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Attached is the daily news report for April 1 3.

Ryan Sutherland  
Bureau of Land Management Utah  
Public Affairs Specialist  
[rrsutherland@blm.gov](mailto:rrsutherland@blm.gov)  
801 539 4089



## BUREAU OF LAND MANAGEMENT

### DAILY NEWS REPORT - UTAH

#### UTAH – TOP STORIES – APRIL 1-3, 2017

##### 1. Utah Prairie Dogs Prosper Under State Management

*Ammoland.com, March 31 | Joe Evans*

CEDAR CITY, Utah -(Ammoland.com)- For more than two years, Utah prairie dogs in southwestern Utah have prospered under the watchful eye of state wildlife biologists.

##### 2. Gutting America's National Treasures Is Unlawful and Unwise

*Time, March 31 | Heidi McIntosh*

The ink was barely dry on President Barack Obama's proclamation creating Bears Ears National Monument in southern Utah when it came under attack from Utah's congressional delegation. And not because the monument isn't worthy of protection — it certainly is.

##### 3. Federal judge dismisses lawsuit over natural gas leases

*KSL News, March 31 | Amy Joi O'Donoghue*

SALT LAKE CITY — A federal judge Friday tossed a lawsuit by the Southern Utah Wilderness Alliance and other groups that claimed the Bureau of Land Management illegally approved natural gas leases on the West Tavaputs Plateau in Carbon County.

#### E&E/NATIONAL NEWS – TOP STORIES

##### 1. Op-ed: The Endangered Antiquities Act

*The New York Times, March 31 | John D. Leshy and Mark Squillace*

The heart of the [Antiquities Act](#) of 1906 is a mere two sentences. But a good argument can be made that this brief law — which authorizes the president to protect “objects of historic or scientific interest” on federal lands as “national monuments” — has done more than any other to shape our nation's conservation legacy.

##### 2. Interior moves swiftly after Trump's climate order

*High Country News, March 31 | Elizabeth Shogren*



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Earlier this week, before President Donald Trump ordered an about-face on federal climate change policies, Interior Secretary Ryan Zinke had a few minutes to speak to a gathering of members of Congress and industry executives. With a colorful quip, the former Montana congressman encapsulated the Trump administration's disdain for former President Barack Obama's approach to addressing climate change: "You know, our nation can't run on pixie dust and hope, and the last eight years showed that," Zinke said.

#### 3. Navajo Nation officials want President Donald Trump to subsidize Kayenta Mine, power plant

*Azcentral.com, March 30 | Ryan Randazzo*

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#### 4. WILDLIFE: DeFazio bill would ban cyanide, other 'poisons' for predators

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#### 5. NEWSMAKER: BLM's 'energy guy' may signal the end of big renewables

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#### 6. COAL: Cheney bill bans moratoriums

*E & E News, March 31 | Dylan Brown*

Rep. Liz Cheney proposed a ban on all future federal coal leasing moratoriums after the Interior Department this week lifted an Obama-era halt.

#### 7. CLEAN POWER PLAN: Pruitt reiterates states don't have to make plans

*E & E News, March 31 | Emily Holden*

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#### 8. LAW: Groundwater increasingly at center of legal disputes



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#### UTAH – FULL STORY

##### 1. Utah Prairie Dogs Prosper Under State Management

*Ammoland.com, March 31 | Joe Evans*

CEDAR CITY, Utah -(Ammoland.com)- For more than two years, Utah prairie dogs in southwestern Utah have prospered under the watchful eye of state wildlife biologists.

Now, those biologists are concerned. They say a recent court ruling—which gives management authority back to the federal government—could make it challenging to manage conflicts between prairie dogs and people.

On March 29, the 10th Circuit Court of Appeals overturned a district court ruling made in November 2014. The district court ruling gave management authority—for Utah prairie dogs found on private land—to the state of Utah. The March 29 ruling gives that management authority back to the federal government.

Utah prairie dogs were listed as endangered shortly after the Endangered Species Act was enacted in 1973.

“One of the biggest challenges to managing Utah prairie dogs are federal rules that do not allow biologists the flexibility they need to do what’s best for the species and for the people who live in areas where prairie dogs are found,” says Greg Sheehan, director of the Utah Division of Wildlife Resources (DWR).



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The biggest concern, Sheehan says, is what biologists can and can't do with Utah prairie dogs found on private land. Under federal rules, the number of prairie dogs that can be lost to development and other events on private land is extremely limited. The state plan, however, gave biologists added flexibility to move prairie dogs off private land.

