

# Federal Parks & Recreation

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Volume 34 Number 4, February 26, 2016

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**Obama names Calif. monuments; Feinstein proposes additions**

In one of his most ambitious uses of the Antiquities Act of 1906, President Obama February 12 designated more than 1.8 million acres of California Desert as parts of three national monuments. The Bureau of Land Management (BLM) will oversee the areas.

The 921,000-acre Mojave Trails National Monument, 135,000-acre Sand to Snow National Monument and 8,000-acre Castle Mountains National Monument will combine with existing national parks and wilderness areas in the desert to protect nearly 10 million acres. It will be the second largest desert preserve in the world, behind only Namib-Naukluft National Park in Namibia.

The designation immediately raised questions about other possible designations, such as a 2.5 million-acre Owyhee Canyonlands monument in Oregon, a 350,000-acre Gold Butte monument in Nevada and a 1.4 million-acre Canyonlands monument in Utah.

Obama has been one of the most active conservation presidents, having repeatedly used the Antiquities Act to unilaterally designate national monuments. The act can only be used on federal property.

The die was cast on the three California Desert monuments in August of last year when Sen. Dianne Feinstein (D-Calif.) wrote Obama asking him to make the designations. Feinstein had about given up on persuading Congress to go along with her legislation (S 414) to formally designate the monuments.

The die was further cast on Oct. 13, 2015, when senior Interior and Agriculture Department officials appeared in Whitewater, Calif., with Feinstein to

promote the California monuments.

But Feinstein isn't done yet. On February 23 she introduced legislation (S 2568) that complements the monument legislation. She would designate 230,000 acres of wilderness, 77 miles of wild and scenic rivers, and 142,000 acres for off-highway vehicle use, among other things.

"President Obama's decision to create three national monuments in the Mojave Desert was the right call, but unfortunately his authority under the Antiquities Act didn't allow him to include the many other valuable provisions in the original legislation (S 414)," she said. "That's why I'm introducing a bill to make those provisions a reality."

Feinstein emphasized the off-highway vehicle areas. "Of note, the legislation includes permanent protection for five Off-Highway Recreation Areas covering 142,000 acres. I've worked with off-roaders for years because I believe their use of the land should be protected just as it is for conservation purposes. I gave them my word that I'd fight for them and I intend to do so."

There are differences of opinion about the monument designations. Rep. Paul Cook (R-Calif.), who represents the area, said, "I'm not opposed to national monuments. I'm opposed to the President creating national monuments through unilateral executive action, ignoring the legislative process."

Cook has introduced his own California Desert legislation (HR 3668) that would make important concessions to consumptive users, while designating some protective areas. Most importantly Cook would designate the million-acres Mojave Trails as a special management area, whereas Obama designated it a more protective national monument.

In addition, Cook would allow hard rock miners to explore up to 10 percent of the special areas for new claims.

House Natural Resources Committee Chairman Rob Bishop (R-Utah) objected to

the California designations. "This is presidential bullying," he said. "The intent of the Antiquities Act is not to act as the President's magic wand to commandeer land. In order to be good stewards of our environment, we need to allow people to have a say in how they recreate and conserve their land. This doesn't. It's an authoritarian act that ignores people under the guise of preservation. The land will not be better protected and people will be harmed."

However, Feinstein said she attempted to consult the public thoroughly. "My staff and I have spent hundreds of hours working with the diverse range of stakeholders - local and state government officials, environmental groups, off-highway recreation groups, cattle ranchers, mining interests, the Department of Defense, wind and solar energy companies, the public utility companies and many others," she said. "All of them were at the table as we strived to achieve consensus."

Off-road vehicle advocates said they were disappointed that President Obama designated the monuments without waiting for Congressional legislation. Said Larry Smith, executive director of Americans for Responsible Recreational Access, "Everyone should be disappointed by the President's designation of National Monuments in the California desert. Sen. Feinstein and Rep. Cook have each introduced collaboratively-developed legislation that would provide for the management of not only the areas covered by the Monument designations but also for a broader area."

As for other monument controversies, in the takeover of the Malheur National Wildlife Refuge in Oregon last month the occupiers and their sympathizers worried about a possible designation of a 2.5 million-acre Owyhee Canyonlands Conservation area nearby.

Said administration critic Rep. Greg Walden (R-Ore.), "Right now, this administration, secretly, but not so much, is threatening, in the next county over (to the Malheur refuge), that looks

a lot like this one, Malheur County, to force a monument of 2.5 million acres, we believe." He added, "I think this is outrageous. It flies in the face of the people and the way of life and the public access." The Malheur refuge is in Harney County.

But Rep. Peter DeFazio (D-Ore.), who frequently works with Walden on land management issues, disagrees this time. He said the Owyhee Canyonlands should be protected. "This vast high desert area is worthy of protection, whether it is monument or wilderness," he said. "Many Oregonians, including people in eastern and central Oregon, agree that this is worthy of protection."

A similar fight is underway in Utah where conservationists have recommended a 1.4 million-acre Canyonlands National Monument on Bureau of Land Management land in the southern part of the state.

Perhaps in reaction to that recommendation Rep. Rob Bishop (R-Utah) January 20 proposed the designation of 333,866 acres of BLM land as a Canyonlands Wilderness Area adjacent to Canyonlands National Park. Bishop included the proposal in a discussion draft of a Utah Lands Initiative he unveiled January 20.

As mentioned, driving Bishop and Rep. Jason Chaffetz (R-Utah) in part is the possibility that the Obama administration would designate large national monuments in eastern Utah. Conservationists have often recommended designation of the 1.4 million-acre Canyonlands National Monument.

The three California Desert areas:

**Mojave Trails National Monument:**

The 1.6 million-acre monument contains, according to the White House, "rugged mountain ranges, ancient lava flows, and spectacular sand dunes."

**Sand to Snow National Monument:**

The 154,000-acre monument, according to the White House, "is an ecological and cultural treasure and one of the most biodiverse areas in southern California, supporting more than 240 species of birds and twelve threatened

and endangered wildlife species. Home to the region's tallest alpine mountain that rises from the floor of the Sonoran desert, the monument also will protect sacred, archaeological and cultural sites, including an estimated 1,700 Native American petroglyphs."

