

Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Celina Richardson

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Giant Everglades land buy won't change CERP, for now

The stunning news that the State of Florida intends to acquire 187,000 acres of sugar farms outside the Everglades won't for the moment affect the ongoing state-federal effort to restore the Everglades ecosystem.

For one thing it will take six years to complete the \$1.7 billion acquisition from the U.S. Sugar Corp. Meanwhile, implementation of the \$8 billion (some say \$11 billion) Comprehensive Everglades Restoration Project (CERP) will go on.

An official with the South Florida Water Management District anticipates few changes in CERP in the immediate future. "We don't think so," said Randy Smith, media relations specialist for the water management district, which coordinates the implementation of CERP. "We're going to be looking at a lot of things but we don't think this will require a new (project implementation report.)" That report guides the detailed implementation of CERP.

Smith said it was just "speculation" at this stage but the management district doesn't assume that Congress will be asked to revise CERP in a new Water Resources Development Act. "It's too early to say," he said. "We're going to take the next 75 days and negotiate with U.S. Sugar. We'll consult with all our partners on how we're going to go about the purchases."

The House Transportation Committee, which helped write CERP, "is still evaluating" the deal, said a committee spokeswoman.

More practically, environmentalists say the acquisition would help solve the overarching problem facing the Everglades Ecosystem - finding a place

to store water that is now diverted to farms, cities and the ocean.

"The Comprehensive Everglades Restoration Project of 2000 contains an Aquifer Storage and Recovery plan that calls for water to be pumped down into aquifers until it was needed," said Sarah Fain, Everglades restoration project manager for the National Parks Conservation Association. "Technologically, that would be difficult to do."

Fain continued, "Environmentalists have been asking for an alternative to aquifer storage and this is giving us the land to store water to restore the river of grass."

Florida Gov. Charlie Crist (R) is being widely praised both for pulling off the deal with U.S. Sugar and for keeping the deal quiet until it was announced June 25.

Said Crist, "We have an opportunity to provide the critical missing link in our restoration activities. I can envision no better gift to the Everglades, or the people of Florida, or to our country than to place in public ownership this missing link that represents the key to true restoration."

Under the deal the State of Florida through the South Florida Water Management District will float bonds to pay for the land.

To make the deal official South Florida Water Management District Governing Board Vice Chair Shannon Estenez signed a "Statement of Principles" with United States Sugar Corporation President and CEO Robert H. Buker.

According to Crist's office, "The Statement of Principles provides the framework for the potential acquisition of property. Negotiations on the final agreement will take place over the coming months, with a closing on the real estate anticipated before the year's end. As part of the proposal, United States Sugar Corporation will continue to farm and manage the land consistent with its previous business practices for the next six years."

U.S. Sugar's land lies just above the Everglades and just below Lake Okeechobee. Water from the lake used to flow south to the Everglades but it has been diverted over recent decades to farming and to support development along the coast.

The state's commitment to spend \$1.75 billion on the acquisition puts pressure on the federal government to carry its share of the load. Under CERP the federal and state governments are to divide costs 50-50. By one estimate the state has already contributed \$2.4 billion to the Everglades restoration, before the U.S. Sugar acquisition, and the federal government less than half that.

Under CERP Congress authorizes individual, major restoration projects in annual Water Resources Development Acts (WRDAs.) On Nov. 9, 2007, Congress enacted the latest WRDA bill (PL 110-114.)

The 2007 WRDA authorized a \$1.365 billion Indian River Lagoon project for CERP, with half of the money - \$682.5 million - coming from the feds and half from the State of Florida. It also authorized a \$375 million Picayune Strand project with half the money - \$187.5 million - provided by the feds and half by Florida. However, Congress must still appropriate money separately for the projects.

Secretary of Interior Dirk Kempthorne, Under Secretary of Interior Lynn Scarlett, and Sen. Mel Martinez (R-Fla.) all praised Crist for the agreement, but they didn't offer to come up with more federal money to help him.

Gas price disputes could block Interior money bill

A fiscal year 2009 Interior and related agencies spending bill has become a target for Republican amendments dealing with major energy policy issues, raising the likelihood Congress will not complete the bill this year.

The Republicans made their plans clear June 26 when they attempted to

force the House Appropriations Committee to consider the Interior bill so they could offer the energy amendments. At the time the committee was scheduled to take up a Health and Human Services bill.

Faced with the rebellion, committee Democrats closed down the meeting in a 35-to-27, party-line vote. Chairman David Obey (D-Wis.) said the GOP rebellion means Congress will not be able to enact a bill this year and will simply pass a continuing resolution to extend a fiscal 2008 law into fiscal 2009.

The energy amendments, designed to open onshore and offshore public lands to development, provide one more threat to the Interior bill. It was already in trouble because House Democrats had added \$2.1 billion more to the measure than the Bush administration had recommended.

The Republican appropriators believe they have the votes on the House floor to approve the energy amendments. That would doom the bill because it's unlikely Senate Democrats could muster the 60 votes needed on the Senate floor to move the bill.

In that event, as *FPR* has been saying all along, Congress would not be able to pass the bill this fall and would simply extend a fiscal 2008 law deep into fiscal 2009. The November elections will decide who does what next year. The Senate Appropriations Committee has not acted on any domestic spending bills yet.

