

Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Gerrie Castaldo

Volume 34 Number 10, May 27, 2016

In this issue. . .

LWCF slashed in new approps bill.

House subcommittee would reduce fed and state spending. NPS and FS ops get a little boost. Fire fighting, PILT eat up money. Lots of riders/amendments again.. Page 1

Mainers mixed on North Woods park.

One hearing near the site draws mostly criticism. Other hearing more favorable. Locals fear big park would eliminate rec. Others see major economic engine... Page 4

Senators threaten sport fish.

Arizonans say if FWS bans power boating on Lake Havasu, Congress should cut off D-J money.... Page 6

NPS giving troubles old guard.

Retirees worry about employees' involvement in raising money from partners. Other concerns... Page 7

Rec leaders may plot next agenda.

Senators, cabinet members and others meet as Partners Outdoors next week. Look to 2017.... Page 8

OMB faults House RS 2477 proviso.

OMB objects to proposal to approve 6,000 miles of Utah ROWs.... Page 9

Lawsuit filed over Bison Range.

PEER, others object to proposal to shift refuge to tribes... Page 10

Another bad fire season possible.

Feds issue warning as they seek Hill help. Senate answers.. Page 11

Notes..... Page 13

Conference calendar..... Page 15

House subcommittee moves lean Interior spending measure

Despite last year's budget agreement that calls for increased domestic spending, a House spending subcommittee May 25 approved a fiscal year 2017 Interior and related agencies bill with less money than in fiscal 2016.

The House subcommittee on Interior appropriations passed a bill with a ceiling of \$32.095 billion, or \$64 million less than a fiscal 2017 appropriation of \$32.159 billion.

For individual programs such as federal land acquisition from the Land and Water Conservation Fund (LWCF) the subcommittee recommended a fiscal 2017 appropriation of \$145.8 million, or \$88.4 million short of a fiscal 2016 appropriation of \$234.2 million. The subcommittee also would reduce the state side of LWCF by \$30 million, reducing it from \$110 million to \$80 million.

For Park Service operations the subcommittee would hike spending by \$39 million, from \$2.396 billion in fiscal 2016 to \$2.435 billion in fiscal 2017.

For a Park Service Centennial Challenge matching grants program the subcommittee would put up \$30 million, twice as much as a \$15 million fiscal 2016 appropriation.

Subcommittee chairman Ken Calvert (R-Calif.) praised his panel for approving money for the Centennial. "I am pleased that the bill will once again provide increases for our incredible National Parks as they celebrate their Centennial this year, and continues progress on a functional Earthquake Early Warning System," he said.

The subcommittee would also revive the *Save America's Treasures* program by

approving \$5 million for it from the Historic Preservation Fund. On the recommendation of the Obama administration Congress shut down the program in 2010.

Before that from 1999 to 2010 Congress appropriated \$315 million for 1,300 preservation projects around the country. The grants leveraged more than \$377 million in matching funds.

As for the overall spending cap in the subcommittee bill, ranking Democrat Betty McCollum (D-Minn.) lashed out at the House Republican majority. "The fiscal year 2017 subcommittee allotment is \$64 million less than in fiscal year 2016," she said. "That means that many of the needs of important programs vital to protecting our national natural and cultural resources will not be met."

She also objected to the inclusion of numerous policy amendments (29 by her count), in the bill. "While I am not surprised, I am disappointed that House Republicans have filled this bill with dozens of partisan riders that undermine clean air and clean water rules, prevent regulation of greenhouse gases, and roll back protections for endangered species," said McCollum.

For its part the Senate Appropriations Committee reduced the cap for a counterpart Senate subcommittee on Interior Appropriations approving \$32.034 billion. The Senate subcommittee has not begun to work on its bill. Both the House and Senate will take next week off for Memorial Day.

House and Senate Republicans struck a landmark, overall budget agreement with President Obama last November that laid out modest matching increases in domestic and military spending in fiscal 2016 and 2017 (PL 114-74 of Nov. 2, 2015). However, the appropriations committees have thus far committed the extra money to bills other than the Interior measure.

And conservative House Republicans object mightily to the November budget deal and are demanding that their leaders reduce all domestic spending in fiscal 2017. That fight is being led by the Freedom Caucus.

The Interior bill is not only burdened by a minimalist spending cap, it also is hindered by at least three other mandatory allocations - almost \$4 billion for fire fighting, \$480 million for the payments-in-lieu of taxes program and various cost-of-living/payroll increase expenses.

Ranking subcommittee Democrat McCollum criticized the subcommittee draft for not setting aside some emergency *fire payments* as disaster spending outside the subcommittee draft.

"This bill also recommends \$3.9 billion for a 12 percent increase in the subcommittee's allocation, but once again the majority has failed to adopt a very common sense reform bill championed by (Rep. Mike) Simpson (R-Idaho) and every single member of this subcommittee is a cosponsor of that bill."

Simpson and Sen. Ron Wyden (D-Ore.) have introduced the administration recommendation that emergency fire spending be considered disaster funding outside of the Interior appropriations bill. Their legislation (HR 167 and S 235 respectively) has 148 cosponsors in the House and 21 in the Senate

Subcommittee chairman Calvert said his approach in the bill to the fire situation was to simply put up plenty of money.

"This committee has again provided robust wildfire funding in the fiscal 2017 bill," he said. "The fire suppression accounts including FLAME are again funded at the 10-year level, which rose by \$133 million from last year."

In total the subcommittee bill would allocate to fire fighting 55 percent of the Forest Service's total appropriation of \$5.3 billion, or \$2.9 billion. (See related article page 11.)

