

Federal Parks & Recreation

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In this issue. . .

Budget may lead to spending hikes.

House and Senate budgets call for increases for natural resources, despite federal deficits. Would open way for fire money. Still must get thru conference ... Page 1

House climate bill includes fund.

For natural resources spending, including for LWCF. Amounts, if any, still to be determined. Senate votes not lined up .. Page 2

Obama signs big omnibus bill.

Establishes three new national parks, major wilderness areas. May be last for awhile Page 4

Is NPS Centennial interest up?

Reserve fund in Senate budget might overcome Senate filibuster if bill got that far Page 6

Ski industry pushes summer uses.

Wants explicit authority from Congress under FS permits. The existing law is unclear Page 8

FS roadless action requested.

Rec advocates ask USDA to protect lands until policy forged .. Page 9

Strickland nomination moving.

While Hayes nomination is still stuck. DoI nominees lag ... Page 10

Wetlands bill back with support.

Senate measure introduced. New administration in favor? ... Page 11

Notes Page 12

Conference calendar Page 14

Congressional budgets talk of natural resources hike

The Democratic-controlled Congress is moving rapidly toward approval of a fiscal year 2010 Congressional budget that envisions substantial increases in natural resources spending, despite a mounting national deficit.

The House approved its version of a budget (H Con Res 85) April 2 and the Senate approved its resolution (S Con Res 13) the same day. A conference committee is expected to attempt to work out differences between the two when Congress returns from an Easter vacation the week of April 20.

The Senate resolution specifically calls for higher appropriations for the Interior Department and the Forest Service, although it doesn't say how much. And it specifically calls on Congress to set aside money for fire suppression.

The House budget does not mention increased spending either for land management agencies or for fire suppression, but it would boost overall natural resources caps.

The Senate Budget Committee also approved an amendment from Sen. Jeff Merkley (D-Ore.) by a 16-to-7 vote that establishes a public lands "reserve fund." Merkley said the fund would allow public lands legislation to proceed to the Senate floor with a simple majority vote, rather than the 60 votes now required for most legislation.

That could come in handy if the Obama administration recommended a program to upgrade the National Park System for the agency's centennial in 2016. The Bush administration under the lead of then Secretary of Interior Dirk Kempthorne proposed a \$2 billion Centennial Challenge program to do that, using

\$1 billion of appropriated money and \$1 billion of partner grants. The Obama administration is expected to recommend a similar program with a different name to put its imprimatur on it. (See *separate article page 6.*)

Again, the House budget contains no counterpart provision.

Budget resolutions do not go to the President. In addition, while Congressional budgets guide spending by appropriations and line committees, those panels are not bound by budget recommendations.

Both the House and Senate budget authority for natural resources appears to be significantly higher than in fiscal 2009, but because of emergency spending and other contingencies a direct comparison is difficult to pin down.

Here are the rough numbers: For fiscal 2009 the budget authority for natural resources was \$56 billion, but that included economic stimulus money and other emergency allocations. Before the add-ons the fiscal 2009 budget was \$33.8 billion. For fiscal 2010 the House and the Senate committee each approved \$37.4 billion.

A note of caution, the natural resources budget line item also includes spending for such things as EPA clean-ups and hurricane recovery, so there is no guarantee additional appropriations will come the way of park and rec programs. Besides, appropriations committees use the budget as a rough guide and assign their own precise spending caps for subcommittees.

House Republicans developed a separate budget last week that would provide \$2.2 billion less for natural resources in fiscal 2010 than the Democrats. The Republicans recommended a \$35.2 billion ceiling, compared to the Democrats' \$37.4 billion. In addition the House Republicans recommended that the House Natural Resources Committee reduce spending by \$2 billion for the projects it authorizes over the next 10 year.

As for emergency fire money, the Senate Democratic budget says S Con Res 13 "provides the 10-year average for fire suppression costs and assumes that an additional \$357 million will be provided if appropriated funds are exhausted and the severity of the fire season requires additional funding." That meets an Obama administration recommendation.

Completing a budget won't be easy for the Democrats who are not only fighting among themselves over total spending but are also meeting stiff resistance from the Republican Party. Congressional Republicans are criticizing, among other things, a procedural issue that would have Congress pass a budget reconciliation bill later this year that would include all sorts of legislation, including a mammoth measure to combat climate change.

If the Democrats do write a budget reconciliation bill, they could pass it with a simple 50-vote majority in the Senate, rather than the 60 votes needed to overcome a filibuster. However, the budget reconciliation process would by definition shut Republicans out of the legislation-writing process, and touch off a national political war.

Under the reconciliation procedure Congress first would complete the Congressional budget, as it is supposed to do each spring. Later in the year Congress would follow up with detailed reconciliation legislation to flesh out the budget's recommendations.

Draft House climate bill may provide conservation money

Senior House Democrats released a discussion draft of a House climate change bill March 31 that could cut park and rec programs in on billions of dollars of climate change fees. Or it could provide no money at all.

The legislation, introduced by House Energy and Commerce Committee Chairman Henry Waxman (D-Calif.), would establish a Natural Resources Climate Change Adaptation Fund. The fund would allocate money to the federal and state

sides of the Land and Water Conservation Fund (LWCF,) to a Forest Legacy program, to the Pittman-Robertson sport hunting program, to federal land management agencies in general, to a state wildlife conservation fund, and to the Corps of Engineers.

