here in the state of Utah."

He also took a shot at Colorado, where Gov. John Hickenlooper has said his state would be a better home for the outdoor shows. "The convenience of our public lands is unparalleled. And we have twice as much, as say, our neighbor to the east, Colorado. We have many more public lands here to access much more conveniently."

The outdoor retailer summer and winter shows have been in Salt Lake City since 1996. They draw an estimated 25,000 attendees, delivering an annual economic impact of about \$45 million.

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2. Under threat Outdoor Retailer show may leave Utah, Herbert touts state's public lands successes

The Deseret News, Feb. 9 | Amy Joi O'Donoghue

SALT LAKE CITY — Utah Gov. Gary Herbert said Thursday he is anxious to meet with organizers of the Outdoor Retailer show to detail why Utah remains the best public lands state to host the lucrative convention.

Patagonia announced it is boycotting the twice-a-year event, and trade show officials have said they are considering moving it elsewhere, in part due to Utah's recent adoption of a resolution urging President Donald Trump to rescind the designation of the Bears Ears National Monument made last December. Arc'teryx, a Canadian outdoorwear and equipment company, announced Thursday it would also withdraw from the shows.

Colorado Gov. John Hickenlooper said in late January that his state is a better venue to host the shows, which have been staged in Salt Lake City since 1996. The shows draw close to 30,000 attendees and generate an annual economic impact of \$45 million.



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Herbert, during his weekly meeting with reporters, said Colorado is not a better public lands state than Utah, stressing that it has only 4 acres of public land per capita compared with Utah's more than 12 acres.

Utah, too, has the largest active watershed and wildlife habitat restoration program in the nation, with 1.3 million acres restored over the past 11 years, he said.

"Our Department of Natural Resources tells us that when it comes to conservation efforts, developing our fisheries, developing our deer herds, our elk herds, our moose herds, our bighorn sheep, we spend more money than the next two or three Intermountain states combined," Herbert said. "So we are putting a lot of money where our mouth is."

There are also 253 additional restoration projects being carried out that target 265,000 acres. Six current and three proposed projects are within the Bears Ears National Monument area in southeast Utah, he added.

The governor's office confirmed Thursday that a meeting with Outdoor Industry Association officials has been scheduled for next week.

"Frankly, I think we can come together," Herbert said, adding he "truly believes" Salt Lake City is the best stage for the outdoor show.

"We need to sit down face to face and have that kind of discussion," he said. "The convenience of our public lands is unparalleled."

The state also has purchased about a half-million acres of private land for conservation purposes, Herbert said, pointing to the acquisition of the archaeologically rich Range Creek in eastern Utah, not far from Nine Mile Canyon.

"The accusation that we are trying to take away public lands ... does not stand up to scrutiny," he said.

Organizers' contracts to stage the shows in Salt Lake City are up in 2018, and officials this week announced they would solicit bids from other cities to host the trade convention.

Several years ago, the trade show threatened to leave the state over threatened litigation by Utah to gain control of certain lands managed by the Bureau of Land Management and the U.S. Forest Service.



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Last month, Black Diamond founder and outdoor industry activist Peter Metcalf pushed the show to leave Salt Lake City because of the state's position on key public lands issues, including its anti-monument fervor over Bears Ears and the continuing angst stoked by the 1996 designation of the Grand Staircase-Escalante National Monument.

The resolution on Bears Ears was signed by the governor Friday and was delivered to Trump this week by Rep. Jason Chaffetz, R-Utah.

Herbert, however, believes the state and organizers can come to some sort of agreement.

The state, Salt Lake County and Salt Lake City contribute \$1.4 million each year for the summer show, and more than \$3 million has been provided by the state in tax incentives to outdoor recreation businesses, he added.

"I'd like to see if we could take politics out of this issue," Herbert said.

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3. **BLM delays oil-drilling leases near Zion National Park amid growing concerns**

The Salt Lake Tribune, Feb. 10 | Brian Maffly

The Bureau of Land Management is giving the public another month to weigh in on a controversial proposal to issue oil and gas leases west of Zion Canyon after the National Park Service raised concerns about potential drilling on Zion National Park's periphery.

No federal land is under lease in Washington County and critics fear that selling leases would open the door to drilling on the doorstep of one of the nation's most visited parks and the crown jewel of Utah's "Mighty Five."

Worries have surfaced in nearby communities of Springdale, Rockville and Virgin over the potential impact of industrial development on a vibrant tourism economy. The Washington County Commission, ordinarily a pro-development body, passed a resolution Tuesday opposing drilling near the park, partly out of wariness over groundwater.

Meanwhile, the St. George businessman seeking the leases says he actually wants to tap the land for water, not oil.



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For its part, Park Service staff need additional time to evaluate possible impacts to air quality, soundscapes, water, night skies, visitor experience, sensitive species and other resources national parks are charged with protecting, according to park spokesman John Marciano.

The BLM's St. George field office will now accept comments on its draft environmental assessment until March 9.

The three federal parcels under study total 4,730 acres. Two of them straddle the Kolob Terraces Road just north of Virgin.

The area was heavily drilled decades ago thanks to surface seeps that ooze crude, but few holes ever produced paying quantities of oil. Today, Zion visitors travel the Kolob road to access the park's northern highlands and Kolob Reservoir, and often camp along it when Zion Canyon's crowded campgrounds are full.

The company that nominated the parcels for auction, Utah Drilling and Exploration LLC, claims its real interest lies with the land's groundwater. St. George businessman and company principal Jeff Reber said securing the oil and gas leases is necessary for protecting the company's investment should it strike hydrocarbons while drilling for water.

