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Attached is the daily news report for Feb. 23 27.

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## BUREAU OF LAND MANAGEMENT

### DAILY NEWS REPORT - UTAH

#### UTAH – TOP STORIES – FEBRUARY 23-27, 2017

1. **Utah lawmakers set out to wrangle wild horses from BLM's control – and possibly slaughter them for meat**

*The Salt Lake Tribune, Feb. 22 | Brian Maffly*

Federal management of wild horses has been a dismal failure, resulting in ecological and economic havoc on Utah's public ranges, according to new legislation that seeks repeal of the 1971 statute protecting free-roaming horses and burros.

2. **Op-ed: Hatch and Trump are dream team rural Utah needs**

*The Salt Lake Tribune, Feb. 23 | Leland F. Pollock*

Last month, President Donald Trump called Utah Sen. Orrin Hatch into the Oval Office, where they spent over an hour discussing various challenges facing our nation, including an issue of critical importance to Utah: presidential land grabs through the Antiquities Act. The president listened intently as Hatch detailed the devastating impacts of executive abuse.

3. **Resolutions call for local control, access to federal lands**

*The Deseret News, Feb. 23 | Amy Joi O'Donoghue*

SALT LAKE CITY — A committee of lawmakers Friday pushed forward a pair of resolutions asserting the state's desire to gain control and access to certain federal lands within its borders.

4. **Volunteers needed for raptor nest surveys**

*The Pyramid, Feb. 23 | Press Release*

SALT LAKE CITY — Bureau of Land Management (BLM) Utah Salt Lake Field Office is seeking volunteers to help conduct the annual Raptor Inventory Nest Survey (RINS).

5. **Editorial: Bears Ears: National decisions affect locals**

*SUU News, Feb. 23 | Editorial Board*

On Dec. 28, 2016, former President Barack Obama designated a new 1.35 million-acre national monument in southeastern Utah called Bears Ears — so named for two buttes rising out of the desert in San Juan County. This designation was met with contention that is ongoing; while national environmentalists support it, locals are outraged.



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#### 6. County asks for public input on state-required RMP

*The Times-Independent, Feb. 23 | Molly Marcello*

Local officials and planners are asking for community input on Grand County's Resource Management Plan (RMP), a state-mandated amendment to the general plan that will identify local preferences for 28 different environmental, cultural, and economic resources within the county. On the website — [grandrmp.org](http://grandrmp.org) — community members can find available data as well as five-minute surveys on the 28 resources, which range from water and air quality to recreation and mining.

#### 7. Resolutions push to wrest public lands from 'broken' fed control

*The Salt Lake Tribune, Feb. 24 | Brian Maffly*

Utah lawmakers appear to be renewing a long-standing threat to sue the federal government to take ownership of 31 million acres of public land.

#### 8. In our opinion: While Utah did itself no favors, Outdoor Retailer did not negotiate in good faith

*Deseret News, Feb. 25 | Deseret News editorial*

The unfortunate demise of the relationship between the Outdoor Retailer trade association and Utah as its longtime convention host leaves questions about what went wrong and where the state might go from here. While not assigning blame, a sober review of how and why the breakup came about may help avoid similar conflicts going forward.

#### 9. Lawmaker: Utah should take over Bears Ears monument

*Deseret News, Feb. 25 | Amy Joi O'Donoghue*

SALT LAKE CITY — If President Donald Trump does not rescind the December designation of the Bears Ears National Monument, a Utah lawmaker is proposing the state acquire the property and manage it in conjunction with Native American tribes.



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#### 10. Op-ed: Bishop wants Trump to do his Bears Ears dirty work

*The Salt Lake Tribune, Feb. 25 | Raúl M. Grijalva*

After the Senate confirms Rep. Ryan Zinke, R-Mont., as secretary of the Interior, which could happen as soon as this week, his first trip will almost certainly be to Utah and to the Bears Ears National Monument. When Zinke visits, he will likely get an earful, again, from Rep. Rob Bishop, who chairs the House Natural Resources Committee where I serve as ranking member. Bishop has set himself up as Congress' foremost cheerleader for rescinding the Bears Ears designation. In an interesting twist of fate, Bears Ears' supporters have lucked out in their chief opponent.

#### 11. BLM seeks input on Canyon Rims Road improvement project

*St. George News, Feb. 26 | Written by or for St. George News*

MOAB — The Bureau of Land Management Moab field office is seeking comments on an environmental assessment analyzing a proposal for road and safety improvements in the Canyon Rims Special Recreation Management Area in northern San Juan County.

#### 12. Ralph Becker: A painful end of the Utah Outdoor Retailer Show

*The Deseret News, Feb. 26 | Ralph Becker*

Forty-three years ago, after several summers working at the Grand Canyon, I moved to Salt Lake City to attend graduate school. I quickly fell in love with Utah — the same state where my grandfather was born. I stayed and built a career and raised a family.

#### 13. In our opinion: Public lands solution

*The Deseret News, Feb. 27 | Deseret News editorial*

Both Sen. Orrin Hatch and Rep. Jason Chaffetz said recently they are confident, after meeting with President Donald Trump, that he will either rescind the Bears Ears National Monument, created by Barack Obama, or reduce its size.





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#### 14. Audio: Call between Herbert and outdoor retailers focused on Bears Ears, money

*The Salt Lake Tribune, Feb. 27 | Taylor W. Anderson*

For almost an hour on the phone Feb. 16, Utah Gov. Gary Herbert rattled off reasons he believed executives from the outdoor industry should keep their lucrative trade show in Salt Lake City.

#### E&E/NATIONAL NEWS – TOP STORIES

##### 1. PUBLIC LANDS: Trump may upend carefully laid plans for sage grouse

*E & E News, Feb. 23 | Scott Streater*

When former Interior Secretary Sally Jewell announced that sweeping federal plans designed to save the greater sage grouse had been finalized less than a year and a half ago, she hailed it as an "epic conservation effort" that took years to complete.

##### 2. PUBLIC LANDS: Amended Utah bill on transfers strikes lawsuit deadline

*E & E News, Feb. 24 | Jennifer Yachnin*

Utah state legislators today tamped down their efforts to seize control of federal public lands, pulling back from legislation that would have set a December deadline for the state to file a complaint with the U.S. Supreme Court in favor of urging action from President Trump and Congress.

##### 3. Hypnotic Animations Show Why Trees Depend on Forest Fires

*Wired, Feb. 24 | Margaret Rhodes*

ELEANOR LUTZ IS a matchmaker, but not for people. Instead she pairs knotty scientific topics with sublime visuals and publishes them on her blog, Tabletop Whale. And these aren't random setups: She once illustrated the topography of Mars as a Victorian-era explorer's map, connecting two periods of voyaging and discovery. Ikea assembly guides inspired an infographic on embryonic development. Recently she hitched diagrams of viruses to a trading card motif because, like baseball players or Pokémon species, each virus has a unique profile.



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#### 4. First trial in Bunkerville standoff case presents paradox

*Las Vegas Review-Journal, Feb. 25 | Jenny Wilson*

Cliven Bundy's armed stand against the federal government has landed him in a prison cell, but some of the rancher's positions on public lands could be enacted into federal law in the new political frontier of President Donald Trump's Washington.

#### 5. Lawmaker Wants Wild Horses Put Under States' Jurisdiction

*The Horse.com, Feb. 26 | Pat Raia*

A Utah legislator has introduced a resolution demanding the federal government either control wild horse herd population growth or relinquish federal jurisdiction of the animals by repealing the Wild Free-Roaming Horse and Burro Act of 1971.

#### 6. Editorial Senate should stand up for environment and not block Obama methane regulation

*The Los Angeles Times, Feb. 27 | The Times Editorial Board*

Nighttime photographs of the United States from space are at first surprising and, upon reflection, dismaying. In rural stretches of North Dakota and Texas, where you'd expect to see dark swaths, you instead see bright splashes of light from the burning of uncaptured methane, a natural gas that can be released as a byproduct of oil drilling. Not all of the unused methane produced by oil extraction is "flared," as the industry calls that burning process. In addition, massive amounts of methane — which is a more dangerous contributor to short-term global warming than carbon dioxide — are simply released and spewed into the atmosphere. Both processes — the burning and the release of wasted methane — are bad for the environment.

#### 7. REGULATION: Dumping Interior rules means tossing safeguards against waste

*E & E News, Feb. 27 | Pamela King*

If Congress successfully rolls back a slate of energy-focused Interior rules, the department could be stuck on a list of agencies at high risk of fraud, waste and abuse, government investigators say.



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#### 8. **CLIMATE: Panel putting social cost of carbon under the microscope**

*E & E News, Feb. 27 | Hannah Hess*

After years of clamoring for more information about the closed-door process that led to the Obama administration's social cost of carbon estimates, a House committee has invited one of the economists behind the controversial estimate to testify.

#### 9. **APPROPRIATIONS: Lawmakers to sound off on Commerce, Interior spending**

*E & E News, Feb. 27 | George Cahlink*

As President Trump readies a budget blueprint to "clean up" the nation's finances, House appropriators are due this week to take initial steps toward writing their own spending bills for fiscal 2018.

#### 10. **PUBLIC LANDS: States back off efforts to seize federal tracts**

*E & E News, Feb. 27 | Jennifer Yachnin*

When state legislatures kicked off their 2017 sessions, advocates of transferring public lands from federal ownership to state control were expected to pursue a series of efforts ranging from resolutions demanding action at the Supreme Court to state constitutional amendments easing the way for land transfers.

#### 11. **TAX POLICY: Energy fears dog border adjustment push**

*E & E News, Feb. 27 | Geof Koss and George Cahlink*

Congressional efforts to enact the first major overhaul of the tax code in 30 years are encountering lawmakers' long-standing reluctance to embrace policy changes that could raise the price Americans pay for gasoline at the pump.



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#### UTAH – FULL STORY

##### **1. Utah lawmakers set out to wrangle wild horses from BLM's control – and possibly slaughter them for meat**

*The Salt Lake Tribune, Feb. 22 | Brian Maffly*

Federal management of wild horses has been a dismal failure, resulting in ecological and economic havoc on Utah's public ranges, according to new legislation that seeks repeal of the 1971 statute protecting free-roaming horses and burros.

Two bills and an appropriation request promote state management that envisions sharply reducing horse numbers through slaughter and permanent sterilization — measures sure to draw stiff opposition from horse advocates.

But Utah lawmakers and county commissioners are fed up with the Bureau of Land Management's approach, which they say allows horses to proliferate at the expense of range health, livestock operators and native wildlife while wasting \$50 million a year confining horses that could be slaughtered for their meat.

"The fragmentation coming out of D.C. is tremendous," Rep. Ken Ivory, R-West Jordan, told the House Natural Resources, Agriculture and Environmental Quality Committee on Wednesday. "This is a hell for the ecosystem, it's a hell for the wildlife species, it's a hell for those on the ground who are told the solution is to cut back their livelihoods and their herds. It's a hell for the animals themselves; they are starving and dying. Clearly we can do this better." Ivory is the sponsor of HCR22, a resolution calling on the federal government to either take immediate steps to "humanely preserve the feral horse and burro populations in the West at established population management objectives" or cede that authority to the state.

Horse advocates reject the premise of this measure, which is one component of a package of legislative actions targeting wild horse management.

Rep. Keven Stratton, R-Orem, is seeking \$1.1 million to manage Utah's 19 herds, whose population now exceeds 5,000, or about 2½ times the BLM's target. He is also sponsoring a bill that lays out a state management plan. Stratton and others have made it clear state management could entail slaughtering horses, but horse advocates say such proposals would face a buzz saw of controversy.



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"Utah is a beautiful state. I would hate to see it get a black eye with these crazy inhumane plans," said filmmaker Ginger Kathrens, executive director of the Cloud Foundation and member of the BLM's wild horse advisory board. "You would have to have the law changed where Utah is this special place where they get management and their plan is to kill them. That's jumping through an awfully narrow hoop. It irks me that they are so blind to the benefits [of free-roaming horses] and can't see beyond their ignorance. They are so out of step with what the American public wants. When you talk about killing healthy animals and trafficking them to Mexico, it's just disgusting."

But lethal population control is in line with positions advocated by Interior Secretary nominee Ryan Zinke as well as the BLM advisory panel, which urged the agency last September to offer "all suitable animals in long- and short-term holding deemed unadoptable for sale without limitation or humane euthanasia. Those animals deemed unsuitable for sale should then be destroyed in the most humane manner possible." Advisory panel members said they were not endorsing slaughter for meat, but after a negative public reaction, the BLM pledged it would not destroy healthy horses and burros.

Ironically, Utah's new legislative push comes as the BLM conducts its most aggressive roundups in Utah in years. Last month, 700 horses from the Sulphur herd were gathered in Beaver County and the agency is currently rounding up the Cedar Mountain herd west of Tooele. So far, 534 horses have been gathered with a goal of 600 to 700. In both these gathers, the BLM planned to administer a fertility vaccine to 200 mares and return them to the range with an equal number of stallions. That decision prompted a lawsuit from Beaver County, alleging the BLM should not return horses to the Sulphur herd area, where horse numbers still exceed the "appropriate management level."

The Utah operations deploy birth control known as PZP-22, which activates the immune system to thwart conception. This drug is effective for a year or two, and Utah lawmakers want to see something longer lasting. In addition to lethal measures, Ivory's resolution calls for scaled-up use of GnRH-based vaccines, a new fertility-control technology that "can permanently sterilize a young horse by inhibiting the hormones that would make it sexually mature."

Most horse-advocacy groups endorse PZP, but that is not the case with GnRH, or GonaCon, which they say has not been proven safe.

"GonaCon interferes with the animals' reproductive hormones and could negatively impact natural behaviors. It is important to preserve these natural behaviors since that is what



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distinguishes wild horses from their domestic counterparts," said Suzanne Roy, executive director of the American Wild Horse Preservation Campaign.