The legislation encourages program managers to spend the money on programs to either reverse the impacts of climate change or to accommodate to them.

The amount of money that the legislation would make available has not been decided. The Obama administration estimates \$646 billion over 10 years from fees carbon producers would pay to the government, called allowances.

But, warned one lobbyist, "Everyone is so focused on cap-and-trade revenues, but it could be zero. Congress could decide to return all the money to taxpayers."

It is understood the House Natural Resources Committee, which oversees park and rec projects, is assessing the discussion draft to determine what legislation, if any, it must prepare, natural resources fund or not.

"They are looking at what needs to be done to protect open space, how to give Interior and Agriculture the tools they need to carry out these huge, huge initiatives," said one source. "There will be money, but even if it is not significant the committee is concerned about what the agencies must do."

Meanwhile, the House and Senate April 2 approved fiscal year 2010 budgets (H Con Res 85, S Con Res 13) that are designed to open the way for Waxman's committee to write climate change legislation this year. Those budgets anticipate that allowances assessed on pollution would bring in around \$80 billion per year, beginning in fiscal 2012.

However, and this is crucial, the Senate budget does not authorize climate change legislation to be considered by the Senate as part of a reconciliation bill, which would require only a 50-vote

majority to pass. The Senate rejected by a vote of 67-to-31 an amendment to allow the legislation to be passed with 50 votes instead of 60.

That provides a significant hurdle because Senate Majority Whip Richard J. Durbin (D-Ill.) said he doesn't have the 60 votes to bring climate change legislation up right now. He said climate change legislation may have to wait a good while before being considered.

Still, Waxman is pressing ahead with an ambitious schedule in his committee. He said his subcommittees will hold hearings the last two weeks of April and the full committee will begin marking up a bill the week of May 11.

To complaints that the legislation would impose a new levy on businesses during a recession, Waxman responded, "This legislation will create millions of clean energy jobs, put America on the path to energy independence, and cut global warming pollution."

But the ranking Republican on the Senate Environment and Public Works Committee, Sen. James Inhofe (Okla.), wasn't buying. "It appears that this legislation is yet another version of the same story: a job-killing tax increase on American consumers that jeopardizes America's energy security, while doing nothing to address climate change," he said. "In short, it's all economic pain for no climate gain."

The draft bill, modeled on recommendations from a blue ribbon U.S. Climate Action Partnership of industry and non-industry interests, attempts to limit immediate negative economic impacts. It does that by gradually increasing emissions caps year-by-year and by exempting producers of less than 25,000 tons per year of carbon dioxide.

Unlike a lead Senate bill from last year the Waxman draft does not yet attempt to identify the amounts of money that the allowances would produce. The Senate bill would have set aside enough money for LWCF to meet its current authorization of \$900 million per year. Within LWCF the provision would subdi-

vide further, providing one-third or \$300 million for Interior Department land acquisition, one-third or \$300 million for Forest Service land acquisition, one-sixth or \$150 million for state-side grants with an emphasis on adaptation projects, and one-sixth or \$150 million to states for a Forest Legacy program managed by the Forest Service.

The House draft follows the allocation formula, but doesn't mention numbers, other than to say LWCF would receive 12 percent of the Natural Resources Climate Adaptation Fund each year.

In addition the states would receive 40 percent of the money for climate adaptation activities, the Interior Department would receive 22 percent for a raft of programs run by land management agencies, the state wildlife conservation grant program would receive one percent, the Forest Service five percent, EPA five percent, the Corps of Engineers 7.5 percent and the Department of Commerce 7.5 percent.

Obama signs omnibus lands bill; last one for a while?

After six months of Congressional mud-wrestling President Obama March 30 signed into law (PL 111-11) an omnibus lands bill that includes more than 160 individual bills. The vote was 285-to-140.

"This bipartisan bill has been many years in the making, and is one of the most important pieces of natural resource legislation in decades," Obama said on signing the measure.

The House gave final Congressional approval to the bill March 25 by a vote of 285-to-140.

House Natural Resources Committee Republicans had threatened to derail the bill by offering an amendment that would have authorized concealed weapons in national parks and national wildlife refuges. But Democratic leaders didn't allow the amendment to come to the floor.

Supporters such as lead sponsor Sen. Jeff Bingaman (D-N.M.) celebrated. "I can't think of a single bill that has ever done more to ensure the enjoyment of, and access to, wilderness areas, historic sites, national parks, forests, rivers, trails, public lands and water resources," he said. Bingaman chairs the Senate Energy Committee.

His House counterpart, House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.), said on the House floor, "This is what our great land is all about. This is what we, who have a responsibility to steward and guard our public resources, have a responsibility as well to pass on to generations to come after us. My colleagues, in these trying economic times, let us today give assurances to the American people that this Nation does remain great and that we have something to celebrate, a heritage of which we can all be proud."

The legislation establishes three new national parks: a Paterson Great Falls National Historical Park in New Jersey; a William Jefferson Clinton Birthplace Home National Historic Site in Arkansas; and a River Raisin National Battlefield Park in Michigan.