**Castle Mountains National**

**Monument:** The 20,920-acre monument contains, the White House said, "important natural resources and historic sites, including Native American archeological sites."

**NPS touts visitation numbers; McClintock is not so sure**

The Park Service made it official February 17 - more than 307 million visitors trooped through units of the National Park System in 2015, a record.

Total visits to the system were up by almost five percent over 2014.

The looming 2016 Park Service Centennial is given as a major reason for the increased interest in the system and as a reason for even more visitation this year.

"The popularity of national parks is well known, but last year's numbers really are extraordinary," said NPS Director Jonathan B. Jarvis. "As the National Park Service celebrates its 100<sup>th</sup> year, we're preparing to welcome more visitors than ever including a new generation of park supporters and advocates who are discovering their own national park adventures."

Not everyone is as enthusiastic. House subcommittee on Federal Lands Chairman Tom McClintock (R-Calif.) Dec. 2, 2015, laid into the Park Service for not doing more to entice visitors to the park. He said total visitation numbers are misleading because of a decline in people staying in concessioners' hotels, tents and RV campers.

McClintock's office provided us with these numbers to prove his point: "RV Camper lodging is half (2.2 million) of what it was in 1980. In-park concessionaire lodging continues its

slow downward trajectory (3.3 million) from its peak in the early 1990's (4.1 million). Backcountry camping had a slight uptick to 2 million, but still less than the 2.6 million in the early 1980's, despite having a full 100 more NPS units. Tent campers have a significant uptick over the last decade, reaching 3.6 million in 2015, but still below its peak in the early 1990's of 4.4 million."

At a hearing on legislation to upgrade the National Park System on its Centennial in 2016 McClintock said, "The subcommittee is especially concerned over policies that are actively removing traditional tourist amenities from our national parks," he said.

McClintock singled out a proposed Yosemite National Park management plan of two years ago (McClintock represents the park) that he said would have eliminated bicycle and raft rentals, gift shops, snack bars, horseback riding facilities, swimming pools and an ice skating rink. The park eventually backed off on the removal of many of those facilities.

McClintock also said the Park Service numbers are misleading because of more people and new memorials in Washington, D.C., such as a World War II memorial.

His office said this week, "D.C. monument visits report an increase - from 17 million in 1980 to 39 million in 2015. Over each of the past two years D.C. monument visits have reported growth of 3 million visits each of the last two years."

At the December hearing, ranking House Natural Resources Committee Democrat Raúl M. Grijalva (D-Ariz.) attributed McClintock's visitation problem in part to decreased appropriations from Congress. "One of the glaring omissions is the fact that we're not dealing with the issue of funding and resources," he said. "Given the fact that the Park Service over the last 10 years has lost 62 percent of funding."

He added, "All this is a

contributing factor in the backlog, a visitorship drop, rewriting the concessioner relationship."

As part of the Park Service's announcement on visitation it listed the top 10 most visited park units, in order:

Blue Ridge Parkway - 15,054,603  
Golden Gate National Recreation Area - 14,888,537  
Great Smoky Mountains National Park - 10,712,674  
Lincoln Memorial - 7,941,771  
Lake Mead National Recreation Area - 7,298,465  
George Washington Memorial Parkway - 7,286,463  
Gateway National Recreation Area - 6,392,565  
Natchez Trace Parkway - 5,785,812  
Vietnam Veterans Memorial - 5,597,077  
Grand Canyon National Park - 5,520,736

The 10 most-visited national parks were:

Great Smoky Mountains National Park - 10,712,674  
Grand Canyon National Park - 5,520,736  
Rocky Mountain National Park - 4,155,916  
Yosemite National Park - 4,150,217  
Yellowstone National Park - 4,097,710  
Zion National Park - 3,648,846  
Olympic National Park - 3,263,761  
Grand Teton National Park - 3,149,921  
Acadia National Park - 2,811,184  
Glacier National Park - 2,366,056

## **NPS calls for major expansion of its Santa Monica rec area**

The Park Service recommended February 16 that Congress more than double the size of the Santa Monica Mountains National Recreation Area (SMMNRA) to increase recreational opportunities in the Los Angeles area.

In a resource study commissioned by Congress NPS recommended that Congress add 170,000 acres of the Rim of the Valley area to the 153,000-acre SMMNRA.

The Congressman who wrote the legislation requiring the report, Rep.

Adam Schiff (D-Calif.), immediately said he would write legislation to implement the recommendations.

"Now that we have the completed study in hand, we will move forward with the work of crafting legislation to make the park expansion a reality," he said. "I look forward to continuing to consult with the community and stakeholders as we pursue our shared goal of preserving the natural resources in our area for generations to come."

The Park Service, Schiff and others argue that the Los Angeles area is underserved in recreation opportunities. Thus, NPS told Congress in a letter submitting its report, "The selected alternative offers the potential for increasing the availability of recreational opportunities for a broad range of urban audiences, including many who are underrepresented in national parks and underserved by state and local parks."

NPS explained its role in an expanded SMMNRA: "Approximately 42 percent of the boundary adjustment area is currently protected by other land management agencies and organizations for conservation, open space, and/or recreational purposes, and the NPS would serve as a catalyst in furthering these efforts."

Although the Forest Service manages hundreds of thousands of acres north of the SMMNRA, the report does not recommend the transfer of any national forest land to the Park Service. Rather, it said the Forest Service would retain management of its land and the two agencies would coordinate the management of their respective properties.

The additions to SMMNRA would come from a 650,000-acre study area in the Los Angeles region of southern California, including the mountains encircling the San Fernando, La Crescenta, Santa Clarita, Simi, and Conejo Valleys.

NPS made a case for protecting the area in a letter to Congress, "Within an expanded management area,

the park would be better able to maintain its habitat values and high biodiversity through connecting wildlife corridors and protecting broader ecosystem resources. There would be potential opportunities for the NPS to reach out to neighborhoods in the City of Los Angeles and other nearby communities, which contain some of the most ethnically diverse and densely populated areas in the United States. A boundary adjustment would be feasible for the park to administer, based on the continuation of the existing collaborative partnership-based management model."

