

Federal Parks & Recreation

Bulletin #12: October 26, 2015

Dear Subscriber:

The attached bulletin from Federal Parks & Recreation newsletter reports on the following:

- * **Obama himself berates Congress for not extending LWCF**
- * **Outdoor programs included in House highways bill**
- * **House committee tackles some controversies in rec fee bill**

NOTE: This bulletin is a supplement to your regular edition of Federal Parks & Recreation. It is NOT your regular issue. The next issue will be published October 30.
The Editors

President tells Congress to extend LWCF immediately

President Obama took to the airways Saturday (October 24) to demand that Congress reauthorize the Land and Water Conservation Fund (LWCF) "without delay."

In his weekly address to the nation Obama noted that the law expired on September 30 and complained that the House and Senate have yet to act on legislation to revise or extend LWCF.

"Now Congress has to do its job," he said. "This month, even as Republicans in Congress barely managed to keep our government open, they shut down something called the Land and Water Conservation Fund . . . It has bipartisan support in both the House and the Senate. Republicans in Congress should reauthorize and fully fund the Land and Water Conservation Fund without delay."

It is not technically true that the fund has been shut down. Congress still has the authority to appropriate money for the program in spending bills and the fund has a \$20 billion surplus.

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Besides, Republicans in both the House and Senate have begun to write legislation to revise or extend the law. However, there is a significant snag. Western Republicans who control the House Natural Resources Committee would like to revise the law so as to divert some of the program money to federal land management agency maintenance, in particular for the Park Service. The administration wants a straight extension.

As we reported in the last issue of *FPR*, committee Chairman Rob Bishop (R-Utah) is playing for time. Earlier this month he asked federal land managers for a detailed description of lands purchased under the fund over the last 50 years.

Bishop did acknowledge in letters to Secretary of Interior Sally Jewell and Secretary of Agriculture Tom Vilsack that his committee would address renewal of the LWCF law. But he said the committee should know the facts before proceeding.

Obama's address adds to the pressure on Bishop to act. The President opened by asserting, "Our country is home to some of the most beautiful God-given landscapes in the world. We're blessed with natural treasures – from the Grand Tetons to the Grand Canyon; from lush forests and vast deserts to lakes and rivers teeming with wildlife. And it's our responsibility to protect these treasures for future generations, just as previous generations protected them for us."

Then he urged Congress to extend the law. His top aides such as Jewell and Vilsack have been keeping up a drumbeat of demands for Congress to extend the law.

Bishop's office has confirmed to us a bill is in the works. "Mr. Bishop is considering multiple paths of reform and will have a bill in the next month," said his spokeswoman.

"We are anxious to hear from Interior about how much they know about the land that the federal government currently owns and we hope to have a timely response. Right now, we are focused on putting together legislation and the timeline after will be determined at a later date."

The ranking Democrat on the House panel, Rep. Raúl M. Grijalva (D-Ariz.), charged that Bishop's requests to federal agencies is designed to lay the groundwork for an attack on the law. "The content of these questions demonstrates a fundamental misunderstanding of the Act, the level of detail betrays a desire to obstruct reauthorization rather than facilitate it, and the tone of the letter evidences hostility to the program's bipartisan and popular goals," Grijalva wrote Bishop October 8.

He then gave Bishop some of the data the chairman requested. "According to an excellent report prepared by the Congressional Research Service (RL3353 1), last updated in June and available online, a total of \$37.1 billion has been credited to the LWCF," Grijalva said. "Congress has appropriated \$17.1 billion of that for purposes of the Act, of which 61% has been for federal land acquisition. If our math is correct, \$10.37 billion has been spent on federal land acquisition over the 50-year life of the program, or an average of roughly \$200 million a year."

For all the back-and-forth in the House, the Senate has been more active on the issue, although problems there remain as well.

Four times in the last month supporters of LWCF have asked the Senate to approve bills (S 338, S 2101) or amendments under a unanimous consent procedure to reauthorize the program as is. But each time western Republican senators have objected, saying the Senate Energy Committee and Bishop's committee should be given time to write legislation first.

Most recently Republican Sen. Richard Burr (R-N.C.) on October 21 asked the Senate to extend LWCF. During Senate consideration of a cybersecurity bill (S 754) Burr said, "It is no surprise to the Senate that I have had a deep desire to add the (LWCF) reauthorization, which has expired, as an amendment to this bill."