In addition NPS Acting Director Dan Wenkin said the law adds more than half a million acres of new wilderness for five national park units: Pictured Rocks National Lakeshore in Michigan, 11,700 acres; Joshua Tree National Park in California, 36,000 acres; Sequoia and Kings Canyon National Parks in California, 85,000 acres; Rocky Mountain National Park in Colorado, 249,000 acres; and Zion National Park in Utah, 124,000 acres.

A Senate Energy Committee staff member said the panel hoped this would be the last of jumbo omnibus bills for some time. For one thing the committee has cleaned out the cupboard. For another, "We'd like to get back to addressing bills one at a time," he said.

The Senate set up the House action March 19 by approving HR 146 in a 77-to-20 vote. The Senate attached to HR 146 its original omnibus lands bill (S 22.)

By itself HR 146 would protect Revolutionary War and War of 1812 battlefields.

The House had rejected a previous version of S 22 March 11 in a 282-to-144 vote, or a couple of votes short of the two-thirds margin needed to pass under the procedure the House was using to consider the bill. This time around the House took up HR 146 under regular procedures, meaning it only needed a straight majority for passage.

The Senate had made one important change to S 22 March 19 designed to garner more House support: It made clear the bill would not hinder hunting, fishing or other recreational activities on public lands.

Ranking House Natural Resources Committee Republican Doc Hastings (Wash.) was not mollified. "(T)his bill increases unchecked federal spending, denies disabled individuals' true access to wilderness areas, weakens our border security, and prohibits American-made energy production and new jobs on federal lands," he said.

Bingaman introduced the omnibus bill Sept. 26, 2008. He based the package on committee-passed bills. Not all committee bills made the cut because both Democratic and Republican committee leaders enjoyed a veto. The idea was to produce a bill that provides something for everyone on both sides of the aisle. Bingaman said Republicans and Democrats sponsored almost equal numbers of bills in the package.

The House took up S 22 a first time March 11 under a Suspension of the Rules procedure that required a three-fifths majority to pass. The Senate had first passed the bill January 15. Senate leaders told the House it had to pass S 22 without modification, further limiting flexibility in the House.

House western Republicans objected vociferously to a provision that gives Congressional certification to the 27 million-acre National Landscape Conservation System (NLCS) managed by the Bureau of Land Management (BLM.)

In approving S 22 January 15 (and again March 19) the Senate said explicitly that all conservation areas within the California Desert Conservation Area (CDCA) would be considered part of the NLCS. Sen. Dianne Feinstein (D-Calif.) had said last year she would offer an amendment to ensure the entire 10 million-acre CDCA was in the system. The House accepted the amendment.

According to BLM the NLCS contains 27 million acres, including 4.8 million acres of national monuments, 14 million acres of conservation areas, 1.4 million acres of "similar designations," 7.7 million acres of wilderness areas, 13.8 million acres of wilderness study areas, and one million acres of wild and scenic rivers.

The omnibus bill was opposed by a wide range of interests, beginning with western House Republicans and including the U.S. Chamber of Commerce, private property rights advocates, powered recreation advocates, and conservative think tanks.

In addition to the NLCS measure and the new national parks, S 22 contains these initiatives:

* ADDITIONS TO NATIONAL PARKS: Authorizes additions to 17 existing national parks.

* STUDIES OF NATIONAL PARKS: Authorizes studies of 12 sites, most as possible additions to the National Park System.

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

in Alabama and Georgia and Northern Neck in Virginia,

* **PALEONTOLOGICAL:** Establishes stiff new penalties for disturbance of paleontological resources on federal lands.

* **NATIONAL TRAILS:** Designates an Arizona National Scenic Trail; a New England National Scenic Trail; an Ice Age Floods National Geologic Trail in Montana, Idaho, Washington and Oregon; a Washington-Rochambeau Revolutionary Route National Historic Trail between Newport, Rhode Island, and Yorktown, Virginia; a Pacific Northwest National Scenic Trail from Glacier National Park, Mont., to the Pacific Ocean Coast in Olympic National Park, Wash.; and a Trail of Tears National Historic Trail in Alabama, Arkansas, Oklahoma, and Tennessee.

* **TRAILS - WILLING SELLER:** Extends willing seller authority to the Oregon National Historic Trail; The Mormon Pioneer National Historic Trail; the Continental Divide National Scenic Trail; the Lewis And Clark National Historic Trail; the Iditarod National Historic Trail; the North Country National Scenic Trail; And the Ice Age National Scenic Trail.

* **WILD AND SCENIC RIVERS:** Designates the following three, plus several in wilderness bills: Fossil Creek, Ariz.; Snake River Headwaters, Wyo.; and Taunton River, Mass.

* **WILDERNESS:** Designates wilderness proposed in 14 different wilderness bills, including wilderness in Sequoia and Kings Canyon National Park and in Rocky Mountain National Park.

* **OWYHEE:** Not only designates more than 500,000 acres of BLM-managed wilderness in central Idaho, but also establishes a travel management plan for off-highway vehicles.

* **CONSERVATION AREAS:** Designates in BLM a Snowy River Cave National Conservation Area in New Mexico and a Pre-historic Trackways National Monument in New Mexico.

* **BATTLEFIELD PROTECTION:** Extends an existing American Battlefield Protection program through 2013 (it is about to expire.)