In 2015 and 2016, an average of 2,300 prairie dogs were moved off private land in Wayne, Garfield and Iron counties each year. DWR biologists took the animals to public land that provided the prairie dogs with good habitat. Prairie dogs have done well in these areas and are contributing to the species recovery goals.

"It was a win-win for everyone," Sheehan says. "Local communities, local governments and private landowners were happy. And Utah prairie dogs have never done better."

Utah prairie dogs were under state management from November 2014 to the March 29, 2017 circuit court ruling. During that time, the population reached the highest numbers seen since formal range-wide counts started in 1976.

Based on counts conducted in spring 2015, biologists estimated the population at 92,894 prairie dogs. That was the highest count on record.

In spring 2016, disease within the prairie dog population caused numbers to dip a bit, to 82,685. But the 82,685 prairie dogs was still the second highest count since surveys started in 1976.

"State management was a win-win for everyone," Sheehan says. "Prairie dogs were placed in the best suitable habitat, and private landowners who had conflicts with prairie dogs could ask that the animals be relocated to more suitable habitat.

"Now," he says, "the management of Utah prairie dogs is back in a quagmire of federal bureaucracy. The state rules allowed us to work proactively, with local governments and landowners, to do what was best for the prairie dogs and those who live with the animals in the three counties."

Adam Kavalunas, Utah prairie dog recovery biologist for the DWR, says the state's plan—The Utah Division of Wildlife Resources Utah Prairie Dog Management Plan for Non-federal Lands—



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went into effect in early May 2015. The plan was compiled with input from numerous local entities. Those entities included county governments, state legislators, the Bureau of Land Management, the U.S. Forest Service, the State Institutional Trust Lands Administration and the Utah Department of Natural Resources.

“The state management plan has been well received by the local communities,” Kavalunas says. “It provides more options to work through Utah prairie dog conflicts on private land than federal rules allow.”

Even though the state plan offered more leniency in working with prairie dogs, there has been no noticeable negative effect on the population.

“The last two years have resulted in the two highest population estimates since counts began in 1976,” Kavalunas says. “Even though there was a concerted effort to remove prairie dogs from highly sensitive areas, such as housing subdivisions, city parks and other public use areas, the overall number of Utah prairie dogs did more than maintain itself—it actually increased during the two years of the plan.”

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## 2. **Gutting America’s National Treasures Is Unlawful and Unwise**

*Time, March 31 | Heidi McIntosh*

The ink was barely dry on President Barack Obama’s proclamation creating Bears Ears National Monument in southern Utah when it came under attack from Utah’s congressional delegation. And not because the monument isn’t worthy of protection — it certainly is.

The monument stretches across remarkably scenic mesas, towering sandstone cliffs, and canyons that epitomize the beauty of southern Utah. Native Americans have occupied the area for thousands of years and have deep cultural and religious ties to the lands, which house the archaeological and cultural legacy of their ancestors. It’s also a striking wilderness where bears, bighorn sheep and mountain lions thrive and quiet reigns. Two buttes jut thousands of feet above canyon lands to form the region’s namesake, “Bears Ears.”



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Yet Utah Senator Orrin Hatch called the Bears Ears National Monument “a travesty,” and he and his Utah colleagues immediately called on President Trump to rescind the monument. Their rash tirade does an injustice to Americans who deeply value and respect their natural heritage. It is a particular insult to the Native Americans who labored to achieve the monument designation after Utah’s congressional delegation failed to craft a bill that offered the protection from looting, mining and oil and gas drilling that this fragile landscape needs. An historic coalition of the Hopi, Navajo, Ute Indian Tribe, Ute Mountain Ute, and Zuni governments worked to make a convincing case for the monument and praised its protection as a “powerful medicine for healing.” Thirty sovereign Tribal Nations and the National Congress of American Indians passed resolutions in support of monument protection for Bears Ears.

President Trump and Secretary of Interior Ryan Zinke should honor the tribes, respect the unique importance of Bears Ears, and reject short-sighted, politically-motivated demands for its reversal.

It fact, it is their only lawful option.

The Antiquities Act of 1906 authorizes presidents to designate national monuments, but it does not give presidents the power to reverse the monuments created by their predecessors. Congress’s intent was clear: the Antiquities Act was to be used to protect the nation’s archaeological, scenic, and scientific wonders. Not to destroy them.

In some ways, the story is déjà vu all over again. Over a hundred years ago, efforts to protect the Grand Canyon as a national park were attacked in 1897 by a local town paper as “a fiendish and diabolical scheme... the fate of Arizona depends exclusively upon the development of her mineral resources.” Today, the Grand Canyon is one of the nation’s most popular national parks, with nearly six million visitors in 2016 and it is an important economic force in the region.

