

## ARTICLES FOR 1-5-17 ROUNDUP

### **Attorney General Kamala D. Harris Names Kathleen “Kate” Kenealy Chief Deputy Attorney General**

Following Attorney General Harris' Swearing Into the U.S. Senate, Kenealy will Serve as Acting Attorney General

LOS ANGELES - Attorney General Kamala D. Harris today stepped down as California Attorney General and was sworn in to the United States Senate in Washington, D.C. Before resigning, Attorney General Harris named Kathleen “Kate” Alice Kenealy Chief Deputy Attorney General. Kenealy will lead the California Department of Justice as Acting Attorney General until such time as Governor Brown's selected candidate, Congressman Xavier Becerra (D-LA), is confirmed by the state legislature as California's next Attorney General.

Acting Attorney General Kenealy joined the Office of the Attorney General in August 2003 as a Deputy Attorney General in the Natural Resources Law Section. She became the section's Senior Assistant Attorney General in September 2010. For more than five years, Acting Attorney General Kenealy has served as the Chief Assistant Attorney General for the Civil Law Division. In that capacity, she has led the office's representation of state officials, state employees, and more than 200 state agencies. The Civil Division provides advice to its client agencies, defends cases brought against them, and prosecutes cases to vindicate state interests.

Acting Attorney General Kenealy has also partnered with the Division of Administrative Services to create first-class eDiscovery support for the office, assisted with the establishment of the Bureau of Children's Justice, and worked closely in support of the Attorney General's Honors DAG program.

### **Human Trafficking Awareness Traveling Art Exhibit Coming To Montana**

In observance of National Human Trafficking Awareness Month, Attorney General Tim Fox invites Montanans to view the “Faces of Freedom: Voices Calling for the End of Modern Day Slavery” traveling portrait exhibit when it comes to the state on January 11. Faces of Freedom raises awareness about the realities and effects of human trafficking and other forms of violent oppression in the world today. The exhibit celebrates human trafficking survivors and presents opportunities to engage people in learning more about this form of modern day slavery.

The exhibit is making its way to Montana through the Freedom 58 Project thanks to the support of Soroptimists International – Whitefish. Faces of Freedom features 14 original artworks depicting people rescued and restored from sex trafficking. Each portrait was carefully selected to speak to the theme of the international plight of human trafficking. The artists are from the West, and include photographer Bonnie Sanders, a Montana State University graduate. The kick-off event takes place January 11, 2017 at noon on the third floor of the State Capitol. Attorney General Tim Fox will speak, as well as representatives from Freedom 58 and Soroptimists International – Whitefish.

“Human trafficking is a multi-billion dollar criminal industry that occurs all over the world, including here in Montana,” said Attorney General Tim Fox. “No matter where this crime happens, the common denominator is that its victims have lost their freedom. My office is pleased to partner with Soroptimists International – Whitefish and the Freedom 58 Project to bring these powerful portraits of human trafficking survivors to Montana. We invite the public to see these beautiful paintings and reflect on the real-life journeys of their subjects as they move from oppression to rescue, and ultimately, to justice and freedom.”

Diane Yarus of Soroptimists International – Whitefish, said, “Soroptimists International – Whitefish is proud to partner with the Montana Department of Justice to address this crime in our communities. The Altria Group honored our human trafficking awareness efforts by awarding us a grant that helped us bring this extraordinary art exhibit to our state, allowing us to raise awareness and stimulate community conversations about how to protect our citizens from this criminal enterprise.” Yarus added that Soroptimists International launched STOP Trafficking in 2007 to raise community awareness of sexual slavery. The program has evolved to include a multi-dimensional approach to end sex trafficking, including assisting victims, preventing sexual slavery, and advocating for better laws and enforcement.

It is estimated that nearly 21 million people are enslaved around the world.

## **Attorney General Bondi and Marion County Sheriff Gainey Announce Human Trafficking Arrest**

TALLAHASSEE, Fla.—Attorney General Pam Bondi and Marion County Sheriff Emery Gainey today announced the arrest of an Ocala man on charges related to human trafficking. Ryan Gemelle Poole faces one count of human trafficking, one count of deriving support from proceeds of prostitution and one count of using a two-way communication device to facilitate a felony.

The five-month long investigation revealed that Poole allegedly exploited a female victim to include taking control of all of her money, selling her and forcing her to participate in numerous acts of prostitution in Alachua, Charlotte, Hillsborough, Marion and Orange counties. Attorney General Bondi’s Office of Statewide Prosecution is the prosecuting authority for the charges in this case.