* **PRESERVE AMERICA:** Formally establishes a Preserve America program to provide grants to communities and his-

toric preservation for "soft" preservation activities.

* **SAVE AMERICA:** Formally establishes a Save America's Treasures program to provide grants to federal, state and local governments as well as nonprofits to physically preserve historic facilities and items.

Is interest in a revived NPS Challenge program growing?

The Obama administration and Congress are working on initiatives that could help upgrade the National Park System in time for its Centennial in 2016.

In the most recent development the Senate April 2 approved its version of a fiscal year 2010 Congressional budget (S Con Res 13) that could clear the way procedurally for new centennial legislation on the Senate floor. The Senate included a public lands "reserve fund" in the resolution.

Although Sen. Jeff Merkley (D-Ore.) persuaded the Senate Budget Committee to extend the fund to all public lands, rather than just the Park Service, as an original budget would have done, he also said the provision could help Park Service programs.

Said a statement from Merkley's office, "The Senate budget resolution included a reserve fund for protection of national parks. This would clear procedural hurdles for considering future legislation, ensuring that it would not be subject to points of order requiring sixty votes to overcome." In other words Senate leaders could take up a Centennial bill with a simple majority vote.

Merkley's office said that the amendment is not targeted primarily at the Centennial Challenge program, but at all public lands. Asked if Merkley had the Centennial in mind, an aide to the senator said, "There is nothing specific. Oregon has only one national park, Crater Lake, and the rest of the public lands are forests, wilderness and wilderness study areas. We just want to

make sure that any legislation that affects public lands is addressed in the Senate. That could be fire mitigation or a whole host of initiatives."

Despite the reserve fund, sponsors of parks and recreation legislation would still have to come up with offsetting revenues.

The Senate budget itself says of the reserve fund, "This could include, but is not limited to, legislation that protects national parks, national monuments, wilderness areas, wild and scenic rivers, and national recreation areas."

The House approved a separate version of a Congressional budget (H Con Res 85) April 2 that contains no counterpart provision. Differences between the House and Senate budgets will have to be worked out in a conference committee. Budget resolutions do not go to the President.

It is not a given that Congress this year will address frontally legislation to establish a 10-year, \$2 billion Centennial Challenge program, as proposed by the Bush administration and then Secretary of Interior Dirk Kempthorne. The Bush legislation would have Congress provide up to \$100 million per year to match a like amount of nonfederal contributions to improve the national parks.

It is also not a given that the Obama administration will crusade for a Kempthorne-proposed Centennial Challenge program, even though now Secretary of Interior Ken Salazar championed a leading bill last year when he served in the Senate. Said one informed source, "Salazar wants to do something a little different than Kempthorne's Centennial Fund. It would probably have a different name. The Obama people want to do something, but with their fingerprints on it."

So the Merkley provision could provide a placeholder if and when the Obama administration ginned up a new legislation proposal. Or if Congressional Democrats and Republicans on their own introduced legislation.

Meanwhile, Congress and the Obama administration are already allocating revenues to improve the national parks piecemeal. First, an emergency economic stimulus law (PL 111-5 of February 17) includes \$735 million for Park Service construction/maintenance, some of which the service anticipates will be used for Centennial projects. And the law includes another \$170 million for Park Service roads.

Second, a fiscal year 2009 appropriations law (PL 111-8 of March 11) includes a spending increase of \$150 million for Park Service operations, \$1.895 billion compared to a fiscal 2008 appropriation of \$1.745 billion. And it includes \$14 million more for construction, \$232.5 million compared to \$218.5 million in fiscal 2008.

Third, for fiscal 2010 the Obama administration specifically requested a separate \$25 million allocation "to leverage private donations in preparation for the 100th anniversary of the National Park Service." And Obama recommended a \$100 million boost for Park Service operations.

The Park Service Centennial Challenge program of the Bush administration would have Congress provide up to \$100 million per year over 10 years to match a like amount of nonfederal contributions to upgrade the national parks.

The program would give priority to projects that have a dedicated match, i.e. major parks with friends groups, but the bills would also authorize projects without matches.

As revised by the Senate last year in a failed economic stimulus bill, the provision would have allowed NPS to spend money for seven kinds of projects with the only major limit that no more than 50 percent of the money could be spent on construction of facilities that cost more than \$5,000,000.

The seven areas are: education, diversity, personnel, environmental leadership, natural resource protection, cultural resource protection, and health and fitness.

Ski industry wants authority to increase summer uses

The nation's ski industry says that if Congress passes legislation to ensure that ski resorts in national forests could offer the public year-round recreation, it would benefit all interests.

"More revenues would go to the Forest Service," said Geraldine Link, director of public policy for the National Ski Areas Association (NSAA.) "It would help nearby communities. It would help employment. It would provide a net gain from everyone's standpoint."

To top it off, said Link, summertime recreation in national forest ski resorts would help get children outdoors. "From a people standpoint the chief of the Forest Service wants to get more kids into the woods," she said. "Summer facilities are crucial to getting kids into the woods. Ski resorts do a great job in winter, so let's also do the job in the summer."

The skiing industry is fully behind a bill (S 607) introduced by Sen. Mark Udall (D-Colo.) that would make clear that the Forest Service may authorize ski resorts to host year-round recreational activities on national forest land. Existing law implies that the resorts may only allow skiing activities under their federal permits.

