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From: Black, Meredith
Sent: 2017-06-08T16:41:05-04:00
Importance: Normal
Subject: E&E News Clips—June 8, 2017
Received: 2017-06-08T16:43:21-04:00
[ee06.8.17.docx](#)

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1. Zinke previews agency reorganization

Brittany Patterson, E&E News reporter

Published: Thursday, June 8, 2017

Interior Secretary Ryan Zinke today fleshed out plans to reorganize the sprawling department, pitching lawmakers on a "joint system" that would shift federal employees from Washington to the field.

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

2. Zinke faces House appropriators unhappy over budget cuts

Kellie Lunney, E&E News reporter

Published: Thursday, June 8, 2017

Interior Secretary Ryan Zinke today pledged to work with congressional appropriators on fashioning the department's fiscal 2018 budget, after hearing many concerns from House

Republicans and Democrats on proposed cuts to public lands, parks and conservation programs.

<http://bit.ly/2sjYwH2>

3. GOP governors cheer Interior's review

Jennifer Yachnin, E&E News reporter

Published: Thursday, June 8, 2017

Republican governors in Western states cheered the Trump administration's decision to review greater sage grouse conservation efforts, as Interior Secretary Ryan Zinke vowed to deal with complaints that his agency has been too "heavy-handed" in safeguarding the species.

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

4. Bishop: Review sans lawsuit fix 'doesn't solve the problem'

Jennifer Yachnin and Kellie Lunney, E&E News reporters

Published: Thursday, June 8, 2017

House Natural Resources Chairman Rob Bishop (R-Utah) applauded the Interior Department's review of greater sage grouse conservation efforts but warned that potential new lawsuits could undermine any administrative changes to the plans.

<http://bit.ly/2s94X0b>

5. Lawmakers say they're in the dark on Bears Ears review

Kellie Lunney, E&E News reporter

Published: Thursday, June 8, 2017

Members of Congress with a vested interest in whether the Trump administration will alter the Bears Ears National Monument in southeastern Utah said this week they don't know what to expect from Interior Secretary Ryan Zinke's interim review due Saturday.

<http://bit.ly/2rR7h8N>

6. Dems hit Trump OMB picks on spending, regulatory views

Arianna Skibell, E&E News reporter

Published: Thursday, June 8, 2017

Senators yesterday sharply questioned President Trump's picks to help manage federal spending and regulatory oversight, pressing them to outline their approach on spending and regulatory changes and how they plan to work with congressional Democrats.

<http://bit.ly/2s1nafb>

7. Industry wants to end reclamation fee

Dylan Brown, E&E News reporter

Published: Thursday, June 8, 2017

Congress yesterday launched the conversation over reauthorizing a coal mining fee for cleaning up abandoned sites, but it was a rocky start with companies coming out against the extension.

<http://bit.ly/2s97De7>

8. GOP's draft management and wildfire bill aims to win over Dems

Marc Heller, E&E News reporter

Published: Thursday, June 8, 2017

Proposed wildfire and forest management legislation released by House Republicans today aims for finding middle ground with Democrats.

<http://bit.ly/2s8TZYk>

9. Even with Trump's push, companies and lawmakers want more

Hannah Northey and Geof Koss, E&E News reporters

Published: Thursday, June 8, 2017

The nation's natural gas industry, smitten with the Trump administration's full-throated endorsement of exports, is mulling ways to turn that affection into faster federal action.

<http://bit.ly/2s8Exvg>

10. 'Homework assignment' — how Pebble lobbied Trump's EPA

Kevin Bogardus and Dylan Brown, E&E News reporters

Published: Thursday, June 8, 2017

Developers of a controversial Alaskan mine set out early to lobby President Trump's U.S. EPA to reverse restrictions the Obama administration had proposed putting on the project.

<http://bit.ly/2s8IFvw>

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1. Zinke previews agency reorganization

Brittany Patterson, E&E News reporter

Published: Thursday, June 8, 2017

Interior Secretary Ryan Zinke today fleshed out plans to reorganize the sprawling department, pitching lawmakers on a "joint system" that would shift federal employees from Washington to the field.

The revamp would create 13 "joint management areas," Zinke told his former colleagues at a House Interior, Environment and Related Agencies Appropriations Subcommittee hearing.

Each of the areas would be small and, when possible, ecosystem-based.

"We're trying to push more of the authority out in the field and redesign Interior," he said. "These smaller areas can focus on the problems that are within their smaller regions."

Instead of reporting to their respective regional offices, each of Interior's bureaus and the Department of Agriculture would coordinate to better serve the local land, water and wildlife issues in each area.

The move mirrors how U.S. federal agencies coordinate to fight wildfires. Eight agencies and organizations operate out of the National Interagency Fire Center in Boise, Idaho. Last week, Zinke and Agriculture Secretary Sonny Perdue toured the facility.

The reorganization also resembles the Department of Defense practice of joint commands, a system the former Navy SEAL has experience with.

Zinke said USDA is on board with the proposed system. Under the plan, the Forest Service would remain part of Agriculture and a simple memorandum of understanding would cover the agency's participation.

Zinke asserted the staffing shifts would not cost any money nor technically need congressional approval. But he told lawmakers he intends to reach out to Congress, "because it matters to us all to make sure we go ahead and do it right."

He told House Republicans and Democrats the consolidation would reduce permitting hurdles, give federal officials more latitude to focus on regional issues such as invasive species, and enable Interior to better use resources appropriated by Congress for ecosystem-specific projects.

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

2. Zinke faces House appropriators unhappy over budget cuts

[Kellie Lunney](#), E&E News reporter

Published: Thursday, June 8, 2017

Interior Secretary Ryan Zinke today pledged to work with congressional appropriators on fashioning the department's fiscal 2018 budget, after hearing many concerns from House Republicans and Democrats on proposed cuts to public lands, parks and conservation programs.

"At the end of the day, when you look at the [proposed] budget, it reflects a budget if it's balanced," Zinke said, adding that he views Interior's recommendations as a "starting point."

