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Outdoor initiative must wait on White House conference

The Obama administration announced March 26 the first step in its plans for an America's Great Outdoors initiative - a White House conference.

Instead of laying out a set of concrete proposals the administration said it will first listen to interest groups and the American people. Said Secretary of Interior Ken Salazar, "The Conference is a great chance to learn about these efforts, start a new dialogue about conservation in America, and find ways to further the work that is already going on in cities and towns, counties and states throughout the country."

If and when the initiative is fleshed out, insiders believe it could include:

- * full funding for the Land and Water Conservation Fund,
- * revitalization of the National Park System in time for its 100th Anniversary in 2016,
- * the designation of a number of national monuments on Bureau of Land Management (BLM) land,
- * an omnibus public lands and parks bill (as is in the works now in Congress), or
- * all of the above.

The source of the billions of dollars to accomplish such ambitious goals will be most controversial and has of course not been identified yet. However, Salazar has given broad hints in a dozen Congressional hearings that he has his eye on offshore oil and gas royalties. And, perhaps, on a sharp increase in onshore oil and gas royalties.

Federal Parks & Recreation first reported March 15 the administration was closing in on an America's Great Out-

doors initiative. At that time Interior Department officials suggested that the administration intended to lay out the details in April.

The Obama administration chose a Friday afternoon - the burial ground for unpopular announcements - to reveal its plans for an America's Great Outdoors initiative.

Hosting the White House conference will be Salazar, Secretary of Agriculture Tom Vilsack and the chair of the White House Council on Environmental Quality, Nancy Sutley.

A Council on Environmental Quality (CEQ) spokeswoman said the council submitted invitations to attend the conference the day it was announced. "Our goal was to invite a wide range of leaders from communities across the country who are working to protect their outdoor spaces," said a CEQ spokeswoman. "Participants will include ranchers, farmers, sportsmen, State and local government leaders, Tribal leaders, public lands experts, conservationists, youth leaders, business representatives and others who view the outdoors as integral to their communities."

The spokeswoman said that any interest group that wants to attend should contact the agency with which it does business to obtain an invitation. FPR did forward to CEQ the names of two major players - the National Forest Recreation Association and the Western Slope No-Fee Coalition.

Perhaps the administration chose Friday afternoon because it wanted to downplay the announcement in light of the furor caused by an internal Interior Department review of possible BLM monument designations.

The monuments controversy was touched off February 18 by the release by House Republicans of an Interior Department document that suggested the administration was evaluating 14 BLM-managed areas as possible national monuments.

Salazar immediately went to the

Hill and promised to follow a public process before the White House designates more national monuments. But he also hinted to Sen. Jon Tester (D-Mont.) at a March 9 Senate Appropriations Committee hearing that something was in the works.

"There have been conversations, Mr. Tester, like the conversations I've had with you over the last year, and that is it has been 102 years since President (Theodore) Roosevelt called the leaders of the nation together to launch a conservation agenda."

One of Salazar's toughest critics, Sen. Bob Bennett (R-Utah), said he is working on a major San Juan County lands/wilderness bill and hopes to see it enacted this year. "I anticipate by the end of this Congress Mr. Chairman we will have a San Juan land use bill ready to go and ready to be signed by the President in the same way the Washington County one was," he said. His proposal could be a central plank in an America's Great Outdoors Initiative.

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.

NPS seeks a piece of science research money in the parks

The Park Service April 7 issued a new policy that will allow NPS to share in the benefits of scientific research conducted in park units.

In a record of decision (ROD) NPS said park units may ask scientists to enter agreements with NPS before conducting research on NPS lands and waters. The ROD is designed to settle a legal dispute over whether the parks are entitled to the proceeds from the scientific research.

A key paragraph in the decision

says: "If research activities involving research specimens collected from units of the National Park System result in useful discoveries, inventions, or other commercially valuable applications, NPS will consider whether a benefits-sharing agreement with the NPS will be required." That appears to make any agreement optional with each park unit.

In addition each park would have freedom to write its own deals. "If required, this agreement would be negotiated individually with each prospective partner to provide the terms and conditions for sharing with the NPS benefits resulting from the further development and use of the partner's discoveries, inventions, or other commercially valuable applications," NPS said.

Environmental groups are split on the issue with an alliance of five associations opposing any commercial bioprospecting research on the national parks. They see the research as a step toward privatizing the national parks.

But the National Parks Conservation Association (NPCA) generally endorsed the Park Service's preferred option in an EIS last year. NPCA did recommend that (1) details of agreements be made public as much as legally possible and (2) the revenues be used for conservation purposes.

The Park Service appeared to accept the publicity recommendation. It said, "Under each (policy) variation NPS would provide Congress and the public with an annual report summarizing the non-monetary and monetary benefits the NPS received under benefits-sharing agreements."

And the Park Service said the money would be "dedicated to the conservation of resources protected and managed by the NPS."