As former Under Secretary of Agriculture Mark Rey wrote Udall last year, "The Act does not authorize the Secretary to permit facilities in support of summer, seasonal, or year-round outdoor recreation at ski areas."

Not everyone is on board. The environmental group Colorado Wild has been a persistent critic. It said that a predecessor bill from Udall last year could lead to uncontrolled uses of national forests.

"Unfortunately, the bill as currently written provides only vague guidance; creates an uneven playing field by privileging ski areas compared to other

forest Service permittees; and could turn America's prized national forests into commercial amusement parks and golf courses," said the organization in its newsletter.

Udall introduced the bill because he said the 1986 National Forest Ski Areas Permit Act "does not reflect the full spectrum of snowsports for which ski areas are now used." Udall has received no commitment yet to move the bill from Senate leaders, an aide to the senator said. "This is just the beginning," said Tara Trujillo, the Udall spokesman.

Industry says Forest Service guidance to the field varies, with some regions of the Forest Service welcoming summer uses and some not allowing them. S 607 would not name summer uses that would be permissible, but would allow the Forest Service to still call the shots.

Many of the nation's most prominent ski facilities are located on national forest land. The resorts pay a complicated set of fees to the federal government for long-term permits.

The resorts say their facilities are already set up to allow summer uses. "We invest so much to the infrastructure," said Link. "It makes sense to use those areas. We have the parking lots, the bathrooms, the restaurants. We have all the facilities now. Mark Udall understands we can help alleviate pressure on other parts of the forests."

The ski resorts are not full summer resorts in that most do not have golf courses and swimming pools, as many other resorts do, although a few do. Here are some of the possible summer uses NSAA says its members could offer:

"Alpine/nature educational centers, alpine slides, arts & crafts shows/art exhibits, backcountry B&Bs, batting cages, bungee jumping, campgrounds, chapels, concerts, conference centers, downhill golf, fireside stories, fireworks/laser shows, foot races (running), Frisbee golf courses, guided hiking, human mazes, hang gliding/

paragliding, hay rides, horseback riding, in-line skating rink, interpretive centers (IMAX theatre), llama trekking, mountain biking, mountain bike races, mountain or dirt boarding, movie theatres, orienteering, paint ball, performing arts centers, planetarium/star planet gazing with telescopes, playgrounds & forts, rock climbing walls, ropes courses, scenic chairlift rides, swimming pools, tennis courts, video arcades, virtual reality centers, water slides, weddings, yurt dining, and ziplines."

In winter the existing law covers most recreation uses when it authorizes "Nordic and alpine skiing." Said Link, "No one ever thinks twice about the winter stuff."

Recreationists ask Vilsack to protect FS roadless areas

Outdoor recreation interests asked the Secretary of Agriculture last week to protect 60 million acres of Forest Service roadless areas, at least for the time being.

Said the recreationists in a March 31 letter to Secretary of Agriculture Tom Vilsack, "We request that you lead the Department of Agriculture in taking immediate steps to ensure that America's valuable backcountry national forests are conserved into the long-term future."

Forest Service roadless area policy has been buffeted in the last few years by contradictory policies from the Clinton and Bush administrations and by federal courts that have alternately endorsed and condemned those policies.

One federal judge has upheld a Clinton policy that barred most road construction and timber sales in 58.5 million acres of forest. That judge, Elizabeth D. Laporte in northern California, did limit the sweep of her decision to western states under the supervision of the Ninth Circuit Court of Appeals and the State of New Mexico.

A competing Aug. 12, 2008, ruling by Judge Clarence Brimmer in Wyoming

held the Clinton rule invalid. That left the Forest Service without a valid roadless area rule.

So, said the Outdoor Alliance, the Outdoor Industry Association and The Theodore Roosevelt Conservation Partnership, the new Obama administration should step to the plate and provide roadless areas with immediate protection.

That means, said Amy Roberts, vice president of government affairs for the Outdoor Industry Association, Vilsack should postpone proposed actions in roadless areas until he conducts a high-level review.

"We want to make sure that nothing proceeds in the interim until they decide what to do with the roadless rule," she said.

The letter to Vilsack said, "we ask that you issue a directive requiring secretarial-level review for all projects within inventoried roadless areas until more permanent protections can be implemented."

It does not mean all the groups signing the letter support reinstatement of the Clinton rule, although the human-powered outdoor industry does. No bill has been introduced in this Congress yet to do that. In the last Congress Rep. Jay Inslee (D-Wash.) and Sen. Maria Cantwell (D-Wash.) introduced such legislation.

The Bush administration, instead of a blanket roadless area policy, authorized governors to apply to the Forest Service for state-specific rules.

Idaho jumped at the chance. The Forest Service then put into effect Oct. 16, 2008, an Idaho-specific rule that applies to 9.3 million acres of roadless areas on 10 national forests in the Idaho. It allocates 1.5 million acres to wild land recreation, 1.8 million acres to primitive use, 5.3 million acres to backcountry and 406,000 acres to general forest use.

Conservationists were divided on the Idaho rule. The Idaho Conservation

League split with The Wilderness Society and other environmental groups on 400,000 acres that the Idaho rule places in a category called general management.

