GOP would oust federal lands, transfer monuments power

The Republican Party approved a platform July 18 that recommends a major overhaul of three significant federal programs affecting national parks and outdoor recreation.

Perhaps most important the platform calls for the transfer of “certain” federal land to states. That follows the recommendation of the State of Utah and many western Republicans that the federal government give up tens of millions of acres to the states.

“Congress shall immediately pass universal legislation providing for a timely and orderly mechanism requiring the federal government to convey certain federally controlled public lands to states,” says the platform. “We call upon all national and state leaders and representatives to exert their utmost power and influence to urge the transfer of those lands, identified in the review process, to all willing states for the benefit of the states and the nation as a whole.”

The caveat here may be the word “certain” in the platform. But the broader platform makes clear that Republicans are considering wholesale transfers, not just the relatively few lands cleared for disposal by land management plans prepared by the Forest Service and the Bureau of Land Management. Says the platform, “It is absurd to think that all that acreage must remain under the absentee ownership or management of official Washington.”

The Republican Party Platform has received relatively little attention because the Republican Presidential nominee Donald Trump tends to forge his own policies. The Party confirmed Trump’s nomination July 19.
In a second outdoor-related recommenda-
tion the platform would eliminate a President’s authority to unilaterally designate national monuments on federal land under the Antiquities Act of 1906. The Republicans would require Congressional approval of national monuments.

“We support amending the Antiqui-
ties Act of 1906 to establish Congress’ right to approve the designation of na-
tional monuments and to further require the approval of the state where a na-
tional monument is designated or a na-
tional park is proposed,” says the plat-
form.

Finally, the GOP would exclude most programs dealing with recreation and historic preservation from funding via the Highway Trust Fund. Under existing law Congress allocates more than $800 million per year from the Highway Trust Fund to park and rec programs from a Transportation Alternatives Program.

“More than a quarter of the Fund’s spending is diverted from its original purpose,” say the Republicans. “One-fifth of its funds are spent on mass transit, an inherently local affair that serves only a small portion of the popula-
tion, concentrated in six big cities. Additional funds are used for bike-
share programs, sidewalks, recreational trails, landscaping, and historical ren-
ovations. Other beneficiaries of highway money are ferry boats, the federal lands access program, scenic byways, and edu-
cation initiatives. These worthwhile enterprises should be funded through other sources.”

An alliance of hunters and fisher-
men criticized the GOP’s state-transfer initiative. “This decision fails to up-
hold the interests and values of Ameri-
can citizens and, if implemented, would have severe negative repercussions for our cherished landscapes, the fish and wildlife that inhabit them, and the outdoor opportunities enjoyed by millions,” said Backcountry Hunters & Anglers President Land Tawney.

Utah is leading the western cam-
paign to move federal lands to states. In exhibit one, Utah Gov. Gary Herbert (R-Utah) signed into state law March 23, 2012 a Transfer of Public Lands Act, HB 148. It demands the transfer of most federal land in the state, about 31 million acres, excepting only national parks (save for portions of Glen Can-
yon National Recreation Area), national monuments and wilderness areas.

The Democratic Party will hold its convention next week and are expected to choose former Sen. Hillary Clinton (D-
N.Y.) as their Presidential candidate. A draft of the Democratic platform con-
trasts sharply with the Republican platform on retention of federal lands.

The Democrats say, “As a nation, we need policies and investments that will keep America’s public lands public, strengthen protections for our natural and cultural resources, increase access to parks and public lands for all Ameri-
cans, protect species and wildlife, and harness the immense economic and social potential of our public lands and wa-
ters.”

The Republican platform, as ap-
proved by the convention July 18 is available at: https://www.gop.com/the-
2016-republican-party-platform/. The draft Democratic platform is available at: https://www.demconvention.com/plat-
form/.

Shake-up at top of NPS as PEER keeps up criticism

Big changes are in the works at the top of the Park Service. Director Jon Jarvis, a political appointee, will retire in January. More surprising, Deputy Director for Operations Peggy O’Dell is stepping down this month.

Notice: Publishing Schedule Change

Dear Subscriber:

We are taking a break in our publish-
ing schedule during the annual Con-
gressional summer recess. The next is-
ssue of Federal Parks & Recreation will be published on August 19. All offices will be open throughout August. We will resume a regular biweekly publishing schedule in late August.
That is according to a summary of a July 11 meeting of the NPS Leadership Council, released by the environmental group Public Employees for Environmental Responsibility (PEER).

According to the leadership council summary, Michael Reynolds, currently associate director for workforce for NPS, will replace O’Dell. He will also serve as director during the transition to the next administration.

A spokesman for the Park Service confirmed the personnel changes involving Jarvis, O’Dell and Reynolds.

PEER, which has been directing a drumbeat of criticism at the Park Service’s leadership in the Centennial, suggested that Jarvis should go now and not O’Dell. PEER noted several sexual intimidation scandals that had broken out on Jarvis’s watch.

Said PEER Executive Director Jeff Ruch, “Ousting your top female executive while keeping or promoting the responsible senior males does not bode well for improving the Park Service’s gender culture. Until these serious personnel knots are unraveled it may be imprudent to elevate the official who has been in charge of workplace ‘inclusion.’” Ruch said no reason was given for O’Dell’s departure.

As we have reported the Interior Department Inspector General has reported recently on sexual harassment charges in Grand Canyon National Park and Canaveral National Seashore.

In addition the Inspector General said Jarvis wrote a book last year about the parks without prior approval of the Interior Department ethics office.

Meanwhile, as visitors turn out in the millions for the National Park Service Centennial, PEER has repeatedly attacked agency management. Last week PEER said individual parks are supposed to have a ceiling on visitors, called a carrying capacity. Yet, said PEER, a survey it conducted of 108 park units showed that only seven had carrying capacities. And of those seven only one had a unit-wide ceiling.

“Contrary to the clear dictates of law and official policy, the Park Service appears to be evolving to the position that there can never be too many visitors – a position with which many visitors in long lines would disagree,” said Ruch.

PEER said it checked the carrying capacities of 59 parks, 19 preserves, two reserves, 18 National Recreation Areas and 10 National Seashores in the 411-unit system.

PEER said that its survey showed that Yosemite National Park was the only unit with a carrying capacity for wilderness. And it said that Grand Canyon National Park once had caps on visitors to certain areas, but they had expired.