But The Edmunds Institute, a non-profit group that concentrates primarily on research and education in the environmental field said that "at the deepest level is our concern that the Park Service is participating in the commer-

cialization and privatization of life."

How much money is involved is not clear. In the EIS NPS said a single Cooperative Research and Development Agreement (CRADA) could yield as little as no money to \$24,000 per year, but in the long term "could yield more than \$1 million" per year.

At issue is the amount of compensation, if any, that research companies conducting scientific experiments on national park land should pay NPS. Congress in the National Parks Omnibus Management Act of 1998 authorized NPS to write benefits-sharing agreements with scientific companies.

After NPS wrote such an agreement with Diversa Corporation in Yellowstone National Park five environmental groups filed a lawsuit. The groups included the Edmunds Institute, Alliance for the Wild Rockies and Wilderness Watch, among others. The agreement did allow for the Park Service to share in Diversa's revenues from research involving biological samples of microbes taken from the park.

U.S. District Court Judge Royce Lamberth agreed with the plaintiffs on March 24, 1999, that an EIS should be prepared. On Nov. 23, 2009, NPS announced that it had completed the EIS.

In the EIS NPS said that more than 200 parks host research works now under permits issued under existing authorities. The ROD is designed to establish clear rules of the game for all sides.

If NPS follows the recommendation in the EIS, it would have all researchers hold permits with NPS of park units demand it. The ROD does not say what terms and conditions should be in the agreement.

The Edmunds Institute and other environmental plaintiffs disagreed with the preferred alternative in the EIS. In comments submitted to NPS they said, "Commercial bioprospecting in general undermines the basic mission, purpose and spirit of the National Parks. Were commercial bioprospecting to be disallowed, as NPS itself points out in the

DEIS, the amount of research likely to be foregone is less than one half of one percent of all research in the National Park System."

NPCA's position, as delineated in a Winter 2007 NPCA magazine, aligned with the NPS proposal, under some conditions. Said the article, "NPCA is confident that the Park Service's plan won't impact park resources and the visitor experience, but is concerned that the current draft proposes to keep the details of these arrangements unavailable to the public."

The Diversa Corporation has been taken over by the Verenum Corporation of Cambridge, Mass. Verenum describes itself as "a leader in the development and the commercialization of cellulosic ethanol, an environmentally-friendly and renewable transportation fuel, as well as higher performance specialty enzymes for applications within the biofuels, industrial, and animal nutrition and health markets."

There is talk, already, of no approps bills this year

Given an election year and political gridlock in the Senate, the odds that fiscal year 2011 domestic appropriations bills will move by themselves this year are long.

More than likely Congress will pass some sort of omnibus appropriations bill after the November 2 elections to keep park and rec programs in money in fiscal 2011. Whether or not that omnibus includes new individual appropriations bills - Interior, Energy and Water, Transportation, Agriculture - remains to be seen.

Congress may be forced to simply extend fiscal 2010 levels, an eventuality that would benefit almost all park and rec programs because the fiscal 2011 Obama administration budget request recommends substantial reductions for most programs, given inflation and other factors.

One lobbyist looked into his crys-

tal ball for us. "I think there is a fairly good chance there won't be individual bills," said Alan Rowsome, conservation advocacy associate for The Wilderness Society. "It will be difficult because of the election and other factors (political gridlock in the Senate.)"

He added, "Many people are speculating that after the election the appropriators may move an omnibus bill. Before that they may start approving CRs (continuing resolutions.)" CRs usually keep agencies in business at the same level as the previous year.

Appropriators traditionally says for the record that they intend to produce individual bills every year. Thus far this year they are not speculating about not writing bills.

There is, however, a school of thought that the Senate Appropriations Committee would not even try to write a bill, let alone try to move it to the Senate floor. That would leave the field open for the House. And, for an Interior and related agencies bill, the man in charge would be rookie subcommittee chairman James Moran (R-Va.), who is still getting up to speed on natural resources issues.

But that is getting ahead of the game. Before appropriators go to work the House and Senate usually develop Congressional budgets. While those budgets often give a feel for what Congress thinks are the important spending goals, their main function is to set spending ceilings for committees. The appropriations committees then take the allocations and spread them among individual spending bills.

The rough, unofficial schedule calls for the House and Senate to act on a fiscal 2011 budget in late April, followed by appropriations subcommittee mark-ups in mid- to late-May.