Years ago, Reber said, he asked the BLM to lease these parcels and several others in Washington County with his father, the late Spencer Reber. The Chevron exploration geologist retired to St. George in the 1980s and taught geology to Dixie State College students.

"Now every one is throwing up hysterical propaganda about oil rigs going up," Reber said.

"Our intent is not to throw up a bunch of wells ... We are not going to infringe on the national park, and on the rights of bicyclists riding up Kolob."

Utah Drilling and Exploration is in the business of locating water for individuals who need it, according to Reber. He said his company owns water rights in partnership with a Texas firm, Canyon Resources, which holds oil and gas leases on several Utah trust sections nearby.

But Reber's statements have conservationists scratching their heads since an oil and gas lease, which can be costly to obtain and maintain, is not necessary for developing a water right.

Regardless of his intentions, there is no guarantee Utah Drilling and Exploration would be the successful bidder should the BLM issue these leases or that he wouldn't sell them to energy



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developers later on should the leases prove valuable, according to Landon Newell, a staff lawyer with the Southern Utah Wilderness Alliance.

"He is either trying to confuse the issue by saying he doesn't pose a threat of development," Newell said, "or he doesn't understand the legal rights that come with a federal oil and gas lease."

Leases obligate the BLM to accommodate drilling, although development would require another round of environmental analysis and requirements to protect other resources.

In their resolution, Washington County commissioners questioned whether allowing oil and gas development along scenic highways was the best use of the region's resources. They also noted that one of the leases under consideration is located near a proposed water reserve and several newly drilled drinking wells.

"It is in the best interest of the residents of Washington County," their resolution said, "for the BLM to make a well-informed and cautious decision regarding to whether to allow the leases in our county."

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4. NATIONAL MONUMENTS: Utah town hall crowd boos Chaffetz as he defends lands stance

E & E News, Feb. 10 | Jennifer Yachnin

Utah Republican Rep. Jason Chaffetz last night sought to defend his efforts to abolish the recently created Bears Ears National Monument but was repeatedly drowned out by opposition voices during a packed town hall meeting in suburban Salt Lake City.

Chaffetz, who serves as chairman of the House Oversight and Government Reform Committee, faced off with a rowdy crowd of constituents who filled a high school auditorium and spilled outside. Local media estimated that the crowd reached 1,500 people.

During the 75-minute meeting, at which Chaffetz fielded questions about issues including President Trump and public lands, the GOP lawmaker repeatedly urged his constituents to "relax, relax" and "hold on, hold on" as he tried to give answers.

The opening minutes of the meeting were dominated by questions about Chaffetz's opposition to the new 1.35-million-acre national monument in southeastern Utah, which he has recently lobbied Trump to rescind under the Antiquities Act (E&E Daily, Feb. 8).



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"There are disagreements about public lands. Some of you will agree with the positions I've taken; some of you will disagree with positions I've taken," Chaffetz said.

He sought to defend his opposition to the Bears Ears monument by pointing to his support for the "Utah Public Lands Initiative Act," which he co-authored with House Natural Resources Chairman Rob Bishop (R-Utah). That bill, which was presented as an alternative to the monument designation, would have protected and developed parts of the Bears Ears area.

"I love our public lands," Chaffetz said, prompting an unidentified woman in the crowd to shout: "That's why we need to protect it!" The Salt Lake Tribune broadcast the meeting, held at Brighton High School in Cottonwood Heights, Utah.

"What we're trying to do with the Public Lands Initiative is come to a balanced approach. I hope you do appreciate that not every single person has the same viewpoint on the use of the public lands," Chaffetz said. "And so what we were trying to do is find a balanced approach. You have outdoor recreationists, you have conservation needs, you have energy development" — at which point Chaffetz was drowned out by boos from the crowd. "You have a whole host of needs," he added.

Disgruntled boos stalled Chaffetz for several moments. He then continued: "There's some aspects of the bill I'd think you'd really like."

Chaffetz appeared to attempt to draw the crowd's approval by pointing to protections for Desolation Canyon as well as the addition of 20,000 acres to Arches National Park, but he received little support from the crowd. One woman shouted in response to his list of protections: "At what cost?"

According to the Associated Press, one woman in attendance criticized Chaffetz's push to rescind the monument by asserting that it would lead to additional drilling and mining for coal in the region.

"Protecting your public lands provides a better future for not only communities and people who are visiting, but also habitats and revenue," said Salt Lake City resident Holly Cobb Robinson.

During the meeting, Chaffetz also sought to defend his proposal to cut hundreds of law enforcement positions at the Bureau of Land Management and Forest Service.



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"Do you want more law enforcement, or do you want less law enforcement to protect our public lands?" he asked the crowd, referring to his [H.R. 622](#), the "Local Enforcement for Local Lands Act."

Chaffetz's proposal would eliminate about 300 law enforcement rangers or special agents within BLM as well as more than 700 law enforcement officers at the Forest Service and replace them with deputized local officials.

"Here's what happens, here's the reality. It varies from year to year, but in many cases — if not most cases — sometimes the BLM doesn't have the resources in order to do this. They don't have the staff; they don't have anything else. So what do they do? They contract with the local sheriff in order to do that," Chaffetz asserted, to which someone could be heard shouting, "Fund them!"

The Utah lawmaker noted that his plan would shift federal funds for law enforcement to local jurisdictions based on the percentage of public land in each state, which prompted shouts of disagreement from the crowd.