A quick check of three national park units through June showed significant visitation increases thus far this year compared to 2015, and 2015 was a record year. Yellowstone National Park was up about seven percent, Grand Canyon National Park 13 percent and Acadia National Park 20 percent, for example.

PEER has another criticism of the parks. On June 30 it said its survey of the 108 sites found that more than half of major units are operating without management plans or under dated management plans.

PEER said a 1978 law directs each park to renew its general management plan within 20 years. Of course most national parks right now are tied up with the Centennial. Besides, it requires a lot of time and money to write general management plans.

Still, PEER’s Ruch said parks need a rudder. “Twenty years is a long time for large parks to drift without any game plan,” he said. “Without long-term priorities, no wonder that the Park Service maintenance backlog has ballooned out of control.”

PEER has posted a summary of the carrying capacity status of the 10 most visited national park units at: http://www.peer.org/assets/docs/nps/7.14.16 Ten Mos Visited Parks CC status.pdf.
The Park Service visitation numbers are at: https://irma.nps.gov/Stats/.

Monuments featured in House money bill, pro and con

In approving a fiscal year 2017 Interior and Related Agencies Appropriations bill (HR 5538) last week the House didn’t hold back on riders.

In addition to the three dozen or so amendments already in the bill as it came out of committee, the full House addressed 130 other proposals on the floor.

Of special interest to the outdoors it approved amendments to block limits on motorboat use in Havasu Wildlife Refuge; block an Obama administration ocean policy; prevent designation of a national heritage area in southeastern Colorado; bar the designation of any new ocean national monuments; and forbid the completion of a regulation governing hunting and fishing in national wildlife refuges in Alaska.

The House also rejected an amendment that would have removed from HR 5538 a ban on the designation of national monuments in key counties in eight states; an amendment that would have sunset a portion of the Land and Water Conservation Fund; and an amendment that would require Congress to abide by a law that allows disposal of public lands only if land management plans called for disposal.

Although the House approved HR 5538 by a 231-to-196 margin July 14, Democrats are convinced it is going nowhere as a stand-alone bill. That’s because under Senate rules Republican leaders can’t move a counterpart Senate committee-passed bill (S 3068) to the floor. The Senate committee approved S 3068 June 16. Democrats objected to spending levels in the bill. (See separate article page 8.)

The National Parks Conservation Association said that despite increased appropriations for national parks in HR 5538, Congress should forego bill passage and simply extend a fiscal 2016 spending law.

“We’d be better off with a continuing resolution than this bill, despite the increase in park funding lawmakers secured for our national parks,” said John Garder, director of budget and appropriations for the association. “That is nothing less than a failure for our national parks and for all those who visit them. They deserve better than this.”

House members last week focused in particular on amendments dealing with national monuments, either already in the bill or up for debate. Eventually, they let stand a committee-passed provision that would forbid the designation of any national monument in specific counties in eight states.

Rep. Raúl Grijalva (D-Ariz.) offered an amendment to strike the provision on July 13 but the House defeated it by a 202-225 vote.

Said Rep. Chellie Pingree (D-Me.) in support of the Grijalva proposal, “National monuments bring economic benefits to States, and the use of the Antiquities Act has been an important conservation tool for over a century. For my State of Maine, a national monument would bring new visitors to the area and create jobs, not just in the immediate region, but throughout the State.”

The monuments dispute, long centered in the West, has spread to the East into Pingree’s home state of Maine over a possible North Woods national monument. On May 16 NPS Director Jon Jarvis traveled to the state to promote an 87,500-acre North Woods monument. The land is currently owned by Roxanne Quimby, who has proposed transferring it to the federal government as a down payment on a future Maine Woods National Park.

On the House floor Rep. Paul Gosar (R-Ariz.) criticized both Grijalva and his amendment. “Congressman Grijalva, who represents southwestern Arizona, is seeking to lock up 1.7 million acres in northern Arizona, at the behest
of special interest groups, for the sole purpose of preventing mining, retiring grazing permits, closing roads to OHV users, and preventing forest thinning activities,” said Gosar.

Grijalva on Nov. 3, 2015, introduced legislation (HR 3882) to designate 1.7 million acres of public lands adjacent to Grand Canyon National Park as a national monument. The Grand Canyon National Heritage Monument would include the one million acres of public lands the Obama administration withdrew from mining in January 2012. That withdrawal is good for 20 years; Grijalva would make it permanent.

Separately on the floor, the House approved an amendment from Rep. Lee Zeldin (R-N.Y.) to prevent the designation of national monuments within 200 nautical miles of the coast of the United States.

Zeldin did not mention recreational fishing but he did say, “I introduced this amendment on behalf of all those commercial fishermen, those hardworking commercial fishermen all along the northwest Atlantic concerned that, if this marine monument is enacted by this President, they will be put out of business.”

To which Rep. Niki Tsongas (D-Mass.) said, “Instead of honoring this long bipartisan history of the Antiquities Act that has saved so much for our country, this amendment would foreclose any opportunity for local communities to seek to protect their regions’ most valued marine resources located in Federal waters.”

The old riders: The House and Senate committee approved numerous legislative amendments, some of which follow:

NATIONAL MONUMENTS (House only): The House provision would forbid the designation of any national monument in specific counties in eight states – Arizona, California, Colorado, Nevada, New Mexico, Oregon, Utah and Maine. Grijalva said the ban would apply to 160 million acres.

Said Brat, “The Land and Water Conservation Fund requires property acquired and developed with the LWCF assistance to be retained and used for public outdoor recreation. Any property so acquired and/or developed may not be converted to other uses without approval of the National Park Service, NPS, indefinitely. Federal funding through the LWCF grant shouldn’t let the NPS enforce conditions on the use of State and local lands forever.”

But Brat’s fellow Republican Rep. Mike Simpson (R-Idaho) said the provision is not needed, that appropriators could at any time step in and exempt local land from NPS control.

“I will tell you, if there is a local problem that the gentleman would like to deal with, I know that the committee and the chairman of the committee would be more than willing to work with you to try to address that and try to address the concerns that the local community has because there is a way that, yes, with the agreement of the Federal Government, they can get out of the deals that they have made,” Simpson said.