Here is a recap of the Obama administration's fiscal 2010 request for Interior and related agencies:

* STATE LWCF: an increase of \$10

million, or \$50 million compared to a fiscal 2010 appropriation of \$40 million;

* STATE WILDLIFE GRANTS: no change, or \$90 million compared to a fiscal 2010 appropriation of \$90 million;

* FEDERAL LWCF: an increase of \$106 million, or \$384.1 million compared to a fiscal 2010 appropriation of \$277.9 million;

* URBAN PARKS AND RECREATION RECOVERY: no money, the same as fiscal 2010;

* FOREST LEGACY: an increase of \$23.7 million, or \$100.1 million compared to a fiscal 2010 appropriation of \$76.5 million;

* HISTORIC PRESERVATION STATE GRANTS: no change, or \$46.5 million compared to a fiscal 2010 appropriation of \$46.5 million;

* SAVE AMERICA'S TREASURES: a decrease of \$25 million to nothing, from a fiscal 2010 appropriation of \$25 million;

* NPS OPERATIONS: an increase of \$35.3 million, or \$2.297 billion compared to a fiscal 2010 appropriation of \$2.262 billion;

* NPS CONSTRUCTION: a decrease of \$44.6 million, or \$195.2 million compared to a fiscal 2010 appropriation of \$239.8 million;

* NPS RECREATION AND PRESERVATION: a decrease of \$17.4 million, or \$51 million compared to a fiscal 2010 appropriation of \$68.4 million;

* PARK SERVICE CENTENNIAL CHALLENGE: a decrease of \$5 million from \$10 million in fiscal 2010 to \$5 million;

* FOREST SERVICE RECREATION: an increase of \$8 million, from \$285.1 million in fiscal 2010 to \$293.2 million;

* FOREST SERVICE TRAILS: a decrease of \$2.3 million, from \$85.4 million in fiscal 2010 to \$83.1 million;

* FS LEGACY ROADS AND TRAILS: a decrease of \$39.6 million, from \$90 million in fiscal 2010 to \$50.4 million;

* BLM RECREATION MANAGEMENT: essentially the same, or \$68.1 million compared to a fiscal 2010 appropriation of \$68.4 million; and

* FWS REFUGE MANAGEMENT: a decrease of \$3 million, or \$500 million compared to a fiscal 2010 appropriation of \$503 million.

OCS leasing tea leaves search for possible LWCF assistance

In the reams of Obama administration position paperwork on a new strategy to open offshore oil and gas development no mention is made of distributing new revenues to the Land and Water Conservation Fund (LWCF.)

"It wasn't part of (the March 31) announcement," confirmed an aide to Secretary of Interior Ken Salazar. "In general though, Secretary Salazar and the administration have worked to increase LWCF."

That cryptic comment leaves the administration and Salazar open to pursue whatever strategy they wish in re LWCF. For the moment in fiscal year 2011 they are recommending an appropriation from the existing fund of \$620 million.

Over the long term however Salazar has frequently promoted to Congress the idea of using additional offshore oil and gas revenues to GUARANTEE \$900 million each year to LWCF. That is, Salazar had spoken highly of full funding. At least he did until September 16 of last year when the House Natural Resources Committee held a hearing on legislation (HR 3524) to lock in the revenues.

At that time, reportedly after a chat with the Office of Management and Budget, Salazar warned that difficult budget times may require sacrifice. "On the one side you have the reality that we are dealing with very difficult times relative to the deficit, which we have inherited in part by this administration," he said. "And so that enters into the equation about how exactly we move forward with LWCF."

Still the President's March 31 announcement that he intends to open new offshore areas to offshore oil and gas development offers LWCF backers hope. Obama said the administration would extend leasing to the Gulf of Mexico, the Atlantic coast and the Alaska coast.

The government estimates reserves

between 75 billion and 104 billion barrels of offshore recoverable oil over the 10-year period between 2007 and 2017. A back-of-the-envelope estimate, not counting bonus bids, begins with an anticipated oil price of a much too conservative \$50 per barrel, or from \$3.75 trillion to \$5.2 trillion. The royalty rate is 12.5 percent, or between \$47 billion and \$65 billion. The LWCF share of that is 10 percent, or between \$4.7 billion and \$6.5 billion over ten years. And, again, that doesn't count bonus bids.

The balance of royalty money poured into the LWCF fund and unspent is more than \$17 billion. In fiscal 2011 alone that is expected to grow by more than \$700 million.

Congress established the LWCF program in the Land and Water Conservation Fund Act of 1964. The law authorized up to \$900 million per year for the program, but subject to annual appropriations. Up to half the money is to go to federal land acquisition and half to state grants. Only once has Congress fully funded the program, in 1977.

So there is a lot of money sloshing around in the fund. But conservationists who back LWCF are in a delicate position. They oppose additional offshore oil and gas development but at the same time they would love to have the extra royalty revenues for conservation purposes.

Two bills are before Congress that would guarantee LWCF money each year without further appropriation. One, HR 3534, introduced by House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.), is a complex public lands energy bill. One provision of it, Title V, offers a simple guarantee. It says, "Of the moneys covered into the fund, \$900,000,000 shall be available each fiscal year for expenditure for the purposes of this Act *without further appropriation.*" Emphasis added.

The other bill (S 2747) from Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) and 10 cosponsors

addresses just LWCF and would just guarantee the money each year. Neither the Rahall nor Bingaman bills would authorize additional offshore oil and gas leasing.

