



President Trump's "America First" Energy Plan, Policy & Personnel

Wyoming State Bar Energy & Natural Resources Section Summit

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June 8, 2017

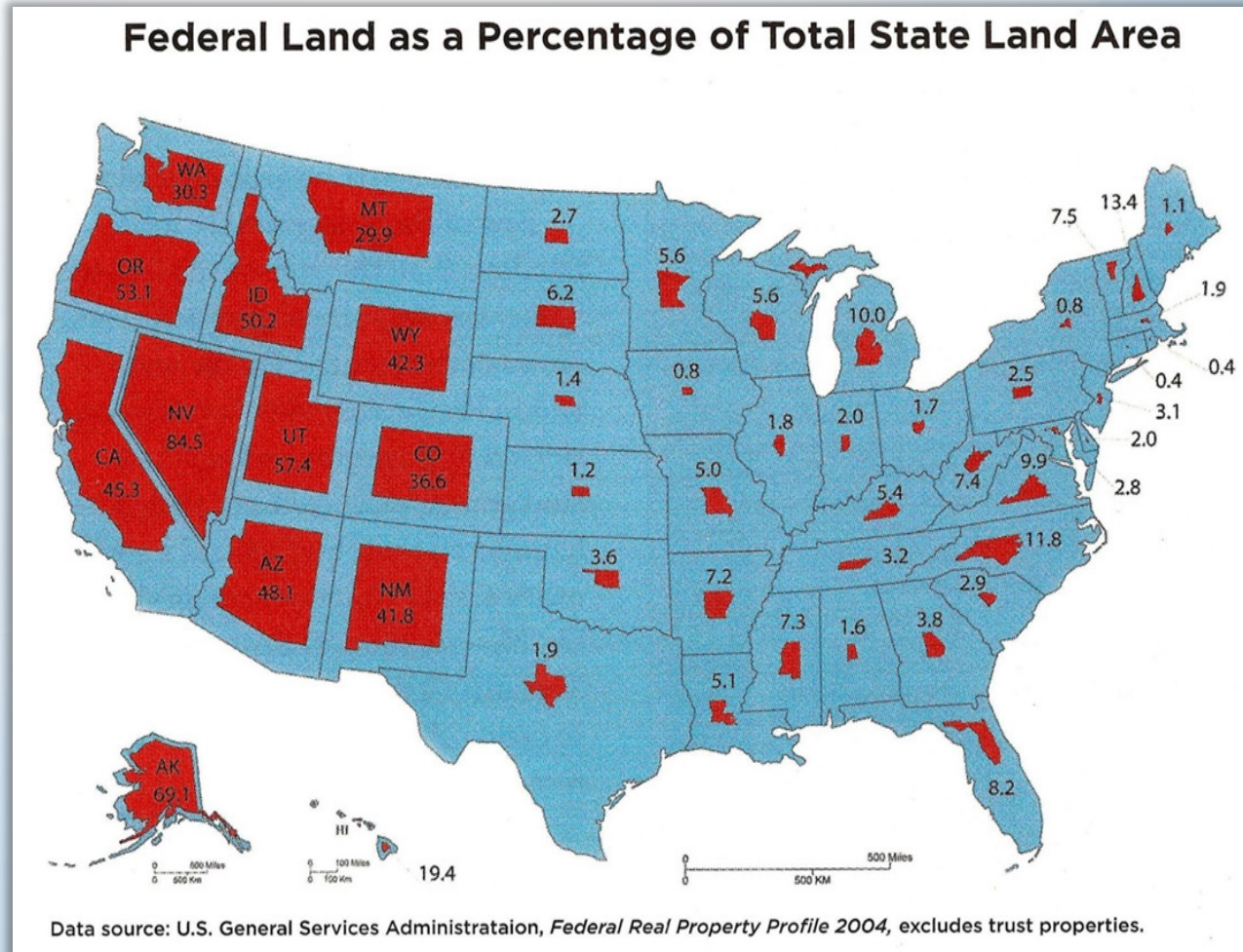
Political Transitions & Energy

Road Map:

- Why this transition matters for Wyoming
- Where were we before election?
- What's happened in Trump administration so far?
- Who's in charge?
- What's next?
- Closing thoughts