LWCF: In another floor debate Rep. Dave Brat (R-Va.) unsuccessfully introduced an amendment that would have removed limits on how local governments use land acquired with money from the Land and Water Conservation Fund (LWCF). Brat would allow local governments to use those lands however they saw fit, if the lands were acquired more than 20 years before now. Under existing law local governments must use acquired recreation lands for recreation purposes until or unless the Park Service sets the lands free. The amendment was defeated without a recorded vote.

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FLREA (Both Senate committee and House): The underlying law is scheduled to expire on Sept. 30, 2017. The provision would extend the Federal Lands Recreational Enhancement Act (FLREA) through Sept. 30, 2018. Congress usually extends the law that authorizes entrance and user fees on federal lands a year in advance to give land managers and the public time to gear up for the following recreation season.
EISENHOWER MEMORIAL (Both Senate committee and House): The House and Senate committee would extend a Congressional ban on the spending of construction money on a Dwight D. Eisenhower Memorial on the Washington, D.C., Mall. Republican leaders on the House Natural Resources Committee and some Eisenhower family members object to the design of the proposed memorial.

In addition, the House approved no money for a memorial commission, although, it said, the measure does extend “the authority to build on the present site and requires all construction funding to be appropriated before construction begins.” The Senate committee did approve $1 million for the commission.

ALASKA REFUGE HUNTING REGS (Senate committee – House added on floor): The Senate committee and the House would block regulations proposed by the Fish and Wildlife Service January 8 that would limit the hunting of wolves and bears in national wildlife refuges in Alaska. FWS says it is proposing the rule in reaction to a new State of Alaska policy that opens up refuges to increased predator control.

But Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) said, “This proposed rule is incredibly unsettling to the people of Alaska, as it contains provisions that would close areas currently open to hunting and fishing. It is in direct contradiction to the process and promises laid out within (the Alaska National Interest Lands Conservation Act of 1980), which gives the State of Alaska the authority to manage our preserves, refuges, and parks.”

LEAD RECREATION GEAR (Both Senate committee and House): The provision would ban EPA from banning lead in “ammunition, ammunition components, or fishing tackle.”

WETLANDS (Both Senate committee and House): The Senate committee and the House would forbid EPA from implementing a May 27, 2015, rule that would expand the definition of a wetland subject to a Section 404 permit under the Clean Water Act. EPA and the Corps of Engineers said that the rule would go beyond the existing regulation that only requires a permit for navigable waters. The rule would also require permits for seasonal streams, wetlands near navigable waters and other waters.

That probably doesn’t matter because two federal courts have already blocked implementation of the EPA rule of June 29, 2015. The Sixth U.S. Circuit Court of Appeals stayed the regulation nationwide on Oct. 10, 2015.

That followed up on an Aug. 27, 2015, injunction from Chief U.S. District Court Judge Ralph R. Erickson in North Dakota, that blocked the rule in 13 states, most of them in the West.

WATER RIGHTS (House only): The House would forbid any agency from attempting to transfer water rights to the federal government on renewal of a permit. This is aimed at a Forest Service policy, since retracted, which would have allowed the agency to assert a water claim when a ski resort renewed a permit.

New House amendments: The House took the following actions on the floor last week, in addition to the committee amendments and the monument amendments mentioned above:

LAKE HAVASU MOTORBOATS (House floor): At the urging of Gosar the House approved this amendment that would bar the Fish and Wildlife Service from implementing a proposal to limit motorboat use in Havasu Wildlife Refuge in Arizona. The refuge is home to more boating than any other lake in Arizona, as many as 50,000 boaters in a weekend. The amendment was approved without a formal vote.

OBAMA OCEAN POLICY (House floor): At the urging of Rep. Bradley Byrne (R-Ala.) the House would block implementation of a National Ocean Policy proposed by the Obama administration. House Republicans argue the administration policy would lead to zoning of the ocean and a decrease in recreational fishing opportunities. The vote was 237-to-189.

COLORADO HERITAGE AREA BAN (House floor): At the urging of Rep. Joe Buck
(R-Colo.) the House approved this amendment that would bar the designation of a National Heritage Area in nine counties in southeastern Colorado. “These zones, often known as national heritage areas, are just another backdoor method for the government to impose Federal zoning on private property,” he said. The amendment was approved without a formal vote.

Conservationists have long discussed the possibility of the designation of a Canyons & Plains National Heritage Area in Southeast Colorado.

Bishop’s Utah Lands bill gives nod to Bears Ears

Reps. Rob Bishop (R-Utah) and Jason Chaffetz (R-Utah) July 14 rolled out a massive Public Lands Initiative (HR 5780) that would designate uses for 18 million acres in seven Utah counties. Sen. Mike Lee (R-Utah) is expected to introduce a counterpart bill.

HR 5780 would designate 41 wilderness areas, 11 national conservation areas, 13 special management areas, an 867-acres Jurassic National Monument, and several segments of the Colorado and Dolores Rivers as wild and scenic.

HR 5780 would also designate 1,000 miles of RS 2477 rights-of-way (ROWs), thus transferring ownership to the state or counties that claim them in Uintah, Duchesne, Carbon, Emery, Grand, and San Juan Counties. The counties have filed claims in federal court to the ROWs.

The Utah delegation said the bill would protect 1.4 million acres of the Bears Ears region of southern Utah, which five Indian tribes and environmentalists want designated as a 1.9 million-acre national monument. The protection would come in the form of two national conservation areas totaling 858,000 acres and in a wilderness area.

The delegation told Secretary of Interior Sally Jewell in a letter just before release of the initiative: "Most, if not all, (we) agree that the Bears Ears are deserving of a federal conservation designation. Major disagreements exist on how best to achieve this goal.

The delegation intends to convene a formal hearing during the latter half of August.”

Jewell and Under Secretary of Agriculture Robert Bonnie held a public hearing in Bluff, Utah, July 15 on both Bishop’s areawide proposal and the Native/environmentalists proposal for Bears Ears.

In reaction to the introduction of HR 5780 a spokeswoman for Jewell said the predictable, i.e. that the Interior Department would work with Bishop and Chaffetz.

But the spokeswoman, Jessica Kershaw, warned, “While we look forward to continuing conversations about what successful legislation should look like, the PLI (Public Lands Initiative) must not erode land managers’ authorities to conduct public lands management and we will be looking for provisions that provide real protections for lands and waters that deserve it, as well as opportunities for cooperative management for tribes.”