Killing healthy horses will raise far bigger objections. The practice is allowed under the 1971 Wild Free-roaming Horses and Burros Act, but current federal regulations will not permit Department of Agriculture inspectors to sign off on horse meat. Utah lawmakers want to change that so meat from Utah horses can be sold.

"There is a need for the animal protein worldwide but because we don't allow a federal inspector to inspect packing houses we have not been able to utilize the resources we have," Sen. David Hinkins, R-Orangeville, said at a Feb. 9 appropriations committee meeting. Kathrens noted there are no U.S. slaughterhouses that handle horses, so animals marked for slaughter would have to be exported. The last time a buyer shipped wild horses to Mexico, more than five years ago, the public outcry was intense and the Interior Department put a stop to it.

Utah lawmakers said the state Division of Wildlife Resources has developed a detailed horse management plan, but DWR Director Greg Sheehan said the plan has yet to be fleshed out since there are so many unknowns about how much authority Utah could get. He said long-term warehousing of horses is not an option.

"That could cost millions of dollars. Our state is not interested in doing that," Sheehan said. He suspects that destroying horses could be the humane thing to do if it prevents herds from starving.

"We don't do that with dogs and cats," Sheehan said. "We prosecute people who allow their horses to get like that."

County commissioners complain that, under BLM management, horses are suffering on ranges that have become depleted due to overpopulation.

"We have completely decimated the springs. You can't fence off the springs, the horses have trampled them.... Horses are grazing 24 hours a day, 365 days a year. They go where they want. There is no management whatsoever unless they keep the numbers down. It's obvious BLM is not able to manage them," Beaver County Commissioner Tammy Pearson told lawmakers earlier this month. "We need to take the emotion out of this. Our wildlife is suffering. Our livestock are suffering. Our natural resources are suffering. In our desert climate, there is no coming back on this. Our springs are drying up. It's like ground zero."



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Horse advocates say it's ridiculous to blame horses for range conditions when cattle outnumber horses by as much as 9-to-1 on the West's public ranges. They agree corralling horses for life is too costly and ineffective, but they would rather see the BLM do more on-the-range management, principally through administering PZP with dart guns, obviating the need for roundups.

Wild horses occupy about 2 million acres in Utah, or about 10 percent of the BLM land open to livestock grazing.

"It seems like wild horses have become a lightning rod for the ranchers' dissatisfaction with the federal government," Roy said, "but the reality is that wild horses occupy a tiny fraction of federal lands grazed by livestock."

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#### 2. **Op-ed: Hatch and Trump are dream team rural Utah needs**

*The Salt Lake Tribune, Feb. 23 | Leland F. Pollock*

Last month, President Donald Trump called Utah Sen. Orrin Hatch into the Oval Office, where they spent over an hour discussing various challenges facing our nation, including an issue of critical importance to Utah: presidential land grabs through the Antiquities Act. The president listened intently as Hatch detailed the devastating impacts of executive abuse.

Thanks to Hatch, Utahns were finally able to send a clear message to the president: Stop overly broad monument designations, and stop the abuse of power. And finally, we have a president who is willing to listen.

Hatch's conversation with Trump was a much-needed victory for our state. Here in Utah, overreaching monument designations are much more than an inconvenience; they are a threat to our very way of life.

With the stroke of a pen, the federal government can lock away millions of acres of public land that our families depend on for their livelihood, for recreation and, in some cases, for their very survival.

Last month, Hatch brought the president's attention to the damage caused by presidential land grabs. At long last, we have a president who not only understands the problem but who is also eager to work with us to fix it.



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In the wake of the election, a group of rural county commissioners, including me, said that Hatch is strategically positioned to influence the president, and we were right. After Hatch's conversation with Trump last month about the Grand Staircase and Bears Ears, no one would dispute that Utah's most experienced senator has the president's ear on the issues that are most important to our state and our nation.

In the months to come, Hatch will continue to be an indispensable ally and a valuable adviser to the president. That's because Hatch is not only the chairman of the most powerful committee in Congress, the Senate Finance Committee, but he is also a straight shooter.

The majority of the president's key priorities — from fixing our tax code to repealing Obamacare — will require Hatch's input and ultimately his approval as chairman. To move any reform through Congress, the president will continue to need Hatch's cooperation, experience and advice.

Perhaps this is why, only a month into his presidency, Trump has already held multiple meetings with Hatch in the Oval Office. Thanks to his tremendous influence in the Senate, Hatch will continue to have more face time with the president than almost any member of Congress. That's great news for Utah.

I said it once, and I'll say it again: With the ear of the president, Hatch has both the opportunity to advocate for Western priorities and the leverage to deliver. That's why our rural counties need Hatch.

For eight years, the Obama administration laid siege to Western counties, subjecting them to a relentless barrage of damaging and unnecessary environmental regulations, land use restrictions, and in Utah's case, litigation. The administration's parting shot was the last-minute Bears Ears proclamation.

But with a new president — and with Hatch representing Utah's interests before the White House — the status quo is set to change. With Trump and Hatch working together, Utahns against regulatory overreach can push back against the previous administration's disastrous legacy and finally resolve our public lands problems.

*Leland F. Pollock is a Garfield County commissioner.*

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### 3. Resolutions call for local control, access to federal lands

*The Deseret News, Feb. 24 | Amy Joi O'Donoghue*

SALT LAKE CITY — A committee of lawmakers Friday pushed forward a pair of resolutions asserting the state's desire to gain control and access to certain federal lands within its borders.





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[HCR1](#), by Rep. Keven Stratton, R-Orem, details Utah's commitment to remain a public lands state, not to sell those public lands should it gain control of them, and to manage them in a way they should be protected.

The resolution also notes that the state is preserving its option to litigate control of the lands if necessary and urges Utah's congressional delegation to pursue a federal legislative framework to facilitate a land transfer.

"It is a structurally broken, failing system, and we are asking to control what is constitutionally appropriate for us to control," Stratton said.

The political change in the White House with the election of Donald Trump, Stratton said, gives Utah greater hope of success absent the threatened lawsuit.

"We do not support today at this point in time in proceeding with the litigation," he said.

Stratton said critics of Utah's efforts falsely paint it as a land grab in which public lands will be sold to the highest bidder.

"I've said before, only over my dead body will we sell public lands," he said.

Stratton noted a recreation and outdoor economy in Utah that eclipses \$8 billion, emphasizing the sell-off of public lands would be akin to slaughtering the golden goose for meat and ignoring the egg.

"There is no motivation to sell," he said. "It is counterintuitive. It would be economic suicide."

The House Natural Resources, Agriculture and Environment Committee also exercised its muscle with [HCR23](#), which urges expanded state and local influence on travel routes on Bureau of Land Management lands.

Sponsored by Rep. Mike Noel, R-Kanab, the resolution urges no "net loss" of roads or trails on BLM lands, insisting that if there is any reduction in miles of accessible routes, it has to be compensated with a like amount being added.

Rep. Christine Watkins, R-Price, said the resolution would be welcomed by people in her district who have complained repeatedly over once-open trails suddenly declared off-limits.



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"I have had a number of calls from people over the years who had permission to go out on the land and they receive a call that someone changed their mind," she said. "Land they've been using for years and years is denied them. They're not happy, and I think they would support this."

Wesley Tyler, an off-roading enthusiast, said his group has worked with the BLM to obtain permits for riding in area near Wendover off I-80.

"These are legal routes to ride," he said, noting that permits had been issued four different times.

During the last outing, the roads were posted off-limits, Tyler said, and the group was told it would have to pay for an environmental analysis that could take as long as five years if it wanted to ride in that area again.

Passage of the resolutions brought condemnation from state Democrats.

"Legislators continue to overreach their own authority and jurisdiction in an attempt to grab power," said House Minority Leader Brian King, D-Salt Lake City.

"Federalism, which is so heralded here, is about the division of powers. Utah legislators keep attempting to usurp rights that are not theirs, passing resolutions and laws that dictate what can and cannot happen on federal lands by federal officers. This is little different than the edicts of colonialism," King said.

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#### 4. **Volunteers needed for raptor nest surveys**

*The Pyramid, Feb. 23 | Press Release*

SALT LAKE CITY — Bureau of Land Management (BLM) Utah Salt Lake Field Office is seeking volunteers to help conduct the annual Raptor Inventory Nest Survey (RINS).

The survey offers volunteers a unique opportunity to learn about Utah's eagles, hawks, falcons, and owls. Volunteers will collect invaluable data that federal and state agencies will use to help inform management strategies.

The RINS organization will host volunteer training workshops on Feb. 25 and Mar. 4 in Salt Lake City.



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The RINS survey offers a unique opportunity for volunteers to become involved in the long-term monitoring of raptor nests in Utah. RINS will provide volunteers with all the necessary training; no prior experience or scientific credentials are necessary.

Volunteers must enjoy the outdoors, particularly remote areas, and possess a desire to help birds of prey. The time commitment involves visiting an assigned area to monitor nests from March through July.

Volunteers should own a pair of binoculars, a GPS unit, a digital camera, and have an email address.

For more information or to become a volunteer, please call (801) 554-0807 or email the RINS organization at [info@rins.org](mailto:info@rins.org) or visit <http://rins.org/>.

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#### 5. **Editorial: Bears Ears: National decisions affect locals**

*SUU News, Feb. 23 | Editorial Board*

On Dec. 28, 2016, former President Barack Obama designated a new 1.35 million-acre national monument in southeastern Utah called Bears Ears — so named for two buttes rising out of the desert in San Juan County. This designation was met with contention that is ongoing; while national environmentalists support it, locals are outraged. Utah's legislature recently passed a resolution entreating President Donald Trump to rescind the designation. As of publication time, the issue has still not been resolved.

Prior to the decision, the Bureau of Land Management was responsible for the land. Open access was granted to citizens who could ride on ATV trails, camp anywhere and graze their livestock in certain areas. Utah's state government was working on the Utah Public Lands Initiative for three years to keep the Bears Ears area public while protecting it before Obama — petitioned by several out-of-state tribes and environmental groups — stepped in.

This week, the University Journal Editorial Board discussed the implications of this designation and whether or not it is justified.

Some Board members questioned the motive behind the designation. Environmental and cultural protections were the key reasons behind it; in 2016, there were many thefts of Native American artifacts from Bears Ears, according to the Washington Post. Another angle members brought up



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is tourist attraction. A couple of members expressed distaste for this, saying it causes more foot traffic and detracts from the natural, wild appeal of the area. But others said it might help take pressure off southern Utah's other national parks and monuments, like Zion and Bryce Canyon.

While the issue of Bears Ears is largely a question of national protection vs. public access, the main grievance among Board members was the lack of local representation in the decision. Several Board members vocalized disapproval of how Obama went about designating the land as a monument by not consulting locals who are affected by it and brashly overruling state government. This lack of consultation and representation has sparked a wave of outrage from Utahns, making the executive branch appear impersonal and apathetic toward state and local voices.

The Bears Ears Inter-Tribal Coalition consists of the Hopi Tribe, Navajo Nation, Ute Mountain Ute Tribe, Pueblo of Zuni and Ute Indian Tribe. It was founded in 2015 and drove the national monument designation of Bears Ears with the intent to protect its cultural artifacts and sacred land. These tribes officially petitioned the government to attain Native representation in management of the land and ensure access for locals. However, the official stance of the Navajo Nation contradicts the opinions of some local San Juan County chapter members who have expressed opposition. Some say the designation won't enable Native representation and access. Had locals been consulted prior to the national monument designation of Bears Ears, perhaps the outcome would be more favorable.

One local Navajo woman, Marie Holliday, worries the designation will bar daily access. "I fear with a monument, there will be more restrictions, and we won't have that opportunity, especially our Indian people, our Navajo people. We are always being cut off somewhere, and we don't really trust the federal government. That's the way we are. We want to continue to use it like the way it is," Holliday said, according to the Daily Signal. The intended effect of the designation is to protect Native culture; ironically, it could restrict the very access they seek.

Some Board members were dismayed at the national monument's size, as 1.35 million acres is a huge portion of land. They suggested a smaller area being made a national monument with emphasis on leaving parts public for ATV trails, grazing, camping and the like. These same members expressed disappointment with the fact that the Utah Public Lands Initiative did not pass, as it would have designated areas of wilderness and local access. However, another member countered the initiative didn't pass for other reasons — it would have allowed state government to sell areas for oil and mining development.

Board members also expressed doubt about the government's management efficiency; one cited the shutdown of 2013, saying when the government shuts down, so will all access to the land.



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While many members were happy the land was being protected, some were angry about the government's handling of the matter. In early years of the National Parks Service, government representatives would visit areas of designation, examine the areas and talk to locals before making a decision. Clearly, the federal government didn't make that effort in the case of Bears Ears.

The opinions expressed above are the collective perspective of the University Journal Editorial Board. The editorial board meets Fridays at 4 p.m. in Room 176C of the Sharwan Smith Student Center. Readers are welcome to comment online at [suunews.com](http://suunews.com) or on Facebook.

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#### 6. **County asks for public input on state-required RMP**

*The Times-Independent, Feb. 23 | Molly Marcello*

Local officials and planners are asking for community input on Grand County's Resource Management Plan (RMP), a state-mandated amendment to the general plan that will identify local preferences for 28 different environmental, cultural, and economic resources within the county. On the website — [grandrmp.org](http://grandrmp.org) — community members can find available data as well as five-minute surveys on the 28 resources, which range from water and air quality to recreation and mining.

Springville-based planning group Rural Community Consultants is managing the website, gathering local data, and helping draft Grand County's plan. The company was hired for the job using \$50,000 in state-allocated funds, county officials have said.

"Our goal gives Grand County a clear voice on where they're at for 28 issues," said Mike Hansen, a principal with the group. "Ultimately it's the county's plan."

Although the state mandates a county-driven plan, since the bill's final adoption in 2016, it has faced criticism as a resource inventory related to some legislators' desire to take over federal lands.

During an open house on Feb. 8, Hansen acknowledged that the state mandate "rubs some people sideways" because it asks counties to define management objectives for many resources on public lands.