As McCollum noted, in approving the bill May 25 the subcommittee approved numerous riders and policy amendments that the Obama administration has in the past opposed. One amendment likely to pass would extend the Federal Lands Recreation Enhancements Act of 2004 (FLREA) through Sept. 30, 2018.

The full House Appropriations Committee is expected to address the subcommittee-passed measure when it returns in early June after a Memorial Day holiday.

The numbers: Here's a summary of the subcommittee bill:

LWCF FEDERAL: The subcommittee approved \$145.8 million for federal land acquisition, or \$88.4 million less than a fiscal 2016 appropriation of \$234.2 million. By agency the Bureau of Land Management (BLM) would receive \$19.4 million compared to \$38.6 million in fiscal 2016; the Fish and Wildlife Service (FWS) would receive \$50.3 million compared to \$68.5 million; the Park Service would receive \$48.4 million compared to \$63.7 million; and the Forest Service would receive \$27.3 million compared to \$63.4 million.

LWCF STATE: The subcommittee would appropriate \$80 million, or \$30 million less than the \$110 million in fiscal 2016.

PARK SERVICE OPERATIONS: The subcommittee approved \$2.435 billion, or \$39 million more than a fiscal 2016 appropriation of \$2.396 billion.

PARK SERVICE RECREATION AND PRESERVATION: The subcommittee approved \$62.6 million, about the same as the fiscal 2016 appropriation of \$62.6 million.

PARK SERVICE CONSTRUCTION: The subcommittee approved \$215.7 million, or \$23.2 million more than a fiscal 2016 appropriation of \$192.5 million.

PARK SERVICE HISTORIC PRESERVATION: The subcommittee 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.

SAVE AMERICA'S TREASURES: The subcommittee approved \$5 million, or \$5 million more than in fiscal 2016. Said McCollum, "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."

STATE WILDLIFE CONSERVATION GRANTS: The subcommittee approved \$62.6 million, or \$2 million more than the fiscal 2016 appropriation of \$60.6 million.

NATIONAL FOREST SYSTEM: The subcommittee approved \$1.531 billion, or \$37 million more than the fiscal 2016 appropriation of \$1.494 billion.

BLM RESOURCE MANAGEMENT: The subcommittee approved \$1.082 billion, or \$9 million more than the fiscal 2016 appropriation of \$1.073 billion.

WILDFIRE FOREST SERVICE: For a wildfire appropriation the subcommittee recommends \$2.594 billion, compared to a fiscal 2016 appropriation of \$2.386 billion. For an emergency account called FLAME the recommendation is \$315 million, compared to a fiscal 2016 FLAME appropriation of \$823 million.

WILDFIRE INTERIOR: For a wildfire appropriation the recommendation is \$852 million, compared to a fiscal 2016 appropriation of \$817 million. For an emergency account called FLAME the recommendation is \$92 million, compared to a fiscal 2016 FLAME appropriation of \$177 million.

However, the subcommittee did not address the bipartisan legislative proposal (Rep. Simpson's HR 167) that would transfer emergency fire-fighting appropriations to a category of disaster funding. Such a shift would free up some \$400 million per year from the appropriations bill for other purposes.

The riders: The subcommittee approved these legislative amendments:

FLREA (Section 422): The underlying law is scheduled to expire on Sept. 30, 2017. If the subcommittee provision were enacted, it would extend 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 (SECTION 419):

The provision 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 subcommittee 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."

LEAD RECREATION GEAR (SECTION 420): The provision would ban EPA from banning the use of lead in "ammunition, ammunition components, or fishing tackle."

RIDER WETLANDS (SECTION 427): The subcommittee 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.

RIDER WATER RIGHTS (SECTION 433): The subcommittee 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.

The bill is available at: <http://>

appropriations.house.gov/uploadedfiles/bills-114hr-sc-ap-fy2017-interior-sub-committedraft.pdf.

Energy and water bill: The full House May 26 approved a fiscal 2017 Energy and Water bill (HR 5055) in the face of a veto threat from the Office of Management and Budget (OMB).

Mainers give mixed reception to a North Woods monument

NPS Director Jon Jarvis last week walked into public meetings in Maine sharply divided on a proposed North Woods national monument, and came down firmly on behalf of a monument.

"The land in the North Woods area proposed for donation absolutely fits the National Park Service's criteria for national park sites, including suitability, feasibility and national significance. There is no other representative landscape like the North Woods in the National Park System," said Jarvis after one of the May 16 hearings.

Some 1,400 citizens attended a meeting at the University of Maine in Orono to air their opinions about an 87,500-acre North Woods National 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.

The proposal also includes what Jarvis called an unprecedented \$40 million endowment - an allocation of \$20 million on the day a national monument is created and the allocation of another \$20 million over three years.

According to local media about three-quarters of the attendees at the University of Maine hearing supported the proposal. However, at an earlier hearing May 16 in East Millinocket nearer to the proposed monument, citizens were "almost universally opposed" to the plan, the *Bangor Daily News* reported.

Roxanne Quimby, her son Lucas St. Clair and Jarvis paint the proposal as an economic engine for the depressed

northern Maine region, which has lost two major paper mills in recent years.

The closure of those paper mills has in part induced owners of huge, private woodland tracts in northern Maine that used to supply timber to the mills to sell out, often to conservation groups and individuals such as Quimby. Historically the woodland owners were generous in allowing access to hunters, fishermen and snowmobilers. Now those sportsmen fear a national monument would reduce outdoor recreation opportunities.

But, according to local media, Jarvis assured Mainers that hunting, fishing and snowmobiling would continue to be allowed and that guides could continue to serve the area.