The former Montana congressman also acknowledged the reality of how the appropriations process works in Washington.

"The administration has a say. Congress has the last say," he noted, adding that he thinks that discussions over public lands are one of the "not partisan" policy areas.

Rep. Ken Calvert (R-Calif.), who leads the House Interior, Environment and Related Agencies Appropriations Subcommittee, said Zinke's first congressional appearance today to discuss the fiscal 2018 budget "marks the beginning of a very candid conversation about your department's funding priorities."

Calvert, who said the subcommittee plans to move a funding bill quickly, told the Interior secretary that the department's fiscal 2018 budget "might not be exactly what you would have proposed, but ultimately, Congress will have the final say."

Lawmakers from both parties outlined concerns about the department's \$11.7 billion budget request and proposed cuts affecting a host of programs, including the Land and Water Conservation Fund, climate research centers, the payments in lieu of taxes program, and Indian health and education — not to mention programs specific to lawmakers' districts, such as projects funded by the Southern Nevada Public Lands Management

Act. But while the hearing covered a lot of ground, including comments from members about the administration's decision to pull out of the Paris climate agreement, it was devoid of any real tension.

House Appropriations Chairman Rodney Frelinghuysen (R-N.J.) said he was worried about recommended cuts to the National Park Service and the Fish and Wildlife Service. The White House budget aims to slash \$360 million from the levels NPS received in the fiscal 2017 omnibus deal, leaving the Park Service with a \$2.55 billion budget in fiscal 2018.

The White House is recommending \$11.7 billion overall for the department, \$600 million less than the \$12.3 billion Congress gave Interior in the omnibus spending bill this year. Roughly \$10.6 billion of the \$11.7 billion request falls under the Interior Appropriations subcommittee's purview.

Comparing the omnibus and 2018 request figures amounts to about a 5 percent cut. But in comparing the fiscal 2018 request with Interior's net discretionary budget authority of \$13.2 billion in the fiscal 2017 continuing resolution from earlier this year, it amounts to an 11 percent decrease. Other comparisons show a 12 to 13 percent decrease, depending on which numbers are used.

Most lawmakers, as well as the department, refer to a 12 to 13 percent proposed cut for Interior in fiscal 2018.

"The budget is unacceptable, and I expect my colleagues on both sides of the aisle to reject it," said Rep. Betty McCollum (D-Minn.), the top Democrat on the subcommittee. McCollum, who said the budget proposal prioritizes the interests of oil and gas companies over the public good, conceded that "there is a place for responsible" energy development on public lands but said it "must be balanced and sustainable."

Lawmakers, however, clearly held President Trump, not Zinke, responsible, for a budget proposal they weren't happy about.

"I won't support a bill that funds Interior less than our 2017 omnibus bill," McCollum said, adding that she realized Zinke didn't have much of a say in the administration's fiscal 2018 recommendations for the department because they were developed largely before he arrived at Interior. The administration wants to zero out the Great Lakes Restoration Initiative, which affects McCollum's home state.

The proposed Trump budget also would scale back new federal land acquisition and support for the Land and Water Conservation Fund — cuts that have infuriated public land and conservation advocates. The omnibus spending deal that lawmakers agreed to earlier this year provided \$400 million for LWCF in fiscal 2017, while the Trump fiscal 2018 budget request seeks to reduce funding for LWCF to \$64 million.

Zinke, who reiterated his support for LWCF today, also pointed out that the fiscal 2018 budget proposal represents difficult choices, as part of the long-term goal of balancing the budget.

"That reduction in LWCF, [a program] which I've always supported, that reduction is simply no more land acquisition, at least in the budget as presented," said Zinke. "We're going to take care of what we have," he said, adding that he is concerned about the existing infrastructure at the country's parks and sacred places.

Rep. Mike Simpson (R-Idaho) told Zinke he planned to introduce a bill today that would reauthorize LWCF for seven years, using some funds to help ease the department's maintenance backlog, possibly working it into whatever infrastructure package might emerge on Capitol Hill this year.

<http://bit.ly/2sjYwH2>

3. GOP governors cheer Interior's review

Jennifer Yachnin, E&E News reporter

Published: Thursday, June 8, 2017

Republican governors in Western states cheered the Trump administration's decision to review greater sage grouse conservation efforts, as Interior Secretary Ryan Zinke vowed to deal with complaints that his agency has been too "heavy-handed" in safeguarding the species.

The Interior Department today released Secretarial Order 3353, mandating an internal review of Obama-era regulations aimed at conserving the mottled-brown bird.

Zinke said the assessment will compare both federal- and state-level efforts to protect the birds and potentially recommend changes to how they are managed.

"We're not going to ask the states to redo their plans but certainly give them the option to incorporate more variables if we deem that appropriate," Zinke said in a news conference last night ([Greenwire](#), June 7).

Zinke, who has been a vocal critic of the Obama-era sage grouse plans, pointed in particular to questions over mineral extraction on public lands — sage grouse habitat covers 70 million acres in 10 Western states — and said some Western governors had complained of the federal government's "heavy-handed" decisionmaking with regard to conservation.

Idaho Gov. Butch Otter (R) praised the potential reopening of the conservation plan, which included amendments and revisions to 98 Bureau of Land Management and Forest Service land-use plans.

"I'm encouraged by Secretary Zinke's commitment to review the Obama Administration's draconian sage-grouse plans," Otter said in a statement. "The Secretarial Order appropriately recognizes the states as being full and equal partners in the management and conservation of greater sage-grouse in the west. I look forward to working with the Secretary and his agency to address our concerns and bring about meaningful and necessary changes to the federal plan in Idaho."

Wyoming Gov. Matt Mead (R), who along with Colorado Gov. John Hickenlooper (D) urged Zinke last month to avoid "wholesale changes" to the sage grouse plans, likewise welcomed the announcement ([Greenwire](#), May 31).