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He noted that RMPs for agencies like the Bureau of Land Management (BLM) and the U.S. Forest Service, which have jurisdiction over public lands, are “extensive” and “super detailed.”

“The state Legislature is saying that all counties need to do the same thing for a lot of resources within the county’s boundary, whether they have jurisdiction or not,” Hansen said. “I know that rubs a lot of people sideways. You’re not alone. That’s a political conversation still going on all over the place.”

Although the resulting resource management plan may have future political implications, Grand County officials, as well as local representatives from federal agencies, say that the community can still benefit from participating in the land planning process.

“I have said from the outset that Grand County stands to benefit from creating an RMP irrespective of the larger statewide conversation regarding the ownership of lands currently managed by federal agencies,” said Grand County Community Development Director Zacharia Levine.

Levine said that the county “has already benefited” from this legislation, specifically with a resource database compiled by the Southeastern Utah Association of Local Governments.

“The database includes virtually all of the publicly available data covering each of the 28 resource topics ... and cites a great number of code references where each topic is discussed via planning, management objectives, or management policies,” Levine said.

Local resident Ashley Korenblat, who has been active in land planning through her nonprofit group Public Land Solutions, said she hopes the county will gain something from this process in spite of its political undertones.

“The county RMP’s were initiated just in case the state is able to take over the federal lands, so this particular planning process is politically charged,” Korenblat said. She called the state’s hopes to take over federal lands “financially irresponsible.” However, she added that her hope is “that the county plans will be useful as a cooperative tool with the BLM.”

According to its local representatives, the BLM is viewing county RMPs as exactly that — a way to look at natural resources across administrative boundaries.

“BLM coordinates with counties on important decisions and a better understanding of their views will be helpful in future planning; to that end these resource management plans will be very useful,” said Canyon Country District Manager Lance Porter.



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Canyon Country District spokesperson Lisa Bryant said the BLM has already coordinated with local counties throughout the county RMP process, giving them access to federal information.

“We have provided maps, data, and information regarding federal land management regulations that counties may find helpful, and have offered to assist in reviews if requested,” Bryant said.

Ultimately however, in order to create a credible and useful plan, the public must provide input, Levine said.

Hansen, whose firm is also drafting RMPs for 10 other counties, called Grand County the most engaged. However, he said he is concerned that “planning fatigue” might have set in across the state, referencing the recent and demanding work spent on Rep. Rob Bishop’s Public Lands Initiative (PLI), which failed in Congress after two years of community engagement.

“Thirty people at an open house in Grand County is not much,” Hansen said regarding the recent Moab event.

But he said the county RMP is very different than the PLI process, adding that the resulting document will actually become part of Grand County’s general plan and could influence resource management decisions in the future.

“It’s a good starting point, a baseline for the future instead of a halfway finished PLI,” Hansen said. “This document is part of the county’s general plan, just like affordable housing and transportation.”

Noting that Rural Community Consultants is currently “harvesting ideas,” Hansen is encouraging community members to participate in the resource surveys, which are available on the website. The five-minute surveys allow local residents to weigh in on each of the 28 local resources, as well as identify any issues with the compiled data.

“Everybody in Grand County has their own opinion, so we want to gather as much opinion through our public survey on our website,” Hansen said. “... If it gets adopted, it’s the word of the county. It’s not just the council members’ opinion.”

According to the state law, the county council must adopt the RMP policy as part of its general plan by August, after which it will be folded into a statewide plan during the Utah Legislatures 2018 general session.



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Hansen said survey data will be gathered until March 6. For more information, and to take the surveys, visit: [grandrmp.org](http://grandrmp.org).

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#### 7. Resolutions push to wrest public lands from 'broken' fed control

*The Salt Lake Tribune, Feb. 24 | Brian Maffly*

Utah lawmakers appear to be renewing a long-standing threat to sue the federal government to take ownership of 31 million acres of public land.

A resolution that advanced out of committee Friday doubles down on the Legislature's quest to wrest control but prioritizes a congressional process. Filing a petition before the U.S. Supreme Court, expected to cost \$14 million, would serve only as a last resort.

"The intent of this is to say, 'Look, we treasure our public lands. We have always treasured our public lands. It is the protection of our public lands that we are seeking,' Rep. Keven Stratton, R-Orem, told a House committee.

Stratton's HCR1 was one of two resolutions advanced by the committee Friday that seek greater state control over public land and its resources, arguing federal management is "structurally broken" and shuts out the wishes of local residents.

Critics see it as a power grab.

"Federalism, which is so heralded here, is about the division of powers. Utah legislators keep attempting to usurp rights that are not theirs, passing resolutions and laws that dictate what can and cannot happen on federal lands by federal officers. This is little different than the edicts of colonialism," Rep. Brian King, D-Salt Lake City.

Sponsored by Rep. Mike Noel, Utah's leading land-transfer warrior, HCR23, the second resolution, calls for "no net loss" of motorized recreation routes on public land and alleges environmental organizations have undue influence over what routes are open to motorized use.

Noel's resolution challenges a recent legal settlement between the federal Bureau of Land Management and environmental groups, requiring the BLM to revise motorized travel plans in five resource areas. He insists the BLM must replace any motorized opportunity it takes away with an "equivalent" one nearby.





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Steve Bloch, legal director of the Southern Utah Wilderness Alliance, dismissed Noel's characterization.

"It used to be cross-country travel everywhere," Bloch said. "The state and OHV groups agreed that was having obvious damage in light of growing motorized use."

He and other advocates lambasted the state's campaign to take over public lands, something no other Western state has embraced.

"These are America's federal lands that the Legislature has once again reiterated it wants to take away," Bloch said. "These lands were never Utah's."

But lawmakers say state control aims only to protect the land, not open most of it to grazing, drilling and logging as critics suspect.

"We are here to increase access, increase the health and vitality of the land," Stratton said. "Only over my dead body would we sell any of our public lands."

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#### **8. In our opinion: While Utah did itself no favors, Outdoor Retailer did not negotiate in good faith**

*Deseret News, Feb. 25 | Deseret News editorial*

The unfortunate demise of the relationship between the Outdoor Retailer trade association and Utah as its longtime convention host leaves questions about what went wrong and where the state might go from here. While not assigning blame, a sober review of how and why the breakup came about may help avoid similar conflicts going forward.

Before the association's decision to no longer look to Utah to host its two annual trade shows, we encouraged both parties to negotiate in good faith with an open mind toward each other's points of view. That did not happen. The association's representatives abruptly left a meeting with state leaders in what the retailers likely intended to be a show of solidarity and conviction. Some claim the retailers, disgruntled for years, simply found a convenient excuse to leave. It came across as obstinate and petulant. The organization essentially delivered an ultimatum that would have required the state to undertake a 180-degree turn on policy positions — particularly on efforts to reverse the executive order creating the new Bears Ears National Monument. For the



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retailers to act as if the state would or could make such an abrupt turnaround to satisfy a trade group speaks to either arrogance or naiveté.

For the state's part, it is also naïve to believe that a spate of anti-federal rhetoric from Utah's political leadership in recent years hasn't created a legitimate public relations problem. The state argues that it is unfair for environmentalists and recreationists to interpret Utah's outspoken posture on management of public lands as an assault on public lands, but that is exactly their perception, fair or not. Utah has done much to burnish its credibility as a state that prizes its parks, open spaces and recreational amenities, but constant rhetorical attacks on the management of the lands where many of those amenities are situated create the opposite impression.

The state has not always adequately articulated a compelling argument supporting its consternation over Bears Ears in particular and federal land management in general. Much of what we hear is a blanket of generalized disdain that covers all things federal. When recreationists say the a priori intent of Utah leadership is to push for development of protected lands, they only have to look at the two-paragraph rationale published in support of the state's land transfer initiative on the website of Utah's Public Lands Policy Coordinating Office. The statement talks about the messiness of federal regulations and how they "often prevent development of these resources resulting in diminished revenue to the State and its citizens." It goes on to say that land transfers would "increase Utah's ability to access and responsibly develop its energy resources."

Going forward, the state would do well to work on ways to better explain, defend and advocate on behalf of its positions on matters of land management and protection of resources while maintaining important relationships. Organizations like the Outdoor Retailer group would do well to recognize that choosing a location for regular shows and conventions does not grant it the authority to dictate public policy.

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#### 9. **Lawmaker: Utah should take over Bears Ears monument**

*Deseret News, Feb. 25 | Amy Joi O'Donoghue*

SALT LAKE CITY — If President Donald Trump does not rescind the December designation of the Bears Ears National Monument, a Utah lawmaker is proposing the state acquire the property and manage it in conjunction with Native American tribes.

Rep. Mike Noel, R-Kanab, said the federal government is allowed to lease or sell public lands for recreational or public purposes under the Recreation and Public Purposes Act.



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Noel's [HCR24](#), unveiled Friday, asserts the state is willing and able to apply under the provisions in the act to own or lease the land that is presently designated as Bears Ears National Monument, which comprises 1.35 million acres in San Juan County.

The resolution is not intended to supersede HCR11 — already passed by the Legislature and signed by Gov. Gary Herbert — but acts as another symbol to the state sentiment of federal overreach, according to the language in the resolution.

[HCR11](#), sponsored by House Speaker Greg Hughes, R-Draper, asks Trump to rescind the Bears Ears monument designation made Dec. 28 by the Obama administration.

That resolution, plus another seeking to shrink the size of the Grand Staircase-Escalante National Monument, have sparked a political frenzy in the state and in part led the Outdoor Industry Association to pull the lucrative Outdoor Retailer show from Utah after the contract expires next year.

Environmental groups and Native American leaders have been highly critical of the state's part in the conversation over protecting the region, which is said to contain more than 100,000 archaeological sites, including graves.

A coalition of five Native American tribes sought protection for the rugged and remote region, traveling to Washington, D.C., to press support by the Obama administration for their cause.

The majority of the land is already owned by the federal government — the Bureau of Land Management and the Forest Service — but supporters of the designation argued that monument status would bring an additional layer of protection.

Tribes, too, wanted a say in the management of the land, and the monument proclamation includes a mechanism to set up an advisory committee to provide tribal guidance.

Noel's resolution also includes management provisions for Native Americans.

"Management and stewardship over the land would be a joint coalition effort that includes southwestern Native American tribes, the Utah Division of American Affairs, local elected officials, and the local Navajo Nation chapter surrounding the Bears Ears area," the resolution states.



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Since the designation and in the aftermath of the reaction by Utah's political leaders, monument supporters have waged an intense campaign to make sure the Trump administration knows to keep the monument intact.

On the flip side, monument critics have done their own campaigning to get the designation unraveled. Sen. Orrin Hatch and Rep. Jason Chaffetz, both R-Utah, said they have met with Trump and the Bears Ears designation is on the president's radar.

Both opponents of the monument and its supporters have invited Ryan Zinke, the nominee for secretary of the interior, to visit Utah before making any decision.

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#### 10. **Op-ed: Bishop wants Trump to do his Bears Ears dirty work**

*The Salt Lake Tribune, Feb. 25 | Raúl M. Grijalva*

After the Senate confirms Rep. Ryan Zinke, R-Mont., as secretary of the Interior, which could happen as soon as this week, his first trip will almost certainly be to Utah and to the Bears Ears National Monument. When Zinke visits, he will likely get an earful, again, from Rep. Rob Bishop, who chairs the House Natural Resources Committee where I serve as ranking member. Bishop has set himself up as Congress' foremost cheerleader for rescinding the Bears Ears designation. In an interesting twist of fate, Bears Ears' supporters have lucked out in their chief opponent.

Despite the fact that he could bring up a bill to rescind the designation himself at any time — as chairman, he sets the agenda for the committee — Bishop has decided to try to persuade the Trump administration to fight his battle for him. It doesn't take much research to learn that the theory behind this approach is untested and unlikely to succeed.

Bishop is trying to convince the White House that the Antiquities Act, which allows presidents to designate national monuments on federal land already owned by taxpayers, also allows them to rescind those designations. Fortunately for monument supporters everywhere, that power is not mentioned anywhere in the law, and no one has ever attempted to use it. Instead of exercising his own legislative authority and having to defend his actions to his constituents, Bishop would prefer that administration officials like Zinke try to rescind the Bears Ears designation, end up in court defending a legally dubious claim and take the heat themselves.



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This is not a hypothetical scenario. Indeed, Bishop acknowledged it in a Feb. 5 National Public Radio segment headlined "Utah Representative Wants Bears Ears Gone and He Wants Trump to Do It." Rather than doing the simple work of introducing a bill, which likely wouldn't have more than a page of text, and then bringing it up in his own committee at his earliest convenience for a debate and a vote, Bishop is egging on the Trump administration from the bleachers.

You might wonder why a powerful and outspoken House committee chairman would urge others to fight his battles. The answer is that in poll after poll, year after year, average Americans express consistent support for national monuments.

The 2017 version of the state-of-the-art Colorado College "Conservation in the West" poll, released after surveying thousands of representative Westerners about key issues, found such overwhelming support for national monuments in seven states that Utah's breakdown — 60 percent support keeping existing monument designations, while 30 percent support removing them — was the closest margin in the bunch. Let me repeat that for emphasis: Among voters in Utah, Arizona, Colorado, Montana, Nevada, New Mexico and Wyoming, the closest you'll get to support for rescinding national monument status is a 30-point deficit.

This may explain why, after more than 20 years of sound and fury directed at Grand Staircase-Escalante National Monument, Bishop has never done the simple work of introducing a bill to eliminate that monument either.

Bishop and other House Republicans are playing both ends against the middle. Heated anti-monument and anti-public lands rhetoric appeals to a small segment of the public, while never acting on tough talk avoids riling up the huge coalition of Native Americans, hunters, anglers, hikers, bird watchers and public lands lovers who energetically support Bears Ears and our other special places.

Executive action to undermine Bears Ears has already cost the state of Utah its reputation as an outdoor recreation mecca, not to mention millions of dollars, with the Outdoor Industry Association's recent decision to move its massive trade show out of the state. Zinke might do well to take note: Just because House Republicans are holding the door open does not necessarily mean you should walk through.