In separate appropriations bills related to parks and recreation the House Appropriations Committee June 25 approved a fiscal 2009 Energy and Water spending bill that would provide money for the Corps of Engineers and the Bureau of Reclamation.

The committee approved \$592 million more than the administration requested for the Corps of Engineers, \$5.333 billion compared to a request of \$4.741 billion. For the Bureau of Reclamation it approved \$109 million more than the administration requested,

\$1.094 billion compared to a request of \$985 million.

On June 20 the House subcommittee on Transportation Appropriations approved a fiscal 2009 spending bill for the Department of Transportation that does not include money for an \$8 billion shortfall in gasoline taxes that power surface transportation programs. The subcommittee said the problem lies with authorizing committees and refused to put up additional money. (*See related article page 8.*)

As for the Interior Department bill, neither the House Appropriations Committee nor the Senate Appropriations Committee acted on a fiscal 2009 measure in the last fortnight although each had tentatively planned a mark-up. The delay was caused in large part by the explosive debate over public lands energy development.

Obey said the panel may take up the Interior bill early next month, probably July 9, despite the Republican rebellion and despite his declaration that the bill is all but dead.

So the only action this year on the fiscal 2009 money bill has been the June 11 approval of an Interior and related agencies measure by the House subcommittee. Although the details of the subcommittee bill have not been made public yet, *FPR* has obtained some information.

For instance, the subcommittee approved a nonbinding rider that asks the Bureau of Land Management to go slow in completing six resource management plans in Utah that would govern 11 million acres. The area is a hotbed of controversy over possible off-highway vehicle use.

The language says, "The Committee encourages the BLM to provide adequate public participation and not continue to finalize their management and travel plans that will govern 11 million acres of renowned landscape for the next 15-20 years."

In total the House subcommittee-

approved bill would provide \$1.3 billion more than a comparable fiscal 2008 bill, increasing from \$26.555 billion to \$27.867 billion in fiscal 2009. Moreover, the subcommittee approved \$2.1 billion more than a Bush administration request of \$25.714 billion. Here are some numbers on the subcommittee action:

* STATE LWCF: Approved \$25 million, the same as last year and \$25 million more than the administration requested.

* FEDERAL LWCF: Approved almost \$90 million more than the administration requested. Subcommittee, \$132.2 million; administration, \$42.5 million; fiscal 2008, \$129.7 million.

* URBAN PARKS AND RECREATION RECOVERY: Approved no money, administration asked for no money and the fiscal 2008 law provided no money. It is understood committee will call for continued federal oversight of old projects to limit diversion to other uses.

* FOREST LEGACY: Approved \$43.5 million more than the administration requested. Subcommittee, \$56 million; administration, \$12.5 million; fiscal 2008, \$52.3 million.

* FOREST SERVICE RECREATION: Approved \$41.5 million more than the administration requested and almost \$16 million more than the fiscal 2008 appropriation. Subcommittee, \$278.5 million; administration, \$237 million; fiscal 2008, \$262.6 million.

* FOREST TRAILS: Approved \$28.5 million more than the administration requested. Subcommittee, \$78.9 million; administration, \$50.4 million; fiscal 2008, \$76.4 million.

* HISTORIC PRESERVATION: Approved \$15 million more than the administration requested and almost \$12 million more than the fiscal 2008 appropriation. Subcommittee, \$82 million; administration, \$66.7 million; fiscal 2008, \$70.4 million.

* SAVE AMERICA'S TREASURES (within Historic Pres line item above): Approved \$10 million more than the budget request. Subcommittee, \$25 million; administration \$15 million; fiscal 2008, \$24.6 million.

* PRESERVE AMERICA (within Historic Pres line item above): Approved \$5 million LESS than administration re-

quested. Subcommittee, \$5 million; administration, \$10 million; fiscal 2008, \$7.4 million.

* NPS OPERATIONS: Approved \$7 million LESS than the administration requested but \$154 million more than fiscal 2008. Subcommittee, \$2.125 billion; administration, \$2.132 billion; fiscal 2008, \$1.971 billion.

* NPS CENTENNIAL INITIATIVE: Met the administration request for core operations in the above line item, but provided no money for the Centennial Challenge, leaving that job to the House Natural Resources Committee that is writing an authorization bill. Congress approved \$25 million as a start-up for the program in fiscal 2008.

* NPS WASHINGTON, D.C. MALL: Approved \$100 million to upgrade the National Mall even though it wasn't requested. New program.

* NATIONAL FOREST SYSTEM: Approved an increase of \$159 million over the administration request but only \$2 million more than the fiscal 2008 level. Subcommittee, \$1.508 billion; administration, \$1.349 billion; fiscal 2008 appropriation, \$1.506 billion.

* FIRE FIGHTING: Approved \$141 million more than the administration requested. Subcommittee: \$2.969 billion; administration, \$2.828 billion; fiscal 2008, \$2.752 billion.

* BLM MANAGEMENT: Approved \$26 million more for all Bureau of Land Management (BLM) programs than the administration requested and \$5 million more than a fiscal 2008 appropriation. Subcommittee: \$1.013 billion; administration \$987 million; fiscal 2008, \$1.008 billion.