"I am pleased Secretary Zinke is reaching out to the states on sage-grouse management," Mead said in a statement. "Wyoming has been a leader on this difficult issue and will continue its efforts. The Secretary recognizes the good work of Wyoming and the other western states' plans. I look forward to working with the Secretary on sage-grouse and other matters important to Wyoming."

But Hickenlooper, who served as a co-chairman with Mead on a federal-state sage grouse task force that worked to develop the grouse plans, offered a more tepid response in his own statement.

"We will give the order a close review to better understand the details," Hickenlooper said. "I have encouraged Sec. Zinke to maintain the collaborative approach that has made sage grouse protection so successful to date. We will continue to work with Colorado stakeholders, governors and the Sage Grouse Task Force."

The current sage grouse conservation plans were created in large part to avoid a decision by the Fish and Wildlife Service to list the bird under the Endangered Species Act, a move seen as likely to stifle economic development in the affected states.

Energy development key

The Interior Department review — which will be conducted by officials from the Bureau of Land Management, Fish and Wildlife Service and U.S. Geological Survey — will also focus on whether the sage grouse plans are hindering energy development on public lands, where the Trump administration has vowed to increase production.

Western Energy Alliance President Kathleen Sgamma praised Zinke's push to revisit individual state plans for addressing the sage grouse population, asserting current federal efforts have hurt the energy industry.

"The sage grouse process under the Obama administration was anything but cooperative," Sgamma said. "The federal government started by encouraging states to develop their own plans, only to ignore those state efforts years later and adopt top-down, one-size-fits-all plans, except in the case of Wyoming. We hope Secretary Zinke will give Western states a real chance to implement sage grouse protections tailored to actual conditions on the ground in each state, rather than the existing plans that don't effectively protect sage grouse but do kill jobs."

Oregon Sen. Ron Wyden (D) slammed the review, however, asserting it will favor "the oil and gas industry" rather than all local stakeholders.

"Westerners worked in an unprecedented way to create the current sage grouse conservation plans that are widely supported and serve as a model for future successful collaboration," Wyden said. "By issuing this review, the Interior Department is ignoring the input of local stakeholders who spent years working to avoid a damaging Endangered Species Act listing and find a path forward for sage grouse habitat management."

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

4. Bishop: Review sans lawsuit fix 'doesn't solve the problem'

Jennifer Yachnin and Kellie Lunney, E&E News reporters

Published: Thursday, June 8, 2017

House Natural Resources Chairman Rob Bishop (R-Utah) applauded the Interior Department's review of greater sage grouse conservation efforts but warned that potential new lawsuits could undermine any administrative changes to the plans.

Interior Secretary Ryan Zinke, who has been a vocal critic of the Obama-era sage grouse plans, is set to sign a secretarial order this morning creating a review panel that will assess both federal- and state-level efforts to protect the birds and possibly recommend significant changes to how they are managed (*Greenwire*, June 7).

The review will also address whether conservation efforts are hindering energy production on public lands — sage grouse habitat covers 70 million acres in 10 Western states — as the Trump administration looks to increase fossil fuel extraction in those areas.

"A driving reason why I'm doing this secretarial order is there are some innovative ideas out there, and I want to make sure I give the states an opportunity to work with our team — which we have some of the best scientists in the world, the best wildlife specialists, the best land managers — and I don't want to discount the states' plans out of hand," Zinke said in a conference call with reporters last night. "I think we owe it to the states to evaluate it fairly and working together. I see it as a win-win."

Bishop told E&E News ahead of Zinke's announcement that the review was "appropriate" and something that "should have been done a long time ago."

Following a yearslong process, the Interior and Agriculture departments finalized their greater sage grouse plans in 2015 including amendments and revisions to 98 Bureau of Land Management and Forest Service land-use plans.

But Bishop asserted a secretarial review "doesn't solve the problem" unless "potential relitigation" is also addressed, referring to lawsuits that could crop up if the department tries to make administrative changes to the plans.

The conservation plan itself is also already the focus of numerous legal challenges by both the states of Utah and Nevada, and groups such as the Western Energy Alliance and North Dakota Petroleum Council, as well as mining companies and several counties in Nevada.

Legal experts have suggested it is unlikely that the Trump administration would simply stop defending those cases in court, however, because the lawsuits challenge various aspects of the federal government's ability to regulate activities on federal land (*Greenwire*, Feb. 23).

Bishop also said legislation is needed. "For sage grouse to be solved, and for the state plans to be put into application, it's going to require some kind of legislative fix," the chairman said. "It can't be done administratively. You can move in that direction, you just can't solve the entire problem administratively."

Greens react

Ahead of Zinke's announcement last night, House Natural Resources Committee ranking member Raúl Grijalva (D-Ariz.) said he had hoped that the Trump administration would not "undo" the commitments reached between state and federal governments.

"Whatever the secretary comes up with today, it'll be a lessening of what is already on the books, which many of us thought that by agreeing to some settlement with states, we'd already weakened the act in itself," Grijalva added. "But having said that, any further diluting of that is something to be very, very concerned about in terms of what trends we're going to see."

And, conservationists expressed disappointment with Zinke's decision, particularly given the 60-day window he set for the process.

Under his order, a team of officials from the Bureau of Land Management, Fish and Wildlife Service and the U.S. Geological Survey will submit a report with recommendations following that period.

Sarah Greenberger, who as one of former Interior Secretary Sally Jewell's top counselors who helped develop the sage grouse plans, criticized Zinke for "listening to one small segment of stakeholders" in issuing the review.

"When you turn your review into those plans that were supposed to be about habitat protection to whether we've placed any burdens on development, that's concerning," said Greenberger, who is now vice president of conservation policy at the National Audubon Society.

She added: "This was supposed to be about choosing some places to protect so that there was more stability for development across the larger landscape."

Greenberger also challenged Zinke's assertion that options such as captive breeding and population targets, as well as predator controls, have not been given proper weight and would be in the review.

"Those have been considered and the science lands pretty heavily that those aren't the top concerns or the most successful approaches to conservation," she said.

