

Federal Parks & Recreation

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Interest group submit weighty requests for NPS 100 projects

The remarkable coalition of interest groups that has weighed in on legislation to implement a Park Service Centennial Challenge program is offering major, substantive guidance to Congress.

Although the coalition's recommendations to the House Natural Resources Committee are couched in legislative jargon, they would make major policy shifts in the lead Centennial Challenge bill (HR 3094.) Committee Democrats led by Rep. Nick Joe Rahall (D-W.Va.) introduced the measure.

The recommendations, obtained by FPR and submitted to the committee earlier this month, would above all give a major voice to charitable donors to a Centennial Challenge program. As introduced, HR 3094 barely acknowledges the possibility of philanthropic contributions from partners. By contrast charitable contributions are the central thrust of a competing administration proposal that is also before the committee.

The interest groups - ranging from environmental groups to the recreation industry - would not go so far as the administration proposal (S 1253, HR 2959) that would match up to \$1 billion in private contributions with up to \$1 billion in guaranteed federal funding.

They would, however, include bill language to "actively encourage" donations from "nonfederal and philanthropic partners." At the same time the provision would insure that NPS approve some centennial projects for smaller parks that don't have powerful "friends" groups.

The Centennial Challenge is at a pivotal juncture. The House Natural

Resources Committee is expected to begin marking up HR 3094 within the next month. The committee will base its work on HR 3094, the administration bill and the recommendations of the interest groups.

Committee Republicans have not taken a position on the Rahall bill yet, said an aide to ranking committee Republican Don Young (R-Alaska.) But the aide said Republican members have raised red flags about the revenues that would finance the Rahall program - \$100 million per year from fees on commercial users of federal lands. "There is some concern about the spending implications about the \$100 million in direct spending because it wouldn't directly affect the huge maintenance backlog," said the aide.

As proposed by the Bush administration, the Centennial Challenge would raise up to \$100 million per year from partner donations matched by \$100 million per year in guaranteed appropriations from Congress. On August 23 the administration identified \$364 million worth of projects for the challenge in fiscal years 2008 and 2009 - some for big parks, some for small parks, some for medium parks, some expensive projects, some inexpensive projects, and so on.

The Centennial Challenge is a major part of a \$3 billion Bush administration Centennial Initiative that would prepare the National Park System for its 2016 Centennial. In the last part of the initiative the administration would have Congress increase appropriations for core operations and maintenance by \$100 million per year. Congress is well on its way to making a down payment on that recommendation in a fiscal 2008 Interior appropriations bill (HR 2634.)

But the Centennial Challenge is more problematic. Rahall, House committee Democrats and Senate Democrats have all criticized the administration proposal because of the possibility that private money could influence management of the parks.

Thus the Rahall bill, HR 3094. It

would direct the Secretary of Interior to collect up to \$100 million per year from unspecified fees on commercial interests operating on federal lands and put the money in a fund for Centennial projects. The bill then lays out six broad areas the money could be spent on.

More than 30 interest groups, allied as the National Park Centennial Network, signed on to the recommendations. The coalition, led by Craig Obey, vice president for government affairs of the National Parks Conservation Association, includes such diverse groups as the American Recreation Coalition, the National Recreation and Park Association, The Wilderness Society and the Outdoor Industry Association. Here's a comparison of the committee bill and the interest group recommendations:

PARTNERSHIPS GENERAL: HR 3094 says simply NPS "may accept funds for any Project," but also qualifies that federal spending is not "contingent" on contributions. By contrast the interest groups would openly invite contributions. In explanatory notes the groups say, "This language would emphasize that increasing the level of philanthropic and other non-federal support for the park system is an important goal" of the Challenge.

PARTNERSHIPS DETAIL: HR 3094 is silent. The interest groups define broadly kinds of partner organizations (cooperating associations, friends groups, others) that may contribute. They describe broadly the kind of agreement NPS should use to transfer donations to the federal fund. Finally, the interest groups recommend language that would allow the commingling of federal and philanthropic money on projects. The language is intended to satisfy concerns of the Interior Department solicitor about combining funds.

ALLOCATION AREAS: HR 3094 would allocate revenues to six specific areas at specific percentages, to wit: 30 percent of revenues to capital improvement, 30 percent to education in the parks, 10 percent to diversity in the parks, 10 percent to professional devel-

opment of employees, 10 percent to environmental leadership and 10 percent to natural resource protection.

The interest groups would not restrict allocations by percentage except to limit spending for construction at less than 30 percent. In addition the interest groups would add a seventh entitlement area, cultural resources.

MULTI-PARK PROJECTS: HR 3094 is silent. The interest groups would include report language attached to a committee bill that would make clear NPS is authorized to spend the money on projects that go far beyond single parks. The groups mention a "need for broad, all-encompassing, non-traditional projects and programs aimed at new and more effective ways of operating the parks and providing services." Global warming is a good example.

Said the groups, "This section places priority on programmatic projects that affect the whole of the National Park System or programmatically meaningfully related groupings of parks over an array of unrelated projects seen meaningful to only an individual park."