The Maine Congressional delegation has been less than enthusiastic about the proposal, given the opposition of Gov. Paul LePage (R), the State of Maine legislature and local governments. The critics fear a huge monument in the north of the state would lead to restrictions on snowmobiling and timber harvests.

Thus far only one member of Maine's four-person congressional delegation, Rep. Chellie Pingree (D).

Given the state delegation's reservations, there is almost no chance that Congress will designate a North Woods National Park, or monument. But President Obama in his final days could use authority under the Antiquities Act of 1906 to designate a national monument on federal lands.

The Quimby property would presumably become federal land if and when the family donated it to the federal government.

While a monument designation in the East in the State of Maine is controversial, monument designations are an even bigger deal in the West. In recent developments:

Just as the Utah legislature last week was approving a resolution opposing the use of the Antiquities Act in designating a new national monument in south-

ern Utah, House Democrats were backing the underlying law.

At the request of Utah Gov. Gary Herbert (R) the Utah State Senate May 18 approved by a 23-to-5 margin a resolution opposing the designation of a 1.9 million-acre Bears Ears National Monument in southern Utah. 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.

On May 13 81 House Democratic members asked the House subcommittee on Interior appropriations to leave the Antiquities Act of 1906 alone. The Antiquities Act is the law Presidents use as authority to designate national monuments, such as a possible Bears Ears monument.

The House Democrats asked subcommittee chairman Ken Calvert (R-Calif.) and ranking Democrat Betty McCollum (D-Minn.) to not include a monuments ban in a fiscal year 2017 Interior spending bill. The Democrats say more than 20 bills have been introduced in the Congress to block or restrict a President's use of the act.

In approving a fiscal 2017 appropriations bill March 25 the House subcommittee did NOT include any bans on monument designations.

From the Republican side of the House, 31 members March 23 asked the House Appropriations Committee to forbid the designation of any national monuments in specific counties in eight states - Arizona, California, Colorado, Nevada, New Mexico, Oregon, Utah and Maine. Rep. Paul A. Gosar (R-Ariz.) is the lead signatory of the letter.

Physically, the Bears Ears area in Utah ranges from an altitude of 3,700 feet to 11,300 feet. The Forest Service and BLM have recommended much of it for wilderness.

House Natural Resources Committee Chairman Rob Bishop (R-Utah) and Rep. Jason Chaffetz (R-Utah) January 20 unveiled a draft Utah Public Lands Initiative that would designate 1.1 million

acres of Bears Ears as a national conservation area.

On a more congenial note the Obama administration is expected to designate a national monument in New York City next month on a site instrumental in the campaign for gay rights. The Stonewall Inn designation is widely supported by New York politicians.

President Obama has used the Antiquities Act to designate 23 monuments. Recently, on April 12 he designated a Belmont-Paul Women's Equality National Monument near the Capitol in Washington, D.C. The monument, to be co-managed by the National Park Service, honors the Women's Rights movement.

Senators threaten to block sport fish money over Havasu

Arizona's senators tried but did not succeed last week in persuading the Senate to block the flow of \$400 million per year into the Dingell-Johnson sport fishing restoration fund.

Sens. John McCain (R-Ariz.) and Jeff Flake (R-Ariz.) drew up the amendment (SA 3930) to force the Fish and Wildlife Service (FWS) to pull a proposal to limit motorboat use in Havasu Wildlife Refuge. The refuge is home to more boating than any other lake in Arizona, as many as 50,000 boaters in a weekend.

The FWS proposal - a compatibility determination the agency prepares every decade - would largely ban power boating and water skiing in areas that are only appropriate for fishing, hunting and other noninvasive pursuits.

Said FWS in the proposal, "Boating can support priority public uses such as fishing, hunting, wildlife observation, wildlife photography, environmental education, and interpretation. As described in the Anticipated Impacts of Use section, motorized boating activities that do not support priority public uses, including, but not necessarily limited to, waterskiing, wakeboarding, wake surfing, tubing, and other tow-behind devices, can cause conflict with

priority public uses and have the potential to adversely impact biological resources."

The refuge added, "These activities will be prohibited on waters under the Refuge's jurisdiction (as defined under the Stipulations section) for public safety and protection of wildlife and habitat."

The refuge made the proposal April 12, perhaps in time for the peak summer boating season.

Local communities erupted because of the possible impact of the restrictions in their economies. So did McCain and Flake.

Said McCain, "USFWS's proposal to restrict recreational boating near Lake Havasu could devastate small businesses throughout the region that depend on the millions of people who visit every year to enjoy boating, water skiing, and other activities on the lake. We believe that USFWS should not be permitted to use boaters' tax dollars to unduly restrict access to one of the most popular boating locations in Arizona."

So on May 17 McCain and Flake proposed an amendment to a fiscal year 2017 Energy and Water appropriations bill (HR 2577) to cut off the \$400 million per year that goes into the Wallop-Breaux Fund from motorboat fuels until FWS pulls the proposal. However, the amendment did not come to a vote before the Senate approved the bill May 19. The Wallop-Breaux Fund helps finance Dingell-Johnson.

Separately, McCain and Flake wrote FWS Director Dan Ashe April 25, "In consultation with local government officials and business owners, I ask that no decision be made final until a thorough attempt is made to understand and address the above concerns raised by local stakeholders."

Motorboat fuels taxes supply the lion's share of money - some \$400 million - that flows into Wallop-Breaux each year. The program provided \$442 million in fiscal 2016 from those revenues to state sport fish restoration activities,

boating infrastructure improvement, coastal wetlands and other programs.

FWS is taking comments on the compatibility determination until June 13.