Separately, Bishop and Chaffetz introduced a second bill, HR 5781, that would forbid designation of any national monument by the Obama administration in the seven counties covered by HR 5780.

The Utah delegation promised to move fast on the legislation. “The House Committee on Natural Resources will hold a markup of the Utah Public Lands Initiative Act during the September work period. . . The markup will provide an opportunity for technical errors to be corrected, amendments to be offered, and language clarified before it goes to the House Floor,” the members told Jewell.

Bishop, chairman of the House Natural Resources Committee, outlined his ambitions in the bill that took three years and some 1,200 meetings to produce:

"The effort of PLI was always to solve problems that have led to acrimony, and to do so by conserving lands worthy of conservation and providing for economic and recreational opportunities
for all Utahns. The status quo does not provide that. It’s not that the federal government is malicious, but when they own one third of America, it is just too much to effectively manage from Washington. Utah is a public lands state. It has always been, and it always will be. The question is how those public lands are managed. That’s where local government has the advantage. PLI takes that premise and builds it to a reality.”

The Southern Utah Wilderness Alliance offered a chapter-and-verse criticism of the draft bill, concluding, “Utah’s congressional delegation will no doubt repeat ad nauseam their talking point about 4.6 million acres of federal land ‘designated for conservation’ in the PLI. Don’t believe it. The big acreages proffered by Rep. Bishop are disingenuous, as a hard look at the bill reveals that the PLI is a cobbled together mess that maximizes resource extraction and includes land ‘protections’ riddled with loopholes.”

SUWA objected to, among other things, “bastardized National Conservation Areas that enshrine the Bush-era management plans that designated thousands of miles of off-road vehicle routes,” a half-million acres of the Bears Ears area not protected, “Codifies the abysmal Bush-era motorized travel plans in protected areas,” and grants many miles of RS 2477 rights-of-way.

Utah Gov. Gary Herbert (R) had backed the draft bill.

The possibility that President Obama will designate broad areas of eastern and southern Utah as national monuments has given great impetus to the Public Lands Initiative. Even with the Bishop bill on the table the President is expected to designate one or more significant monuments in Utah this year.

More detail on the legislation is available at: UtahPLI.com.

As mentioned, driving Bishop and Chaffetz in part is the possibility that the Obama administration would designate a Bears Ears National Monument in southern Utah.

Utah legislative officials oppose a Bears Ears monument. In Exhibit One at the request of Gov. Herbert the Utah State Senate May 18 approved by a 23-to-5 margin a resolution opposing the designation of a 1 Bears Ears National Monument. The Utah State House of Representatives had approved the resolution earlier in a 64-to-10 vote. The resolution is nonbinding on either the federal or state governments.

While some of the impetus for a Bears Ears national monument is coming from environmental groups, five Indian tribes located near the area are leading the campaign. The Ute Mountain Ute, Zuni, Hopi, Navajo, and Ute Tribe of the Uintah and Ouray An have put together an unprecedented coalition of Tribal governments in support of the monument.

Some 12.7 million acres of federal land in Utah are presently reserved for conservation purposes, including national parks, wilderness, wilderness study areas, wild and scenic rivers, and national monuments. In addition Congressional Democrats are pushing for the designation of 9.1 million acres of new wilderness, mostly from BLM-managed lands.

Even less amenable has been a related argument over the State of Utah’s claim to 31 millions of public lands in the state.

Utah officials make no secret that development of those public lands is a major goal of the Transfer of Public Lands Act, HB 148, signed into law on March 23, 2012, by Gov. Herbert. It demands the transfer of most federal land in the state, about 31 million acres, excepting only national parks (save for portions of Glen Canyon National Recreation Area), national monuments and wilderness areas.

House approves DoI spending bill that’s headed nowhere

The House made minimal monetary changes in a fiscal year 2017 Interior and Related Agencies Appropriations bill (HR 5538) last week after three days of mark-ups. It then approved the measure
July 14 by a 231-to-196 margin.

But the House did address more than 130 proposed amendments eventually approving riders that would block limits on motorboat use in Havasu Wildlife Refuge; would block an Obama administration ocean policy; would prevent designation of a national heritage area in southeastern Colorado; would bar the designation of any new ocean national monuments; and would forbid the completion of a regulation governing hunting and fishing in national wildlife refuges in Alaska.

The House also rejected amendments that would have removed a ban on the designation of national monuments in key counties in eight states, an amendment that would have sunset a portion of the Land and Water Conservation Fund and an amendment that would require Congress to abide by a law that allows disposal of public lands only if land management plans call for it. (See related article page 4.)

On the money front the House approved one significant amendment pertaining to the outdoors—a shift of $70 million from EPA operations to hazardous fuels projects conducted by the Forest Service.

Even with House passage of HR 5538 this week, the bill almost assuredly will not be enacted as a stand-alone measure before fiscal 2017 begins October 1. Because of a great gulf between Congressional Republicans and Democrats (with the Democrats supported by the Obama administration), Congress will probably wrap HR 5538 into a continuing resolution or omnibus spending bill later this year.

Rep. Peter DeFazio (D-Ore.) summed up on the House floor July 13, “We are providing the verisimilitude of a representative Congress by having endless series of votes on bills that are going nowhere in the appropriations process because the Senate isn’t doing appropriations bills. Everyone knows there will be some gigantic omnibus or continuing resolution year-end deal. Nonetheless, to make it look like we are actually doing something, instead of taking up issues, . . . we are holding endless vote series and then debate late at night.”

The Senate in early July joined the House in entangling all fiscal year 2017 appropriations bills in political squabbles.

This time the fight was over an absolutely must-pass Department of Defense Appropriations bill (HR 5923). On July 7 Senate Democrats blocked consideration of the bill, because it doesn’t comply with a grand budget agreement struck by Congress and President Obama last November.

That budget agreement (PL 114-74 of Nov. 2, 2015) established modest spending increases of the same size for both Defense and domestic spending. But Democrats say House and Senate Republicans are attempting to put an extra $18 billion in the Defense bill, with no comparable increase for domestic spending.

