

Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Gerrie Castaldo

Volume 32 Number 8, April 18, 2014

In this issue. . .

Rec fee bill likely, in the House.

Administration, rec establishment back outlines of Bishop bill to replace FLREA. But lots of rec users don't like it. And the Senate is mute lately. Are complaints about specifics... Page 1

San Antonio may get world honor.

NPS will nominate missions in Texas to World Heritage List. Nations may vote in summer of 2015. One of 14 sites circulated by the Bush team.... Page 4

House budget shorts LWCF, fire.

Says Congress should spend more money on maintenance than on land acquisition. Ryan budget also rejects fire disaster fund... Page 5

RTP backers ask stand-alone status.

In next surface transportation bill. Now compete for transportation alternatives money. Do pay their own gas taxes.. Page 7

Glamis Dunes may reopen to ORVs.

After decade of litigation judge says BLM plan satisfactory. BLM eyes fall opening in Calif.. Page 8

GOP helps confirm Kornze at BLM.

Six western senators, including Murkowski, vote for. Suh and Schneider still waiting..... Page 9

Utah moving on federal wild lands.

Governor signs bill to govern claimed federal wilderness.. Page 10

Notes..... Page 11

Conference calendar..... Page 14

Administration, rec bosses back FLREA concept in House

Although there is significant opposition to some basic principles in a draft House federal lands recreation fee bill, the draft will likely form the basis for a multi-year bill this year.

That's because major players - the administration, industry, outfitters and environmentalists - generally support the basics of the draft bill. The basics include entrance fees, return of fee revenues to agencies, inclusion of the Corps of Engineers and a transparent process.

The parties laid out their positions April 4 at a House subcommittee on Public Lands hearing on a draft bill prepared by chairman Rep. Rob Bishop (R-Utah).

It is understood the next step will be introduction of a formal bill, perhaps followed by an additional hearing on the formal bill. Bishop wants to gather as much input as he can.

Asked by *FPR* after the hearing if Republican leaders in the House Natural Resources Committee intend to try to move a bill this year, a committee spokeswoman said, "Yes."

The existing Federal Lands Recreation Enhancements Act of 2004 (FLREA) is due to expire on Dec. 8, 2015. But the Interior Department and the Forest Service told the Bishop subcommittee that it takes year to plan projects that are financed by fee revenues, so passage of a bill this year is crucial.

Said Bishop, "The authorization for FLREA expires in December of 2015, but because some of the activities allowed under the act are multi-year, it

is best for us to act well before the expiration date.”

Bishop and ranking full committee Democrat Peter DeFazio (D-Ore.) put out a joint statement that indicated renewal of FLREA will not be a partisan issue.

“Reauthorization of (FLREA) is an area where we can work together to improve government and protect the taxpayer. We heard testimony today on draft legislation that seeks to address problems we have had with the program over the last ten years,” they said. “There is still a lot of work to do, including addressing special recreation permits and the services of outfitters and guides. We look forward to working together on this legislation in the coming months.”

The feds: The Interior Department and the Forest Service generally backed the draft bill, but did ask for a couple of significant changes. For one thing, said Pamela Haze, deputy assistant secretary for budget for the Interior Department, the reauthorization should be permanent, not the five years in the bill.

“Permanent authorization would not preclude the Congress from ongoing oversight of the program, and the agencies have consistently submitted reports of their activities to Congress,” said Haze.

Haze also said the kinds of recreation fees (10 items including boat launches, campgrounds, etc.) and recreation permit fees (nine items including snowmobiles, outfitters etc.) in the draft bill may be too limiting.

“We are concerned that, as written, the draft bill may preclude agencies from permitting or charging fees for certain well-established recreational events and activities currently authorized under FLREA,” said Haze.

Supporters’ alliance: A particularly influential alliance of industry, conservationists, concessioners, and state and local governments generally supported the

basics in the Bishop draft. However, the alliance said federal agencies and its partners have not made federal recreation areas sufficiently visible to the public, particularly to young and diverse populations.

The alliance disagreed with an assertion of federal agencies that current law prohibits them from advertising, both alone and with partners.

Said the coalition in testimony delivered by American Recreation Coalition President Derrick Crandall, “And in fact we would appreciate this committee making it clear to the agencies that building awareness and promotion are legitimate uses of a portion of FLREA receipts. In the private sector, and even in some state parks, a percentage of gross receipts used for promotion is seen as vital.”

That alliance includes among others AAA, the American Recreation Coalition, the Blue Ribbon Coalition, the National Association of State Park Directors, the National Park Hospitality Association, the National Ski Areas Association, the National Recreation and Park Association, the Outdoor Industry Association, and the Student Conservation Association.

The alliance also found fault with a \$10 lifetime pass to the parks for senior citizens. “We believe the current benefit of lifetime free access for a one-time fee of \$10, with an additional benefit of 50 percent reductions of campground and certain other fees, no longer represents the best use of deferred fees,” said Crandall. “This benefit effectively imposes excessive costs on others, including families with young children.”

Instead the coalition would authorize a mix of benefits to seniors, such as discounts on an America The Beautiful pass. The Bishop draft does not specify the prices of the various passes. That will be filled in later.

The Senate: The Senate Energy Committee has announced no plans to consider legislation to revise or

extend FLREA. Former committee chairman Sen. Ron Wyden (D-Ore.) had talked about preparation of a comprehensive Park Service Centennial bill that was expected to address federal recreation fees. But he has been replaced as chair by Sen. Mary Landrieu (D-La.) And she has concentrated most of her fire on energy policy, not natural resources.