REVENUES: HR 3094 would raise up to \$100 million per year for fiscal years 2008 through 2017 from fees on federal land "commercial activities, including leases." Finding a source of money and a budget offset is probably the highest hurdle facing the legislation. The HR 3094 provision is considered at best a placeholder for some more acceptable idea and at worst a non-starter.

The interest groups are silent on an alternative source. They tell *FPR* they don't want to go public with a list of possible offsets for fear some other program will gobble up the money. The groups did recommend that the committee exclude conservation lands from any fees and exclude concessioners and permittees from any fees.

VISITOR USE/RECREATION: HR 3094 is silent. The interest groups recommend that HR 3094 not be so protective of the parks that recreation users are barred.

This attempts to bridge the old gap between powered recreation vehicle users and protectors of park resources. The groups recommend bill language that says, "Each proposal shall encourage the enjoyment and appropriate use of national parks and foster opportunities for visitor enjoyment in a manner consistent with the protection and preservation of park resources and values."

LAND ACQUISITION: HR 3094 is silent. The interest groups favor the use of land acquisition tied to the Centennial Challenge mission. "All organizations indicated they would support statutory or report language that indicates requiring or accepting donation of lands or interests in lands is one means by which national parks can ensure the long-term preservation and enjoyment of natural and cultural resources," they say.

CONCESSIONERS: HR 3094 is silent on concessioners' participation as contributing partners. The interest groups would allow concessioners to contribute up to \$25,000 per year.

TRAILS: HR 3094 is silent. The interest groups would make clear that national trails managed by NPS are eligible for Challenge money.

Bush tells Congress to get moving on appropriations

President Bush turned up the pressure on Congress to move appropriations bills October 16, presumably at levels that approximate his budget recommendations.

In a town hall meeting in Arkansas Bush said, "Congress needs to be responsible with your money, and they need to pass these appropriations bills, one at a time."

Bush also threatened a veto if the bills propose spending too much money. "One of the reasons why they the Congress gets to propose, and if it doesn't meet needs, as far I'm concerned, I get to veto," he said in a speech in Rogers, Ark. "And that's precisely what I in-

tend to do. I wish Congress would get me some appropriations bills."

The hang-up for two lead park and rec bills (Interior and Energy and Water) remains the same - the Senate floor. The Senate did approve a Transportation appropriations bill (HR 3074) September 12. It is waiting a House-Senate conference with a version of HR 3074 the House approved July 24.

A Senate Appropriations Committee staff member held out the possibility the Interior and Energy and Water bills could come to the floor soon. "They won't come up this week," she said early in the week. "Check back with me (after this week)."

Even if the Senate approves the Interior and Energy and Water bills, they would still have to go through conference with the House, just as the Transportation bill must.

President Bush held out the possibility he would negotiate with the Democratic majority in the House and Senate. After Congress approves bills singly, he said in the Arkansas speech, "Then we can work together to see whether or not they make fiscal sense for the United States."

It promises to be a long process, though - Senate floor action, House-Senate conference, House and Senate act on the conference bill, Presidential veto, renegotiations, and finally repassage of the bills.

Although the President wants individual appropriations bills, many lobbyists and staff members believe the Democrats will attempt to package all the bills in one big measure.

For now the government is receiving money from a temporary spending resolution (PL 110-92) that will keep agencies in money until November 16. President Bush and Congressional Republicans have made it clear they would be perfectly happy if the Democratic majority reached gridlock on domestic appropriations bills throughout fiscal 2008 and was forced to extend fiscal 2007

spending levels. That would head off big new increases in park and rec spending that the House and Senate Appropriations Committee have approved.

Domestic appropriations bills are trapped between the desire of the new Democratic majority in Congress to reward its backers with significant programmatic spending increases and the Bush administration's desire to limit domestic spending. The main hurdle is the Senate floor where the filibuster allows the Republican minority to prevent appropriations bills from being considered.

The administration objects to the Interior bill because it would increase spending far above President Bush's request. The House approved its version of an Interior bill (HR 2634) June 27 with \$2 billion more than the President recommended, \$27.6 billion compared to a request of \$25.6 billion. The Senate Appropriations Committee approved a counterpart to HR 2634 (S 1696) June 21 with \$1.5 billion more than the administration request.

Similarly, the House approved an energy and water bill (HR 2641) July 17 that would increase fiscal 2008 spending for the Corps of Engineers alone by \$713 million more than the administration requested, \$5.584 billion compared to an administration request of \$4.871 billion. The Senate Appropriations Committee approved its version of an Energy and Water bill June 28 that would increase Corps spending by \$577 million above the administration request.

Finally, the Senate version of a Transportation appropriations bill exceeds the administration request by \$3.1 billion, according to the Office of Management and Budget.

Peters acknowledges trails have transportation role

After receiving a deluge of complaints, Secretary of Transportation Mary Peters has reversed course on her statement that trails and bike paths are not "transportation-related."

Peters made that assertion August 15 in an appearance on the public television program *NewsHour*. She said that trails and bike paths were using up money that should be spent on bridge and highway repairs, such as for the I-34 bridge in Minneapolis that collapsed.