In a letter a fortnight ago to Senate Majority Leader Mitch McConnell (R-Ky.), Senate Democratic leaders insisted on the November agreement, and a limit on riders. “Without strong, public assurance that you are committed to honoring the core tenets of the bipartisan compromise—including fair funding, parity, and a rejection of poison pill riders—through the completion of the full appropriations process, we will no longer be able to support proceeding to new appropriations bills,” said the letter from Senate Minority Leader Harry Reid (D-Nev.) and other Democratic leaders.

McConnell responded on the Senate floor July 7 by noting that all Senate Appropriations Committee Democrats signed off on the Defense appropriations bill. “I don’t understand why the Democratic leadership refuses to honor what I think are the wishes of the majority of the Democrats on the committee who have been supporting these bills—most of which have come out of committee on an overwhelmingly bipartisan basis and this particular defense bill, unanimously,” he said.

The Obama administration jumped
into the budget agreement fray July 11 in a position paper opposing the Interior spending bill. The Office of Management and Budget said, “The funding levels in the bill would significantly hamper investments that reduce future costs to taxpayers by facilitating increased energy development, ensuring adequate levels of cybersecurity, and maintaining operations, facilities and infrastructure in national parks, refuges, forests, public lands, and Indian Country.”

That disagreement almost guarantees no appropriations bill will be enacted by itself after Congress returns from a seven-week vacation in early September.

Questions one now is, how long will a temporary continuing resolution last after the fiscal year begins October 1 – until just after the November 1 elections or longer? Question two is, will this Congress be able to assemble an omnibus appropriations bill after the election, or will it punt and keep extending fiscal 2016 spending levels?

For the Interior and Related Agencies spending bills, the House Appropriations Committee approved its version of a bill June 15 that the House then approved July 14. The Senate Appropriations Committee approved its bill (S 3068) June 16 that DeFazio predicted would not reach the Senate floor.

The House and the Senate panel were (and are) hobbled by three factors: (1) spending caps slightly under the fiscal 2016 level; (2) an allocation of $480 million for the payments of lieu of taxes (PILT) county assistance program that is sometimes funded outside spending bills and (3) emergency fire fighting.

Both the House-passed bill and the Senate committee bill would extend PILT for one more year under an appropriations bill. The option would leave it to authorizing committees to make payments automatic outside an appropriations bill. The appropriators met the administration request of $480 million for the program.

The House Appropriations Committee assigned a ceiling to the Interior and Related Agencies subcommittee bill that is $64 million less than a fiscal 2016 ceiling of $30.416 billion. The committee set a cap of $32.095 billion for fiscal 2017. Still, that is marginally above the spending cap of $32.034 billion set by the Senate Appropriations Committee.

For wildfire suppression the House approved about $3.9 billion (not counting the $70 million from EPA) and the Senate committee about $3.8 billion. The Senate bill also contains language that would transfer emergency wildfire expenses above the average to disaster spending. According to Sen. Tom Udall (D-N.M.), that would free up $661 million from fiscal 2017 spending, either in the bill or in make-up payments next year.

The numbers: Here’s a summary of the two bills:

**LAND AND WATER CONSERVATION FUND (LWCF) FEDERAL**: The House approved $145.8 million for federal land acquisition, or $88.4 million less than a fiscal 2016 appropriation of $234.2 million. The Senate committee approved almost $40 million more than the House, or $184.4 million.

Here is the agency-by-agency LWCF distribution with the Senate committee numbers in parenthesis after the House numbers: the Bureau of Land Management (BLM) would receive $19.4 million (Senate $33.4 million) compared to $38.6 million in fiscal 2016; the Fish and Wildlife Service (FWS) would receive $50.3 million (Senate $47.8 million) compared to $68.5 million; the Park Service would receive $48.4 million (Senate $48.4 million) compared to $63.7 million; and the Forest Service would receive $27.3 million (Senate $54.7) compared to $63.4 million.

**LAND AND WATER CONSERVATION FUND (LWCF) STATE**: The House would appropriate $80 million, or $30 million less than the $110 million in fiscal 2016. The Senate committee would appropriate $110 million once again.

**PARK SERVICE OPERATIONS**: The House approved $2.435 billion, or $39 million more than a fiscal 2016 appropriation of
$2.396 billion. The Senate committee would appropriate $2.406 billion.

CENTENNIAL CHALLENGE GRANTS: The House approved $30 million, or $5 million less than the $35 million the administration requested. The Senate committee approved $20 million.

PARK SERVICE RECREATION AND PRESERVATION: The House approved $62.6 million, about the same as the fiscal 2016 appropriation of $62.6 million. The Senate committee would appropriate the same as the House and last year, $62.6 million.

NATIONAL HERITAGE AREAS: The House approved $19.8 million, or $10.4 million more than the administration request of $9.4 million. The Senate committee would also appropriate $19.8 million.

PARK SERVICE CONSTRUCTION: The House approved $215.7 million, or $23.2 million more than a fiscal 2016 appropriation of $192.5 million. The Senate committee would appropriate $217.3 million.

PARK SERVICE HISTORIC PRESERVATION: The House approved $78.4 million, or $13 million more than a fiscal 2016 appropriation of $65.4 million. As noted, $5 million of the total would be used for Save America’s Treasures grants. The Senate committee would appropriate $67.9 million.

SAVE AMERICA’S TREASURES: The House approved $5 million, or $5 million more than in fiscal 2016. Said House subcommittee on Interior Appropriations ranking Democrat Betty McCollum (D-Minn.), “I would like to thank the chairman for working to resurrect the Saving America’s Treasures program. This program funds the preservation of nationally significant sites, structures and artifacts.” The Senate committee did not mention.

STATE WILDLIFE CONSERVATION GRANTS: The House approved $62.6 million, or $2 million more than the fiscal 2016 appropriation of $60.6 million. The Senate committee would appropriate $62.6 million, the same as the House.

NATIONAL FOREST SYSTEM: The House approved $1.531 billion, or $37 million more than the fiscal 2016 appropriation of $1.494 billion. The Senate committee would appropriate $1.520 billion.

FOREST SERVICE RECREATION: The House approved $263.9 million, just over the fiscal 2016 appropriation of $261.7 million. The Senate committee would appropriate $264.6 million.

FOREST SERVICE TRAILS: The House approved $77.5 million, the same as the fiscal 2016 appropriation. The Senate committee would appropriate $74.8 million.