But Sen. Mike Lee (R-Utah), who shares Bishop's antipathy to federal land acquisition, objected, preventing passage. Lee faulted the use of most LWCF money for acquisition. "Let's work together to make sure that the federal government only acquires such land as it can adequately manage," he said.

Besides, said Lee in another recent Senate speech, the fund enjoys a \$20 billion surplus. "If you assume the current rate of appropriations is roughly \$300 million per year, it would take around 60 years before that fund is exhausted," he said.

Program supporters were particularly upset that a short-term fiscal year 2016 spending resolution enacted September 30 did not include LWCF reauthorization.

After a 50-year run the LWCF Act expired on September 30, although Congress can still appropriate money for it in annual spending bills, such as the fiscal 2016 Interior approps bills.

To reauthorize the law the Senate Energy Committee approved legislation (S 2012) July 30 that would extend LWCF permanently. The bill, from chairman Lisa Murkowski (R-Alaska) and ranking Democrat Maria Cantwell (D-Wash.), would also establish a \$150 million per year Park Service maintenance account.

Numerous stand-alone bills have been introduced in the Senate to reauthorize LWCF including S 338 from Burr, S 890 from Sen. Maria Cantwell (D-Wash.), S 1925 from Sen. Martin Heinrich (D-N.M.) and S 2165 from Cantwell.

The House has not been as active as the Senate. One bill to reauthorize LWCF (HR 1814) has been introduced, albeit with more than 140 cosponsors from both parties, led by Grijalva. That measure has not moved.

As for fiscal year 2016 appropriations for the program in June the Senate Appropriations Committee in an appropriations bill (S 1645) approved an expenditure of \$157.5 million for federal land acquisition and \$55 million for state grants.

A counterpart House spending bill (S 2822) that is now stalled on the floor would appropriate \$91 million for the federal side and \$48 million for state grants. The fiscal 2015 appropriation for state grants was \$48 million.

The Bishop letter to the Secretaries of Agriculture and Interior is available here: http://naturalresources.house.gov/uploadedfiles/letter_to_jewell_and_yilsack_-_10.07.15.pdf.

Park and rec maintain footing in new House highway bill

The House Transportation Committee roughly met the desires of the recreation community October 22 in approving a six-year surface transportation bill (HR 3763).

The measure would extend existing park and rec programs at roughly the same level of existing funding, including Transportation Enhancements, a Recreational Trails Program and Federal Lands Roads, with room for modest increases in out years.

Said the Rails-to-Trails Conservancy, looking ahead to possible House floor battles, "For months, we've been working with our partners and congressional staff on Capitol Hill, defending the programs that help communities across the country build more trails, sidewalks and other projects that build local economies and make our neighborhoods safer and more connected. It wasn't easy — and the bill is far from perfect — but this bipartisan legislation preserves this critical funding."

The conservancy is a particularly strong advocate of the Transportation Enhancements program. The remarks were made by Patrick Wojahn, director of government relations for the conservancy, in a bulletin to his organization's members.

The American Recreation Coalition, a particularly strong advocate of the Recreational Trails Program and Federal Lands Roads, was also satisfied with the House committee action.

"Overall, we think the House committee bill is better than we expected," said coalition president Derrick Crandall. Although the Recreational Trails Program is in for \$85 million, Crandall and his allies would like to increase that substantially. They have asked Congress to make program funding more proportionate to the amount of money taxes on outdoor equipment engines contribute to the Highway Trust Fund.

There are chances of major attacks on trails and bicycle funding on the House floor. For instance, at a surface transportation hearing in the House February 11 Rep. Brian Babin (R-Texas) led the critics when he objected to the use of surface transportation money for trails, period.

Babin doesn't necessarily represent mainstream Republican thinking. Still, he voiced a "concern about spending highway money for trails and enhancements that has long circulated in rural areas."

For all the positives in the House committee action, there is one fly in the ointment - money, or a lack thereof. The transportation committee does not provide the money for the bill. The Highway Trust Fund is the lead mechanism to do that, but it contributes only \$34 billion per year of the needed \$46 billion. So Congress must come up with \$13 billion or more per year from other sources of revenue, or increase gasoline taxes.