Peters received thousands of protesting messages from the public spurred on by a campaign of the Rails-to-Trails Conservancy partnered with the League of American Bicyclists.

Peters replied in a letter of apology, "The U.S. Department of Transportation believes that bicyclists and pedestrians are legitimate and welcome users of our Nation's transportation system." In an October 4 letter that was released by the Rails-to-Trails Conservancy October 15 Peters added, "They are a healthy part of the solution to congestion in our urban areas."

At the same Peters repeated the Department of Transportation mantra that Congress should not allocate surface transportation money by program but should let states decide where to spend it. That of course would allow state highway departments to allocate more highway money to road construction and less to trails.

Said Peters in her apology letter, "We also believe that State, metropolitan planning organizations, and transit agencies are in the best position to understand the unique needs of their own communities, which is why we have continued to strongly support broad eligibility under the Federal-aid program for a diverse mix of transportation investments, including bicycle and pedestrian transportation facilities."

Peters's original message that bridge repairs should take precedence over trails may have reached the ears of Sen. Tom Coburn (R-Okla.) He offered an amendment to a fiscal year 2008 transportation bill (HR 3074) September 12 that would have barred the construction of bicycle paths. He called for the bicycle path money to be diverted to bridge and road safety projects.

The Senate rejected his amendment by an overwhelming 80-to-18 vote.

Coburn said on the Senate floor September 12 that using trail money for bridge and road safety is a simple matter of priorities. "Through the years, we have spent hundreds of millions of dollars on bicycle paths," he said. "It is great, it is fun, they are enjoyable, but it isn't as important for us to have fun and enjoyment as it is for us to be responsible in repairing the roads and bridges in this country."

But Sen. Richard Durbin (D-Ill.) said that states already give bottom line priority to trails, building them only as a last resort. "For example, in fiscal year 2006, States rescinded \$602 million of Transportation Enhancements funds, 15 percent of all rescissions in that year," he said. "A more proportional share would have been closer to 3 percent."

Besides, Durbin said bike path money is a safety issue because trails reduce bicycling and walking fatalities on busy roads. And he said the trails encourage Americans to exercise.

Circuit court holding opens way for RS 2477 lawsuits

The Tenth U.S. Circuit Court ruled earlier this month that an environmental group may not intervene in an RS 2477 right-of-way (ROW) court case as long as the federal government is adequately defending its interests. That presumes environmentalists and the feds are on the same side.

But the court in a 154-page decision October 2 said if environmentalists believe the feds are not defending their rights adequately, they are entitled to attempt to intervene in so-called Quiet Title litigation. District courts that are hearing Quiet Title cases would make the first call and allow environmentalists to intervene.

The en banc Tenth Circuit decision is important because it sets an immediate precedent for a half-dozen Quite

Title cases that are backed up in courts in Utah, including cases affecting national park land. Utah counties are expected to file many thousands of lawsuits to obtain RS 2477 ROWs. The circuit court decision frees the courts to begin considering the lawsuits.

The road/way at issue in the case before the circuit court provided access into Canyonlands National Park, or used to provide access until NPS closed it.

Shawn T. Welch, an attorney for San Juan County, the original plaintiff in the Quiet Title case at issue, said, "There is one undeniable holding - the court denied intervention because the U.S. is adequately defending title." Welch is with the Pruitt Gushee firm in Salt Lake City.

Heidi McIntosh, an attorney for the environmental group the Southern Utah Wilderness Alliance (SUWA), concurred. SUWA sought to intervene in the original court case.

"A plurality of judges said we would have to show our executive partners were not adequately protecting our interests before we could intervene," she said. "As soon as the federal government flags at all in defense of the (road) we're in."

At the same time McIntosh said the Tenth Circuit decision was something of a victory for her side because it granted SUWA an ultimate right to intervene. "The hardest fought issue was the question of whether we had an interest sufficient to intervene," said McIntosh. "The county and the feds were arguing that this was a private dispute and we had no role in it."

The Tenth Circuit decision refers the immediate case, *San Juan County v. U.S.*, No. 04-4260 of October 2, to the U.S. District Court in Utah. That panel will use the Tenth Circuit holding as a guide in deciding whether environmentalists may intervene.

At issue in the case is who has the right to control an unpaved, 10-mile long jeep trail called the Salt Lake

Road that used to provide access into Canyonlands National Park. At the behest of SUWA and other conservation groups the Park Service closed the road in 2003.

San Juan County then took the Park Service decision to court and claimed the way had been used for decades for access to the park. Thus the road constituted an RS 2477 ROW, the county argued. "Unfortunately, the lawsuit is being fought over this unique road rather than some regular BLM road," said Welch, the attorney for San Juan County, making it a major issue.

SUWA's McIntosh believes the Bureau of Land Management (BLM) is in cahoots with Utah counties in their campaign to obtain RS 2477 ROWs for off-highway vehicle (OHV) use. As evidence she cites a proposed travel management plan for the 1.8 million-acre Moab area of August 24. "The Moab BLM is trying to turn the area into an ORV playground," she said. "They took the counties' RS 2477 claims as a starting point."