Wyoming & Federal Management





Wyoming & U.S. Energy

“Wyoming has the smallest population of any state but supplies more energy to the rest of the nation than any other state.” EIA (12/2016)

- Energy-related mining & extraction: WY’s biggest industry
 - Located in 22 out of 23 WY counties (PAW 2015)
 - Backbone of state’s revenues



Wyoming & U.S. Energy

- WY produces:
 - **Coal** – 42% of U.S. coal (8 of 10 largest mines in WY)
 - **Natural gas** – in top 10 U.S. producers
 - **Oil** – 2-3% of U.S. crude oil
 - WY has more producing federal O&G leases than any other state
 - **Electricity** – 66% exported (largely coal-fired)
 - **Wind** – in top 10 (largest wind project in U.S.)
 - **Solar** – 46th in U.S.





Wyoming & U.S. Energy

THE NEW YORK TIMES

(4/12/2016)

“In Wyoming, Hard Times
Return as Energy Prices
Slump”

CASPER STAR-TRIBUNE

(5/25/2017)

“Wyoming’s population fell
by 1,054 residents in 2016
... the population decline
(first since 1990) is linked to
the energy downturn.”

USA TODAY

(1/24/2017)

“Six of the eight top oil-
pumping states hit
recession”

WASHINGTON POST

(6/3/2017)

“Wyoming town senses a
Trump boost ... In Gillette
people were beginning to
feel the comeback they
voted for.”



Where Were We?

Candidate Obama Energy Vision: Transform U.S. Energy to Fix Climate Change



"This was the moment when the rise of the oceans began to slow."

Obama, 2008 Nomination Speech

"The greatest long-term threat facing the world."

Obama, 2016





Where Were We?

Climate Change Driver for Obama Energy Policy

- Climate Action Plan/Paris (2015)
- Clean Power Plan: Shift power from coal to renewables/natural gas
 - WY hit hard under the CPP
- Regulate existing & new sources of CO₂ & methane
- Raise CAFE standards
- Encourage renewable energy
- Regulate federal O&G and coal development



Where Were We: Interior?

Oil & Gas

- 2010 O&G Leasing Reform (IM-2010-117)
 - Fewer parcels & sales
- 2015 Fracking Rule [80 FR 16128 (3/26/15)]
 - Enjoined by WY Court, on appeal 10th Cir.
- 2015 proposed rule to increase royalties, rentals, bonds & penalties [80 FR 22148 (4/21/15)]
- 2016 Venting & Flaring Rule [81 FR 83008 (11/18/16)]
- 2016 Onshore Orders (O&G measurement)
 - No. 3 [81 FR 81356 (11/17/16)]
 - No. 4 [81 FR 81462 (11/17/16)]
 - No. 5 [81 FR 81516 (11/17/16)]



***"Anything goes
era is over."***
Secretary Salazar,
2009





Where Were We: Interior?

Coal

- 2015 coal leasing moratorium [Sec. Order No. 3338 (1/15/16)]
- 2016 ONRR royalty valuation rule [81 FR 43338 (7/1/16)]
- 2016 OSM Stream Protection Rule [81 FR 93066 (12/20/16)]

Environment/Planning

- 2016 Planning 2.0 Rule
[81 FR 89580 (12/12/16)]
- 2015-16 mitigation policies
- 2016 Greater Sage-grouse RMPs
- Development wind/solar on public lands
 - Wind/Solar Leasing Rule [81 FR 92122 (12/19/16)]



"I am determined to help make energy development safer and more environmentally sound in the next two years."

Secretary Jewell, 2015



Where Were We: EPA?

EPA Published Over 3,900 Rules in Obama Era

- Mercury & Air Toxics Standards for Power Plants (2012) (in litigation)
- NSPS/VOCs (2012)
- Clean Power Plan (2015) (stayed/in litigation)
- WOTUS Rule (2015) (nationwide injunction)
- Ozone Rule (2015)
- Coal Ash Regulations (2015)
- NSPS Methane Regulation (2016)
- Methane ANPR for Existing/ICR (2016)
- Final Plan Minor Source Rule Indian County (2016)





Candidate Trump's "America First" Energy Policy

"We'll solve real environmental problems ... like the need for clean and safe drinking water."