Both the Bingaman and Rahall bills are candidates to be included in comprehensive climate change legislation that may, or may not, move this year in Congress.

The House and the Senate Environment and Public Works Committee last year approved bills (HR 2454, S 1733) that would provide LWCF some money from a Natural Resources Climate Change Adaptation Fund. However, the House would subject allocations to annual appropriations bills.

The Historic Preservation Fund also derives its revenues from offshore development revenues. It is authorized to receive \$150 million annually; however, rarely has Congress appropriated more than one-half of that amount, leaving a \$2.8 billion unexpended balance. The Obama administration's fiscal 2011 request for the Historic Preservation Fund is \$54.5 million.

Utah parks will evaluate privatization assistance

Utah State Parks, faced with the same financial problems as all other state park offices, will conduct a much-watched study of the advisability of privatizing some or all parks and park functions.

The state legislature "passed legislation that asks us for efficiencies and the potential for privatization," said Mary Tullius, director of the Utah State Parks. The study is due for completion by the end of the summer, she said.

Like most other park agencies in the country Utah State Parks is being squeezed by a lack of state income caused by a severe recession. For fiscal 2011 beginning July 1 Gov. Gary R. Herbert (R) said revenues were down two percent across-the-board. That is

pocket change compared to some other states, such as Arizona and California, but it is enough to make the state legislature nervous.

For fiscal 2011 the governor proposed a modest \$615,500 decrease in spending for park and recreation operations, down from \$31.7 million in fiscal 2010 to \$31.1 million. But for park and recreation capital spending the governor proposed a large \$6.9 million decrease, down from \$9.2 million in fiscal 2010 to \$2.4 million.

Despite the reductions Tullius said the state would not have to close any parks this year. By comparison Arizona is in the process of closing 13 state parks, leaving only nine open. And that doesn't count four already shuttered. Arizona is reducing its parks budget from \$19.3 million in fiscal 2010 to \$9.7 million.

State budget woes extend to the East as well. In Pennsylvania the oil and gas industry has shown interest in developing pre-existing subsurface rights under parks for oil and gas development, said John Norbeck, director of the Pennsylvania Bureau of State Parks. About 75 percent of the state parks come with pre-existing subsurface energy rights. Royalties from oil and gas development on state lands are allocated to state parks and forests under a 1955 law.

The state has been leasing new oil and gas rights under state forestlands, but not to park lands, Norbeck said. Because of new leasing in state forests the allocation to the oil and gas fund jumped from a range of \$15-20 million per year to \$180 million last year. But the legislature shifted most of it to the state's general fund. The fiscal 2010-2011 budget request for Pennsylvania State Parks is down \$10 million from two years ago, from \$60 million to \$50 million.

One controversial solution to the states' problems is to contract out to private businesses, either full operation of park units (rarely) or specific services, such as concessioner stands or

boat ramps (more frequently).

Utah is a good candidate for privatization because it is a particularly conservative state and conservatives by definition favor privatization. But that does not mean privatization of Utah park functions is a given. "There are a handful of legislators who strongly support it," said Tullius. "But a lot don't support it. Those who do support it are very conservative." She said Gov. Herbert has not taken a position on the issue yet.

Tullius was a bit apprehensive about contracting out the operation of an entire park. "Not a lot of states have done that," she said. "There is not a good track record with that. As for individual services we do do a lot of that."

Climate change becomes live issue again; new bill looms

Climate change legislation came back from the dead in the last fortnight as President Obama's proposal to open new offshore areas to oil and gas drilling supposedly bought him support from fence sitters.

In addition Sens. John Kerry (D-Mass.), Lindsey Graham (R-S. C.) and Joseph Lieberman (I-Conn.) say they will introduce a "compromise" bipartisan climate change bill as early as next week.

At least one report says that the three senators and their staffs have mentioned in briefings a possible allocation to the Land and Water Conservation Fund (LWCF) of 10 percent of revenues generated by offshore oil and gas leases. Another 25 percent would go to adjacent states and 65 percent to the U.S. Treasury.

One National Wildlife Federation spokesman told us, "At this point, these provisions are still in flux but one of our lobbyists did tell me it seemed likely there would be some kind of allocation to LWCF in the final bill."

The senators didn't provide details beyond that, such as whether the LWCF money would be guaranteed and not be subject to annual appropriations, according to the federation, which is taking the lead for greens on climate change legislation. And how much money would be involved.

Climate change legislation still has a mighty high mountain to climb this year. Most Republicans and a handful of energy state Democrats are opposed to comprehensive legislation approved by the House (HR 2454) and by the Senate Environment and Public Works (EPW) Committee (S 1733.)

But the President's announcement March 31 that he intends to open new areas of the Gulf of Mexico, the Atlantic coast and the Alaska coast to oil and gas drilling is expected to swing some senators his way. Those senators, particularly in Louisiana and Alaska, have been hesitant to impose new curbs in the forms of carbon taxes on fossil fuels, as HR 2454 and S 1733 would do.