If the energy committee doesn't act, that would leave an extension or revision up to the Senate Appropriations subcommittee on Interior and its chairman, Jack Reed (D-R.I.)

Background: Congress bought itself time to rewrite FLREA by including a one-year extension in an interim fiscal year 2014 appropriations spending law (PL 113-46 of October 16). FLREA is now due to expire on Dec. 8, 2015.

FLREA, enacted on Dec. 8, 2004, as PL 108-447, Section 804, was only good for 10 years. The law produces about \$270 million per year in fee revenues and most of the money is used to improve recreation facilities.

The Park Service brings in from fees about \$179 million per year, or about eight percent of its recreation budget; the Forest Service takes in about \$66 million, or 25 percent of its recreation budget; the Bureau of Land Management receives \$18 million, or 25 percent of its recreation budget; the Fish and Wildlife Service grosses \$5 million, or one percent of its rec budget; and the Bureau of Reclamation receives less than \$1 million.

Fee critics: Most criticism of the draft Bishop bill came from the people who are some of the most frequent visitors to national forests, Bureau of Land Management lands and national parks - members of an organization called the Western Slope No-Fee Coalition.

Coalition President Kitty Benzar took issue with the basic premise behind FLREA, i.e. raising money from federal land users. "For eighteen years the federal land management agencies have viewed American citizens as customers rather than owners, and have increasingly managed basic access

to outdoor recreation as an activity that must generate revenue, rather than as an essential service that promotes a healthy active population," she said.

Benzar objected to fees for these activities: "roadside parking, walking or riding on trails, access to vast tracts of undeveloped public land, and even for such fundamentals as the use of toilets."

Besides, she said, many fees operate as a double tax. "Americans already pay for management of their federal public lands through their income tax, but these fees are an additional tax," she said.

Finally, Benzar faulted a provision of the bill that returns 80 percent of revenues to the collecting agency. "It does not provide sufficient safeguards to counterbalance the powerful incentive of fee retention and protect the public's right to basic access as expressed in FLREA," she said. "Instead, it provides strong new incentives to develop more facilities in more places - facilities the public neither needs nor wants - simply in order to be able to charge fees."

Outfitters' problems: On behalf of an alliance of outfitters, David L. Brown, executive director of the America Outdoors Association, objected to a cost recovery provision in a permit fee portion of the bill (Section 807). It would establish recreation permit fees for outfitters and direct permittees to recover costs, such as maintenance and trail construction.

"Since most self-guided, backcountry recreationists are exempted from fees in the draft legislation,

NOTICE: PUBLISHING SCHEDULE CHANGE

Dear Subscriber:

The next issue of *Federal Parks & Recreation* will be published on May 9, one week later than the usual biweekly cycle. After that we will resume our regular biweekly publishing schedule. We thank you for your consideration. The Editors

except in a handful of areas, these burdens would fall mainly on the outfitted public and their service providers," said Brown. "Outfitter permit holders would be saddled with the costs for trail maintenance, monitoring of natural and cultural resources, restoration, signage, law enforcement and user education for all users in most areas."

The Wilderness Society environmental group backed the outfitters. In comments submitted to the committee it recommended: "Reduce the broad authority to shift costs onto outfitter-guide permit holders in the national forests, as outlined in the discussion draft released by the Subcommittee. These permit holders play an important role in getting people outdoors for rafting, climbing, horse-packing and educational experiences on public lands, including Wilderness areas, throughout the U.S."

Corps problem: Another area of concern is the inclusion of the Corps of Engineers in the program. Bill supporters generally endorse application of the program to the Corps but they worry that the existing Congressional budget law would require most fee money to be sent to the U.S. Treasury, and not be retained for Corps rec projects, as other agencies now do.

The Corps presently collects about \$45 million per year in fees but can't spend the money on its facilities. Under the federal budget law if the Corps were included in the federal rec law, it would not be able to use any of the first \$30 million it collected in a year. So the legislators would have to find a budget offset for the \$30 million, no easy task in the best of times.

One brief sentence in the draft bill would include the Corps in the program, perhaps as a marker with more wordage to come.

The draft committee bill is available at: http://naturalresources.house.gov/uploadedfiles/3-04-14_flrea_discussion_draft.pdf

San Antonio Missions in the running for World Heritage

The Interior Department posted formal notice in the *Federal Register* April 8 that the United States will nominate portions of the San Antonio Missions National Historical Park as a World Heritage Site. The department on January 17 first said that it would make the nomination, but the April 8 announcement cinches the deal.

The park commemorates the role of Latinos in the nation's heritage. The nominated areas include the Alamo.

The World Heritage List counts 981 renowned sites around the world including the Taj Mahal, Stonehenge, and Yellowstone and Yosemite National Parks. NPS will submit the nomination to the World Heritage Centre in Paris, France, and, if endorsed by the centre's staff, the nomination will be submitted to representatives of 21 nations for final approval.

The World Heritage Centre is expected to consider the nomination in the summer of 2015.

The United States is home to 21 of the 981 World Heritage sites including such iconic national parks as the Everglades, Grand Canyon, Yellowstone and Yosemite. NPS manages 17 of the United States sites.