The Tenth Circuit decision on SUWA's right to intervene is the second major RS 2477 holding by the court in two years. In another landmark decision, *Southern Utah Wilderness Alliance v. BLM*, Nos. 04-4071 & 04-4073 of Sept. 9, 2005, the court ruled that BLM could not adjudicate the validity of RS 2477 ROW assertions. It said only a federal court had that power.

In the October 2 decision the Tenth Circuit judges split a half-dozen ways, with at least two majority decisions (one concurring with the other) and several dissenting decisions. The majority, though, agreed with the U.S. District Court in Utah that SUWA did not have standing to intervene right now.

"We hold that SUWA did not overcome the presumption that the Federal Defendants would adequately represent its interest," said the majority at one point. "The district court properly denied SUWA's application to intervene as of right." That decision was written by Judge Paul J. Kelly.

But in a dissent Judge Carlos F. Lucero said, "Should the government change its position at a critical point in the litigation or settlement negotiations, SUWA will be left as a mere protestor forced to fight the rearguard action by renewing its motion to intervene at a late stage in the proceedings."

Refuge advocates say system needs money; from where?

A diverse array of blue ribbon witnesses told Congress last week that the National Wildlife Refuge System needs a major transfusion of money, fast.

But the witnesses - including two former Cabinet secretaries - did not identify possible sources of guaranteed money to cover a \$3.75 billion backlog in system operations and maintenance.

Former EPA Administrator Carol Browner (Clinton administration) did endorse a major provision of omnibus energy legislation (HR 3221) that would establish a global warming program to help wildlife. That measure would also provide formal authorization for a state wildlife conservation grant program that is presently authorized through appropriations bills.

More typical was the statement from former Secretary of Interior Bruce Babbitt (Clinton administration), who simply said, "I call upon the administration and this Congress to fund refuges at a level that is commensurate with the enormous ecological and economic value they return to the American people." Again, Babbitt did not say where the money should come from.

The witnesses testified October 9 before the House subcommittee on Fisheries, Wildlife and Oceans. That panel was checking the progress, or lack of progress in implementation of the National Wildlife Refuge Improvement Act on its tenth anniversary. The law established an organic act for the Fish and Wildlife Service (FWS) that balances protection of refuge resources with

direction to allow fishing and hunting in the refuges.

All the witnesses said the lack of money was the root of all evil that was preventing FWS from implementing fully the law. "The refuge system is reeling from years of fiscal starvation," said Babbitt. "(FWS) has made public its intent to slash 20 percent of its refuge workforce, resulting in the permanent loss of more than 560 employees at a time when most refuges are short-staffed to begin with."

Former Assistant Secretary of Interior William P. Horn (Reagan administration) said the refuge system has played second fiddle to the National Park Service. "Compared to national parks, refuges have always been the red-headed stepchild when it comes to funding," said Horn, counsel to the U.S. Sportsmen's Alliance and an attorney. "Even though the park system is smaller, has fewer units, and is situated in fewer states, its funding outstrips that provided to the refuges."

The Bush administration's fiscal year 2008 budget request does indeed favor the Park Service. Compared to fiscal 2006, the last year Congress detailed appropriations in a money bill, the administration proposed a \$250 million increase for NPS operations, but only a \$12.3 million increase for the National Wildlife Refuge System.

But ranking subcommittee Republican Henry E. Brown (S.C.) said the 1997 law was working fine. "I find it interesting that in the decade since its enactment, Congress has not altered a single provision and there has been very little criticism of this law," he said.

At the hearing FWS Director H. Dale Hall suggested that FWS may provide less emphasis in the future on hunting and fishing and more emphasis on nongame programs, such as the state wildlife grant program. He cited a new National Survey of Fishing, Hunting and Wildlife Associated Recreation, conducted every five years, that said participation in observing wildlife increased a significant 19 percent in 2006 compared to

1996. At the same time, participation in fishing decreased by 15 percent and hunting 10 percent over the same period, the survey reported.

"While the refuge system continues to provide great hunting and fishing opportunities, the service must recognize that digital cameras, iPods, and virtual geo-caching are tools that we can use to connect children with nature," he said.

The Association of Fish and Wildlife Agencies defended hunters and fishermen on release of the survey. The association said sportsmen contribute hundreds of millions of dollars to conservation every year through taxes.

"It's important to note that 100 percent of hunting and fishing license fees goes directly back to conservation in each state," said association executive Director Matt Hogan. "Plus, every time an angler buys a rod or reel, or when a hunter purchases a firearm or a bow, a portion of these funds are also dedicated to wildlife conservation through excise taxes on those products."

To increase funding for the refuge system outside of those taxes, Democratic and Republican Congressmen have introduced climate change and nongame legislation. The House August 4 approved a giant energy bill (HR 3221) that would establish a program to combat the wildlife impacts of global warming and to extend the existing nongame law. House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.) inserted the provision in HR 3221. The Senate has included no comparable provisions in its version of an energy bill (HR 6) that is in conference with HR 3221.

