

Federal Parks & Recreation

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Outdoors conference offers few program hints; others do

By design, the Obama administration offered few clues April 16 to the content of its signature conservation program - America's Great Outdoors Initiative.

President Obama kicked off the initiative at a White House conference and ordered his cabinet heads to go out into America and report back to him by November 15 on content. He charged the Council on Environmental Quality with the chore of putting together a report with proposed strategies.

If the White House was loath to commit itself to any controversial proposals, participants and attendees at the conference were willing to name names, including New Mexico Gov. Bill Richardson (D.)

He laid out an ambitious agenda and called for quick action. "We must work together to develop landscape-scale conservation legacies that include a series of new parks, monuments, and management strategies for public lands," he said. "This isn't a decades-long fight - it should happen now."

Richardson said the nation needed major new conservation lands in Arizona, Colorado, Idaho, New Mexico, Nevada "and across the West." In addition he said the Interior Department should move quickly to designate new national monuments, including on the Otero Mesa in his home state.

The monuments recommendation is precisely the kind of detail that Secretary of Interior Ken Salazar has been trying to deal with since his Republican critics in February uncovered an internal department memo that analyzed 14 possible new national monuments on BLM-managed land.

An aide to one of those critics, House Natural Resources Committee ranking member Doc Hastings (R-Wash.), said that monuments recommendations are a likely result of the initiative. "I would say that is something they are thinking about," said the spokesman.

The Wilderness Society President Bill Meadows, who attended the conference, endorsed new monuments. "We call on the Administration to expand our newest conservation system, the National Landscape Conservation System, and gain momentum toward wilderness designations," he said.

The Obama administration almost since its inception has been rumored to be working on a comprehensive conservation initiative. In part it is expected to replace a Bush administration Centennial Challenge Initiative that was intended to upgrade the National Park System for its 100th anniversary in 2016. The \$3 billion Bush initiative would have had Congress put up an extra \$100 million per year in appropriations for core improvements. Congress has largely met that charge in money bills.

The other part of the initiative would have established \$2 billion in Centennial Challenge grants with \$100 million per year in donations matched by \$100 million per year in guaranteed federal money. The revenues would be used for non-core projects. Congress has largely failed to follow through on the Challenge plan, except for a little seed money.

The Obama initiative, when it is fleshed out, is expected to be far broader than the Bush parks proposal. In addition to help for the parks the Obama administration is expected to incorporate possible monument designations and increased spending for a wide array of conservation programs.

But the Obama administration, instead of laying out a specific set of immediate goals, put together the one-day White House Conference on America's Great Outdoors April 16.

Council on Environmental Quality

Chair Nancy Sutley, EPA Administrator Lisa Jackson, Secretary of Agriculture Tom Vilsack, and Salazar all participated. At the end of the day Obama told his Cabinet to solicit input from Americans on an initiative.

He told Sutley and the cabinet to report back by November 15 with goals for an initiative and an action plan to implement it. He suggested four substantive strategies: (1) build on efforts outside the beltway, (2) help property owners protect property, (3) help get young people outdoors and (4) build "a new generation of community and urban parks."

Attending the conference was a Who's Who of the park and recreation establishment, from governors to mayors to conservationists to recreation users.

For some the attendance list was a bit predictable. Western Slope No-Fee Coalition President Kitty Benzar said that America's Great Outdoors was "shaping up as an elitist club, not as a broad, inclusive process. For example, we still don't know who was invited to the conference, or who decided who to invite."

Among other things attendees and interest groups at the conference recommended that the administration include full funding of the Land and Water Conservation Fund (LWCF) as a goal of the outdoors initiative.

Will Rogers, president of The Trust for Public Land, said, "Investing now in the continuum of conservation - from the urban core to wilderness areas - will ensure a healthier and greener future for America and leave an important legacy for our children and grandchildren."

To do that, said the trust, requires "(i)ncreased and consistent funding to support federal, state and local conservation and, at a minimum, full funding for the Land and Water Conservation Fund."

Another subset of attendees called for support for the National Park System

as it approaches its 100th birthday in 2016, a follow-on of the Bush agenda, as it were. However, National Parks Conservation Association President Tom Kiernan took a broader approach. "For America's Great Outdoors to succeed, the Administration must be prepared to put meaningful funding behind programs that protect land, provide assistance to communities, put park rangers on the ground to serve school and youth groups, and foster public-private conservation partnerships," he said.

Sen. Lisa Murkowski (R-Alaska), ranking Republican on the Senate Energy Committee, sympathized with the "intent" of the initiative, said a spokesman for the senator. But, he said, Murkowski warns that there will be a cost.

Said the spokesman, "There were certainly attendees who were discussing the need for more money, but this initiative will have to compete in the budget process with everything else. As the ranking member of the Senate Energy and Natural Resources Committee and a member of the Senate Appropriations Committee, Sen. Murkowski would review all appropriation requests on a case-by-case basis."

Competitive Enterprise Institute Vice President for Strategy Iain Murray warned against a top-down approach. "Any proposal that takes for granted the massive federal role in land management will only perpetuate the chronic environmental, health and safety problems that have plagued federal lands for decades," he said.

President Obama laid out these ambitions for his Great Outdoors initiative in his speech at the Interior Department: "First, we're going to build on successful conservation efforts being spearheaded outside of Washington - by local and state governments, by tribes, and by private groups - so we can write a new chapter in the protection of rivers, wildlife habitats, historic sites, and the great landscapes of our country.