Senators who oppose just about any climate change legislation on the grounds that it is not needed, period, are digging in their heels. Said ranking Senate EPW committee Republican James Inhofe (R-Okla.) of the President's announcement, "It also appears President Obama is caught in a contradiction: the President is, on the one hand, pushing forward with global warming policies to make fossil fuels more expensive, while on the other hand, he's talking about drilling for more fossil fuels offshore. How does the President square these two policies?"

The Kerry-Graham-Lieberman bill would fundamentally change a one-policy-fits-all approach of HR 2454 and S 1733 with separate restrictions for three different sectors of green house gas producers.

That's the politics of it. Outdoor recreation comes into the picture in the details of the legislation. The House-passed bill and the Senate EPW bill would require major park and recreation policy revisions. They would make

substantial changes in the management of conservation programs on federal and state lands by revising fundamentally management priorities on those lands. The bills would have every federal agency or department complete a plan to comply with standards in the legislation. States would have to take similar actions.

In addition the bills would establish a Natural Resources Climate Change Adaptation Fund that would provide billions of dollars to protect natural resources. In a major difference from the House bill S 1733 would guarantee money in the fund. The House would subject distribution of the money to appropriations in annual spending bills.

If the legislation doesn't work, the Obama administration March 29 formalized a schedule to impose climate change rules of its own. In the announcement EPA said it won't require major plants that produce pollutants over parks and public lands to limit green house gases before January.

Floridians hit Everglades ecosystem budget wall

The restoration of the Everglades ecosystem is running into serious money problems, despite state and federal promises to hold up their ends of the bargain.

The problem is being felt most acutely at the local level, where the South Florida Water Management District is finding money scarce. The management district is tasked with many restoration projects with property taxes from 16 south Florida counties. And those counties are in economic doldrums.

Perhaps most troubling, the water district faces two conflicting goals - pay \$536 million required to buy land from U.S. Sugar Corp. to protect the Everglades and at the same time conduct more than a dozen restoration projects. The district has only \$460 million to do both this year, down from \$553 million in 2007.

The district bought itself time last month by extending for six months the deadline for acquiring the land from U.S. Sugar.

The restoration of the Everglades ecosystem was authorized by a Comprehensive Everglades Restoration Plan (CERP) of 2000 that was originally expected to cost \$7.8 billion, with half from the federal government and half from the State of Florida.

However, the CERP law is just the first step. Congress must also (1) approve individual projects once feasibility studies are completed and (2) appropriate money to pay for the individual projects.

And the South Florida Water Management District, while it has important CERP responsibilities, mostly operates outside CERP to manage and maintain water supply systems in south Florida.

In addition, the acquisition of the U.S. Sugar land is the responsibility of the water district. Neither the federal government nor the State of Florida will provide money for the acquisition, even though Florida Gov. Charlie Crist (R) negotiated the deal.

Crist announced almost two years ago the acquisition of 187,000 acres at \$1.7 billion from U.S. Sugar between Lake Okeechobee, a main source of water for Everglades National Park, and the park. Because of financial hard times Crist has reduced that to 72,800 acres at \$536 million, although U.S. Sugar would lease back to the state another 40,500 acres for \$150 per acre for seven years.

Meanwhile, the Obama administration says it is committed to spending the estimated \$12.5 billion required to complete the Everglades restoration.

For fiscal year 2011 the administration said it would provide the Corps of Engineers with \$180 million for the restoration program. And the Interior Department would receive \$74.5 million.

But the Obama administration and the Democratic Congress will be hard put

to meet the demands of conservationists who support the restoration of the Everglades. They are asking Congress and the administration this year (1) to appropriate \$305 million for already-authorized restoration projects and (2) to authorize four major new projects.

Although the Everglades restoration is supposed to be a 50-50 federal-state proposition the state over the the eight years of the Bush administration outspent the feds by a six-to-one margin.

The House Transportation Committee late last year began laying the groundwork for a new law to authorize additional water resource projects around the country, including the Everglades. The committee solicited recommendations for project to include in a new Water Resources Development Act (WRDA) of 2010.

At an initial hearing Nov. 18, 2009, members of the Florida Congressional delegation indicated they would request money for old and new projects for CERP.

The Everglades Coalition identified these four projects it wants included in the 2010 WRDA - Biscayne Bay Coastal Wetlands, C-111 Spreader Canal phase 1, C-43 Reservoir and the Broward Country Water Preserve Area.

Colorado redoes FS roadless rule, but sportsmen object

The State of Colorado April 6 resubmitted a proposed roadless rule that would protect more national forests from road construction than earlier proposals. The rule would govern 4.2 million acres of forest.

Despite apparent concessions by the state, sportsmen and environmental groups are unalterably opposed. They argue that a 2001 Clinton administration roadless rule that bars most road construction in 58 million acres of national forest should apply to all states, without exceptions for states such as Colorado.

