

INTERIOR

ZINKE EXTENDS TENURE OF ACTING DIRECTORS; greens call foul

Hannah Northey and Michael Doyle, E&E News reporters

Published: Thursday, April 5, 2018



Susan Combs, whom Interior Secretary Ryan Zinke selected to serve as acting secretary for fish, wildlife and parks, has been named a "senior advisor" in an executive order Zinke signed over the weekend.

Gage Skidmore/Flickr

A Trump political appointee at the Interior Department who once described endangered species protections as "incoming Scud missiles" will stay put through July under a new order Secretary Ryan Zinke quietly inked last weekend.

Susan Combs, a former Texas state official and fierce critic of the Endangered Species Act, is one of almost a dozen people Zinke granted authority to lead top Interior agencies for the next four months, according to an amended [order](#) the secretary signed on Saturday.

Combs, whom the secretary recently selected to serve as acting assistant secretary for fish, wildlife and parks, is identified as a "senior advisor" in the latest order. She was named to the

advisory post as her nomination to serve as assistant secretary for policy, management and budget has stalled in the Senate ([Greenwire](#), March 30).

The Interior Department did not respond to a request for comment.

The document is another sign of Interior's attempt to bolster its ranks in the face of multiple vacancies. In oblique reference to how slowly positions have been filled over the 14-plus months that Trump has held office, the document refers to the ongoing "presidential transition."

The order allows Combs and nine others to temporarily serve as agency directors for slots that require Senate confirmation.

Interior officials cite the Reorganization Plan, No. 3 of 1950 as authority for the delegation of such power. Submitted by President Truman, that plan was, in turn, prompted by a 1949 law authorizing broader organizational reforms of the federal government.

The old plan, which is still on the books, states that the Interior secretary may "from time to time" authorize "the performance by any other officers ... of any function" granted the secretary.

But critics say the practice is invalid and provides fresh fodder for lawsuits.

Jeff Ruch, executive director of Public Employees for Environmental Responsibility, said the Federal Vacancies Reform Act of 1998 is clear that the president — and only the president — can designate acting directors and assistant secretaries. Combs, for example, was not named by President Trump, and her appointment violates the Vacancies Act, he argued.

Anytime a federal lawsuit challenges Interior decisions on endangered species, mining, drilling, grazing and other issues, Ruch said, the plaintiff could add an additional charge that the challenged action has no legal force.

PEER has been in discussion with the Center for Biological Diversity, the Sierra Club, Earthjustice and other groups already suing or preparing federal litigation against actions taken by acting directors of the Bureau of Land Management and the Fish and Wildlife Service.

"Thus, the application of the Vacancies Reform Act will likely be litigated in several, if not a score or more of, cases," he said. "Consequently, much of the Trump agenda inside Interior could be wiped out due to the illegal status of key officials."

'Scud missiles'

Combs, a Texas cattle rancher who has long championed private property rights, has been making headlines in recent days for her past comments opposing the Endangered Species Act.

In 2013, Combs referred to proposed endangered species listings as "incoming Scud missiles," according to the *Austin American-Statesman*. And in 2013, she penned a *Washington Times* [op-ed](#) arguing that an "avalanche" of species under federal review was the result of activists' strategy aimed at triggering lawsuits, regulatory delays and settlements.

Combs also argued there was "little evidence" that the Endangered Species Act has "does any good," noting that of the 1,400 species to receive protections since 1973, only 27 — 2 percent of the total — have recovered enough to be delisted.

The Fish and Wildlife Service, however, points out on its [website](#) that recovery can be difficult and time-consuming, and that a "more complete measure of success" is the number of species that are "no longer declining, have stable populations, or have gained a solid foothold on the path toward recovery and are improving in status."

Zinke's latest amended order put Combs in the acting position previously held by Jason Larrabee.

Larrabee, a former congressional staffer who served as chief of staff for Rep. Jeff Denham (R-Calif.), joined the department last fall as principal deputy assistant secretary for fish, wildlife and parks ([Greenwire](#), Oct. 2, 2017).

Larrabee's appointment to the Interior position was made public in October. He left the post last Friday, within 24 hours of the announcement of Combs' new status as acting secretary.

Under the new order, Combs as a "special advisor" to Zinke holds a position that does not require Senate confirmation but that can carry some clout. In January, for instance, Zinke introduced Combs at an Interior employee town hall as a key player on one of his top priorities.

"Susan Combs is now the master of the [department] reorganization," Zinke said. "She's beginning, that's her charge, to take a look at it."

Her new position will cast her into a different set of meetings and responsibilities, many of which are routine and unlikely to invite legal challenge. Documents from December released under the Freedom of Information Act, for instance, reveal that in one typical week, her

predecessor Larrabee had meetings with Zinke, the Association of Fish & Wildlife Agencies, the World War I Centennial Commission and others.

In addition to Combs and four other Interior nominees still awaiting Senate action, six other top Interior positions have not yet had a nominee.

Those pending in the upper chamber have faced repeated frustrations.

James Reilly II, for instance, was scheduled to have his nomination as director of the U.S. Geological Survey reported out March 22 by the Senate Energy and Natural Resources Committee. But though the former astronaut appears noncontroversial, the lack of a quorum caused postponement of the vote ([Greenwire](#), March 6).

Timothy Petty, who broadly oversees USGS as the assistant secretary for water and science, is one of three Interior assistant secretaries who have secured their Senate confirmation. While officials await Reilly's arrival, William Werkheiser, a career geologist who joined USGS in 1986, is filling in as acting USGS director.

Want to read more stories like this?

[Click here](#) to start a free trial to E&E -- the best way to track policy and markets.

ABOUT GREENWIRE – THE LEADER IN ENERGY AND ENVIRONMENT NEWS

Greenwire is written and produced by the staff of E&E News. The one-stop source for those who need to stay on top of all of today's major energy and environmental action with an average of more than 20 stories a day, Greenwire covers the complete spectrum, from electricity industry restructuring to Clean Air Act litigation to public lands management. Greenwire publishes daily at 1 p.m.

The logo for E&E News, featuring the letters 'E&E' in a large, bold, blue font, followed by the word 'NEWS' in a smaller, blue, sans-serif font.

E&E News
122 C Street NW 7th Floor Washington, DC 20001
Phone: 202-628-6500 Fax: 202-737-5299
www.eenews.net

All content is copyrighted and may not be reproduced or retransmitted without the express consent of Environment & Energy Publishing, LLC. [Click here](#) to view our privacy policy.