A spokeswoman for Chaffetz said the Utah lawmaker does not have additional town hall meetings scheduled at this time.

But Chaffetz told the website [UtahPolicy.com](#) yesterday that he planned to do more in the district.

"I believe it is part of my responsibility to listen to constituents," Chaffetz told the website. "I hope emotions will calm down."

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E&E/NATIONAL NEWS – FULL STORY

1. Judge orders feds to identify agent in Cliven Bundy case

AZ Central, Feb. 9 | Robert Anglen

A federal judge in Las Vegas ordered prosecutors in the Bundy Ranch standoff trials to turn over an investigative report accusing a key government witness of wrongdoing.



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Judge Gloria Navarro denied motions to dismiss charges against 17 defendants who claimed the government withheld evidence by concealing misconduct allegations against the federal agent in charge of operations during the 2014 standoff.

Navarro said prosecutors had a duty to release a full copy of a report by the Department of Interior's Office of the Inspector General naming the agent, calling it "material evidence" that could be used to impeach the government's witness.

"The OIG Report details several violations of federal ethics regulations, misuse of government property, misuse of a government position, and 'a lack of candor when interviewed,' " Navarro wrote in a ruling Wednesday. "At a minimum, (defendants) may use this alleged misconduct on cross-examination to impeach (the agent)."

Opening statements began Thursday in the first of three trials against ranchers and militia members accused of conspiracy when they took up arms in 2014 to stop Bureau of Land management officials from seizing cattle owned by Nevada rancher Cliven Bundy.

The inspector general's report made public Jan. 30 did not name the agent. But attorneys for the defendants said it contained enough details to positively identify him as Dan Love, the BLM special agent in charge of Utah and Nevada between 2012 and 2015.

Lawyers in court Thursday briefly discussed whether Love would be called to testify. Although prosecutors suggested they might not use him as a witness, they mentioned Love several times and showed jurors a slide with his picture from the standoff.

"This is one of those determining factors ... in a case. This is a significant event," Las Vegas lawyer Bret Whipple said Thursday afternoon. "We should have had this information years ago."

Whipple represents Cliven Bundy, who is scheduled to go on trial with the second group of defendants 30 days after the first trial ends.

He said the report could be used to show Love's pattern and practices of misbehavior. He said federal investigators for years have been aware of Love's wrongdoing and chose to hide it even as trial commenced.

Whipple said his client and other defendants maintain Love escalated tensions at the ranch and that his aggressive behavior turned a peaceful demonstration into an armed standoff.

"It gives value to our concern that there was government overreach," he said.



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Whipple credited the media with first connecting the report to Love. He said several people have contacted defense attorneys with additional information and complaints about Love since the report was made public.

"Thank goodness for freedom of the press," Whipple said. "It took the media to forward it."

Report details misconduct at Burning Man

The inspector general's report cites ethical violations that occurred in 2015 at the annual Burning Man event in Northern Nevada's Black Rock Desert.

Federal investigators said the agent wrongly used his influence to obtain benefits for himself and his family members at Burning Man, abused federal law-enforcement resources and intimidated other BLM staff to keep quiet about his conduct. They also accused the agent of manipulating BLM hiring practices to help a friend get hired.

An analysis by the Reno Gazette-Journal and The Arizona Republic found many details in the report coincide with Love's career, including the agent's former title, his base of operation, his past assignments and his on-site supervisor. In addition, the report cited a June 2015 Gazette-Journal story about complaints against Love over his conduct before Burning Man began.

Love has not responded to repeated phone messages left at his Utah office and on his cellphone.

The U.S. Attorney's Office and BLM officials in Washington, D.C., have declined to comment.

Lawyers for the Federal Public Defender's Office said in a motion last week that the inspector general's report found "Love has been the subject of approximately eight anonymous complaints in the last two years."

The public defender's office represents defendant Ryan Payne, who is scheduled to be tried with Bundy in the second group of defendants.

Lawyers cited Love's clashes with Utah officials, which led the Utah governor's office to call for his ouster in 2014. They said when state officials sought to limit the power of BLM agents from enforcing state laws, Love retaliated by canceling contracts with county sheriff's to monitor federal lands.

And they said Love is not the only BLM agent scheduled to testify in the Bundy standoff trials who has faced misconduct allegations.



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"The government has never disclosed any of the above information about OIG's investigation of Love and other BLM officers to the defense," lawyers wrote in their motion.

Standoff a flashpoint in public-lands battle

The Bundy trials represent one of the West's most high-profile land-use cases, which erupted in 2014 when armed ranchers and militia members mounted a six-day standoff against BLM officials during the "Battle of Bunkerville."

For two decades, the BLM repeatedly ordered Bundy to remove his cattle from federal lands near his ranch about 80 miles north of Las Vegas on Interstate 15. The BLM obtained a court order in 2014 to seize Bundy's cattle as payment for more than \$1 million in unpaid grazing fees.

In April, the BLM, led by Love, implemented a roundup of 1,000 head of Bundy's cattle ranging on public land.

Bundy issued a social-media battle cry. Hundreds of supporters, including members of several militia groups, streamed to the ranch from several Western states, including Nevada, Arizona, Idaho and Oklahoma.

Pictures of prone figures on overpasses sighting long rifles at BLM agents in a dusty wash below galvanized the public and brought international awareness to the feud over public lands.

Local law enforcement officials, including the Clark County Sheriff, negotiated a settlement and the BLM agreed to abandon the roundup. No shots were fired and no arrests were made.