NPS old guard has qualms about NPS philanthropy policy

While supportive of increased philanthropic donations to the National Park Service, agency retirees last week repeatedly faulted a proposed new NPS philanthropy policy.

The Coalition to Protect America's National Parks objected to even the appearance of NPS employees soliciting contributions. That follows the concerns of the environmental group Public Employees for Environmental Resources (PEER), as *FPR* has reported.

The retirees' coalition said that a draft Director's Order #21 on philanthropy generally prohibits solicitations by employees but would allow the director and deputy directors to participate in such activities. So, said the coalition in comments to NPS, "Presumably, such soliciting would focus primarily on major donations; nonetheless, it is not an appropriate role for the three highest ranking NPS officials, and can create the appearance of a conflict of interest."

The coalition did say that NPS employees, while not soliciting money, should be able to work with partners in setting the scene for donations.

"Although NPS employees at any level should not *solicit* donations, we believe it is appropriate for NPS officials, including the Director, Deputy Directors, and superintendents, to participate with philanthropic partners in 'donor cultivation' meetings with prospective donors and to serve as the NPS subject-matter experts in providing helpful context and content as the partner solicits donations," said the coalition in comments signed by coalition chair Maureen Finnerty. Emphasis in the original.

The Director's Order #21 has stirred up a hornet's nest in some quarters. PEER in particular has objected to possible agency solicitations. "It is both unprecedented and unseemly to use tax dollars to solicit donations and cultivate potential donors," said PEER Executive Director Jeff Ruch. "This plan would put fundraising on a par with conservation in our national parks."

A central plank of the March 20 philanthropy proposal would authorize Park Service leaders to accept significant single donations from private entities. For instance the Park Service director could accept more than \$1 million on his or her own signature but more than \$5 million if he or she had the proper certification and training.

The ceilings would decrease proportionately through various levels of the service down to superintendents, who could accept \$100,000 or less. However, with training, proper qualifications and delegations from above superintendents could accept up to \$5 million.

Ruch complained that the plan would have the NPS assume fund-raising functions usually conducted by the National Park Foundation.

Also controversial, the proposal would outright allow partnerships with companies that produce and sell alcohol.

The Coalition to Protect America's National Parks urged NPS to use caution in associating the agency with alcoholic beverages. "If NPS is, in fact, going to accept donations from 'from corporations that produce or distribute alcohol,' then NPS must establish a much better defined criteria for determining when to accept (or not accept) such donations AND what the donations would be used for," said the coalition.

Last year NPS Director Jonathan B. Jarvis riled PEER when he signed a waiver allowing Anheuser-Bush to contribute \$2.5 million to the Park Service Centennial campaign. The new policy would eliminate the need for waivers.

The Park Service is caught between a rock and a hard place. It knows it

cannot rely on Congressional appropriations for its needs entering its Centennial year, so it is turning to philanthropy and businesses to supplement its revenues. At the same time the agency doesn't want to compromise the integrity of the system with either controversial donors or widespread business emblems in parks.

The National Parks Conservation Association was more deferential to the Park Service in its Director's Order #21 than PEER or the retiree coalition, but cautiously so.

Said NPS President Theresa Pierno in a statement, "The National Park Service has always depended on donations to supplement funding from Congress, but we don't want this order to create a new landscape that allows Congress to abdicate its duty to provide parks with the funding they need for rangers, repairs and other responsibilities. Because of congressional underfunding, the superintendents who manage our parks are already struggling to meet critical demands to protect parks and serve visitors."

Of the NPS proposal specifically she said, "This revised policy needs to make sure the system for promoting and accepting donations does not become a requirement for park staff that competes with the fundamental needs of our parks. We also do not want to see the role of NPS staff as fundraisers compete with nonprofit partners and create confusion among donors."

Rec meet attendees may give next Pres recommendations

Senators, Cabinet members and the Who's Who of the recreation community will gather in Washington, D.C., next week to begin assembling policy recommendations for the next President.

The recreation establishment, convening as Partners Outdoors 2016, will hold two days of meetings June 1 and June 2 in Washington, D.C., to assess possible new initiatives.

Among the invited are former Sens.

Mark Begich (D-Alaska) and Blanche Lincoln (D-Ark.), Secretary of Interior Sally Jewell, former Secretary of Interior Dirk Kempthorne (George W. Bush administration) and Forest Service Chief Tom Tidwell.

Since 1992 the Recreation Roundtable has joined with federal land managers to plot broad policy initiatives under the Partners Outdoors rubric. They have been joined by the National Association of State Parks Directors and other nonfederal players.

This time around the assembled are expected to undertake an ambitious initiative to develop outdoor policy recommendations for the next President. In 1993 Partners Outdoors put together similar recommendations for such initiatives as an America the Beautiful Passport for entrance to federal recreation areas, a national system of scenic byways and a Wallop-Breaux Trust Fund to finance sportfishing programs. All were enacted.

Shortly after the Partners Outdoors 2016 convocation, leaders are expected to submit suggestions to the Western Governors' Association, which is scheduled to meet June 12 and 14.

For their part the western governors have announced they will feature the Park Service Centennial at its annual meeting in Jackson Hole, Wyo. The governors are scheduled to hear from Yellowstone National Park Superintendent Dan Wenk and Yosemite National Park Superintendent Don Neubacher.

In addition to the political chieftains at the Partners Outdoors 2016 conference, recreation leaders expected to attend include U.S. Travel Association Chair Todd Davidson, Recreation Vehicle Industry Association CEO Frank Hugelmeier, National Park Foundation President Will Shafroth, National Forest Foundation President Bill Possiel and National Fish and Wildlife Foundation CEO Jeff Trandahl.