“Human trafficking is an abhorrent crime and the allegations in this case are sickening—further proving that we must do everything in our power to eliminate human trafficking in Florida,” said Attorney General Pam Bondi. “Working with our great law enforcement partners like Marion County Sheriff Emery Gainey and the Marion County Sheriff’s Office, the subject of this investigation was arrested and justice will be served.”

“This arrest is a result of combined efforts of several agencies and an engaged public in Marion County working in partnership to identify these cases and deal with them as proactively as possible,” said Marion County Sheriff Emery Gainey. “Having dedicated law enforcement officers trained in the identification, investigation and prosecution of these unique cases is paramount to our success. I am proud of the men and women of the Sheriff’s Office who work so hard to protect these victims and to bring their exploiters to justice.”

According to the investigation, Poole promoted the victim on multiple sex websites and profited from her actions depicted on those websites. Poole also solicited a second woman to participate in these online sexual activities but after one session the second woman decided to separate herself from Poole and his victim.

Detectives believe that Poole may have other victims who have not been identified or have not yet come forward. Anyone with additional information about this case is urged to call Marion County Detective Zackary Hughes at 352-369-6805.

## **AG FERGUSON ACCUSES ASBESTOS CONTRACTOR OF FALSIFYING DISPOSAL DOCUMENTS**

Cashmere man and his business face five felony charges each

WENATCHEE — Attorney General Bob Ferguson filed five felony charges in Chelan County Superior Court today against a Cashmere man and his asbestos abatement business.

Timothy Powell and his business, A1 Asbestos LLC, are accused of providing false asbestos waste shipment records to an Okanogan County landfill, including forging signatures on one of the documents. Powell and A1 Asbestos are also accused of offering false statements to the state Department of Labor & Industries about the start dates of asbestos abatement work in an attempt to avoid worksite safety inspections.

“Strict rules governing the disposal of asbestos waste exist to protect workers and the public, and they must be followed,” Ferguson said.

The charges contained in the complaint are only allegations. A person is presumed innocent unless and until he or she is proven guilty beyond a reasonable doubt in a court of law.

Before a landfill will accept general construction waste, contractors must provide proof from an asbestos abatement contractor, such as A1 Asbestos, that the waste does not contain asbestos. The abatement contractors remove asbestos and dispose of it, properly and safely contained, at landfills and provide an asbestos waste shipment record to contractors as proof that their construction waste has been cleared of asbestos.

Powell is accused of falsifying Okanogan County waste shipment records on several occasions to inaccurately show that he properly disposed of asbestos waste at a different landfill in Grant County.

Disposing of asbestos waste is more expensive than disposing of general construction waste. The false documents allegedly allowed Powell and his business to avoid some of the costs of asbestos disposal by combining asbestos waste from multiple job sites and only paying one disposal fee.

Powell and A1 Asbestos have been charged with:

Four counts each of offering a false instrument for filing or record;  
One count each of forgery.

Both charges are class C felonies with a maximum penalty of five years in prison and/or a \$5,000 fine plus costs, fees and restitution.

The Chelan County Superior Court has scheduled a preliminary hearing on the charges for Jan. 9.

The Attorney General's Office is prosecuting the case at the request of the Chelan County Prosecutor's Office. Assistant Attorney General Josh Choate is leading the case.

Ferguson has made prosecuting environmental crimes a priority of his administration. Since 2013, he has brought environmental prosecutions leading to 19 criminal convictions, and restitution orders in excess of \$900,000.

### **BLM considers mining restriction in sage grouse habitats**

The Obama administration offered five possible plans Thursday for limiting mining on federal land in the West to protect the vulnerable greater sage grouse, but it isn't saying which it prefers.

In Wyoming, the rules would affect sage grouse habitat on federal lands north of Rock Springs, as well as a patch of land on the borders with Idaho and Utah, south of the Bridger-Teton National Forest.

The options range from banning new mining activity on about 15,000 square miles for up to 20 years to imposing no additional restrictions on mine locations.

Under all the options, mining and exploration projects already approved or underway could proceed. Energy companies could still extract oil and gas from any restricted lands, but they would have to use directional drilling from some distance away to avoid disturbing the surface.