The standoff was hailed as a victory by militia members. Cliven Bundy's sons, Ammon and Ryan Bundy, cited their success at Bundy Ranch in their run-up to the siege of an Oregon wildlife refuge in 2016, also in protest of BLM policies. An Oregon federal jury acquitted Ammon, Ryan and five others in October.

As 1st trial opens, judge rebukes prosecutors

Six defendants, from Arizona, Idaho and Oklahoma, are the first to be tried. Federal prosecutors designated them as the "least culpable," but all 17 defendants face identical charges and could spend the rest of their lives in prison if convicted.



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The 17 defendants are charged with conspiracy, assault on a federal officer, using a firearm in a crime of violence, obstruction of justice, interference of commerce by extortion and aiding and abetting a crime. Two others who were charged pleaded guilty last year.

Navarro said dismissing the cases, a drastic step used only in extreme cases of misconduct, was not warranted.

"Given the only very recent release of the OIG Report, the government's failure to disclose it falls well short of outrageous," she wrote.

But Navarro appeared to rebuke federal prosecutors for their failure to disclose information.

"To the extent defendants seek disclosure of the personnel records of other federal agents," Navarro wrote, "the court reminds the government that it has a continuing duty (to) inspect for material information the personnel records of federal law enforcement officers who will testify at trial."

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2. FBI admits no arrest warrant signed when Duane Ehmer was arrested, contrary to agent's testimony

The Oregonian/OregonLive, Feb. 9 | Maxine Bernstein

FBI agents admit in court papers that they had no arrest warrant when they took Duane Ehmer into custody at a checkpoint outside the Malheur National Wildlife Refuge on Jan. 27, 2016, contrary to an agent's testimony earlier this week.

It wasn't until the day after Ehmer's arrest that a federal magistrate judge signed a criminal complaint against Ehmer based on an FBI agent's probable cause affidavit.

Ehmer's lawyer Michele Kohler has urged the judge to suppress evidence found in what she contends was an unlawful search of Ehmer's car and horse trailer after his arrest without a warrant.

Prosecutors and the FBI said they had probable cause to arrest Ehmer, even if a judge hadn't yet signed a criminal complaint or arrest warrant. They also point out that Ehmer voluntarily signed an FBI consent form to search his vehicles.



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The ruling on the motion to suppress evidence, anticipated early next week, could affect the FBI's discovery of a maroon pouch stuffed under a passenger seat in Ehmer's Chevrolet Tahoe. It held cash and checks belonging to the Friends of the Malheur National Wildlife Refuge, a refuge employee's ID card and gas cards. An agent found the pouch while searching Ehmer's SUV a day after his arrest. Ehmer is charged with removal of government property, a misdemeanor, in connection with the pouch.

He also faces felony charges of conspiracy to impede federal employees and depredation of government property in connection with the 41-day occupation of the refuge in Harney County.

"While this Affidavit was filed on January 28, 2016, all of the facts in paragraphs 59-64 were known to me several days before January 28, 2016, and certainly before Ehmer's arrest on January 27, 2016," Anderson wrote. "Prior to January 27, 2016, I had communicated with several other members of the investigative team, including the case agents and supervisor, regarding the probable cause I had gathered on Ehmer. I therefore believe that the FBI had probable cause to arrest EHMER on January 27, 2016."

FBI Special Agent Todd Scott, who is assigned to the agency's Denver division, had testified by phone earlier this week that he arrested Ehmer on a federal arrest warrant last winter.

In a written memo filed in court Thursday, Scott said he didn't realize the warrant hadn't been issued until the day after Ehmer's arrest until a prosecutor informed him after court this week.

"Prior to arresting Mr. Ehmer, I received information from the FBI Command Post that an active federal arrest warrant existed for Mr. Ehmer," Scott wrote. "I did not question the validity of the information provided nor did I review a copy of the arrest warrant, as is my normal practice. Due to the remoteness of my location I did not have the ability to review the alleged arrest warrant."

Assistant U.S. Attorney Craig Gabriel argues that Scott testified and acted in good faith.

"Given the fluid situation surrounding the occupiers leaving" the refuge in late January 2016, Gabriel wrote, "it is understandable that an agent at a remote road block received mistaken information that a warrant had been issued for Ehmer's arrest, when, instead, the FBI in Portland was in the process of preparing an affidavit for such a warrant and therefore authorized a probable cause arrest of Ehmer on January 27, 2016."

Gabriel asks the court to rely on the consent to search form that Ehmer signed about an hour after his arrest, when he was driven in an armored vehicle from the refuge checkpoint to Burns.



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"Ehmer acknowledged in writing: 'I have been advised of my right to refuse consent' and 'I give this consent voluntarily' and 'I authorized these agents to take any items which they determine may be related to their investigation,'" Gabriel wrote.

Ehmer's lawyer has until the end of the week to file a response. U.S. District Judge Anna J. Brown is expected to issue a ruling before jury selection starts next Tuesday in the trial for Ehmer and three other occupiers.

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3. Trump Just Made The Biggest Sale Of Drilling Rights On Federal Land In 4 Years

The Daily Caller, Feb. 10 | Andrew Follett

The Bureau of Land Management (BLM) made its largest lease sale in four years, marking the start of President Donald Trump's plans to expand drilling on federal lands.

BLM sold drilling rights on 278 parcels of public land for \$129.3 million. Bids ranged from \$2 per acre to \$16,500 per acre. The land sold was mostly located in Wyoming — about half of which is directly controlled by the federal government.