FOREST LEGACY: The House approved $55 million, compared to a $62.3 million appropriation in fiscal 2016. The Senate committee approved $61 million.

BLM RESOURCE MANAGEMENT: The House approved $1.082 billion, or $9 million more than the fiscal 2016 appropriation of $1.073 billion. The Senate committee would appropriate $1.088 billion.

BLM RECREATION MANAGEMENT: The House would appropriate $69.5 million, compared to a fiscal 2016 appropriation of the same, $69.5 million. The Senate committee would appropriate $68.7 million.

NATIONAL LANDSCAPE CONSERVATION SYSTEM: The House would appropriate $36.8 million, the same as the fiscal 2016 number. The Senate committee would appropriate $36.8 million also.

FWS REFUGE MANAGEMENT: The House would appropriate $484.8 million compared to a fiscal 2016 appropriation of $481.4 million. The Senate committee would appropriate $483.4 million.

Energy bill with key LWCF provision going to conference

Despite reservations of environmentalists, the Senate voted 84-to-3 July 12 to send its version of an omnibus energy bill (S 2012) to a conference with the House.

Although environmentalists strong-
ly support a provision of the Senate-passed S 2012 that would make the Land and Water Conservation Fund (LWCF) permanent, they said the Senate should not go to conference with the House-passed version of the bill.

They object to House provisions that among other things would delegate responsibility to approve energy rights-of-way across national parks to the Interior Department.

The lead author of the bill, Senate Energy Committee Chairman Lisa Murkowski (R-Alaska), promised to develop a conference bill that not only the Senate could accept but also the Obama administration.

“First, I will reiterate my personal commitment to a final bill that can pass both Chambers and be signed into law by the President,” she said.

Ranking Senate committee Democrat Maria Cantwell (D-Wash.) said she and Murkowski had already wrangled tentative commitments from the House conferees to strike provisions from the bill that would guarantee a veto.

“They (the House leaders) basically said: Look, they didn’t want to waste time on things that would be vetoed by the President of the United States, so we took that as a good sign that they were willing to sit down and talk about legislation that could move forward in a positive fashion,” said Cantwell.

She said she and Murkowski have met with House Natural Resources Committee Chairman Rob Bishop (R-Utah), among other House leaders.

Before the Senate vote 22 environmental groups asked the Senate to punt on a conference. “The House-passed amendment would undoubtedly take our country down the wrong track and contains so many controversial and problematic provisions it is impossible to see how agreement could be found,” said the groups. “Rejecting a conference with the current House offer is essential to protect against harm to our environment.”

Among the 22 environmental groups signing the letter were Defenders of Wildlife, National Parks Conservation Association, Sierra Club and The Wilderness Society.

Because Congress left on a seven-week vacation July 14, the conference will not begin until mid-September at the earliest.

LWCF is not in danger of expiring any day soon. Congress extended the fund for three years in a fiscal 2016 appropriations law (PL 113-114 of Dec. 18, 2015) through fiscal 2018.

But supporters want to lock in LWCF now. Although there are several other legislative initiatives to do that floating around in Congress, the energy bill provides a golden opportunity.

There is pushback. The American Land Rights Association asked its members last month to contact House and Senate members to oppose the LWCF provision in the Senate version of S 2012 in conference.

The Senate provision in S 2012, developed by Murkowski and Cantwell, would also revise LWCF priorities.

The Senate bill 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.

In addition the Senate bill would set aside $150 million each year for Park Service maintenance from offshore royalties, but in a separate fund from LWCF.

On the House floor May 25 Rep. Raúl M. Grijalva (D-Ariz.), ranking Democrat on the House Natural Resources Committee, offered a motion directing House conferees to accept the Senate LWCF pro-
vision. The House said no in a close 205-to-212 vote.

House Natural Resources Committee Chairman Bishop has introduced a “discussion draft” bill that would extend LWCF for seven years and substantially realign program priorities. The House committee held a hearing on a draft Nov. 18, 2015.

Bishop would slash funding for the federal side of LWCF but give great support to the state side. States traditionally receive a small fraction of the total LWCF pie; the draft Bishop bill would guarantee them 45 percent. In addition Bishop would allocate five percent of LWCF to an urban recreation fund, sort of a follow-on to an Urban Parks and Recreation Recovery program. He would allocate just 3.5 percent to federal land acquisition.

On the appropriations front the House Appropriations Committee June 15 (and the whole House on the floor July 14) and the Senate Appropriations Committee June 16 approved the following LWCF allocations for fiscal 2017, compared to fiscal 2016:

The House bill (HR 5538) recommends an appropriation of $145.8 million, or $88.4 million short of a fiscal 2016 appropriation of $234.2 million. The committee also would reduce the state side of LWCF by $30 million, cutting it from $110 million to $80 million.

The Senate committee bill (S 3068) recommends $40 million more for federal land acquisition than the House panel, approving $184.4 million. The senators would also allocate $10 million for state grants, a total of $110 million.

Hunting and fishing: Both House and Senate versions of S 2012 include a package of sportsmen’s bills, including a provision to declare public lands open to hunting and fishing unless specifically closed.

However, the House sportsmen’s package includes provisions the Obama administration objects to, such as the delisting of the gray wolf from the Endangered Species Act in Wyoming and various provisions authorizing the carrying of guns.

Wildlife programs offered bipartisan Hill money support

One thing House Republicans and Democrats appear to agree on is finding new sources of revenues for fish and wildlife programs.

Most recently, the House Natural Resources Committee received mostly favorable testimony July 13 on legislation (HR 2663) that would allocate new fees on renewable energy production to restoring fish and wildlife habitat.

The bill would assess royalties and other fees on the dozens of public lands solar and wind development projects that are either under review or have recently been approved by the Bureau of Land Management. The measure, with 68 cosponsors evenly divided among Republicans and Democrats, would distribute 35 percent of royalties to a fish and wildlife conservation fund.

Trout Unlimited is all in. “We clearly have a need to conserve the public landscape, especially in the face of expanding energy development. HR 2663 creates a new, critical source of conservation funding that will help us do that,” said Steve Moyer, director of government affairs for the group.

The Senate has approved a counterpart renewable energy leasing bill as a provision in an omnibus energy bill (S 2012), but that measure would not set aside any portion of royalties for fish and wildlife habitat.