The State of Utah knows this. It spends more than \$12 million a year on tourism promotion, focused primarily on its “Mighty Five” national parks campaign, and reports that its investment returns six times that much in income to local businesses. It also produces an estimated \$1 billion in state and local tax revenue. But opposition to Bears Ears cost Utah dearly when the outdoor industry’s largest trade show pulled out of Utah – along with \$45 million in revenue.

Ironically, four of Utah’s Mighty Five national parks were once national monuments. In fact, many of the national parks in our country were first protected as national monuments. History has had a way of proving monument detractors wrong.





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Fortunately, a vast coalition of tribal voices, conservationists, outdoor industry leaders, scientists, and Westerners who love public lands, and monuments like Bears Ears in particular, are rising up and making their voices heard. The President should heed those voices or risk being on the wrong side of history.

*Heidi McIntosh is the Rocky Mountains managing attorney at Earthjustice, the nation's largest nonprofit environmental legal organization.*

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### 3. **Federal judge dismisses lawsuit over natural gas leases**

*KSL News, March 31 | Amy Joi O'Donoghue*

SALT LAKE CITY — A federal judge Friday tossed a lawsuit by the Southern Utah Wilderness Alliance and other groups that claimed the Bureau of Land Management illegally approved natural gas leases on the West Tavaputs Plateau in Carbon County.

The lawsuit involved leases to four parcels that were part of the 77 leases yanked in 2009 by then-Interior Secretary Ken Salazar who said they needed further study.

Some of those leases were deferred, while the BLM ultimately approved others at the conclusion of the review.

In this case, XTO Energy submitted applications to drill in what's called the Seven Wells Project.

The leases were part of a natural gas project that envisioned 807 wells from 538 well pads. A draft environmental analysis was completed and sent for public comment in mid-2011. Final approval of the lease issuance occurred later that year.

Environmental groups in a subsequent lawsuit filed in 2015 asserted the federal agency acted illegally by not requiring an additional inventory of cultural resources in the area or properly considering other impacts to the environment.

U.S. District for Utah Judge Jill N. Parrish rejected those arguments, upholding the BLM's decision.



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"The court does not find this conclusion either arbitrary or capricious," she wrote.

Critics said the BLM in Utah should have followed the lead of Colorado's BLM that deferred similar leases in favor of conducting an inventory of resources on the ground.

But Parrish said federal land managers were able to sufficiently prove enough analysis had been undertaken.

"Plaintiffs have provided no evidence that the extensive inventory information BLM had on hand from previous studies was inadequate for purposes of the leasing decisions at issue," she wrote.

"On this record, BLM had sufficient information to proceed with leasing decisions; any alternative that required the agency to stop leasing simply to obtain information that it already had on hand would be needlessly redundant and ultimately unreasonable," Parrish added.

Joe Bushyhead, an attorney with the Southern Utah Wilderness Alliance, said the organization is evaluating its appeal options.

"We're disappointed in today's ruling that keeps four oil and gas leases sold by BLM in 2011 in the Desolation Canyon proposed wilderness on the books. These leases are part of a larger natural gas development scheme proposed by XTO Energy that threaten Desolation Canyon and Nine Mile Canyon," he said.

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##### 1. **Op-ed: The Endangered Antiquities Act**

*The New York Times, March 31 | John D. Leshy and Mark Squillace*

The heart of the [Antiquities Act](#) of 1906 is a mere two sentences. But a good argument can be made that this brief law — which authorizes the president to protect “objects of historic or scientific interest” on federal lands as “national monuments” — has done more than any other to shape our nation’s conservation legacy.



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The act has been used more than 150 times, by nearly every president, Republican and Democrat, from Theodore Roosevelt on, to protect hundreds of millions of acres for the inspiration and enjoyment of present and future generations. Five of the nation's 10 most-visited national parks — Grand Canyon, Zion, Olympic, Teton and Acadia, each attracting millions of people a year — were first protected by presidents using the Antiquities Act.

Even so, this law is under attack. The 2016 Republican Party platform called for amending it to give Congress and states the right to block the president from declaring national monuments. By thwarting the president's ability to take quick action to protect wild and historic places from threats, this proposal would effectively repeal the act.

Now critics, including Representative Rob Bishop, a Republican from Utah and chairman of the House Committee on Natural Resources, are ramping up a campaign to strip away the president's authority under the Antiquities Act to designate monuments. Mr. Bishop complains that it allows the federal government to "invade" and "seize" lands. But that's not true. The act authorizes the president to protect only lands already "owned or controlled by the government of the United States," not state or private land.