*Rep. Raúl M. Grijalva, D-Ariz., represents the Third District of Arizona. He is ranking member of the House Committee on Natural Resources.*

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#### 11. **BLM seeks input on Canyon Rims Road improvement project**

*St. George News, Feb. 26 | Written by or for St. George News*

MOAB — The Bureau of Land Management Moab field office is seeking comments on an environmental assessment analyzing a proposal for road and safety improvements in the Canyon Rims Special Recreation Management Area in northern San Juan County.

This is a joint project with BLM and the Federal Highway Administration Central Federal Lands Highway Division that proposes improvements to rehabilitate, restore and resurface approximately 38 miles of the Needles and Anticline Overlook access roads. Both of these roads are Utah Scenic Backways.

The area receives about 85,000 visitors each year with projected increases of an additional three percent per year into the future, according to the BLM news release. The proposed road improvements will provide better public access and safety. The overlooks provide magnificent views of Canyonlands National Park and the Colorado River. They do not provide motorized access to the canyon below, as they are located 1,000 feet above, separated by incredibly steep cliffs and rugged terrain.

The environmental assessment analyzes potential impacts of improving these roads to a variety of resources including grazing, wildlife, archaeology, and recreation.

Read more: EA DOI-BLM-UT-Y010-2015-0149-EA – Environmental Assessment for Needles and Anticline Overlook Road Improvement – 20170214 Canyon Rims – Final Draft EA(1)

More information about the project, including the detailed proposal, analysis, and maps can be found [on the BLM's project webpages, linked here, DOI-BLM-UT-Y010-2015-0149.](#)

Comments will be accepted through March 13 and may be submitted online through the above link or via mail to the following address:

Bureau of Land Management  
Moab Field Office  
Attn: Canyon Rims Road Improvement Project  
82 East Dogwood  
Moab, UT 84532



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

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#### 12. **Ralph Becker: A painful end of the Utah Outdoor Retailer Show**

*The Deseret News, Feb. 26 | Ralph Becker*

Forty-three years ago, after several summers working at the Grand Canyon, I moved to Salt Lake City to attend graduate school. I quickly fell in love with Utah — the same state where my grandfather was born. I stayed and built a career and raised a family.

Throughout these many years, my relationships and experiences in Utah have been strengthened by outdoor recreation — almost all of it on public lands. Hiking, fishing, river-running, hunting, skiing, camping ... these things define much of who I am and why I will always call Utah home.

I am convinced that most Utahns share these sentiments — even those whose views on the value of public lands differ from my own. I commonly cross paths in the great outdoors with longtime acquaintances, from both rural and urban Utah, who privately express their deep appreciation for our remarkable landscapes. Yet some of the same people publicly advocate selling off those very lands.

While I understand the frustration of rural Utahns who believe federal lands hamper their traditional livelihoods and forms of recreation, I am simultaneously dismayed by the inability of our elected officials to lead us toward practical solutions to our public lands issues. The departure of the Outdoor Retailer Show underscores this point.

Last week's phone conversation between leaders of the outdoor industry and Gov. Gary Herbert was an opportunity for both sides to listen to one another and find common ground. Instead, the governor reiterated a bullet list of accomplishments on public lands and support for industry — none of which included the industry's key concerns. The outdoor industry reiterated its position that unless the state's resolution to rescind or reduce national monument status for Bears Ears and Grand Staircase Escalante was withdrawn, it would leave the state — something the



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governor said he could not unilaterally do. In short, communication failed and a golden opportunity was lost.

That communication breakdown, coupled with the state's refusal to find common-sense solutions, cost Utah the OR Show. Contrary to the partisan statements that Utah will "do just fine without the OR's big trade show," our state will be a big loser. Colorado, Idaho, New Mexico, Nevada and other states understand this, and are cueing up to replace Utah.

State and local governments will lose \$45 million annually. More than 122,000 jobs stem from the outdoor industry, contributing an estimated \$12 billion to our economy. In addition, OR's exit has prompted other industries to pursue their large, annual shows elsewhere. These include Interbike's International Expo and a major ski industry expo — each of which would have generated millions of dollars for our state. Utah's bid for a future Winter Olympics also may be jeopardized on basic reputational grounds. (One of the three pillars of the Olympic mission is protection of the environment.)

I receive queries from people not just in the U.S., but around the world, asking what is happening in Utah?

I believe Utah lawmakers are ignoring a basic reality in their foolish litigation to take over our federal lands: it is well established in the U.S. Constitution, and every Supreme Court decision, that the federal government can do as it pleases with U.S. lands.

Beyond legal realities, Utah's elected leaders have reduced funding for badly needed land management. And it was Utah representatives who invoked the federal government shutdown that closed our national parks. Political stunts may appeal to some Utahns frustrated with federal land management, but there are significant economic and reputational costs to disregarding the interests of businesses and people who rely on — and care about — public lands.

Solutions are possible. Utah leaders should draw on past successes, when our state faced similar challenges. For example, lawmakers passed legislation that solved generations of conflict over public lands in Washington County. And in the aftermath of the Grand Staircase-Escalante National Monument designation, Utah implemented the largest land exchange in the history of the continental United States, strengthening state school trust revenues and federal land management.

Sadly, consensus-based congressional public lands solutions like these are at a standstill. Implementing legislation for Mountain Accord went nowhere at the end of the last Congress, despite years of stakeholder engagement and a consensus agreement signed by all the parties.





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The Public Lands Initiative, which would have obviated the need for a Bears Ears National Monument, fell apart.

Utahns should not accept the state's political narrative that outdoor retailers do not matter to our state and it was all "their" fault. Nor should we deny the need to support rural neighbors and economies. We should support leaders who deliver meaningful solutions to our public lands challenges, and reflect the values we share that make our state so special — and so appealing to the rest of the world.

*Ralph Becker is a former mayor of Salt Lake City.*

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#### 13. **In our opinion: Public lands solution**

*The Deseret News, Feb. 27 | Deseret News editorial*

Both Sen. Orrin Hatch and Rep. Jason Chaffetz said recently they are confident, after meeting with President Donald Trump, that he will either rescind the Bears Ears National Monument, created by Barack Obama, or reduce its size.

Such a move will likely attract a legal challenge. A president never has tried to undo a monument designation, and the law does not expressly give a president the power to do so. Presidents have reduced monuments, but that power hasn't been challenged in court.

We hope, however, that any change to the monument would result in Utah's congressional delegation revising and restarting the Public Lands Initiative that failed to reach a compromise that would have likely stopped the monument designation in the first place. We also hope it is a serious effort this time — an important redo of what should be seen as nothing short of a colossal failure, considering the kind of political hype that politicians generated with it.

The PLI, as it was known, held the potential for far-reaching agreement that might have protected parts of Desolation Canyon and expanded Arches National Park, among other things. Had it succeeded, it would have had the strength and the support of all stakeholders, who would, of necessity, have negotiated and compromised to form a workable solution to competing interests. It also would have ushered in an era where political interest groups could have found common-ground solutions to the land battles of the West.

The PLI's failure was the opposite of what happened a few years earlier with a Washington County lands bill that successfully brought all sides together. Led by the late Utah Sen. Bob



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Bennett, that deal protected endangered species, set aside wilderness areas and gave the fast-growing St. George area room to develop.

Once that agreement was reached, Congress passed it into law and Obama signed it. It remains a model for how Utahns can solve vexing land issues.

With such an agreement surrounding Bears Ears, contention could have been avoided, the Outdoor Retailers might have remained in Salt Lake City and a hopeful attitude might have permeated other Western lands issues.

Differing accounts explain the PLI's demise. Chaffetz told the joint Deseret News and KSL editorial boards that it failed because environmentalists and the Department of Interior didn't want to negotiate. Leaders of the environmental group Southern Utah Wilderness Alliance, however, contend they were excited about negotiations but that leaders of the affected counties balked at the terms other stakeholders had accepted and withdrew support. They say subsequent versions of the PLI tried too hard to placate the counties.

The reasons the effort failed are not as important as the need to find a meaningful solution in the future, especially if Bears Ears reverts to its former status as BLM and Forest Service land.

Environmentalists and conservative politicians seem to agree Bears Ears contains land sacred to Native Americans and worthy of protection. They seem to agree, as well, that other parts of Utah deserve protection from development. These are excellent starting points. Finding reasonable accommodations for recreationists and energy concerns in addition to this ought to be feasible.

Should Trump rescind the monument, that alone would not provide the motivation for all sides to resume efforts to find a grand bargain. However, their public statements in support of such a thing should make it shameful for them to do otherwise. Local officials should also see it as an opportunity to redo things in a better way.

Even if the president merely reduces the size of the monument, the move toward a grand solution to public lands issues in the state should restart. The issues at stake are important.

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#### 14. **Audio: Call between Herbert and outdoor retailers focused on Bears Ears, money**

*The Salt Lake Tribune, Feb. 27 | Taylor W. Anderson*

For almost an hour on the phone Feb. 16, Utah Gov. Gary Herbert rattled off reasons he believed executives from the outdoor industry should keep their lucrative trade show in Salt Lake City.

The conference call was cordial. Herbert said he believed the group could find ways to bridge differences and keep the two shows a year in Salt Lake City, where it has resided for two decades.

Then, in the call's final moments, executives from the Outdoor Retailer shows and its vendors told Herbert he had only one or two weeks to show stronger support for public lands. Failure to do so would cost the state the Outdoor Retailer events and the chance to land another trade show for the cycling industry.

"If you're giving me an ultimatum here on the phone, then the answer is, I guess, we're going to have to part ways," Herbert said, with resignation in his voice.

With that, Utah lost both shows. The executives thanked the governor and quickly ended the call.

A recording of the conference call, obtained by The Salt Lake Tribune through a public-records request, shows how chief executives behind some of the country's best-known outdoor apparel and gear aired their grievances over Herbert's opposition to two national monuments. They also were concerned about whether state leaders valued the millions of acres of public lands across Utah.

Herbert asked the retailers to keep their show in Salt Lake City, lauded their contributions to remaking cities like Moab and Ogden, but made clear he and the GOP-led Utah Legislature were sincere in their criticism of President Barack Obama's designation of Bears Ears National Monument and wanted that move rescinded.

The executives from brands that included Patagonia, The North Face and REI told the governor if he wasn't prepared to at least make a public statement in support of the new layer of protection for the 1.35 million-acre monument, which Obama created under the Antiquities Act in December, the show and the economic bonanza it brought to Utah was prepared to sever ties with the state.



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"What's happened in the last few weeks has put us in the position where, frankly, you probably have a week or two to come up with a strong statement and get support for whatever statement you're willing to make in order for Utah to be included in the [bidding] process for where the show ultimately ends up," said Gordon Seabury, chairman of the Outdoor Industry Association.

"You're looking at 60 to 90 days before we make a decision," Seabury added, "and significant additional action must happen."

Herbert said elected leaders in Utah shared the same overarching goals of protecting public lands and that he signed the resolution at the behest of some who live near the new monument and the Grand Staircase-Escalante National Monument who detest the management of federal lands.

"Some of those deep feelings about a monument still reside, particularly with a lot of the local people in the rural parts of our state who are struggling economically," the Republican governor said. "Probably they're just angry because of that and this [monument] gets kind of caught up in it."

Herbert also told the executives past presidents had been "cavalier" with their application of the 1906 Antiquities Act. He said the act was intended to grant power to protect the "smallest area necessary to protect the objects that we're trying to preserve."

"If you look at the Grand Staircase," he said, "that's clearly not what happened."

The call highlights how the governor's office and outdoor groups differed on the process of protecting Bears Ears.

Herbert repeatedly said he wanted the monument rescinded so Congress could pass legislation protecting the area and giving local Indian tribes a bigger role in managing the land.

The executives asked why the governor and legislators preferred stripping the existing protection before replacing it with a different layer of federal protection.

"Never really in our history of working in conservation ... has a state sought to rescind a national monument, let alone two," said Patagonia CEO Rose Marcario.

As Herbert asked for "a little slack" and more time to have a conversation about Bears Ears, Marcario said: "It would have been nice to have these conversations before a resolution was passed to rescind a national monument, which as I said, is a historic action. ... That's something we've never seen [in the conservation movement]."



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Amy Roberts, executive director of the Outdoor Industry Association, warned that rescinding the monument by executive order "will threaten the Antiquities Act."

Paul Edwards, Herbert's spokesman, later told The Tribune the governor was open to the idea of keeping the protection in place while Congress debated legislation on the area.

"It's a fair question to ask what the proper ordering should be. Is it repeal and replace? Is it replace and repeal?" Edwards said. "The governor in his conversations has raised that as a point of possible discussion.

"But there's just very strong insistence, at least our sense when we had this telephone conversation [earlier this month], was that they wanted a conscientious rejection of the position that there shouldn't be a monument," he said, adding Herbert felt "that isn't in the overall best interest of the state."

The call makes clear that is what outdoor leaders asked for, posing what Herbert considered an ultimatum that would prove to be an impasse.

While the discussion may have been about public lands, the subtext was money.

Marcario told Herbert the CEOs on the call represented \$5 billion in revenue. Darrell Denny, executive vice president of Emerald Expositions, which owns Outdoor Retailer, told Herbert that if Utah lost the show, it also would lose the chance to host the annual Interbike trade show.

The Outdoor Industry Association announced the night of the call it would move on from Utah.

On Wednesday, it added the show might leave before the end of the ongoing contract in Salt Lake City, which goes through the summer 2018 event. Instead, the group said on its website, the upcoming summer show could be the final one in Utah.

At the time outdoor leaders were talking with Herbert on Feb. 16, HCR12, a resolution calling for federal legislation to shrink the border of the Grand Staircase-Escalante National Monument, awaited Herbert's pen.

He signed the resolution the day after the conference call.

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#### E&E/NATIONAL NEWS – FULL STORY

##### 1. **PUBLIC LANDS: Trump may upend carefully laid plans for sage grouse**

*E & E News, Feb. 23 | Scott Streater*

When former Interior Secretary Sally Jewell announced that sweeping federal plans designed to save the greater sage grouse had been finalized less than a year and a half ago, she hailed it as an "epic conservation effort" that took years to complete.