Under existing law solar and wind energy companies pay no royalties. They obtain use of public land by applying for and receiving permits. In that most solar and wind projects are new little information is available about the amount of royalties leasing would produce.

The renewable energy bill is not the only game in town. On July 6 Reps.
Don Young (R-Alaska) and Debbie Dingell (D-Mich.) introduced legislation (HR 5650) that would allocate $1.3 billion per year from mineral revenues to state wildlife programs. The fund would draw revenues from onshore and offshore oil and gas development.

The bill is based on a recommendation of a Blue Ribbon Panel on Sustaining America’s Diverse Fish and Wildlife Resources.

Offshore oil and gas development already sets asked $900 million per year for the Land and Water Conservation Fund in a separate account, but that is subject to annual appropriations and Congress usually approves a fraction of that amount. HR 5650 on the other hand would guarantee the $1.3 billion for wildlife every year.

Said Young, “While we’ve seen many great successes in management and conservation projects in the past, this legislation takes a unique approach to allow states to make responsible management decisions at home.”

Said Collin O’Mara, president of the National Wildlife Federation, “By modernizing how we fund conservation of the full diversity of wildlife, we will bolster our natural resources, strengthen our outdoor recreation economy, reduce regulatory uncertainty, improve public health, and bolster community resilience.”

An existing state wildlife conservation grant program received a $62.5 million appropriation in fiscal 2016 and the House and the Senate Appropriations Committee have approved the same amount for fiscal 2017.

**War of words launched over ocean monuments off 2 coasts**

Environmentalists and their Congressional allies are stepping up the pressure on the Obama administration in its final days to designate major ocean monuments off both coasts.

House Republicans and commercial fishermen are fighting back.

On the pro-monuments side in the Pacific, Reps. Sam Farr (D-Calif.) and Ted Lieu (D-Calif.) introduced legislation (HR 5797) July 14 to protect seamounts, ridges and banks in federal waters all along the California coastline. They would do that by designating the California Seamounts and Ridges National Marine Conservation Area.

On the pro-monuments side in the Atlantic environmentalists released a poll July 12 that says 80 percent of Massachusetts and Rhode Island residents support national monument designations off New England.

The environmentalists, aware that legislation to protect the areas will fail, are asking the Obama administration to designate huge ocean monuments off both coasts. On the Pacific, as Reps. Farr and Lieu recommend, the call is for protection of ridges and banks up and down the coast. On the Atlantic the recommendation is for a Coral Canyons and Seamounts monument 150 miles off the New England coast.

House Republicans countered those demands July 13 by approving an amendment to a fiscal year 2017 Interior appropriations bill (HR 5538) that would prevent the designation of national monuments within 200 nautical miles of the coast of the United States.

Bill sponsor Rep. Lee Zeldin (R-N.Y.) did not mention recreational fishing but he did say, “I introduced this amendment on behalf of all those commercial fishermen, those hardworking commercial fishermen all along the northwest Atlantic concerned that, if this marine monument is enacted by this President, they will be put out of business.”

Heretofore most of the focus on national monument designations under the Antiquities Act of 1906 has been on the possibility President Obama will create huge new national monuments in the West, such as Bears Ears in southern Utah. President Obama has already used the Antiquities Act to designate 24 monuments.

While the national monument focus still remains on the West environmental
groups and their supporters on both coasts are advocating for large ocean monuments.

Of Farr’s bill Jane Lubchenco, former administrator of the National Oceanic and Atmospheric Administration, said, “These are extraordinary places. Seamounts off of California support rare deep-water corals and sponges, endangered white abalone, endangered fin and blue whales, and many other iconic species. These remote, deep areas are also a vital frontier for scientific discovery, as research expeditions continue to yield new species and new knowledge.”

But commercial fishermen and their allies asked President Obama not to designate a monument. “We ask you to inform the White House Council on Environmental Quality as well as the Secretaries of Commerce and Interior that you oppose the creation of these monuments and support the resolution of the Council Coordination Committee, signed by all eight regional Fishery Management Councils, that fishery management in the US EEZ should continue to be implemented under the (Magnuson-Stevens Fishery Conservation and Management Act),” they wrote Obama July 6.

On the Atlantic side the Conservation Law Foundation used the Massachusetts and Rhode Island poll to champion a Coral Canyons and Seamounts monument.

“This poll validates what we’ve heard from hundreds of thousands of people across New England and the country – that they overwhelmingly support permanently protecting rare, unique places in the ocean from constant and increasing threats,” said Priscilla Brooks, vice president and director of ocean conservation at Conservation Law Foundation.

Notes

No Confederate flag flap this year.

House Republican leaders took the Confederate flag issue out of play last week during the consideration of a fiscal year 2017 Interior and Related Agencies appropriations bill. They persuaded the House Rules Committee to forbid the consideration of flag amendments - pro or con - when the bill (HR 5538) came to the floor. The bill was approved July 14. Last year amendments to specifically authorize the sale of Confederate flags and amendments to ban the sale of flags at Park Service units brought a fiscal 2016 spending bill to a standstill in the House. If the House had included either amendment in the bill, it would have given enough liberals and conservatives motivation to vote against the bill and torpedo it. Last week the sponsor of the no-flag proposal, Rep, Jared Huffman (D-Calif.), said House leaders blocked his amendment because it would have succeeded, setting of a rebellion among conservatives. “Knowing that these amendments had bipartisan support and would have passed the House, they chose to kill them on trumped-up procedural grounds in the dark of night. It has become clear that a vocal and powerful bloc of the GOP conference will stop at nothing to allow this anachronistic symbol of treason and hate to prevail,” he said.

Court blocks EPA on Texas haze.