Separately, House subcommittee on Interior appropriations chairman Norman Dicks (D-Wash.) included the provisions in separate legislation (HR 2338.)

Next SAFETEA law may have to wait for year after next

House and Senate committees will almost certainly not act on a new multi-year surface transportation bill until

the next Congress begins in 2009, even though the existing law expires in the fall of that year.

"We probably won't trot out an initiative until 2009 simply because of the change of Congress that will take place in 2009," said Jim Berard, a spokesman for House Transportation Committee Chairman James Oberstar (D-Minn.) "If we passed a bill before then, it would probably be scrapped in 2009 and we would have to begin all over again."

The counterpart Senate Environment and Public Works Committee has spent most of this year on global warming and is expected to do the same next year.

In that it takes Congress an eternity to write major legislation such as a multi-year surface transportation bill (the last one was more than two years late), there is a very good chance the next law won't be enacted until 2010, or later.

If Congress follows past practice, it will extend the existing law - the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) - beyond its scheduled expiration date of Sept. 30, 2009.

That also suggests Congress may take years to come to grips with a mounting financial problem facing surface transportation programs. The Bush administration estimates the Highway Trust Fund, which powers SAFETEA-LU with gasoline tax revenues, will dip into the red in fiscal 2009. By the end of fiscal 2011 the administration estimates a \$10 billion deficit in the fund, although the Congressional Budget Office puts the deficit at a less daunting \$2.4 billion by then.

The mounting financial problem is beginning to be treated as a crisis with very real implications for park and rec programs. Just last month on September 12 Sen. James Coburn (R-Okla.) asked the Senate to bar the construction of bicycle paths with fiscal year 2008 transportation bill (HR 3074) money. The Senate rejected the proposal by an overwhelming 80-to-18 margin, but the seed has been planted.

The fiscal crisis is also being felt by park and rec programs as Congress continues to rescind previous SAFETEA-LU allocations to balance its books. In a fiscal 2006 rescission, states turned back from transportation enhancements \$601,763,022 out of a total rescission of \$3.845 billion. In a first round of fiscal 2007 rescissions states turned back \$199,180,527 from transportation enhancements out of a total rescission of \$3.472 billion.

At the moment the Federal Highway Administration is evaluating a third set of rescissions (the second round for fiscal 2007), this time of \$870 million. California must return the most money, \$79.2 million, followed by Texas, \$72.3 million.

For fiscal year 2008 both the House and the Senate approved a fourth major round of rescissions. The House version of HR 3074 would require states to rescind \$3 billion in previous surface transportation allocations. The Senate would require rescissions of \$2.89 billion.

The House and Senate differ on what percentage should be taken out of specific programs. The House voted 217-to-201 to give some protection to the transportation enhancements program by requiring that give-backs be apportioned equally to all programs. The Senate disagreed and specified that states be given freedom to take rescissions from whatever programs they choose. In some earlier rescissions, transportation enhancements had borne a disproportionate share of the load.

For now the House and Senate committees are waiting on the report of a blue ribbon commission to identify possible sources of revenue for a new surface transportation law. The task force, called the National Surface Transportation Policy and Revenue Study Commission, is scheduled to report to Congress by the end of the year.

Next year the committees will undoubtedly hold oversight hearings on a replacement bill for SAFETEA-LU. In addition, said Berard, "We might even

put out a discussion draft. It's not outside the realm of possibility."

Laverty nomination still must overcome Sen. Wyden's 'hold'

Sen. Ron Wyden (D-Ore.) is still blocking the nomination of Lyle Laverty to a key Interior Department post, despite the efforts of Senate Majority Leader Harry Reid (D-Nev.) to secure a vote.

The delay in Laverty's confirmation - his nomination was announced more than six months ago on March 23 - is getting under the skin of Secretary of Interior Dirk Kempthorne, according to Reid. "I know I have done my best to clear a man by the name of R. Lyle Laverty, whom secretary Kempthorne badly needs, he says, and I believe that," Reid said on the Senate floor October 4. "But I have been unable to do that."

Reid said he hoped to persuade Wyden to remove his hold on Laverty's nomination this week. To break a hold on a nomination requires 60 votes in the Senate, but such a vote is seldom taken on nominees below cabinet level.

Wyden's office has said he placed the "hold" on Laverty's nomination because the Interior Department has politicized endangered species decisions. Until he receives assurances that Kempthorne will not allow such politicization in the future, the senator will maintain the hold, his staff has said.

Despite repeated requests for comment this week, Wyden's office has not responded, perhaps an indication that sensitive negotiations are underway.

As assistant secretary of Interior for Fish and Wildlife and Parks, Laverty would oversee not only park and refuge management but also Endangered Species Act decisions.

Laverty has served as director of Colorado State Parks since 2001. He has also held positions as recreation boss

for the Forest Service and regional forester for the Rocky Mountain Region of the Forest Service.

While Wyden now says he is most concerned about political interference with endangered species decisions in the past he has also attacked Lavery personally for unethical behavior.