As mentioned, the Forest Service would play an integral role in managing the 650,000-acre area, without ceding land to NPS. In fact on Oct. 10, 2014, President Obama designated a 346,000-acre San Gabriel Mountains National Monument near SMMNRA in the Angeles National Forest. The Forest Service manages that area. Congress authorized NPS to conduct a study of the San Gabriel Watershed that led to the designation.

Explained NPS, "The San Gabriel and the Rim of the Valley Corridor studies were each authorized through separate legislation, at different times and for different geographic areas. There is an overlapping portion of the two study areas in the western San Gabriel Mountains. Because this area was studied through the San Gabriel Watershed and Mountain study, information and final recommendations from that study have been integrated as appropriate into the Rim of the valley Corridor Study."

More information on the Rim of the Valley study is available at: <http://www.nps.gov/pwro/rimofthevalley>.

## **Murkowski, Jewell differ once again on DoI outdoor spending**

Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) and Secretary of Interior Sally Jewell February 23 resumed their old disagreements about the Interior Department's annual budget.

Murkowski criticized Jewell for a fiscal year 2017 budget request that proposes significant increases in park and rec funding without new revenues to pay for the increases.

And at an annual committee hearing on the department's budget, which was submitted February 9, Jewell repeated her arguments that spending on the outdoors is an economic win-win.

Murkowski first: "At a time when energy and commodity prices are low, I expect Interior to be looking for practical ways to make our energy and mining industries more competitive. Yet, based on this budget, it looks like the goal is to drive them away from our federal lands and waters."

But Jewell said outdoor recreation is a moneymaker on its own. "Investments in America's great outdoors create and sustain millions of jobs and spur billions of dollars in national economic activity through outdoor recreation and tourism," she said. "An estimated 423 million recreational visits to Interior lands contributed \$42 billion to the economy and supported about 375,000 jobs nationwide."

The administration's fiscal year 2017 budget request, submitted to Congress February 9, asks for significant investments in the Park Service's 2016 Centennial and in the Land and Water Conservation Fund.

For the Centennial, according to the National Parks Conservation Association (NPCA), the administration recommended an "overall \$250 million, 9 percent increase in appropriated funding for the National Park Service," including a \$155 million increase in Park Service operations.

For the Land and Water Conservation Fund (LWCF) the administration recommended full funding of \$900 million. Half of the \$900 million would come from regular appropriations, or \$475 million, and about half of it would come from new legislation to guarantee money for the program each year without an appropriation, or \$425 million.

To pay for those increases the administration proposed sweeping new levies on commodity users of federal lands - including oil and gas companies, hard rock miners, and ranchers. It is those levies that Murkowski most objected to.

Ranking committee Democrat Maria Cantwell (D-Wash.) defended the budget request. "In my view this is a very responsible proposal," she said. "It balances the funding for the Department of the Interior's often conflicting development and preservation mandates."

For an Interior and Related Agencies appropriations bill the administration actually recommended a \$300 million decrease, from \$13.2 billion in fiscal 2016 to \$12.9 billion in fiscal 2017. But that's deceptive because the budget assumes approximately \$1.1 billion in wildfire costs would be moved out of the Interior bill. So net-net the administration is asking for significantly more money.

For most fiscal years the House and Senate prepare budgets to guide committee spending initiatives. But on February 23 the House Budget Committee reportedly postponed work on a budget because of a difference of opinion on spending between conservative Republicans and moderate Republicans.

**FIRE:** The administration resumed its request of the last two years that Congress shift emergency wildfire costs above the average to disaster spending. The budget asks Congress once again to transfer any costs above 70 percent of emergency costs out of the regular appropriations bill.

Says the fiscal 2017 budget request, "It is a priority of the Administration to ensure adequate funds are available to fight wildland fires, protect communities and human lives, and implement appropriate land management activities to improve the resiliency of the Nation's forests and rangelands. To accomplish this, the Budget again proposes to establish a new budget framework for wildland fire suppression, similar to how other natural disasters are funded."

Congress responded to that request in fiscal 2016 by simply appropriating more money for fighting wildfires.

Three Senate committee chairmen said on the floor January 27 that they were working on a solution to paying for soaring wildfire costs. Senate Budget Committee Chairman Mike Enzi (R-Wyo.), Senate Agriculture Committee Chairman Pat Roberts (R-Kan.) and Murkowski said they intend in 2016 to tackle the problem of exploding emergency wildfire spending.

At the February 23 energy committee hearing Murkowski said, "We have a serious wildfire problem to tackle both in terms of budgeting and actual forest management. I noted in the news yesterday in Alaska that we have our first wild fire in BLM lands outside of Delta. That has been contained, but that is reminder that the season is coming a lot sooner. Our committee is going to dedicate much of March to finding a solution to these twin challenges."

**PILT:** In a fiscal 2016 appropriations law Congress included \$452 million for PILT, decreasing the amount of money available for other programs. In recent years Congress had financed PILT outside of appropriations bills with guaranteed money.

Says the administration budget request, "The 2017 Budget proposes to extend mandatory funding for PILT for one additional year while a sustainable long-term funding solution is developed for the program. The cost of a one-year extension at the current authorized level is estimated to be \$480 million in FY 2017."

**PILT ERRATA:** In the last issue of *FPR* we said that the administration asked Congress to pay for PILT outside the appropriations bill in fiscal 2017. That's incorrect: The administration asked for \$480 million for PILT appropriations in fiscal 2016, but would have Congress pay for it outside the bill from fiscal 2018 onward.

**The numbers:** Here are some of the administration's recommendations

compared to a fiscal 2016 appropriations law (PL 114-113 of Dec. 18, 2015):

**LWCF FEDERAL:** From appropriations, the budget recommends \$257.347 million for the traditional federal land acquisition side of LWCF, compared to a fiscal 2016 appropriation of \$234.2 million. By agency the Bureau of Land Management (BLM) would receive \$44 million compared to \$38.6 million in fiscal 2016; the Fish and Wildlife Service would receive \$58.7 million compared to \$68.5 million; the Park Service would receive \$68 million compared to \$63.7 million; and the Forest Service would receive \$65.7 million compared to \$63.4 million.