* FWS REFUGE MANAGEMENT: Approved \$35 million more than the administration requested and \$35 million more than a fiscal 2008 appropriation. Subcommittee, \$469 million; administration, \$434 million; fiscal 2008, \$434 million.

* TOTAL FOR INTERIOR SUBCOMMITTEE BILL: Approved \$2.1 billion more than administration requested and \$1.312 billion more than fiscal 2008 appropriation. Subcommittee, \$27.867 billion; administration, \$25.764 billion; fiscal 2008, \$26,555 billion.

* CORPS OF ENGINEERS: Full committee approved \$592 million more than the administration requested, \$5.333 billion

compared to a request of \$4.741 billion.

* BUREAU OF RECLAMATION: Full committee approved \$109 million more than the administration requested, \$1.094 billion compared to a request of \$985 million.

New omnibus bill bigger than last one; it includes NLCS

The Senate Energy Committee, having succeeded in pushing a big omnibus bill through Congress in April, is trying again.

The old bill (PL 110-229 of May 8) included only individual measures approved by both the committee and the House, about 50 in total. This time committee chairman Jeff Bingaman (D-N.M.) has assembled a bill (S 3213) that includes more than 90 individual bills the committee has approved, whether the House has acted or not.

There are controversies. Included in the package is legislation (S 1139) to certify the 26 million-acre National Landscape Conservation System (NLCS) managed by the Bureau of Land Management (BLM.) The committee approved S 1139 May 23, 2007, but the bill has not moved since. The House approved a counterpart NLCS bill (HR 2016) April 9 by a 278-to-140 vote.

Western Republicans opposed the House NLCS bill. Rep. Rob Bishop (R-Utah) said the bill not only failed to address existing problems in multiple use management of BLM lands in the system, but also could impose Park Service-like restrictions on BLM.

Besides, Sen. Dianne Feinstein (D-Calif.) has said she will attempt to expand the NLCS to 32 million acres by adding the entire California Desert Conservation Area (CDCA.) Some four million acres of the CDCA are already in the system but Feinstein would add another six million acres.

Beyond the NLCS, S 3213 includes individual bills that would:

* Designate two new National Park System units: Paterson National Histori-

cal Park in New Jersey and Thomas Edison National Historical Park in New Jersey,

* Authorize additions to nine existing National Park System units,

* Designate ten new national heritage areas (NHAs) and authorize studies of two NHAs. The new NHAs would be: Sangre de Cristo National Heritage Area, Colorado; Cache La Poudre River National Heritage Area, Colorado; South Park National Heritage Area, Colorado; Northern Plains National Heritage Area, North Dakota; Baltimore National Heritage Area, Maryland; Freedom's Way National Heritage Area, Massachusetts and New Hampshire; Mississippi Hills National Heritage Area; Mississippi Delta National Heritage Area; Muscle Shoals National Heritage Area, Alabama; and Santa Cruz Valley National Heritage Area, Arizona. The study areas are Chattahoochee Trace in Alabama and Georgia and Northern Neck in Virginia,

* Designate four national trails: Arizona National Scenic Trail; New England National Scenic Trail; Ice Age Floods National Geologic Trail; and Washington-Rochambeau Revolutionary Route National Historic Trail,

* Authorize studies of additions to four National Historic Trails: Oregon National Historic Trail; Pony Express National Historic Trail; California National Historic Trail; and The Mormon Pioneer National Historic Trail,

* Add three wild and scenic rivers: Fossil Creek, Arizona; Snake River Headwaters, Wyoming; and Taunton River, Massachusetts, and

* Designate a Snowy River Cave National Conservation Area of about 3.5 miles of cave passages in Lincoln County, New Mexico.

The Senate Energy Committee said June 27 that the bill runs 759 pages long and includes measures sponsored by Democrats, Republicans and both parties.

The committee assembles the omnibus bills because Sen. Tom Coburn (R-Okla.) routinely places holds on individual bills, preventing them from being

considered on the Senate floor. When assembled in one omnibus bill, the individual measures create a critical mass and sponsors can obtain the 60 votes needed to break Coburn's holds. Coburn has objected to any legislation that would come with a price tag and require additional federal spending.

House panel orders mining withdrawal near Grand Canyon

The House Natural Resources Committee June 25 ordered the Interior Department to withdraw from hard rock mining 1 million acres of public lands near Grand Canyon National Park.

The resolution is supposedly binding on Interior under a withdrawal provision of the Federal Land Policy and Management Act of 1976 (FLPMA), Section 204 (e). The provision authorizes the House committee and the Senate Energy Committee to order Interior to make emergency withdrawals that last up to three years. No further Congressional action is necessary.

But committee Republicans argued the Interior Department does not have to comply because the order is unconstitutional. They objected so strongly to the use of a resolution to invoke the withdrawal that they walked out of the June 25 meeting.

"In essence I'm leaving this committee," said Rep. Rob Bishop (R-Utah.) "I'm urging the rest of the Republicans to do the same thing. We will not be part of this resolution. It's the wrong thing to do. It's the wrong process. It is the wrong subject. It is not an emergency. It's clearly an unconstitutional action." After the Republicans walked the Democrats approved the resolution by a vote of 20-to-2.