Wyden has been conducting a one-man investigation of Lavery and Interior Department ethics. His complaints are two-fold. First, he charged there was widespread corruption in the Interior Department. He cited the involvement in department deliberations of former lobbyist Jack Abramoff, who has been convicted of three felonies; the conviction of former Deputy Interior Secretary Steven Griles for interfering with an investigation; and the charges of the department Inspector General that former deputy assistant secretary of Interior Julie McDonald interfered in endangered species decisions.

Second, Wyden said that Lavery's history as director of Colorado State Parks called into question his commitment to ethical behavior. He questioned an instance when Greater Outdoors Colorado withheld an \$8.5 million contribution to Colorado State Parks because of concerns about audits of past payments to contractors. He also questioned past hiring practices in Colorado State Parks.

Senate taking different tack on farm bill money

When the Senate Agriculture Committee begins marking up the next multi-year farm bill next week, it will have \$16 billion to work with. The \$16 billion is provided by a package of tax and revenue initiatives approved by the Senate Finance Committee October 4.

However, the finance committee package could put at great risk conservation programs that are expected to be in the Senate bill. That's because the committee would collect revenues for conservation through tax credits on conservation programs and make those

revenues available for the entire farm bill, and not just the conservation programs that would pay the tab. The tax credits would generate \$4 billion over ten years.

Said the Environmental Defense group, "Since these funds are being generated from conservation programs, the agriculture committee must reinvest the money in conservation to avoid a reduction in the conservation baseline." The Senate Finance Committee bill is called the Heartland Habitat Harvest and Horticulture Act of 2007.

The American Farmland Trust this week is asking the Senate to include an additional \$5 billion in the farm bill. The trust asked its members to call their senators and ask them to increase the Senate Finance Committee allocation. Ralph Grossi, president of the trust, said, "To protect our water quality, air quality and wildlife habitat, it is time to ask the Senate for a commitment to at least \$5 billion in additional funding for conservation to begin addressing the unmet needs and keep existing programs in operation."

The House approved its version of a farm bill (HR 2419) July 27. The House included most of the conservation programs advocated by hunters and fishermen and extended them for five years. The House-passed bill includes at least one new initiative - an Open Fields program that would authorize \$20 million per year to private landowners to open their property to hunters and fishermen.

The basic programs include a conservation reserve program, a wildlife habitat improvement program, a wetlands reserve program, a grasslands reserve program, and an environmental quality incentives program.

The House would pay farmers for placing land in various conservation reserves the old-fashioned way - with straight cash payments. The Senate Finance Committee would give farmers the option of a straight cash payment or the equivalent of a tax credit.

The committee, under chairman Max

Baucus (D-Mont.), says the tax credits would allow the farm bill to be written by the Senate Agriculture Committee to avoid a \$4 billion budget hit. The \$4 billion would come from tax credits on set-asides by farmers of lands for the conservation reserve, wetlands reserve and grasslands reserve.

Said Dave Monsen, cochair of a Theodore Roosevelt Conservation Partnership agriculture working group, "There are growing pressures in the Senate to cut conservation programs. The Senate Agriculture Committee now has a funding framework but total conservation spending remains woefully inadequate."

The Senate Finance Committee approved a separate new provision in its Heartland bill that could provide more forest recreation land for the public. It would authorize nonprofit groups to sell Forest Bonds and use the proceeds to acquire forest land with a perpetual restriction on nonconservation use. The committee said the provision could cost \$257 million over ten years.

Besides the House and Senate, there is an important third player in this legislation - the White House. The Bush administration threatened to veto the House-passed farm bill for a variety of reasons, such as shifting the time of payments and tax implications.

If Congress fails to complete a farm bill this year, it will have precedent. Congress didn't complete the last two farm bills (in 2002 and 1996) on time. The measures weren't finished until late spring of the following years. If that happens in this Congress, the previous farm bill will probably govern.

Democrats get ready to attack proposed FS planning rule

House Democrats are preparing to protest a proposed new Forest Service planning rule that is almost identical to a 2005 rule rejected by a federal court.

The proposed rule of August 24 is designed to meet the court's demand that

the Forest Service prepare an EIS to back up the rule. It offers minimal new environmental analysis, concluding that all alternatives would "result in similar resource protection."

A draft of a letter from House Democrats to Undersecretary of Agriculture Mark Rey disagrees. "This is decidedly not NEPA analysis, but at best wishful thinking," says the draft prepared by House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.)

The Forest Service says the new regulatory proposal is virtually identical to the rule it is designed to replace. To satisfy the courts the service is also preparing an EIS on the environmental impact of the 2005 planning rule and to document the rule's impact on endangered species. The analyses and the rule are expected to be completed sometime in 2008.

The 2005 rule and the new rule are designed to give the 155 national forests guidance in writing lands use plans that last for a decade or more. The 2005 rule was particularly controversial because it exempted the forests from preparing an EIS for their plans. The service argued that plans don't authorize any specific activities that require environmental analysis; that can be done later when specific projects are proposed, such as expansion of a ski area.

In a March 30 decision U.S. District Court Judge Phyllis J. Hamilton in Northern California didn't address the substance of the rule, such as the EIS exemption for individual forest plans. She simply said the service failed to do an environmental analysis on the entire rule. Again, the service argued the national planning rule did not authorize any specific activities that required analysis.