The Republican governors of Nevada and Wyoming and the Democratic governors of Colorado and Montana stood next to Jewell at the September 2015 ceremony. She revealed that the mottled-brown bird would not be listed for protection under the Endangered Species Act, in large part because of the federal plans.

But the election of President Trump just over a year later has federal and state officials, conservation groups, and others expecting big changes in how the plans are carried out — if they are ever fully implemented.

Trump has not publicly addressed the federal sage grouse plans. But Rep. Ryan Zinke (R-Mont.), Trump's nominee for Interior secretary, has been a vocal critic, comparing them at one time to Obamacare and saying he wants "state-driven solutions" for managing grouse.

Trump cannot simply dismiss the blueprints, which amended 98 Bureau of Land Management and Forest Service land-use plans to incorporate protective measures covering nearly 70 million acres of sage grouse habitat in 10 Western states. Amending land-use plans requires a lengthy analysis and public comment period.

But some observers foresee the Interior and Agriculture departments reopening the land-use plan amendment process to revise the sage grouse plans — an effort that would take years and likely stretch well past Trump's first term in office.

"Obviously, they could restart the planning process tomorrow," said Sarah Greenberger, who as one of Jewell's top counselors helped develop the plans.

In the short term, the Trump administration is expected to scale back implementation measures, observers say, initially by removing funding for grouse conservation efforts from the president's fiscal 2018 budget request. And the administration could curtail efforts defending lawsuits against the federal plans.



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Congress is already moving to block the plans and give states more control.

House Natural Resources Chairman Rob Bishop (R-Utah) last month filed a bill, [H.R. 527](#), that would give governors the authority to bar any provisions in the federal plans that do not conform to state-approved grouse conservation strategies (Greenwire, Jan. 16).

Sen. Jim Risch (R-Idaho) filed a companion bill, [S. 273](#), earlier this month (E&E Daily, Feb. 3).

Western states are likewise pushing the new administration for greater flexibility in how the plans are implemented. Colorado, Utah and Wyoming want federal plans to more closely align with state grouse strategies on issues like mitigation and oil and gas leasing near sensitive grouse breeding grounds, called leks.

"I think we're fairly hopeful that we can work with the new administration and new secretary of the Interior, when he's confirmed, to maximize flexibility," said John Swartout, a Republican who is a senior adviser to Colorado Gov. John Hickenlooper (D) and a member of a federal-state sage grouse task force.

It's not clear what specific steps Zinke might take as Interior secretary. Representatives with the Interior Department did not respond to a request to comment on this story.

Derrick Henry, a BLM spokesman, said the agency has not been told to change its approach to sage grouse management.

"Right now, we're operating under the current [grouse management] plans," Henry said.

But all the uncertainty has some of the principal architects of the federal plans concerned about the fate of the grouse.

Because sage grouse occupy such a vast range across most of the Great Plains, a rangewide plan is needed to restore the bird and protect its habitat, said Greenberger, who is now vice president for conservation at the National Audubon Society.

The plans established primary habitat management areas and general habitat management areas where new oil and gas drilling, some large transmission line projects, and livestock grazing are prevented or limited. The plans focus conservation measures in specific areas that are most important to the grouse, while still allowing oil and gas and renewables development.

"This was an attempt to step in on the front end and do something strategic," she said.



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Greenberger said she understood there were going to be "growing pains" in implementing the plans.

"I think on the ground in the West, there are certainly some frustrations," she said. "But there also continues to be a sense that people were really working together for something important and trying to solve a problem in a very pragmatic way."

She added: "If you unravel it, we're going to be in court."

#### **'Resolve and revise'**

The federal grouse plans already face numerous legal challenges by a wide variety of groups, including the states of Utah and Nevada, the Western Energy Alliance, and North Dakota Petroleum Council, mining companies and several counties in Nevada.

If the Trump administration dismantles the federal plans, one of the first places the effort will show up is in the government's defense of these lawsuits, according to legal experts.

While some have suggested the administration could order the Justice Department to quit defending the cases in court, that's not likely, observers say, because each of the lawsuits challenges some aspect of the federal government's ability to regulate activities on federal land.

"It would be very hard to take a position not to defend the cases that question your authority to manage federal lands," said Nada Culver, senior counsel and director of the Wilderness Society's BLM Action Center.

Instead, DOJ may work to settle the lawsuits, agreeing to make specific revisions to the grouse plans, perhaps by a certain deadline.

"I would think there would be a very good opportunity to talk in settlement negotiations between the plaintiffs and federal defendants, and to really listen and resolve and revise," said Kent Holsinger, a Denver natural resources attorney who has represented the energy and agricultural industries in litigation involving sage grouse.

Pat Parenteau, senior counsel at the Environmental and Natural Resources Law Clinic at the University of Vermont, agrees this is a plausible scenario.

But revising the plans would be complicated, he said.





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That's because they amended dozens of federal land-use plans, meaning Interior and USDA would have to open a new rulemaking process that would mandate additional studies and analysis, hearings and opportunities for the public to submit comments.

"You don't just snap your fingers and they're gone," Parenteau said.

Complicating matters is the fact that a number of environmental groups have intervened on the side of the Interior and Agriculture departments in a handful of the lawsuits.

While formal intervenors cannot block settlement agreements, they can review the terms and "object and argue to the court why the settlement cannot be approved," Parenteau said.

"You can't get away with a backroom deal without public scrutiny and comment," he added.

The wild card in such a scenario is the Fish and Wildlife Service, which could always reverse course and list the bird for ESA protection, said Bob Keiter, a University of Utah law professor who specializes in natural resources and public lands.

"If the plans were substantially altered, that would open the door for a [ESA] listing, which most people, I think, believe would lead to more onerous protections for the bird," Keiter said. "There are a lot of things for the agencies to consider before jumping off and trying to scrap the plans wholesale."

#### **States want 'flexibility'**

Western state leaders who want revisions to the federal plans say they're positioned to make them happen with the Trump administration.

In Utah, the state wants more time for its grouse management strategy to work before the federal plans are fully implemented, said Braden Sheppard, legal counsel for Republican Gov. Gary Herbert's Public Lands Policy Coordinating Office.

Failing that, Sheppard said, the state wants to see the federal plans "significantly revised to allow for multiple-use on federal lands, or rescinded."

Utah filed a federal lawsuit last year challenging the plans, arguing they undermine the state's sage grouse conservation efforts (Greenwire, Feb. 5, 2016).



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"We have worked really well with our federal partners to try and work within the plan," Sheppard said. "However, it's a one-size-fits-all decision, and it does not reflect the tremendous diversity of greater sage grouse habitat across the West and here in Utah."

In Wyoming, which is home to nearly half the remaining grouse, the federal plan is modeled after the Cowboy State's core sage grouse area approach adopted in 2008 that identified habitat where conservation is prioritized and development discouraged.

Gov. Matt Mead (R) has reaffirmed and expanded the state program through two subsequent executive orders, and he has expressed his support for the federal grouse plans.

Still, the federal blueprint includes some significant differences from the state plan, including the type of mitigation requirements when disturbances do take place inside core areas. For projects in portions of the state where there's a checkerboard pattern of federal-state ownership, mitigation requirements can be different on parcels sitting side by side.

"Wyoming would welcome more flexibility to implement the governor's core area sage grouse strategy," said Mike McGrady, Mead's policy adviser. "We'd like to see the mitigation standards BLM's applying better align with the core area strategy."

Flexibility is also a buzzword in Colorado.

Swartout said the state supports the federal grouse plans. "The goal is to try to make these plans work, and through implementation there's lots of options to make these plans work," he said.

But he said Colorado wants to see some changes, including allowing oil and gas development in some cases closer to leks than the federal plans allow.

Swartout said the federal strategy that the state worked out with BLM Colorado officials included a tiered-system approach to leasing near leks, where development is allowed as long as certain conditions were met for projects 3 miles from a lek, with different criteria for projects 2 miles away and 1 mile away.

But when the draft plans were sent to BLM headquarters in Washington, Swartout said, the tiered system was removed.

"We look forward to having a dialogue with the new people," he said.



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Swartout said Zinke's testimony during Senate confirmation hearings last month has state leaders feeling optimistic about the Trump administration's plans for grouse management.

"He talks about appropriate balance. We need to get that balance right," Swartout said. "We actually are hopeful they'll have a greater understanding of what states need to make this work."

#### **A 'common goal,' murky future**

Altering the plans, even in subtle ways, could lead to additional lawsuits from conservation groups to force the Trump administration to carry out the already approved mandates.

"This was the biggest planning deal of my BLM career, and we got there with the states at the table," said Steve Ellis, the former BLM deputy director who, before retiring last year, helped craft instruction memorandums directing agency field offices how to implement the plans.

"Did we always agree on all things? No," he added. "But we all agreed on the common goal, and that was to avoid a listing of the greater sage grouse."

Pulling away from the federal grouse plans is tantamount to pulling away from that goal, Ellis said.

"Priorities shift, but you still have to follow the plans in place or there are groups out there that will check you on that," he said. "That's where the judicial system comes in."

In addition to lawsuits, environmentalists would likely start petitioning the Fish and Wildlife Service to list other species in the sagebrush steppe ecosystem that the grouse and roughly 350 other species depend on.

"You start having other critters pop up with petitions for listing," Ellis said.

If that happens, the dominoes will start to fall for an ESA listing of the sage grouse, he said, because the service must review the status of the bird every five years.

"The Fish and Wildlife Service is going to have to take another look to see if these plans and the implementation of these plans has made progress in turning the population declines around. Basically, are the regulatory mechanisms we put in place working?" Ellis said. "That is something that, before you start dismantling the plans, you need to consider."



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The current status of the greater sage grouse is murky, at best, in part because grouse populations are cyclical and can change dramatically from year to year.

In Wyoming, for example, officials with the state Game and Fish Department, federal agencies, private consultants, and volunteers last year visited nearly 1,700 sage grouse leks and counted more than 42,300 male sage grouse.

Lek counts are good barometers of grouse health because most males in an area can be found at a lek during breeding season, allowing biologists to get accurate counts, said Tom Christiansen, sage grouse program coordinator for the Game and Fish Department.

The average number of male grouse per lek last year was up 16 percent compared with 2015, which was 66 percent higher than 2014.

But when biologists visited nesting sites in December, they measured what Christiansen described as "poor chick production" — a sure sign that "we are looking at a decrease in our lek counts this spring."

The federal grouse plans include "triggers" for adaptive management techniques to kick in when grouse populations decline significantly.

That's already happened in northwest Utah, where BLM this month announced it was alarmed about an isolated population of grouse that had suffered a "serious decline" in population (E&E News PM, Feb. 6).

"We are going to be arguing to the new administration that it's in their best interest to keep their plans in place," said Steve Holmer, vice president of policy for the American Bird Conservancy. "We don't see a lot of room for them to maneuver and take the legs out from under this stool."

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## 2. **PUBLIC LANDS: Amended Utah bill on transfers strikes lawsuit deadline**

*E & E News, Feb. 24 | Jennifer Yachnin*

Utah state legislators today tamped down their efforts to seize control of federal public lands, pulling back from legislation that would have set a December deadline for the state to file a complaint with the U.S. Supreme Court in favor of urging action from President Trump and Congress.



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Members of the state's House Natural Resources, Agriculture and Environment Committee approved a resolution urging the "transfer of certain public lands to the state" via federal legislation, while reserving the possibility that the state could attempt to sue for control of those lands in court.

State Rep. Keven Stratton (R) introduced the bill late last year in an effort to speed legal action on the state's efforts to claim federal lands within its boundaries.

The Legislature previously approved the Utah Transfer of Public Lands Act, which called for transfer of most of the federal lands within its boundaries — about 34 million acres — by the end of 2014. State lawmakers subsequently approved a \$14 million fund in 2016 to pursue a related lawsuit against the federal government (Greenwire, March 11, 2016).

But following what he called a "change in the political landscape," Stratton amended the bill last week.

"It has always been the case that legislative resolution is preferred above litigation, but we need to be ready, willing and able to pursue that as a last resort if need be," Stratton told The Salt Lake Tribune.

In addition to striking a December deadline for legal action, the Republican lawmaker changed the resolution's title from the "Concurrent Resolution on Public Lands Litigation" to the "Concurrent Resolution to Secure the Perpetual Health and Vitality of Utah's Public Lands and its Status as a Premier Public Lands State."

But the resolution does reiterate the state's ability to pursue the matter in federal court, noting that the state attorney general will "continue to prepare and stand ready to proceed with a methodical, provident and constitutionally aligned strategy to assert a cause of action with the United States Supreme Court." But the attorney general is requested not to file the complaint until "further notice" from state lawmakers.

The bill also contains language — retained from its original version — that asserts the state is seeking "management and control over the public lands not to sell them but to protect them in the way they always should have been protected."

Public lands advocates including Backcountry Hunters & Anglers immediately cheered the amended legislation but warned other efforts to convert public lands to state control are expected.



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"Western sportsmen and women, Utahans in particular, should breathe a sigh of relief after learning that our legislature has decided to back away from this unpopular and fiscally irresponsible land transfer lawsuit," Utah BHA board member Braxton McCoy said in a statement. "However, just as this was not the first attempt to steal our public lands, it surely will not be the last."

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### 3. Hypnotic Animations Show Why Trees Depend on Forest Fires

*Wired, Feb. 24 | Margaret Rhodes*

ELEANOR LUTZ IS a matchmaker, but not for people. Instead she pairs knotty scientific topics with sublime visuals and publishes them on her blog, Tabletop Whale. And these aren't random setups: She once illustrated the topography of Mars as a Victorian-era explorer's map, connecting two periods of voyaging and discovery. Ikea assembly guides inspired an infographic on embryonic development. Recently she hitched diagrams of viruses to a trading card motif because, like baseball players or Pokémon species, each virus has a unique profile.