The Republicans argued that the committee action and the underlying provision of FLPMA violate the separation of powers doctrine of the U.S. Constitution, i.e. the House committee is mucking around in the executive department's business. They argue that 20 House members should not have the

power to decide the fate of 1 million acres of land.

The Congressional Research Service in a June 20 memorandum appeared to agree with the Republicans. It held that the Secretary of Interior could just ignore the committee resolution on the grounds that both Houses of Congress must approve withdrawals (bicameral approval it's called) for them to be constitutional.

Said the Congressional Research Service, "Accordingly, should such a resolution be adopted it appears likely that the Secretary would be well within his authority to interpret it as informational and/or advisory in nature and, thus, will be able to avoid taking the actions contemplated under the statute. Should Congress wish to impose a binding legal obligation on the Secretary it could opt either to pass a joint resolution or a bill, both of which satisfy the bicameralism and presentment requirements of Article I, . . ."

The Department of Interior apparently has its doubts also. "We're reviewing the resolution particularly in light of a 1983 Justice Department opinion (Reagan administration) suggesting these types of resolutions are unconstitutional," said a department spokesman this week. "Then we'll decide how to proceed."

That Sept. 12, 1983, Justice Department decision by Ralph W. Tarr, deputy assistant attorney general at the time, cited Supreme Court precedence for doubting the provision's legality. Tarr said, "There remains no doubt that the power to direct withdrawal of lands granted to a single Congressional Committee by §204(e) is, by its terms, a legislative veto and is unconstitutional under *Chadha*." The *Chadha* decision is cited as *INS v. Chadha*, 51 U.S.L.W. 4907 (June 23, 1983.)

But the resolution sponsor, Rep. Raúl M. Grijalva (D-Ariz.), said he was concerned about the impact of uranium mining proposals on the park. He said his resolution would have little effect on existing claims but could head off

future claims. Grijalva said the withdrawal resolution would protect the land until Congress could consider his formal legislation to mandate the withdrawal of 1,068,908 acres, HR 5583.

"This is a reprieve to take a breather to look at the situation to require the secretary to fully investigate and to fully provide Congress the information it needs and to the public in general," said Grijalva. "We are grabbing at the one legal straw that is left to us to assure that we have the time, the patience and the studies to pursue the protection of the Grand Canyon the way it should be."

Arizona Gov. Janet Napolitano (D) added her concerns earlier this spring when she asked Secretary of Interior Dirk Kempthorne to (1) withdraw additional lands in the area from the staking of mining claims and (2) prepare an EIS on the overall impact of uranium mining around the park.

In recent years the demand for uranium has caused an explosion in uranium mining claims on public lands. At a March 12 hearing of the Senate Energy Committee BLM said that uranium claims make up an increasingly large percentage of all hard rock claims. BLM estimated that 40-50 percent of 92,000 new mining claims in fiscal year 2007 were for uranium.

The Environmental Working Group said 2,215 new mining claims have been filed within 10 miles of Grand Canyon National Park since 2003 and that 805 of those claims are within 5 miles of the park.

NPS superintendents meeting said to focus on future

With just over six months left in the Bush administration the Park Service will hold a rare superintendents summit in July to assess what the next century portends for the National Park System.

NPS Director Mary Bomar said the summit, to be held in a national forest, will focus on "reconnecting Americans

with the national parks," "increasing the capacity of the National Park System," and "developing park leaders."

But Bill Wade, a key figure in an association of Park Service retirees, is concerned the timing and agenda is being set by Interior Department political appointees. "The whole idea started when a couple of regions held joint conferences in the fall, typically every couple of years," he said. "A couple of regions were talking about another conference when the Department of Interior jumped in and said it would be a good idea to have a national superintendents conference."

Wade, executive council chair for the Coalition of National Park Service Retirees, added, "They (Interior) have taken over the conference. They control the speakers who will make presentations. It's out of the hands of Mary Bomar."

Wade said that his soundings of superintendents found disgruntlement. "There is some question in the minds of a number of superintendents I have talked to that the representatives of the current administration will use the conference to talk about what they have accomplished and will offer little concentration on the future," he said. "Overall most superintendents are reluctant to speak out, but overall I don't think they see this as a good idea."

The Park Service rejects the notion that the summit is being held now at the behest of the administration. "This is not about the administration," said David Barna, public affairs chief for the Park Service.

"We talked about that," he said. "If we waited for the next administration, we would have to wait for at least a year until people were nominated and confirmed. We just decided we have too many things to talk about with the Centennial coming up."

Barna also said the agenda and the speakers were put together by the Park Service. "I don't even know how much participation we're going to have by the

administration. Secretary (Dirk) Kempthorne will make a brief introduction," he said.

The Bush administration has built some credits for its stewardship of the National Park System, particularly Kempthorne's proposal to establish a \$3 billion Centennial Initiative to upgrade the system for its 100th anniversary in 2016.

However, a centerpiece of the initiative, a \$2 billion Centennial Challenge partnership between NPS and friends groups, has stalled in Congress. The House Natural Resources Committee approved a bill (HR 3094) May 7, but failed to identify offsets to pay the \$100 million per year federal share of centennial grants.

In the Senate the lead sponsor of a counterpart bill (S 2817), Sen. Ken Salazar (D-Colo.), has been tied up with climate change and energy legislation.