The review will also examine both invasive weeds and rangeland fire as potential threats to the bird's habitat, but Greenberg said those dangers must be considered in the context of disturbance and development.

Still, Greenberger said she remains hopeful that the Interior review process includes a "full range of stakeholders who've been invested at the national level and the state level in this process," including sportsmen and conservationists, as well as ranchers and energy developers.

Western states have pushed the Trump administration for greater flexibility in how the plans are implemented, including how federal plans align with state grouse strategies for oil and gas leasing near sensitive breeding grounds.

"If one state goes off or two or three and weaken their commitment or their obligation, then it's the other states who pay. No one gets to walk away without impacting someone else," she said.

The Wilderness Society's senior director for agency policy, Nada Culver, likewise questioned the need for the review, arguing the conservation plans were created to "include flexibility and an ongoing collaboration with the states."

The conservation effort was created in large part to avoid a decision by the Fish and Wildlife Service to list the bird under the Endangered Species Act, a move seen as likely to stifle economic development in the affected states. FWS is slated to revisit its decision in 2020.

"Secretary Zinke's order is so disruptive because it undermines carefully balanced and negotiated plans against the advice of the stakeholders involved," Culver said. "The plans do not need to be revised, they need to be supported and implemented in good faith by the Department of the Interior."

She added: "Starting a review of the plans for managing greater sage grouse with a stated intent to further accommodate oil and gas development ignores the reality that the most critical grouse habitat does not overlap with the highest potential for oil and gas and ignores the consensus reached by state and federal agencies on the building blocks needed to conserve the species."

Both Colorado Gov. John Hickenlooper (D) and Wyoming Gov. Matt Mead (R) similarly urged Zinke to avoid any "wholesale changes" to the sage grouse plans (*Greenwire*, May 31).

<http://bit.ly/2s94X0b>

5. Lawmakers say they're in the dark on Bears Ears review

Kellie Lunney, E&E News reporter

Published: Thursday, June 8, 2017

Members of Congress with a vested interest in whether the Trump administration will alter the Bears Ears National Monument in southeastern Utah said this week they don't know what to expect from Interior Secretary Ryan Zinke's interim review due Saturday.

House Natural Resources Chairman Rob Bishop (R), who along with the rest of Utah's all-Republican congressional delegation has fought hard to revoke the monument's status, which President Obama designated soon before he left office, acknowledged he would be upset if Zinke does not recommend changes to the 1.35-million-acre monument in his home state.

There has to be "some kind of change in the process" of how national monuments are designated under the 111-year-old Antiquities Act, and ultimately that change needs to happen through legislation, Bishop told E&E News.

But the White House could pursue recommendations from Zinke to shrink or rescind the footprint of Bears Ears, as well as the **26 other monuments** under review.

"They can work hand in hand, if it's done the right way," said Bishop.

President Trump issued an executive order in late April mandating a review of the status of dozens of national monuments created since 1996 that encompass more than 100,000 acres. The order requires an interim report with specific recommendations for Bears Ears due June 10, before a final overall report is due in August.

Bishop has argued that Trump's executive order "does what the past administration should have done," namely: "Talk to real people who live in the [affected] communities and not just special out-of-state interest groups."

Zinke last month toured the Bears Ears monument with Bishop and others, talking to various groups on both sides of the issue.

If Zinke recommends changes that the White House pursues, it's likely to open up the litigation spigot, according to Rep. Raúl Grijalva of Arizona, the top Democrat on the Natural Resources Committee.

Grijalva said pressure on Zinke from the Utah congressional delegation to alter Bears Ears "has been intense."

"Zinke might be a free actor, but on this one, I think he's going to do something to affect that designation, and when he does that, that's going to trigger the rest of the fight," the Democrat said.

Sen. Orrin Hatch (R-Utah), who has spoken out against the Bears Ears designation on the Senate floor, sounded more Zen on the matter yesterday than either Bishop or Grijalva.

"I'm pretty well-prepared to accept anything the secretary decides," he said.

Bishop, Grijalva and Hatch all said they had not seen a copy of the interim report or knew what Zinke planned to recommend.

Utah state Rep. Mike Noel (R), a leading opponent of federal land ownership, said yesterday that he expects Interior to propose reductions to the boundaries of Bears Ears National Monument but won't seek to revoke the site's status outright because of "legal issues" (*Greenwire*, June 7).

Opponents gather to condemn changes

The Next 100 Coalition, made up of more than 50 civil rights, environmental justice, conservation and community organizations, held a briefing and reception on Capitol Hill yesterday to vocalize its opposition to any effort to reduce or rescind the status of the 27 national monuments included in the review.

The group said in a press release that it "seeks to engage a broad cross section of stakeholders to create a public lands system that better reflects America's cultural fabric."

Carrie Hamblen, CEO and president of the Las Cruces Green Chamber of Commerce in New Mexico, said that she and other like-minded constituents who oppose reducing or revoking the status of monuments will make the debate an election issue for their congressman, Rep. Steve Pearce (R-N.M.). Two monuments in New Mexico — Organ Mountains-Desert Peaks and Rio Grande del Norte — are part of the Interior review.

"We keep thinking that if he pushes this ... this might be something that could wind up getting him out of office," Hamblen said during the briefing.

Prior presidents have used the Antiquities Act to protect federal land with historical, scientific or cultural value more than 150 times, but to date no president has attempted to eradicate a designation made by one of his predecessors.

Sens. Tom Udall (D-N.M.) and Michael Bennet (D-Colo.) both spoke during yesterday's reception. Bennet helped secure a monument designation in 2012 for Chimney Rock in his state. Another monument, Canyons of the Ancients, is on the Trump review list.

"It goes without saying that we need to protect Bears Ears, and we will do what we need to do to do that," Bennet said, telling the crowd "how important their advocacy of public lands is at this moment."

<http://bit.ly/2rR7h8N>

6. Dems hit Trump OMB picks on spending, regulatory views

Arianna Skibell, E&E News reporter

Published: Thursday, June 8, 2017

Senators yesterday sharply questioned President Trump's picks to help manage federal spending and regulatory oversight, pressing them to outline their approach on spending and regulatory changes and how they plan to work with congressional Democrats.