After years spent creating plans to mitigate drilling and mining of energy resources in sage grouse habitats, some are unsure of the need to further remove swaths of land from potential future development.

"I don't know that they are going to gain a whole lot by making these sweeping actions," said Bob Budd, chairman of the Sage Grouse Implementation Team, Wyoming's lead group in developing sage grouse conservation strategies that balance mineral development.

Budd had not looked through Thursday's draft but had reviewed the proposals during development.

"In Wyoming we have regulatory measures in place that protect the species," he said. "I don't know that I think there is a compelling need to do some of the things that were proposed."

Public meetings will be held across the West, including one in Rock Springs on Feb. 15.

After a public comment period ends in March, President-elect Donald Trump's administration will decide which option to choose, if any.

It's not yet clear whether Trump or his choice for Interior Secretary, Republican Rep. Ryan Zinke of Montana, would continue to pursue the current sage grouse conservation plans, modify them or scrap them.

"It's very difficult to tell at this point what priorities President-elect Trump will have and what perception he is going to have on the work that we are doing now," said Kristen Lenhardt, chief communications officer for the Bureau of Land Management in Wyoming.

Wyoming has been the vanguard in a collaboration of government and private interests, from ranchers and oil firms to environmentalists and outdoorsmen, to negotiate a balance between industry and sage grouse conservation.

An estimated 200,000 to 500,000 sage grouse remain in 11 Western states, but their numbers are down significantly because they are losing habitat to development. The size of the sage grouse population is considered an indicator of the overall health of the vast Western sagebrush ecosystem and other species that depend on it.

The proposed mining restrictions are part of a broad plan to save the chicken-size bird without resorting to Endangered Species Act protections, which could bring stricter limits on mining, drilling, agriculture and other activity.

The options for mining restrictions are part of a draft environmental impact statement drawn up by the BLM, part of the Interior Department.

The proposals announced Thursday are separate from the overall management plans, known as RMPs, developed over a period of years and effective since September. Those plans lay out detailed rules for energy development near or adjacent to sage grouse habitats.

"(The mining restrictions) are tied to the overall mission of the BLM to protect greater sage grouse habitat," Lenhardt said. "Just because it's not written into the RMP, it is part of our entire strategy."

It remains unclear why the federal government did not list a preferred alternative for mining restrictions, which it normally does in this kind of review.

Republicans have berated President Barack Obama for other last-minute environmental measures, including his designation Wednesday of two new national monuments, Bears Ears in Utah and Gold Butte in Nevada. In Wyoming, those in the mining community were concerned by the passing of a stream protection rule that could impact coal producers.

The Associated Press contributed to this report.

Follow energy reporter Heather Richards on Twitter @hrox

## Two New National Monuments Created in Utah and Nevada

Bears Ears and Gold Butte protect more than 1.6 million acres in all. Conservationists are delighted—but conservatives are outraged.

By Andy Isaacson

PUBLISHED DECEMBER 28, 2016

In perhaps the final major act of conservation of his administration, President Barack Obama on Wednesday designated 1.35 million acres in southeast Utah and 300,000 acres in Nevada as two new national monuments.

The Bears Ears National Monument in Utah—named for twin buttes that poke above the horizon—will protect a diverse southwestern landscape that the novelist Wallace Stegner wrote could “fill up the eye and overflow the soul.” It includes soaring red-rock formations, piñon-juniper mesas, 12,000-foot-high mountain peaks, and secluded sandstone canyons that harbor well-preserved prehistoric dwellings and rock-art panels—more than 100,000 Native American cultural and archaeological sites in all. It’s among the most significant archaeological areas in the United States.

Bears Ears, situated to the east of Grand Staircase-Escalante National Monument and to the south of Canyonlands National Park, is also contentious. Obama’s declaration amounts to a victory for a coalition of local Indian tribes and conservation groups—and a defeat, at least for now, for the Utah politicians, ranchers, and business groups who had vehemently opposed the monument.

“This arrogant act by a lame-duck president will not stand,” Utah Senator Mike Lee (R) said in a statement on Wednesday. “I will work tirelessly with Congress and the incoming Trump administration to honor the will of the people of Utah and undo this designation.”

Tribal leaders and conservationist spent at least six years developing a grassroots proposal for the Bears Ears monument. Traveling house to hogan, they collected stories from elders about the long-standing ties that local Indian people have to the greater Bears Ears landscape, where they still hunt, gather ceremonial herbs and firewood, and commune with their ancestors.