Supporters of the initiative such as the National Parks Conservation Association (NPCA) are worrying that time is running short on this Congress. "We're getting down to a central mass," said Tom Hill, legislative representative for NPCA. "The clock is ticking. We hope the House will consider the bill on the floor in July."

Congress traditionally takes August off and has set a target adjournment date for September 26 for the election season. That leaves barely a handful of weeks left.

The Park Service Superintendents Summit 2008 will be held in Cliff Lodge in Snowbird within the Wasatch-Cache National Forest in Utah. The last superintendents' summit was held in Missouri in 2000. NPS estimates 450 employees will attend.

Professor Emilyn Sheffield of the California State University of Chico will be lead speaker. She chairs the largest undergraduate recreation department in the West and specializes in partnerships that connect people to the parks.

Other speakers include Bomar, Utah Gov. John Huntsman (R), Forest Service Chief Gail Kimbell, Conservation Fund Chairman Charles Jordan, and filmmaker Dayton Duncan who is working on a 12 part production on the parks.

Congress scrambles to find money to keep SAFETEA hearty

The inexorable climb in gasoline prices is posing a serious threat to transportation-related recreation spending in particular and all highway and transit projects in general.

That's the short-term and long-term message sent to the Senate Environment and Public Works Committee June 25 at a hearing on the nation's surface transportation needs.

Because Americans are driving fewer miles they are buying less gasoline and dropping less money into the Highway Trust Fund. Most immediately, highway and transit programs face an \$8 billion (and climbing) shortfall in allocations for fiscal year 2009.

Senate and House Appropriations Committees will face that shortfall when they draft fiscal 2009 money bills, perhaps next week, unless Congress comes up with the \$8 billion separately before then.

House appropriators thus far are leaving the problem at the doorstep of authorizing and tax committees. At a June 20 mark-up of a fiscal 2009 Transportation spending bill, the subcommittee on Transportation refused to help. "The shortfall is not of this Committee's making," said subcommittee chairman John W. Olver (D-Mass.), "nor is it this Committee's responsibility to make up the difference."

In the longer term an increasingly vocal bloc of senators is making clear it wants to substantially revise surface transportation law to restrict gas tax spending to traditional highway programs.

For instance, at the committee hearing June 25 ranking Republican Sen.

James Inhofe (Okla.) said too many extraneous programs were drawing money from the fund. While he didn't name the extraneous culprits, it was clear that park and rec programs such as enhancements, recreational trails, scenic byways, Safe Routes to Schools, etc. are in his sights.

"The new responsibilities were added while maintaining essentially the same revenue sources," said Inhofe. "The result is that there are not sufficient resources to properly address the core responsibilities of the program, let alone the extra programs we have added."

Witnesses at the hearing said the gas tax can no longer be counted on to supply the Highway Trust Fund with enough money to carry all surface transportation programs, and that all sources of revenues must be on the table.

"It's not a matter of tolls versus gasoline taxes," Alan Pisarski, an independent consultant, said in response to questions from Inhofe and committee chairman Barbara Boxer (D-Calif.) "We're going to need them all."

Boxer herself has said the gas tax alone probably won't cut it. She has mentioned, without endorsement, other possible sources of revenues such as (1) charges for vehicle miles traveled, (2) Sen. Chris Dodd's (D-Conn.) proposal for a National Infrastructure Bank and (3) Warren Buffett's proposal for a municipal bond fund.

Boxer said her committee must get busy soon on drafting a new surface transportation law to replace the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU.) The law is scheduled to expire on Sept. 30, 2009.

"The House has already said that by January 1 they are going to have the principles of a new bill in outline form," said Boxer. "That means we have a lot of work to do because we want to get the principles done."

A National Surface Transportation Policy and Revenue Study Commission

created by SAFETEA-LU recommended in January possible sources of revenues to keep surface transportation programs alive. Nine of the 12 commissioners recommended a 25-to-40 cents per gallon increase in the federal gasoline tax, which is now 18.3 cents per gallon.

But three dissenters, including Secretary of Transportation Mary Peters, called for maintaining the existing federal gas tax and finding up new revenues through a combination of tolls, private investment and congestion pricing.

Wherever the money comes from, a lot is needed. "I have sticker shock," said Boxer at the hearing. "You're saying just to maintain what we have now - just for the highway piece - we're short \$50 billion per year. If we look over to the transit side we're short \$10 billion there. I just want my colleagues to know that in the last surface transportation law we put up \$286 billion and we now need \$586 billion bill just to maintain what we have now. . . We're all looking for creative ways to pay for this."

Sen. Johnny Isakson (R-Ga.) advocated moving away from programmatic spending decided by the federal government to a block delegation to states. He spoke highly of a George state legislature study. It would have the "U.S. Department of Transportation turn back the federal highway transit money collection to states and let them collect the money and spend the revenues in coordination with their state transportation plan," Isakson said.

Enviros to file lawsuit to improve visibility over parks

Environmentalists last week opened up a new front in their battle against the Bush administration's regulation of haze over national parks.

They notified EPA they intend to file a lawsuit to force EPA and states to comply with a Clean Air Act requirement for states to complete visibility impairment plans by June 17, 2008. The plaintiffs - the Environmental Defense Fund and the National Parks Conservation

Association (NPCA) - said only five states have complied.