Most recently on July 30, 2010, the United Nations Educational, Scientific and Cultural Organization's (UNESCO) 34th World Heritage Convention in Brasilia, Brazil, voted to include Papahānaumokuākea Marine National Monument off Hawaii as a World Heritage site.

Papahānaumokuākea takes up 139,797 square miles of the Pacific Ocean, an area larger than all the United States' national parks combined. It is jointly managed by the Department of Commerce, the Department of Interior and the State of Hawaii.

San Antonio Missions and Papahānaumokuākea were two of 14 sites

the Bush administration in 2008 said it would consider for possible nomination to the World Heritage list.

Conservative Republicans and private property rights advocates have often criticized inclusion of American sites on the list because of possible international pressure to limit development around them.

But proponents such as Secretary of Interior Sally Jewell say that inclusion of properties on the list provides opportunities. When the department first announced it would nominate San Antonio Missions in January Jewell said, "World Heritage Sites represent an incredible opportunity for the United States to tell the world the whole story of America and the remarkable diversity of our people and beauty of our land. The San Antonio Missions represents a vital part of our nation's Latino heritage and the contributions of Latinos to the building of our country."

The 12 other sites, or groups of sites, the Bush administration identified that might someday make the list are: (1) civil rights churches in the south; (2) four aviation locales in Dayton, Ohio; (3) George Washington's Mount Vernon home in Virginia; (4) Hopewell Ceremonial Earthworks in Ohio; (5) Thomas Jefferson buildings in Virginia; (6) Poverty Point National Monument and State Historic Site in Louisiana; (7) Serpent Mound in Ohio; (8) Frank Lloyd Wright buildings in several states; (9) Fagatele Bay National Marine Sanctuary in American Samoa; (10) Okefenokee National Wildlife Refuge in Georgia; (11) Petrified Forest National Park in Arizona; and (12) White Sands National Monument in New Mexico.

House approves budget short on LWCF, fire-fighting help

The House approved a fiscal year 2015 Congressional budget (H Con Res 96) April 10 that retains an overall spending limit of \$1.014 billion that was agreed to by Congress and the Obama administration in December.

Beyond that the budget recommends new priorities. It would emphasize federal land maintenance over land acquisition, retain an existing system for paying for fighting fires and reduce spending on climate change.

Rep. Peter DeFazio (D-Ore.) blasted the recommended reduction in spending for the Land and Water Conservation Fund. "We have something called the Land and Water Conservation Fund," he said on the House floor April 10. "It is funded by taxes collected from offshore oil drilling. It is supposed to buy conservation lands. (The Republican majority) will not allow a single acre of land to be purchased by the Federal Government, but they will still collect the tax from the oil industry."

DeFazio, ranking minority member on the House Natural Resources Committee, also criticized the fire provision. "And what about the looming crisis in wildfires in the West?" he asked. "Well, they are closing their eyes and are pretending we are not going to have drastic wildfires across the West, and they put zero budget in there in anticipation of drastic wildfires."

Two Republican House members - Reps. Tom Cole (R-Okla.) and Richard Nugent (R-Fla.) - rebelled against the fire provision, even though it was advanced by their own party. Said Cole on the floor April 8, "There are a couple of issues that do concern me, as I addressed Mr. Ryan last night; and we are worried that we haven't dealt with the wildfire issue to my satisfaction, which disrupts the appropriating process within Interior, but he assured me that he recognized that was a problem, and we are going to continue to work on it."

Ryan is Rep. Paul Ryan (R-Wis.), chairman of the House Budget Committee and principal architect of H Con Res 96.

In a bit of a surprise, the House would establish a nonbinding spending cap for natural resources of \$32.2 billion in discretionary authority, or \$1.1 billion more than the \$30.1 billion in a fiscal 2014 budget.

The Senate is not preparing a budget this year, relying instead on the budget agreement Congress produced on Dec. 26, 2013 (PL 113-67). Indeed, Senate Budget Committee Chair Patty Murray (D-Wash.) said of the House committee budget, "Since our bipartisan budget deal already set spending levels for fiscal year 2015, I am hopeful that this partisan proposal will be set aside and we can work together once again to create jobs and economic growth built from the middle-out, not the top down."

Conservationists are disappointed by the House priorities. Said Alan Rowsome, who handles budget issues for The Wilderness Society, "By proposing more deep cuts to conservation programs over the next decade, the Ryan budget ignores the fact our national parks, forests and wild areas on publicly owned lands provide vital economic benefits and jobs in the \$646 billion outdoor recreation economy, which employs more than 6 million Americans throughout the U.S."

Rowsome also told us that the jump in natural resources spending is deceptive because it would not be used for conservation. The overall increase "sounds good in theory, but the first paragraph of the Ryan budget write-up on Function 300 makes clear that this increase is to double down on energy production."

To be fair while the budget paragraph Rowsome refers to does place significant emphasis on energy development, it also says the budget would accommodate "responsible management of the National Park System, public lands nationwide, monuments, and other public objects of interest."

Here's some of what the House budget would have Congress do:

Land acquisition: Instead of guaranteeing \$900 million per year for the Land and Water Conservation Fund (LWCF), as the administration has recommended, the House budget would continue to have Congressional appropriators decide how much money the program should receive. And the House would put a higher priority on federal

land management agency maintenance backlogs than on land acquisition.