**LWCF STATE:** From appropriations, the administration recommended \$110 million, the same as in fiscal 2016.

**PARK SERVICE OPERATIONS:** The administration recommended \$2.524 billion, compared to a fiscal 2016 appropriation of \$2.396 billion.

**PARK SERVICE CONSTRUCTION:** The administration recommended \$252 million, compared to a fiscal 2016 appropriation of \$192.5 million.

**PARK SERVICE HISTORIC PRESERVATION:** The administration recommended \$87.4 million, compared to a fiscal 2016 appropriation of \$65.4 million.

**PARK SERVICE RECREATION AND PRESERVATION:** The administration recommended \$54.4 million, compared to a fiscal 2016 appropriation of \$62.6 million.

**PARK SERVICE HERITAGE GRANTS:** The administration recommended \$8.5 million, compared to a fiscal 2016 appropriation of \$19.8 million.

**STATE WILDLIFE CONSERVATION GRANTS:** The administration recommended \$67 million, compared to a fiscal 2016 appropriation of \$60.6 million.

**NATIONAL FOREST SYSTEM:** The administration recommended \$1.501 billion, compared to a fiscal 2016 appropriation of \$1.509 billion.

NATIONAL FOREST RECREATION: The administration recommended \$263.9 million, compared to a fiscal 2016 appropriation of \$261.7 million.

NATIONAL FOREST TRAILS: The administration recommended \$78.5 million, compared to a fiscal 2016 appropriation of \$77.5 million.

BLM RESOURCE MANAGEMENT: The administration recommended \$1.075 billion, compared to a fiscal 2016 appropriation of \$1.073 billion.

BLM RECREATION MANAGEMENT: The administration recommended \$71.9 million, compared to a fiscal 2016 appropriation of \$69.5 million.

NATIONAL LANDSCAPE CONSERVATION SYSTEM: The administration recommended \$50.7 million compared to a fiscal 2016 appropriation of \$36.9 million.

FWS REFUGE MANAGEMENT: The administration recommended \$506.6 million compared to a fiscal 2016 appropriation of \$481.4 million.

## **Senators lay groundwork for NPS Centennial legislation**

Three senators introduced largely-unremarked legislation this month that contains elements of an Obama administration Park Service Centennial program, including a Challenge Fund.

But the legislation, in the form of amendment (SA 3295, SA 3309) to a comprehensive energy bill (S 2012), does not include the \$500 million per year in authorizations the administration has recommended for Centennial programs.

The amendment, introduced most recently February 23, is expected to serve primarily as a placeholder for a more substantive bill in the pipeline.

One interest group member told us, "The amendment, if passed, would set up the structures and provide some policy changes, but an authorizing bill with funding sources would still need to be enacted to provide a real investment for the parks."

Of importance two of the sponsors of the amendment are Republicans - Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) and Sen. Robert Portman (R-Ohio). That gives any future bill crucial Republican support in the Senate and beyond. Sen. Maria Cantwell (D-Wash.) is the third sponsor.

The future of the amendment is cloudy. S 2012 is stalled on the Senate floor because of a controversy over Flint water quality. Although Murkowski argues that the bill is not the place to fight the Flint war, Democrats are demanding action now.

Besides, the Park Service Centennial is not exactly germane to the energy policy bill, although the measure coming out of committee would also reauthorize the Land and Water Conservation and establish a \$150 million per year Park Service maintenance program.

The 2016 Park Service Centennial of course has already begun. To spruce up the system the Obama administration requested from Congress new authorization for various programs of \$500 million plus increased appropriations of \$326.3 million. Appropriators gave the administration about one-third of that increase in a fiscal year 2016 spending law (PL 114-113 of December 18).

House and Senate committees in 2015 laid the groundwork for the authorizing legislation - a Centennial Challenge Fund, Second Century Infrastructure Investment and a competitive Public Lands Centennial Fund. However, no legislation has begun to move in committee, although House Natural Resources Committee Chairman Rob Bishop (R-Utah) did introduce a stripped-down discussion draft bill late last year.

Ranking House Natural Resources Committee Democrat Grijalva Raúl M. Grijalva (D-Ariz.) and ranking Senate Energy Committee Democrat Cantwell have introduced the Park Service's recommendations as legislation (HR 3556, S 2257).



Cantwell said February 23 at a Senate Energy Committee hearing on the Interior Department's fiscal year 2016 budget, "I support our efforts to get legislation and was happy to introduce the initiative by the administration. But, having said that, we need to work together - Sens. Murkowski Portman and others - on a National Park Service bipartisan effort to make sure the national parks' next 100 years are well positioned. So I know this is a big challenge in supporting new dollars."

Murkowski took issue with the administration's price tag for the Centennial, but said at the hearing she was willing to help. "I have said the Administration's proposal is unrealistic at \$1.5 billion in mandatory spending, but I do think there is no better time to put the Park Service on a path to long-term viability than its 100th birthday. This is an opportunity for us to figure out how we can work through the backlog, so that we have a park system that we can all be proud of. That would be a legacy for us all," she said.

As introduced by Grijalva and Cantwell the administration measure would approve an additional \$500 million per year in new legislative authority, broken down into \$100 million for the new Centennial Challenge Fund, \$300 million for deferred maintenance in a new Second Century Infrastructure Investment and \$100 million for a new competitive Public Lands Centennial Fund.

Money in the last category would be available for other Interior Department land management agencies, as well as the Forest Service.

On Nov. 30, 2015, Bishop published a draft bill (unnumbered) that is a streamlined version of the administration's recommendation. It does include a Centennial Challenge Fund but would not establish a federal match, relying strictly on donations.

The bill also would establish an endowment for the Park Service using donations and an increase in lodging fees of less than five percent. Again the amount of money to be contained in the endowment is open-ended.

Other titles in the bill would include a (1) catch-all interpretation and education program that would work with park partners, (2) an intellectual property program that would allow NPS to sell the rights to reproductions of museum objects and (3) a \$25 million, one-to-one matching program for the National Park Foundation.

