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Attached is the daily news report for Feb. 22.

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DAILY NEWS REPORT - UTAH

UTAH – TOP STORIES – FEBRUARY 22, 2017

1. **Op-ed: Utah invested in public lands access, and OR's customers will keep coming**

The Salt Lake Tribune, Feb. 21 | Timothy Hawkes

After threats and rumblings about Utah's public lands policies for years, a vanguard of outdoor retailers issued a Valentine's Day ultimatum: "Agree with us or else." Just two days later, the Outdoor Retailers (OR) announced that they would not return to Utah after the show's contract expires in 2018 — a hair-trigger response that seems to confirm they never intended to engage in serious dialog in the first place.

2. **Utah business owners, Democrats decry loss of Outdoor Retailer shows**

The Salt Lake Tribune, Feb. 21 | Taylor W. Anderson

On the steps of the Salt Palace Convention Center, business owners lamented Tuesday that the departure of the biannual Outdoor Retailer shows will hurt their pocketbooks, while Democratic leaders said they hoped it will help them at the ballot booth.

3. **Lee: Too much power given to too few people**

The Deseret News, Feb. 21 | Amy Joi O'Donoghue

SALT LAKE CITY — Sen. Mike Lee, R-Utah, told the Utah Legislature on Tuesday that Congress is plowing through a list of executive branch rules made late in the Obama administration that need repeal because they are too costly, too burdensome or fall outside their constitutional authority.

4. **Chaffetz: President 'absolutely' wants to take action on Bears Ears**

The Deseret News, Feb. 21 | Lisa Riley Roche

SALT LAKE CITY — President Donald Trump "absolutely" wants to take action to change the Bears Ears National Monument designation made by his predecessor, said Rep. Jason Chaffetz, R-Utah.



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5. North American Handmade Bicycle Show the Latest to Protest Utah Governor

Mens Journal, Feb. 22 | Jayme Moyer

On February 19 the North American Handmade Bicycle Show (NAHBS) announced it will not hold future events in Utah, a direct response to the state's recent efforts to strip federal protection for public land. NAHBS is the largest handmade bicycle show in the world, with more than 140 builders and exhibitors.

6. Lawmakers want feds to rein in wild horse problem — or Utah will

The Deseret News, Feb. 22 | Amy Joi O'Donoghue

SALT LAKE CITY — A state lawmaker says the inability of the federal government to humanely manage exploding wild horse and burro populations should prompt Congress or President Donald J. Trump to give that authority to Utah.

7. Keeping history alive; ceremony celebrates 85 new Old Spanish Trail signs

St. George News, Feb. 22 | Written by or for St. George News

PAROWAN — A ceremony in Parowan Wednesday will mark the installation of the last of 85 new signs along 80 miles of the Old Spanish National Historic Trail. The event will celebrate Iron County's legacy of treasured Old Spanish Trail history and is scheduled for 4 p.m. in the Parowan Library.

E&E/NATIONAL NEWS – TOP STORIES

1. Why conservatives should fight for Obama's methane rules

High Country News, Feb. 21 | Steve Bonowski

Waste is not conservative. That is why conservative presidents from Theodore Roosevelt to Ronald Reagan made fighting waste a priority. Both presidents believed that conservation was essential to keeping America strong.



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2. Op-ed: Inside the fight to undo BLM's planning overhaul

High Country News, Feb. 22 | Adam M. Sowards/The Conversation

Republicans in Congress are enthusiastically using the Congressional Review Act to overturn regulations finalized during the last weeks of the Obama administration. One measure on their list is the Bureau of Land Management's new Planning 2.0 rule, which is designed to improve BLM's process for making decisions about ranching, energy development and other uses of public lands. The House has already voted to repeal the rule, and the Senate is likely to follow.

3. DAKOTA ACCESS: Protesters burn camp as eviction deadline passes

E & E News, Feb. 22 | Hannah Northey

Foes of the Dakota Access oil pipeline posted photos of burning teepees online as a state-imposed deadline passed this afternoon for evacuating a protest camp in the project's path near Cannon Ball, N.D.

4. TRANSMISSION: Greens challenge BLM approval of project's Idaho route

E & E News, Feb. 22 | Scott Streater

An environmental group is challenging the Bureau of Land Management's approval of the final two sections of a massive Wyoming-to-Idaho power line that was one of the last major projects approved by the Obama administration.

5. COAL: Interior hails death of stream rule, says jobs were saved

E & E News, Feb. 22 | Manuel Quiñones

The Interior Department is praising Congress and President Trump for taking action against an Obama administration rule to protect waterways from coal mining.

6. OREGON STANDOFF: 2nd trial opens for Malheur defendants

E & E News, Feb. 22 | Maxine Bernstein, Portland Oregonian

The second trial over the armed occupation of a wildlife refuge in Oregon last year began yesterday with prosecutors and defense attorneys arguing over the four defendants' beliefs and actions.



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7. NATIONAL MONUMENTS: Chaffetz asks if park coordinated with Obama on Bears Ears

E & E News, Feb. 22 | Emily Yehle

A summer intern's enthusiasm sparked a congressional investigation last month, when House Oversight and Government Reform Chairman Jason Chaffetz (R-Utah) sent a letter to Bryce Canyon National Park about a tweet.

8. EPA: Emails show Pruitt's ties to fossil fuel industry

E & E News, Feb. 22 | Kevin Bogardus

Emails released today from U.S. EPA Administrator Scott Pruitt's time as Oklahoma attorney general show he and his office had a familiar if not symbiotic relationship with fossil fuel companies.

9. COAL: EPA fights order requiring study of job losses

E & E News, Feb. 22 | Amanda Reilly

A West Virginia federal judge's order requiring U.S. EPA to evaluate coal industry job losses imposes "substantive obligations" and has "no basis in the statute," attorneys for the agency argued in a filing yesterday.

10. DAKOTA ACCESS: Oil could flow through pipeline in 2 weeks

E & E News, Feb. 22 | Ellen M. Gilmer

The Dakota Access pipeline could see its first drops of oil in less than two weeks, company lawyers told a federal court yesterday.

11. FEDERAL WORKFORCE: Survey finds DOJ environment team has best morale

E & E News, Feb. 22 | Kevin Bogardus

The Department of Justice's environmental lawyers are the happiest federal employees working on energy and environmental issues, said a report released today.



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12. **Defense asks retired FBI agent his reaction to first Oregon standoff verdict**

The Oregonian/OregonLive, Feb. 22 | Maxine Bernstein

Over the objection of a prosecutor, a defense lawyer Wednesday asked Oregon's recently retired top FBI agent about his reaction to the jury verdict from the first trial in the occupation of the Malheur National Wildlife Refuge.



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UTAH – FULL STORY

1. **Op-ed: Utah invested in public lands access, and OR's customers will keep coming**

The Salt Lake Tribune, Feb. 21 | Timothy Hawkes

After threats and rumblings about Utah's public lands policies for years, a vanguard of outdoor retailers issued a Valentine's Day ultimatum: "Agree with us or else." Just two days later, the Outdoor Retailers (OR) announced that they would not return to Utah after the show's contract expires in 2018 — a hair-trigger response that seems to confirm they never intended to engage in serious dialog in the first place.

In doing so, they removed themselves entirely from the debate over public lands in Utah. Perhaps that's for the best if their approach to dialog means embracing over-simplified narratives and a perverse kind of public policy hostage taking: "Do what we want, or we'll kill the hostage," which in this instance is the many small businesses that depend on the biannual show.

Why such a drastic step? In the name of protecting public lands, says OR, and the public's access to those lands. Ironically, however, few Utahns — from the governor on down — would argue with either goal. To cries of, "Keep public lands in public hands," the vast majority of Utahns would answer, "Amen!"

Like so many who live here, I love our public lands. I've slithered through slot canyons, thrilled at the cry of the canyon wren and seen up close thousand-year-old fingerprints pressed into adobe walls — experiences no museum can replicate. My family and I have crisscrossed the state, including many of the spectacular natural areas that fall within the Bears Ears National Monument. We treasure those places and spaces, the kind that draw tourists from all over the world who seek the singular outdoor experiences to be found here — experiences that fuel the OR industry so determined to leave.

The trouble is that OR conflates support for public lands with support for top-down, coercive policies that often disregard meaningful local involvement or the need to balance environmental stewardship with legitimate needs for energy and rural economic development.

Energy jobs in Utah pay nearly double the average wage and, in rural areas like San Juan County, provide desperately needed income, tax revenue and social stability. Little wonder that many in those areas greet federal actions that limit or restrict those opportunities with resentment and outright hostility. Tourism and recreation create jobs, too, but often minimum-wage and



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seasonal ones. In reality, we need both, but that bespeaks a balance lost in OR's strident condemnation of anything short of unequivocal support for a range of coercive and unilateral federal actions.

Can't one believe in protecting Bears Ears but think that protection is best accomplished in ways that don't involve expansive use of the Antiquities Act? That some of these places may need less publicity rather than more? That a push for some state control — or at least more effective state involvement — does not mean selling off our collective birthright to the highest bidder?

Apparently not, to OR's way of thinking, which is why their voice won't be missed. Shrilly condemning others or attempting to punish them without first trying to understand their perspective represents politics at its ugliest and worst.