Lutz's latest setup involves a category of plants that need fire to survive. Fire ecology, as it's known among scientists, acknowledges wildland fires as instrumental to a functioning ecosystem—a point of view likely lost on most. "Most people tend to think about natural events from mostly a human perspective—like how forest fires or flooding affect you—but this other perspective is really interesting too," Lutz says. To illustrate it, she built low-relief paper sculptures of six different plants and then set a match to them. She cast her aflame creations on another series of trading cards, highlighting the unique properties and behaviors of each.

Almost anything—tweets, observations, her studies—serves as inspirational fodder for Lutz. The idea for animated fire ecology trading cards came from close to home: Lutz's father studies forest fires and teaches ecology at the University of Utah. His work takes place in Yosemite National Park and the Sierra Nevada mountains in California and focuses on the matter of forest regeneration and adaptation as it relates to fires. "I hear about it all the time, when I go home for the holidays," Lutz says.

With her father consulting on the project, Lutz settled on giant sequoia, fireweed, California black oak, ponderosa pine, California lilac, and knobcone pine as the six plants that would represent the six ways fire assists nature's growth. Each is native to California, where wildfires are rampant, especially in recent drought years. The narrow focus appeals to Lutz. "Fire ecology



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is a huge topic, but if it's concentrated around a few examples, it can be easier to understand." Indeed, that ethos extends throughout most of Lutz's information graphics. "There's a knowledge barrier to accessing some of the interesting, awesome things about science. There are so many facts and equations, and I want those cool ideas to be accessible."

With Lutz's work, they are. The fire ecology trading cards—animated to full, smoldering effect in the gallery above—plainly explain how, for instance, the giant sequoia's 6-to-8-inch-thick bark resists burning, and that fire opens up the knobcone pine so it can disperse its seeds. It's a compact lesson in a niche corner of the botany world specifically and in information design in general. After all, fire ecology and honest-to-God flames? That's a hot match.

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#### 4. **First trial in Bunkerville standoff case presents paradox**

*Las Vegas Review-Journal, Feb. 25 | Jenny Wilson*

Cliven Bundy's armed stand against the federal government has landed him in a prison cell, but some of the rancher's positions on public lands could be enacted into federal law in the new political frontier of President Donald Trump's Washington.

The first trial in the case against Bundy and his supporters coincides with a new political regime. The timing has presented a paradox: Federal prosecutors characterize the 70-year-old rancher as an anti-government extremist while federal policymakers prepare to act on some of his ideas.

"Disarm the National Park Service," the recalcitrant cowboy cried in a video played in court recently, during the ongoing trial against six people charged as gunmen in the 2014 standoff in Bunkerville. A witness testified about the "unreasonable" nature of Bundy's demand. But a Utah Congressman has introduced legislation that would remove the law enforcement function from the Bureau of Land Management and the U.S. Forestry Service — effectively honoring Bundy's request.

Bundy declares Nevada a "sovereign state." He asserts that the federal government does not have jurisdiction over the hundreds of thousands of acres of land where he let his cattle roam freely. Prosecutors lambaste him for those claims. But the Republican National Committee last summer called on elected officials to immediately begin transferring federal land to the states.

"It is absurd to think that all acreage must remain under the absentee ownership or management of official Washington," the 2016 Party Platform stated. "Congress shall immediately pass



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universal legislation providing for a timely and orderly mechanism requiring the federal government to convey certain federally controlled public lands to states.”

When former President Barack Obama awarded national monument designation to the Gold Butte area near Bundy’s ranch last month, Bundy’s supporters responded with protests. Their reaction was consistent with Republicans who hold public office throughout the West. Nevada Attorney General Adam Laxalt blasted Obama’s move as a “federal land grab.” In neighboring Utah, elected leaders are pushing Trump to reverse the recent national monument designation of the Bears Ears canyon area.

#### **Shifting Attitudes**

Trump’s nominee to oversee the nation’s massive national parks and public land system has said that he wants to keep public lands controlled by the federal government. Still, he has hinted that the federal government could cede control of some of that land back to the states.

U.S. Rep. Ryan Zinke, R-Mont., the pick for secretary of Interior, said in his recent confirmation hearing that it will be “interesting to see if the president has the power to nullify a national monument.” If approved, Zinke would become the top-ranking official in charge of managing more than 600 million acres of federal land throughout the United States. That land accounts for nearly 90 percent of Nevada.

The shifting attitudes toward public land management hang over the first trial in Las Vegas. The 2014 armed confrontation between protesters and law enforcement occurred when BLM agents tried to carry out a court order to seize Bundy’s cattle from federal land. Will a new political climate affect how the jury weighs the evidence in the case?

“It can leach into things,” criminal defense attorney Tom Pitaro said.

Pitaro, who is not involved in the case, said that as the national political dialogue becomes “less mainstream,” jurors are more likely to “normalize” an anti-mainstream position like Bundy’s.

Three years ago, he said, “you didn’t have national conversations out there concerning some of those issues. ... They were relegated to the political trenches.”

The trial hinges on an ideological argument, as defense attorneys are trying to convince the jury that the armed confrontation with law enforcement resulted from their clients’ dramatic exercise of constitutional freedoms to assemble and to bear arms.

#### **An Ideological Rift**





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The jury was selected from a diverse pool with views that span the ideological and political spectrum. The public lands issue in particular tends to rile an array of interest groups, and the transfer of executive power has ranchers optimistic and conservationists worried.

“The minute you start hearing about cutting regulations, that’s huge. Those are the kind of things that you need to hear,” said David Stix Jr., president of the Nevada Cattlemen’s Association.

In the past eight years, Stix said, “the people out on the ground have not had the ability to make the proper calls on how grazing should be done on the federal allotments. The calls have been made from back in D.C.”

But Ken Cole, a coordinator for the nonprofit environmental conservation group Western Watersheds — which has fought both the ranchers and the BLM in court over grazing regulations — said: “Donald Trump appoints people who want to get rid of the agencies rather than actually run them in an effective manner.”

“We’re very concerned about the transfer of either public lands outright or management of public lands to the state,” Cole said.

U.S. Sen. Catherine Cortez Masto, a Democrat who sits on the Senate Energy and National Resources Committee, said in an emailed statement:

“While the new Administration’s exact approach to these issues is still unknown, I will be keeping a close watch on any and all actions that could affect our state’s vast and beautiful lands and natural resources. I grew up enjoying Nevada’s natural lands and national parks, and continue to do so to this day. I am committed to ensuring the same is possible for generations to come.”

But to do so she’ll have to satisfy a wide range of constituents who are deeply divided on issues of public land management. Bundy’s legal battle with the federal government started more than two decades ago. The ideological rift that sparked it is only expected to deepen over the next four years.

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#### 5. **Lawmaker Wants Wild Horses Put Under States' Jurisdiction**

*The Horse.com, Feb. 26 | Pat Raia*

A Utah legislator has introduced a resolution demanding the federal government either control wild horse herd population growth or relinquish federal jurisdiction of the animals by repealing the Wild Free-Roaming Horse and Burro Act of 1971.

The act protects wild horses and places them under Bureau of Land Management (BLM) jurisdiction. Currently, more than 67, 000 animals reside on ranges in 10 Western states, including Utah. Another 45,000 horses reside in holding facilities operated by the BLM.

Introduced into the Utah State Legislature on Feb. 22 by Representative Ken Ivory, House Concurrent Resolution 22 claims wild horse herds have routinely overpopulated Utah's ranges and the herds, ever-increasing in population, have damaged the rangeland's ecology by reducing forage and other resources for wildlife and livestock that share the habitat.

It also maintains that since the BLM has failed to effectively control herd growth, the agency should preserve horse and burro populations by either completely fulfilling the mandate of the Wild Free-Roaming Horses and Burros Act or by relinquishing federal control of the animals."

"The Legislature of the state of Utah, the Governor concurring therein, calls on President Donald J. Trump and the United States Congress to repeal the Wild Free-Roaming Horses and Burros Act of 1971 and grant authority and resources to the states to manage feral horse and burro populations within their respective jurisdictions," the resolution said.

Under the Resolution, steps to preserve herd populations would include permanently sterilizing young male horses.

No one from the BLM was available for comment.

Meanwhile, Suzanne Roy, executive director of the American Wild Horse Preservation Campaign, does not believe the proposal aligns with what most Americans think about preserving wild horses.

"Responding to an overwhelming outcry from the American people, Congress unanimously passed the Wild Horse and Burro Act nearly 46 years ago in order to protect these iconic American treasures on federal public lands, but it's clear that the state legislators pushing the resolution want to take over management of federally-protected wild horses and slaughter these



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iconic animals,” she opined. “These legislators are totally out of step with the will of the American people, which overwhelmingly oppose horse slaughter and want to protect wild horses and burros on our public lands.”

The resolution remains pending in the Utah House.

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#### 6. **Editorial Senate should stand up for environment and not block Obama methane regulation**

*The Los Angeles Times, Feb. 27 | The Times Editorial Board*

Nighttime photographs of the United States from space are at first surprising and, upon reflection, dismaying. In rural stretches of North Dakota and Texas, where you’d expect to see dark swaths, you instead see bright splashes of light from the burning of uncaptured methane, a natural gas that can be released as a byproduct of oil drilling. Not all of the unused methane produced by oil extraction is “flared,” as the industry calls that burning process. In addition, massive amounts of methane — which is a more dangerous contributor to short-term global warming than carbon dioxide — are simply released and spewed into the atmosphere. Both processes — the burning and the release of wasted methane — are bad for the environment.

Last summer, the Obama administration enacted new regulations to sharply curtail the release or burning of methane from all current and future wells on federal lands. (Similar rules govern all future but not existing wells on non-federal lands.) Naturally, the oil and gas industry argued that the new regulations added a fresh burden on them and increased consumer costs. That may well be true, but there are more important things than making work easy for drillers or keeping oil prices low. One of those is the protection of the environment.

The risk of climate change from global warming has long since moved from abstract theory into reality, even if the ostriches surrounding President Trump won’t see it. Recently appointed Environmental Protection Agency Administrator Scott Pruitt is joined at the wallet to the industry, as a trove of recently released emails from his work as Oklahoma attorney general confirms, so don’t expect much from him. Conservative members of Congress also buy into the nonsense — as do Trump and Pruitt — that human activity has little to do with rising global temperatures, more severe weather patterns, stressed flora and fauna and what scientists believe is a looming mass extinction that is unfolding at a much faster pace than the five previously identified mass extinctions in history. In terms of Earth’s evolution, that is a split second.



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But, oh, the jobs! We need the jobs! And the cheap fuel! The adage of missing the forest for the trees comes to mind. The overwhelming consensus by scientists is that the world needs to move away from fossil fuels and toward renewable sources such as wind and solar. In the meantime, we need to be even more aggressive, not less, in limiting the burning or release of methane and other harmful emissions.

To that end, the Obama administration regulations were a step in the right direction. Which brings Newton's Third Law of Physics into play: For every action, there is an opposite and equal reaction. Earlier this month, the Republican-led House of Representatives invoked the Congressional Review Act to kill the Obama regulations governing wells on federal land, and the bill is now before the Senate, with a vote possible this week.

The Senate should refuse to join the House in passing this irresponsible bill. The methane regulations, which are to be phased in, are good, sensible policy. The federal Bureau of Land Management estimated that between 2009 and 2015, the oil and gas industry wasted, through emissions or flaring, 462 billion cubic feet of methane — enough to supply natural gas for 6.2 million households for a year — from wells in public and tribal lands. Not only was the gas lost, the unburned methane went directly into the atmosphere. And taxpayers missed out on \$23 million a year in royalties that would have been due had the methane been captured and sold.

Fortunately, the EPA rules governing non-federal land wells are less likely to be rescinded. The rules were adopted long enough ago that they are no longer subject to the Congressional Review Act, which means that to roll them back, the Trump administration would have to go through a lengthy regulatory review process. Unfortunately, those rules only cover future wells, not existing ones. (The federal land rules cover both.) Instead of attacking the federal land rules, Congress should extend the same regulations to the existing wells on non-federal land. But don't hold your breath.

The world should be weaning itself from fossil fuels as quickly as possible. That Trump and the Republican Congress disagree is not only disappointing, but dangerous.

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#### 7. **REGULATION: Dumping Interior rules means tossing safeguards against waste**

*E & E News, Feb. 27 | Pamela King*

If Congress successfully rolls back a slate of energy-focused Interior rules, the department could be stuck on a list of agencies at high risk of fraud, waste and abuse, government investigators say.

At least four [rules](#) identified by the Congressional Western Caucus as priorities for repeal include provisions designed to address concerns the Government Accountability Office [raised](#) around Interior's performance on oil and gas oversight. The Congressional Review Act (CRA), the tool Republican lawmakers are using to eliminate rules introduced during the last months of the Obama administration, stipulates that a regulation cannot be reintroduced in "substantially the same form" as a disapproved rule.

Barring legislative intervention, scrapping the Bureau of Land Management's methane and waste reduction rule and a trio of onshore orders could leave Interior unable to address some of GAO's concerns, said Frank Rusco, director of natural resources and the environment for GAO.

"If the rules are repealed, GAO's recommendations cannot be implemented, and the agency would not be able to implement similar rules under the Congressional Review Act," Rusco said. "Most likely what will happen is Interior's high-risk status will stay the same."

The methane rule — which aims to curb natural gas flaring, venting and leaking from fossil fuels production on federal lands — is first on tap. A Senate vote is expected as early as this week.

BLM's rule includes a provision to revise governance on royalty rates applicable to onshore oil and gas leases. In a [2013 report](#), GAO found Interior's regulations for onshore resources lacking.

"Interior changed certain offshore lease terms — including raising royalty rates twice in response to changing market conditions. For onshore resources, which are subject to many of the same market conditions, Interior has considered but not made changes to royalty rates," GAO wrote. "Interior officials are currently unable to make timely adjustments to onshore royalty rates. Current regulations generally provide for a fixed onshore royalty rate that limits Interior's flexibility to make timely adjustments."