Some dislike the law because presidents have tended to use it late in their terms to sidestep opposition to their designations. But would anyone today seriously question the wisdom of Theodore Roosevelt's using the act to protect what is today the core of Olympic National Park in Washington two days before he stepped down in 1909? Or Herbert Hoover's safeguarding what are now three national parks, including Death Valley in California (1.3 million visitors last year), in his last three weeks in office in 1933? Or Dwight D. Eisenhower's setting aside what is now the Chesapeake and Ohio Canal National Historical Park (five million visitors last year) two days before John F. Kennedy's inauguration in 1961?

Because these presidential actions change the status quo and prevent development, they have sometimes incited local opposition. But over time, the growing popularity of these places often led Congress to recast them as full-fledged national parks.

That's what happened after Franklin D. Roosevelt established the Jackson Hole National Monument in 1943 on land fronting the magnificent Teton mountain range in Wyoming. Outrage ensued. Senator Edward Robertson of Wyoming called the president's action a "foul, sneaking Pearl Harbor blow," and locals led a cattle drive across the new monument in protest. But by 1950, the monument's benefits to local life and the economy persuaded Congress to incorporate



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it into Grand Teton National Park, and President Harry S. Truman agreed. In 1967, Cliff Hansen, a leader of the cattle drive protest who became a United States senator, acknowledged he had been wrong to oppose Roosevelt's action. He called the expanded Teton Park one of his state's "great assets."

Congress can always overturn a president's monument designation, but has done so only a dozen times. Nearly all involved areas less than 2,000 acres, and the last time it happened was in 1980. But no president has ever attempted to rescind a monument established by a predecessor, and it is unclear whether a president even has the power to do so. Instead, like Congress, presidents have often used the act to expand monuments (and on occasion, to shrink them).

President Jimmy Carter made the most vigorous use of the act up to that time, protecting 56 million acres of federal land in Alaska in 1978 after the state had filed claims to pristine federal lands that Mr. Carter had asked Congress to protect.

In 2006, President George W. Bush established a huge marine national monument in the waters of the Northwestern Hawaiian Islands. He followed that up with several more marine monuments. President Barack Obama enlarged some of those and established several more.

Utah's congressional delegation is among the act's loudest critics. Yet at the same time that Representative Bishop calls it "the most evil act ever invented," the state of Utah's Office of Tourism is spending millions of dollars promoting Utah's "Mighty 5" national parks, boasting that they "draw several million visitors from around the world each year." Four of those "Mighty 5" — Arches, Bryce Canyon, Capitol Reef and Zion — were first protected by presidents of both parties using the Antiquities Act.

The Utah delegation is now trying to persuade President Trump to do away with or shrink the Bears Ears National Monument, established last December by President Obama on 1.35 million acres of federal land in southeastern Utah. Bears Ears contains perhaps the richest cultural, archaeological and paleontological resources of any area of comparable size in the nation.

As our population grows and our rich natural and historical heritage faces increasing threats, we should be looking to protect more places that can inspire and inform present and future generations and offer them recreational opportunities. That is the incomparable legacy of the Antiquities Act, and its necessity is as vital today as it ever was. It would be shortsighted in the



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extreme for Congress to change a single word of what has been, by practically every measure, one of the most fruitful and farsighted laws it has ever put on the books.

*John D. Leshy is an emeritus professor at the University of California Hastings College of the Law in San Francisco, and Mark Squillace is a professor at the University of Colorado Law School in Boulder.*

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## 2. Interior moves swiftly after Trump's climate order

*High Country News, March 31 | Elizabeth Shogren*

Earlier this week, before President Donald Trump ordered an about-face on federal climate change policies, Interior Secretary Ryan Zinke had a few minutes to speak to a gathering of members of Congress and industry executives. With a colorful quip, the former Montana congressman encapsulated the Trump administration's disdain for former President Barack Obama's approach to addressing climate change: "You know, our nation can't run on pixie dust and hope, and the last eight years showed that," Zinke said.

The event was thick with symbolism. Rather than sign the executive order in the Oval Office, as he usually does, Trump joined Zinke, Vice President Mike Pence, Energy Secretary Rick Perry and Environmental Protection Agency Administrator Scott Pruitt at the EPA headquarters in Washington, D.C., where much of the Obama climate agenda was crafted. The White House invited a dozen coal miners, who stood behind Trump as he signed the executive order outlining myriad rollbacks to climate change initiatives and promoting fossil fuels. "We love our coal miners," Trump said. "I made them this promise. We will put our miners back to work."