"The federal government is already struggling with a maintenance backlog on the millions of acres it control - a backlog totaling between \$17 and \$22 billion - but the administration is seeking to acquire even more land," says a committee report accompanying H Con Res 96. "This budget keeps funding for land acquisition under congressional oversight and focuses on eliminating the maintenance backlog before moving to acquire additional lands."

Again, the Congressional budget is largely advisory as to the details of appropriations and authorizations. The real power possessed by the budget is the total appropriations cap of \$1.041 trillion, which is already in the books.

Fire-fighting money: The committee rejected an Obama administration proposal, backed by bipartisan legislation, to pay for expensive emergency fires out of a disaster account. The Obama plan would semi-guarantee that agencies would not have to borrow money from operations to fight fires.

Instead Ryan would continue to pay for fire fighting out of regular appropriations.

Legislation to implement the administration budget plan (HR 3992) enjoys bipartisan support in the House with 14 Republican and 11 Democratic cosponsors. The lead sponsors are Reps. Mike Simpson (R-Idaho) and Kurt Shriver (D-Ore.) Sens. Ron Wyden (D-Ore.) and Mike Crapo (R-Idaho) are the lead sponsors of a counterpart Senate bill (S 1875).

Climate change: The House committee would decrease spending on climate change, while the administration would increase it. The Republicans say, "Streamline Climate-Change Activities across Government. This budget resolution reduces spending for government-wide climate-change-related activities, primarily by reducing the funding federal agencies spend on overseas climate-change activities."

Recreational trail backers seek stand-alone status anew

Supporters of the Recreational Trails Program (RTP) are recommending that Congress set it aside as a stand-alone program in the next multi-year surface transportation bill.

Under existing law RTP is included in a Transportation Alternatives account and must compete with other outdoor programs for money, although Congress did guarantee up to \$85 million per year for RTP from the pot.

The supporters, both motorized and nonmotorized recreationists, have begun meeting with legislators and their staffs to beat the drums for RTP. Last month representatives of the coalition, led by the Rails-to-Trails Conservancy and the American Recreation Coalition, met with House and Senate staffers to promote the program.

And last week four key senators - two from each political party - petitioned their colleagues to support recreational trails. "We understand the challenges facing our nation's highway program in the coming months and years," the senators wrote. "However, the RTP is important to our states and constituents and has clear economic benefits not only to our states but the entire nation."

Signing the letter to Senate Environment and Public Works Committee (EPW) leaders were Democratic Sens. Amy Klobuchar (D-Minn.) and Jeanne Shaheen (D-N.H.) and Republican Sens. Jim Risch (R-Idaho) and Richard Burr (R-N.C.)

The letter was timely because the EPW leaders April 11 announced they had agreed on principles to include in the next surface transportation bill. Committee Chairman Barbara Boxer (D-Calif.) and ranking Republican David Vitter (R-La.) did not divulge details of the bill but Boxer has said the committee intends to mark it up later this month.

Among the principles was this ambiguous plank: "Maintaining the

formulas for existing core programs." By one interpretation core programs would mean just road and bridge construction, and not recreation. By another interpretation core program would include the transportation alternatives program and recreational trails.

The current surface transportation law, Moving Ahead for Progress in the 21st Century (PL 112-141 of July 6), also known as MAP-21, consolidated such programs as transportation enhancements, recreational trails and Safe Routes to Schools into the Transportation Alternatives line item.

The estimated allocation to the Transportation Alternatives Program is \$760 million per year, or about a \$200 million decrease from prior years. In addition the programs must compete with each other and with other programs for the \$760 million.

Congress did set aside \$85 million of the transportation alternatives money for recreational trails. However, MAP-21 also allows states to opt out of RTP, and in fiscal 2013 Florida and Kansas did so. In fiscal 2014 Florida did.

Among the recommendations of the Coalition for Recreational Trails is elimination of the opt out provision. The coalition is also calling on Congress to at least maintain the status quo in spending amounts for recreational trails.

Supporters note that the program has contributed to more than 18,000 trail projects across the country. The recreational trails money comes from taxes on motorized vehicles and is spent on trails that are used by both powered rec and human-powered rec.

As the pro-RTP senators wrote, "That means snowmobilers, off-highway motorcyclists, all-terrain vehicle riders benefit from RTP funds just as hikers, equestrians, bicyclists, and cross country skiers do."

Some senators have the long knives out for the entire Transportation Alternatives Program. Sens. Mike Lee

(R-Utah) and Marco Rubio (R-Fla.) April 1 introduced a Senate amendment (SA 2925) to an unemployment benefits bill then on the Senate floor to eliminate the program. The Senate did not take up the amendment.

The larger goal of the Lee and Rubio amendment is to confine the federal role in surface transportation to construction of Interstate highways. Lee and Rubio would allow states to use Highway Trust Fund money beyond Interstate highways as they saw fit. Lee and Rubio have introduced the measure, which has dim prospects, as a stand-alone bill (S 1702).

House Transportation Committee Chairman Bill Shuster (R-Ohio) in February laid out this schedule for developing a bill this year: "We hope to take Committee action in the late spring or early summer with the goal to be on the House floor before the August recess. This way there will be time to conference our bill with the Senate's bill."

As part of his fiscal year 2015 budget request President Obama proposed a restructuring of the tax code to boost total surface transportation funding from the current \$46 billion per year to \$75 billion.