On day one the agenda will hold sessions on, among other things, *The Outdoor Recreation Industry Will Save the World; Weaving Outdoor Play Into Ev-*

ery Day Life; Urban Off Highway Vehicle Parks; and How Do We Integrate Tech in Outdoor Recreation?

On day two the schedule anticipates a "focus on sustaining the best of the new outdoor recreation initiatives during wholesale changes in Washington next January, and how to get new national leaders to boost outdoor programs by focusing on new economic, health, education opportunities." That's when the political leaders will become involved.

More at www.funoutdoors.com/PO2016_

OMB faults RS 2477/withdrawal provisions in Defense bill

The House approved legislation (HR 4909) May 18 that would validate Utah county and state claims to 6,000 miles of RS 2477 rights-of-way (ROWs) across federal lands.

The RS 2477 provision is part of a larger proposal that would withdraw 625,000 acres of Bureau of Land Management (BLM) property for a Utah Test and Training Range. A second, related provision would authorize the Defense Department to take control of more than 800,000 acres of the Desert National Wildlife Refuge in Nevada.

Inclusion in the Defense bill gives the provisions a leg up in Congress this year.

In a veto threat of HR 4909, the Office of Management and Budget (OMB) singled out the RS 2477 and Utah Test Range provision in a laundry list of objections. "Further the Administration strongly objects to exchanges of Federal land in Utah without adequate consideration to the Federal taxpayer or NEPA contained in section 3023 and to section 3031, which would recognize the existence and validity of unsubstantiated and disputed claims of road rights-of-way across Federal lands in Utah," said OMB. "These sections are not necessary to further the military mission of the Utah Test and Training Range."

OMB also criticized the Nevada

wildlife transfer to the Department of Defense. "The Administration stands ready to consider measures and approaches to make the use of public lands for military needs more efficient," said OMB. "The Administration cannot support provisions that would alter the current use and management structure of the Desert National Wildlife Refuge and strongly opposes provisions that could allow unrestricted Air Force activities in areas of the Refuge."

On the House floor Rep. Jared Polis (D-Colo.) faulted the Desert Refuge provision, "The Air Force has not requested this land for any military use; yet, there is a bill to impose the management of these lands on the Air Force."

Rep. Bradley Byrne (R-Ala.) defended the provision, and several other public lands provisions, in the bill. "I wish we didn't have to deal with environmental issues on the Armed Services Committee, but, unfortunately, we have military bases all across the United States where they are being limited in what they want to do, what they could potentially do, by other Federal agencies that are using their powers to tell our defense folks that they can't do things that are important to carrying out their military mission," he said.

The House Armed Service Committee included the public lands provisions in the must-pass National Defense Authorization Act (HR 4909) May 4. The House Natural Resources Committee had approved the provision (HR 4579) March 16 in a stand-alone bill.

For its part the Senate Armed Services Committee May 12 approved its version of a Defense authorization bill (S 2943) that does not include the sage-grouse, RS 2477 rights-of-way and Desert Refuge provisions. The Senate bill would authorize a withdrawal for the Utah Test and Training Range, minus the House rights-of-way.

Utah Test Range withdrawal: The base goal of the provision is to withdraw the 625,000 acres for the Air Force to accommodate F-35 jets, while retaining the lands under BLM management. But it would also validate 6,000 miles of RS

2477 rights-of-way in Box Elder, Juab, and Tooele Counties, Utah.

The provision has been introduced as stand-alone legislation (HR 4579, S 2383) by Rep. Chris Stewart (R-Utah) and Sen. Orrin Hatch (R-Utah).

For the Southern Utah Wilderness Alliance (SUWA) the bills represent an attempt by the State of Utah to take advantage of military needs to assert claims to federal lands. Said SUWA in a bulletin to its members just before a February 25 House hearing, "Rep. Stewart's proposed expansion is merely part of the broader effort by the State of Utah to seize our nation's public lands."

When the House Natural Resources Committee took up the legislation May 4 committee Democrats attempted to strike the RS 2477 ROW provision from the bill, but Republicans defeated it in a 14-to-20 vote.

Amendment sponsor Alan Lowenthal (D-Calif.) said, "There is an administrative procedure for counties to address their RS 2477 claims and many of these claims identified in these maps are part of active litigation. I believe it would be irresponsible of this committee to overrule the established administrative procedure and the judicial system."

But provision sponsor House Natural Resources Committee Chairman Rob Bishop (R-Utah) said, effectively, the county claims qualify as RS 2477 ROWs. "These roads are actively used by the counties and they do come under the air space that surrounds the UTTR, . . ." he said. "These roads were grandfathered in under RS 2477. They are not being contested by the state but by BLM, which is having difficulty giving them up. All are actively used rights-of-way in these three counties."

Testifying for the Interior Department at a February 25 House committee hearing, Karen E. Mouristen, assistant director of BLM for Energy and Minerals, objected to the RS 2477 ROW conveyances. "The resolution of these disputed claims is not necessary for the management of the periodic closures

around the UTTR," she said. "For this and many other reasons, the Administration strongly opposes the resolution of these right-of-way claims in the manner laid out in this bill."

Desert National Wildlife Refuge transfer: The provision would allow the Defense Department to demand transfer to it of more than 800,000 acres of the Desert National Wildlife Refuge north of Las Vegas from the Fish and Wildlife Service. That would take away about half of the refuge's 1.65 million acres. Last year, at the request of Sen. Harry Reid (D-Nev.), the provision was removed from a Defense authorization bill. Much of the land is located within the Nevada Test and Training Range.