On a separate but related front environmentalists are trying to head off proposed EPA regulations that could open the way for construction of power plants near national parks and wilderness areas, EPA and Park Service scientists warn. The power plants would allegedly worsen visibility over the parks.

The proposed regulations - the administration is expected to complete them in the fall - would change the formula for measuring pollution over Class I federal areas, i.e. national parks and large wilderness areas.

Although the existing regulations that require state action and the proposed regulations that would affect power plants are two different regulatory initiatives, they are closely related, said Mark Wenzler, director of clean air programs for the National Parks Conservation Association.

"They are separate regulatory matters but they are related to the same problem - haze over national parks," he said.

In the Clean Air Acts Amendments of 1977 Congress directed EPA to minimize haze over so-called Class I areas: national parks larger than 6,000 acres, wilderness areas larger than 5,000 acres, national memorial parks larger than 5,000 acres and international parks. There are more than 158 such areas, including 48 national parks, 21 national wildlife refuges and 88 wilderness areas managed by the Forest Service.

The act also directed EPA to require states to submit plans to reduce existing haze in Class I areas caused by manmade pollution. The environmentalists' two-page notice to EPA Administrator Stephen L. Johnson, submitted by Earthjustice Attorney David S. Baron, said, "The Act and EPA rules required the states to submit such plans by December 17, 2007, and for EPA to make its nondiscretionary determination under section 110(k)(1)(B) by June 17, 2008."

Baron added, "The June 17, 2008, deadline has passed, but the Administrator has not determined, as mandated by the Act, whether each state has submitted haze (state implementation plans) required by the Act. . ."

Wenzler of NPCA hopes that the threat of a lawsuit will help persuade EPA to force states to comply. "Our preference is that EPA would take the problem seriously and get the job done without having to go to court," he said. "This is an issue that EPA has not acted on in the past unless they have been sued." That includes the Clinton administration.

Old power plants and factories provide much of the regional haze over national parks, the environmentalists said. EPA proposed regs on May 8, 2007, that address the power plant issue. But environmentalists complained the proposed rule would worsen the situation by changing the way EPA measures pollution over parks.

NPCA jumped on the dispute in May and published a report charging the proposed rule could allow additional air pollution over 10 national parks from coal-fired power plants. The 10 are: Shenandoah (Va.), Great Smoky Mountains (Tenn./ N.C.), Mammoth Cave (Ky.), Theodore Roosevelt (N.D.), Mesa Verde (Co.), Capitol Reef (Utah), Zion (Utah), Great Basin (Nev.), Wind Cave (S.D.), and Badlands (S.D.)

In proposing the rule EPA said the new formula would reduce workloads and expenses for power plant operators and state and local governments. "Over the 3-year period covered by the ICR, we estimate an average annual reduction in burden for all industry entities that would be affected by the proposed rule," EPA said in its propose rule. "For the same reasons, we also expect the proposed rule to reduce the burden for State and local authorities reviewing permits when fully implemented."

The proposed EPA regulation of May 8, 2007, addressed just pollutants produced by large electricity-producing power plants powered by fossil fuels, i.e. coal.

Bison Range agreement struck to continue Indian role

The Fish and Wildlife Service (FWS) and the Confederated Salish and Kootenai Tribes (CSKT) signed an agreement last month for the cooperative management of the National Bison Range in Montana.

The agreement will give the tribes a continued role in the management of the refuge that is located in the Flathead Indian Reservation.

FWS employees have objected to past agreements that gave the tribes significant management authority in the refuge. Underlying their fear was the possibility that all management of the refuge would be privatized.

But House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.) and ranking Republican Don Young (Alaska) attempted to ease those concerns. They wrote Secretary of Interior Dirk Kempthorne last year saying they would not support privatization.

Rahall and Young praised the June 19 agreement in a joint statement, "This Annual Funding Agreement is entirely consistent with what the Congress had envisioned when we enacted the Tribal Self-Governance Act of 1994, and we are convinced that the FWS and the CSKT will make for a great team in the management and operation of the National Bison Range."

While management of the Bison Range involves a modest \$1.3 million budget and 13 full-time equivalent employees, the new contract could set a precedent for dozens of similar arrangements for other national wildlife refuges and national parks. A previous contract between CSKT and FWS ended in acrimony in December 2006.

The dispute has involved senior House Democrats on both sides of the issue. Rahall and Young have encouraged the delegation of authority to the tribe. But House Energy Committee Chairman John Dingell (D-Mich.) has

maintained the transfer is unauthorized.

FWS decided to terminate the old CSKT contract on Dec. 11, 2006. But on Dec. 29, 2006, the Interior Department overruled FWS, infuriating FWS line employees and client interest groups. FWS managed the Bison Range by itself while the Interior Department worked out the agreement with CSKT.

Rahall entered the picture after he cosponsored a bill (HR 3994) that is designed to specify what Interior Department programs Indian tribes may participate in. For the most part the bill, titled the Department of the Interior Tribal Self-Governance Act of 2007, would authorize tribes to manage Indian-specific programs, such as those administered by the Bureau of Indian Affairs and those that directly benefit Indians.

But the bill, which has not moved, would also allow the tribes to participate in federal land management agency programs by authorizing funding agreements in areas "that are of special geographic, historical, or cultural significance to the Indian tribe." That would by definition include some national parks.