"We're going to rescind all the job-destroying Obama executive actions including the Climate Action Plan and Waters of the U.S. Rule."

"We're going to cancel the Paris Climate Agreement ..."

"Any regulation that is outdated, unnecessary, bad for workers, or contrary to the national interest will be scrapped."

"We're going to save the coal industry ..."

"We can pursue all forms of energy. This includes renewable energies and technologies of the future ... but not to the exclusion of other energy."



Candidate Trump, Williston Basin Petroleum Conference in Bismark (5/26/17)



President Trump's “America First” Energy Plan

“An America First Energy Plan”

- Lower costs to consumers
- Maximize use of American resources
- Eliminate “harmful and unnecessary” regulations
- Develop U.S. shale, oil & natural gas
- Revive U.S. coal industry
- “Refocus” EPA to protect air & water



“America First” Energy Plan Action

- Making change
 - New policy directives
 - Budget as policy
 - Personnel as policy
- Initiate change from WH
 - Presidential Memoranda
 - Executive Orders
 - Rhetoric

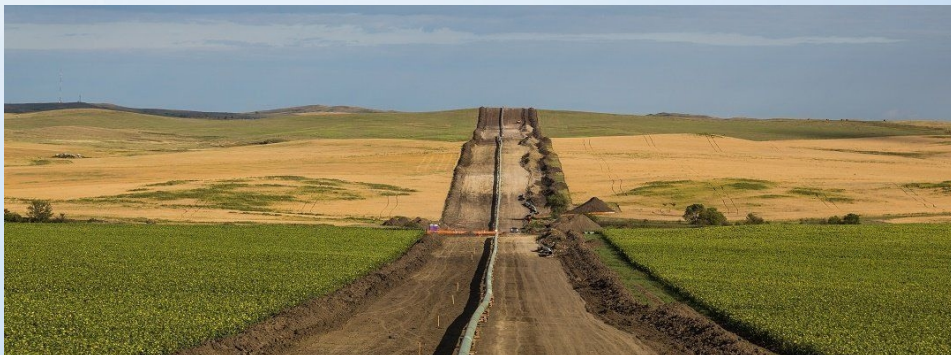




“America First” Energy Plan Action

Changing Direction for O&G Pipelines

- Presidential Memorandum on Construction of Keystone XL [82 FR 8663 (1/24/17)]
 - Application approved March 23, 2017
- Presidential Memorandum on Construction of Dakota Access Pipeline [82 FR 11129 (1/24/17)]
 - Pipeline ROW issued February, constructed March, operating May





“America First” Energy Plan Action

Executive Orders as Action Forcing

- Reduce regulatory burdens
 - EO 13766: Expediting Environmental Reviews/Approvals High Priority Infrastructure [82 FR 8657 (1/30/17)]
 - EO 13771: Reducing Regulation & Controlling Regulatory Costs [82 FR 9339 (2/3/17)]
 - EO 13777: Enforcing Regulatory Reform Agenda [82 FR 12285 (3/1/17)]
 - EPA Regulatory Reform Task Force (4/11/17)
 - Interior Regulatory Reform Task Force (4/24/17)





“America First” Energy Plan Action

- Rebalance state/federal water management
 - EO 13778: Restoring the Rule of Law, Federalism & Economic Growth Reviewing WOTUS [82 FR 12497 (3/3/17)]
 - EPA, Review & Rescind or Revise WOTUS [82 FR 12532 (3/6/17)]
- Revisit Obama’s monument-making
 - EO 13792: “Review of Designations under the Antiquities Act” [82 FR 20429 (3/1/17)]
 - Zinke issues list of 27 monuments/comment period [82 FR 22016 (5/11/17)]