Earlier this fall Congressional leaders had been attempting to come up with the extra money through tax reforms, but those talks among House Ways and Means Committee Chairman Paul Ryan (R-Wis.), Sen. Charles Schumer (D-N.Y.), and others collapsed. So the source of the money is still unknown.

Rep. Earl Blumenauer (D-Ore.), a leading bicycling advocate in the House, has introduced a bill (HR 680) that would increase the gasoline tax, now 18.4 cents per gallon, by 15 cents per gallon over the next three years.

Of the House committee bill he said on the House floor October 22, "This legislation calls for a 6-year period of reauthorization and hopes to be funded for 3 years, but it doesn't actually provide a single dime of revenue from the highway trust fund. It is simply an empty shell."

"There is a single solution that is supported by everyone outside of Capitol Hill, one that has been employed by six red Republican States already this year and championed by Ronald Reagan when he was President: raise the gas tax," he said.

The House and Senate will almost certainly be forced to extend the existing surface transportation law beyond its looming October 29 expiration date. The existing law is known as Moving Ahead for Progress in the 21st Century Act (MAP-21).

House Majority Leader Kevin McCarthy (R-Calif.) said on the House floor October 23 that the House will take up this week another temporary extension bill (HR 3819) to keep MAP-21 alive until November 20.

The Senate approved its six-year bill (HR 22) July 30 and House Democrats introduced an Obama administration bill August 18 (HR 2410). Both would keep the outdoor programs alive and healthy under an umbrella initiative called the Transportation Alternative Program (TAP).

More than a dozen times in the last few years Congress has resorted to temporary extensions to keep surface transportation programs in money. Most recently, Congress on July 31 extended MAP-21 for three months, through October 29 (PL 114-41).

House bill: HR 3763, drafted under the lead of House Transportation Committee Chairman Bill Shuster (R-Pa.), would set up a TAP-like fund under which Transportation Enhancements, Scenic Byways and Safe Routes to School would compete for money. Called a Surface Transportation Block Grant Program, it would allocate \$819 million in fiscal year 2016 for the TAP-like fund and increase that each year, climbing to more than \$1 billion by fiscal 2021.

Eligible programs include recreational trails, pedestrian and bicycle projects and Safe Routes to School.

The committee bill would retain the Recreational Trails Program as a set-aside with a guaranteed allocation of \$85 million per year for six years. However, the bill retains a provision of MAP-21 that would allow states to opt out of the program.

For federal lands roads the House committee bill would allocate \$575 million per year, with \$260 million for National Park Service roads in fiscal 2016 (increasing to \$400 million in fiscal 2021), \$15 million for Forest Service roads in fiscal 2016 (climbing to \$20 million by fiscal 2021) and \$30 million for the Fish and Wildlife Service each year.

Included in the \$575 million is a federal access program beginning at \$250 million in fiscal 2016. The Federal Highway Administration describes the access program this way: "The Access Program supplements State and local resources for public roads, transit systems, and other transportation facilities, with an emphasis on high-use recreation sites and economic generators."

Just before the October 22 mark-up an alliance called the National Parks Second Century Action Coalition wrote committee leaders praising the legislation. "Federal lands and their transportation systems are wholly dependent upon federal funding; they do not have the benefit of support from state or local funding mechanisms," wrote the coalition. "However, the funding levels for federal lands transportation programs have largely remained unchanged for nearly twenty years."

The coalition includes the National Parks Conservation Association, the National Park Hospitality Association, the Outdoor Industry Association and 17 other groups.

Obama bill: The administration bill (HR 2410) called Grow America recommends that Congress allocate \$847 million to the TAP program in fiscal year 2016, up \$27 million from a fiscal 2015 allocation of \$820 million.

The bill would have the TAP allocation, which would receive two percent of highway account money from the Highway Trust Fund, increase marginally each year after that.

Under the existing MAP-21 law the umbrella TAP finances such individual programs as Recreational Trails, Transportation Enhancements, Scenic Byways, and Safe Routes to School.

The bill also recommends a \$277 million increase in spending on federal agency and Indian roads for fiscal year 2016, from \$1 billion in fiscal 2015 to \$1.277 billion in fiscal 2016. Much of that increase would be used for large, expensive projects.

By category the Indian and federal agency account would distribute \$507 million to tribal roads, \$370 million to federal lands (80 percent Interior Department, 15 percent Forest Service and five percent Corps of Engineers), \$250 million to a federal lands access program and \$150 million for nationally significant federal land tribal projects.