Said Joel Webster, associate director of campaigns for the Theodore Roosevelt Conservation Partnership Center for Western Lands, "We therefore urge the U.S. Department of Agriculture to ensure that Colorado's roadless areas are conserved at a level consistent with the national rule - and to defer the state petition until a decision is reached regarding the national rule later this year."

Said Athan Manuel, the Sierra Club's director of public lands protection, "This is the wrong approach and we strongly urge the Obama administration to oppose any project, including this latest Colorado petition, that could undermine the integrity of this landmark conservation policy and remove protections for our country's remaining roadless forests. The Obama administration has the tools to preserve the integrity of this policy in ways that will work for Colorado and all other states with roadless areas."

Colorado Gov. Tom Ritter was more positive, saying, "This is simply a better rule for Colorado. Our roadless areas will get stronger protections and we will get the targeted flexibility we need to address Colorado's unique circumstances, such as the pine beetle epidemic, the ski industry and Western Slope coal mines."

As concessioners to sportsmen and environmentalists Ritter pined for the protection of 400,000 more acres and elimination of loopholes that would have allowed construction. At the same time Ritter said his proposal allowed flexibility for ski slope expansion.

Secretary of Agriculture Tom Vilsack was somewhat supportive of Ritter. "Governor Ritter deserves substantial praise for his leadership in protecting roadless areas on Colorado's National Forests," said Vilsack. "The Colorado petition that he has submitted today provides strong protections for roadless areas. To his credit, Gov. Ritter solicited and incorporated additional input from the public and this has improved the petition."

Ritter has said the Colorado-

specific rule could give the state protection in the event federal courts toss out the Clinton rule. And indeed as we reported March 26 a key judge on the Tenth U.S. Circuit Court of Appeals indicated he is unsympathetic to the Clinton rule.

The Tenth Circuit is expected to hand down a critical ruling later this year on the roadless rule that may disagree with a Ninth U.S. Circuit Court of Appeals decision upholding the Clinton rule, putting the rule in legal limbo.

The Obama administration is sympathetic to the Clinton rule, but is not going to act until the Ninth and Tenth Circuits clarify the legality of the Clinton rule. Or continue to disagree.

National forests expected to evaluate special landscapes

The Forest Service said April 2 that as part of its next round of planning it may evaluate "special" landscape areas in 15 national forests. Presumably the landscape areas would be broad regions that would be candidates for conservation protection.

The 15 areas have not been selected yet, but could range as large as an entire forest, it is understood.

The study of the landscape areas is but one small piece of an Obama administration initiative to write a new generation of forest plans, beginning with guidance to the field in master regulations. The master regulations will allow the Obama administration to leave its imprint on national forest outdoor policy, at least for a few years.

The Forest Service wants to make it clear that while the landscape protection initiative is closely related to individual forest planning, it is not part of the larger effort to write agency-wide master planning guidance.

The administration took a first step toward writing a master regulation Dec. 18, 2009, when it announced the process it will use. An initial comment

period on its notice to intent has already ended. If all goes well the service anticipates publishing a draft rule in December and final rule by November 2011.

An alliance of environmental groups laid down their marker for the substance of the plans March 29 and, not surprisingly, urged maximum protection of the existing resource.

But the groups also made a pitch for the 200 million visits to the national forests for recreation each year. One of the five "bullets" advocated by the groups says, "Save America's outdoor legacy: Employ long-term and restorative management practices to ensure that our national forests offer recreation and related economic opportunities."

Said Peter Nelson, federal lands program director for Defenders of Wildlife, "With nearly 200 million visitors each year, our nation's forests are undeniably linked to our national character. It's time to restore sound science to the management of these lands, ensuring that future generations can have the same opportunities to breathe fresh air, to drink clean water, to see wondrous wildlife and to enjoy just being out in nature."

As required by the National Forest Management Act of 1976 the Forest Service has since 1976 prepared 127 forest plans to guide land uses in 155 national forests and 20 grasslands (some plans cover more than one forest and/or grassland.) Under NFMA forest plans are to be revised every 15 years. However, the agency said 68 of the existing plans are overdue for revision because they should have been rewritten between 1998 and 2008.

While the Forest Service prepares the new rule it will use a 2000 Clinton administration rule to guide individual forests. However, that 2000 rule also allows forests in turn to use a 1982 rule. The 1982 rule may be the choice of most forests because the 2000 rule was so complex, the agency said.

The Obama administration's Bureau

of Land Management (BLM) appears to be ahead of the Forest Service in its land use planning. Just as the Forest Service is beginning to prepare new guidance, BLM is already working on resource management plans (RMPs) for new national monuments, among other things.

BLM provided us with these numbers: "In 2011, there are expected to be 34 ongoing major planning projects. This includes developing RMPs for newly designated National Conservation Areas and National Monuments, as directed by Congress in the Omnibus Public Land Management Act of 2009."

The Bush administration put great emphasis on writing new RMPs in Utah and Wyoming to make way for new oil and gas development.