“America First” Energy Plan Action

- Reexamine O&G-related rules:
 - EO 13795: Implementing an America-First Offshore Energy Strategy [82 FR 20815 (5/3/17)]
 - EO 13783: Promoting Energy Independence & Economic Growth [82 FR 16093 (3/31/17)]
 - *Rescind* Climate Action Plan
 - *Rewrite* Clean Power Plan 2015 rules for existing/new power plants
 - *Revisit* BLM fracking rule
 - *Revisit* NPS/FWS O&G rules
 - *Revisit* EPA/BLM methane regulations for O&G
 - *Lift* BLM’s 2015 Moratorium on fed. coal leasing
 - *Rescind* CEQ’s 2016 GHG NEPA guidance
 - *Rescind* WH Mitigation Memorandum
 - *Stop* use of EPA Social Cost of Carbon





“America First” Energy Plan Action

EO 13783 Drives Agency Action:

- **CEQ:** Rescinded CEQ’s 2016 GHG NEPA guidance [82 FR 16576 (4/5/17)]
- **Interior:**
 - Secretarial Order No. 3349, “American Energy Independence” (3/29/17)
 - Interior Mitigation Secretarial Order No. 3330 (10/31/13) withdrawn & on-going review of related policies
 - BLM to rescind fracking rule (filed abeyance motion in 10th Cir.)
 - BLM to review venting/flaring rule
 - FWS/NPS to review rules on O&G development
 - ONNR “paused”/began repeal of royalty valuation rule [82 FR 11823 (2/27/17); 82 FR 16325 & 16323 (4/4/17)]
 - Reestablished Royalty Policy Committee [82 FR 16222 (4/3/17)]
 - Secretarial Order No. 3348 (3/24/17) – BLM Coal Moratorium & PEIS stopped, revoked Secretarial Order No. 3338 (1/15/16)
 - BLM to “revisit” planning processes (3/27/17)
 - Secretarial Order No. 3352 (5/31/17) – new NPRA plan/plan to assess NPRA/ANWR



“America First” Energy Plan Action

EPA

- Water:
 - Review/rescind WOTUS (2/28/17) [82 FR 12532 (3/16/17)]
 - Delayed compliance of rule limiting power plant toxic discharges (4/12/17)
- Air/Climate Change:
 - Cancel O&G methane reporting (4/18/17)
 - Review CAFE Standards for cars/trucks (2022-25) (3/15/17)
 - Review O&G methane rule for new sources [82 FR 16331 (4/4/17)]
 - Abeyance – *Am. Petroleum Inst. v. EPA*, No. 13-1108 (D.C. Cir. May 18, 2017)
 - Reevaluation of Clean Power Plan (3/28/17)
 - Abeyance of litigation while EPA reconsiders CPP rule – *West Virginia v. EPA*, No. 15-1363 (D.C. Cir. Apr 28, 2017) & *North Dakota v. EPA*, No. 15-1381 (D.C. Cir. April 28, 2017)



“America First” Energy Plan Action

Trump Pulls Out of Paris Agreement (6/2/17)

“The Paris Climate Accord is simply the latest example of ... an agreement that disadvantages the U.S. to the exclusive benefit of other countries ... Thus, as of today, the U.S. will cease all implementation of the non-binding Paris Accord ...”





Congress Helps Change Direction

Congressional Review Act, 5 USC §§ 801-808 (1996)

- Signed into law by Clinton
- Used once before (to disapprove Clinton rule)
- 60 legislative days to review/“disapprove” new rules
 - “time’s up” May 10, 2017
- Simple majority vote
- Once gone, “no substantially similar rule”
- No judicial review
- Congress used 14 times to roll back Obama rules



Congress Helps Change Direction

- CRA Actions to “disapprove” energy/environmental rules signed into law:
 - SEC disclosure rules for resource extraction (HRJ Res. 41)
 - OSM Stream Protection Rule (HJR Res. 38)
 - BLM Planning 2.0 (HJR Res. 44)
 - FWS hunting in Alaska Refuges (HJR Res. 69)
- The CRA that got away – BLM venting/flaring rule (HJR Res. 36)
 - Failed to pass (5/10/17)