The Senate amendment from Cantwell, Portman and Murkowski includes elements of both the administration and Bishop recommendations, including a Centennial Challenge Fund, an endowment for the parks, revisions to intellectual property laws, and an expanded education and interpretation program. Altogether the Senate amendment would put up \$25 million for the legislation.

One key element of most bills would authorize the National Park Foundation to play a major role in raising money from nonfederal sources for the Centennial.

On that note philanthropist David Rubenstein announced February 15 that he would donate \$18.5 million to the National Park Foundation to restore the Lincoln Memorial. In addition to cleaning up the memorial, the money would be used to construct 15,000 square feet of education and research areas under Lincoln's statue.

Rubenstein had previously contributed \$7.5 million in 2012 to restore the Washington Monument after the earthquake in 2011, \$12.35 million to restore the Robert E. Lee Memorial in 2014, and \$5.37 million to refurbish the U.S. Marine Corps War Memorial in 2015.

## **Sides taken in Senate debate on long-term LWCF future**

Private property rights advocates are fighting back against an attempt in the Senate to make the Land and Water Conservation Fund (LWCF) permanent.

An omnibus energy bill (S 2012) now on the Senate floor contains a provision that would extend the program without a sunset date and revise spending priorities within the program.

Congress would still need to appropriate the money each year.

But the American Land Rights Association (ALRA) advised its members last week to ask their senators to oppose the LWCF provision. "Call both your Senators to oppose reauthorization of the Land and Water Conservation Fund (LWCF) as a permanent Trust Fund," ALRA aid in a bulletin. "Any reauthorization should be limited to seven years. There must be no permanent Trust Fund."

The association is primarily concerned about federal land acquisition by the Park Service, the Forest Service, and the Fish and Wildlife Service, particularly NPS.

"The Park Service alone has purchased the homes, farms and land of over 100,000 landowners, many under the threat of condemnation," said ALRA. "The LWCF is the enemy of rural America, ranching, farming and private land ownership."

On the other side of the fence Secretary of Interior Sally Jewell February 23 strongly defended LWCF at a Senate Energy Committee hearing on the Interior Department's fiscal year 2017 budget request. "These investments will conserve public lands in or near national parks, refuges, forests and other public lands, and provide grants to States for close-to-home recreation and conservation projects on non-Federal lands," she said.

The administration budget asks full funding of LWCF of \$900 million. Under the recommendation about half of the \$900 million would come from regular appropriations, or \$475 million, and about half of it would come from new legislation to guarantee money for the program each year without an appropriation, or \$425 million. For the following fiscal year and beyond the administration would have all money guaranteed outside an appropriations bill.

Congress extended LWCF for three fiscal years in a fiscal 2016 appropriations law (PL 113-114 of Dec. 18, 2015) through fiscal 2018.

The Senate energy bill is temporarily stalled on the Senate floor because of a controversy over water quality in Flint, Mich. However, Senate Majority Leader Mitch McConnell (R-Ky.) and Senate Energy Committee Chairman and chief bill sponsor Lisa Murkowski (R-Alaska) earlier this month said they had not given up on moving the legislation. Murkowski suggested moving the Flint crisis out of the bill, but Democrats don't want to do that because the energy bill is a must-pass measure.

At the energy committee's Interior Department budget hearing chairman Lisa Murkowski (R-Alaska) said the administration failed to say how it would pay the \$900 million per year freight for LWCF.

"(T)he Department is proposing full funding for the Land and Water Conservation Fund without any offset and without reforms," she said. "This is fiscally irresponsible, especially at a time when the Department should be focused on taking better care of the lands it already controls. I think we will have an opportunity to speak more to this later, but when we recognize the substantial backlog in the federal government, it sort of begs the question why we need to acquire additional lands."

But ranking committee Democrat Maria Cantwell (R-Wash.) endorsed the administration's proposal. "I want to make sure we get a permanent reauthorization of LWCF and full dedicated funding," she said.

On the other side of the Hill, House Natural Resources Committee Chairman Rob Bishop (R-Utah) late last year produced a draft LWCF bill that would extend the program just for seven years, as ALRA suggested. Bishop would also allocate just 3.5 percent of annual LWCF money to federal land acquisition.

The LWCF provision in the Senate energy bill would make LWCF permanent while subject to annual appropriations. It would allot 40 percent of the total LWCF appropriation per year for federal land acquisition and at least 1.5 percent per year (or more than \$10

million) for access to federal land for recreational purposes. It would also require expenditure of at least 40 percent of annual LWCF appropriations for a combination of state LWCF grants, Forest Legacy grants, endangered species grants and an American Battlefield Protection Program.

If the energy bill does shake loose, two major Republican-sponsored amendments to LWCF are waiting in line on the Senate floor that would revise program priorities. One amendment would give more emphasis to state grants than to federal acquisition and the other would require Congressional approval of any federal acquisition costing more than \$50,000 per acre.

In one Senate floor amendment (SA 3032) Sen. John Barrasso (R-Wyo.) would rejigger the formula by directing appropriators to allot 60 percent of LWCF money each year to states and 40 percent to federal land buys. He has introduced that legislation as a stand-alone bill (S 2318). Barrasso would extend LWCF through fiscal year 2028.

In the other Senate floor amendment (SA 3210) Sen. James Lankford (R-Okla.) would require Congressional approval of any federal land acquisition costing more than \$50,000 per acre. And he would have NPS give more emphasis to federal land management agency maintenance. Lankford would not extend LWCF's authorization.

A half-dozen LWCF reauthorization bills have been introduced in the House and Senate, most straight-up permanent extensions. In the Senate they include S 338 from Sen. Richard Burr (R-N.C.), S 890 from Sen. Maria Cantwell (D-Wash.), S 1925 from Sen. Martin Heinrich (D-N.M.) and S 2165 from Cantwell.

The House has not been as active as the Senate. Two bills to reauthorize LWCF have been introduced, one from ranking House Natural Resources Committee Democrat Raúl M. Grijalva (D-Ariz.), HR 1814, and one from Rep. Mike Simpson (R-Idaho), HR 4151. And in mid-November Bishop introduced his discussion draft bill. Bishop's committee held a hearing on his bill and

the others on Nov. 18, 2015.