The Forest Service in writing its new master guidance regulation is faced with a conundrum - should it appoint a committee of scientists to insure a rule is scientifically sound or should it skip the committee to avoid a years-long debate about the details of a rule?

Environmentalists are already demanding that the Obama administration establish a committee of scientists to guide the preparation of the next planning rule. More than 100 groups wrote Vilsack asking him to appoint such a committee, as permitted by the National Forest Management Act of 1976 (NFMA.)

On January 5, 2005, the Bush administration completed a first set of planning rules, but without an EIS. Judge Phyllis J. Hamilton on March 30, 2007, threw out the regs, charging the agency failed to document impacts of the rule on the environment and imperiled species.

On April 21, 2008, the Bush administration tried again with another final planning rule. Although the Forest Service made some modifications in the rule, it followed the same planning template as the 2005 rule. In addition the service included a perfunctory EIS and BA leaving further environmental analysis and BAs to specific proposed projects.

On June 30, 2009, U.S. District Court Judge Claudia Wilken for the Northern District of California again held that the Forest Service failed to adequately evaluate the environmental impacts of the rule.

The Obama administration's Forest Service is holding three national roundtables, nine regional roundtables and a science forum on the development of its next round of forest planning regulations. The three national roundtables are being held in Washington, D.C. The regional roundtables are being held in the nine Forest Service regions between April 6 and April 28.

For more background information on the Forest Service planning effort go to: <http://www.fs.usda.gov/planningrule>. For BLM's schedule go to: http://www.blm.gov/wo/st/en/prog/planning/ten_year_planning.html.

Utah enacts states rights challenge to federal lands

Utah Gov. Gary Herbert (R) signed into law March 27 legislation that gives the state eminent domain authority over federal lands.

According to an *Associated Press* article, the immediate target of the Utah legislators who introduced the bill (HB 143) is the Grand Staircase-Escalante National Monument managed by the Bureau of Land Management (BLM.)

The governor also signed a separate bill (HB 324) to set aside \$3 million from Utah's school trust fund for a legal defense. Supporters believe the litigation could go all the way to a sympathetic U.S. Supreme Court.

Although some critics such as the Southern Utah Wilderness Alliance hold that the Supremacy Clause of the U.S. Constitution clearly authorizes the federal government to hold and manage federal lands, the bill sponsors are willing to take their chances in court. As principal sponsor Rep. Chris Herrod (R-Utah) told *FOX News* on March 2, "Ba-

sically what will happen is we'll take it to court. We'll start the eminent domain process and most likely get moved to a federal court and the court will determine who is the sovereign."

Herrod told *FOX News* one of the state's targets is the Grand Staircase monument which former President Clinton designated in 2006. According to Herrod the 1.9 million-acre monument in south Utah contains \$3 trillion worth of coal and, if that were developed, Utah schools would receive \$50 billion.

The Utah legislation is the most prominent example of growing restlessness among western Republican legislators with the federal government. The Republicans see great potential in developing commodity resources on the public lands, but the Obama administration often says it will protect those lands.

It didn't help the Obama administration that House Republicans in February obtained an internal Interior Department memo that analyzed 14 large areas managed by BLM for possible national monument designation. The Antiquities Act of 1906 gives the President the authority to designate monuments on his own without Congressional action.

The western Republicans sometimes have a Democratic ally in Wyoming Gov. Dave Freudenthal. He told the Wyoming legislature in his State of the State speech in February he is serious about seeking a U.S. Constitutional amendment that would ensure that all powers reserved to the states really are reserved to the states.

The Freudenthal initiative takes on weight because he is of the same political party as Obama; however, the governor has said he is not running for reelection this fall.

Freudenthal's proposal is more modest than Utah's in that he is simply recommending a rephrasing of the Tenth Amendment to the Constitution to emphasize to the courts that states should hold all powers not delegated to the federal government.

The Utah law is at once broader and more precise. It says, "This bill authorizes the state to exercise eminent domain authority on property possessed by the federal government unless the property was acquired by the federal government with the consent of the Legislature and in accordance with the United States Constitution Article I, Section 8, Clause 17."

Article I Section 8 Clause 17 of the Constitution authorizes Congress to make laws that are "necessary and proper."

The new law and background information are available at: <http://le.utah.gov/~2010/htmdoc/hbillhtm/hb0143.htm>.

Notes

Coalition: No climate gas taxes.

A broad coalition of interest groups that benefit from Highway Trust Funds gas taxes opposes any plan to divert those gas taxes to other purposes, such as climate control. The interest groups include at least three recreation groups. At issue is a new legislative proposal that Sens. John Kerry (D-Mass.), Lindsey Graham (R-S. C.) and Joseph Lieberman (I-Conn.) are expected to introduce as early as next week. One provision being considered for the bill would tax gasoline, but then transfer the revenues into clean energy initiatives. Under existing law gasoline tax revenue goes into the Highway Trust Fund for use in surface transportation programs, such as 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. "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.