"Secondly, we're going to help farmers, ranchers, property owners who want to protect their lands for their children and their grandchildren.

"Third, we'll help families spend more time outdoors, building on what the First Lady has done through the "Let's Move" initiative to encourage young people to hike and bike and get outside more often.

"And fourth, we want to foster a new generation of community and urban parks so that children across America have the chance to experience places like Millennium Park in my own Chicago."

Health care law may provide some park and rec assistance

Local park and rec operations could be in line for a piece of a \$15 billion pot of money included in a landmark new health care law.

The law says state and local governments and nonprofits may apply to the Center for Disease Control for grants to carry out a number of preventive measures, relating to "infrastructure or programs to support active living."

And that, said Rich Dolesh, public policy director for the National Recreation and Park Association, is where state and local park and rec agencies hope to come in. "We think there is an opportunity there to engage in a broad way public players in a preventive strategy," said Dolesh. "There is clearly an infrastructure tie in."

Although park and rec agencies and conservation groups seldom deal with the Department of Health and Human Services, Dolesh said, "Our hope and belief is that it is the intent of Congress to include a broad spectrum of physical activity."

Big money is involved. The program would provide \$500 million in fiscal year 2010 (this fiscal year) and the annual allocation would grow gradually to \$2 billion by fiscal 2015. The law appears to guarantee the money.

However, a broad array of activities that are eligible for the money will be competing for grants. They include prevention of chronic diseases, prevention of secondary conditions,

research, health screening and much more. The Center for Disease Control is in the Department of Health and Human Services, not a traditional conservation agency.

Still, active recreation squarely fits the purpose of the overall program - Prevention and Public Health. Section 4002 of the health law (PL 111-148 of March 23) establishes the fund, topped off at \$15 billion over 10 years. And Section 4201 of the law describes Community Transformation Grants that set conditions for distribution of the money.

The infusion of help couldn't come at a better time, as state park and rec agencies across the country are closing facilities and laying off employees. Urban parks are a bit better off, but still could use more revenues.

The Obama administration and Congress are already stepping up assistance for state and local conservation programs, such as the Land and Water Conservation Fund, wildlife conservation grants administered by the Fish and Wildlife Service, and forest legacy grants administered by the Forest Service. Congress approved substantial appropriations in fiscal 2010 appropriations bill and the administration has asked for substantial increases for LWCF and Forest Legacy in fiscal 2011.

But more direct urban park assistance such as for the Urban Parks and Recreation Recovery program has been lacking. Congress has not provided an appropriation for years.

However, President Obama himself April 16 made urban park assistance a centerpiece in kicking off an America's Great Outdoors Initiative. He said, "(W)e want to foster a new generation of community and urban parks so that children across America have the chance to experience places like Millennium Park in my own Chicago."

In addition the new chairman of the House Appropriations subcommittee on Interior and related agencies, Rep. Jim Moran (D-Va.), is considered a good

friend of state and urban park programs due to his representation of close-in suburbs.

Despite the overall complexity of the health law, the prevention of disease provisions appear quite straightforward. PL 111-148 says the Section 4002 fund is designed "to provide for expanded and sustained national investment in prevention and public health programs."

Section 4201 establishes Community Transformation Grants and "authorizes CDC to award competitive grants to State and local governmental agencies and community-based organizations for the implementation, evaluation, and dissemination of evidence-based community preventive health activities. . ."

Oberstar finally introduces mandatory wetlands bill

House Transportation Committee Chairman James Oberstar (D-Minn.) April 21 broke up a legislative logjam by introducing a bill to make clear that most wetlands must receive Clean Water Act permits.

The legislation is designed to reverse a June 2006 Supreme Court decision that held that only water bodies related to navigable waters should be regulated. Conservation groups such as Ducks Unlimited say the subsequent federal policy has led to the destruction of breeding habitat for ducks, and threatens thousands of additional acres.

Oberstar had been expected to introduce his bill (HR 5088) for well over a year. He introduced a similar bill in the last Congress.

However, opposition from agricultural interests such as the American Farm Bureau and private property rights advocates has paralyzed the House, along with the press of other business.

But on April 21 Oberstar promised to get moving. He limited the sweep of his bill compared to the last Congress by offering exemptions for cropland

converted prior to the Clean Water Act and certain waste treatment systems.

Said Oberstar, "This bill includes multiple changes to emphasize that it will reaffirm and restore the original scope of the Clean Water Act, and not expand its geographic scope."

But ranking House Natural Resources Committee Republican Doc Hastings (Wash.) disagreed. "If this bill were to become law, there'd be no body of water in America that wouldn't be at risk of job-killing federal regulation - from farmers' irrigation canals to backyard ponds and streams to mud-puddles left by rainstorms," he said.

The legislation would effectively restore the status quo ante before the 2006 Supreme Court's *Rapanos* decision. It would require permits from the Corps of Engineers and EPA under Section 404 of the Clean Water Act for activities affecting most water bodies.

There has been some action in the Senate. The Senate Environment and Public Works Committee June 18, 2009, approved a counterpart bill (S 787) but the measure has not moved any further toward Senate floor action. The American Land Rights Association, among other private property rights advocates, has helped keep S 787 off the Senate floor with repeated attacks.