Congress Helps Change Direction

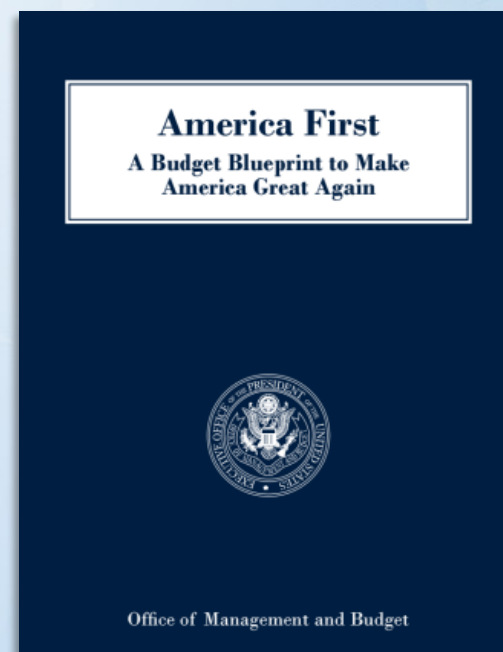
- What failed methane CRA means:
 - BLM venting/flaring rule compliance deadline: Jan. 1, 2018
 - Companies need to prepare now with leak detection/repair
 - Rule in litigation in WY
 - BLM intends to review/rescind – Press Release (5/10/17)
 - APA requirements to rescind/suspend take time
- CRA litigation: *Center for Biological Diversity v. Zinke*, No. 3:17-cv-00091 (D. Alaska filed 4/20/17)
 - Constitutional separation of powers challenge to CRA disapproval of FWS Alaska refuge hunting rule



2018 Budget “DOA” but Policy-Setting

Big Picture of \$4.1 Trillion Budget

- Budget goal: deficit cutting
 - Balanced in 10 years
- Budget cuts non-defense discretionary spending by \$1.6T
 - US EPA cut 30%
 - DOI cut 11%
 - DOE cut 6%
- Budget protects Social Security/Medicare (2 biggest drivers of deficit)
- Budget increases:
 - DOD 10%
 - Infrastructure (\$1T) & border wall (\$2.6B)
- How?
 - Predicts 3% growth
 - 2% cuts for 10 years





2018 Budget “DOA” but Policy-Setting

Energy/Public Lands Impacts

- Reverse Obama Climate Change Policies – EPA budget for climate change “waste of your money” (OMB, Mulvaney)
 - Discontinue CPP, climate research
 - CAA programs cut 24%
 - EPA enforcement down 24%
 - NOAA climate research down 16%
 - USGS climate research down \$160 M
 - DOE, EERE down 69%
 - DOE, Fossil Energy down 56%
 - DOE, Nuclear down 31%
 - DOI Renewable Energy budget cut on/off-shore



2018 Budget “DOA” but Policy-Setting

- Cut Federal/Grants to States
 - EPA CAA/CWA, SDWA grants down 45%
 - Eliminate 37% revenue sharing for off-shore O&G
 - Eliminate geothermal revenue-sharing
 - Eliminate AML land grants/reduce AML payments
 - Cut \$16 million for economic development in coal country
 - Decrease PILT





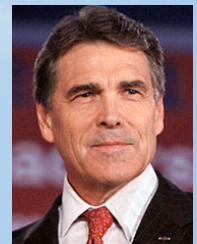
2018 Budget “DOA” but Policy-Setting

- Land Acquisition/Conservation
 - Land acquisition “lower priority” cut \$129M
 - LWCF down to \$51M from \$189M
 - BLM GSG “Implementation Strategy” down 17%
 - FWS science support/cooperative landscape conservation “zeroed out”
 - NLCS cut \$9M
- Federal Fossil Fuel as Revenue Raiser
 - Increase offshore O&G budget \$1.1B
 - Increase BLM O&G permitting \$16M (\$1.1B total BLM budget)
 - Drill in ANWR (raise \$1.8B)
 - Lease on-shore O&G to raise \$36B over 10 yrs.
 - Sell off 50% of Strategic Petroleum Reserve (+ \$16.5B)



Personnel Is Policy Who's Who on Energy?

