

CLIENT ALERT

Ryan Zinke Confirmed as Secretary of the Interior After Setting Forth Policy Views Supporting U.S. Resource and Energy Development

Mar.01.2017

On March 1, 2017, the U.S. Senate voted to confirm Congressman Ryan Zinke as the new Secretary of the Interior, by a vote of 68 to 31. Zinke is a fifth generation Montanan, a former State senator, and a 23-year U.S. Navy SEAL veteran. Re-elected to his second term as Congressman at Large from Montana, he recently served on the U.S. House Armed Services Committee and the U.S. House Natural Resources Committee.

As Interior Secretary, Zinke will oversee over 70,000 employees and agencies including the Bureau of Land Management (BLM), the U.S. Fish & Wildlife Service, the National Park Service, the Bureau of Reclamation, the U.S. Geological Survey, the Bureau of Ocean & Energy Management, and the Office of Surface Mining, Reclamation and Enforcement, which regulates all coal mining in the U.S. The Interior Department manages federal lands and mineral interests encompassing more than 260 surface land acres, 700 million sub-surface acres, and 1.7 billion acres of the Outer Continental Shelf. Private sector development activities on these federal land areas are responsible for substantial production of oil, gas, coal, geothermal energy, precious and base metals, and renewable energy.

Mr. Zinke's testimony at his confirmation hearing on January 17, 2017 before the U.S. Senate Energy and Natural Resources Committee provides reliable indications of his emerging policy plans for the Interior Department on topics of importance to mineral and energy producers.

An "Unapologetic Admirer of Teddy Roosevelt"

As a self-described admirer of Teddy Roosevelt, Congressman Zinke stated that he believes in the protection of federal lands. However, he explained that many communities, like the Montana community in which he grew up, rely on federal lands to harvest timber and mine, and that these lands "provide our nation with critical energy." He expressed concern that these communities are wary of federal intrusion, based on "distrust" and "anger" and "even hatred against some federal management policies," and stated that his top priority at the Interior Department "is to restore trust and work[] with, rather than against, local communities and states." He also spoke of the need to ensure that federal land managers have the "resources and the flexibility to make the right decisions and to give a voice to the people they represent."

Zinke's testimony focused, in particular, on his concerns that the National Environmental Policy Act (NEPA) and a "bigger and bigger" federal government are hurting the U.S. economy. While he acknowledged that NEPA has long been the "backbone of our environmental policies," he expressed the view that federal involvement in land use decisions hampers the country's ability to "get things done."

Zinke is Critical of the Prior Administration's Anti-Coal Policies

Zinke is a proponent of increased coal mining on federal lands. He testified during his confirmation hearing that “[t]he war on coal . . . is real,” and noted that 90 percent of the jobs in some communities such as Decker, Montana, rely on the coal industry. He expressed opposition to the federal coal leasing moratorium imposed by his Interior Secretary predecessor on January 15, 2016, stating that the federal coal leasing moratorium “was an example of one-size-fits all. It was a view from Washington, not a view from the states.”

Describing his objective as ending “the war on coal,” Zinke elaborated: “I think we should be smart on how we approach our energy. All of the above is a correct policy. Coal is certainly a great part of that – of our energy mix We should be leading the world on clean energy technology and I’m pretty confident that coal can be a part of that.”

The Need to Boldly Re-examine Federal Land Managing Agencies

Mr. Zinke stated that he was “committed to look[ing] at our organization” of the Interior Department, the Bureau of Land Management, and the Forest Service (which is part of the Department of Agriculture). Part of that evaluation, he said, will be to boldly re-examine “across the board” Interior’s “land management policies and have the discussion about what is the best method of managing our lands.” For example, Zinke said he hopes to be able to assess how to ensure “we have efficiency, mak[e] sure our fire policy is consistent between BLM land and Forest Service land, [and] mak[e] sure our access is consistent between Forest Service and BLM.”

Sage Grouse Federal Land Use Plans to be Reviewed By Secretary Zinke

Senator John Barrasso of Wyoming posed questions to Mr. Zinke about the recently adopted Sage Grouse federal land use management plans, and raised concerns that the prior Administration had ignored key input from Western Governors, and adopted plans that were “fundamentally opposed to the multiple use mandates of the BLM, which includes grazing, recreation, [and] energy development.” Representative Zinke responded that he would look at “options and alternatives,” while recognizing that “[e]veryone understands . . . we have to protect the species.” Mr. Zinke further testified that if “we grab on [to] management of property . . .” without having a target number for the Sage Grouse population, he would “look at that with a suspect eye.” He added that generally those people “living on the ground are in a better position . . .” to “partner” with the government and achieve desired goals, rather than having the government use a “heavy handed” approach and “just dictate terms.”

A Proponent of Increasing Oil & Gas Production on Federal Lands

Over the past decade, the U.S. has realized vast increases in U.S. oil and gas production from shale formations through the use of hydraulic fracturing and horizontal drilling. However, federal lands have not contributed much to those production increases, with most new onshore oil and gas exploration and production occurring on private lands.

Mr. Zinke indicated that he favors increased oil and gas production on federal and private lands alike, and endorsed President Trump’s goal of achieving energy independence by increasing domestic production. Mr. Zinke explained, “[i]f we want to check Russia, then let’s do it with liquid natural gas.” He added, “if we want to put pressure on Iran, [let’s] supplant every drop of Iranian crude.” He explained to Senator Barrasso that “[t]his is all part of a larger package and it cannot be done without the

great State of Wyoming and their assets...” as well as resources in Alaska, and the other western states with substantial federal lands. He reiterated throughout his confirmation hearing that “it is better to produce energy domestically under reasonable regulation than watch it be produced overseas with no regulation.”

Zinke Believes the Current Project Permitting Process is “Broken.”

In response to concerns voiced by Alaska Senator Lisa Murkowski about delays in the federal permitting process (permitting delays of six to ten years have become common for large onshore mineral development projects over the past two decades), and her desire that Zinke strive to remove red tape and make the process “fair,” Zinke agreed, saying “our permitting process is broke[n]....” He added that the current permitting process is “somewhat arbitrary and I do think we need to focus on it” to make it “fair.”

The Road Ahead

Mr. Zinke has begun to identify some broad goals and policy objectives for the Interior Department. Progress in achieving these goals will be dependent upon his staffing choices at the Interior Department and the ability of his leadership team to coordinate with Interior’s career staff. Progress will also depend on how Interior under his leadership contends with the inevitable opposition and litigation it is likely to confront if – as expected – Zinke’s Interior Department embarks on an entirely new path that includes rescinding regulations and policies of the prior Administration.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

R. Timothy McCrum

Partner – Washington, D.C.
Phone: +1 202.624.2752
Email: rmccrum@crowell.com

Daniel W. Wolff

Partner – Washington, D.C.
Phone: +1 202.624.2621
Email: dwolff@crowell.com

Kirsten L. Nathanson

Partner – Washington, D.C.
Phone: +1 202.624.2887
Email: knathanson@crowell.com

W. Scott Douglas

Senior Policy Director – Washington, D.C.
Phone: +1 202.508.8944
Email: sdouglas@crowell.com

David Chung

Partner – Washington, D.C.
Phone: +1 202.624.2587

Email: dchung@crowell.com

Tyler A. O'Connor

Counsel – Washington, D.C.

Phone: +1 202.624.2929

Email: toconnor@crowell.com