The administration said the proposal would make available for surface transportation programs \$150 billion in new money, bringing the four-year recommendation for a transportation bill to \$302 billion.

Ratcheting up the pressure Acting Under Secretary of Transportation Peter M. Rogoff told the House Transportation Committee March 4 that the Highway Trust Fund may run out of money this summer, forcing highway projects to close down.

Judge makes way for reopening of Glamis Dunes to OHVs

Off-highway vehicle (OHV) users are celebrating this month after a federal court reopened the Imperial Sand Dunes Recreation Area to them after more than a decade of closures.

A federal judge in California ruled that the latest EIS and management plan prepared for the area in Southern California by the Bureau of Land Management (BLM) passes legal muster.

Large portions of the 167,000-acre area, popularly known as "Glamis" because of the city within its borders, have been closed since 2000 because of lawsuits brought by the Center for Biological Diversity and other environmental groups. They filed the suits to protect the desert tortoise and other species from OHVs.

According to the recreation industry 127,000 acres in the recreation area will now be open to OHVs and 26,000 acres will be closed because they have been formally designated wilderness. The industry groups, including the BlueRibbon Coalition, say more than 200,000 sand-riding enthusiasts visit the area each year.

Rider groups are celebrating the reopening of the Imperial Sand Dunes. Said Jim Bramham, who holds leadership positions with several of the recreationist organizations, including the American Sand Association and California Association of 4 Wheel Drive Clubs, "Our work will never be finished, but this vindicates our long-running, expensive and sometimes controversial team effort to restore balance to ISDRA management."

On April 7 BLM made it official and announced that the closed areas will reopen this fall, save for an appeal to the circuit court from environmentalists.

"Visitors to the Imperial Sand Dunes have patiently waited for implementation of the new (management plan), and we are very excited that new riding opportunities are just around the corner," said BLM's El Centro Field Manager Thomas Zale. "I appreciate the cooperative spirit of our dunes visitors and will be working hard with staff and partners to get ready for great times next season in America's Great Outdoors!"

Under consideration by U.S.

District Judge Susan Illston of the U.S. Northern District Court of California this time around was a recreation area management plan and EIS that BLM had prepared in 2013 in response to prior Illston decisions. Those rulings had closed portions of the sand dunes since the Center for Biological Diversity, the Sierra Club and the Public Employees for Environmental Responsibility filed an initial lawsuit in March of 2000.

In previous rulings Illston had held that BLM had violated the Endangered Species Act. She then closed five areas of the sand dunes totaling about 75,000 acres.

In this most recent ruling, http://www.sharetrails.org/uploads/243-Order_on_MSJ.04.03.2014.pdf, Illston upheld BLM's management plan under portions of the Endangered Species Act, the National Environmental Policy Act and the Clean Air Act.

For example, to the plaintiff's argument that BLM's visitation numbers don't give a true picture of the impact of OHVs on clean air, Illston said, "Finally, plaintiffs challenge BLM's assumptions for number of OHVs, visitor days, average speed, and time spent riding OHVs. However, as defendants note, these assumptions apply equally to the baseline condition and the preferred alternative, and thus have no effect on BLM's conclusion that the RAMP will not cause more than a de minimis increase in emissions given BLM's determination that the chosen alternative will not cause an increase in the number of visitors."

On one count Illston did side with the environmentalists - an alleged failure by the Fish and Wildlife Service to complete a final recovery plan for the Peirson's milk-vetch. She ordered the agency to complete the plan by July 31, 2019.

Kornze in at BLM with votes of six western GOP senators

The Senate confirmed the nomination of Neil Kornze as Bureau of Land Management (BLM) director April 8 by a 71-to-28 vote. Of note six western

Republicans backed the nomination, including ranking Senate Energy Committee minority member Lisa Murkowski (R-Alaska).

Secretary of Interior Sally Jewell endorsed the action. "With strong Western roots and a deep understanding of the issues, Neil for more than a decade has proven himself to be a creative and results-oriented professional, and has been a great asset to the Interior Department when it comes to promoting smart energy development and driving thoughtful landscape-level planning efforts," she said.

Ed Shepherd, executive director of the Public Lands Foundation, said, "Neil Kornze is officially taking over the reins of the BLM at a time when demands on the land and resources continues to escalate. He is faced with trying to find the balance on several important and controversial issues, such as wild horses and burros, energy, development, and sage-grouse conservation. None of these issues have easy solutions. The PLF looks forward to working with Neil and wish him the best." The foundation is made up of bureau retirees.

Conservationists were also pleased. Said Jamie Williams, president of The Wilderness Society, "Mr. Kornze has been leading the agency through an era of change already, and he is an excellent choice to continue the Department's efforts to balance conservation and energy development on BLM lands." Kornze has been serving as acting director since March 1, 2013.

But it was the support of Murkowski that may have mattered most. She has been at war with the Interior Department over Jewell's decision to reject construction of a road across a wildlife refuge in Alaska to the community of King Cove.

Last month Murkowski led the opposition to the nomination of Rhea Suh as assistant secretary of Interior for Fish and Wildlife and Parks in the Senate Energy Committee. Eventually the committee approved Suh's nomination but by a close 12-to-10 vote on party lines.

The Interior Department may have signaled March 20 that Suh's nomination was in trouble when it announced a number of personnel moves that would allow Suh to remain as assistant secretary of Interior for Policy.