Lawmakers on the Homeland Security and Governmental Affairs Committee were considering the nominations of Russell Vought, Trump's nominee for Office of Management and Budget deputy director, and Neomi Rao, the nominee to lead the Office of Information and Regulatory Affairs.

The panel also questioned Brock Long, Trump's choice to lead the Federal Emergency Management Agency, on natural and man-made disaster mitigation.

A bulk of the hearing focused on a recent opinion by the Department of Justice's Office of Legal Counsel that executive branch agencies are only obligated to respond to queries from congressional committee chairmen and are not legally required to respond to all congressional requests for information, including those from committee ranking members.

The Senate Democratic Policy and Communications Committee yesterday released a compilation of over 100 information requests to the Trump administration that have gone unanswered.

Sen. Claire McCaskill (D-Mo.), the Homeland Security ranking member, requested each nominee pledge to work with her in the name of nonpartisan government oversight by responding to ranking member requests for information.

While Rao and Long both said they intended to comply with formal requests, Vought avoided giving a firm response, eliciting ire from all Democratic committee members present.

Vought currently serves as the senior political appointee at OMB and had a hand in drafting the president's recent budget proposal. He served as vice president at the conservative Heritage Action for America and has worked as a congressional staffer for several senators.

In response to McCaskill's question, Vought said he intended to consult OMB Director Mick Mulvaney and relevant legal authorities before responding to formal requests.

"If you can't give me a straight answer, let me ask you this, do you think it's right?" McCaskill said. "We have a huge problem if you can't even say out loud whether you think it's right or wrong."

Vought replied that he was looking forward to working with the committee in an open and transparent way.

"The people who elected me did not send me here to take that lying down," McCaskill replied, adding that his noncommittal response was "hogwash."

Sen. Heidi Heitkamp (D-N.D.) offered Vought a "second chance" to answer the question.

"As it pertains to certain formal oversight letters, I'm going to seek our legal team's advice and advice from the director," he said.

Heitkamp called his answer "absolutely outrageous" and said she found the line of questioning an "almost" disqualifying offense.

"I don't think you can come here and say you respect the Senate and say what you just said," she added.

Sen. Tom Carper (D-Del.) said if the Democrats were in power and refusing to release information to Republican ranking members, the GOP would shut the government down.

"You guys would go nuts," he said. "And you should."

He added: "We probably ought to do that, as well."

Firestorm over Vought op-ed

The Senate Budget Committee held a separate hearing on Vought yesterday afternoon, during which he faced fire for a January 2016 op-ed he wrote on theology.

Ranking member Bernie Sanders (I-Vt.) quoted one line in particular that he said was Islamophobic.

"Muslims do not simply have a deficient theology. They do not know God because they have rejected Jesus Christ his Son, and they stand condemned," Vought wrote in the editorial defending his college's religious position.

Sanders asked whether Vought believed the millions of Muslims living in the United States are condemned.

"I'm a Christian," Vought replied.

Sanders fired off a series of similar questions until Vought eventually said, "As a Christian, I believe all individuals are made in the image of God and are worthy of dignity and respect."

Sen. Cory Gardner (R-Colo.) urged Sanders to be respectful of Vought's religious beliefs.

Muslim Advocates, the Arab American Institute and Bend the Arc Jewish Action sent a letter to the committee urging lawmakers to reject Vought, saying he denigrated American Muslims and the Muslim faith.

Rao, who would act as regulatory gatekeeper, received no pushback from Homeland Security Democrats and was embraced by Republican members.

Rao is a law professor at George Mason University, where she leads the school's Center for the Study of the Administrative State.

Her resume includes stints as associate counsel and special assistant to President George W. Bush, counsel to the Senate Judiciary Committee and law clerk to Supreme Court Justice Clarence Thomas.

Sen. Orrin Hatch (R-Utah), who does not serve on that panel, made a guest appearance to introduce Rao, touting her expansive legal and administrative experience and voicing support for a regulatory package put forth by Heitkamp and Sen. Rob Portman (R-Ohio) (*E&E Daily*, May 17).

He added that he intends to introduce legislation this month pertaining to governmental separation of powers and court deference to agencies' legal interpretations.

In a rapid-fire line of questioning from Heitkamp, Rao said she supports the practice of cost-benefit analysis for deregulatory actions.

Cost-benefit analysis attempts to ensure that the net benefit of a new regulation outweighs its costs. While the procedure is scientific, there are often many unknown factors or excluded factors that make some leery of the practice (*E&E Daily*, May 2).

Rao said she supports incorporating indirect costs into such analyses and that there is a role for qualitative and non-monetized benefits in analyses. She added that she supports building a retrospective review for rules and that the standard process for assessing costs and benefits should remain intact.

Rao also said she agrees that deregulatory actions should go through the same level of scrutiny as regulatory ones — though she later told Sen. Steve Daines (R-Mont.) she would work with him on legislation to streamline deregulatory action.

"This is an interesting proposal that I would consider working with you on," she said.

Union, environmental and progressive watchdog groups have come out in opposition to Rao's nomination.

Ahead of the hearing, a group of almost 40 organizations urged committee Chairman Ron Johnson (R-Wis.) and McCaskill to reject Rao.

"Her OIRA would likely deem much needed protective rules as too costly even if the rule benefits outweigh the industry stated costs," the groups wrote in a [letter](#) sent Tuesday.

"We need someone in the position of OIRA administrator who believes in the vital role that federal agencies set safety standard to protect the public. Professor Rao does not."

Among the signees were the AFL-CIO, the Center for Biological Diversity, the Center for Progressive Reform, Public Citizen and the Union of Concerned Scientists.

In a separate statement, Andrew Rosenberg, UCS director of the Center for Science and Democracy, questioned whether Rao would put public need first.

"Professor Rao could sharply constrain the government's ability to respond to health threats and implement popular, long-standing laws like the Clean Air Act," he said.