Finally, the concept of "multiple use" isn't just a slogan or a smoke-screen for efforts to degrade the environment. It's an ethic woven into this landscape for millennia, an ethic we all participate in whether we want to or not. After all, the climbers, hikers and bikers in Utah who sport OR apparel and use OR gear will almost certainly traverse roads blazed by miners and loggers, driving cars run on oil drilled from deep beneath the red rock and, at the end of a long day, dine on burgers from cattle reared on public lands.

The stark choice between protecting public lands and supporting policies that would destroy everything we hold dear is a false one. The question isn't whether we protect these lands, but rather how we do so, and an honest dialogue on that score remains key to our future.

The OR show may leave the state, but its customers won't. They'll be drawn back again and again to these landscapes that beckon them, raw and wild, and to a state that remains heavily invested in protecting and promoting access to public lands.

Attorney Timothy Hawkes has served in the Utah House of Representatives representing District 18 in Davis County since 2015. He serves on the Natural Resources, Agriculture and Environmental Quality Appropriation Subcommittee.

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2. Utah business owners, Democrats decry loss of Outdoor Retailer shows

The Salt Lake Tribune, Feb. 21 | Taylor W. Anderson

On the steps of the Salt Palace Convention Center, business owners lamented Tuesday that the departure of the biannual Outdoor Retailer shows will hurt their pocketbooks, while Democratic leaders said they hoped it will help them at the ballot booth.

Organizers of the shows announced last week they would sever their 20-year-old relationship with Salt Lake City in 2018 because state elected leaders favored public lands policies that were contrary to the outdoor industry.

Two Democrats from the Salt Lake County Council echoed that sentiment. Seeking to pin blame for the loss of the show squarely on the Republicans who control both chambers of the Legislature and the governor's mansion, they said Gov. Gary Herbert and fellow Republicans were harming the state's economy.

Lawmakers passed, and Herbert signed, a resolution calling on President Donald Trump to rescind the designation of 1.35 million acres as the new Bears Ears National Monument. Herbert later signed another resolution calling on federal leaders to shrink the boundary of Grand Staircase-Escalante National Monument.

Salt Lake County Councilman Sam Granato announced he would resign from his post on Herbert's 15-person Economic Development Board. He said the governor's decision to sign the resolutions was "counterintuitive" to the board's stated goals of promoting and encouraging economic growth.

Councilman Jim Bradley said Republicans were harming what he called a top product for Utah by calling to eliminate or reconfigure the national monuments.

"Why would you want to diminish that product?" asked Bradley, adding the state should look to expand its protected areas.

Peter Corroon, chairman of the Utah Democratic Party and the former county mayor, posed a question for Utah voters:



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"How much pain to our economy, how much pain to our education system, how much pain to our air quality, how much pain to our health care system are we willing to take as a state before we start reconsidering how we vote in the state of Utah?"

Herbert's office said there was no update from last week, when talks between outdoor industry representatives and the governor broke down after a Thursday conference call.

Spokesman Paul Edwards said the governor was "concerned about the immediate impact" of losing the shows.

"But there's just very strong insistence ... that they wanted a conscientious rejection of the position that there shouldn't be a monument," Edwards said. "The governor, because he's balancing the concerns for all of the state in his considerations, still feels that that isn't in the overall best interest of the state."

Alongside county leaders Tuesday were business owners who directly benefited each time the 20,000-plus visitors would come to town for the shows, which are estimated to bring \$45 million annually to Salt Lake City.

Enes and Mubera Huskic, owners of the local Toasters deli chain, said they came to rely on the boon from the events.

"This group in particular was the busiest for us," Mubera Huskic said. "It's a huge, huge, huge loss."

One year they bought a new espresso machine with the money the show's visitors brought into the business.

It was hard for the couple to expound on just what impact losing the convention would have on the chain. The shows were already ongoing 16 years ago when the Huskics opened their first store, which faces the convention center's south entrance on 200 South.

Herbert remained optimistic that Emerald Expositions, the owner of the shows, would change its mind and allow Salt Lake City to make a proposal to renew a contract, Edwards said.

So, too, was Adam Swillinger, who runs Laser Exhibitor Service, which has installed the exhibits within the 679,000-square-foot convention center. He said his business set up about 60 exhibits and employed 100 employees twice a year for about three weeks to set up the event.



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"We can get together and make it work," Swillinger said.

If not, Outdoor Retailer will leave after its current contract expires following the Summer Market in 2018. So far, Oregon, Colorado and Montana have publicly expressed interest in hosting the event.

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3. **Lee: Too much power given to too few people**

The Deseret News, Feb. 21 | Amy Joi O'Donoghue

SALT LAKE CITY — Sen. Mike Lee, R-Utah, told the Utah Legislature on Tuesday that Congress is plowing through a list of executive branch rules made late in the Obama administration that need repeal because they are too costly, too burdensome or fall outside their constitutional authority.

The Congressional Review Act of 1996 had only been used once in 16 years when Congress invoked it earlier this month to kill a controversial stream rule impacting coal mining operations.

"It was an atomic bomb of sorts they were going to drop on the coal industry," Lee said.

The rule issued in late December put restrictions on coal mines operating near waterways and required monitoring by the mines to determine impacts.

Other Obama-era rules now in the crosshairs for extermination are the Bureau of Land Management's methane emissions regulations and a new approach to crafting land use management plans called Planning 2.0.

Lee said there were a host of rushed midnight regulations that inappropriately empowered the executive branch to essentially craft law, which is in the domain of Congress.

"When we allow (rules) to be made by just a few people, by the executive branch acting alone ... that causes some problems," he said. "This is about returning power back to the people ... where it belongs."

Rep. Mike Noel, R-Kanab, questioned Lee about the ramifications that may come from a recently released federal investigation concerning the actions of BLM agent Dan Love.



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The Department of the Interior's independent inspector general's office released a damning report on Love that was spurred by anonymous complaints. The investigation concluded Love had committed ethics violations and used his position to gain special treatment at the 2015 Burning Man event in Nevada. The report concluded, too, that he had subsequently intimidated witnesses in the case by threatening to retaliate.

Lee said such actions are what come from an oversized federal agency using its own law enforcement arm.

"We give too much power to too few people," he said, noting that county sheriffs' offices — not federal agents — should be the top law enforcement authority in their own jurisdiction.

Details of the inspector general's investigation into Love's activities prompted Rep. Jason Chaffetz, R-Utah, chairman of the Committee on Oversight and Government Reform, to request additional information into the alleged destruction on federal records, witness tampering and obstruction of a congressional investigation.

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4. **Chaffetz: President 'absolutely' wants to take action on Bears Ears**

The Deseret News, Feb. 21 | Lisa Riley Roche

SALT LAKE CITY — President Donald Trump "absolutely" wants to take action to change the Bears Ears National Monument designation made by his predecessor, said Rep. Jason Chaffetz, R-Utah.

"I hope it is rescinded. The second option would be to reduce it to a very, very small size. That has more precedent," Chaffetz told the Deseret News and KSL editorial boards Tuesday. "But I want to go back and do it the right way."

Before that can happen, the congressman said the president's pick for secretary of the interior, Montana Rep. Ryan Zinke, needs to be confirmed by the U.S. Senate. Chaffetz said Zinke would have visited Utah on Monday if he were secretary.

Chaffetz said his preference would be for the monument designation to be repealed by the president rather than merely reduced in size. He described Trump as "very supportive, very sympathetic."



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Whether Trump can do that is being reviewed by "legal eagles," Chaffetz said, because while a monument has been shrunk in the past, this would be the first time a president's designation was rescinded.

Sen. Orrin Hatch, R-Utah, told KSL Newsradio's Doug Wright on Tuesday that he, too, believes the Bears Ears monument designation will be reversed under the new president.

"I believe we'll get it changed," Hatch said. "It's not over. I'll put it that way. And neither is Grand Staircase," a reference to the Grand Staircase-Escalante National Monument set aside by then-President Bill Clinton.

That national monument designation 20 years ago cut off access to what the senator described as one of the "greatest coal deposits" in the world, a "tremendous economic resource for Utah. That's going to change."

Hatch said Trump is "very susceptible" to taking action.

"Watch what happens in the next few months," the senator advised. "I think you're going to see that this man will respect our state, and he should."

Zinke will be sent to Utah by the new president, Hatch said.

"I think he is going to be on our side," he said of the nominee.

Later Tuesday, a letter surfaced from Chaffetz, the chairman of the House Oversight and Government Reform Committee, asking the superintendent of Bryce Canyon National Park to explain the timing of a post on Twitter about Bears Ears and another monument designated in Nevada.

"Welcome to the family Bears Ears (& Gold Butte) NM! A hopeful slot in our front desk maps has long been held for you," read the tweet posted from the park's account the day after the monument designations on Dec. 28.

Chaffetz said in the letter that the "message created the appearance that officials at Bryce Canyon coordinated with the White House prior to this most recent designation," calling into question a claim made to Gov. Gary Herbert that no decision had been made as of mid-December.