In a major shift the department said that Tommy Beaudreau has been asked to serve as chief of staff, effectively withdrawing his nomination for assistant secretary for Policy as Suh's replacement.

If Suh were to remain in the policy slot, it might mean the administration's nominee for assistant secretary of Interior for Land and Minerals Management, Janice Schneider, can move to final confirmation in the Senate. Schneider has been paired with Suh in the nomination process. Beaudreau is currently serving as acting assistant secretary for Land and Minerals.

In addition to Murkowski the five western Republican senators voting to confirm Kornze were Mike Crapo (R-Idaho), Jeff Flake (R-Ariz.), Orrin Hatch (R-Utah), Dean Heller (R-Nev.) and Jim Risch (R-Idaho.)

After a seven-month review the Senate February 27 confirmed the nomination of Michael L. Connor to serve as the deputy secretary of the Interior by a 97-to-0 vote. President Obama announced the nomination on July 30, 2013.

Connor, who is now the number-two policy-maker in the department, has served as commissioner of the Bureau of Reclamation since 2009. He replaced David Hayes as the chief operating officer of the department.

The present Interior Department chief of staff, Laura Daniel Davis, has announced her intention to leave that position by the end of April, opening up the position to Beaudreau. Jewell notified the department of the changes in an employee message March 20. So here is how Jewell's cadre may shake out:

- * Kornze is in as BLM director,
- * Connor is in as chief deputy,

* Beaudreau will serve as chief of staff,

* Suh would remain as assistant secretary for Policy,

* Schneider, if confirmed, would become assistant secretary for Land and Minerals, and

* Rachel Jacobson would continue as acting assistant secretary for Fish and Wildlife and Parks.

Utah enacts law to set management of fed wilderness

Utah Gov. Gary Herbert (R-) signed into law April 2 legislation that establishes a process for the state to decide which federal lands should be designated wilderness, in the event the lands were transferred to the State of Utah.

Assuming it passes legal muster, the legislation would have a Public Lands Policy Coordination Office identify lands that should be so designated and submit a recommendation to the governor and the legislature. The legislature and the governor would eventually rule on what transferred federal lands should be designated as wilderness and what lands should not be.

It is not clear if the state could undue previous Congressional wilderness designations and rules. But that is the implication in that the land would come under the Utah Wilderness Preservation System once transferred.

House Bill 160, introduced by Rep. Stephen Handy (R-Layton), applies just to federal lands turned over to the state and not to existing state lands. It also specifies land uses allowed within wilderness areas.

The legislation follows up on a larger campaign led by Herbert to force the federal government to transfer all 30 million acres of federal land in the state to the state.

Herbert touched off this battle March 23, 2012, when he signed legislation that requires the government to turn all federal lands in Utah over to Wyoming. That includes national

parks, Bureau of Land Management-managed lands, national forests, wilderness areas and the Grand Staircase Escalante National Monument.

Now the state has enacted a law to set up a process to decide which federal lands should be wilderness and how they should be managed.

Environmentalists view the legislation as a follow-on to several Herbert initiatives to gain control over public lands. That includes a number of state lawsuits against the Interior Department that claim nearly 20,000 RS 2477 rights-of-way (ROWS) across federal lands.

Said Deeda Seed, associate director of the Southern Utah Wilderness Alliance, "Gov. Herbert and a majority of Utah legislators think federal public lands should be handed over to the state. They think they can 'manage' these lands better. These are the same people who are pursuing thousands of so-called 'road' claims (frequently wash-bottoms or faint tracks) on public lands in order to prevent wilderness protection."

Despite the passage of HB 160 the underlying Utah law claiming the 30 million acres may not pass legal muster. The Utah Office of Legislative Research and General Counsel appeared to interpret the base law unconstitutional.

It said, "Under the Gibson case, that requirement would interfere with Congress' power to dispose of public lands." The office continued, "Thus, that requirement, and any attempt by Utah in the future to enforce the requirement, have a high probability of being declared unconstitutional." The Gibson Supreme Court decision is cited as *Gibson v. Chouteau*, 80 U.S. 92 (1872).

The measure is available at: <http://le.utah.gov/%7E2014/bills/static/HB0160.html>.

Notes

FS completes ski area directive.

The Forest Service said April 17

completed several changes to its policies governing year-round activities at ski areas. The directives, effective on April 17, were published in the *Federal Register*. The directives will carry out a 2011 law authorizing such summer activities as zip lines, mountain bike parks, Frisbee golf course and rope courses. The directives will also forbid some activities in the 122 ski resorts operating on 180,000 acres of national forest lands. The forbidden uses include tennis courts, water slides and water parks, swimming pools, golf courses, and amusement parks. In addition the proposed directives will guide use of ski areas by the non-paying public, i.e. cross-country skiers or hikers. The Forest Service said the year-round activities will have a significant impact on visitation and local economies. "Early estimates by the agency indicate that expanding ski area recreation activities will increase by 600,000 the number of summer visits on national forests; ski areas now average 23 million visits annually," said the service in a press release. "Also expected are an additional 600 full- or part-time jobs and almost \$40 million infused in local mountain communities." Said Forest Service Chief Tom Tidwell, "This is more than just a policy change. This opens up new opportunities to bring people onto national forests to enjoy the great outdoors, become more physically active and recreate in new ways."