"In the first lease sale under the Trump administration, the BLM had its biggest sale in the past four years," Utah Republican Rob Bishop, chairman of the House Committee on Natural Resources, told The Daily Caller News Foundation. "Today's successful sale in part is a recognition that the BLM under new leadership will prioritize fulfilling its statutory mandate of multiple-use land management and the holding of quarterly lease sales, and the industry is responding accordingly."

Thursday's lease sale is one of four BLM has planned for this year.

"This is an encouraging indication that we are headed in a new and better direction for the Bureau and Americans who benefit from greater access to these taxpayer-owned resources," Bishop said.

Congress wants to rollback energy regulations for public lands. Lawmakers have already used the Congressional Review Act to repeal Obama-era regulations on coal mining and are looking to eliminate a regulation on flaring natural gas. Congress also wants to repeal a BLM rule, called



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“Planning 2.0,” which critics say seizes power from local officials and makes energy development more difficult.

Rolling back federal restrictions on public lands would create 2.7 million jobs and add \$663 billion to the economy each year for the next 30 years, according to a 2016 study by Louisiana State University and the free-market Institute for Energy Research.

Opening these lands and waters could boost wages by \$5.1 trillion, generating \$3.9 trillion in new federal tax revenue over the next 37 years according to the research. Increased energy development could create 2.7 million new jobs.

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4. **DAKOTA ACCESS: Other activists learn from waste left behind by protesters**

E & E News, Feb. 10 | David Hunn, Fuel Fix

When the first big snow hit the protest encampments of Standing Rock this winter, campers hunkered down and tried to last out the storm. They woke the next morning to two feet of snow. Everything was buried: tents and sleeping bags, but also ad-hoc kitchens, latrines, propane tanks, living quarters and waste, gathered over the months of protests.

Hundreds fled that morning. And they took little of what they brought with them. Now acres of camp has turned into mountains of trash, and Morton County North Dakota leaders are worried the trash could become its own environmental disaster.

The camps were built on a flood plain. Each spring, when snows start to melt, the Cannonball River — named for such swift current it pushes boulders along its bottom until they are as smooth and as round as cannon balls — rises over its banks and scours the plains below.

If left, all of that trash could get pushed right into the Missouri River, the very body of water the protesters are working to protect.

Morton County and the Standing Rock Sioux are now urgently loading dump trucks with trash. But county Emergency Manager Tom Doering said he’s not sure they’ll get it all cleaned up before the thaw — one contractor estimated total trash at 250 30-cubic-yard dumpsters.

And when the Cannonball floods, it will send ice chunks three feet thick, 20 feet across through the floodplains.



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“We’re really fighting the clock,” Doering said.

Some worry the West Texas camps could face similar problems.

“It should be concerning to any local community that a professional protest camp can leave behind such a huge mess,” said Steve Everley, spokesman for Texans for Natural Gas, an industry-funded coalition that has been outspoken against the pipeline protests. “Communities in West Texas need to know about that, especially since several of the protesters out there have traveled from North Dakota. Are they going to bring the same mess?”

But Frankie Orona, a camp organizer, said leaders have learned from the mistakes at Standing Rock. The camp at Two Rivers near Big Bend Ranch State Park, for instance, has composting toilets, running well water, solar-heated showers, a solar-powered kitchen and weekly trash removal to avoid build-up.

“We’ve been pretty good about maintaining it,” Orona said. “We knew it could be a problem.”

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5. **TRIBES: Navajo slam FEMA over mine spill, other disasters**

E & E News, Feb. 10 | Cecelia Smith-Schoenwalder

When 3 million gallons of toxic mine waste spilled from the Gold King site in Colorado into the Animas and San Juan rivers in 2015, the Navajo Nation deployed its emergency management department — just three people — to identify affected livestock watering points and set up new ones.

Despite requests from the Navajo, Federal Emergency Management Agency officials never stepped on the reservation while the river turned “yellow as orange juice,” said President Russell Begaye. The agency denied the tribe’s request for an emergency declaration.

Begaye, who has complained for months about the federal government’s response to the spill, testified during a Senate Indian Affairs Committee hearing this week about how FEMA could work better with tribes like his.

U.S. EPA, which was working at the mine site, took responsibility for the spill and was also the agency in charge of responding to it. That’s why FEMA did not take a more active role.



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"I find it appalling that a federal agency can cause a spill, testify before this committee that it takes full responsibility, then prevent FEMA from engaging, then finally deny liability," Begaye said.

The Navajo Nation also asked the Agriculture Department for assistance after the spill. FEMA informed the Navajo that USDA would not be able to assist without a disaster declaration.

Immediately after the spill, EPA moved to reassure tribes and conduct testing. But last month, the agency concluded, with guidance from the Justice Department, that it was not liable for claims brought under the Federal Tort Claims Act (E&E News PM, Jan. 13). Both the Navajo and New Mexico are suing EPA over damages.

Sen. Tom Udall (D-N.M.) called the incident and its aftermath one of the "most frustrating things I have seen the Navajo Nation go through in my time in Congress."

Beyond the Gold King spill, tribal members and lawmakers at this week's hearing expressed concern over the federal response to flooding and wildfires in Indian Country.

The Navajo Nation's most recent request to FEMA came in August, when flooding affected 27 homes and caused almost \$1 million in damage. It asked for a major disaster declaration, which FEMA denied after determining that "the impact to individuals and households from this event was not of such severity and magnitude as to warrant supplemental federal disaster assistance."

Begaye asked, "When is it disastrous enough for FEMA to come and help?"