Ducks Unlimited (DU) said at the beginning of the year that its number one priority for 2010 is to secure passage of legislation that would require wetlands protection permits for most water bodies. DU says that more than 20 million acres of marshes, wetlands, and lakes across the country are at risk if Congress doesn't pass the legislation.

But farmers and private property rights advocates warn that the legislation would give the federal government authority to regulate all waters, down to the meanest farm stock pond.

As an American Farm Bureau Federation position papers warns, "In sum, the proposed change to the CWA (Clean Water Act) would expand the reach of the law

in an unprecedented manner. Never before has Congress so broadly defined federal jurisdiction as extending to all intrastate waters, given federal agencies the authority to regulate 'activities affecting' water bodies, or granted sweeping authority to regulate to the fullest extent of Congress's legislative power."

The federation argues the legislation would give the feds jurisdiction over "essentially all wet areas within a state, including groundwater, ditches, pipes, streets, municipal storm drains, gutters, desert features and farmland."

New York City undertakes major Governors Island park

New York City last week committed itself to develop one of the great new urban parks in a generation - Governors Island in New York Harbor.

Pursuant to an agreement with the State of New York, the city will take full responsibility for managing the 172-acre Governors Island, and pay for it. Among other things the city plans to construct 87 acres of parkland, including a 2.2-mile waterfront promenade.

There will be a cost - \$220 million. The city has already promised to spend \$41.5 million for the first phase of the construction, beginning in 2012. That will be used to construct parkland on the northern half of the island (facing the southern tip of Manhattan.)

Said New York City Mayor Michael R. Bloomberg (R) April 12 on announcement of the pact with the state, "The popularity of Governors Island as a recreational destination in our city has skyrocketed. Today's agreement establishes new and clear lines of authority over Governors Island that will allow us to further improve the island and launch a process for turning the island master plan into a reality." The transfer of responsibility to the city will occur within 90 days.

As Bloomberg indicated the island is already open to some tourism and

recreational activities, i.e. biking, sightseeing etc. Last year in a brief 60-day summer window more than 275,000 people made the trip to the island, up from just 8,000 in 2005.

The island will be open this year every Friday through Sunday from June 5 through October 10 for free activities (go to www.govisland.com.) Ferries serve the island from Manhattan and Brooklyn. Access to the island and to sites and facilities on it are free.

"Governors Island will open on June 5 with more free activities, programs, and exhibits than ever before," said Leslie Koch, president of Governors Island Preservation and Education Committee, which technically owns the 150 acres of nonfederal land. "We look forward to welcoming the public to bike, play sports, and enjoy cultural programs in a unique setting in the middle of New York Harbor."

When the federal government transferred Governors Island to New York City and New York State jointly in 2003 for \$1 the Park Service retained a 22-acre national monument center. In the monument center are Castle Williams, Fort Jay and a portion of the surrounding parade ground.

After the transfer of most of Governors Island to the state and city, the state ran into severe economic trouble. It had difficulty coming up with its share of money and the two governments at times could not agree on what to do with the property.

Now the City of New York is in far better financial shape than the state and Mayor Bloomberg says it is ready to take over management.

Guiding the city in rejuvenating the island is a Governors Island Park and Public Space Master Plan developed by the landscape architecture company West 8. In the first \$41.5 million phase the city and the management committee will concentrate on the northern historic district near the forts, where 33 acres of green space will be put in place, along with visitor amenities.

The second phase will concentrate on what the city calls the "desolate" southern end, which is mostly flat. The plan calls for construction of hills and wetlands in the south, some of it to be built up from the remains of demolished buildings.

The preservation and education committee has not decided yet if the 2.2-mile promenade will be constructed in the first phase, the second phase or in both phases. "That decision is in the future," said a committee spokeswoman. "We're still working out the details."

The West 8 plan calls for more than just parkland. A 400-student high school called the Urban Assembly New York Harbor School will take up residence this year. New York University plans a campus on the island. And there is room for other development, including, possibly, luxury hotels and a convention center.

Senators' alleged plan to put gas tax in climate bill fades

Conventional wisdom says that the Senate would never approve a new tax on gasoline and apply it to some uses other than the Highway Trust Fund. For once it looks like conventional wisdom was right.

The Obama administration effectively put the kibosh on the idea - rumored to be part of a new "compromise" climate change bill - last week. In a little-noted statement to the *Hill* newspaper a senior administration official said, "Senators don't support the gas tax and neither does the White House."

The proposal would cut into park and rec money two ways. First, it would likely prevent Congress from increasing gasoline taxes to build up the Highway Trust Fund as part of a new six-year surface transportation bill. That bill would provide billions of dollars to such programs as transportation enhancements, recreational trails, scenic byways, federal land roads and Safe Routes to School.

Second, it would divert climate change money to clean energy research and hybrid cars and away from federal and state land management agency programs, such as the Land and Water Conservation Fund. The House and the Senate Environment and Public Works (EPW) Committee last year approved climate change legislation (HR 2454, S 1733) that would allot billions of dollars of climate change taxes/fees to a Natural Resources Climate Change Adjustment Fund for land management programs.

At issue is new legislation that Sens. John Kerry (D-Mass.), Lindsey Graham (R-S. C.) and Joseph Lieberman (I-Conn.) are expected to introduce Monday (April 26.) One provision being considered for the bill would apply a new tax to gasoline and transfer the revenues into clean energy initiatives.