"If they're going to enforce the laws that keep our air and water clean, and our food and workplaces safe, federal agencies need the ability to craft rules based on the best available science."

Long was warmly received by lawmakers, who praised his experience and willingness to work across party lines.

Sen. Maggie Hassan (D-N.H.) noted that the frequency and intensity of natural disasters are on the rise with a changing climate and pressed Long on his views about mitigation.

The veteran emergency management worker said he is committed to proactive mitigation.

"I believe mitigation is the foundation, the cornerstone of emergency management," he said.

Long also assured Sen. Gary Peters (D-Mich.) that he would review the policies in place that prevented the tainted water crisis in Flint, Mich., from being proclaimed a national state of emergency.

<http://bit.ly/2s1nafb>

7. Industry wants to end reclamation fee

Dylan Brown, E&E News reporter

Published: Thursday, June 8, 2017

Congress yesterday launched the conversation over reauthorizing a coal mining fee for cleaning up abandoned sites, but it was a rocky start with companies coming out against the extension.

At a House Natural Resources Subcommittee on Energy and Mineral Resources hearing, Chairman Paul Gosar (R-Ariz.) said the process needed to begin "as early as possible" because of the complexity of the Abandoned Mine Lands (AML) program that expires in 2021.

Since the Surface Mining Control and Reclamation Act of 1977, the federal Office of Surface Mining Reclamation and Enforcement has charged a fee on every ton of coal mined in the U.S. to pay for reclaiming mines abandoned before the law passed.

"If anything, it may be cutting it close," ranking member Alan Lowenthal (D-Calif.) said, noting that reauthorization took nearly a decade the last time in 2006.

Coal companies, represented at the hearing by trade group the National Mining Association, which in the past has been hesitant to comment on AML issues, want out.

"The answer has always been to extend the tax and continue business as usual," NMA CEO Hal Quinn said. "I believe it's time to view the current AML fee expiration date as firm and begin planning for an orderly distribution of the remaining fees."

Quinn blasted OSMRE for only utilizing a fraction of nearly \$8.5 billion in AML fees made available since 1977 for reclamation of the most dangerous abandoned mine hazards.

"In other words, it appears that only one of every three dollars is accomplishing the core mission of the program on the ground," he said.

At the hearing, acting OSMRE Director Glenda Owens said her agency needed to improve. She said Quinn's figures were "close to correct," but her agency later clarified that the ratio was actually 2-1.

OSMRE reported that \$5.5 billion has been distributed to states — SMCRA's primary regulators — with 63 percent spent on construction, 19 percent on project design, 5 percent on acid mine drainage, and 13 percent on administrative costs and undelivered orders.

The remaining \$3 billion was divided roughly in half between emergency or OSMRE-led reclamation, and payments to United Mine Workers of America retired coal miner health care funds, which were approved by Congress.

West Virginia Office of Abandoned Mine Lands and Reclamation chief Rob Rice said his state can easily account for every dollar spent.

"I'm sure that the numbers Mr. Quinn has he feels are true and accurate — they're not," said Rice, who was testifying on behalf of the Interstate Mining Compact Commission and National Association of Abandoned Mine Land Programs.

Rice said the problem is OSMRE's online inventory of AML sites, which a recent Interior Office of Inspector General report found inadequate (*Greenwire*, April 4). OSMRE agreed with all the report's recommendations.

The inventory system "is flawed and it was never intended to be a financial reporting system," Rice said.

The agency has said there is about \$10 billion in cleanup work pending nationwide, but Rice said the actual cost is likely much higher because conditions regularly get worse at sites left unreclaimed.

"We have a surplus of projects to select from, it really comes down to a lack of funding," he said.

With Pennsylvania estimating it alone has \$15 billion in projects, Foundation for Pennsylvania Watersheds Executive Director John Dawes advocated that fee amounts for each type of coal, which have been reduced over the decades, should go back to their original levels.

"Reclamation has the potential to put miners back to work," he said, noting 40 miners put back to work at a massive coal waste pile cleanup in Ehrenfeld, Pa. (*Greenwire*, Aug. 5, 2016).

Inspector general report

The hearing also gave a chance for Wyoming, the nation's top coal mining state, to rebut the same Interior inspector general report, which blamed OSMRE for allowing Wyoming and other "certified" states — those deemed to have finished their AML work — to continually spend significant portions of their yearly grant money on non-coal projects.

Under SMCRA, certified states can spend their money, which under a 2006 deal comes from the Treasury, on non-coal projects, but the spending is roundly criticized in states with existing AML work.

Last year, the Wyoming Legislature spent \$162.3 million on highway projects, but Wyoming Department of Environmental Quality Director Todd Parfitt tied that spending to the impacts of heavy machinery related to coal mining.

"Factual inaccuracies and incorrect representations could have been avoided if OIG or OSM had afforded Wyoming the opportunity to review the draft report," Parfitt said.

IG spokeswoman Nancy DiPaolo said the watchdog office simply followed procedure, pointing out that Congress and OSMRE are working to implement the recommendations.

"This job was designed to look at what OSMRE is doing to ensure coal reclamation projects are being prioritized," she said. "The resulting report concludes that OSMRE is not using its oversight authority, thus there is no assurance that coal reclamation projects are prioritized over non-coal reclamation projects." Oversight would help prioritize how the AML monies are spent and what they accomplish.

Republican Rep. Liz Cheney of Wyoming reminded her colleagues that Wyoming has generated more than half of the fee revenue each year of the past decade.

"We want to make sure we're not in a position where we are paying more money in and having to cover costs from other states that are paying less in and may not have had the same history that we've had in terms of taking care of our abandoned mine lands," Cheney said.

<http://bit.ly/2s97De7>

8. GOP's draft management and wildfire bill aims to win over Dems

Marc Heller, E&E News reporter

Published: Thursday, June 8, 2017

Proposed wildfire and forest management legislation released by House Republicans today aims for finding middle ground with Democrats.