The State of Colorado has also been working with the Bush administration on a separate rule. But on Dec. 5, 2008, at the request of the state, the Department of Agriculture agreed to an additional 60-to-90 day review of a proposed rule. The state is concerned about possible rule provisions that could lead to oil and gas lease development. That deferred consideration of the Colorado rule into the Obama administration, and there we sit.

Strickland nomination moving along; others still linger

At least one Obama administration parks and recreation nominee is making progress - Thomas Strickland as assistant secretary of Interior for Fish, Wildlife and Parks.

The Senate Energy Committee affirmed his nomination March 31 and the Senate Environment and Public Works Committee (EPW) followed suit April 1. As important, ranking EPW committee Republican James Inhofe (R-Okla.) will probably not place a hold on the Strickland nomination on the Senate floor, despite his objections to Obama's endangered species policy.

"No, he doesn't plan to issue a hold. The (March 26 hearing) gave Mr. Inhofe the opportunity to raise questions," said an aide to Inhofe. "He received satisfactory answers. At this point he does not intend to place a hold on the nomination."

The rest of President Obama's park and rec nominees are not doing as well. Sen. Bob Bennett (R-Utah) is maintaining a hold on the nomination of David Hayes as deputy secretary of Interior, the number two man under Secretary Ken Salazar.

The Senate Energy Committee confirmed Hayes's nomination as Salazar's deputy March 18 by a 17-to-5 vote. But full Senate approval may have to wait

for resolution of Bennett's complaints about Salazar's February 4 decision to prevent the issuance of 77 oil and gas leases in Utah.

The Obama administration did announce March 26 that it would send to the hill the nomination of Hilary Tompkins as Interior Department Solicitor and of Rhea S. Suh as assistant secretary of Interior for Policy, Management and Budget.

Tompkins is a member of the Navajo Nation and worked most recently as chief counsel to New Mexico Gov. Bill Richardson (D.) She also served in the Clinton administration as a trial lawyer in the Environment and Natural Resources Division of the Department of Justice.

Suh worked most recently for the David and Lucile Packard Foundation managing a \$200 million program to build ecological integrity. Before that she served as a program officer with the William and Flora Hewett Foundation. Suh has some political and natural resources experience as a staff member for former Sen. Ben Nighthorse Campbell (R-Colo.)

That's on the plus side. On the minus side, not only is Hayes's nomination in suspension, the administration has yet to nominate an assistant secretary of Interior for Land and Minerals Management, a Park Service director, a Bureau of Land Management (BLM) director, or a Fish and Wildlife Service director.

In the Department of Agriculture the administration has been rumored to be leaning toward the nomination of Chris Wood as under secretary for Natural Resources. Wood is a vice president at Trout Unlimited and a former Forest Service employee. As under secretary he would oversee the Forest Service.

All the above-mentioned Interior and Agriculture Department positions require confirmation by the Senate. The Forest Service chief does not and some interested parties, such as Forest Service retirees, would as soon have Abigail Kimbell continue as chief.

Inhofe complained to Strickland about a Congressional mandate in a fiscal year 2009 appropriations law (PL 111-8 of March 11) that authorizes the repeal of a Bush administration rule that eased interagency consultation under the Endangered Species Act.

Sen. Bennett has placed a hold on Hayes's nomination because he disagrees with the Interior Department's assertion that it delayed issuance of 77 oil and gas leases in Utah because BLM failed to consult with the Park Service on possible impacts to Arches National Park, Dinosaur National Monument and Canyonlands National Park. At a March 17 Senate Energy Committee hearing Bennett told Salazar that BLM did consult with the Park Service.

Meanwhile, Will Shafroth, a land conservationist from Colorado, has taken over as deputy assistant secretary of Interior for Fish, Wildlife and Parks. Eventually, he would serve as Thomas Strickland's lead aide.

Shafroth served from 2000 to 2008 as executive director of the nonprofit Colorado Conservation Trust. The group under Shafroth increased the pace and effectiveness of land and wildlife habitat conservation in Colorado, Salazar said.

Wetlands permit bill returns with enhanced Obama support

With their ducks in a row, Sen. Russ Feingold (D-Wis.) and 23 cosponsors introduced legislation (S 787) April 2 that would make clear almost all projects in wetlands would require permits from the Corps of Engineers.

The legislation targets a famous June 2006 *Rapanos* Supreme Court decision that, while confusing, left no doubt that only water bodies related to navigable waters should be regulated by Clean Water Act Section 404 permits.

Feingold's bill would effectively reverse the *Rapanos* decision. "Every day Congress fails to reaffirm Clean Water Act protections, more and more waters are stripped of their protec-

tions, jeopardizing the drinking water of millions of Americans, as well as our nation's wildlife habitats, recreational pursuits, agricultural and industrial uses, and public health," he said in a statement.

In the last Congress Feingold's bill also had impressive support, as did a companion bill from House Transportation Committee Chairman James Oberstar (D-Minn.) However, the Bush administration sharply criticized the legislation, effectively freezing it.

But this year President Obama, EPA Administrator Lisa Jackson and White House environmental czar Carol Browner are all on record in favor of the bill.

The guts of the measure are simple. S 787 says that the Corps of Engineers, working with EPA, must approve Section 404 permits under the Clean Water Act for all projects on waters of the United States.

Those waters are defined in S 787 as "all waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters and their tributaries, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all impoundments of the foregoing, . . ."