At an April 20 press conference Kerry at a press conference reportedly said, "There is no gas tax, never was a gas tax, will not be a gas tax, I don't know where that came from, but it is just wrong. Period. There is not even a linked fee, there is not a tax, there is nothing similar."

Under existing law gasoline tax revenue goes into the Highway Trust Fund for use in surface transportation programs, as in the existing multi-year highway law - the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU.)

Complicating things, while Congress is developing a climate change bill it is also beginning to write a multi-year law to replace SAFETEA-LU. And that's where the alliance says gas taxes should go.

A broad coalition of interest groups that benefits from Highway Trust Fund taxes opposes any plan to divert those gas taxes to other purposes, such as climate control. The interest groups include at least three recreation associations.

"Enacting a new transportation bill quickly will be very difficult, if not impossible, should Congress approve

legislation that diverts revenue from carbon-based fees from motor fuels away from the transportation investment," said the 25 interest groups in an April 6 letter to Kerry, Graham and Lieberman.

Among the signatories to the letter were America Bikes, League of American Bicyclists, and the Safe Routes to School National Partnership. They were joined by such big hitters as the American Association of State Highway and Transportation Officials and the American Road & Transportation Builders Association.

Senate Majority Leader Harry Reid (D-Nev.) has said he will take charge of melding the Kerry, Graham and Lieberman bill with the EPW committee bill on the Senate floor, and soon.

But ranking EPW Republican James Inhofe (Okla.) told *Fox News* April 18 that the Kerry, Graham and Lieberman initiative will go nowhere. "I know we can beat it," Inhofe told *Fox's* Stuart Varney. "This is another cap-and-trade. We went through the McCain-Lieberman bill of '03, the McCain-Lieberman of '05, the Warner-Lieberman of '08, the Waxman bill... I can assure you, I don't think they have more than 25 votes on the Democrats' side, and if you throw Lindsey Graham in there that would be 26 votes."

GOP pushes for a vote on a budget; Dems are reluctant

House Republicans are demanding that Congress approve a fiscal year 2011 Congressional budget this year, even though those Republicans would almost certainly vote against any budget Congressional Democrats might come up with.

Still, the Republicans say the Democrats owe it to the nation to try. Without a budget the Republicans worry Congress will have one less curb on spending.

"In the absence of a budget, there would be virtually no procedural enforcement mechanism to constrain spending in either the House or the Senate," all House Republicans wrote to Speaker

of the House Nancy Pelosi (R-Calif.) April 15. "Especially in an election year, this would be an open invitation for Congress to increase spending to unprecedented levels."

But Democratic leaders in both the House and Senate have quietly admitted that the political gridlock between Republicans and blue-dog Democrats on one side and traditional Democrats on the other virtually guarantees neither House will pass a budget this year.

Still, Senate Budget Committee Chairman Kent Conrad (D-N.D.) produced a draft of a budget April 20, although the chances that the Senate will even consider it are dim.

While the substantive recommendations included in a budget (which does not go to the President) are purely advisory, the budget would establish an overall discretionary domestic spending cap that is mandatory. That cap would then be translated by appropriations committee leaders into spending ceilings for individual spending bills.

Most observers also expect that individual appropriations bills will run into political gridlock this year. That gridlock could well produce continuing resolutions that would keep agencies in money until after the November 2 elections at fiscal 2010 spending levels, followed by some sort of omnibus spending bill.

With or without a Congressional budget House appropriations subcommittees are expected to begin marking up fiscal year 2011 spending bills next month.

If Congress ultimately decides to extend fiscal 2010 spending, always a possibility, that would benefit most park and rec programs. That's because the Obama administration in fiscal 2011 has requested at best flat spending for federal land management agencies and for Corps of Engineers projects.

The Congressional budget process calls on the House and Senate to complete their budgets by April 15. This

year the House and Senate Budget Committees had not met until April 21 to discuss Conrad's draft.

Despite the lack of budget activity, House committees have weighed in with suggestions, outright recommendations and, on the behalf of minority Republicans, complaints about the fiscal 2011 budget.

The House Natural Resources Committee last month submitted its annual Views and Estimates to the House Budget Committee and called for increased spending for the Land and Water Conservation Fund (LWCF) and Park Service operations.

The committee's majority praised an administration proposal to increase spending for LWCF by \$140 million to \$619.2 million. "These proposed increases - particularly the resurrection of the stateside program - are remarkable and laudable," said the committee majority. "Revenues flow into the Fund as a result of continued depletion of off-shore energy resources; reinvestment of those funds in rouse conservation on-shore is a successful, balanced, popular and time-tested idea."

But in a supplement to the natural resources committee report, panel Republicans blasted the administration request. "At a bare minimum, the federal government should put a freeze on land acquisitions spending," said the minority. The GOP added, "Under this budget, \$608 million would be spent to buy more federal land at a time when agencies can't even afford to care for the land the government already owns."

As for the Park Service the committee's Democratic majority faulted the administration for not matching increases in spending for the Park Service (a \$35.3 million hike) with a commensurate increase in construction and major maintenance. "Funding increases for park operations are necessary and appropriate," said the Democrats. "However, increased investment in programs designed to sustain the long-term health of parks is critical and should accompany increases for current operations."