Trump's order shows that he's determined to scour government agencies to find any regulations, policies or practices that "unnecessarily obstruct ... the delivery of energy resources," such as oil, natural gas, coal, and nuclear power. It immediately cancelled Obama's executive orders that directed agencies to address climate change across the government. And it rescinded policies that guide agencies to account for the social cost of carbon to society over time.

But even some coal executives are skeptical that Trump's promises to the coal industry can be fulfilled. Low-priced natural gas is outcompeting coal, and increased mechanization makes it unlikely that the tens of thousands of coal workers laid off in recent years could return to work.



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Robert Murray, founder and chief executive of Murray Energy, a large coal company, recently advised the president about this. "I suggested that he temper his expectations. Those are my exact words," Murray told the Guardian. "He can't bring them back."

That reality check won't stop the Trump administration from trying. The executive order sets tight deadlines for action, but much of what Trump decreed could take months or even years to accomplish. Pruitt's EPA, for example, likely will have to slog through a years-long effort to justify undoing or rewriting the Clean Power Plan and then will likely defend what he does in court. But unlike his colleagues, Zinke on Wednesday announced a series of immediate and short-term actions to root out policies of the last administration that may hinder the development of oil, gas and coal on public lands, especially if they were intended to address climate change.

With a secretarial order, Zinke immediately lifted a moratorium on leasing federal lands for coal mining and stopped a three-year review of the federal coal program launched by his predecessor Sally Jewell. About 40 percent of the nation's coal comes from federal lands managed by the Bureau of Land Management. The review was intended to evaluate whether Americans get a fair return for that coal and how climate change should figure into decisions about leasing coal. But Zinke called the moratorium and review of the federal coal program "unnecessary" because the law requires extensive environmental analyses of each individual lease.

It's not clear that lifting the moratorium will have much immediate effect. With coal production down and many coal companies bankrupt or in financial distress, companies have not been clamoring for new leases. Zinke acknowledged as much to reporters in a press call Wednesday: "There has not been a rush in the last few years for coal leases; some of it has been market, some of it has been an uncertain regulatory environment."

Zinke's measured tone stood in contrast to the triumphant rhetoric the day before about how Trump's order would end the war on coal and bring back coal jobs. "We'll see where the market goes," Zinke said. "We don't favor one source of energy over another. We just want it to be market driven." His comments showed the new Cabinet secretary creating an independent voice from himself in an administration where the White House seems to want to exert tight control. He also seemed to veer off message when he spoke this week about how "complex" constructing some of Trump's border wall will be, especially along the Rio Grande.

In another secretarial order, Zinke set tight deadlines for his staff to scrutinize policies that may hamper energy development on public lands. He gave agencies two weeks to identify policies tied



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to Obama's executive orders on climate change and mitigating the impacts of energy development on wildlife and other natural and cultural resources. He set a deadline of 30 days to decide whether to review or rescind those policies and 60 days to have any replacement policies drafted. The goal, the order states, is to "better balance conservation strategies and policies with the equally legitimate need of creating jobs for hardworking American families."

Zinke also kicked off the process of rewriting or striking four Obama administration oil and gas rules. One, which regulates hydraulic fracturing on public lands, is stuck in the courts already. The others regulate drilling in national parks and wildlife refuges and limit companies from wasting methane through leaks and intentional flaring of natural gas on public lands.

During the press call, Zinke was asked whether and how he would consider climate change impacts when making future decisions, considering that Trump's order cancels guidance on the social cost of carbon. Zinke said that the agency would be "transparent" as it figures out its new methodology. But he stressed: "The social cost of not having a job is important too."

But ignoring climate change impacts could ensnare Zinke's Interior Department in the courts. A series of court rulings in recent years require agencies to account for climate in environmental analyses for major actions. "They can't just throw up their hands and say we don't care, we don't want to, or we don't believe in it," said Nada Culver, senior counsel of the Wilderness Society.

Like Trump, Zinke insists the administration values clean air and clean water, as well as jobs. "My intention is to be the steward over the majesty of our public lands," Zinke said during an interview with Fox News Wednesday morning, "and make sure we can make wealth and jobs on some of it."

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### **3. Navajo Nation officials want President Donald Trump to subsidize Kayenta Mine, power plant**

*Azcentral.com, March 30 | Ryan Randazzo*

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#### 4. **WILDLIFE: DeFazio bill would ban cyanide, other 'poisons' for predators**

*E & E News, March 31 | Scott Streater*

Oregon Rep. Peter DeFazio (D) yesterday introduced legislation to ban the use of so-called cyanide bombs and other "lethal poisons" to kill wolves and other livestock predators.

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