Ducks Unlimited has led the charge in favor of the bill because of the possible adverse impact on duck habitat of construction projects in wetlands. "Existing EPA and Army Corps of Engineers guidance makes it clear that a legislative solution must be sought to restore protection to America's wetlands," said Don Young, executive vice president of Ducks Unlimited. "Many of these wetlands that have lost their protection are critical waterfowl breeding habitats."

The Supreme Court was evenly divided in its June 19, 2006, decision, *Rapanos v. U.S. Nos. 04-1034 and 04-1384*, that muddied the regulatory waters. While the court upheld the authority of the Corps and EPA to regulate water bodies, it also limited the defi-

nition of a water body to navigable water.

In June 2007 EPA and the Corps issued guidance that interpreted the Supreme Court *Rapanos* decision as to the kinds of wetlands that need permits. After considerable criticism the agencies on Dec. 4, 2008, issued revised guidance. This guidance says a permit will be required only for:

- " * Traditional navigable waters
- " * Wetlands adjacent to traditional navigable waters
- " * Non-Navigable tributaries of traditional navigable waters that are relatively permanent and
- " * Wetlands that directly abut such tributaries."

Congressional Democrats criticized the guidance because, in Oberstar's words, it "creates a new and extremist test for determining which waters are protected."

Notes

Everglades acquisition goal cut.

Because of an economic crisis in Florida, Gov. Charlie Crist (R) announced April 1 the state would reduce its acquisition of lands to restore the Everglades by 70 percent. Instead of buying 187,000 acres of sugar farms for \$1.75 billion, the state will now attempt to buy only 72,500 acres for \$530 million. However, the new agreement between the state and the United States Sugar Corporation does offer the state an option to acquire the additional land by 2019. Last June Crist and United States Sugar announced to great fanfare an agreement for the state to acquire the land between Lake Okeechobee and the Big Cypress National Preserve. Water from the lake flows through the refuge to nourish Everglades National Park. In announcing his reduced ambitions Crist was upbeat. "The proposal represents a balance for both the environment and the economy by allowing us to acquire hundreds of square miles of prime property in affordable steps," he said. Crist said the state would still acquire 32,000 acres of land within a year for water storage and treatment.

Highway project nominations asked.

The House Transportation Committee April 2 sent all House members a letter soliciting recommendations for high priority projects (aka earmarks.) The committee is laying the groundwork for a massive, multi-year surface transportation law to replace the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU.) That law is scheduled to expire on Sept. 30, 2009. The letter from committee chairman James Oberstar (D-Minn.) and ranking Republican John Mica (R-Fla.) said the committee would include only a small percentage of total investments in the new law in the form of earmarks. And the earmarks would have to meet eligibility criteria. In particular they said projects must be transportation-related. They ruled out projects such as museums, horse trails, and historic battlefields. Oberstar and Mica said earmark requests must clearly describe the costs of a project and the benefits.

Menendez nominated to head FHWA.

The Obama administration last week nominated Victor Menendez, former director of the Arizona Department of Transportation, as the next administrator of the Federal Highway Administration. In 2007 Menendez served as president of the American Association of State highway and Transportation Officials. That association is not overly fond of spending highway and transit money on park and rec projects, preferring the money be allocated to highways and mass transit projects.

Guns-in-parks bill back. Having lost in court - at least temporarily - supporters of concealed weapons in national parks have a new weapon, a bill (S 816) to specifically authorize the use. Sen. Mike Crapo (R-Idaho) and four cosponsors (including three Democrats) introduced legislation to authorize the use. The Bush administration put into effect January 9 regulations that authorize the use of concealed weapons in national parks and national wildlife refuges in states where state parks and refuges authorize the use. However, U.S. District Court Judge Colleen Kollar-Kotelly in the District of Columbia March 19 issued an injunction blocking the Bush rule. She said the govern-

ment must conduct an environmental impact review before publishing any regulation that might have an environmental impact. The Interior Department did not write an environmental analysis or an EIS because it said flat-out the rule would have no significant impact on the environment. House Natural Resources Committee Republicans tried unsuccessfully March 25 to force the House to vote on an amendment that would have allowed concealed weapons in parks and refuges. But majority Democrats avoided the ticklish amendment by not allowing any amendments to legislation that was before them, an omnibus Senate-passed lands bill (HR 146.)

LWCF assistance asked. In an annual ritual supporters in Congress of the Land and Water Conservation Fund (LWCF) are circulating Dear Colleague letters asking for substantial appropriations for the program in fiscal year 2010. During the latter years of the Bush administration the supporters were barely able to keep the program alive. But with a new Obama administration openly shooting for full funding of \$900 million per year, the supporters are heartened. For fiscal 2010 the administration is recommending an appropriation of \$420 million for LWCF. The Outdoor Industry Association among many other groups is helping to circulate the Dear Colleague letter that would ask appropriators for \$325 million in federal land acquisition money and \$125 million for the state side of LWCF. Among the House members sponsoring the LWCF letter are Reps. Rush Holt (D-N.J.) and Peter King (R-N.Y.) The House members' letter says, "The LWCF has helped to ensure the permanent protection and maintenance of critical lands in our national forests, recreation areas, parks, wildlife refuges, Civil War battlefields, and historic sites. Equally important, it has provided matching funds to support countless state park and recreation projects in thousands communities in every state in the nation."