The Navajo and two other tribes present — the Pueblo of Santa Clara and the Confederated Tribes of the Colville Reservation — all wanted more guidance from FEMA on why their requests had been denied.

In 2015, the Colville experienced the most destructive fire on an Indian reservation ever recorded. Nearly 20 percent of the total land base — more than 255,000 acres — was burned. FEMA denied requests from both the Washington state governor and the tribe for homeowner assistance.

FEMA's assistant administrator for recovery, Alex Amparo, said FEMA has a good relationship with tribes. Since an amendment to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, tribes have been able to make FEMA requests on behalf of themselves, as opposed to having a governor make the requests.



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The amendment "better reflects the sovereignty of tribal governments," said Amparo.

Also, FEMA's recent Tribal Declarations Pilot Guidance is intended to clarify disaster assistance and related requirements, he said.

The development "serves as a good example of FEMA's commitment to improving our relationships with tribal governments," Amparo said.

'Disaster in the making'

Still, lawmakers remained concerned. Sen. Al Franken (D-Minn.) brought up the Prairie Island Indian Community, which sits on a floodplain of the Mississippi River and about 600 yards from nuclear waste storage facilities and two nuclear reactors.

Franken described the community as living with a "constant concern" of radiation exposure, and asked FEMA to be prepared to quickly assist them if necessary.

Sen. Lisa Murkowski (R-Alaska) wanted to know how FEMA could help with the "slow-moving" disasters affecting tribes and communities in her state.

"People's homes are literally falling into the ocean due to coastal erosion," Murkowski said. The melting of the permafrost threatens infrastructure and causes coastal erosion and flooding, she said.

Even though she has discussed the issue with FEMA, which has denied related disaster requests from two tribes, Murkowski wanted a pledge from agency leaders that they would work with her to address concerns.

"If it's not a disaster immediately, it's a disaster in the making," Murkowski said.

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6. **REGULATIONS: SEC rule repeal sets stage for unprecedented legal fight**

E & E News, Feb. 10 | Arianna Skibell and Geof Koss

Congress' successful use of a rare legislative tool last week may drive a clash between two statutes or serve as a test for what happens when laws conflict, experts say.



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Lawmakers used the Congressional Review Act to overturn a Securities and Exchange Commission transparency rule for resource extraction firms, and the president is expected to sign the resolution of disapproval.

The CRA gives Congress 60 legislative days to review and possibly overturn new rules. Once the president signs off, agencies are prohibited from reissuing the rule or offering a "substantially similar" one.

However, the SEC rule — which requires oil, gas and mining companies to reveal payments to governments — is a requirement of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

"We've never seen this scenario triggered," said Daniel Pérez, policy analyst with George Washington University's Regulatory Studies Center. "We're in an interesting time."

The CRA has only been used once in 2001, when Congress and President George W. Bush overturned a Clinton administration rule setting ergonomic standards in the workplace.

The Department of Labor has since been unwilling to test what "substantially similar" means by issuing new ergonomic standards, analysts say.

"But that was a case where they weren't under an obligation to issue a rule by a certain deadline," Pérez noted.

Current law, however, requires the SEC to issue a rule, which could necessitate the courts to define "substantially similar" for the first time in the CRA's 20-year history.

Complicating matters is a provision in the CRA that says "no determination, finding, action, or omission under this chapter shall be subject to judicial review."

American University law professor Bill Snape said: "It is a fascinating legal question. No one really knows the answer."

Dueling interests

Former Senate Foreign Relations Chairman Richard Lugar (R-Ind.) commissioned a report in 2008 on the "resource curse." That's shorthand for the corruption and ongoing poverty that plagues many countries and regions rich in mineral resources.



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Two years later, Lugar and Sen. Ben Cardin (D-Md.) attached a provision, Section 1504, to Dodd-Frank, calling on the SEC to make publicly traded companies disclose their payments to governments around the world.

The rule Congress voted to scrap is the SEC's second try. A federal judge undid a previous attempt in litigation with the American Petroleum Institute and the U.S. Chamber of Commerce.

Secretary of State and former Exxon Mobil Corp. CEO Rex Tillerson lobbied against the rule, and API has continued impressing on lawmakers, mostly Republicans, that the SEC's mandates cripple the ability of public companies to compete with state-owned enterprises (E&E Daily, Feb. 1).

Last week, a group of GOP senators sent a [letter](#) to acting SEC Chairman Michael Piwowar explaining they oppose the rule because it would disadvantage American and other SEC-registered companies.

"Under the SEC's rule, as we understand it, U.S. companies would be required to make the disclosures about their payments to host government even where another country's laws might prohibit by law those disclosures," they wrote.

"Effectively that could require U.S. companies to stop doing business in those countries, leaving those markets to the unfettered advantage of their foreign competitors."

Cardin, however, decried the use of the CRA on the SEC rule. Joining him are human rights and anti-poverty advocates, who have tried to debunk the industry's arguments.

"Look, [the CRA] was a major mistake. It sets us back, sets back our leadership and delays this," Cardin said. "It was a step that moved us away from transparency and fighting corruption, and it will delay it substantially."

Cardin stressed the point that the agency must carry out its congressional mandate and issue a new rule. "They still have the underlying statute," he said.

If a statute or court establishes a deadline for issuing a rule, the CRA does not prohibit an agency from issuing future rules.

"Instead, the deadline to do so is extended by one year from the date of the joint resolution of disapproval," Pérez wrote in a [CRA fact sheet](#).



