

Charting Biden's CLIMATE COURSE

FORMER PRESIDENT DONALD TRUMP HAMMERED President Joe Biden for his oil and gas-related policies—including the president's pause on liquefied natural gas exports. But US oil and gas production has hit record levels on Biden's watch. The United States is now producing more oil than any country in history, thanks largely to a surge in output on state and privately owned lands.

Figuring out how to implement big swaths of Biden's energy-related agenda for much of the past four years was Tommy Beaudreau. As deputy secretary of the US Department of the Interior from June 2021 until October 2023, Beaudreau (BOH-droh) was at the center of the nation's most contentious energy and resources debates, from how to allocate water rights affecting 40 million Americans in drought-stricken states to deciding how much access mining companies should get to public lands

rich with metals needed for electric vehicles and wind turbines.

The Interior Department is the US government's landlord. It manages one-fifth of the nation's land-mass and 1.7 billion acres off its shores—including oil, gas and coal extraction that accounts for 30% of America's domestically produced energy and nearly a quarter of the country's greenhouse gas emissions. It's also responsible for protecting America's wild places—a mission that, in a divided Congress, makes it a “lightning rod,” in the words of *The Washington Post*.

Catching some of that lightning was Beaudreau, whose biography reflects America's complicated relationship with oil, gas and mining on public lands. Born in Colorado, Beaudreau grew up in Alaska after his father took a job working in the Prudhoe Bay oil-field. The experience impressed on him the importance of oil and gas to local economies, he says, but also the “beauty, adventure and power” of America's vast landscapes, and the “heartbreak” of seeing native

JOE BIDEN

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TOMMY BEAUDREAU

A former top aide explains why, and what it means for the US fight against climate change.



coastal communities sink into the ocean as warming temperatures caused by climate change melt the permafrost. Beaudreau became an energy lawyer and eventually joined the Interior Department during the Obama administration to help overhaul the offices overseeing the offshore oil industry in the wake of the Deepwater Horizon accident.

In an interview with Brunswick's Stephen Power and Emily Buczynski, Beaudreau discussed what he sees as the Biden administration's "unfinished business" on energy and climate policy; the value choices that policymakers will have to make to reduce the country's emissions; and why he joined the WilmerHale law firm to co-chair its energy, environment and natural resources and Native American law practices. This interview has been edited for brevity.

President Biden campaigned on a pledge to end new drilling on federal lands. His administration has allowed the smallest number of oil and gas lease sales in the Gulf of Mexico since the federal drilling program began decades ago, but he hasn't stopped new drilling on federal lands altogether as he promised. And the administration has at times urged companies to produce more oil, while allowing some controversial oil and gas projects to go forward. What should people make of these facts?

The Biden administration came into office in a way that really was unprecedented in terms of a presidential administration putting climate front and center on both its domestic and international policy agendas. As someone who worked in the administration for almost three years, I can tell you that climate is the lens through which a lot of policy discussions in this administration are viewed. And as someone who's deeply concerned about the energy transition and the effects of climate change and the need for innovation and policy in this space and leadership, that was really exciting.

I think the administration has a lot to show for that effort, including legislative accomplishments with the Bipartisan Infrastructure Law, the Inflation Reduction Act (IRA), CHIPS and other signature pieces of legislation that go directly at the drivers of greenhouse-gas emissions and climate, particularly on the demand side. Those are sustainable achievements.

Where I think there's a lot of challenges are those issues around energy production and development on public lands. There are legal realities and very challenging political circumstances that have a major influence on policy in that space.

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If you're serious about developing policy on oil and gas development and production on public lands, you have to confront two major issues: one that is legal and one that's sort of political and sort of structural. The legal issues are this: when you're talking about drilling on public lands, you're talking about history and a legacy of leasing on public lands which involves established property rights. There are constraints on the government's ability to simply renege on those agreements. If you want to be serious in this space, trying to unwind and figure out a path through that legal architecture is central.

What are the political or structural issues?

Fossil fuel development is intertwined with local economies, particularly in the western US. Oil and gas revenues, in particular, are fundamental to how states and local communities in large parts of this country fund basic services—educating children, providing emergency services, and other fundamental services provided by government. So as long as we don't have a solution for how to replace those services, the politics can be really difficult. Because you're literally talking about changes that are disruptive to the way states and local governments fund themselves. And a lot of that ties in with public lands. Oil and gas development, for example, on public lands involves sharing, in most places, up to 50% with state and local governments. And that needs to be part of a conversation about the energy transition: How do you replace those fundamental services?

What was the most difficult thing you had to do as deputy secretary?

The biggest and most complicated set of challenges had to do with addressing drought in the western United States. The Colorado River became a central focus of the administration's work and the Interior Department's work to address climate-driven drought and water scarcity in much of the United States. The Colorado River is a system that 40 million people in seven states and 30 tribes depend on for drinking water, agriculture, electricity and again just basic foundations for the way communities on that system function. Finding a way through those negotiations was incredibly complex, legally, politically, and in terms of our tribal relationships as well as relationships with local communities.

Is there anything that you wish you'd gotten an opportunity to accomplish that you didn't?

There's more work to be done on the energy

transition. And there are a lot of value choices to be made. One area that is going to be central to that, which is unfinished business, is permitting reform and our ability to take advantage of funding through the IRA to actually get much-needed projects developed including transmission lines, new energy sources, water infrastructure and EV charging infrastructure.

What are the toughest value choices that policy-makers are going to have to make when it comes to permitting?

Take transmission. This country grows its transmission capacity by about 1% a year. That needs to increase by factors of 10 if we're really going to electrify the economy in a way that delivers meaningful greenhouse-gas emission reductions. It's going to require judgments about where those transmission lines go and how they cross public lands and wildlife refuges and national forests. Those trade-offs have to involve the ability to authorize crossings in places that have been developed and protected for different reasons. And those are tough choices to make. So that's one example of the harsh reality of what enabling the electrification of our economy really is.