Hamilton disagreed. "The court finds that the USDA violated NEPA both by invoking the particular CE at issue here and because the invocation of any CE is inappropriate if the agency action may have significant effects on the environment as defined by the CEQ regu-

lations," she said. CEs are categorical exclusions and CEQ is the Council on Environmental Quality.

In its response to Hamilton the Forest Service proposed a new rule and accompanying EIS. The draft letter from Rahall and company says, "Upon reviewing the Draft Environmental Impact Statement (DEIS) for the 2007 proposed Land Management Planning Rule, we find it wholly inadequate. The Forest Service completely failed to analyze the environmental impacts of the alternatives proposed in the DEIS, and to compare these with the impacts of the proposed Rule (which it also failed to analyze), as required by NEPA."

While Rahall was at it, his draft letter would also attack the Forest Service for not requiring EISs to accompany each individual forest plan. "We fundamentally disagree with the Forest Service's position that forest plans are documents that should not be subject to a full NEPA review," the draft says. "The public involvement and environmental analysis requirements of NEPA are critical to providing balanced use of our federal forest lands."

The Forest Service argues that the rule would enable individual forests to write new plans in two-to-three years, instead of the five-to-seven years required now, at a cost saving of 30 percent. The plans are designed to last 15 years.

Individual forests would be able to move faster in the writing of plans because of fewer requirements imposed by Washington and more delegation of responsibility to the field, the Forest Service said.

In the substance of the 2005 rule the Forest Service reversed several major thrusts of Clinton administration rules of Nov. 9, 2000 (which the Bush administration suspended on May 17, 2001.) In one, the Bush rule would effectively eliminate "ecological sustainability" as the paramount goal of national forest management. Instead, the service said it would balance protection of the environment against economic and social values.

Notes

Mrs. Bush headlines park confab.

First Lady Laura Bush, Treasury Secretary Henry Paulson and David Rockefeller, Jr. were among the dignitaries that addressed a National Park Foundation conference on partnerships October 15 and 16. The conference dovetails with a campaign led by Secretary of Interior Dirk Kempthorne to upgrade the National Park System in time for its 100th anniversary in 2016. "The Leadership Summit will help raise awareness about the importance of private, corporate, and philanthropic support in preserving our parks so that our children and their grandchildren may enjoy them for generations to come," said Vin Cipolla, president and CEO of the National Park Foundation. Among the sessions were: The Centennial Initiative: A Promise For The Future Of America's National Parks; Stewardship Through Partnership; and Forging Conservation Partnerships. More information is available at: <http://www.nationalparksummit.org/>.

Businesswoman gets NPS position.

Lindi Harvey, a businesswoman and special advisor to Sen. Elizabeth Dole (R-N.C.), will serve as the Park Service director's top aide for a number of support programs. Harvey will have a broad charge as deputy director for support services, including management of state and local assistance programs and policy and planning. She replaces Don Murphy, who was the former head of California State Parks. Harvey has worked for more than 20 years in business and financial services. She has served previously in the Bush administration as the director of International Women's Issues at the State Department. In the private world she once served as a senior vice president for Citigroup-Geneva Capital Strategies.

Domenici departure to leave hole.

Sen. Pete Domenici's (D-N.M.) announcement a fortnight ago that he will retire next year will cost Senate Republicans still another experienced hand on park and recreation policy. Domenici's notice follows the announcement by Sen. Larry Craig (R-Idaho) that he will re-

tire next year, the death of Sen. Craig Thomas (R-Wyo.) earlier this year and the defeat of Sen. Conrad Burns (D-Mont.) in last November's elections. Domenici, the ranking Republican on the Senate Energy Committee, said he has a degenerative brain disease called Frontotemporal Lobar Degeneration. While the course of the disease is "unpredictable," Domenici said, he didn't want to risk becoming incapacitated over the next seven years. For much of the last decade Domenici, who has served in the Senate since 1972, chaired the Senate Energy Committee. While his main interest is energy policy, Domenici has greased the wheels for a number of park and rec initiatives. Craig, as ranking Republican on the Senate subcommittee on Interior appropriations, plays a leading role in the writing of an Interior Department and related agency appropriations bill. Thomas, as former chairman of the Senate subcommittee on National Parks, was the author of a Park Service management law. And Burns for several years chaired the Senate subcommittee on Interior where he was the lead author of Interior and related agency appropriations bills.

House Dems to fight power lines.

Rep. Maurice Hinchey (D-N.Y.) said he will lead a House fight to combat a new Department of Energy (DoE) order that delineates two huge electric transmission corridors - one in the southwest and one in the East. Acting under direction of the Energy Policy Act of 2005, DoE said the corridors will allow applicants for rights-of-way (ROWs) to obtain eminent domain authority from the feds if states deny applications. Hinchey said the eastern corridor would endanger the Upper Delaware Scenic and Recreational River, Antietam National Battlefield and Gettysburg National Military Park, among other sites. Hinchey said he would attempt to shut off money to implement the provision in appropriations bills and/or to kill the provision outright with authorizing legislation. The eastern corridor goes through parts of Delaware, the District of Columbia, Maryland, New Jersey, New York, Ohio, Pennsylvania, Virginia and West Virginia. The southwestern corridor crosses seven counties in southern

California and three counties in western Arizona. The new procedures would apply only to ROWs in transmission corridors that DoE identified October 5. Congress directed DoE to designate the corridors in order to expedite the location of electricity ROWs in high-use areas.