For some of the area’s native people, the new monument is a symbol of healing and redress for past wrongs.

“What this designation means is a perpetuation of indigenous people,” explained Eric Descheenie, a Navajo former co-chair of the intertribal coalition. “Since the colonial onset we have fought to remain, to preserve who we are, our identity and purpose and the way we relate to land. You can’t talk about Native American people without talking about the land.”

The coalition, a rare alliance of Navajos, Hopis, Zunis, Utes of the Uintah Ouray, and Ute Mountain Utes, proposed that it jointly manage the land with the federal government. Bears Ears National Monument will be overseen by an unprecedented commission of leaders, one representative from each tribe, who will provide guidance and recommendations on management of the monument.

The monument designation maintains currently authorized non-harmful uses of the land, including grazing, off-road vehicle recreation, hunting, and fishing. It allows tribal access for such activities as traditional collection of plants and firewood. Finally, the monument will honor existing oil and gas and mining rights, mainly for uranium and potash. But it will prohibit new development.

Meanwhile, it will safeguard a vast and rugged wilderness of mountains, mesas, and canyons, including places so inaccessible they've never been grazed by livestock. Bears Ears is a paradise for hikers and climbers, mountain lions and antelope.

Monument status also promises better protection of the area's cultural sites and antiquities, which include Basket Maker pit houses and Pueblo fortresses, historic Navajo hogans and Ute tipi rings. Archaeologists have dated most sites to at least 700 years old, but some go as far back as 12,000 B.C.

The density of sites is so high, said Josh Ewing, executive director of the group Friends of Cedar Mesa, that you "could combine all of the archaeological sites found in all Mighty 5 national parks in Utah, and there'd still be more in Bears Ears."

For decades, those sites have been threatened by looting. In 2009, FBI and BLM agents conducted the largest Native American artifact sting operation to date in Blanding, a small town on the eastern boundary of the new monument. During the first six months of 2016, Friends of Cedar Mesa, which mounts volunteer patrols and reports damage and suspicious activity to the BLM, tracked seven major incidents of looting in the Bears Ears area. One volunteer recently came across a rock-art panel of a humanlike figure that a thief had tried to wrest from the cliff with a rock saw.

Until now, there have been only two part-time federal officers patrolling the lands that make up the new monument. If it receives Congressional appropriations at a level typical for a national monument of its type, more resources for enforcement will become available.

#### **GOLD BUTTE**

The 300,000-acre Gold Butte National Monument, which lies between Lake Mead and the Grand Canyon, is also home to significant cultural resources, such as Native American petroglyphs, historic mining sites, and pioneer-era artifacts.

Since the standoff with Bundy more than two years ago, the BLM has left parts of the land unmanaged and unpatrolled. Petroglyphs have been found riddled with bullet holes. Illegal irrigation trenches have been dug.

Parts of the region had already been designated as critical habitat for an endangered desert tortoise and several other species of threatened plants and animals. Other animals that call Gold Butte home include Gila monsters, desert bighorn sheep, and great horned owls.

Yet the ongoing damage to Gold Butte has been such that it deserved additional protection, according to Friends of Nevada Wilderness, a conservation group. It was one of a coalition of local groups that asked President Obama to designate the new monument, with support from outgoing

Senator Harry Reid (D) and other state lawmakers. A recent poll found that 71 percent of Nevada residents supported creation of the monument.

Boosters hope the new monument will encourage tourism to the area. "Permanent protection will provide Gold Butte the management presence and information visitors need in order to learn how to respect this under-appreciated national treasure," the Friends of Nevada Wilderness said in a statement.

#### ORIGINAL INTENT

Obama designated the new monuments under the 1906 Antiquities Act, which was passed precisely in response to rampant looting of archaeological sites in the Southwest United States. Signed into law by President Theodore Roosevelt, it grants the commander in chief sole authority to designate public land as a monument in order to protect "objects of historic or scientific interest." During his two terms in office, Obama has put more acreage under protection than any previous president—more than 548 million acres, most of it in the ocean.

(Read about his expansion of Papahānaumokuākea Marine National Monument, northwest of Hawaii, and his creation of a monument off New England.)

In Utah, opposition to monument status for Bears Ears has been fierce. Some 64 percent of all land in Utah is already owned and managed by the federal government—the second most of any state—including more than 60 percent of the land in San Juan County, where Bears Ears is located. A majority of San Juan County ranchers, business groups, county commissioners, and even some local tribal members all came out against the proposed monument, largely on the assumption that it would restrict animal grazing and oil and gas drilling in a rural county where unemployment is double the state average.