I also think, for example, on the generation side—whether it's wind, solar, nuclear—there are always impacts. There are always project-siting decisions that have to be made. Part of my frustration sometimes is for those types of renewable energy projects, the benefits, including climate benefits, are not weighed as heavily as those localized impacts. And that's something that needs to be reckoned with.

You led an interagency working group that found US mining projects take roughly 16 years from exploration to commercialization. Why is that? Is that a problem for the energy transition?

It's a massive problem. And the fundamental reason for it is that the law that governs how mining operations are approved in this country dates back to the 19th century. It was a prospecting statute from the Ulysses Grant administration trying to encourage westward expansion and to provide economic opportunity to new states out west. Part of the consequence of that is the absence of process and community engagement benefits from traditional hard-rock mining operations.

What do you mean?

Under the current system, it's literally, "Go out and stake a claim." There's no public involvement. There's no requirement for early stakeholder involvement.



Then-Deputy Secretary of the Interior Tommy Beaudreau, left, announced Colorado's share of the \$228 million from Biden's Bipartisan Infrastructure Law to support wildfire management in December 2022.

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There's no requirement for early engagement with tribal communities who are often in the vicinity of these mines. When that is the context, then everybody is already on the defensive. Impacted communities and tribes are already incredibly skeptical of a mining operation and environmental impacts that their community may suffer. And that makes the process incredibly difficult from the get-go. It leads to very contentious permitting decisions and litigation. But having said that, there are operators who are taking the right approach in terms of proactive community engagement and outreach to Tribes, and that approach is making headway. For example, certain international operators have well-developed policies and expectations based on international standards and best practices for engagement with local and Indigenous communities. There are no shortcuts, however, to the type of on-the-ground relationship-building necessary to gain acceptance, and the industry as a whole is burdened by the legacy of the current regulatory system. Having a permitting process that often takes more than a decade to advance a mining project is not adequate to support the energy transition, electrification of our economy and new technology development that rely on these critical minerals and makes it that much more difficult to move away from our dependence on China for these materials.

How can the US speed up critical mineral production domestically?

The most fundamental reform that would accelerate critical mineral production in the United States is the development of the leasing program. It's how we unleashed renewable energy on public lands. It's how we unlocked offshore wind in the United States. We

implemented a leasing process that has built into it stakeholder participation and resolution of the types of conflicts that cause these mines to be delayed for 15 or 20 years.

What would it take to bring that about?

It would take legislation. And I think that is the biggest challenge. There are things the administration can do to facilitate change, but to have the fundamental transformation that I think is necessary will take work with Congress.

Why hasn't Congress passed such legislation already?

Mining is an incredibly important sector of the economy in a number of western states and significant nationally. Any perceived disruption to the established process can be controversial. There are also those who would want to include more stringent requirements around the environmental safeguards associated with mining operations. And so when those two goals come into focus with a piece of legislation, it creates a really difficult dynamic to resolve.

What's the biggest sacrifice each side will have to make?

I think the most important thing that the mining industry can do to facilitate project development is community benefits. Genuine value propositions for communities and tribes to benefit from a project development after centuries of largely only bearing the burdens and the impacts of the developments. Coming up with genuine partnerships with tribes and local communities, so that they see the benefit of these mining developments, I think is the single most important thing that the industry can do.

From the NGO perspective, I think the single most important thing that the environmental community should consider is the overall climate context for driving the needs of the sourcing of its materials and how fundamental these materials are to renewable energy development. That's not to say traditional concerns about impacts to water, species habitat, et cetera, aren't important. They are. But coming to the issues from a perspective of, "We need to find solutions because this is important to the climate fight," and facilitating solutions as opposed to a strategy that is premised on defeating projects.

You recently joined WilmerHale law firm. What led you there, and what are you trying to do now?

I see the private sector as being as important to the energy transition as policy and regulatory work. If

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we're going to have an energy transition, it's going to be the private sector that brings it forward. For me, WilmerHale is ideally situated to work through all of those thorny regulatory knots that we've talked about. There's a tradition of public service that goes all the way back to the founders of the firm. WilmerHale also has a tradition of social consciousness and bringing folks in from government in order to advance things in a way that I think is responsible and durable. That was very compelling to me.

What is something that people in the business world don't understand about Washington?

Depending on what sector or industry you're in, there is a level of cynicism that borders on defeatism. I understand where it comes from, but something that businesses need to think harder about is that good policy drives the politics, not the reverse.

What do you mean?

You should never go into a situation thinking superficial politics are going to determine outcomes. If a business is providing valuable services and contributions, that matters. There are always pressure points. There are always advocacy points. There are always legal points that can be brought to bear to see ways through regulatory challenges. That's something I spend a lot of time talking with folks about.

How did growing up in Alaska, with a parent who worked in the oil industry, inform your approach to energy and resources policy issues?

Part of what makes this area of environment and energy constantly fascinating, and why it never gets old, is the tension of, on the one hand, an entire economy, especially then and still today, closely tied to resource development, oil and gas, timber, fishing, mining, in particular.

At the same time, part of the reason why I love my childhood as much as I do is that Alaska is a beautiful and adventurous place to grow up, grounded in the outdoors, with cold weather and an Arctic environment. And to see that changing as rapidly as it is, is a big part of the reason why I've gotten involved in issues like climate change. Figuring out actual, practical, durable, effective solutions to see a way through what are, for all the reasons we've talked about, incredibly complex issues. I'm focused on trying to come up with solutions that can work—not just gestures in the right direction. ♦

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