The House Transportation Committee submitted joint Democratic and Republican views to the budget committee that rejected an administration proposal to extend the existing surface transportation law through March 31, 2011. In lieu of that the committee would have Congress enact a new six-year surface transportation law like the Surface Transportation Authorization Act of 2009 that the House subcommittee on Highways approved in June 2009. The bill would authorize expenditures of \$500 billion over six years, much of that for park and rec programs.

Said the committee, "The Committee continues to reject an extension of this duration (to March 31 of next year), which would unacceptably postpone a much-needed infusion of Federal surface transportation investment, the creation of millions of new jobs, and comprehensive reforms to the Federal surface transportation program."

If and when Congress does move a new surface transportation bill, the committee recommended it include a new "livability" concept that would lump park and rec programs, such as recreation trails, under an Office of Livability.

In a quite different area of its oversight the House Transportation Committee recommended major increases in spending for the Corps of Engineers above the Obama administration's fiscal 2011 request. The committee would double construction spending from the administration request of \$1.69 billion to \$3.4 billion. And the committee would increase operations and maintenance spending from a request of \$2.361 billion to \$3.2 billion.

Alaska and Park Service at war over wolves and bears

The Park Service and the State of Alaska may be heading toward a precedent-setting legal battle over hunting in park units in the state.

The dispute surfaced April 13 after the Park Service said it would act

to protect bear and wolf populations within Yukon-Charley Rivers National Preserve, Gates of the Arctic National Preserve and Denali National Preserve. The protective measures went into effect April 14, to last until May 31.

NPS said it would take steps to bar the taking of wolves in Yukon-Charley and limit the taking of black bears in Gates of the Arctic and Denali.

But the Alaska Department of Fish and Game (ADF&G) questions the Park Service authority to regulate subsistence hunting within the state. "The State has responsibility to manage its wildlife populations on all lands in Alaska, including federal lands, in order to help meet subsistence needs," said Craig Fleener, director of the division of subsistence for ADF&G.

He said that the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) in Section 1314(a) provided that "nothing" in the act alters the state's responsibility for managing hunting.

The Park Service countered that Congress intended for protection of the parks to supersede state policies. An NPS press release says, "The Congressional record states the 'standard in regulating the taking of fish and wildlife is that the preeminent natural values of the Park System shall be protected in perpetuity and shall not be jeopardized by human uses."

The state is evaluating the possibility of legal action, said Tina Cunningham, an ANILCA expert with the ADF&G.

In its April 13 announcement NPS said that in Yukon-Charley it will prohibit the taking of wolves under either state hunting or trapping regulations. NPS said the wolf population in the preserve normally declines in the spring from 11 percent to 37 percent, but this year it is down by 43 percent.

In Gates of the Arctic and Denali NPS is prohibiting new black bear hunting practices recently authorized by the state, such as using artificial light to

take a bear in its den and the taking of either cubs or sows that are together in a den.

The Park Service said that in March it asked ADF&G not to authorize the new black bear policy, and ADF&G refused.

Said ADF&G Commissioner Denby Lloyd, "Of course we're very disappointed with the National Park Service, we have authority to manage wildlife populations, and these federal closures of state general and subsistence hunting and trapping are unjustified."

ADF&G faulted the NPS black bear decision for not documenting how park values would be adversely affected by the new policies. "The NPS is not following the direction provided in ANILCA or their own regulations" said Tina Cuning, an ANILCA expert with ADF&G. "The NPS justification to protect bear populations is not supported because bears in these areas are abundant and the harvest would not cause a conservation concern or the State wouldn't have authorized it."

But environmental groups such as the National Parks Conservation Association were pleased with the Park Service decision. Said the association's senior regional director Jim Stratton, "For years, the state of Alaska has had their way with wildlife management in Alaska's national preserves. We are totally psyched that the Park Service is finally putting a stop to bad ideas like shooting black bear cubs in their dens and taking too many wolves in Yukon-Charley Rivers National Preserve."

Arizona official objects to withdrawals near Grand Canyon

The head of the Arizona Department of Mines attacked April 8 legislation that would withdraw permanently 1,068,908 acres of Bureau of Land Management (BLM) and Forest Service land near Grand Canyon National Park.

Dr. Madan M. Singh rejected arguments from environmentalists that the

withdrawal is needed because uranium mining would contaminate water, harm tourism, harm wildlife and, violate a Congressional understanding on the future of the area.

"It is recognized that some environmental organizations have issued rather strong rhetorical and emotional statements to the media about the 'dangers' of uranium mining, without any credible back-up data," Singh told the House subcommittee on National Parks, Forests and Public Lands at a Congressional hearing in Arizona. "The statements are based on fear not fact; the intention is to raise sufficient concern in the minds of the public to create an outcry against mining - what might be termed scare tactics."

Singh's statement may not count for much in the short term. The Interior Department posted a "segregation" notice July 21, 2009, that bars for two years the filing of new uranium mining claims in 633,547 acres of BLM land and 360,002 acres of national forest. At the same time the department proposed a 20-year withdrawal of the area.

The legislation on the docket at the April 8 hearing, HR 644 from Rep. Raul Grijalva (D-Ariz.), chairman of the subcommittee, would permanently withdraw the million acres from both hard rock mining and energy development.

At the hearing Bill Hedden, executive director of the Grand Canyon Trust, backed the legislation because he said only 12 percent of the undiscovered uranium reserves in Arizona are within the withdrawal boundaries. "That small act of forbearance would preserve the Canyon's silence, clean air, dark night skies, and wildlife and it would prevent harm that we could not repair to the aquifers that feed fragile springs and streams within the Canyon itself," he said. "It would protect the Colorado River from further contamination and reduce the need for costly cleanups."