The last nationally significant project program is new.

Senate bill: The bill (HR 22) the Senate approved July 30 called DRIVE, as in Developing a Reliable and Innovative Vision for the Economy Act, would extend the existing TAP program. In total for TAP the bill would allocate \$850 million per year for the next six years.

For the other park and rec half of traditional surface transportation laws – federal lands roads – the Senate bill would allocate \$560 million for fiscal year 2016, broken down as follows: \$305 million for federal land roads, with \$240 million of that set aside for the National Park Service and \$30 million for the Fish and Wildlife Service (FWS). A federal lands access program would receive an additional \$255 million for major projects.

By fiscal 2021 the DRIVE Act would increase the ante for Federal Lands Roads to \$330 million, with the same set-asides for NPS and FWS, and \$280 million for access.

House committee tackles some issues in draft rec fee bill

The House Natural Resources Committee has scheduled a hearing for Wednesday, October 28, on legislation that would rewrite the Federal Lands Recreation Enhancements Act (FLREA).

A draft of the bill would retain the bones of the existing recreation fee law, but would put important new meat on those bones.

For instance, under existing law federal agencies have authority to increase (and decrease) entrance and user fees; the draft would require approval of Congress of any fee schedule for the following year. In the past the Obama administration has objected to ceding fee-setting authority to Congress.

In another area of change the bill, titled the Federal Lands Recreation Enhancement Modernization Act of 2015 (FLREMA), would authorize broad new partnerships with private companies in the management of developed recreation sites on Forest Service and Bureau of Land Management (BLM) properties.

For instance, one provision would authorize the conversion of improvements at up to 20 Forest Service recreation sites to private ownership.

Finally, the draft purports to address the age-old dispute between the Forest Service and BLM on one side and backcountry visitors on the other side over entrance fees to developed and semi-developed sites. The bill would attempt to define more precisely when amenity fees should be assessed at developed sites.

The draft bill does not address the troubling issue of allegedly overly generous senior citizen discounts. For \$10 now seniors can buy a lifetime America The Beautiful

Pass into all national parks and other land management agency sites. The standard America the Beautiful fee is \$80 per year.

Some outdoor policy players have suggested a \$40 lifetime pass for seniors, others have suggested an increase in the age to begin the pass, and others have suggested just giving seniors a simple percentage discount each year.

The draft bill was prepared under the guidance of Reps. Tom McClintock (R-Calif.), chairman of the House Federal Lands subcommittee; Cynthia Lummis (R-Wyo.), chairman of the House subcommittee on Interior of the House Oversight Committee; and Rep. Rob Bishop (R-Utah), chairman of the Natural Resources Committee. Ranking House Democrat Raul Grijalva (D-Ariz.) is reportedly cooperating.

The draft bill is available at:

<http://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=399490>.

The draft bill received immediate push back from backcountry recreationists as represented by the Western Slope No-Fee Coalition. Coalition president Kitty Benzar objected that the fee section of the bill "would give the agencies unlimited authority similar to what they had under (a pre-FLREA fee law). FLREA was enacted to tighten the requirements for recreation fees, this would remove those restrictions and allow fees for anyone anywhere doing anything. "

Benzar was also highly critical of the concessioner partnership provisions. Referring to the pilot program to allow concessioners to acquire developed Forest Service recreation sites, she said, "Section 307 is the worst of all. Allowing the FS to sell off their choicest developed sites into private ownership is the worst idea I've ever heard."

As we reported in the October 2 issue of *FPR*, the Senate Energy Committee held its own hearing on recreation fees September 17. Committee chairman Lisa Murkowski (R-Alaska) called for two actions: One, a temporary one-year extension through Sept. 30, 2017 of FLREA - the Federal Lands Recreation Enhancements Act of 2004. That mission was accomplished September 30 when Congress included the extension in a temporary spending bill.

The second action "would hopefully be longer-term, and include practical reforms to improve FLREA," said Murkowski.

The renewal of FLREA gains priority now because national park units across the country are increasing entrance fees sharply. From all agencies the program took in \$278.6 million in fiscal 2014, of which NPS collected \$187 million. The total take may soon increase to as much as \$400 million, serious money even in Congress.

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