PEER and allies sue over move of Bison Range to CSKT tribe

The Public Employees for Environmental Responsibility (PEER) association filed a lawsuit March 23 against a Fish and Wildlife Service (FWS) proposal to transfer the National Bison Range in Montana to the Confederated Salish and Kootenai Tribes (CSKT).

The lawsuit charges that FWS failed to prepare a comprehensive conservation plan (CCP) and an EIS before announcing it would submit draft legislation to Congress to carry out the transfer. The suit asks the U.S. District Court for the District of Columbia to forbid submission of the legislation until a CCP and EIS are prepared.

At bottom the plaintiffs argue that the transfer of a refuge out of the federal system would set a precedent for Indian tribes seeking to manage not only other refuges but also national parks.

According to PEER, 57 National Park System units are eligible for annual funding agreements (AFAs) that would allow Indian tribes to manage national park units, including Redwood, Glacier, Voyageurs and Olympic National Parks and the Cape Cod National Seashore.

"The Bison Range is a major ecological asset that is being tossed away without consideration," said PEER Senior

Counsel Paula Dinerstein. "If we succeed, this lawsuit will not only keep the National Bison Range as a wildlife refuge but also restore its crown jewel luster."

PEER says the legislation would not require compensation to the federal government for the range, its buildings and a \$100 million bison herd.

One of the plaintiffs, Bill Reffalt, vice president of the Blue Goose Alliance conservation group, said in a position paper that National Bison Range (NBR) herds makes up 25 percent of the FWS meta-population of bison and to cede management out of FWS could endanger the population.

"Giving up NBR's population and its vital habitats, facilities, and record histories would be a substantial loss to the FWS meta-population capabilities," Reffalt, a former FWS employee, said in a position paper. "Due to sizeable costs, and required experience of staff to operate, most refuge lands cannot participate in the meta-population concept without careful planning, public participation (including neighboring ranching interests) and vital appropriations and staffing."

The Blue Goose Alliance is a conservation group that advocates establishment of a National Wildlife Refuge Service as a separate agency in the Department of Interior.

The Mountain Prairie Regional Director of FWS, Noreen Walsh, advised region employees February 5 that initial discussions had begun with the CSKT Indians on a possible transfer.

"In an effort to achieve the best, long-term solution for our many conservation priorities, the specific conservation goals of the National Bison Range, and to support the principles of Indian self-determination there was a discussion today with the CSKT about the potential for the Service to support legislation that would transfer the lands comprising the National Bison Range to be held in trust by the United States for the CSKT," she told employees.

Since 2004 FWS has attempted to partner with the CSKT Indians in the management of the National Bison Range. Those attempts have been met by protests from federal agency employees, from environmentalists and from an environmentalist lawsuit.

In December 2004 FWS signed an annual funding agreement that paid the CSKT to assume several management jobs in the refuge. In June 2008 FWS and CSKT executed another agreement. However, PEER filed a lawsuit charging FWS had failed to prepare an environmental review.

The U.S. District Court for the District of Columbia agreed with PEER and directed FWS to prepare environmental documentation. In March 2012 FWS drafted a new AFA and in May 2012 it posted a notice of intent to prepare an environmental assessment. And there things sit.

Congress has become involved. The Senate on July 7, 2015 approved a tribal self-governance bill (S 286) that encourages federal land managers to enter AFAs with tribes. The Senate Indian Affairs Committee in a report accompanying S 286 praised FWS for attempting to execute the Bison range AFA.

However, it remains to be seen if any member of the Montana Congressional wants to stick his neck out and sponsor the FWS bill. The delegation consists of Sen. Jon Tester (D), Sen. Steve Daines (R) and Rep. Ryan Zinke (R).

Administration warns of fires, senators write draft bill

The Forest Service May 17 predicted a tough - if not dire - upcoming fire season.

Secretary of Agriculture Tom Vilsack said at a press conference, "There is no question we have seen a marked difference in the circumstances concerning fire fighting. This year we are very concerned about California and very concerned about parts of the West. Even with a normal fire season we are looking at thousands and thousands of fires.

We all know that many of these fires and will be very large and expensive to fight.”

To address the need for ever greater amounts of money to pay for fire fighting five senators May 25 from both political parties published a draft bill to transfer some emergency wildfire money to disaster spending.

Led by Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) and ranking committee Democrat Maria Cantwell (D-Wash.), the senators would shift our of regular appropriations to disaster spending any emergency wildfire costs above 100 percent of the 10-year average. The Obama administration has requested a transfer of 70 percent.

Now comes the sensitive part. The senators - three Republicans and two Democrats - would also limit environmental reviews of hazardous fuels reduction projects. The draft bill would allow consideration of only two alternatives - a preferred proposal and no action.

The Obama administration and environmentalists have objected strenuously this Congress to previous attempts by the House and Senate to limit environmental reviews.

Also signing on to the draft bill were Sens. Ron Wyden (D-Ore.), Mike Crapo (R-Idaho) and Jim Risch (R-Idaho).

Said Crapo, “We need to call mega-fires what they are—disasters. This bipartisan discussion draft is an important step toward a solution for responsibly budgeting for wildfire suppression and managing our forests. Self-destructive fire borrowing has impacted all aspects of the Forest Service’s budget, resulting in less management of our forests, fewer jobs, more disease and insect infestation and the downgrading of habitat for wildlife and sportsmen.”

Vilsack and Forest Service Chief Tom Tidwell said the Forest Service and its federal and state partners are already gearing up for the summer of 2016. Right now their primary focus is prepar-

ing to fight fires that erupt in the 58 million acres of national forests in the wildland urban interface.

“We are prepared as we always are prepared,” said Vilsack. “The Forest Service is able to mobilize 10,000 firefighters, 900 engines, 300 helicopters, 21 air tankers, two water scoopers and over 30 aerial supervision fixed-wing aircraft.”