The final methane rule gave BLM the flexibility to set royalties at or above a previously flat rate of 12.5 percent, the bureau wrote in its rule.



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"This rulemaking was in large part a response to repeated GAO concerns that American taxpayers have not been getting a fair return on oil and gas resources owned by the American public," said Alexandra Teitz, former counselor to BLM Director Neil Kornze. "BLM needed to adopt the waste rule to respond to specific GAO recommendations highlighted in at least three separate GAO reports since 2010, which included concerns that had helped land the Interior Department on GAO's high-risk list."

Industry groups have said they would support a narrower BLM rule invoking the agency's Mineral Leasing Act authority to charge royalties on gas that is "avoidably" lost from operations on public lands (Energywire, Feb. 1). Energy producers and other stakeholders have said the rule reaches too far into the purview of U.S. EPA and states in its attempt to address methane emissions (Energywire, Feb. 21).

The rate adjustment and other changes to BLM's rule could also be ripe for revisitation after the CRA.

If BLM refocused its energy to address GAO's concerns through retooled permitting policies for rights of way and infrastructure projects, that would be an appropriate policy response, said Luke Johnson, policy director at Brownstein Hyatt Farber Schreck and a former deputy director of policy and programs for BLM under President George W. Bush.

"I don't think anyone would make the argument that the rule was substantially similar to the previous rule overturned by the CRA," Johnson said.

Suggestions that an act by Congress to overturn the rule precludes BLM from addressing narrow issues in the future are an "overinterpretation" of the CRA's powers, said Kathleen Sgamma, president of the Western Energy Alliance.

"The law is that an agency can't issue a substantially similar regulation in the future. If an agency were to regulate various parts, that's obviously acceptable after a successful CRA overturning," she said. "Where BLM would get into problems would be trying to again usurp EPA authority, but if they had a targeted rule on royalties or actual waste prevention, I think that would be something that would be acceptable."

Congress also has the option of addressing the royalty issue, Sgamma said.

"Raising a royalty rate is probably more appropriate for Congress to do than the agency anyway," she said.



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GAO could note that congressional action would be required to address concerns around Interior's revenue collection practices, Rusco said. In tracking progress of its high-risk agencies, GAO only determines whether the agency is addressing concerns GAO has raised, he said. It does not evaluate the scope of the rules agencies write in that process.

#### **Accounting for methane emissions**

The methane question makes an appearance in a July 2016 GAO [report](#) titled "Interior Could Do More to Account for and Manage Natural Gas Emissions."

Historically, Interior has focused on data collection related to royalty-bearing oil and gas production, GAO wrote. The agency has offered limited guidance on how operators should address emissions, according to the report.

"As a result of these limitations, Interior may not have a consistent accounting of natural gas emissions from onshore federal leases and does not have the information it needs to reasonably ensure it is minimizing waste on these leases," GAO wrote.

After reviewing BLM's proposed methane and waste reduction rule, GAO determined that it did not address key concerns on the emissions issue.

It would however, put Interior on track toward progress on goals outlined in President Obama's [2014 Strategy to Cut Methane Emissions](#), GAO wrote.

There is a strong and compelling case that BLM was outside its authority in fitting itself into that strategy, said Johnson, the former BLM official under Bush.

"The prior administration's focus on climate was so singular that even issues raised by GAO were seen through the prism of climate," he said.

#### **Onshore orders**

Two years ago, Interior highlighted onshore orders 3, 4 and 5 as "actions completed" toward addressing GAO's concerns around the agency's management of federal oil and gas resources.

Those orders are now bullet points on the Western Caucus' target list for CRA repeal.

"BLM underestimates the costs associated with implementation and imposition of compliance timelines that will be impossible to meet," the caucus wrote of the orders.



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Lawmakers' focus on the orders is puzzling, said Dylan Fuge, a former Kornze counselor (Energywire, Feb. 13). BLM designed the rules in response to GAO's findings that the bureau's system for measuring oil and gas production on federal land was inadequate.

Both government and industry are expected to benefit from the measure to ensure proper collection of federal royalties, Fuge said.

"Wiping away the onshore orders with the CRA doesn't address that underlying GAO issue and in fact sets the BLM up for another set of repeated audits," he said.

The oil and gas industry's call to use CRA to eliminate the orders has been quiet. The Western Energy Alliance, American Petroleum Institute and U.S. Oil & Gas Association are the only oil and gas groups to appear on a [list](#) of endorsements to kill BLM's Onshore Order 3.

Many [more](#) trade groups and operators have voiced support for the methane rule's repeal.

#### **Consequences for 'high-risk' agencies**

While there are no formal legal or funding consequences for agencies that land on GAO's high-risk list, the designation carries other implications.

"It's pretty hard for agencies to ignore a high-risk listing," GAO's Rusco said. "You're going to get more attention from Congress and the public. GAO will commit to continuing to follow the areas it identifies in its reports. There will be additional reports, and that creates attention for the agency. Typically, agencies don't want to be on the high-risk list, so they're responsive."

The classification is akin to getting "rapped on the knuckles," said Amanda Leiter, a professor at the American University Washington College of Law and deputy assistant secretary of land and minerals management under Obama. It's not a high-stakes punishment, but it's one that is uncomfortable for the agency and its staff, she said.

As part of GAO's ongoing probe, the department is subject to increased scrutiny from its oversight committee, where it will be asked to show steps it is taking to address accountability concerns. Essentially, agency staff are being told they are bad at their jobs, Leiter said. That message tends to be a motivating one, she added.

"Folks sitting at the agencies don't want to be identified as running programs at high risk of waste, fraud and abuse," she said.





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#### 8. **CLIMATE: Panel putting social cost of carbon under the microscope**

*E & E News, Feb. 27 | Hannah Hess*

After years of clamoring for more information about the closed-door process that led to the Obama administration's social cost of carbon estimates, a House committee has invited one of the economists behind the controversial estimate to testify.

Michael Greenstone, who served as chief economist for the Council of Economic Advisers in 2009 and 2010, will appear tomorrow before a joint panel of the Science, Space and Technology Committee that is examining the figure meant to help federal agencies quantify the estimated economic damage associated with an increase in CO2 emissions in a year.

In a blueprint released early in the 115th Congress by Chairman Lamar Smith (R-Texas), the committee announced it would prioritize the estimate, which it said has been used in the past to "push a costly climate agenda" (E&E News PM, Feb. 1).

Set at \$40 per metric ton of CO2, the SCC is widely expected to be a target of the Trump administration's push to roll back existing climate regulations. The figure has been used in more than 150 regulatory actions since 2008, according to the Congressional Research Service.

Backers of the SCC argue global warming already costs communities billions of dollars in damage from extreme weather events and rising seas and that it could be set higher. Ignoring the benefits of emissions regulations will come at the expense of a worse environment that leads to shorter and sicker lives, they warn.

"Without it, such regulations would have no quantifiable benefits. For this reason, the social cost of carbon can be seen as the linchpin of national climate policy," Greenstone and economist Cass Sunstein wrote in a New York Times op-ed published in late 2015.

In the waning days of the Obama administration, the National Academies of Sciences, Engineering and Medicine panel tasked with reviewing the metric recommended further study of critical "tipping" points for climate change to drive models that assess the impact and damage of polar ice sheet melt, more frequent storms and more (Greenwire, Jan. 11).



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Republicans say the purpose of the hearing is to examine the methods and parameters used to establish the social cost of carbon. The panel, which includes statisticians and science advisers from conservative think tanks, will also focus on the models used to determine the value for the social cost of carbon and "how the process can be improved," according to the committee.

Schedule: The hearing is Tuesday, Feb. 28, at 10 a.m. in 2318 Rayburn.

Witnesses: Ted Gayer, vice president and director of economic studies at the Brookings Institution; Kevin Dayaratna, senior statistician and research programmer at the Heritage Foundation's Center for Data Analysis; Michael Greenstone, director of the University of Chicago's Interdisciplinary Energy Policy Institute and the Energy & Environment Lab at the University of Chicago Urban Labs; and Patrick Michaels, director of the Cato Institute's Center for the Study of Science.

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#### 9. **APPROPRIATIONS: Lawmakers to sound off on Commerce, Interior spending**

*E & E News, Feb. 27 | George Cahlink*

As President Trump readies a budget blueprint to "clean up" the nation's finances, House appropriators are due this week to take initial steps toward writing their own spending bills for fiscal 2018.

Several House Appropriations subcommittees, including those overseeing the Interior and Commerce departments, will hear from lawmakers about their priorities for the coming year. The "Members' Day" hearings have long been a part of the appropriations process.

"The Appropriations Committee values the input and perspective of every Member of Congress and the people they represent. It is my goal to involve all members in the appropriations process from the outset," said Chairman Rodney Frelinghuysen (R-N.J.).

Rep. Betty McCollum (D-Minn.), Interior and Environment Appropriations Subcommittee ranking member, is likely to weigh in with calls for preserving federal spending to combat climate change.

She held a town hall meeting last week in her suburban Minnesota district to highlight concerns about the administration's denials of global warming.



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"President Donald Trump has called climate change a 'hoax' perpetrated by the Chinese and the Republican Congress wants to tear up environmental protections like the Clean Power Plan," McCollum said in a statement released in advance of the session, which drew more than 600 people.

"Our discussion will focus on what we all can do to act on climate change and protect our planet from its most devastating impacts," she said.

Still, appropriators will have to work with a Trump White House that blasted current spending and hinted at deep cuts, most of them likely to be made to domestic agencies.

"Unfortunately, the budget that we're inheriting, essentially inheriting, is a mess. The finances of our country are a mess, but we're going to clean them up," said Trump last week.

The president held his first budget meeting last week with his economic team, including Office of Management and Budget chief Mick Mulvaney and Treasury Secretary Steven Mnuchin. The White House has vowed to release a budget skeleton by the middle of next month.

While vowing not to waste federal dollars anymore, Trump said the military would be taken care of under his blueprint and earlier had said entitlements cuts are off-limits.

If those spending priorities are preserved, it would mean Trump would need to cut domestic agencies if he wants to reduce federal outlays.

"We'll be directing all of our departments and agencies to protect every last American and every last tax dollar. No more wasted money. We're going to be spending the money in a very, very careful manner," he said.

This week's meetings include:

**Schedule:** The Commerce, Justice, Science and Related Agencies Appropriations Subcommittee hearing is Tuesday, Feb. 28, at 10:30 a.m. in H-309 Capitol.

**Schedule:** The Interior, Environment and Related Agencies Appropriations Subcommittee hearing is Tuesday, Feb. 28, at 1:30 p.m. in TBA.

**Schedule:** The Homeland Security Appropriations Subcommittee hearing is Wednesday, March 1, at 9:30 a.m. in 2008 Rayburn.



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**Schedule:** The Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee hearing is Wednesday, March 1, at 10 a.m. in 2358-B Rayburn.

**Schedule:** The Budget hearing is Thursday, March 2, at 10 a.m. in 1334 Longworth.

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#### 10. **PUBLIC LANDS: States back off efforts to seize federal tracts**

*E & E News, Feb. 27 | Jennifer Yachnin*

When state legislatures kicked off their 2017 sessions, advocates of transferring public lands from federal ownership to state control were expected to pursue a series of efforts ranging from resolutions demanding action at the Supreme Court to state constitutional amendments easing the way for land transfers.

Instead, as some legislatures begin to wind down next week, lawmakers in states including Wyoming and Utah have made some unexpected decisions: They're tamping down on aggressive moves and instead looking to President Trump and the GOP-controlled Congress to address land management — including their hopes for shifting some federal lands to state ownership.

Perhaps most surprisingly, Utah lawmakers last week pulled back on plans to pursue a lawsuit against the federal government as the state seeks to enforce a law Gov. Gary Herbert (R) signed in 2012 that calls for transfer of most of the federal lands within Utah boundaries.

While state lawmakers last year approved up to \$14 million to fund the lawsuit, state Rep. Keven Stratton (R) last month rewrote a resolution intended to speed along that legal action.

The original bill would have mandated a December 2017 deadline for the state to file a lawsuit if the federal government failed to turn over most of the more than 34 million acres of land it owns in the Beehive State. But Stratton's revisions struck that deadline and instead urged the passage of federal legislation.

Members of the state's House Natural Resources, Agriculture and Environment Committee approved that resolution Friday (E&E News PM, Feb. 24). Utah's Legislature is set to recess March 9.



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Similarly, in Wyoming, where state lawmakers will wrap up work next Monday, the sponsor of a state constitutional amendment that would have eased the way for transfers of federal land to state control opted last month to kill his proposal.

A subsequent measure that would have allowed the state to take over management of federal lands was likewise pulled by its sponsor after only a few days earlier this month.

Wyoming state Senate President Eli Bebout (R) — who sponsored the constitutional amendment — said his decision was prompted in large part by the change of power in the White House.

"Starting today, from day one, leadership of the Wyoming Legislature is committed to working with the Trump administration and our congressional delegation to develop a solution that will ensure public lands are managed for multiple use and available to benefit all Wyoming residents," Bebout told the Casper Star-Tribune last month after he announced he would drop his proposal.

But opponents of disposing of federal lands assert that those decisions are also due to growing evidence of support for public access, particularly from sportsmen's organizations that have staged rallies in places including New Mexico and Montana.

"I think that the level of opposition recently has been tenfold what it was in previous years, in part as the threat has increased, people have started to get a little more fired up," Backcountry Hunters & Anglers State Policy Director Tim Brass told E&E News.

He added: "In terms of the straight-up public lands transfer and all these different forms of land-grabbing federal lands, there hasn't been a lot of momentum there."

But proponents of rolling back the federal portfolio — which counts more than 10 million acres in each of 12 Western states — did claim an early victory in Utah when state lawmakers passed a pair of resolutions aimed at culling national monuments within their state.

The Legislature approved a measure that urged Trump and Congress to revoke the newly established Bears Ears National Monument, as well as a second resolution urging a reduction in the size of the Grand Staircase-Escalante National Monument (Greenwire, Feb. 1).