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Bryce Canyon Superintendent Susan Fritzke told Chaffetz that "no employees were consulted with, or coordinated with, any entities regarding the designation of Bears Ears National Monument."

Fritzke said the slot for Bears Ears was created late last summer by a park volunteer assigned to reorganize materials available at the visitor center's front desk and that she became aware of the new national monument after it was publicly announced.

Matthew Burbank, a University of Utah political science professor, said the letter from Chaffetz appears to be an attempt to send a warning to federal employees that they should be cautious.

"It's a way of saying, 'Don't do things that get out ahead of what the political position is,'" Burbank said, especially at a time when some National Park Service and other government employees have "rogue" Twitter accounts critical of the administration.

Burbank questioned why there would be interest in the tweet otherwise.

"The reality is this looks like pretty small potatoes," he said. "I can't see what the harm would have been."

There has been no shortage of politics surrounding Bears Ears, including the announcement last week by the Outdoor Retailer group that the trade show was leaving the state after 20 years because of opposition to the monument.

The group said it would not let Salt Lake City compete to host once the current contract expires next year, after Gov. Gary Herbert signed a legislative resolution calling for the monument to be rescinded.

The resolution is a key part of the push by state officials to undo of the designation of 1.3 million acres in San Juan County made by then-President Barack Obama in his final days in the White House.

It was at the top of the list of items Chaffetz said he brought up during his recent meeting with Trump, who not only was "well-versed" about the designation but even knew about the similar concerns surrounding Grand Staircase.

Chaffetz said he wished the Outdoor Retailer show wasn't going but said the effort against the monument designation wasn't to blame.



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"It's a convenient excuse for them to say our policy on Bears Ears is driving them out," the congressman said, labeling it "hogwash" to suggest the effort to undo the monument designation was their reason for departing.

"Nobody needs to grovel with these folks," Chaffetz said. "They had made up their mind some time ago."

Utah Democratic Party Chairman Peter Corroon said the talk from members of the state's all-Republican congressional delegation about Trump's willingness to roll back the national monument designation hurts the state.

"It's more of the same right-wing rhetoric that made us lose the Outdoor Retailer show," Corroon said. "What's next, future Olympic possibilities, Sundance, etc., etc.?"

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5. **North American Handmade Bicycle Show the Latest to Protest Utah Governor**

Mens Journal, Feb. 22 | Jayme Moyer

On February 19 the North American Handmade Bicycle Show (NAHBS) announced it will not hold future events in Utah, a direct response to the state's recent efforts to strip federal protection for public land. NAHBS is the largest handmade bicycle show in the world, with more than 140 builders and exhibitors.

"When we were negotiating the [2017] show, Governor Herbert hadn't begun his assault on public lands," said NAHBS founder Don Walker in a statement. "His agenda for the state of Utah has the ability to curtail the recreation of our exhibitors and their customers."

NAHBS's decision is in solidarity with Interbike, the largest bicycle trade show in the U.S., which announced on February 16 it would not include the state of Utah in the RFP process for future show locations, and with the Outdoor Retailer show, the largest outdoor industry trade show, which is also looking for a new home following 20 years in Utah. The outdoor industry, including Patagonia, Arc'Teryx, Polartec, The North Face, REI, and Polartec, has been at odds with Utah state leaders over land use in the past, but hit an unprecedented level of discord February 3, when Utah Governor Herbert signed a bill asking President Trump to delist Bears Ears as a National Monument.



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For 2017, NAHBS will hold the show as scheduled, March 10-12, at the Salt Palace Convention Center in Salt Lake City, to support the small builders and craftsmen who had already booked airfare and hotels to travel to Utah. But it will not return "unless serious changes are made by government officials."

The full text of the North American Handmade Bicycle Show's press release is below:

Aligning with the recent actions taken by other brands that exhibit at Outdoor Retailer as well as the conversations regarding the future of Interbike in the state of Utah, NAHBS will not be calling Utah home to the show in the future.

"When we were negotiating the show, Governor Herbert hadn't begun his assault on public lands. His agenda for the state of Utah has the ability to curtail the recreation of our exhibitors and their customers. If not for signed contracts, booked airfares, hotels and the builders depending on the show taking place, we too would be relocating" said Don Walker, founder of NAHBS.

"Our goal is to spotlight frame builders and the cycling industry partners that support them. NAHBS moves the location each year to accommodate the needs of builders across the country. Regardless of our schedule we would not chose to bring the show back to Utah unless serious changes are made by government officials."

This news and the subsequent backlash from industry leaders occurred a month before the 13th edition of NAHBS is set to take place. Unfortunately moving the show this year is not an option. March 10th-12th NAHBS will take place in Salt Lake City and NAHBS look forward to spending time with all the small builders and craftsmen that the show was founded for. We hope that Utah will come support these businesses in light of recent events.

About NAHBS:

NAHBS Showcases the talents of individuals around the world whose art form is the bicycle. We are a meeting space for frame builders and consumers who are passionate about custom-made bikes.

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6. **Lawmakers want feds to rein in wild horse problem — or Utah will**

The Deseret News, Feb. 22 | Amy Joi O'Donoghue

SALT LAKE CITY — A state lawmaker says the inability of the federal government to humanely manage exploding wild horse and burro populations should prompt Congress or President Donald J. Trump to give that authority to Utah.

"It is a hell," said Rep. Ken Ivory, R-West Jordan and sponsor of HCR22.

"They say the road to hell is paved with good intentions. ... This is a hell for the ecosystem, this is a hell for wildlife species. ... This is a hell for the animals themselves."

The resolution, which passed on a 10-1 vote in the Natural Resources, Agriculture and Environment Committee, notes that while federal herd management levels on western ranges should be at 26,715 horses and burros, the actual number is 67,027.

Populations that are at more than three times the targeted management level are causing widespread destruction of rangeland, leading to serious issues for ecosystems, wildlife species, ranchers and farmers and to the herds themselves, Ivory said.

The resulting "havoc" needs to be corralled before more damage takes place, he added.

Rep. Scott Chew, R-Jensen, said hungry horses in his district are creating a public safety problem, with numerous animals that have been hit and killed on the highways.

The Bureau of Land Management in Utah has carried out several gathers over the last few months on an emergency basis to try to cull herds. Nationwide, there are about 45,000 animals in long-term holding pens that have not been adopted and are being cared for at a cost of \$50 million a year.

Adoptions, once seen as one way to help control herd populations, have not kept up with the population growth of the animals, which can double in numbers every four years.

The resolution calls on the president and congress to repeal the Wild and Free-Roaming Horses and Burro Act of 1971, or remove the regulatory roadblocks to fulfilling its mandate to keep populations in check by all means necessary, including lethal removal.



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A 2004 amendment to the wild horse act allowed the BLM to sell animals at \$10 a head to anyone, including slaughterhouses, but Congress subsequently withdrew funding of U.S. Department of Agriculture Inspectors.

The overpopulation problem of wild horses in Utah has prompted several lawsuits, including a recent complaint filed by Beaver County demanding the federal government get the issue in check.

Ivory said the untenable situation has to end by states stepping in to manage populations.

"We know how to manage on the land," he said, pointing to successful wildlife management carried out by the Utah Division of Wildlife Resources.

The full House will now consider the resolution.

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7. **Keeping history alive; ceremony celebrates 85 new Old Spanish Trail signs**

St. George News, Feb. 22 | Written by or for St. George News

PAROWAN – A ceremony in Parowan Wednesday will mark the installation of the last of 85 new signs along 80 miles of the Old Spanish National Historic Trail. The event will celebrate Iron County’s legacy of treasured Old Spanish Trail history and is scheduled for 4 p.m. in the Parowan Library.

The route is the longest signed segment of the trail and is an effort by 12 partners that spanned two years.

“Iron County has a special place in the history of the Old Spanish Trail, primarily because segments of the trail can still be identified and located by ground and aerial survey,” Al Matheson, Utah director of the Old Spanish Trail Association, said in a press release.

“There are stories of Spanish garbed specters appearing and giving directions, inscriptions, gold hoards, lost – and found – caches and treasure mines abound throughout the area.”

The Bureau of Land Management and Iron County paid for the signs and posts respectively, with half of the funds coming from a Waypoint Grant from the state of Utah.



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The sign bases were installed by the Iron County Road Department, and the signs were installed in a series of three Eagle Scout projects led by Barrick Perkins, Mason Paxton and Jayden Paxton, all of Enoch, Utah.

“The partnerships that brought this project together will keep alive the mule pack trains that kept trade flowing through Utah, New Mexico, Colorado, Nevada, Arizona and California,” BLM Cedar City acting field manager Keith Rigtrup said.

Other partners include Sun Edison, Clenera Solar, Parowan City, Enoch City, the town of Paragonah, Utah Department of Transportation, the National Parks Service, the U.S. Forest Service and the Old Spanish Trail Association.

“We are excited to have the Old Spanish Trail identified and marked where the public can learn about an almost forgotten era in Iron County’s history,” Mike Worthern, Iron County natural resource management specialist, said.

“Hopefully, citizens of the county and visitors will take advantage of the information and landmarks of the trail and appreciate the great undertaking of moving goods across the west so long ago.”