GAO: NEPA data is scarce. The Government Accountability Office (GAO) said April 15 that federal agencies possess little data on the number, type, costs and benefits of environmental analyses under the National Environmental Policy Act (NEPA). "Agencies do not routinely track the cost of completing NEPA analyses, and there is no government-wide mechanism to do so, according to officials from CEQ, EPA, and other agencies GAO reviewed," said GAO. Critics of environmental litigation involving NEPA jumped on the report. Said Rep. Rob Bishop (R-Utah), who co-requested the report, "The findings of this report are not insignificant and deserve to be given considerable attention and oversight moving forward. (NEPA) is

important for many reasons, however, I remain concerned about the exorbitant costs and delays associated with the process. I am also very troubled by the constant use of NEPA as a litigious weapon to halt or delay projects that wealthy special interest groups don't like. This report will be instrumental as we work toward finding solutions for some of the biggest problems plaguing this 70's-era law." The executive director of Americans for Responsible Recreation Access, Larry Smith, said the report signals a need to revise NEPA. "All responsible users of public lands view protecting natural resources for posterity as our first priority," he said, "but it is clear that it is time for a thorough review of and a thoughtful debate on how to fix NEPA." The GAO report, *NATIONAL ENVIRONMENTAL POLICY ACT: Little Information Exists On NEPA Analyses*, is available at: <http://www.gao.gov/products/GAO-14-369>.

Mercury found in NPS fish. A new study of 21 national parks in 10 western states from Alaska to the arid Southwest reveals mercury contamination in 1,400 fish, the Park Service and the U.S. Geological Survey (USGS) said April 16. However, the mercury concentrations in 96 percent of the fish did not exceed standards for human consumption. Even so, the scientists for the two agencies who conducted a study worry that the levels of mercury are increasing. "This is a wake-up call," said NPS ecologist Colleen Flanagan Pritz, a co-author of the report. "We need to see fewer contaminants in park ecosystems, especially contaminants like mercury where concentrations in fish challenge the very mission of the national parks to leave wild life unimpaired for future generations." Mercury is spread by natural phenomenon, such as earthquakes, as well as by human activities, such as hard rock mining. The other co-authors were Collin A. Eagles-Smith and James J. Willacker Jr. They summed up in their report, "Across all fish sampled, only 5 percent had THg concentrations exceeding a benchmark (200 ng/g ww) associated with toxic responses within the fish themselves. However, Hg concentrations in 35 percent of fish sampled were above a benchmark for risk to highly sensitive avian consumers (90 ng/g ww), and THg

concentrations in 68 percent of fish sampled were above exposure levels recommended by the Great Lakes Advisory Group (50 ng/g ww) for unlimited consumption by humans." The report is available at: <http://pubs.usgs.gov/of/2014/1051/>.

Arlington Cemetery given honor.

The Park Service said April 15 it has added the Arlington National Cemetery Historic District to the National Register of Historic Places. Since the Civil War the 1,100 acres in Arlington, Va., overlooking the Potomac River and the nation's capital of Washington, D.C., have served as the final resting place for thousands of soldiers. The National Register of Historic Places, authorized by the National Historic Preservation Act of 1966, lists historic sites that NPS deems worthy of preservation. NPS gave these reasons for including Arlington Cemetery: "1) as America's most sacred national cemetery and as a national memorial to the military history of the United States; 2) it contains the burials of persons of national importance, including presidents, Supreme Court justices and countless military heroes; and 3) as the final resting place of service men and women from the Civil War to the current wars in Iraq and Afghanistan, it continues to serve as a national monument to the America's war dead."

Enviros ask LWCF money.

Conservation groups April 10 made their annual pitch to the House subcommittee on Interior appropriations for full funding of the Land and Water Conservation Fund (LWCF). Groups such as The Trust for Public Lands recommended that the subcommittee meet an Obama administration recommendation of \$350 million in discretionary appropriations in a fiscal year 2015 appropriations bill. The trust noted that the administration also asked Congress for an additional \$550 million in mandatory money for LWCF from new legislation, for a total of \$900 million. Addressing the subcommittee chaired by Rep. Ken Calvert (R-Calif.), Trust for Public Lands Vice President Kathy DeCoster said, "In the FY 2015 bill, we respectfully request that you allocate at least \$350 million in

discretionary funding as the budget proposes to support essential community-based conservation. We also recognize that the mandatory funding request requires additional legislative action, and we appreciate the leadership and commitment the Chairman and other subcommittee members have shown in seeking to address that need." The Wilderness Society made a similar pitch to the subcommittee. Both the trust and the society emphasized the economic benefits of conservation and recreation. However, the outlook for full funding in the House ranges from dim to dimmer because majority Republicans last year attempted to zero out the program.

China Lake withdrawal back. Rep. Kevin McCarthy (D-Calif.), unable to persuade Congress last year to transfer permanently 1 million acres of public land in California to the U.S. Navy, is taking another shot. He did succeed last year in persuading Congress to withdraw the million acres of the Naval Air Weapons Station at China Lake through March 31, 2039 (PL 113-66 of Dec. 26, 2013), but Congress rebelled at the outright transfer. McCarthy's new bill would make the withdrawal permanent and would withdraw additional acreage. Recreation is one of the priority uses of the million acres. When the China Lake legislation (HR 1673) to transfer the land to the Navy Department came to a hearing in the House subcommittee on Public Lands April 24, 2013, the administration said it "cannot support" an outright transfer. "Instead," said Ned Farquhar, deputy assistant secretary of Land and Minerals Management in the Department of Interior, "the Administration believes that the traditional, periodic review that is a part of the legislative withdrawal process is vital to promoting the highest quality stewardship and management of the public lands." But McCarthy said on introduction of his original transfer bill, "By permanently aligning property management of China Lake to the Navy, this legislation helps secure the future of the installation and recognizes its strategic importance and the people who work there so that our military continues to benefit from the best and latest technologies developed and tested in Ridgecrest.