- **EPA:** Oklahoma Attorney General Scott Pruitt
 - *“I believe that we as a nation can both be pro-energy and jobs, and pro-environment. We don’t have to choose between the two.”* (2017)
 - What he did before: Sue EPA
- **Interior:** Representative Ryan Zinke (R-MT)
 - *“I have absolutely and unequivocally opposed any attempts to transfer, sell, or privatize our public lands.”* (2017)
 - What he did before: Navy Seal
- **DOE:** Texas Governor Rick Perry
 - *“My past statements about abolishing the Department of Energy do not reflect my current thinking. In fact, after being briefed on so many of the vital functions . . . I regret recommending its elimination.”* (2017)
 - What he did before: Ran for President in 2012



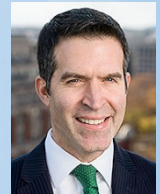


Personnel is Policy

The Next Layers

White House Energy Players:

- Chief Economic Advisor, NEC – Gary Cohn
 - *“coal really doesn’t make sense as feedstock”*
- Int’l Energy & Environment – George Banks
- Domestic Energy & Env’tl. Policy – Mike Cantanzaro
- CEQ: Acting Chief of Staff – Mary Neumayr
- OMB:
 - Director – Mike Mulvaney
 - Deputy Director – Russ Vought
 - OIRA – Neomi Rao




Personnel is Policy

The Next Layers: Interior

- Secretary's Office – Scott Hommel (COS)
 - Senior Advisor on Alaska – Steve Wachowski
 - Counselor on Energy Policy – Vince DeVito
- Deputy Secretary – David Bernhardt (nominee)
 - Associate Deputy Secretary – Jim Cason
- Solicitor –
 - Principal Deputy & Acting Solicitor – Dan Jorjani
- Asst. Secretary Policy Mgmt. & Budget –
 - Principal Deputy Asst. Secretary – Scott Cameron
- Asst. Secretary Land & Minerals –
 - Deputy Assistant Secretary – Kate MacGregor
 - BLM Director (rumors) – Karen Budd-Falen
 - BSEE – Scott Angelle
 - BOEM –





Personnel is Policy

The Next Layers: Interior

- Asst. Secretary Fish/Wildlife/Parks (rumors) – Dave Nomsen
 - Principal Deputy Assistant Secretary – Virginia Johnson
 - NPS Director (rumors) – David Mihalic
 - FWS Director (rumors) – Scott Talbot
 - Deputy Director – Greg Sheehan (UT)
- Asst. Secretary Water & Science
 - BUREC Deputy Commissioner – Alan Mikkelsen (MT)
 - USGS –
- Asst. Secretary Indian Affairs
 - BIA –





Personnel is Policy

Of 559 Appointments Needing Senate Confirmation:

441
no nominee

15
await
confirmation

64
formally
nominated

39
confirmed

- **DOI** – 17 positions: 1 confirmed (1 nominated)
- **USDA** – 13 positions: 1 confirmed
- **DOE** – 22 positions: 1 confirmed (2 nominated)
- **DOJ** – 28 positions: 3 confirmed (4 nominated)

Chair Senate Energy, Senator Murkowski: *“Well, here we are, Tuesday, June 6. Outside of Secretary Perry and Secretary Zinke, these are the only four that we’ve had come before our committee ... I don’t think that’s an acceptable pace. Just saying.”*



What's Ahead

- Lots of Litigation
 - Clean Power Plan
 - BLM fracking rule – what will 10th Circuit do?
 - BLM venting & flaring (methane) litigation
 - O&G lease/development challenges
 - Challenges to Trump environmental “roll-backs”
 - Greater Sage-grouse RMP challenges – what will happen?
 - Regulatory reform (2-for-1) litigation
- Guidance/Rule-making
 - Interior Energy Independence SO – “reporting” by Fall 2017
 - 2010 O&G leasing reform?
 - Mitigation policy review
 - “Streamlining” O&G, coal, rights-of-way permitting
 - More Secretarial Orders (GRSG)
 - More EPA rule delay/revision – ozone rule delayed





What's Ahead

- ESA Reform
 - Chair Bishop working on it
 - WGA asking for it
- Renewable Energy
 - DOE Secretary Perry's memo on RE subsidies/grid
 - BLM renewable energy rule revision
- Antiquities Act
 - Monuments reduced/rolled back?
 - Statute "reformed"





Closing Thoughts

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