As they have done repeatedly over the last three years, Tidwell and Vilsack said the huge emphasis on fire fighting in the agency has hurt other programs, especially recreation. He said that in fiscal 2015 fire fighting took up 52 percent of the Forest Service budget and it will be “two-thirds in the very near future.” That’s compared to 16 percent 20 years ago.

Because of the fire borrowing and a diminution in other agency appropriations the agency has slipped from 17,000 employees two decades ago to 10,100.

Said Vilsack, “In addition to re-direction of resources we’ve also seen a significant decline in the number of personnel at the Forest Service managing the forests - making sure the trails are available, making sure the cabins are a good place to stay, making sure the 156 million visitors (per year) who come to the national forests have a good time and feel good about their National Forest System.”

At the briefing, Tidwell and Vilsack petitioned Congress to shift the cost of fighting the most expensive fires out of the Forest Service line budget and into disaster spending, as the new Senate bill would do, in part.

Vilsack said that even with a normal fire season 2016 will be expensive. “That’s why it’s important for Congress to once and for all to fix the fire-fighting budget,” he said. “This is a circumstance where we had conversations and discussions for a number of years and each year we continue to borrow money and each year we continue to see declining resources and declining personnel to manage our forests.”

Vilsack noted that in fiscal 2015 fire fighting took up 52 percent of the Forest Service budget and it will be "two-thirds in the very near future." That's compared to 16 percent 20 years ago.

Fiscal year 2016 fire fighting may be set financially because Congress put up extra money in an appropriations bill (PL 114-113 of Dec. 18, 2016) to take care of most needs, without invoking disaster funding.

The appropriators approved a total of \$4.2 billion for wildfire fighting for the coming fire season, including \$593 million in the event of a catastrophic season, i.e. one that exceeds the 10-year average.

Now Congress and the administration are turning their attention to finding money - and perhaps a new hazardous fuels reduction policy - for the 2017 fire season.

On May 25 the House subcommittee on Interior and Related Agencies Appropriations approved a fiscal 2017 spending bill, but the measure would not authorize the shift of any emergency wildfire money to disaster spending. (*See related article page one.*) The subcommittee took these actions in approving \$3.853 billion for wildfires:

WILDFIRE FOREST SERVICE: For a wildfire appropriation the subcommittee recommends \$2.594 billion, compared to a fiscal 2016 appropriation of \$2.386 billion. For an emergency account called FLAME the recommendation is \$315 million, compared to a fiscal 2016 FLAME appropriation of \$823 million.

WILDFIRE INTERIOR DEPARTMENT: For a wildfire appropriation the recommendation is \$852 million, compared to a fiscal 2016 appropriation of \$817 million. For an emergency account called FLAME the recommendation is \$92 million, compared to a fiscal 2016 FLAME appropriation of \$177 million.

For fiscal 2017 the Obama administration in February proposed the transfer of \$1.140 billion to disaster spending, \$864 million for the Forest Service

and \$276 million for the Interior Department.

Western House Republicans are somewhat sympathetic to the administration's request for disaster spending, but they would also limit environmental reviews in order to promote fuel reduction projects, and that is anathema to the Obama administration. The House approved authorizing legislation (HR 2647) - in contrast to appropriations - to do that on July 9, 2015.

Of HR 2647 OMB said last July, "The Administration has substantial concerns with the design and scale of the categorical exclusions, provisions related to post-fire salvage and restoration (including unrealistic timelines for environmental assessments), and unrealistic targets for reforestation given current budgetary resources."

The administration was almost, but not quite, on board with disaster-funding provisions of the House fire bill. It found fault with a provision that would transfer emergency fire fighting expenses above 100 percent of the average to disaster spending. It recommended that the transfer to disaster funding cut in at 70 percent of the 10-year average for wildfire suppression, not at 100 percent.

Rep. Mike Simpson (R-Idaho) and Wyden have introduced the administration recommendation as legislation (HR 167 and S 235 respectively) with 148 cosponsors in the House and 21 in the Senate

Although the administration and House Republicans are at odds over the environmental review provisions of HR 2647, the bill may be in the mix if and when Congress addresses the wildfire-funding situation, either as stand-alone legislation or in an appropriations bill at the end of the year.

Notes

NPS retirees fear TR refinery. The Coalition to Protect America's National Parks May 19 asked Billings County, Mont., officials to reject a proposal to site 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 coalition said the project would be located three miles from the park. "Such a proposal, if implemented, would also significantly compromise the integrity of the Park, long recognized as one of the crown jewels of North Dakota, and increasingly recognized as a national destination," said the coalition to Billings County Board of Commissioners members. "In so many ways, from harm to air quality, excessive use of water, and a jarring view from popular high points, Park values would be damaged forever." The retirees didn't say a refinery shouldn't be constructed in Montana; they just said it should be located somewhere else. "(I)t is the intent of this letter to urge that all efforts be made to find another, more appropriate, location for the Davis Refinery," said the retirees' letter, signed by coalition chair Maureen Finnerty.

Trails and health posited. The Park Service and the Centers for Disease Control teamed up May 17 to announce the completion of a toolkit for planning trails with a health implication. The toolkit provides guidance on identifying partners, assessing sites, collecting data and so on. "Community health should be a core topic of conversation during every park, trail, and open space planning project," said Captain Sara Newman, Director of the Office of Public Health, National Park Service. "This workbook provides step-by-step instructions for community members, health professionals, and park managers to incorporate public health ideas and strategies in the development or improvement of green spaces." The toolkit - *The Parks, Trails, and Health Workbook: A Tool for Planners, Parks and Recreational Professionals* - is available at: https://www.nps.gov/public_health/hp/hphp/resources.htm.