Congress designated the Old Spanish Trail in 2002 to recognize the significance of the notoriously arduous trail that traders used to transport goods between Santa Fe, New Mexico, and Los Angeles, California, between 1829 to 1848.

The trail passes through New Mexico, Colorado, Arizona, Utah and Nevada, including parts of Washington, Iron, Garfield, Piute and Sevier counties.

Event details

What: Ceremony in celebration of 85 new signs on the Old Spanish Trail.

When: Wednesday, Feb. 22, at 4 p.m.

Where: Parowan Library, 16 S. Main St., Parowan.

For more information about the ceremony, contact BLM Cedar City outdoor recreation planner Dave Jacobson 435-865-3000

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High Country News, Feb. 21 | Steve Bonowski

Waste is not conservative. That is why conservative presidents from Theodore Roosevelt to Ronald Reagan made fighting waste a priority. Both presidents believed that conservation was essential to keeping America strong.

That's why any true conservative should support efforts to prevent the kind of waste that costs taxpayers a bundle. The Bureau of Land Management recently took a great step in that direction with its Methane and Waste Prevention rule, which requires oil and gas companies to be responsible and capture the natural gas they extract from our public lands. Unfortunately, though, on Feb. 3 the House of Representatives voted to repeal the rule with most Republicans in agreement: Eleven Republicans voted against the repeal; three Democrats voted for it. Now, the issue has moved to the Senate.

The BLM, which oversees oil and gas development on nearly 250 million acres of public lands, went through a lengthy rulemaking process before it issued its methane-capture rule, including reviewing thousands of public comments and holding listening sessions across the country. Last November, the agency published the result of all that work: a new set of guidelines, known as the Methane and Waste Prevention Rule, to make sure that when oil and gas is produced on our public lands, companies are using best practices to minimize the waste of natural gas.

President Theodore Roosevelt surely would have approved. As he told Congress in 1907: "To waste, to destroy, our natural resources, to skin and exhaust the land instead of using it to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought by right to hand down to them."

Unfortunately, special interests and lobbyists are calling the shots on this issue, and too many supposedly "conservative" members of Congress want the new guidelines repealed.

The American Petroleum Institute, the oil and gas industry's chief lobbying arm, has doubled down on efforts to eliminate the BLM's wasted-gas rule, declaring shortly after the election that overturning it was a top priority. API has spent more than \$13 million on lobbying over the last two years, and according to The New York Times, the energy industry spends about \$300 million a year lobbying Congress, deploying an army of lobbyists — three for each member.



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They are using money to paper over the fact that the methane waste rule would save an estimated \$330 million worth of natural gas that, until now, has been wasted from public lands every year. That's right: Even as the industry spends \$300 million a year lobbying our elected officials, it is wasting \$330 million of our shared natural resources.

Anyone who shares an American ethic of stewardship can recognize that the BLM's rule makes sense. All told, taxpayers could gain as much as \$800 million in royalties over 10 years — but only if the rule is left intact by the conservatives in the Senate, who should not even be considering overturning it.

In seeking to gut the rule, Republicans are using the Congressional Review Act as their scalpel. As the Washington Post noted, using the act is “wholly legitimate” — but the devil lies in the details. Once the Congressional Review Act is used to negate the BLM's regulations, the agency would be prohibited from ever creating a similar rule again. In the BLM's case, how would the agency ever be able update its antiquated rules on the matter?

In the West, where most public-lands drilling occurs, the idea of preventing waste is popular. A recent survey found that 81 percent of Western voters, including a whopping 84 percent of Republicans, want to keep the wasted-gas rule in place.

Minimizing waste from our natural resources is one of the few issues that people across ideologies can agree on. But who will our Republican friends in the Senate listen to when it comes to a vote? Will they listen to the high-paid industry lobbyists, or will they listen to their constituents and continue the conservative tradition of fighting waste?

Steve Bonowski is a contributor to Writers on the Range, the opinion service of High Country News. He is a Colorado-based board member of Conservatives for Responsible Stewardship, a national nonprofit organization.

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2. **Op-ed: Inside the fight to undo BLM's planning overhaul**

High Country News, Feb. 22 | Adam M. Sowards/The Conversation

Republicans in Congress are enthusiastically using the Congressional Review Act to overturn regulations finalized during the last weeks of the Obama administration. One measure on their list is the Bureau of Land Management's new Planning 2.0 rule, which is designed to improve



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BLM's process for making decisions about ranching, energy development and other uses of public lands. The House has already voted to repeal the rule, and the Senate is likely to follow.

As an environmental historian, I see this as the latest skirmish in a long-running battle over use of the quarter-million acres of public lands managed by BLM.

Historically, BLM has been dominated by commodity interests, especially ranchers and mining companies. But in the 1970s Congress passed several laws that increased public involvement in land management decisions. It also directed BLM to balance extractive uses such as mining, grazing and logging with other activities, such as wildlife conservation, recreation and preservation of wilderness areas. These laws shifted the agency into what has been called a "green drift" toward greater environmental protection, even in the face of subsequent congressional gridlock.

This is not a simple Washington-versus-local struggle. Many westerners, including some Republican officials, support the idea of opening up the planning process and doing it across larger areas. Overturning Planning 2.0 exposes BLM to charges of ignoring science, collaboration and the public – criticisms that it has worked for decades to overcome. And it will probably lead to more of the lawsuits that inspired the rule in the first place.

The Bureau of Livestock and Mining

BLM's history makes it vulnerable to charges of not listening to a wide public. An agency of the Interior Department, it was created in 1946 through a merger of the General Land Office and the U.S. Grazing Service. Government experts had found that 95 percent of rangelands in the public domain had declined since the turn of the century due to "excessive stocking," or overgrazing.

However, BLM was so attentive to its main constituencies – ranchers and mineral companies – that it quickly became known as the Bureau of Livestock and Mining. In its early years, power rested almost entirely with grazing advisory boards, made up of local ranchers who assigned grazing permits on government rangelands. At one point these boards even helped pay BLM employee salaries.

Through the 1970s western land management was a classic example of what political scientists call an "iron triangle," in which tightly connected congressional committees, bureaucracies and interest groups enact policy. Such relationships typically favor the narrow self-interest of commodity groups.



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According to early studies of BLM, such as Philip Foss' 1960 book "Politics and Grass," the agency was "captured" by livestock interests. Political scientist Grant McConnell observed in 1966 that BLM's decentralized structure was designed to allow "home rule on the range" – just what ranchers wanted.

Gradual opening

In the 1970s BLM started to become more independent and manage land in a more adaptive and balanced way. This was partly due to the 1969 National Environmental Policy Act, which gave the public a new role in federal policy. Agencies proposing major projects were required to produce environmental impact statements that were subject to public review. This opened up federal agencies to greater scrutiny and allowed new voices to influence agency decisions. It also increased litigation and slowed down the planning process as more constituencies became involved.

The 1976 Federal Land Policy and Management Act increased BLM's power to regulate grazing and mining, and made wilderness a new priority in its multiple-use portfolio. Ranching and mining interests now had to compete and cooperate with wildlife advocates and other nonextractive users.

These new policies improved BLM decisions by enabling the agency to consider science, such as rangeland ecology and habitat protection for endangered species, and the noneconomic values of wilderness and wildlife. They also disrupted power balances. Many western stakeholders felt that national priorities were displacing local needs and traditions.

Their dissatisfaction spawned the Sagebrush Rebellion of the late 1970s and early 1980s and its descendants. Ever since then, commodity interests have bristled at having to incorporate broadly environmental values in western land use decisions, instead of basing them strictly on economics that favored ranchers with below-market grazing fees and miners with favorable leasing and royalty arrangements.

Planning 2.0 in the crosshairs

The final Planning 2.0 rule, published on Dec. 16, 2016, is designed to fix some key flaws in western land use planning. Notably, BLM lands are intermingled with private lands and public lands managed by other federal agencies. Many issues, such as wildfire management and invasive species control, cross these boundaries.



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Instead of planning at the local or site-specific scale, which does not address the environment's interconnected nature, the rule directs BLM to plan at the landscape scale – that is, over large areas with “similar environmental characteristics,” such as the Colorado Plateau. Landscape-scale planning necessarily involves federal, state, local and tribal governments.

The rule also requires BLM to seek public input before developing plans. This approach contrasts with NEPA, which requires agencies only to consult with the public after they have identified a few options for action. Environmentalists have repeatedly stalled BLM land use planning through lawsuits when they disagreed with agencies' proposed alternatives. Planning 2.0 seeks to involve them earlier to help develop alternatives in hope of reducing litigation later.

Many westerners who opposed the rule raised classic federal-versus-state arguments against it. Tom Jankovsky, a Republican commissioner in Garfield County, Colorado, called it “the first step to a totalitarian government, having bureaucrat planners making legislation through administrative process.” The Western Energy Alliance complained that it was an “overreach of federal authority” beyond what FLPMA allowed and prioritized conservation over multiple use.

But other western stakeholders found merit in Planning 2.0. Hunters and anglers, along with other hikers and outdoor enthusiasts, want seats at the table in land use decisions. Some wildlife advocates see the new rules as a great improvement and have called for Congress to ratify Planning 2.0 rather than repeal it. Park County, Colorado's three Republican commissioners praised the rule for allowing the public to influence plans rather than just react to them.