Hedden also complained of possible contamination of groundwater in and around the park. "The U.S. Geological Survey recently released studies that

found radioactive contamination in every 'reclaimed' uranium mine that they sampled," he said. "These initial findings confirm that mining uranium within Grand Canyon watersheds risks permanently polluting groundwater."

But Arizona's Singh said the state is closely monitoring water quality in mines in the area including Arizona 1, Pinenut and Canyon Mines. "It should be borne in mind that the Arizona Department of Environmental Quality has some of the most stringent requirements for mines in the nation," he said. "After a thorough review of the situation, and public hearings as required, the agency has issued air and water quality permits for Arizona 1, which is operational since December 2009, and an aquifer protection permit for the Pinenut and Canyon mines."

Besides the science, defenders of the mining industry and environmentalists disagree about an understanding reached by Arizona and Utah legislators during the drafting of an Arizona Wilderness Act of 1984. A former aide to former Rep. Maurice Udall (D-Ariz.), Mark Trautwein, said the land released to nonwilderness use did not represent the final word after the law's enactment. Trautwein told the committee last year that mining in the area would probably have been antithetical to Udall.

But Singh presented to the subcommittee statements of Udall and others to indicate that the Arizona Wilderness Act of 1984 was intended to be the last word on the management of the area. The wilderness pact called for designation of more than one million acres of wilderness in exchange for release to commercial uses of other roadless areas, including the area containing the uranium claims.

Arizona Sens. John McCain (R) and Jon Kyl (R) and former Sen. Dennis DeConcini (D) oppose the proposed million-acre withdrawal.

One area of ambiguity surrounding the withdrawal is its possible impact on valid existing rights held by owners of claims in the area. There are more than

10,000 such claims. Technically the claims may be developed.

But the mining industry worries that under the overarching 1872 Mining Law claimants also have to prove they hold valid existing rights by establishing a valid mineral discovery. Miners fear that only a limited number of claims that could be economically developed contain a discovery that would constitute valid existing rights. All other claims would be shut out for the foreseeable future, they worry.

Environmentalists have filed a major lawsuit to force the government to make the withdrawal. Environmentalists, including the Grand Canyon Trust, argue that the withdrawal order not only bars future mining claims, but also forbids work on existing claims.

Administration's monuments review gets unexpected boost

House Republicans last week continued to hammer the Obama administration for considering the use of the Antiquities Act of 1906 to designate 14 national monuments.

But the administration received a little support from a group that doesn't always side with the administration in disputes over the use of the public lands - the Public Lands Foundation.

The foundation, an association of Bureau of Land Management (BLM) retirees, on April 9 endorsed the use of the Antiquities Act by administrations past and present to protect huge landscapes. And it rejected proposed Republican bills to exempt western states from the sweep of the act.

"Recently, there have been a number of proposals put forth to limit the President's authority to designate national monuments under the provisions of the Antiquities Act," said Henri Bisson, president of the foundation in a letter to President Obama. "We support the position of the conservation and historic preservation communities in opposing those suggestions."

The foundation sometimes sides with public lands users, particularly ranchers, in disputes with environmentalists. But not this time.

Ranking House Natural Resources Committee member Doc Hastings (R-Wash.) and ranking House subcommittee on National Parks, Forests and Public Lands member Rob Bishop (R-Utah) opened the monuments controversy. On February 18 they released a seven-page Interior Department document that indicated the Obama administration "is considering" the acquisition of billions of dollars of land, all for BLM.

In addition the Republicans say the document indicates Interior is considering the designation of 14 new national monuments on BLM land.

Since then Secretary of Interior Ken Salazar has repeatedly assured Congress and the public that the document was for internal planning purposes only. He has also said the Obama administration would follow a public process before the White House designates more national monuments.

To make sure that happens the Republicans are attacking from several fronts. On April 13 16 House members introduced legislation that would remove the administration's unilateral authority to designate monuments. Their bill (HR 4996) would require Congressional approval for each new national monument. Rep. Virginia Foxx (R-N.C.) is the lead sponsor.

"Our national monuments and parks are American treasures, rightly protected by the federal government," Foxx said. "This legislation simply creates safeguards to protect local citizens and land owners and keep the federal government from overstepping its bounds."

Separately, Hastings and Bishop April 15 introduced a House resolution (H Res 124) demanding that Salazar turn over to Congress all pages of the "Internal Draft" document that laid out the monument assessment. The Republicans only obtained pages 15 to 21.

Under House rules the majority has

only 14 working days to report a Resolution of Inquiry to the House floor, or the resolution sponsors can bring it up. The Democratic majority will almost certainly vote it down, but that vote could prove embarrassing to the administration.

Hastings and Bishop first requested the documents February 26 in a letter to Secretary of Interior Ken Salazar. On introducing the privileged resolution Hastings said, "It has been a month-and-a-half since the date of our initial request and yet we still haven't heard back from the DoI. There is only one reason Secretary Salazar would be keeping these documents hidden from public view, and that is because they provide further proof that the Administration has in fact been planning to lock up millions of acres of land throughout the West without input from local residents, officials and stakeholders."