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"If Congress used the CRA to disapprove of an EPA rule setting new targets for renewable fuels, EPA would still be required by statute to issue additional rules related to the Renewable Fuel Standards (RFS) program, however, the new deadline would be one year after the date of the disapproval."

This means, assuming Trump signs the measure this month, the SEC will have until February of 2018 to issue a new rule that's not "substantially similar" to the old rule.

'Will be litigation'

Agencies often miss or flout legal deadlines for issuing rules. "If they don't, they'll be sued," said Cary Coglianese, director of the University of Pennsylvania Law School's Penn Program on Regulation.

Snape said he sees a lawsuit as the likely catalyst for the SEC to issue a new rule given the Trump administration's opposition to the transparency standards.

"At some point, there will be litigation," he said. "Either public interest [groups] will want to sue Trump because the rule is weak and lame, or the rule comports with the statute and business suits, saying it's substantially similar to the old rule."

If business sues, claiming the new rule is too similar to the old one, the courts will be forced to grapple with what "substantially similar" means for the first time.

"There's no body of law on that, so everything that happens is going to be critically important," said Lisa Gilbert, director of Public Citizen's Congress Watch division.

Coglianese said the term will end up meaning whatever the court says, noting that "substantially similar" is "abstract" and "ambiguous."

"We don't have a lot of guidance from the statute. It's clear it doesn't mean that an agency is precluded from issuing any rule on the same subject matter, or on the same issue, or on the same problem," Coglianese said.

If the rule, as mandated by the underlying statute, cannot be significantly altered, a constitutional conflict could arise, Snape said, though the odds of that are low and the court would likely avoid it at all costs.



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"There are so many ways you can change a rule. It's hard to imagine you can't cross that threshold," he said.

Coglianese said altering elements of the existing rule — like delaying the compliance period or providing more opportunities for waivers — could make it legal.

Still, the SEC would have no say in defining the term because the Chevron deference — a legal doctrine that presses courts to defer to agency interpretation of laws — only applies to agency-specific statutes and not general ones like the CRA, said Coglianese.

Repealing Dodd-Frank

"By February 2018," Coglianese said, referencing the SEC rule's likely new deadline, "Dodd-Frank itself might be repealed or modified significantly."

Trump has called the law a "disaster" and promised to "do a big number on it." White House press secretary Sean Spicer would not elaborate what "do a big number" means during a recent press briefing.

House Financial Services Chairman Jeb Hensarling (R-Texas) has laid out a plan to gut Dodd-Frank, and a number of congressional Republicans have applauded the initiative. Other GOP members have voiced support to get rid of the reporting requirement in Section 1504.

Sen. Bob Corker of Tennessee, one of the GOP senators to sign the letter, said he hopes it will not come to that. He said he and his colleagues are encouraging the SEC to write a rule that doesn't keep U.S. companies from being able to do business in countries that don't allow disclosure.

"So I think they can do a better job of it, and I'd like for them to attempt to," he said. "If not, we may have to deal with it legislatively, but it would be a lot better if they could just do it through rulemaking."

Snape said tossing Section 1504 may prove politically untenable. "You run smack into Richard Lugar at that point," he said.

"He was one of the most honorable and decent Republicans that has been in the Senate in years. I sort of think even [Senate Majority Leader] Mitch McConnell wouldn't want to pick that fight."



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Conservative Richard Mourdock defeated Lugar in the 2012 Senate primary. Democratic Sen. Joe Donnelly went on to win the seat.

Gilbert said it's unlikely that the entire law will be scrapped. It's an "incredibly" popular law, and Senate Democrats are unified in their support, she said.

"That doesn't mean Republicans aren't going to try. Every trick in the book will be tried because industry doesn't like being regulated," she said. "Death by a thousand cuts, you know."

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7. **CLIMATE: Study casts doubt on emission benefits of natural gas**

E & E News, Feb. 10 | Hannah Hess

New research on the Marcellus Shale region in Pennsylvania challenges the relative climate benefits of natural gas production.

A [study](#) by Drexel University released yesterday found that atmospheric levels of methane increased by 100 parts per billion between 2012 and 2015, despite a slowdown in the number of new natural gas wells. Authors noted that marks a substantial jump compared to a 6 parts per billion global increase in concentrations of the potent greenhouse gas.

Drexel's Peter DeCarlo, who led the study, said the rapid increase represents a "shifting of emissions from development to production stage."

During the three-year time period, the amount of natural gas produced nearly doubled. The study notes other major sources of methane, such as agricultural activity, have not likely changed in the region.

It points to persistent sources of emissions associated with production and distribution, such as pipelines, compressor stations or processing facilities. The finding, authors said, could suggest that measures taken by natural gas producers to decrease leakage are not sufficient to reduce methane leakage.

DeCarlo told E&E News that it looks like additional monitoring is necessary.

The Pennsylvania director of Energy In Depth, which is aligned with the oil and gas industry, said it is important to take the study's findings in proper context. Nicole Jacobs said in an email



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that the increase is a "minuscule amount and shows emissions essentially remained flat," aligning with other studies of the region.

Data released in August from the state's Department of Environmental Protection showed methane emissions fell 12 percent between 2012 and 2014 while production increased 33 percent.

The study comes as Republicans on Capitol Hill move forward with efforts to repeal an Interior Department regulation that seeks to limit natural gas flaring, venting and leakage on public and tribal lands. Senators are preparing to take up a resolution passed last week by the House that targets the Obama-era Bureau of Land Management rule (Greenwire, Feb. 3).