**THE NUMBERS:** Here are the administration's LWCF recommendations for fiscal 2017, compared to a fiscal 2016 appropriations law (PL 114-113 of Dec. 18, 2015):

**LWCF FEDERAL:** From appropriations, the budget recommends \$257.347 million for the traditional federal land acquisition side of LWCF, compared to a fiscal 2016 appropriation of \$234.2 million. By agency the Bureau of Land Management (BLM) would receive \$44 million compared to \$38.6 million in fiscal 2016; the Fish and Wildlife Service would receive \$58.7 million compared to \$68.5 million; the Park Service would receive \$68 million compared to \$63.7 million; and the Forest Service would receive \$65.7 million compared to \$63.4 million.

**LWCF STATE:** The administration recommended \$110 million, the same as in fiscal 2016.

## **Appropriators see budget problems from wildfire costs**

House appropriators focused first and foremost on financing wildfire suppression in a hearing on the Forest Service's fiscal year 2017 budget request. The costs of wildfire have hamstrung appropriators in recent years.

Subcommittee on Interior and Related Agencies Chairman Ken Calvert (R-Calif.) welcomed an administration recommendation that fire-fighting costs be shifted out of annual appropriations bills. The administration would have some emergency costs transferred to disaster assistance.

But Calvert didn't commit to action on the recommendation. He did single out Rep. Mike Simpson (R-Idaho) for thanks. Simpson has introduced the administration proposal in bill form (HR 167). Calvert said he wanted to "thank Congressman Simpson for keeping the pressure on Congress to press the issue."

Ranking subcommittee Democrat

Betty McCollum (D-Minn.) praised the administration/Simpson initiative. "President Obama's budget gives us a way forward in how we fund wildfire costs," she said. "I support that proposal."

McCollum warned of dire consequences for other programs if Congress continues to pay emergency wildfire expenses out of annual appropriations bills. "Experts predict that if we don't take action to address this problem, wildfire spending will exceed 67 percent of the Forest Service budget by 2025," she said. "This imbalance would translate to a nearly \$700 million reduction to nonfire programs."

Recreation is in the cross hairs, not just from fire borrowing each year from recreation management, but also the total amount of money appropriators have available for programs other than wildfire.

Forest Service Chief Tom Tidwell naturally endorsed the administration wildfire transfer proposal. "We are all aware that FLAME (a special extra wildfire appropriation) is not the answer," he said. "We have to find another way of moving past this. We understand the issues. We have to find an alternative to the 10-year average costs. We have to find a way so that we never have to deal with transferring funds, shutting down operations, putting people out of work every year."

While the subcommittee leaders and Tidwell concentrated on wildfire, the chief did emphasize the economic benefits of outdoor recreation. A recreation, heritage and wilderness line item, he said, "will modernize our recreation special uses program, expand access to the National Forest System, and increase the capacity of our community service and volunteer programs. These programs add more than \$13 billion to the gross domestic product and sustain about 190,000 full- and part-time jobs."

The source of money for wildfire suppression is crucial for the Interior and Related Agencies spending bill because it now eats up \$4 billion of a \$13 billion bill. Transferring top-end

emergency costs to disaster spending could produce as much as \$1 billion extra for the bill.

Here are some of the administration's Forest Service budget requests for fiscal 2017:

**NATIONAL FOREST SYSTEM:** The administration recommended \$1.501 billion, compared to a fiscal 2016 appropriation of \$1.509 billion.

**NATIONAL FOREST RECREATION:** The administration recommended \$263.9 million, compared to a fiscal 2016 appropriation of \$261.7 million.

**NATIONAL FOREST TRAILS:** The administration recommended \$78.5 million, compared to a fiscal 2016 appropriation of \$77.5 million.

**WILDFIRE FOREST SERVICE:** For a wildfire appropriation the recommendation is \$2.451 billion, compared to a fiscal 2016 appropriation of \$2.386 billion. For a transfer to a Suppression Cap Adjustment the recommendation is \$864 million, compared to a fiscal 2016 FLAME appropriation of \$823 million.

**WILDFIRE INTERIOR:** For a wildfire appropriation the recommendation is \$824.6 million, compared to a fiscal 2016 appropriation of \$817 million. For a transfer to a Suppression Cap Adjustment the recommendation is \$276.3 million, compared to a fiscal 2016 FLAME appropriation of \$177 million.

So the totals for wildfire appropriations are a recommendation of \$3.276 billion (\$3.203 billion in fiscal 2016) and from disaster spending a recommendation of \$1.140 billion (\$1 billion for FLAME in fiscal 2016).

## **Malheur occupation over; Walden faults land managers**

Although the takeover of the Malheur Wildlife Refuge in Oregon ended peacefully February 11, the underlying tensions over federal land management have not eased.

Rep. Greg Walden (R-Ore.), who

represents the area, continues to paint the bad guys as federal land managers. And the neighboring Congressman, Rep. Peter DeFazio (D-Ore.), paints anti-government protestors as the bad guys.

Walden said at the conclusion of the standoff, "I will continue working to solve the underlying issues that have caused so much frustration in rural communities. We need meaningful changes to federal forest and land management policies, and we need to foster a more cooperative spirit between the federal agencies and the people who call areas like Harney County home."

DeFazio wrote Secretary of Interior Sally Jewell and Attorney General Loretta Lynch to urge a crackdown on anti-government protestors. "As you know, the situation in Oregon did not happen in isolation," DeFazio and eight other House members wrote late last month. "To this day, federal employees and local communities at the site of the related standoff in Nevada continue to face violent intimidation tactics, preventing critical law enforcement and restoration work from moving forward. We look forward to discussing with you how we can ensure that Americans' access to public land is not disrupted by armed groups in the future."

The occupation of the Malheur refuge ended February 11 almost six weeks after it began on January 2, when the last four protestors surrendered peacefully. However, before it ended one of the leaders, Arizona rancher Robert "LaVoy" Finicum, was shot dead January 26 in a traffic stop.