Hard feelings have marked the disagreement between FWS and CSKT. In a Dec. 11, 2006, letter to the tribes FWS Mountain Region Director J. Mitch King essentially said the tribes had failed a two-year trial that had delegated to them about half the management positions for the refuge.

Under the Indian Self-Determination Act Amendments of 2004 FWS contracted with the CSKT tribes to perform about half of the management chores in the refuge and to receive about half the budget, or \$500,000.

Fire money fails, but several initiatives are still alive

Congress rejected June 26 a proposal to provide \$450 million for emergency fire fighting by federal land management agencies in fiscal year 2008.

The money had been part of an

early Senate version of an Iraq war emergency appropriations bill (HR 2642), but the House June 19 dropped the fire money from its version of the bill. When the Senate went along with the House June 26, the fire money disappeared. (The Bush administration supported the House position against the allocation.)

The money is not dead yet. Additional emergency spending bills may come along and there is always a regular appropriations bill. And the House subcommittee on Interior appropriations June 11 approved a fiscal 2009 appropriations bill with some fire spending increases.

The appropriations subcommittee approved \$2.97 billion for fire fighting in fiscal 2009, including \$1.329 billion for emergency suppression. The full House Appropriations Committee had been scheduled to take up the subcommittee bill in late June but that mark-up was deferred until July 9 by controversies over energy development on public lands.

For its part the Senate Appropriations Committee and its Interior subcommittee had also been tentatively scheduled to take up a fiscal 2009 appropriations bill last week, but that too fell through.

The spending proposals are designed to provide enough resources to pay the spiraling costs of fighting emergency fires. Of great importance this year is the readiness of federal, state, Indian and local agencies to cope with a looming bad fire season.

The Senate Energy Committee in a hearing this month heard two very different projections of the country's manpower readiness for the upcoming fire season.

The Bush administration paints an optimistic picture, particularly in the hotly-disputed State of California. "The Forest Service recently completed an analysis for California and found that the recruitment rate is greater than its attrition rate," Under Secretary of Agriculture Mark Rey and Associ-

ate Deputy Secretary of the Interior James Cason told the Senate committee last month. "In fact, the total number of permanent fire and aviation management staff in the region nearly doubled between 1997 and 2007, from 1,257 to 2,290."

But Ron Thatcher, president of the Forest Service Council which represents labor unions, said Rey didn't give the whole picture. He said in crucial pay grades, such as GS-06, almost 40 percent of positions were vacant, 208 of 532. "It appears this shortfall is not likely to be corrected in the short term: during the March 2008 hiring round, the number of vacancies in this critical position actually increased in spite of nearly two dozen hires," Thatcher said.

Casey Judd, business manager for the Federal Wildland Fire Service Association, disagreed with Rey's bottom-line numbers. "Despite the USDA suggesting on May 6th in a letter to Sen. (Dianne) Feinstein (D-Calif.) that California had 363 vacancies, the fact was that there were, and still are, more than 500 vacancies," he said.

There are other bills around designed to provide fire-fighting money. The House Natural Resources Committee April 17 approved a bill (HR 5541) that would guarantee about \$500 million per year for emergency fire fighting without further appropriations. It has been referred to the House Agriculture Committee and the House Budget Committee.

In addition a big climate change bill (S 3036) that stalled June 6 when the Senate failed to overcome a Senate filibuster offers a real long shot. It would make available \$1.1 billion per year for emergency fire fighting above normal annual fire suppression costs. The Forest Service would receive up to \$800 million per year and the Interior Department \$300 million. The bill would establish a discreet fund with guaranteed money.

The fire money provision in the Senate's emergency appropriations bill would have allocated \$325 million to the Forest Service with \$250 million for

emergency wildfire suppression and \$75 million for restoration of federal lands. The provision would have allocated \$125 million to the Interior Department, with \$100 million for emergency fire fighting and \$25 million for restoration of federal lands.

Sen. Max Baucus (D-Mont.) has introduced still another bill (S 1770) that would establish an emergency fire fighting account, but with appropriated money.

Notes

Legal complication for NPS guns?

Critics of an Interior Department proposal to allow concealed guns in national parks are now arguing that a recent Supreme Court decision casts doubt on the legality of the practice. The environmental group Public Employees for Environmental Responsibility says a June 26 court decision that threw out a ban on handguns in the District of Columbia calls into question the April 30 proposal. In that proposal the Interior Department would allow concealed weapons in national parks and wildlife refuges where state laws permit weapons in state parks. Worried PEER, "Under the proposed regulation, national parks within the District of Columbia, such as the National Mall and even the White House, may have no enforceable firearms restrictions if the D.C. government is unable to fashion a new, legally defensible set of firearm restrictions." Forty-seven senators got the ball rolling when they wrote Secretary of Interior Dirk Kempthorne Dec. 17, 2007, asking him to allow concealed weapons in parks and refuges. Four more senators wrote Kempthorne February 11 with a similar message, making the total 51. The salient portion of the proposed regulations says of guns in national parks, "(h) A person may possess, carry, and transport concealed, loaded, and operable firearms within a national park area in the same manner, and to the same extent, that a person may lawfully possess, carry, and transport concealed, loaded and operable firearms in any state park, or any similar unit of state land, in the state in which the federal park, or that portion thereof, is lo-

cated, provided that such possession, carrying and transporting otherwise complies with applicable federal and state law." The comment period on the proposal ended June 30.