One step forward, two steps back

In my view, many critics who have urged Congress to strike down Planning 2.0 want to return to the era when mining companies and ranchers wrote the rules and did so for a narrow range of interests. This strategy is consistent with the Republican Party's general commitment to deregulation to facilitate business. But repealing the rule is unlikely to have that effect.

Laws like NEPA and FLPMA have brought other interests to the planning table, and Planning 2.0 would get them there earlier to help prevent costly delays that frustrate everyone involved. By excluding their voices, Congress will guarantee the status quo: lengthy court battles after planning decisions are issued. And once a rule is vacated under the Congressional Review Act, agencies cannot issue a new rule that is “substantially the same” unless Congress passes a law authorizing them to do so. The result will be more gridlock and unsound multiple-use management of western public lands.



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Adam M. Sowards is a professor of history at the University of Idaho.

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3. **DAKOTA ACCESS: Protesters burn camp as eviction deadline passes**

E & E News, Feb. 22 | Hannah Northey

Foes of the Dakota Access oil pipeline posted photos of burning teepees online as a state-imposed deadline passed this afternoon for evacuating a protest camp in the project's path near Cannon Ball, N.D.

Online videos showed protesters arguing about whether to stay in the camp or face arrest after the 2 p.m. CST evacuation deadline. The Oceti Sakowin camp has in recent months hosted the largest gathering of indigenous nations in modern American history.

The Dakota Access pipeline has become a flashpoint over the protection of tribal sovereignty and water protection. In a video posted shortly before the deadline, American Indian activist Chase Iron Eyes said many people had chosen to decide "up until the last minute" on whether they wanted to face a "ceremonial" or "symbolic" arrest.

"As you can see, a lot of people have chosen to burn down structures that were put up in ceremony," Iron Eyes said. "They can't allow them to be bulldozed, and so they've chosen just to send those homes back into the elements."

Protesters lived in tents and teepees for months to protest the pipeline that stalled under the Obama administration last year.

President Trump in recent weeks signed an executive memo calling for a quick review of the project. The Army Corps of Engineers has since approved an easement that would allow Energy Transfer Partners LP to build the pipeline under the Missouri River.

Maxine Herr, a spokeswoman for the Morton County Sheriff's Department, said protesters had set fire to structures in the camp. There was an explosion, she said, that sent two people to a hospital in Bismarck, N.D., for burn treatment.

Cleanup of the protest camp was delayed earlier in the day upon request from protesters and due to poor weather conditions, she said.



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Buses were available for protesters who wanted to leave to be taken to a travel assistance center set up by the state's Department of Human Services, Department of Emergency Services and Department of Health.

Protesters were being offered food, water, a health assessment, bus fare, a food voucher, hotel lodging for one night and a taxi voucher to the bus terminal, Herr said.

"Although the protesters did not board state-provided buses, about 100 of them just loaded buses and vans provided by a local church," she said. "We believe they plan to take them to the travel assistance center, but that is not confirmed."

North Dakota Attorney General Wayne Stenehjem has threatened to sue the federal government to recover cleanup costs, Prairie Business magazine reported today.

Iron Eyes in the video said the mood was "heavy" but vowed to fight on. "This is not the ending, we have to remember that," he said. "This is the beginning in the battle against Trump tyranny."

Tara Houska of Honor the Earth said the focus will now pivot to a national push for banks to divest from Dakota Access. She noted the city of Santa Monica, Calif., has pulled out billions of dollars from Wells Fargo & Co., the main financier, and individuals have pulled out more than \$64 million from the bank.

Earlier, this month, Seattle's City Council voted to take away \$3 billion in city business from Wells Fargo in response to the bank's backing of the Dakota Access pipeline (Greenwire, Feb. 8). Activists are gathering in Washington this afternoon to press District of Columbia officials to do the same.

"That's really important for the message that they need our money to invest in these projects," Houska said.

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4. **TRANSMISSION: Greens challenge BLM approval of project's Idaho route**

E & E News, Feb. 22 | Scott Streater

An environmental group is challenging the Bureau of Land Management's approval of the final two sections of a massive Wyoming-to-Idaho power line that was one of the last major projects approved by the Obama administration.

The Western Watersheds Project's administrative appeal to the Interior Board of Land Appeals focuses on the final two stages of the nearly 1,000-mile-long Gateway West Transmission Line Project that were strongly opposed by Idaho Gov. Butch Otter (R), local government agencies and landowners.

BLM last month issued a record of decision (ROD) for the final two segments. The ROD approved running the line mostly outside the boundaries of a federal raptor sanctuary and across more private property and greater sage grouse habitat than critics say is necessary (Greenwire, Jan. 20).

WWP's appeal focuses on impacts to sage grouse and its dwindling habitat.

It says the Gateway West project "will damage sensitive sage-grouse habitats, create a barrier to sage-grouse movements and migrations, isolate tracts of sage-grouse habitat, and increase sage-grouse mortality within four miles of the transmission lines" because raptors and other predators will perch on the lines, searching for prey.

The 18-page appeal also says BLM's analysis of the final two segments violates the National Environmental Policy Act because it failed to take a "hard look" at the "direct and indirect impacts to the Greater sage-grouse or ensure the scientific accuracy of its analysis."

While BLM's supplemental environmental impact statement of the Idaho routes "provided a laundry list of stressors on sage-grouse in the region, it failed to actually analyze the impacts of those stressors on sage-grouse," the appeal says.

The appeal includes a "petition for stay" that would place BLM's approval on hold "to prevent irreparable harm to the environment" and to WWP's interests in the matter.

"It makes no sense at all to take this massive, unnecessary transmission project on a major detour through highly sensitive sage-grouse habitats," said Erik Molvar, WWP's executive director and a wildlife biologist by training.



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"We know based on multiple scientific studies that raptors roost on transmission towers and concentrate their predation within 4 miles of power lines," he added, "and we are concerned that Idaho's beleaguered sage grouse populations won't be able to deal with the added mortality."

The Obama administration made Gateway West a priority, in large part because it is expected to carry up to 1,500 megawatts of mostly wind-generated electricity in Wyoming and Idaho to power-hungry load centers from Utah to Washington state.

But WWP's appeal is at least the third filed to date, joining those filed by WildLands Defense and the Prairie Falcon Audubon Society. Friday is the deadline to file administrative appeals.

The state of Idaho has filed a notice of appeal, giving it an extra 30 days to file the paperwork, said Heather Feeney, a BLM spokeswoman in Boise, Idaho.

Feeney said BLM cannot comment on pending legal proceedings.

BLM has said in the past that the Idaho sections of the line, which cover about 321 miles, were careful to avoid "priority sage grouse habitat" identified in federal grouse management plans finalized in 2015.

But the final two segments — and BLM's reluctance to route the line through the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA) — have been a source of controversy for years.

BLM issued an ROD in late 2013 approving the Gateway West route through southern Wyoming but deferred making a decision on the final two sections in Idaho after complaints from Otter, local leaders and private property owners objecting to the proposal to avoid the BLM-managed Birds of Prey NCA.

After four years of study, BLM last month approved routing two separate 500-kilovolt lines along the southern boundary of the 485,000-acre NCA, crossing a total of 17.6 miles of it — the least of any of the seven alternatives the agency analyzed.

BLM has cited a 2012 policy manual guiding management of sites within the National Conservation Lands system that prioritizes avoidance and discourages granting rights of way for utility corridors and transportation projects in these areas to the "greatest extent possible."



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BLM and advocates worry that routing the line across large sections of the Birds of Prey NCA would set a precedent that could pave the way for industrial-scale projects at other National Conservation Lands sites.

But critics, including Idaho, argue the Birds of Prey NCA was designated because of its use by raptors, eagles and other birds of prey — not because of the pristine nature of the landscape. They note that as much as two-thirds of the NCA has been degraded over the years by invasive plant species and rangeland wildfires.

WWP says the appropriate thing to do is to at least temporarily halt the project until its appeal is heard.

Doing so "would serve the public interest," WWP's appeal says.

"To allow the applicants to construct the Gateway West Transmission Project Facility before BLM has fully analyzed the project's impacts under NEPA, and before Appellant can obtain review through this administrative appeal, would harm the public's interest in the values protected by these regulations and statutes," it says.

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5. **COAL: Interior hails death of stream rule, says jobs were saved**

E & E News, Feb. 22 | Manuel Quiñones

The Interior Department is praising Congress and President Trump for taking action against an Obama administration rule to protect waterways from coal mining.

An agency blog post describes killing the Stream Protection Rule as "the first action by the new president to fulfill promises made to American workers to harness the power of American energy, restore their jobs and reduce unnecessary regulatory burdens."

Coal mining companies and their allies have said the rule would have further curtailed production. "The SPR was estimated to put 7,000 clean coal jobs in 22 states at risk," the post said.

The number contradicts findings by Interior's Office of Surface Mining Reclamation and Enforcement under the previous administration. OSMRE at the time said the rule would either have a small jobs impact or actually create positions.



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The post does not provide the source of its statement. But a 2011 leak of preliminary documents related to an earlier version of the rule suggested roughly 7,000 job losses. Industry-backed research has also predicted dire results.