The 14 possible monuments are located in Arizona (1), California (4), Colorado (1), Montana (1), Nevada (1), New Mexico (2), Oregon (1), Utah (2) and Washington (1). The Interior document says 1,618,140 acres would be involved, including 397,210 acres of state and private land. Acquisition of the land would cost more than \$2 billion.

The Public Lands Foundation is particularly concerned about the controversy because almost all of the 14 possible monuments would make up (or in some instances already do make up) the National Landscape Conservation System managed by BLM. That system recognizes the conservation values of BLM-managed areas.

The foundation's Bisson concluded in his letter to the President, "We strongly support the Antiquities Act and the authority it grants to the President. We also believe the lands contained within the National Landscape Conservation System are an important part of the BLM's overall multiple use mandate. The Antiquities Act is an important tool for the conservation and management of our public lands and will continue to enable us to leave a public lands legacy for our children."

Notes

GOP border bill slams fed managers. Rep. Rob Bishop (R-Utah) and three other Republican leaders introduced legislation April 14 that would bar federal land managers from interfering with homeland security operations on the nation's borders. Bishop and his fellow Republicans say the bill (HR 5016) is needed because federal land managers use environmental regulations to delay activities of the Department of Homeland Security. They cited the case of Arizona rancher Rob Krentz who was killed by someone who crossed the Mexican border through the San Bernardino Wildlife Refuge, presumably an illegal immigrant. Bishop is ranking Republican on the House National Parks, Forests and Public Lands subcommittee. Also sponsoring the bill were House Natural Resources Committee ranking member Doc Hastings (R-Wash.), Homeland Security Committee ranking member Peter King (R-N.Y.) and Judiciary Committee ranking member Lamar Smith (R-Texas.) The bill contains this one sentence: "On public lands of the United States, neither the Secretary of the Interior nor the Secretary of Agriculture may impede, prohibit, or restrict activities of the Secretary of Homeland Security to achieve operational control (as defined in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109-367)."

Colorado rafters vs. landowners.

Private property owners in Colorado are challenging the right of 50 or more river outfitters in the state to float by their properties. Both the landowners and the outfitters claim that Colorado law supports their positions. The private landowners - developers and ranchers mostly - say the State Supreme Court in 1979 held that outfitters needed permission to float by private property. But the outfitters countered that the state legislature subsequently passed a law that allows outfitters to pass private property as long as their rafts don't touch dry land. The State House of Representatives this year has passed legislation (HB 1188) that sides with the \$140 million per year outfitter industry; it would make clear that rafts could bypass private property without

criminal punishment. However, private landowners have rebelled against the House bill and last month a State Senate committee asked for time to evaluate the issue. Meanwhile, Gov. Bill Ritter, Jr. (D) has asked the sides to undergo mediation.

Judge goes after Everglades pollution. A federal judge April 14 told EPA to crack down on phosphorous emitters who are polluting the Florida Everglades. U.S. District Court Judge Alan Gold, following up on a case he has been pursuing for two years, told EPA to meet with the State of Florida and establish a schedule for complying with federal law on the release of phosphorous. To give his order bite Gold suspended authority for the state to approve any new water pollution discharge permits. He also ordered EPA Administrator Lisa Jackson to report to him on October 7 on EPA's compliance with his order.

DoI "open gov" features climate.

In carrying out an open government charge from President Obama, the Interior Department said April 7 it will emphasize access to climate change information. Interior said it would provide transparency in climate change data used to support resource management plans. And it said it would work closely with partner agencies to find solutions to climate change. Obama gave his departments until April 7 to complete open government plans.

Interior board backs BLM OHV plan.

The Interior Board of Land Appeals (IBLA) last month upheld a Bureau of Land Management (BLM) travel management plan in central Idaho that opened 834 miles of public land to off-highway vehicle (OHV) use. Owyhee County objected to opening hundreds of miles of roads and trails to OHVs and to the alleged failure of BLM to keep OHVs off trails seasonally to protect livestock interests. The county based its legal arguments on a number of factors, such as its assertion that it actually controlled 45 miles of road on public land as an RS 2477 right-of-way (ROW.) But IBLA Administrative Judge James K. Jackson said federal courts have ruled that only federal courts may rule on the

validity of RS 2477 ROWs, and then under the Quiet Title Act. For now, Jackson said, the road is controlled by BLM. "BLM is not compelled by law or precedent to concede management authority over these roads to the County prior to a judicial validation of its assertions," he held. The case is styled as, *Owyhee County, Idaho, 179 IBLA 18*. It was issued March 29.

Dale Hall to lead Ducks Unlimited.

Former Fish and Wildlife Service Director Dale Hall (2005-2009) has taken over as the chief executive officer of the Ducks Unlimited (DU) conservation group. DU is the world's largest nonprofit conservation group dedicated to protecting waterfowl. Hall may be in a compromising position on DU's number one priority for the year - Congressional reversal of a Supreme Court decision that limits the federal government's authority to issue permits to protect wetlands. Under the landmark *Rapanos* decision only navigable waters must be regulated. And the Bush administration, for whom Hall served, accepted that decision. However, DU and other conservation groups are demanding that most water bodies be subjected to Corps of Engineers Section 404 permits. The Senate Environment and Public Works Committee June 18, 2009, did approve a bill (S 787) to meet that demand but the measure has not moved toward Senate floor action. In the House Rep. James Oberstar (D-Minn.) introduced a counterpart bill April 21 (*see separate article page 4.*) DU says that over the last 70 years it has conserved more than 12 million acres from contributions from more than one million supporters.