A committee in New Mexico's Senate is likewise set to take up a proposal this week that would require a review of national monuments within the Land of Enchantment.



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The resolution would require the state's governor, commissioner of public lands and attorney general to determine whether those lands are "confined to the small area necessary for proper care and management of the items to be protected," and if not, to "take action" to limit those boundaries.

Still, proponents of maintaining federal lands point to U.S. Rep. Jason Chaffetz's (R-Utah) decision to drop a bill that called for the sale of 3.3 million acres of public lands in 10 states as an indication that Congress is unlikely to successfully seek a reduction in the federal portfolio.

"Proposals to transfer federal lands to nonfederal landownership are likely to dissipate and disappear over the next year as decisionmakers in the administration come to realize that Americans really, truly love their public lands," said Mark Salvo, vice president for landscape conservation at Defenders of Wildlife.

He later added: "These public lands are increasingly valuable, and it's seemingly every week we see more research supporting this point."

In Montana, where lawmakers will work through late April, the House is moving ahead with a measure that would designate a "Public Lands Day" to be celebrated annually on March 1, the anniversary of the creation of Yellowstone National Park.

At the same time, however, Montana state senators last week tabled a resolution that would have opposed the transfer of federal lands to the state's control.

#### **Slowing the states**

But Backcountry Hunters & Anglers' Brass warned that opponents of public lands have also seized on new efforts to limit the size of state portfolios.

"They're state land-sale bills," Brass said, pointing to measures in Idaho and Washington that would prohibit states from acquiring new lands and require existing public lands to be ranked for sale. He described proponents of the measures as arguing that "we don't want the Departments of Natural Resources getting any more lands."

In Idaho, a Senate bill would restrict the acquisition of new state lands, including limiting any donations of private land to the state. It would also require state agencies to review whether public lands should be disposed of.

The measure has drawn the ire of groups like the Idaho Wildlife Federation and Trout Unlimited.



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"For years now, our politicians have said that the transfer of public lands to the state is about better management. Well, now we have them flat out advising all state agencies to prioritize their land parcels for sale to private ownership any lands that might not be fulfilling a 'public purpose,'" IWF Executive Director Brian Brooks said in a statement. "This bill showed their hand."

In Utah, state Rep. Mike Noel (R) — who has said he would like to become the next director of the Bureau of Land Management — is sponsoring a measure that would create a state Department of Land Management along with a new top lands official.

The agency would take over some responsibilities now under the Utah governor, including encouraging the multiple use of public lands — for energy production, recreation and hunting.

The legislation would also require a supermajority vote of the state Legislature to sell or exchange state lands.

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#### 11. **TAX POLICY: Energy fears dog border adjustment push**

*E & E News, Feb. 27 | Geof Koss and George Cahlink*

Congressional efforts to enact the first major overhaul of the tax code in 30 years are encountering lawmakers' long-standing reluctance to embrace policy changes that could raise the price Americans pay for gasoline at the pump.

Fears of higher domestic energy costs are a major hurdle for a proposal by House Republicans called the border adjustment tax, or BAT. It would impose a 20 percent tax on imports into the United States while exempting exports.

Proponents, such as Speaker Paul Ryan (R-Wis.), say the shift would "equalize" the U.S. tax system with that of 160 other nations that have similar "territorial" systems of taxation.

"And what that means is you tax based on if it was consumed in your country, not if it's made in your country," Ryan told reporters earlier this month. "What America does, we tax people based on whether it's produced in America. And so that means we do not tax our imports and we tax our exports."



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But lawmakers can't shake fears that a BAT will add significant costs to refiners that rely on imports of foreign crude to produce gasoline.

"I've had some refiners tell me they think it could increase the price of gasoline by 30 cents per gallon," Majority Whip John Cornyn (R-Texas) said before last week's recess.

"I don't actually know whether that's true or not," he said, "but it sort of raised my antenna, along with other concerns raised by constituents that we need to be careful and understand and get right before we do something that we'll regret. So that's what we're in the process of doing."

Sen. Bill Cassidy (R-La.), who sits on the Energy and Finance committees, was careful not to take a position on the House's BAT proposal in an interview earlier this month.

But he acknowledged that he's fielding lots of questions from sectors in his state that would be affected, including oil and gas producers, refiners, farmers, and manufacturers.

"I'm hearing from folks who only export and folks who only import their inputs," he said. "And people that export services and manufactured products. Are those treated the same? There's a lot of different perspectives, and I'm hearing from all of those perspectives."

Cassidy said he's trying to balance the competing arguments for and against the BAT. The House GOP plan would raise \$1 trillion over 10 years to lower overall tax rates.

"A company says we import our crude so we pay more," Cassidy said. "But then the second-degree effect is that the value of the dollar appreciates."

#### **'Foreigners will pay'**

The BAT's possible effect on currency exchange rates is crucial for proponents, who argue that implementing the system would encourage overseas purchases of U.S. exports, boosting the value of the dollar by up to 25 percent and minimizing or offsetting costs.

If that prediction proves correct, "foreigners will pay for the tax," the Peterson Institute for International Economics wrote in a policy brief last month.

However, should the BAT not affect the value of the dollar, "ultimate consumers of imported goods will bear the burden, since the tax will be passed forward in prices charged."





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Whether the predicted currency effects of BAT will occur remains hotly debated. Ryan this month called it "obvious and mathematical that a currency adjustment would occur when we harmonize our tax laws with the rest of the world."

Pressed on the subject during a House Financial Services Committee hearing this month, Federal Reserve Chairwoman Janet Yellen said that "in principle" appreciation of the dollar could fully offset the costs of the BAT.

"The problem is, there's great uncertainty about how, in reality, markets would really respond to these changes," Yellen told House lawmakers.

"And a strong set of assumptions is needed to believe that markets would fully offset those changes. It's very difficult to know just what would happen," she said. "There is more than trade that affects a country's exchange rates."

Sen. Ron Wyden (D-Ore.), the ranking member of the Finance Committee, scoffed at the rosy predictions of a stronger dollar post-BAT.

"I've been reading what people who are knowledgeable about the dollar have to say about it, and they think this is a real crystal ball," he said in an interview. "But there's no evidence for this, that's what people tell me, that this is real speculation on speculation."

Highlighting the political challenge in legislating major policy changes based on abstract economic theories was a blunt Feb. 16 floor speech by Sen. Tom Cotton (R-Ark.), whose home state is the headquarters for Wal-Mart Stores Inc., one of many major retailers that oppose the BAT.

In a blistering critique delivered one day after Ryan urged Senate Republicans to "keep their powder dry" on BAT, Cotton said he was dubious of the optimistic currency predictions. He noted the tax would provide an estimated \$100 billion in revenue annually.

"That's a lot of money, and someone has to pay it," he said. "And I'll tell you exactly who's going to pay: working Americans who've been struggling for decades. A tax on imports is a tax on things working folks buy every single day — and I'm not talking about caviar and champagne. I'm talking about T-shirts, jeans, shoes, baby clothes, toys, groceries."

Invoking George Orwell's dystopian novel "1984," Cotton said of the underlying currency argument, "Some ideas are so stupid only an intellectual could believe them."



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#### **'Gradual transition'**

Responding to doubters, Ryan this month said the House Ways and Means Committee is considering options to address concerns "so that the transition from a really bad tax system to one of the best in the world we would get out of this is a gradual transition."

Although he also hails from the oil patch, Ways and Means Chairman Kevin Brady (R-Texas) has been the House's leading pitchman on the BAT, emphasizing the adjusted currency benefits while signaling openness to some sort of transition to ease effects.

One option involves phasing in the BAT over several years. Another would create a specific exemption or other sweetener to help smaller refiners.

That happened at the end of 2015, when Congress ended the decades-old ban on crude oil exports and added tax breaks for some refiners that said the policy shift would have harmed their bottom lines.

However, both options would reduce revenues needed to achieve the broader goal of tax reform — lowering corporate rates — while also opening the door for a host of exceptions for other affected sectors of the economy.

Rep. Devin Nunes (R-Calif.), a senior Ways and Means member, called it crucial for lawmakers to understand that the GOP plan would change the entire structure of U.S. taxation.

"If you really want to have fundamental reform, this is the only pathway I see to do it," he said in an interview this month.

Nunes, who has previously sponsored legislation to end tax breaks for fossil fuel companies, predicted that wary energy sectors would ultimately rally around the BAT, which he said should appeal to domestic producers.

"Most energy companies are in favor of having fundamental reform," he said. "I think it's just a matter of hopefully more education."

Additionally, Nunes said businesses will have far more freedom to make capital investments because they will no longer have to write off the costs of those investments over several years as they do under the current tax system.

#### **'All over the map'**



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American Petroleum Institute CEO Jack Gerard in January echoed familiar concerns over the BAT's effect on American refiners.

"We're bringing in a product that we're then refining by and large and producing for domestic or global consumption," he said. "So yes, we're concerned about it. We haven't taken a hard position yet but we're going to be looking at that very closely, particularly in that broader context of tax reform."

An API spokeswoman this month said the group continues to review the border proposal to see how it "could interact with our industry and impact consumers."

Lobbyists say some major energy lobbying groups may avoid taking a firm position on the BAT, given that the economic impact will vary widely among companies, depending on an individual firm's assets and services.

Energy companies are "all over the map" on the proposal, said Peter Cohn, a senior analyst at Height Securities, a Washington, D.C., investment firm.

He estimates there is a 75 percent chance the BAT passes the House this Congress, while only a 30 percent chance it moves in the Senate. Still, he noted, if the House measure does move, the Senate might be reluctant to be seen as killing a tax overhaul.

"At the end of the day, Hatch does not want to be the guy that stops tax reform," Cohn said of Finance Chairman Orrin Hatch (R-Utah).

Democrats are expected to have little input on the overhaul, which Republicans plan to move under a fast-track budget process that allows them to bypass Senate filibuster rules. But Texas Democrats say they're hearing fears from energy interests they represent.

Rep. Lloyd Doggett (D-Texas), a senior Ways and Means member, chided the panel earlier this month for failing to hold any hearings on the BAT.

"It seems to be an academic proposal that won over Paul Ryan and Kevin Brady, but they are not sufficiently proud of it that they are willing to expose it to public debate and discussion," said Doggett, who added that he's worried the BAT would result in a trade war with Mexico that would devastate his South Texas district.



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"Not only are there concerns by refiners, but by retailers, by auto manufacturers, by any consumer who gets fresh produce from Mexico. The thought that we would pay 20 percent more is very concerning, and I think it would disrupt the economy," he added.

Rep. Vicente Gonzalez, a freshman Democrat from South Texas, said a border tax would harm the oil and gas industry back home.

"I have oil and gas folks in my district that are concerned about trade with Mexico because we refine a lot of Mexican petroleum and then ship it back," he said. "A border tax would be awful for Texas, for sure. Mexico is our largest trading partner, and it's transformed my region in the past 25 years."

A recent Congressional Research Service report that analyzed the effects of a 20 percent tax on imports just from Mexico — an idea the White House floated last month as a way to pay for the estimated \$15 billion-\$20 billion cost of President Trump's proposed border wall — found it could disrupt North American crude oil prices "enough to create market inefficiencies and change the incentives for related investment, production and consumption."

One possible outcome noted in the CRS report, which did not examine the broader implications of a BAT applied to imports of all nations, could be a total or partial exit by Mexico from the U.S. crude oil market, particularly if Mexican producers find they can profit more from selling oil to other nations.

In addition to depriving the U.S. Treasury of revenue from the BAT, less Mexican crude exports to the United States could prompt an increase in demand from Canadian producers, possibly boosting the economics of the proposed Keystone XL pipeline.

#### **Mixed messages**

While House GOP leaders are firmly behind the BAT, support from the rank and file is considered to be less strong.

Last week, the conservative Club for Growth announced a \$150,000 ad buy urging Rep. Kristi Noem (R-S.D.), a senior Ways and Means member, to oppose the plan (Greenwire, Feb. 22).

Americans for Prosperity, the free-market advocacy group aligned with the pro-fossil fuel Koch brothers, has been working to scuttle the BAT for months.



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Last week, the group said it was expecting to make about 100 congressional staff visits during recess and has promised grass-roots work in 35 states.

"Our perspective is this will be a devastating tax for not just for folks who buy goods but fuel too," said Brent Gardner, AFP's chief government affairs officer. The group has said it would oppose any form of a BAT, even if it came with significant transition rules.

Americans for Affordable Products, a coalition that includes dozens of companies opposed to the BAT, held its own events last week in South Carolina and Ohio to pressure those states' delegations against the plan.

While Senate Republicans remain deeply skeptical over the BAT, supporters last week touted the potential support of one key policymaker — Trump.

The president has sent mixed signals about the plan, which in January he called "too complicated," although the White House has also said it continues to be in the mix.

Following a meeting with manufacturing CEOs, Trump on Thursday told Reuters the plan "could lead to a lot more jobs in the United States."

Brady, who's touted the BAT at events over the last few weeks sponsored by the mainstream U.S. Chamber of Commerce and the Conservative Political Action Conference, has consistently painted the proposal in terms that line up with Trump's "America first" mindset.

"We go very bold because our competitors insist we do," Brady, who spent nearly 20 years working for local chambers of commerce before running for office, said earlier this month.

"We have one chance in 30 years to go back to the lead and stay there for a long time. We are not going to shoot for mediocre," he said. "We will not continue a tax code that favors foreign-made products over American products, nor will we continue a tax code that actually encourages American companies to move overseas."

Asked about the many critics of the House tax plan, Brady told the CPAC audience on Friday it comes with the territory.

"You have all these special interests who are going to attack and attack and attack to keep their special tax break because we're proposing to eliminate a lot of the special interest provisions for some so we can lower the rates for everybody," he said.



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While a strong Trump endorsement of the BAT could help carry the proposal over the finish line, the stakes remain high for the overall tax reform push.

"They're going to have quite the challenge trying to either building the consensus to do it or to make up the revenue if they don't," Wyden said.

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