Environmentalists have cited methane as a major contributor to climate change in addition, pushing Congress to preserve the standard.

The League of Conservation Voters called the rule "an important step in reducing our contributions to a changing climate that threatens our health, communities, ecosystems, economy, security, and way of life" in a letter sent to senators yesterday that urged a "no" vote.

Oil and gas industry advocates, including the American Petroleum Institute, argue BLM lacks the authority to regulate air quality and that the rule could impede energy production. They note increased production of natural gas has helped the United States reduce carbon dioxide emissions, and companies already have high financial incentives to try to capture methane emissions.

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8. FEDERAL WORKFORCE: Trump freeze sparks discussion on long-term reforms

E & E News, Feb. 10 | Kevin Bogardus

Senators from both parties questioned the effectiveness of President Trump's hiring freeze yesterday at a Homeland Security and Governmental Affairs subcommittee hearing.

"Attrition through a hiring freeze may not be the optimal solution for creating an efficient and effective federal workforce," Subcommittee on Regulatory Affairs and Federal Management Chairman James Lankford (R-Okla.) said in his opening statement.



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The subcommittee's top Democrat, North Dakota Sen. Heidi Heitkamp, said an arbitrary workforce reduction won't improve government service.

"Across-the-board cuts and the shrinking of the overall federal workforce are not the answer to making the federal government more efficient or more effective," Heitkamp said. "These cuts will also come at the expense of talent, morale and the mission of our workforce, none of which we can afford to lose."

Later, in reference to the hiring freeze, Heitkamp said, "It's a meat axe to something that we should be looking at very strategically."

But Lankford defended the White House's right to reshape the federal workforce, given that Congress has failed to advance reforms over decades. He said the structure of today's civil service was created in the 1950s and last reformed with the Civil Service Reform Act of 1978.

"Congress can either watch as the administration deals with the federal workforce through executive actions or it can find consensus and work with the administration," Lankford said.

Trump issued his hiring freeze soon after his inauguration last month, leading to protests from Democrats and federal worker unions. Witnesses at yesterday's hearing were also critical of the president's executive memo.

Asked what message the freeze sends to federal workers, Bill Valdez, president of the Senior Executives Association, said it could discourage future recruitment.

"People like certainty in their employment," Valdez said. "If you think that the federal government is not a place where you can find reasonable employment and have a secure job, then that does have a chilling effect, particularly on individuals who are coming into the federal government."

Under Trump's memo, within 90 days of its enactment, the director of the Office of Management and Budget, working with the director of the Office of Personnel Management, will recommend a long-term plan to reduce the workforce through attrition. That attrition plan could be especially tough for government employees.

Renee Johnson, president of the Federal Managers Association, said her group was opposed to the freeze but was more worried about the Trump administration slashing into the workforce just to reduce the number of federal jobs.



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"To do a blanket across-the-board cut of all federal agencies, I think, is going to be detrimental to them being able to move forward with the mission that they have been provided," Johnson said.

Lankford said his subcommittee will hold hearings this Congress examining the workforce, including how to improve hiring, compensation and discipline. The Oklahoma senator said he has already been talking with Rep. Mick Mulvaney (R-S.C.), Trump's nominee to lead OMB, on how to reform the civil service.

"Our conversations with him have already been that's not just a budget office, that is a management office, as well," Lankford said. "We fully expect the management side to be aggressive on trying to fix some of these broken systems that are there."

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9. **COURTS: Kids name Trump a defendant in landmark climate lawsuit**

E & E News, Feb. 10 | Benjamin Hulac

Attorneys for the plaintiffs in a federal climate lawsuit yesterday named President Trump as a defendant in the case.

In 2015, a group of kids, young adults and environmentalists sued the U.S. government and top officials — including President Obama — for failing to protect them from the dangers of climate change, despite detailed warnings and research of its risks.

Julia Olson, a lawyer for the plaintiffs, said other Cabinet members will soon be named as defendants, replacing leaders from the Obama era with Trump administration officials. The plaintiffs are moving to begin trial in the fall, though the government may appeal to get the case dismissed, according to their attorneys.

The group sued Obama and Cabinet secretaries for the Energy, Transportation, Commerce, Defense, State, Agriculture and Interior departments at the start of the case.

"The policies of the U.S. government that ignore the threat of climate change are only going to get worse under the new presidency, based on Trump's apparent lack of understanding of climate science and his plans to invest further in the fossil fuel industry," Kiran Oommen, 20, a plaintiff in the lawsuit, said in a statement.

Requests for comment from the White House were not returned.



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Old documents and files, as well as industry ties between new government officials and their old business associates, are shaping up as critical to the lawsuit.

The plaintiffs have said Secretary of State Rex Tillerson, who was CEO of Exxon Mobil Corp. until December and had connections for years to the American Petroleum Institute (API), is key to their case and should be deposed.

The Department of Justice is fighting that deposition (Climatewire, Jan. 30).

Three industry groups — API, the National Association of Manufacturers, and the American Fuel and Petrochemical Manufacturers — sued to block the case in 2015. That move may expose the trade associations, and officials and companies associated with them, to discovery.

Olson and her colleagues are also worried that the Trump administration, which swiftly pulled down environmental information and climate change data from federal websites, will destroy government records.

In late January, they wrote to federal agencies requesting they retain all documents pertinent to the case (Climatewire, Jan. 26).

Catherine McCabe, acting head of U.S. EPA, said Monday that documents and records wouldn't be destroyed.

The case is Juliana et al v. United States of America et al and is before the U.S. District Court for the District of Oregon.

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