Rocky Mountain NP completed.

(This item is a bit old but is worth noting.) The Trust for Public Land said earlier this month that it has acquired the last private property within Rocky Mountain National Park and intends to transfer it to the Park Service. The

property consists of a 42-acre Cascades Cottages that a family has operated as rustic summer cottages since 1941. The Trust and the Rocky Mountain Conservancy paid \$3.4 million for the site. The Trust said the future of the cottages "has yet to be determined." But it quoted family member Brent Johnson as saying his family "hoped that someday this land would eventually be added to the park because this is such a special place."

Feds checking Alaska visitation.

Four federal land management agencies are sponsoring a survey this summer of how visitors to public lands travel. The Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Land Management are sponsoring the survey to be administered by the University of Alaska Fairbanks. The data will be used in a 2017 Alaska Federal Lands Long Term Transportation Plan that could help improve access to parks, forests, refuges and public lands, many of which are remote. The results of the project could also serve as a pilot project for other federal land management agencies around the country.

FS planning advisors sought.

The Forest Service is seeking nominations to fill the 21 slots on its National Advisory Committee for Implementation of the National Forest System Planning Rule. The Department of Agriculture on February 3 re-established the committee. Committee members represent a wide range of interests ranging from dispersed recreation to developed outdoor recreation to timber industry to grazing. Information on the committee and the nominating process is available at <http://www.fs.usda.gov/main/planningrule/committee>. Nominations must be submitted by July 11. The last advisory committee submitted recommendations to the Forest Service on Nov. 21, 2013, on implementing a planning rule of March 23, 2012. The rule governs the preparation of individual unit plans for the 155 national forests and 20 grasslands in the National Forest System. The panel's recommendations were less controversial than the rule itself. They simply flesh out the Forest Service's own strategy for implementation. The individual forest plans,

required by the National Forest Management Act, govern virtually all uses in the national forests.

BLM planning proposal resisted.

Some western governments and their allies complained last week that a proposed Bureau of Land Management (BLM) planning rule would weaken local influence in the management of the public lands. They complained the proposal of February 25 would eliminate the existing BLM practice of planning within a field office's boundary in favor of landscape-wide planning. At a May 12 hearing of the House Natural Resources Committee subcommittee on Oversight, chairman Louie Gohmert (R-Texas) said, "Doing so opens the door to political gamesmanship as the special interests in Washington influence decisions that affect Americans hundreds of miles away." But Rep. Debbie Dingell (D-Mich.), ranking subcommittee minority member, said BLM should take a broad landscape approach to planning. "It simply doesn't make sense to manage resources according to political and jurisdictional boundaries," she said. "Birds don't stop at county lines. The sage-grouse doesn't turn around and start the other way when it reaches BLM field office boundaries." BLM's proposal, announced February 11, would modestly revise the substance of an existing planning rule. Among the proposed changes are a greater emphasis on broad area planning, preparation of an assessment prior to writing a management plan and earlier public involvement in the planning process. BLM's website on the proposal is at www.blm.gov/plan2.

BLM begins new San Rafael plan.

BLM said May 18 that it intends to write a master oil and gas leasing plan for the San Rafael Desert in Utah, an area coveted by the energy industry and by environmentalists. The plan will govern oil and gas leasing in 525,000 acres in the desert in Emery and Wayne Counties. The Southern Utah Wilderness Alliance immediately praised the area for its wildland virtues. "The San Rafael Desert is a remarkable wilderness landscape with stunning red rock vistas, centuries' old cultural sites, and a host of native species. We're looking forward to working with BLM and all stakeholders to revisit the agency's decisions about

whether and where oil and gas leasing and development in this area is appropriate," said Stephen Bloch, legal director for the alliance. This will be the second master leasing plan proposal from BLM. On Aug. 12, 2015, BLM proposed such a plan for the Moab and Monticello Field Offices in Utah.

Conference Calendar

JUNE

6-10. **Biannual National Scenic & Historic Trails Workshop** in Kansas City, Mo. Contact: Partnership for the National Trails System, 222 S. Hamilton Street Suite 13, Madison, WI 53703. (608) 249-7870. www.pnts.org

9-11. **International Snowmobile Congress** in Rapid City, S.D. Contact: International Association of Snowmobile Administrators at <http://www.snowiasa.org/>

12-14. **Western Governors' Association Annual Meeting** in Jackson Hole, Wyo. Contact: Western Governors' Association, 1515 Cleveland Place, Suite 200, Denver, CO 80202. (303) 623-9378. <http://www.westgov.org>

24-27. **U.S. Conference of Mayors Annual Meeting** in Indianapolis, Ind. Contact: U.S. Conference of Mayors, 1620 I St., N.W., Fourth Floor, Washington, DC 20006. (202) 293-7330. <http://www.usmayors.org>.

JULY

12-15. **The International Convention of Allied Sport fishing Trade Show** in Orlando, Fla. Contact: American Sport fishing Association, 225 Reinekers Lane, Suite 420, Alexandria, VA 22314. (703) 519-9691. <http://www.asafishing.org>.

16-23. **National Speleological Society Convention** in Ely, Nev. Contact: National Speleological Society, 2813 Cave Ave., Huntsville, AL 35810-4331. (256) 852-1300. <http://www.caves.org>.

22-25. **National Association of Counties Annual Conference**. In Los Angeles. Contact: National Association of Counties, 440 First St., N.W., 8th Floor, Washington, DC 20001. (202) 393-6226. FAX (202) 393-2630. <http://www.naco.org>.