Several other people were arrested, including the putative leader of the occupation, Ammon Bundy.

Separately on February 11 the FBI arrested Cliven Bundy, Ammon Bundy's father and a Nevada rancher. He is often described as a national leader of critics of BLM and Forest Service land managers. The FBI charged him with leading an armed protest two years ago when BLM attempted to move him off his public lands grazing permit. The feds say Cliven Bundy owes more than

\$1.1 million in fees and penalties for illegally grazing on public land. He is in the same jail as his son.

Environmentalists have charged repeatedly that a Justice Department and BLM failure to arrest Cliven Bundy and his fellow protestors two years ago have led to repeated protests around the West.

"Rather than abating conflict, the federal hands-off approach has backfired and enables the Bundy clan to franchise a 'Militia McDonalds,'" said Public Employees for Environmental Responsibility Executive Director Jeff Ruch. "In Nevada, federal authorities have ceded a 200-square mile militarized zone on national park and range lands as a staging ground for further operations to challenge the legitimacy of public ownership."

Secretary of Interior Sally Jewell said February 23 at a Senate Energy Committee hearing on the fiscal 2017 department budget that the department is trying to follow through. "We are continuing to cooperate with the Department of Justice, the FBI and others as the investigation moves forward," she said. "We remain committed to working with local communities on the management of public land."

The takeover caused the department serious problems, she said. "It was an incredibly disruptive and distressing time for our employees, their families and the Harney County community. I'm proud of our Department of Interior law enforcement personnel who supported the response and helped keep our employees safe," said Jewell.

The Center for Biological Diversity says the greater threat is a national campaign to transfer federal lands to state and local control. "Guns are not the only threat though - or even the biggest," said the center's executive director Kieran Suckling. "Armed with Koch brothers' money, right-wing politicians are pushing the Bundy land grab agenda in state legislatures and in Congress. They are pushing harder now than I've ever seen to

privatize America's public lands, to turn them over to mining, logging and ranching corporations."

The State of Utah is leading the land transfer movement. State government officials last month began discussing the possibility of a \$14 million lawsuit to support a state demand for the transfer of most federal lands in Utah to the state.

Speaker of the House Greg Hughes (R-Utah) reportedly told the Utah House Caucus the state must make a decision on litigation to support its landmark law demanding the transfer of more than 31 million acres of federal land.

On March 23, 2012, Gov. Gary Herbert (R-Utah) signed the Transfer of Public Lands Act, HB 148. Although the law said the transfers were to begin on Jan. 1, 2015, none have taken place yet. Thus, Hughes and company are anxious to make a decision on whether or not to file a lawsuit to force the transfers.

The U.S. House and Senate are on record favoring a devolution of federal lands across the West, although that's a political nonstarter. In March 2015 both the House and Senate adopted positions endorsing the disposal of federal lands to state and local governments.

They acted in the passage of fiscal year 2016 Congressional budgets that the House approved March 25, 2015, (H Con Res 27) and the Senate approved March 27, 2015, (S Con Res 11). Those positions are advisory to line committees that would still have to move additional legislation to actually authorize any land transfers.

The Malheur occupation began in protest of the jailing of public lands rancher Dwight Hammond and his son Steven Hammond, who were sent to prison January 4 by the Ninth U.S. Circuit Court of Appeals for two fires they admittedly set that burned public lands in 2001 and 2006.

The Malheur protestors contend the treatment of the Hammonds is typical of abusive treatment meted out by the Obama

administration to public lands ranchers across the West. And they say Congress should dispose of much of the federal estate in the West.

In the legal issue at hand Congress mandates a five-year prison sentence for anyone convicted of arson on the public lands. However, U.S. District Court Judge Michael R. Hogan had held that in this case the Eighth Amendment to the U.S. Constitution prohibiting cruel and unusual punishment overrides that mandate. He then sent Hammond junior to prison for 12 months and a day and Hammond senior to prison for three months. But the appeals court said federal law requires a maximum sentence.

## Notes

**Sportsmen's vote in House?** The House began debate yesterday (February 25) on a controversial, omnibus sportsmen's bill (HR 2406). The measure, introduced by Rep. Rob Wittman (R-Va.), contains both widely-supported public lands hunting and fishing access provisions as well as more divisive provisions on lead ammunition and gun rights. The House Natural Resources Committee approved the bill Oct. 8, 2015, by a vote of 21-to-15. The measure includes provisions that would declare BLM and Forest Service lands open to hunting and fishing and recreation unless specifically closed; reauthorize the Federal Land Transaction Facilitation Act; encourage the expansion of target ranges on BLM and Forest Service land; expand the right to bear arm on federal lands in several ways; bar the regulation of lead in ammunition; and increase opportunities for film crew permits in the national parks and on public lands. The measure does not include a popular provision to allocate 1.5 percent of LWCF money to expand access to public lands for hunting and fishing. In the Senate the Senate Energy Committee and the Senate Environment and Public Works Committee have approved counterpart bills, setting the stage for floor action on a combined bill. The energy committee approved its bill (S 556) Nov. 19, 2015 and the environment committee approved its bill (S 659) January 20.

**NPS cell tower battle resumes.**

That old conflict between improved cell phone service in the national parks and preservation of natural quiet in the parks continues unabated. And it is creating conflict between old allies. The environmental group Public Employees for Environmental Responsibility (PEER) is taking issue with a request of five liberal Democrats, normally allies of environmental groups, for significantly more cell phone service in the National Park System. The House members wrote President Obama January 27 and asked for more money for installing cell phone service. They argued, "Furthermore, improved connectivity will help to make our parks accessible and engaging to changing park visitor demographics. It will also support the Park Service's long-term goals of improving public safety, providing greater interpretive services, and meeting the needs of the visiting public." The five include ranking House Natural Resources Committee Democrat Raul Grijalva (D-Ariz.) But PEER Executive Director Jeff Ruch said, "National parks are under no legal obligation to provide visitors with commercial cell or broadband service - in fact, just the opposite when to do so requires sacrificing park values and resources. In this the National Park Service's centennial year, a conversation about the role technology should play inside nature's cathedrals is long overdue." More recently PEER objected to the proposed construction of a cell phone tower in Theodore Roosevelt National in North Dakota. PEER wrote the park February 18 in response to an environmental assessment of a proposed Verizon tower, "Expanding cell coverage to the North Unit of TRNP, which is mostly designated wilderness, is a direct and significant sacrifice of the park's natural soundscape that would then be interrupted by the incessant chirping of electronic devices and loud phone conversations in areas otherwise safe for quiet reflection."