An Interior spokeswoman did not respond to a request for comment about the job-loss numbers in time for publication. The Senate plans to take up consideration of Interior secretary nominee Rep. Ryan Zinke (R-Mont.) soon after this week's recess.

Lawmakers are also considering repealing the Bureau of Land Management's venting and flaring rule to limit methane emissions from drilling. But pro-fossil fuel lawmakers like Sens. Rob Portman (R-Ohio) and Heidi Heitkamp (D-N.D.) aren't sure whether to support the effort.

Separately today, acting OSMRE Director Glenda Owens swore in Al Clayborne as the agency's new mid-continent director. From 2007 to 2013, he worked in OSMRE's Tulsa, Okla., regional office.

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6. **OREGON STANDOFF: 2nd trial opens for Malheur defendants**

E & E News, Feb. 22 | Maxine Bernstein, Portland Oregonian

The second trial over the armed occupation of a wildlife refuge in Oregon last year began yesterday with prosecutors and defense attorneys arguing over the four defendants' beliefs and actions.

"We are not prosecuting these defendants because of what they said or think. We are prosecuting them because of what they did," said Assistant U.S. Attorney Geoff Barrow.

But a defense attorney for one of the men said that Jason Patrick, Duane Ehmer, Jake Ryan and Darryl Thorn were exercising their constitutional rights to assemble peacefully.

"The larger question underlying this entire case [is] who? Who should decide the important issues in our rural communities? The people who live and work there, or is it the federal government?" said Andrew Kohlmetz, who represents Patrick (Courtney Sherwood, Reuters, Feb. 21).



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The men were among more than two dozen people who occupied the Malheur National Wildlife Refuge to protest federal control of Western lands, as well as the imprisonment of two ranchers who were convicted of setting fires on public land.

The protesters gained control of the refuge on Jan. 2, 2016.

Occupation leader Ammon Bundy — who was acquitted last fall after the defense argued that the takeover was an act of civil disobedience — is expected to testify as a witness for the defense in this trial. He is currently in a Nevada jail awaiting charges on a 2014 standoff in that state.

"The evidence will fail to show that a single person went there with the conscious desire or goal to interfere with anyone who worked there," said defense lawyer Kohlmetz (Steven DuBois, Seattle Times, Feb. 21).

A lawyer for former Oregon Public Broadcasting reporter John Sepulvado is trying to stop a subpoena calling on Sepulvado to testify about an interview with Ryan Bundy, Ammon's brother.

The attorney, Duane Bosworth, said in a motion that the forced testimony would "chill future sources, even nonconfidential ones" for Sepulvado and other reporters and be detrimental to his newsgathering.

Bundy had explained his reasoning for the occupation in the recorded interview.

Sepulvado left OPB last summer and now works for a public radio outlet in California.

Defense attorneys also do not want Sepulvado to testify, saying that prosecutors identified him as a witness too late, only six days before the trial.

Judge Anna Brown of the U.S. District Court for the District of Oregon said she will address the motion by the end of this week (Maxine Bernstein, Portland Oregonian, Feb. 22)

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7. NATIONAL MONUMENTS: Chaffetz asks if park coordinated with Obama on Bears Ears

E & E News, Feb. 22 | Emily Yehle

A summer intern's enthusiasm sparked a congressional investigation last month, when House Oversight and Government Reform Chairman Jason Chaffetz (R-Utah) sent a letter to Bryce Canyon National Park about a tweet.

The park posted the tweet Dec. 29, the day after then-President Obama designated the Bears Ears National Monument. An accompanying photo showed a new map slot for the monument.

To Chaffetz, the slot "created the appearance" that park officials coordinated with the White House on monument designation. He launched a probe Jan. 19, [sending a letter](#) to park Superintendent Sue Fritzke with questions on who knew what, when.

"If it is true that you or your staff knew in advance about the Bears Ears National Monument designation, it calls into question the White House's claim to Utah Governor Gary Herbert [R] that no decision has been made about Bears Ears as of December 15, 2016," Chaffetz wrote.

The truth, however, was much more innocuous, according to the park. An intern, tasked with reorganizing the map area at the front desk, asked a supervisor if he could add one for a potential Bears Ears monument after seeing a news report.

Several media outlets, including The Washington Post, quoted from a letter Fritzke reportedly sent to Chaffetz on Feb. 2. But an Oversight Committee spokesman said the panel hasn't yet seen that letter. In an email today, Fritzke said the park submitted a response to Chaffetz through the administration, which has not yet sent it to the Oversight Committee.

In an interview yesterday with The Salt Lake Tribune, the lawmaker said the investigation into the Bryce Canyon tweet was at the "very bottom of the list."

"Maybe they were just hopeful, but they regularly complain about lack of resources and more money for maintenance budgets and this is a small item but I want to know if there was communication and were they being truthful with the governor and the delegation," Chaffetz [told the paper](#).

The dust-up is the latest controversy over National Park Service tweets. Last month, the Trump administration temporarily suspended park social media accounts after NPS retweeted a post on



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the size of the crowd at President Trump's inauguration. Alternative Twitter accounts claiming to be run by former or off-duty park rangers began popping up soon afterward (Greenwire, Jan. 25).

Chaffetz and other Utah lawmakers are opposed to the Bears Ears monument and have called on Trump to undo the designation. The Antiquities Act does not give Trump explicit authority to do that, but Chaffetz reported earlier this month that Trump is "very sympathetic" about concerns over the 1.35-million-acre site (E&E Daily, Feb. 8).

Conservation groups have pushed back against Chaffetz's campaign to reverse the Bears Ears monument. They were recently joined by 225,000 anti-abortion Christians who signed petitions urging their lawmakers to reject efforts to sell off public lands. The Evangelical Environmental Network, which organized and delivered the petitions to Congress, highlighted Bears Ears as an example of a worthy protection that "safeguards priceless tribal artifacts and cultural heritage."

"The Bears Ears National Monument is a tribute to Utah's rich indigenous past and recompense for its frequent neglect in the present. As Christians, we revere and honor America's indigenous communities and heritage," said the Rev. Mitchell Hescox, president of EEN. "We want no part of legislation or attitudes that are demeaning to or dismissive of their sovereignty, their respect for the sanctity of Creation, or their history."

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8. **EPA: Emails show Pruitt's ties to fossil fuel industry**

E & E News, Feb. 22 | Kevin Bogardus

Emails released today from U.S. EPA Administrator Scott Pruitt's time as Oklahoma attorney general show he and his office had a familiar if not symbiotic relationship with fossil fuel companies.

Under a court order, the Oklahoma attorney general's office began turning over 7,564 pages of emails and other records last night to the Center for Media and Democracy (CMD). The liberal-leaning watchdog group had sued Pruitt for failing to respond to its open records requests, including one ignored for more than two years.

The Senate confirmed Pruitt as EPA chief in a contentious 52-46 vote Friday. He addressed agency staffers for the first time as EPA chief yesterday.



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Senate Democrats pushed to extend debate on his nomination until the emails were released, to no avail. CMD filed its open records lawsuit in part so senators could have reviewed the records before voting on Pruitt's nomination to lead EPA.

"There are hundreds of emails between the AG's office, Devon Energy Corp., and other polluters that senators should have been permitted to review prior to their vote to assess Pruitt's ties to the fossil fuel industry," Arn Pearson, CMD's general counsel, said in a statement.

Yesterday, a spokesman for the Oklahoma attorney general's office said it went "above and beyond" what is required under the law, providing thousands of additional documents in response to the litigation.

"This broad disclosure should provide affirmation that, despite politically motivated allegations, the Office of Attorney General remains fully committed to the letter and spirit of the Open Records Act," said Lincoln Ferguson, the Oklahoma attorney general spokesman.

Pruitt's record as a vocal EPA critic that sued the agency over several of its regulations has long been under scrutiny, including in a December 2014 [New York Times story](#) that used several documents from Pruitt's office. Many of the same companies that were shown to have been in touch with Pruitt as Oklahoma attorney general will now be regulated by EPA with Pruitt as the agency's chief.

At his confirmation hearing last month, Pruitt said he was representing his constituents when his office took action against EPA at the urging of fossil fuel companies.

"The efforts that I took as attorney general were representing the interests of the state of Oklahoma," Pruitt said.

Emails released today show Pruitt and his staff at the attorney general's office were in close contact with energy interests.

In 2013, Pruitt's office worked with Devon Energy, an Oklahoma-based oil and gas producer, to rally other attorneys general against the Bureau of Land Management's proposed rules on hydraulic fracturing.

Devon executives reviewed a draft of an unsigned letter from the Oklahoma attorney general's office, which was intended for other states' lawyers to sign. The letter included similar arguments to Devon's written comments and included some passages that were identical.



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"I think that this letter will make a strong statement and a real difference," wrote Brent Rockwood, Devon public policy director, in an email to Deputy Solicitor General Clayton Eubanks. "Do you think that we will get any Democrats to sign the letter? Also, when you finalize the document and send it out, can I please get a copy for my records?"

EPA was also targeted by Pruitt's office.