Yellowstone winter visits down. Yellowstone National Park said April 2 that the average number of snowmobiles entering the park this winter was down 30 percent from last year and the number

of snowcoaches entering the park was down 17 percent. The park said the decline may be due in part to public uncertainty surrounding an ongoing legal and political dispute about snowmobile use in the park. In addition early season snowfall was scant, further discouraging visitors. The park said the daily average of snowmobile visitors was 205 this winter, compared to 294 the previous winter. The average number of snowcoaches dipped to 29 per day from 35 last winter. Snowmobile visits hit their peak on December 29 with 426 and snowcoach visits hit their peak on December 27 with 54. Winter visitation represents a small percentage of the annual total in Yellowstone. The total for this past winter was 86,793. Last year more than 3 million people visited.

Calif. river most threatened. In its annual compilation of the nation's most endangered rivers the conservation group American Rivers named the Sacramento-San Joaquin River System in California the most imperiled single river in the country. The proximate cause is an outdated water and flood management system that threatens the water supply for 26 million people. American Rivers has been publishing the most endangered list for two decades. Here are the other nine rivers and the main threat(s) to them:

#2: Flint River (GA)

Threat: Proposed water supply dams

#3: Lower Snake River (WA, OR, ID)

Threat: Four dams

#4: Mattawoman Creek (MD)

Threat: Highway and poorly planned development

#5: North Fork of the Flathead River (MT)

Threat: Mining

#6: Saluda River (SC)

Threat: Sewage pollution

#7: Laurel Hill Creek (PA)

Threat: Excessive water withdrawals

#8: Beaver Creek (AK)

Threat: Oil and gas development

#9: Pascagoula River (MS)

Threat: New Petroleum Storage

#10: Lower St. Croix National Scenic Riverway (MN, WI)

Threat: Loss of Wild and Scenic Protections.

Lighthouse preservation sought.

Nine years ago Congress opened the way for nonprofit groups to take over lighthouses that the U.S. Coast Guard was relinquishing. Now the nonprofit groups that manage 46 of those lighthouses are struggling to find money to restore and maintain them. So Sen. Carl Levin (D-Mich.) and four of his Senate colleagues (including two Republicans) introduced legislation (S 715) March 26 to establish a pilot program to authorize up to \$20 million per year in competitive grants for lighthouse rehabilitation.

Pipeline would enter Denali.

Sen. Lisa Murkowski (R-Alaska) introduced legislation (S 766) May 1 that would authorize a natural gas pipeline right-of-way through seven miles of Denali National Park. That is not as threatening as it sounds, said Murkowski, because the pipeline would follow the main highway between Anchorage and Fairbanks, which crosses the park. Besides, said Murkowski, "the measure is actually the favored route by many in the environmental community."

Baucus would extend easement tax deduction. Sen. Max Baucus (D-Mont.) introduced legislation (S 812) April 2 that would make permanent a tax deduction for charitable donations of conservation easements for farmers and ranchers. The deduction is now part of the tax code but is scheduled to expire at the end of the year. The Baucus bill would also increase the percent of income that could apply to the deduction and the number of carryover years. Baucus matters because he chairs the Senate Finance Committee that writes the federal tax code.

Conference Calendar

APRIL

21-23. **Outdoor Industry Association Capitol Summit** in Washington, D.C. Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

22-26. **Society for American Archaeology**

annual meeting in Atlanta, Ga. Contact: Society for American Archaeology, 900 2nd St., N.E., Suite 12, Washington, DC 20002-3557. (202) 789-8200. <http://www.saa.org>.

26-May 1. **National Association of Recreation Resource Planners** annual meeting in Pittsburgh, PA. Contact: National Association of Recreation Resource Planners, P.O. Box 221, Marienville, PA 16239. (814) 927-8212. <http://www.narrp.org>

MAY

3-5. **America Boating Congress** in Washington, D.C. Contact: National Marine Manufacturers Association, 444 N. Capitol Street, NW Suite 645, Washington, DC 20001. (202) 737-9750. <http://www.nmma.org>.

3-6. **National Sporting Goods Association** annual meeting in San Antonio. Contact: National Sporting Goods Association, 1601 Feehanville Drive, Suite 300, Mt. Prospect, IL 60056-6035. (847) 296-6742. <http://www.nsga.org>.

11-13. **National Hydropower Association** annual meeting in Washington, D.C. Contact: National Hydropower Association, One Massachusetts Ave., N.W., Suite 850, Washington, DC 20001. (202) 682-1700. <http://www.hydro.org>.

13-16. **National Ski Areas Association** annual meeting in Marco Island, Fla. Contact: National Ski Areas Association, 133 South Van Gordon St., Suite 300, Lakewood, CO 90228. (303) 987-1111. <http://www.nsaa.org>.

JUNE

10-13. **International Snowmobile Congress** in Summerside, Prince Edward Island, Canada. Contact: www.snowiasa.org/events.php.

12-16. **U.S. Conference of Mayors** annual meeting in Providence, R.I. Contact: U.S. Conference of Mayors, 1620 I St., N.W., Fourth Floor, Washington, DC 20006. (202) 293-7330. <http://www.usmayors.org>.