Last winter, Utah's Republican Governor Gary Herbert delivered a letter to President Obama in Washington urging him not to designate a new national monument in the state. Utah's Republican representatives in Salt Lake City and in Washington also overwhelmingly opposed Obama's acting on his own.

Instead, Utah Congressmen Rob Bishop and Jason Chaffetz favored a bill that would have protected 1.39 million acres—mostly the same area as the Bears Ears National Monument—while allowing further energy development elsewhere. The bill also proposed a tribal commission to help inform management of the area. It failed to pass Congress.

The fate of Bears Ears now rests with President-elect Trump and the incoming Congress. No previous president has tried to terminate a national monument, and according to legal scholars, the president appears to lack the authority needed to unilaterally do so. Congress could rescind a national monument designation, said University of Utah law professor John Ruple, but many senators and representatives might be reluctant to be seen as undoing protections for majestic landscapes.

Ruple says that Congress could simply withhold funds for the management of the monument, thereby undermining its protection. And Trump, once he becomes president, might attempt to

reduce the size of the monument or eliminate some protections—a move that “would almost certainly invite litigation,” Ruple said.

Charles Wilkinson, a law professor at the University of Colorado, traces the current hostility to new monument designations—seen by conservatives as examples of egregious executive overreach—to the 1996 proclamation of Utah’s Grand Staircase-Escalante National Monument. Wilkinson helped President Bill Clinton draft that proclamation. Studies have found that surrounding counties ultimately benefited economically from the monument, he said, mainly because of tourism.

“There’s always opposition to monuments until people realize what they’ve got,” Wilkinson said.

Follow Andy Isaacson on Twitter.

Brian Clark Howard contributed reporting.

## **Code associated with Russia hacking found on Vermont utility computer**

Reuters

WASHINGTON (Reuters) - A code associated with a broad Russian hacking campaign dubbed Grizzly Steppe by the Obama administration has been detected on a laptop associated with a Vermont electric utility but not connected to the grid, the utility said on Friday.

"We took immediate action to isolate the laptop and alerted federal officials of this finding," the Burlington Electric Department said in a statement.

"Our team is working with federal officials to trace this malware and prevent any other attempts to infiltrate utility systems. We have briefed state officials and will support the investigation fully."

The Department of Homeland Security alerted utilities on Thursday night about a malware code used in Grizzly Steppe, the Burlington Electric Department said.

"We acted quickly to scan all computers in our system for the malware signature. We detected the malware in a single Burlington Electric Department laptop not connected to our organization's grid systems," it said.

The matched malware code on the laptop may have resulted from a relatively benign episode, such as visiting a questionable website, a source familiar with the matter said, suggesting Russian hackers may not have been directly involved.

It was not clear when the incident occurred.

On Thursday, President Barack Obama ordered the expulsion of 35 Russian suspected spies and imposed sanctions on two Russian intelligence agencies over their involvement in hacking U.S. political groups in the 2016 presidential election.

The statement came after a Washington Post report that Russian hackers penetrated a Vermont utility.

Government and utility industry officials regularly monitor the nation's electrical grid because it is highly computerized and any disruptions can have disastrous implications for the functioning of medical and emergency services, the Post said.

A senior Obama administration official said the administration had sought in its sanctions announcement on Thursday to alert "all network defenders" in the United States so they could "defend against Russian malicious cyber activity."

The Department of Homeland Security did not immediately respond to a request for comment.

"This intrusion by itself was a minor incident that caused no damage," a U.S. intelligence official familiar with the incident and critical of Russian actions said on Friday night.

"However, we are taking it seriously because it has been tracked to familiar entities involved in a much broader and government-directed campaign in cyberspace and because the electric grid is a vulnerable and interconnected part of the nation's critical infrastructure," the official said.

Russia is widely considered responsible by U.S. officials and private-sector security experts for a December 2015 hack of Ukraine's power grid that knocked out the lights for about 250,000 people. That hack prompted National Security Agency chief Mike Rogers to say at a conference in March that it was a "matter of when, not if" a cyber adversary carried out a similar attack against the United States.

(Reporting by Eric Beech, Jeff Mason, Dustin Volz and John Walcott; Editing by Michael Perry)