Corps lays out Everglades guide.

The Corps of Engineers published six final memoranda October 17 that would guide the implementation of a Comprehensive Everglades Restoration Plan (CERP.) But before the Corps and other agencies begin to implement the guidance, they will accept public comment until December 17. The guidance describes procedures the Corps and other agencies will follow to translate CERP regulations into specific actions. The Corps published final regulations on Nov. 12, 2003. It published draft guidance memoranda on May 6, 2005. After taking public comment the Corps revised the memoranda and published the final memoranda October 17. Comment to: *U.S. Army Corps of Engineers, ATTN: Stu Appelbaum, P.O. Box 4970, Jacksonville, FL 32232-0019* or to GMComments@usace.army.mil. The guidance memoranda are at: http://www.evergladesplan.org/pm/progr_regs_guidance_memoranda.aspx.

NPCA: Great Lakes parks at risk.

The National Parks Conservation Association (NPCA) published a new report October 9 that says six national parks along the Great Lakes are under threat from air and water pollution, non-native species and adjacent development. For instance Indiana Dunes National Lakeshore is suffering from most of those threats, including air pollutants from nearby industrial plants, water pollution from sewerage and water runoff, and loss of sand for the dunes due to construction on adjacent dunes, said NPCA. The report also addresses threats to five other National Park System units including: Apostle Islands National Lakeshore, Wisc.; Isle Royale National Park, Mich.; Keweenaw National Historical Park, Mich.; Pictured Rocks National Lakeshore, Mich.; and Sleeping Bear Dunes National Lakeshore, Mich. The report is available at http://www.npca.org/stateoftheparks/great_lakes/.

Boxscore of Legislation

LEGISLATION

STATUS

COMMENT

Congressional budget 2008

S Con Res 21 (Conrad)

House and Senate gave final approval May 17.

Makes room for a \$2 billion hike in natural resources spending.

Appropriations 2008 (Interim)

HJ Res 52 (Obey)

President Bush signed into law September 29 as PL 110-92.

Keeps federal agencies in money through November 16 at fiscal year 2007 levels.

Appropriations 2008 (Interior)

HR 2643 (Dicks)

S 1696 (Feinstein)

House approved June 27.

Senate committee approved June 21.

Both Houses would increase park and rec spending across-the-board. Veto is more than likely.

Appropriations 2008 (Energy & Water)

HR 2641 (Visclosky)

House approved July 17.

Senate committee approved June 28.

Would increase Corps and Reclamation spending more than OMB will accept.

Appropriations 2008 (Transportation)

HR 3074 (Olver)

House approved July 25.

Senate approved Sept. 12.

Would provide full funding for park and rec programs, as called for by SAFGTEA-LU.

NPS Centennial Challenge

S 1253 (Bingaman)

HR 2959 (Rod Bishop)

HR 3994 (Rahall)

House and Senate hearings August 2.

S 1253 and HR 2959 would establish \$2 billion program to help the parks. Rahall would impose new DOI fees.

NPS tax assistance

HR 1731 (Baird)

Baird introduced March 28.

Would authorize NPS improvement fund financed by income tax check-off.

FWS tax assistance

HR 2735 (Young)

Young introduced June 14.

Would authorize FWS improvement fund financed by income tax check-off.

Heritage areas national

S 278 (Thomas)

HR 1483 (Regula)

Senate committee approved July 25. House committee approved September 26,

Would establish national standards for new NHA designations.

Conservation tax credits

S 469 (Baucus)

HR 1576 (Thompson)

Senate committee approved September 20. Thompson introduced March 19.

Would make semi-permanent conservation tax credits Congress approved last year.

Wildlife conservation grants

HR 3221 (Pelosi)

HR 2338 (Dicks)

House approved August 4.

Dicks introduced May 16.

Both would make grant program permanent, open way for new source(s) of money.

American Discovery Trail/National Discovery Trails

HR 74 (Bartlett)

Bartlett introduced Jan. 4.

Would designate an American Discovery Trail and discovery trail system.

Trail acquisition authority

S 169 (Allard)

HR 1847 (M Udall)

Senate panel approved Sept. 17.

Udall introduced March 29.

Would authorize land acquisition authority for nine national trails.

Trail expansion authority

S 580 (Hatch)

HR 1336 (Blumenauer)

Senate panel approved June 26.

Blumenauer introduced March 6.

Would authorize route variations for four national historic trails.

Arizona trail

S 1304 McCain

HR 2297 (Giffords)

Senate hearing Sept. 11.

Giffords introduced May 14.

Would designate 807-mile trail from bottom to top of Arizona.