NPS concessioners seek Hill help.

The National Parks Hospitality Association (NHPA) asked Congress for two significant policy changes last month as part of a fiscal year 2011 appropriations bill. One change would allocate a slice of franchise fees and/or America The Beautiful fees to a campaign to solicit increased visitation, including to urban Americans and Americans of color. The other requested policy change would have NPS identify from three to ten sites where great new structures would be built for the 2016

Centennial of the parks. NHPA, which represents large concessioners, presented the recommendations to the House subcommittee on Interior appropriations for consideration during the writing of a fiscal 2011 Interior and related agencies money bill. The fee/visitation proposal would allocate 10 percent of annual franchise fee revenues, or \$7 million, to outreach and marketing. Alternatively, or as a complement to the franchise fees, NHPA recommended that NPS and its partners more aggressively market the America the Beautiful pass to add to the \$175 million the parks now collect from entrance and user fees. NHPA then suggested that the additional fee revenues be matched with non-profit and charitable contributions to expand outreach to minorities and urban communities. As for the great structures recommendation NHPA called for a study of up to 10 new sites. But it suggested in the long run that the country aspire to construct numerous new facilities in line with the famed hotels in Glacier and Yellowstone National Parks. "We believe that one of the greatest opportunities associated with the upcoming 100th anniversary of the National Park Service can and should be a limited number of new structures that, even in 2116 will still demonstrate national park-appropriate design and operations," said NHPA.

Calif. county bucks BLM roads.

The San Benito County Board of Supervisors (Calif.) has voted 4-to-0 to keep open 25 miles of roads that the Bureau of Land Management (BLM) has proposed to close. Don Amador, western representative for the BlueRibbon Coalition, said, "The San Benito County Board of Supervisors earned a place in the history books for taking a stand against a federal bureaucracy that has proposed a closure of historic properties in their county." BLM has prepared a draft resource management plan and EIS for the Clear Creek Management Area. BLM prefers a policy that would close many if not most roads in the area. The county prefers an alternative that would keep most roads and trails open for motorized recreation that were available before an interim closure in 2008.

Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
Appropriations 2011 No bill yet	President submitted budget request Feb. 1.	Would increase LWCF significantly but provide flat budgets, at best, elsewhere.
Appropriations fiscal 2010 (Interior) HR 2996 (Dicks)	President Obama signed into law Oct. 30, 2009, as PL 111-88.	Provides broad increases for park and rec programs.
Appropriations fiscal 2010 (Energy and water) HR 3183 (Visclosky) S 1436 (Dorgan)	President Obama signed into law Oct. 28, 2009, as PL 111-85.	Roughly maintains FY 2009 levels. Senate reduced Everglades money.
Appropriations fiscal 2010 (Agriculture) HR 2997 (DeLauro)	President Obama signed into law Oct. 21, 2009, as PL 111-80.	Restores some conservation money, but leaves EQIP short.
Appropriations fiscal 2010 (Transportation) HR 3288 (Olver)	President Obama signed into law Dec. 16, 2009, as PL 111-117.	Does not make up Highway Trust Fund shortfall.
Appropriations Stimulus HR 1 (Obey)	President Obama signed into law Feb. 17, 2009, as PL 111-5.	Allocates some \$4 billion to federal land management agencies to help revive the economy.
LWCF revival HR 3534 (Rahall) S 2747 (Bingaman)	House hearings in Sept. 2009. Bingaman put in Nov. 6, 2009.	Both would guarantee full funding of \$900M per year.
UPAR revival HR 3734 (Sires)	Sires introduced Oct. 6, 2009.	Would establish \$445 million urban park grant program in HUD.
Omnibus Lands Bill S 22 (Bingaman) HR 146 (Holt)	President signed into law March 30, 2009, as PL 111-11.	Includes 160+ individual bills, including NLCS, new national parks.
National Landscape Conservation System HR 404 (Grijalva) S 22 (previous item)	Included in omnibus law (previous item.)	Gives NLCS official designation by Congress.
California Desert protection S 2921 (Feinstein)	Feinstein introduced Dec. 21, 2009.	Would establish monument to protect 1 million acres of BLM-managed desert.
Grand Canyon withdrawal HR 644 (Grijalva)	House subcommittee hearing July 21, 2009.	Would withdraw 1 million acres of federal land near Grand Canyon NP to prevent uranium mining.
Surface Transportation HR 1329 (Blumenauer) S 575 (Carper) S 1036 (Rockefeller) Unnumbered (Oberstar)	Blumenauer put in March 5, 2009. Carper put in March 11, 2009. Rockefeller put in May 12, 2009. House subcommittee approved Oberstar bill June 24, 2009.	Blumenauer would establish a piece of a surface transportation law with climate change money. Rockefeller would establish broad goals for law. Oberstar would extend outdoor programs for six years.
FLREA (rec fee law) repeal S 868 (Baucus)	Baucus introduced April 22, 2009.	Would repeal the comprehensive federal rec fee law.
Fire suppression HR 1404 (Rahall) S 561 (Bingaman)	Included in Interior money bill above.	Establishes an emergency fire-fighting fund to limit agency borrowing.
Ski area uses S 607 (M. Udall)	Udall introduced March 17, 2009.	Would specify that ski resorts on national forest land may allow non-skiing recreation uses.