In addition, this property transfer eliminates significant red tape and saves millions of taxpayer dollars in paperwork." In PL 113-66 Congress also approved extended withdrawals for the Limestone Hills Training Area in Montana; the Marine Corps Air Ground Combat Center in Twentynine Palms, Calif.; the White Sand Missile Range in New Mexico and Texas; and the Chocolate Mountain Aerial Gunnery Range in California.

Conservation easements backed.

The Senate Finance Committee approved earlier this month a provision to extend through 2014 and 2015 a tax incentive to donate conservation easements to the government. The old law ran from 2006 through December 2013. The provision is part of a "doable" tax package the committee approved to extend old tax incentives. The Land Trust Alliance is all in. Said Rand Wentworth, president of the alliance, "We will continue to push for making this incentive permanent, so that landowners can give conservation due consideration without racing a tax deadline or being unsure of what the results of their conservation commitment would be." The alliance says under the old law, in effect from 2006 through December 2013, farmers and other landowners protected as much as 1 million acres per year. The provision would allow landowners to deduct up to 50 percent of their adjusted gross income from taxes each year if they donated a conservation easement. Still in place is an older law that allows donations of up to 30 percent of adjusted gross income.

DoI posits landscape strategy.

Secretary of Interior Sally Jewell April 10 released a new Interior Department plan to mitigate the impacts of projects on a landscape scale. The plan would have department agencies consider the impact of energy projects, etc. on land and water resources. "Through advances in science and technology, advance planning, and collaboration with stakeholders, we know that development and conservation can both benefit - and that's the win-win this mitigation strategy sets out to achieve," said Jewell. The strategy is supposed to pay particular attention to climate change.

Said Frances Beinecke, president of the Natural Resources Defense Council, "We commend Secretary Jewell and the Interior Department for recognizing that a new approach is needed to meet today's challenges, including climate change. This report represents a very good start, and we look forward to working with the leadership team at the Department to ensure that it is translated into enduring conservation on the ground." The strategy is available at: <http://www.doi.gov/news/loader.cfm?csModule=security/getfile&pageid=526203>.

State wildlife grants out. The Fish and Wildlife Service earlier this month announced the annual distribution of the formulaic portion of State Wildlife Grants. For fiscal year 2014 the states will receive \$47 million in formulaic grants. That formula is based one-third on a state's land and two-thirds on a state's population. California and Texas are the big winners with \$2,393,879 each. The total appropriation for the program in fiscal 2014 is \$58.7 million, with \$49.1 million available for the formulaic grants (before administrative costs are deducted), \$5.5 million for competitive grants and \$4.1 million for Indian tribe grants. For wildlife grants in fiscal year 2015 the administration last month recommended \$50 million, down by \$8.7 million from a fiscal 2014 appropriation of \$58.7 million.

Conference Calendar

APRIL

23-27. **American Alliance for Health, Physical Education, Recreation and Dance National Convention & Expo** in St. Louis, Mo. Contact: AAHPERD, 1900 Association Drive, Reston, VA 20191(703) 476-3400. <http://www.aahperd.org>.

23-27. **Society for American Archaeology Annual Meeting** in Austin, Texas. Contact: Society for American Archaeology, 900 2nd St., N.E., Suite 12, Washington, DC 20002-3557. (202) 789-8200. <http://www.saa.org>.

28-30. **National Hydropower Association**

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

30-May 3. **National Ski Areas Association National Convention and Trade Show** in Savannah, Ga. Contact: National Ski Areas Association, 133 South Van Gordon St., Suite 300, Lakewood, CO 90228. (303) 987-1111. <http://www.nsaa.org>.

MAY

13-16. **National Outdoor Recreation Conference** in San Francisco, Calif. Contact: The Society of Outdoor Recreation Professionals, P.O. Box 221, Marienville, PA 16239. (814)927-8212. <http://www.recpro.org>

27-30. **National Sporting Goods Association Management Conference** in Indian Wells, Calif. Contact: National Sporting Goods Association, 1601 Feehanville Drive, Suite 300, Mt. Prospect, IL 60056-6035. (847) 296-6742. <http://www.nsga.org>.

JUNE

9-11. **Western Governors' Association Annual Meeting** in Colorado Springs, Colo. Contact: Western Governors' Association, 1515 Cleveland Place, Suite 200, Denver, CO 80202. (303) 623-9378. <http://www.westgov.org>

11-14. **International Snowmobile Congress** in Keystone, Colo. Contact: International Association of Snowmobile Administrators at <http://www.snowiasa.org/>

20-23. **U.S. Conference of Mayors Annual Meeting** in Dallas, Texas. Contact: U.S. Conference of Mayors, 1620 I St., N.W., Fourth Floor, Washington, DC 20006. (202) 293-7330. <http://www.usmayors.org>.

JULY

11-14. **National Association of Counties Annual Conference** in New Orleans, La. 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>.