Health/parks session set. Golden Gate National Parks Conservancy, the Park Service and medical experts have prepared a study paper that prescribes activity in parks and public lands to improve the nation's health, particularly among youth. The conservancy, the Golden Gate National Recreation Area and their collaborators wrote the paper that recommends specific steps to encourage outdoor exercise. The groups will hold a strategy session next week on April 13 and 14 at Cavallo Point Lodge in Golden Gate to plot the next steps. The paper cites as good examples specific programs in communities and national parks around the country, such as walking guides. In addition the Park Service is conducting seven pilot projects to boost physical activity in the parks and the Forest Service has developed a program to encourage kids to get fit in the national forests. A year ago a group of physicians, health advocates and environmentalists in California came together with the Golden Gate National Parks Conservancy as a Health and Natural Resilience Guild. The guild members have since met several times to put their plans on paper. For more information on the upcoming meeting contact Roy Fleischer at rfleischer@parksconservancy.org.

Gettysburg expansion sought.

Pennsylvania Sens. Arlen Specter (D) and Robert B. Casey (D) introduced legislation (S 3119) last month that would add the Gettysburg Railroad Station to Gettysburg National Military Park. The bill would also add a 45-acre tract south of the battlefield to the park. The National Trust for Historic Gettysburg currently operates the railroad station. In 2006 the Gettysburg Borough Council rehabilitated the station but, Specter said, doesn't have the money to operate it. The other, 45-acre

tract was the site of cavalry skirmishes during the 1863 battle. It was donated a year ago to the park.

Appalachian Trail being squeezed.

The National Parks Conservation Association and the Appalachian Trail Conservancy say in a new assessment that the 2,200-mile trail is threatened by a number of uses on adjacent land. It would help enormously, they said, if Congress would use Land and Water Conservation Fund money to complete the trail by acquiring the last 10 miles and the last 150 properties. The groups said the trail, a unit of the National Park System, is threatened by poor air quality on adjacent land, development and off-road vehicles. The trail consists of a footpath that passes through 14 states on its way from Georgia to Maine. It runs through 14 states, six national parks, eight national forests, two national wildlife refuges, and 67 state-managed areas. It encompasses 250,000 acres. Most threats are bunched in the mid-Atlantic states. In the south the trail passes through national forests and in the far north through remote mountains.

DoI to celebrate NLCS birthday.

Interior Department officials from Secretary of Interior Ken Salazar on down will celebrate over the next year the 10th Anniversary of BLM's National Landscape Conservation System (NLCS.) The department said more than 90 events around the country will be held to honor the system. The NLCS was first designated by former Secretary of Interior Bruce Babbitt during the Clinton administration. The 880-unit system has now grown to 27 million acres, including wilderness, wilderness study areas, national monuments, conservation areas, rivers, trails, etc. Congress gave its blessing to the NLCS in March.

Conference Calendar

APRIL

20-21. **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>.

MAY

2-5. **National Ski Areas Association** annual meeting in Orlando. Contact: National Ski Areas Association, 133 South Van Gordon St., Suite 300, Lakewood, CO 90228. (303) 987-1111. <http://www.nsaa.org>.

2-5. **National Sporting Goods Association** annual meeting in Tampa, Fla. Contact: National Sporting Goods Association, 1601 Feehanville Drive, Suite 300, Mt. Prospect, IL 60056-6035. (847) 296-6742. <http://www.nsga.org>.

5-6. **America Boating Congress** legislative conference in Washington, D.C. . Contact: National Marine Manufacturers Association, 444 N. Capitol Street, NW Suite 645, Washington, D.C. 20001. (202) 737-9750. <http://www.nmma.org>.

18-20. **National Association of Recreation Resource Planners** annual meeting in Portland, Ore. Contact: National Association of Recreation Resource Planners, P.O. Box 221, Marienville, PA 16239. (814) 927-8212. <http://www.narrp.org>.

26-28. **National Hydropower Association** annual meeting in Washington, D.C. Contact: National Hydropower Association, One Massachusetts Ave., N.W., Suite 850, Washington, D.C. 20001. (202) 682-1700. <http://www.hydro.org>.

JUNE

2-4. **National Forest Recreation Association** annual conference and trade show in Stevenson, Wash. Contact: National Forest Recreation Association, P.O. Box 488, Woodlake, CA 93286. (559) 564-2365. <http://www.nfra.org>.

11-15. **U.S. Conference of Mayors** annual meeting in Oklahoma City, Okla. Contact: U.S. Conference of Mayors, 1620 I St., N.W., Fourth Floor, Washington, D.C. 20006. (202) 293-7330. <http://www.usmayors.org>.

27-29. **Western Governors' Association** annual meeting in White Fish, Mont. Contact: Western Governors' Association, 1515 Cleveland Place, Suite 200, Denver, CO 80202. (303) 623-9378. <http://www.westgov.org>.