The House Natural Resources Committee released a discussion **draft** of the "Resilient Federal Forests Act," the latest version of legislation championed by Rep. Bruce Westerman (R-Ark.), and said it would hold a hearing on the proposal next Thursday.

The basic goal of the measure remains unchanged: to encourage forest-thinning projects that could reduce the threat of catastrophic wildfires, and to provide a funding stream that ends the Forest Service's borrowing from other accounts to cover wildfire suppression.

But the draft drops an earlier provision that would have required groups challenging a forest management project to post a bond to cover the government's anticipated legal costs.

That requirement in Westerman's previous version had raised objections from Democrats and groups such as the Wildlife Society.

Westerman's previous bill passed the House in 2015 but faced stumbling blocks in the Senate last year.

"This draft builds upon the work of the prior Congress to pair forestry reforms with a responsible budget fix and finally address our wildfire crisis," Natural Resources Chairman Rob Bishop (R-Utah) said in a news release. "We must give federal agencies the tools to treat federal forests and rangelands at a greater pace and scale and we must end fire borrowing. This framework addresses both."

The timber industry supports the measure, which could help boost timber harvests.

"The problems that Mr. Westerman recognized then are still with us; the Forest Service is facing massive forest health problems and a widely recognized crisis on fire funding," said Bill Imbergamo, executive director of the Federal Forest Resource Council.

<http://bit.ly/2s8TZYk>

9. Even with Trump's push, companies and lawmakers want more

Hannah Northey and Geof Koss, E&E News reporters

Published: Thursday, June 8, 2017

The nation's natural gas industry, smitten with the Trump administration's full-throated endorsement of exports, is mulling ways to turn that affection into faster federal action.

In addition to fully backing the president's newly announced agreements with gas-hungry countries like Japan and China, proponents of liquefied natural gas (LNG) exports want the government to pick up its pace in approving new projects — and Republican lawmakers eager to assist are standing by, pen in hand.

"LNG ticks a lot of boxes for this administration," said Charlie Riedl, executive director of the Center for Liquefied Natural Gas, pointing to job creation, international alliances and lowering emissions. "The timing of the Trump administration paired with the ramp-up of additional projects ... is a very good thing."

More than a dozen companies hoping to export LNG are currently awaiting approval from the Federal Energy Regulatory Commission. Its environmental and safety review can take up to a year. Further along in the process, more than two dozen export firms are waiting for the Department of Energy to sign off on their projects.

Top Trump officials like Energy Secretary Rick Perry and presidential economic adviser Gary Cohn have signaled their intent to fully back LNG exports in recent weeks — and industry is paying attention.

Possibly on the horizon, Riedl said, is DOE export fast-track rulemaking. He also expects Perry to reverse an Obama-era policy implemented in 2014, under which DOE has to wait for FERC before approving projects (*E&E News PM*, May 29, 2014).

Fred Hutchison, who leads LNG Allies, a group that advocates for expanding LNG shipments, said the real issue wasn't regulatory red tape but the challenge companies face in securing long-term contracts and moving forward with constructing the massive and costly facilities.

Hutchison pointed to signals that President Trump is already moving to support that market. Shortly after the president met with Chinese President Xi Jinping last month, for example, the Commerce Department welcomed China and other trading partners to enter into long-term contracts with U.S. exporters.

The following week, Commerce Secretary Wilbur Ross in an [interview](#) with CNBC reiterated the administration's desire to export LNG to energy-hungry countries.

"It's the president's policy to rejuvenate and expand our energy activities in the United States," Ross said. "The LNG part of it is quite interesting in that we have a huge surplus, the prices there have been very depressed, but many of the countries with whom we have overall deficits need LNG."

In a [letter](#) to Perry last week, Hutchison said he supported efforts to develop an LNG "framework" with foreign governments and urged the secretary to "continue working to replicate such bilateral efforts with other nations" like China already underway.

"We also urge you to keep making it crystal clear to America's trading partners that DOE's LNG authorizations (including to non-[free-trade agreement] nations) remain a 'routine matter' with strong bipartisan support," he wrote.

Legislative remedy

After years of pushing legislation to expedite LNG exports, Congress has been largely silent on the issue this year, perhaps waiting to see what the president would do.

In the last Congress, both chambers passed legislation that would impose a "shot clock" on DOE to make final decisions on export applications.

The House bill would have given DOE 60 days to decide after receiving a final National Environmental Policy Act review on an application from the Federal Energy Regulatory Commission. The Senate's bill would have allowed DOE 45 days to make a decision.

Efforts to reconcile the competing versions through a formal conference committee on broader energy legislation collapsed in the final weeks before adjournment. Trump's surprise election dampened House Republicans' enthusiasm for negotiating with Democrats, including on LNG (*E&E Daily*, Nov. 18, 2016).

Rep. Bill Johnson (R-Ohio), co-chairman of the Congressional Natural Gas Caucus who played a key role in past efforts to move legislation to speed up exports through the House, said yesterday the issue "is still very much on our agenda."

Johnson, who was also an energy conferee last year, said he has asked DOE "to take a look at this because there's a lot that they could do that would not require a legislative remedy to open the door."

Legislation will follow once the department's plans become clearer. "I don't want to undercut them if they plan on making some necessary reforms," Johnson said.

Sen. Bill Cassidy (R-La.), who represents a major gas-producing and export state, has been meeting with companies and groups to identify regulatory hurdles that could be addressed in legislation, which he said is preferable to executive actions that could be reversed by new administrations.

"If Congress wants this to happen, I think it's ideal that Congress puts it into legislation," he said in an interview yesterday. Cassidy said it's possible this year's bill could be broader than the shot clock both chambers passed in the last Congress.

Rep. Kevin Cramer (R-N.D.), a member of the Energy and Commerce Committee who served as an informal energy adviser to Trump during the campaign, said yesterday that he expects LNG exports to become a topic discussion when Congress moves on to the infrastructure package the president has long touted.

Cramer suggested Congress should pass legislation to streamline the permitting process for multibillion-dollar LNG terminals.