**SUWA takes exception to RS 2477 bill.** The Southern Utah Wilderness Alliance (SUWA) vigorously objected February 19 to a new bill (HR 4313) to change standards of proof for RS 2477 rights-of-way. SUWA said the bill

from Rep. Paul Cook (R-Calif.) "would greatly loosen the standard of evidence for such claims, making it so that the simple filing of certain materials - many of which are irrelevant, outdated, and questionable given their age - and a sworn statement confirming their authenticity would be sufficient evidence to seize tens of thousands of rights-of-way across the American West." But Cook said on introducing his bill in late January, "This bill is about empowering local counties and gives the Bureau of Land Management clear administrative responsibility when it comes to confirming rights-of-ways on our public lands. We must continue to keep public access available on public lands." Cook's goal is to clarify the proof needed for a state or local government to prove local use of ancient rights-of-way across federal lands. The State of Utah has entered claims in federal court for thousands of such RS 2477 rights-of-way. Said SUWA, "Many of these run directly through national parks, national monuments, designated wilderness, and wilderness study areas." Former Secretary of Interior Bruce Babbitt attempted to establish tough standards of proof for RS 2477 ROWs in the mid-1990s that included evidence of "construction" on a road. Congress in a fiscal year 1997 appropriations bill cancelled that rule and said no new standards may be set until Congress directs it. Now Cook is trying to set those standards. As SUWA noted, the bill among other things would have BLM accept sworn statements as proof of road use and construction.

**Senate considers new WRDA.** A Senate committee earlier this month began exploring the possibility of developing a new Water Resources Development Act (WRDA) this year. Past WRDA bills have been vehicles for the approval of billions of dollars in Everglades Restoration projects. Even before the Senate Environment and Public Works (EPW) Committee held a hearing on the advisability of a bill February 10, Sen. Bill Nelson (D-Fla.) had introduced legislation (S 2481) to authorize a new project for the Everglades Restoration effort. His measure would divert polluted water from Lake Okeechobee. Nelson said he wanted the Senate to

move his bill to authorize a Central Everglades Planning Project now before a WRDA bill is put together. "We just can't wait that long," said Nelson, according to a transcript of his speech provided by his office. "There's too much at stake, and this is why we want to get these all bundled up so the Army Corps of Engineers can proceed." His bill would also authorize any other Everglades Restoration projects that the Corps clears in the next five years. Currently, the Corps, the State of Florida, the Fish and Wildlife Service, the Park Service, Indian tribes and local governments are working on a \$7.8 billion - and counting - Comprehensive Everglades Restoration Plan (CERP) to restore the Everglades over the next 30 years. Various projects in CERP have been approved by various WRDA laws. Several projects, such as the one Nelson mentioned, are in line for future approval by Congress.

**Berryessa transfer bill in.** Rep. Mike Thompson (D-Calif.) reintroduced earlier this month his legislation (HR 4521) to transfer the management of the largest lake in northern California to the Bureau of Land Management (BLM). With a sizeable 150 bipartisan cosponsors the bill would remove the lake in Napa County from the management of the Bureau of Reclamation (BOR). Thompson argues that BLM is more suited than BOR to managing the reservoir, which provides water and hydroelectric power to the San Francisco Bay area. "BOR shouldn't be responsible for recreation at the lake because BOR doesn't do recreation, BLM does," he said on introducing the bill. More to the point the man-made lake - 23 miles long and three miles wide - is also a recreation magnet for the area.

**CRP registration deadline passes.** The deadline for submittal of applications for inclusion of private land in the Conservation Reserve Program (CRP) ended today (February 26). Congress capped the number of acres that can be included in the CRP at 24 million. With 23.6 million acres now enrolled and 1.6 million acres set to expire this year, the Department of Agriculture said the competition among applicants is expected to be intense.

The department said applications will be ranked according to environmental benefits. Under the program the federal government pays farmers and others not to develop their land. The protected land then provides improved water quality, wildlife habitat and other benefits. More information at [www.fsa.usda.gov/CRPis30](http://www.fsa.usda.gov/CRPis30).

## Conference Calendar

### MARCH

6-10. **Association of Partners for Public Lands 2015 Partnership Convention & Trade Show** in Spokane, Wash. Contact: Association of Partners for Public Lands, 2401 Blueridge Ave, Suite 303, Wheaton, MD 20902. (301) 946-9475. <http://www.appl.org>.

13-18. **North American Wildlife & Natural Resources Conference** in Pittsburgh, Pa. Contact: Wildlife Management Institute, 1146 19th Street, NW, Suite 700, Washington, DC 20036. (202) 371-1808. <http://www.wildlifemanagementinstitute.org>.

### APRIL

5-9. **American Alliance for Health, Physical Education, Recreation and Dance National Convention & Expo** in Minneapolis, Minn. Contact: AAHPERD, 1900 Association Drive, Reston, VA 20191 (703) 476-3400. <http://www.aahperd.org>.

6-10. **Society for American Archaeology Annual Meeting** in Orlando, Fla. Contact: Society for American Archaeology, 900 2nd St., N.E., Suite 12, Washington, DC 20002-3557. (202) 789-8200. <http://www.saa.org>.

25-27. **National Hydropower Association Annual Conference** in Washington, D.C., Contact: National Hydropower Association, 25 Massachusetts Ave., N.W., Suite 450, Washington, DC 20001. (202) 682-1700. <http://www.hydro.org>.

### MAY

16-20. **National Outdoor Recreation Conference** in Boise, Idaho. Contact: The Society of Outdoor Recreation Professionals, P.O. Box 221, Marienville, PA 16239. (814) 927-8212. <http://www.recpro.org>