In September 2013, mining industry lawyer Peter Glaser reached out to the Oklahoma deputy solicitor general about the state's lawsuit against regional haze requirements. At the time, Glaser was representing Arizona in a challenge to EPA's authority to impose federal implementation plans to reduce regional haze pollution.

Two months earlier, in a blow to Pruitt, the 10th U.S. Circuit Court of Appeals ruled that EPA acted reasonably when it disapproved a state haze plan on the grounds that it did not do enough to cut sulfur dioxide emissions. That dispute started in March 2011, two months into Pruitt's tenure as Oklahoma's attorney general (Greenwire, Feb. 14).

Glaser suggested a brief he had filed on Arizona's behalf "could be a fruitful argument to make" in Oklahoma's effort to appeal the ruling.

Eubanks commended the brief, saying he had received a copy "from someone recently."

"Very well written, we definitely used it to try and focus our arguments on the standard of review issue in our Petition for Rehearing En Banc," Eubanks wrote.

He added, "Amicus support is welcomed and we appreciate the support, especially given the broad impact the panels incorrect decision will have nationwide."

The litigation sputtered to an end in 2014 when the U.S. Supreme Court declined to take Pruitt's appeal.

Pruitt also worked closely with the American Fuel & Petrochemical Manufacturers to oppose an EPA proposal to increase the renewable fuel standard.

The Oklahoma attorney general filed an amicus brief with the high court opposing the proposal in March 2013.

But over the summer months of 2013, his office continued to coordinate with AFPM. The group's lobbyists frequently offered legal strategy to the Oklahoma attorney general's office.



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In a July 12, 2013, email, AFPM general counsel Richard Moskowitz informed Eubanks that his group and the American Petroleum Institute planned to file a waiver later that month.

"We think it would be most effective for Oklahoma to file a separate waiver petition that emphasizes 'severe environmental harm,' as this argument is more credible coming from a State with primary responsibility for achieving and maintaining attainment with the NAAQS [National Ambient Air Quality Standards]," Moskowitz said.

A couple of months later, an AFPM vice president, Sarah Magruder Lyle, reached out to Melissa Houston, Pruitt's chief of staff.

"Hey lady," she wrote, before continuing, "I have some language for you on the RFS waiver letter, but was hoping we could chat before I sent it to you so I can give you a little context."

In November 2013, EPA announced it was lowering the RFS standard for the first time in its history.

Pruitt's office put out a press release praising the decision.

"The evidence is clear that the current ethanol fuel mandate is unworkable," Pruitt said. "The decision by the EPA to lower that standard is good news for Oklahoma consumers."

Obama admin's 'nasty tactics'

Pruitt's office also sought to build relationships with conservative-leaning think tanks and activist groups.

In July 2013, Aaron Cooper moved from the office of Oklahoma Gov. Mary Fallin (R) to the attorney general's office. He told colleagues that in addition to press-related duties, he would work on "public affairs outreach and strategic communications strategy."

Soon after joining, Cooper reached out to Matt Ball of Americans for Prosperity to "talk about how the AG's office and AFP can work together." And in August, he inquired with Ball about a speaking slot at AFP's national convention.

Cooper worked closely with Ball. The two traded articles to post on social media and made plans to meet for coffee. In planning for the national meeting, Cooper and Ball worked out what Pruitt would discuss in a panel discussion with Sen. James Lankford (R-Okla.).



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Ball said he would look to Pruitt to focus on the "heavy hand of federal govt infringing on states rights by mandating how much Oklahomans pay for electricity."

Ball added that an official from the Competitive Enterprise Institute would talk about costs of federal regional haze regulations, so Pruitt could highlight his opposition to EPA's "sue-and-settle" practices with environmental groups.

"That way you guys don't have to deliver those messages and can focus on what the AG does best, opposing the Obama administration and its nasty tactics on the environment," Ball said.

In a follow-up email about the event in August, Ball said "this is an excellent opportunity for the AG to discuss the role of attorneys general as a last line of defense for states rights against overly intrusive federal regulation of which EPA environmental is only one example."

Cooper also worked with the Oklahoma Council of Public Affairs, which bills itself as a local version of the Heritage Foundation.

In August 2013, Cooper asked staff there for "some contacts at Heritage to whom I can send updates like this?" Attached was a press release about Pruitt's efforts to fight President Obama's national health care law.

Today's email release may be the first of many for Pruitt. Because of CMD's lawsuit, more records should be forthcoming from his time as Oklahoma attorney general.

On Feb. 27, the attorney general's office has been ordered to deliver records in response to five open records requests by CMD, according to the group. Further, CMD will ask the court to review records that have been redacted while the judge is also reviewing an unknown number of documents that could be released as well.

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9. **COAL: EPA fights order requiring study of job losses**

E & E News, Feb. 22 | Amanda Reilly

A West Virginia federal judge's order requiring U.S. EPA to evaluate coal industry job losses imposes "substantive obligations" and has "no basis in the statute," attorneys for the agency argued in a filing yesterday.



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In an opening [brief](#), the Justice Department asked the 4th U.S. Circuit Court of Appeals to reverse the order and instruct the lower court to either dismiss the case or rule in favor of the agency.

The order was "outside the bounds of the court's authority," Department of Justice attorneys told the appeals court. At a minimum, they said, the 4th Circuit should issue a new "straightforward" injunction that tracks with the Clean Air Act.

At issue is last month's decision by U.S. District Court Judge John Preston Bailey for the Northern District of West Virginia to require EPA to submit by July 1 an evaluation of how its Clean Air Act regulations affect coal jobs, mine closures and power plant shutdowns.

Bailey agreed with Murray Energy Corp., which filed a lawsuit in 2014, that EPA failed to comply with a section of the law requiring continuing economic evaluations of its regulations. He issued the July 1 deadline after finding that EPA's initial plan to comply with the provision was insufficient (Greenwire, Jan. 12).

While most of the court action in the lawsuit took place during the Obama administration, the Trump DOJ moved to appeal the ruling earlier this month.

The government, in its opening brief, raised both procedural and substantive arguments against Murray's claims in the lawsuit. Murray CEO Robert Murray is a major Trump supporter.

The district court, DOJ argued, did not have the jurisdiction to hear Murray's claims because the Clean Air Act did not impose an enforceable mandatory duty on EPA to evaluate job losses.

The government is also arguing that Murray lacked standing to bring the lawsuit because the firm couldn't point to specific harms caused by EPA's alleged failure to do the economic evaluations.

"Murray alleges that the coal industry as a whole is economically distressed, but the company did not provide any 'specific facts' showing that it specifically has been harmed," EPA's brief said.

Even if it crosses the procedural thresholds, the 4th Circuit should still reverse the order because EPA already did the required evaluations, EPA's brief argues.



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The agency pointed to 64 documents that it says analyzed the economic impacts of its actions — even if those evaluations weren't specifically done to comply with the Clean Air Act section at issue.

"Individually and collectively," the brief says, "EPA's documents evaluate the 'potential loss or shifts of employment which may result from the administration or enforcement' of the CAA."

Judge Bailey's order goes "far beyond" the Clean Air Act by requiring evaluations not just on economic shifts but on how coal "families" and "communities" may be at risk, the brief said.

Murray's response is due on March 31.

"EPA has for years now sought to shirk its obligation to evaluate the loss and shifts in employment from its actions under the Clean Air Act," Murray said in an earlier court filing.

DOJ could 'abandon' claims

A trio of three West Virginia environmental groups yesterday urged the 4th Circuit to allow them to intervene in the case. Bailey previously denied the groups' December motion to intervene, saying it was moot because the case had been decided.

But the Mon Valley Clean Air Coalition, the Ohio Valley Environmental Coalition and Keeper of the Mountains Foundation argued that their concerns in the case are still relevant.

In a brief, they told the 4th Circuit that they're worried the Trump administration will "abandon" its defense of EPA in the suit.

The groups pointed to a separate case in the 5th U.S. Circuit Court of Appeals in which the new administration decided to withdraw an appeal to a Texas district court's nationwide injunction against enforcing the Obama administration's transgender bathroom guidelines.

It is "not speculative" to worry that the administration "will not similarly alter its position on the overriding issue of the propriety of a nationwide injunction in the present litigation," the environmentalists said, "which involves issues every bit as intensely debated in the recent election as the issues involved in the Texas litigation."

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10. **DAKOTA ACCESS: Oil could flow through pipeline in 2 weeks**

E & E News, Feb. 22 | Ellen M. Gilmer

The Dakota Access pipeline could see its first drops of oil in less than two weeks, company lawyers told a federal court yesterday.

In a weekly status report ordered by the U.S. District Court for the District of Columbia, lawyers said workers have completed a "pilot hole" for construction of the project beneath Lake Oahe and are preparing to place pipe in it.

"As of now, Dakota Access estimates and targets that the pipeline will be complete and ready to flow oil anywhere between the week of March 6, 2017 and April 1, 2017," the filing said.

The timeline complicates a legal effort from the Standing Rock Sioux Tribe. The tribe, whose reservation sits just south of the Lake Oahe crossing, last week filed a motion seeking a final decision on the key issues in the case (Energywire, Feb. 14).