George Hartzog dies at 88. George B. Hartzog, Jr., NPS director from 1964 to 1973, died June 30. During Hartzog's tenure 72 sites were added to the National Park System. Hartzog joined NPS as an attorney. During his career he served as superintendent at Great Smoky Mountains and Rocky Mountain National Parks. Under his tenure as director, NPS chose the first African American park superintendent, the first female superintendent from the career ranks, and the first Native American superintendent.

National park resources said poor.

The National Parks Conservation Association (NPCA) says in a new report that recent assessments of 60 national parks indicate natural resources are in less than acceptable condition. NPCA published June 24 a National Parks Resources Index. It gives natural resources in the sites a combined score of 70 and cultural resources a combined score of 61. Worse, NPCA said it evaluated the health of ecosystems in 43 parks and "97 percent of these parks were experiencing some degree of ecosystem fragmentation, loss or degradation - affecting wildlife and native plants across the park system." The report is available at <http://www.npca.org/stateoftheparks>.

NPS posts resources awards. The Park Service said June 26 that Vaughn Baker, superintendent of Rocky Mountain National Park, is the recipient of the director's award for natural resources as superintendent of the year for 2007. Among other things Baker oversaw the settlement of the Grand Ditch breach case which resulted in the largest damage payment in the National Park System's history. In that case the Grand Ditch, which provides water to commercial users from the Rocky Mountains, flooded the park. Other recipients of director's awards for natural resource stewardship are for natural resources research, Dr. Raymond M.

Sauvajot, chief, division of planning, science, and resource management in the Santa Monica Mountains National Recreation Area; for natural resource management, Michele Girard, ecologist, Southern Arizona Group; for excellence in natural resources, Dr. Margaret Wild, wildlife management and health program manager, WASO Biological Resources Management Division; for excellence in maintenance stewardship, George Henderson, engineering equipment operator, Sleeping Bear Dunes National Lakeshore; and for excellence in management in a small park, Scott Stonum, chief of resource management, Lewis and Clark National Historical Park.

NPS posts battlefield grants. The Park Service said June 30 that it has awarded 32 grants totaling \$1,367,144 for the preservation of battlefields. The grants will help preserve 100 battlefields. The grants cover the Revolutionary War, War of 1812, Second Seminole War, Civil War, World War II and various Indian wars. NPS says it gives priority to awards based on a classification system established by its Civil War Sites Advisory Commission Report on the Nation's Civil War Battlefields and the Report to Congress on the Historic Preservation of Revolutionary War and War of 1812 Sites in the United States.

Conference calendar

JULY

11-15. **National Association of Counties** annual conference in Kansas City, Mo. Contact: National Association of Counties, 440 First St., N.W., 8th Floor, Washington, DC 20001. (202) 393-6226. FAX (202) 393-2630. <http://www.naco.org>.

16-18. **The International Convention of Allied Sportfishing Trades** in Las Vegas. Contact: American Sportfishing Association, 225 Reinekers Lane, Suite 420, Alexandria, VA 22314. (703) 519-9691. <http://www.asafishing.org>.

AUGUST

8-11. **Outdoor Retailer Summer Market 2008** in Salt Lake City. Contact: Outdoor Industry Association, 4909 Pearl

East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

11-15. **National Speleological Society** annual meeting in Lake City, Fla. Contact: National Speleological Society, 2813 Cave Ave., Huntsville, AL 35810-4331. (256) 852-1300. <http://www.caves.org>.

17-21. **American Fisheries Society** annual meeting in Ottawa, Canada. Contact: American Fisheries Society, 5410 Grosvenor Lane, Suite 110, Bethesda, MD 20814-2199. (301) 897-8616. <http://www.fisheries.org>.

SEPTEMBER

18-21. **Land Trust Alliance** rally in Pittsburgh, Pa. Contact: Land Trust Alliance, 1331 H St., N.W., Suite 400, Washington, DC 20005-4711. (202) 638-4725. <http://www.lta.org>.

25-27. **National Recreation and Park Association** congress and exposition in Indianapolis, Ind. Contact: National Recreation and Park Association, 22377 Belmont Ridge Road, Ashburn, VA 20148. (703) 858-2158. <http://www.nrpa.org>.

30. **Outdoor Industry Association Rendezvous** in Boston. Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

OCTOBER

7-9. **Watchable Wildlife** annual conference in Orange Beach, Alabama. Contact: Watchable Wildlife, Inc., PO Box 319, Marine on St. Croix, MN 55047. 651-433-4100. <http://www.watchablewildlife.org>.

21-25. **The National Trust for Historic Preservation** annual conference in Tulsa, Okla. Contact: National Trust for Historic Preservation, 1785 Massachusetts Ave., N.W., Washington, DC 20036. (202) 588-6100. <http://www.nationaltrust.org>.

29-31. **Sportfishing Summit** in Galveston, Texas. Contact: American Sportfishing Association, 225 Reinekers Lane, Suite 420, Alexandria, VA 22314. (703) 519-9691. <http://www.asafishing.org>.