"At the end of the day, private entities have to make the decision whether or not they're going to invest in all that's required, not just the terminal but everything else, the fleet and whatnot that would move the product," Cramer said.

Johnson echoed the sentiment but suggested terminals and other natural gas infrastructure could be addressed in the broader push to streamline federal permitting generally.

"We're looking at permitting reforms across the board," Johnson noted.

<http://bit.ly/2s8Exvg>

10. 'Homework assignment' how Pebble lobbied Trump's EPA

Kevin Bogardus and Dylan Brown, E&E News reporters

Published: Thursday, June 8, 2017

Developers of a controversial Alaskan mine set out early to lobby President Trump's U.S. EPA to reverse restrictions the Obama administration had proposed putting on the project.

Peter Robertson, a top lobbyist for Pebble LP — the developer of the Pebble mine in Bristol Bay, Alaska — emailed and met with a senior EPA official to discuss the project, according to records released in response to a Freedom of Information Act request by the Natural Resources Defense Council. The documents illuminate that the latest push in Pebble's decadelong lobbying campaign bore fruit, as the company and EPA reached a deal last month to allow the project to enter permitting.

Two days before the Senate confirmed Scott Pruitt as EPA administrator in February, Robertson — who also served as EPA chief of staff under then-agency head Carol Browner during the Clinton administration — reached out to David Schnare at EPA, asking to meet in person to discuss the mining project.

Robertson said in an email that EPA's effort, through its Pacific Northwest Region 10 office, that effectively blocked the mine was "unprecedented and fundamentally unfair." In 2014, Region 10, which oversees Alaska, proposed Clean Water Act restrictions on large-scale mining in Bristol Bay (*Greenwire*, May 17). Alaska Native groups, conservationists and the commercial fishing industry praised EPA for protecting the region's world-renowned salmon fishery.

"We are only looking for the same due process that 60,000 other permit applicants get each year," Robertson said, noting that "there is a significantly long history of this matter (including our litigation against the Agency), and I would appreciate the opportunity to discuss it with you and seek your guidance and assistance on our efforts to work through these issues with the Agency.

"Do you have time for me to meet with you in the near future?" Robertson asked.

Schnare **responded** the next day, saying he was open to meeting with the Pebble mine lobbyist.

"I am aware of the problem in general but do not have specifics. Can you bring with you a timeline of events and a status on the legal actions? The preemptive strike by the last administration was indeed unprecedented and I don't want to see it become a precedent, particularly because it is a violation of Pebble's due process rights," Schnare said.

"In any case, I need to get this set up for the Administrator, which means I need the full background and a specific proposal on what we can and should do. Without meaning to be flip, that's your homework assignment," Schnare added.

The two then arranged to meet in person the following week, according to the emails. A day after the Feb. 22 meeting date, Robertson **emailed** Schnare to thank him and pass on several websites and documents — including a **letter** from House Science, Space and Technology Chairman Lamar Smith (R-Texas) asking EPA to let the mining project move forward.

"If you have questions after speaking with Region 10, I would really appreciate the opportunity to respond to them," Robertson said.

The next week, Robertson again emailed Schnare, passing along a **letter** from Pebble to Rep. Eddie Bernice Johnson (D-Texas), the Science panel's ranking member, taking issue with the congresswoman's criticism of the project (*Greenwire*, Feb. 27).

"What I really wanted to talk about though, is the substance of it," Robertson **said**.

'Tip of the FOIA iceberg'

A Region 10 official said EPA headquarters would be declining to comment on this story.

In an email responding to questions about Pebble's lobbying of EPA, Robertson said: "We have met with a range of people at EPA — during this administration and the prior administration — to discuss the many problems with their precedent-setting preemptive actions against us.

"Our efforts have been targeted towards ensuring that EPA's leaders are well informed about all relevant issues regarding our project. Discussions regarding settlement, as you would expect, have largely been handled by our lawyers."

Taryn Kiekow Heimer, a senior policy analyst at NRDC who requested the records via FOIA, criticized Pebble's discussions with EPA over the mining project, calling it "a shameless giveaway to industry" to let the permitting process move forward.

"After years of belly-aching about fairness, it is simply unbelievable that Pebble immediately seized the opportunity to reach a secretive, backroom deal with the Trump EPA," she said in an email. "Trump's EPA went from not knowing any 'specifics' about the mine to cutting a deal with Pebble that greenlights the mine into permitting."

Schnare, the EPA official who met with Robertson, was a member of Trump's transition team and later the "beachhead" team for the agency. He had previously spent 33 years at EPA, including working as an attorney in the agency's enforcement office, before returning to EPA this year.

At the Energy and Environment Legal Institute, Schnare was a vocal critic of EPA under the Obama administration. He expected to stay on at EPA in a top position but resigned from the agency by mid-March after he made allegations of wrongdoing (*Greenwire*, March 16).

In an interview with E&E News, Schnare remembered meeting with Robertson and discussing the mining project with other EPA beachhead team members.

Schnare said after he was briefed by Pebble, he sought and received a briefing from EPA staff. Then, Schnare said, he took the information to Pruitt.

"I never gave anything to Pruitt. I did brief him," Schnare said.

Schnare said he wanted to make sure that all sides and arguments surrounding the issue were known within EPA.

"There was nothing offered up by Peter Robertson that the agency didn't already know," Schnare said. "My approach has been to hear from both sides."

Schnare also said "there was this whole precedence issue" with the Pebble mine.

"Do you kill a project without due process?" Schnare said. "Due process is something the public deserves."

NRDC's Kiekow Heimer questioned EPA's decisionmaking process that led to the settlement, saying the agency lacked "a balanced perspective since there was no effort, as far as I know, to reach out to any of the stakeholders except Pebble."

More information may be forthcoming on Pebble's lobbying campaign directed at Trump's EPA. Kiekow Heimer said she expected the agency to produce two more rounds of documents in response to her request.

"This is just the tip of the FOIA iceberg," she said.

<http://bit.ly/2s8IFvw>