Tribal lawyers had hoped to get the fundamental legal questions handled before the pipeline began accepting oil. Dakota Access lawyers previously estimated that it would take 60 days after an easement was granted for oil to start flowing. Yesterday's status report indicates oil could flow in half that time.

District Judge James Boasberg noted last week that he could order the company to stop the flow of oil if necessary.

The accelerated construction timetable comes as tensions are rising again in North Dakota, where law enforcement officials are working to remove demonstrators from a large protest camp that is beginning to flood.

Pushback on religious claims

Meanwhile, Dakota Access and the Army Corps of Engineers were playing defense in legal briefs yesterday, fending off another attempt to halt construction.

The Cheyenne River Sioux Tribe is pushing for a preliminary injunction to stop the project on religious grounds. It says the presence of the pipeline beneath Lake Oahe would desecrate the water, which is used for traditional Lakota ceremonies (Greenwire, Feb. 9).



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The tribe's earlier request for a restraining order on similar grounds failed, but the district court is set to hear arguments for and against an injunction next week.

In a brief last night, Dakota Access lawyers argued that the court should not even consider the Religious Freedom Restoration Act claim because the tribe has never mentioned it before.

"Yet in an administrative process that has spanned more than two years, and litigation that has spanned some six months (and two different complaints by the Tribe), this motion is literally the Tribe's first mention of RFRA or the supposed burden underlying its RFRA claim," company lawyers told the court.

They then delved into the merits of the claim, arguing that the tribe was unlikely to succeed because the government's approval of the Lake Oahe crossing did not amount to a "substantial burden" under the legal test used to weigh RFRA arguments.

Government lawyers made similar arguments, telling the court the tribe's position was far-fetched.

"Simply put, the Corps is not prohibiting the Tribe from accessing or using the waters of Lake Oahe," they wrote in a brief. "Nor has the Corps diminished the Tribe's right to use Lake Oahe water by issuing an easement. At worst, the Corps has arguably allowed a minimal risk that the water's purity may be temporarily diminished at some future time by a third party grantee's use of the easement."

Cheyenne River has until Friday to respond to the briefs, and a hearing on the preliminary injunction request is set for Tuesday.

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11. **FEDERAL WORKFORCE: Survey finds DOJ environment team has best morale**

E & E News, Feb. 22 | Kevin Bogardus

The Department of Justice's environmental lawyers are the happiest federal employees working on energy and environmental issues, said a report released today.

The [study](#) from the Partnership for Public Service, a nonprofit research group that analyzes the federal workforce, looked at the morale of agencies grouped by mission.



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It found that in 2016, employees at DOJ's Environmental and Natural Resources Division had by far the best morale score, 85.9, among energy and environment offices.

The Partnership formulates the index score from answers to three Federal Employee Viewpoint Survey questions that ask whether or not government workers would recommend their job as a good place to work, if they're satisfied with their job and if they're satisfied with their organization. The FEVS is administered every year to government workers.

The survey also looks into their job satisfaction and overall satisfaction with their organization. The FEVS is administered every year to government workers.

After DOJ's ENR Division, the Federal Energy Regulatory Commission came in second for energy and environment agencies with a 79 score last year.

The Nuclear Regulatory Commission was third, earning a 70.2 score. U.S. EPA ranked seventh with a 64.4 score. The Department of Energy ranked 10th with a score of 63.4.

This is the second consecutive year the Partnership, in collaboration with consulting firm Deloitte, has ranked agencies by mission area. The group hopes agencies can learn from federal peers to improve their employees' morale.

"The purpose of ranking by mission area is to examine agencies that have similar responsibilities and employ workers with comparable occupations to see if there are commonalities or discrepancies in employee engagement," said the report.

"The data will allow leaders to compare their organizations to other agencies in their field," said the report, "see where they are excelling or falling short, and gain insights about how they can better meet the needs of their workers and ultimately the American public."

Morale has been improving across all agencies. The Partnership said in a study released in December that the federal government earned an index score of 59.4, a 1.3-point increase from the prior year and the second consecutive year that morale improved (Greenwire, Dec. 15, 2016).

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12. Defense asks retired FBI agent his reaction to first Oregon standoff verdict

The Oregonian/OregonLive, Feb. 22 | Maxine Bernstein

Over the objection of a prosecutor, a defense lawyer Wednesday asked Oregon's recently retired top FBI agent about his reaction to the jury verdict from the first trial in the occupation of the Malheur National Wildlife Refuge.

"You do not believe the participants that went to trial in the fall of 2016 were held accountable, that's correct?" asked Michele Kohler, representing defendant Duane Ehmer.

After some hesitation and direction from the judge to answer the question, retired FBI Special Agent in Charge Greg Bretzing replied, "That's correct."

Kohler pointed out that Bretzing didn't testify during last year's trial of the occupation leaders but is a government witness for this second Oregon standoff trial.

And she noted that the verdict last fall likely didn't correspond to the last of three goals that shaped Bretzing's response to the 41-day occupation: to hold those involved accountable.

"So that verdict thwarted the third purpose of your federal response?" Kohler continued.

"No," Bretzing replied.

"Sir, it's your desire to hold someone accountable for what happened in 2016?" Kohler asked.

"I can't answer that yes or no," Bretzing said.

As Kohler asked her question about the earlier verdict, U.S. Attorney Ethan Knight stood to object. "The court has ruled on it," Knight told U.S. District Judge Anna J. Brown.

Kohler countered that she asked her question to discern potential bias.

The judge overruled the objection and allowed the question.

But moments later, when the jury was permitted to take a brief break, Knight told the judge that he was concerned the defense had violated an agreement not to ask Bretzing about his reaction to the verdict.



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There was no mention of what the verdict was, but jurors could easily figure it out from the line of questioning. Occupation leader Ammon Bundy and six co-defendants were acquitted in October of conspiracy and weapons charges after a five-week trial.

"We bring that to the court's attention," Knight said. "This is something the government is very concerned about in front of this jury in this trial."

Brown said she was unaware of any agreement reached between lawyers involved in the case but told them: "We need to be able to count on each others' representations."

After court, Andrew Kohlmetz, standby attorney for defendant Jason Patrick, said he had told Knight ahead of time that he wouldn't cross-examine Bretzing about the first trial's verdict. Kohler said she was unaware of any agreement made.

The matter arose during Bretzing's second day on the witness stand. Four remaining defendants are charged with conspiring to impede federal employees from carrying out their work at the federal wildlife refuge through intimidation, threats or fear.

Defense lawyers, during cross-examination, elicited testimony from Bretzing that there were "maybe a couple of hundred" FBI agents in Harney County during the course of the refuge takeover, plus dozens of state and local law enforcement officers.

He said authorities kept close watch on Ammon Bundy, even when he left the refuge and traveled home to Idaho for brief visits, through surveillance and traces on his phone. But when he shut off the phone, the tracking couldn't work.

"We didn't follow him everywhere he went," Bretzing said. "We would have liked to. ... We definitely attempted to find out what he was doing in Idaho. We were not always successful."

Defense lawyers took turns cross-examining Bretzing, asking additional questions about the FBI's use of informants.

Bretzing said informant Mark McConnell provided information to agents on when the occupation leaders were going to leave the refuge on Jan. 26 to travel to a community meeting in John Day, who was going and in what vehicles. That's the day FBI and police moved in to arrest the leaders of the armed takeover and state police fatally shot occupation spokesman Robert "LaVoy" Finicum.



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Bretzing said the FBI would have wanted to send informants into the refuge "very early on" in the occupation, which began Jan. 2, 2016.

Testimony in the first trial indicated that there were nine FBI confidential informants at the refuge, but Bretzing said the nine weren't all there at the same time. Sometimes, he said, there were none -- the FBI rotated the informants in and out.

Lawyer Jesse Merrithew, who represents defendant Jake Ryan, suggested an informant was in charge of security operations during the takeover and did armed guard duty at the refuge.

Bretzing said he would have been "briefed on the activities of informants," but wasn't familiar with them by name, other than McConnell. He said he couldn't say whether or not an FBI informant had participated in guard duty or fortifying the refuge.

"I'm not familiar with each place the confidential human source may have been at," Bretzing said.

Asked again if he knew whether an informant did weapons training at the refuge, Bretzing said, "I recall an FBI informant may have participated in weapons training on the refuge."

Under other questioning, Bretzing said occupiers got clear orders to leave the refuge.

"It was communicated at community meetings by the sheriff," Bretzing said. Harney County Sheriff Dave Ward told Ammon Bundy in person and by phone to leave, he said.

"Any communications made to Jake Ryan?" Merrithew asked, referring to his client.

"I'm not aware of that," Bretzing said.

Late in the occupation, Bretzing said FBI tactical agents would have gone onto the refuge surreptitiously to determine where weapons were stored and to gather general intelligence.

A photo of a community meeting at Burns High School that Bretzing attended with Oregon's U.S. Attorney Billy Williams in early January 2016 showed Ammon Bundy sitting in the stands about two rows behind them.

Asked why he didn't arrest Bundy there, Bretzing said, "It was absolutely not a time to provoke" a confrontation, noting Bundy had several armed men stationed in the parking lot, what Bretzing termed "overwatch," and others stationed around the gym.



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