The Fifth U.S. Circuit Court of Appeals July 15 suspended an EPA rule governing haze-causing pollution over Class One federal areas. In the suspension order the Fifth Circuit also said the appellant State of Texas was likely to win on the merits because EPA erred in saying its rule should be substituted for a Texas rule. EPA had argued that Texas, instead of considering a broad range of emissions should have focused on source specific sites, such as power plants. But the court said, “EPA’s requirement that Texas conduct a source-specific analysis is not supported by the Clean Air Act or the Regional Haze Rule.” Under the Clean Air Act’s haze rule states are supposed to gain EPA approval of plans to limit pollutants over Class One federal areas - national parks and wilderness areas - that limit visibility. Environmentalists said the Fifth Circuit decision would impair visibility over Big Bend and Guadalupe Mountains National Parks in Texas. “We are disappointed that the Court is delaying standards which will improve air quality in national parks and cities in Texas, Oklahoma, and surrounding states. . . .”, said Mary Whittle, an attorney for Earthjust-
tice. “These standards will lead to cleaner, clearer skies in our national parks 25 years faster than would otherwise occur. We will continue to defend these vital health and environmental standards.” Normally the U.S. Circuit Court for the District of Columbia handles national Clean Air Act litigation, but the Fifth Circuit said this is not a national issue, just a local one. “Finally, as a practical matter, the determinations in the Final Rule will have no nationwide precedential scope or effect because every other state has already submitted its SIP for the 2008-2018 round,” said the court.

**Refinery near TR park approved.**

Despite the opposition of park superintendents and former park employees Billings County, Mont., officials earlier this month approved the siting of an oil refinery near Theodore Roosevelt National Park. Although the park is located in North Dakota, it is near the Montana border. The Meridian Energy Group has proposed to construct a 55,000-barrel per day capacity Davis Refinery. The National Parks Conservation Association criticized the Billings officials. “The inappropriateness of industrial development next to a national park named for the president who was a visionary for public lands conservation cannot be overstated,” said association Northern Rockies regional director Bart Melton. “An oil refinery and associated industrial development would fundamentally and forever degrade the conservation values our nation committed to protect when we created Theodore Roosevelt National Park.” The Coalition to Protect America’s National Parks had also asked the county not to approve the facility.

**House approves BLM foundation.**

The House July 5 approved legislation (HR 3844) that would establish for the first time a Bureau of Land Management (BLM) Foundation. Other land management agencies already have similar foundations, including the National Park Foundation, the National Fish and Wildlife Foundation, and the National Forest Foundation. Under HR 3844 donors would be able to specify what programs should receive their donations. On the list are wild horses and burros, national conservation areas, recreation resources and so on. The bipartisan legislation, approved without a formal vote, was recommended by the Obama administration in its fiscal year 2016 budget request. A leader of the Public Lands Foundation, a coalition of BLM retirees, praised the initiative. Jesse Juen, a foundation vice president, told us he was “very excited” about the promise of the bill. Juen added, “Although much of it seems to be boiler plate language that other foundations use in general it is broad enough and I believe will engage a very broad public sector who are interested in their public lands and want to help in some fashion.”

**King Cove road asked again.**

The Alaska Congressional delegation July 13 introduced legislation (HR 5777, S 3204) that would have the federal government give up 206 acres of wilderness in the Izembek National Wildlife Refuge so a road could be built connecting the community of King Cove to the community of Cold Bay. The road would provide a link to transport ill people from King Cove to Cold Bay, which has an all-weather airport. In December 2013 Secretary of Interior Sally Jewell ruled against construction of a road along the 206 acres. Now the Alaska delegation is proposing a land exchange to allow the state to take ownership of the 206 acres and construct an 11-mile road. Said Sen. Dan Sullivan (R-Alaska), “To value waterfowl above the well-being and safety of King Cove residents is unimaginable, and documents how out of touch this administration is with reality.”

**FWS expands hunting, fishing.**

In an annual exercise the Fish and Wildlife Service (FWS) July 14 announced the opening of 14 refuges to more fishing and hunting. Prominently, FWS opened the Baca National Wildlife Refuge in Colorado to big game hunting, migratory bird hunting and upland game hunting. The refuge had been closed to public use activities. FWS said it would also open Lake Andes National Wildlife Refuge in South Dakota to sport fishing. More information is available at: https://www.fws.gov/news/ShowNews.cfm?ref=service-proposes-expansion-of-hunting-and-fishing-opportunities--on-_ID=35736.

**Appalachian NHA proposed.**

West Virginia and Maryland senators from both
political parties joined the crowd July 12 and introduced legislation (S 3167) to designate an Appalachian Forest National Heritage Area. The legislation would pay tribute to the forested lands that lie in 18 counties in the two states. In fact, lead sponsor Sen. Joe Manchin (D-W.Va.) said West Virginia is the third most forested state in the country. “We must preserve the rich cultural traditions and natural beauty of this region for the next generation of West Virginians and for visitors from all over the world who visit our great state each year,” he said. Like most of the existing 49 NHAs the Appalachian site would be managed by a cooperative effort involving the National Park Service, the states, local governments, nonprofits and, of course, local citizens. While NHAs are wildly popular and garner about $20 million in annual appropriations, there is push back against the dozen of so heritage area bills now floating around in Congress.

Rep Steve Russell (R-Okla.) March 16 introduced legislation (HR 4746) that would block future spending on any such areas. Separately, Rep. Charles Dent (R-Pa.) and 44 cosponsors introduced legislation (HR 581) last year that would place new restrictions on areas, without closing down spending altogether.

First Malheur protestor pleads. A bodyguard to the leader of the Malheur National Wildlife Refuge protest pleaded guilty June 29 to conspiring to impede federal works and to carrying guns in unauthorized buildings. The bodyguard, Brian Cavalier, chose a plea deal rather than face six years in prison for the conspiracy charge and five years for the firearms charge. The U.S. Attorney recommended a sentence of just over one year. Ammon Bundy led the occupation of the refuge in Oregon. Bundy, Cavalier and 24 others have been indicted in the takeover of the refuge between January 2 and February 11 of this year to protest BLM grazing policies. Some conservatives are upset about the focus on the protestors and not on the spread of the federal domain, a putative cause of the protest. Author Robert J. Smith, a senior fellow at the National Center for Public Policy Research, wrote July 15, called for a halt in new land acquisitions. “It is time to place a moratorium on any additional land acquisition by the federal government, to undertake an inventory of government landownership at all levels, and to begin taking steps towards devolution of federal ownership and return the lands and resources to responsible and caring ownership and stewardship. This would not threaten genuine environmental amenities and values,” he said.

Conference Calendar

AUGUST


OCTOBER
4-6. Scientific Conference on the Greater Yellowstone Ecosystem in Moran, Wyo. The conference is hosted by the National Park Service. For more information go to: https://ww4.aievolution.com/ytc1601/.


