

Federal Parks & Recreation

Bulletin #8: July 20, 2015

Dear Subscriber:

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

- * **Parks riders bogging down House DoI appropriations bill**
- * **Nevada monument most controversial of three new ones**
- * **Temporary extension of roads bill creates a storm**

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 July 24.
The Editors

Numerous House approps bill riders may delay passage

An Interior and Related Agencies spending bill has become so freighted with controversial amendments in the House that leaders are being urged to defer further action until a grand budget agreement is struck. If such an agreement is politically feasible.

The most prominent controversy facing the bill (HR 2822) is a proposed amendment to allow sale of the Confederate flag in units of the National Park System.

But the measure is entwined with other, major policy disputes as well. Among them are amendments to block the designation of national monuments, to bar national parks from banning bottled water and to encourage the sale of federal lands.

The Wilderness Society, which is not exactly an unbiased player, says it's time to forget about the version of HR 2822 that is stuck on the floor and wait until a budget agreement is struck.

"We urge Congress to bring the Interior bill back to the floor once they have

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agreed to a broad budget deal that restores needed resources to our environment, and removed harmful policy provisions that will keep this bill from ever becoming law," the society said shortly after House leaders pulled the bill from the House floor July 9.

The Office of Management and Budget (OMB) said virtually the same thing, that the budget allocation to HR 2822 (and other domestic spending bills) is too low. "The President's senior advisors would recommend that he veto H.R. 2822 and any other legislation that implements the current Republican budget framework, which blocks the investments needed for our economy to compete in the future," said OMB.

As we reported in the last issue of *FPR* Speaker of the House John Boehner (R-Ohio) pulled HR 2822 from the House floor July 9 just before a final vote because of the Confederate flag amendment.

The amendment, introduced by Rep. Ken Calvert (R-Calif.), would reverse a Park Service policy of June 25 that directed national park bookstores and gift shops to stop selling the Confederate Battle Flag. The NPS policy change comes in the wake of the shooting of nine church members at Emanuel African Methodist Episcopal Church in Charleston, S.C.

Boehner was unable to muster enough votes to pass the bill with the amendment authorizing display of Confederate flags in national parks because of moderate Republican and Democratic opposition. Nor could he muster sufficient votes to pass the bill without the flag amendment because of southern Republican opposition.

The spending cap: The House Appropriations Committee in May assigned a spending cap to the Interior and Related Agencies subcommittee bill that is \$246 million less than a fiscal 2015 ceiling of \$30.416 billion. The committee set a cap of \$30.170 billion for fiscal 2016. Still, that is marginally above the spending cap of \$30.010 billion set by the Senate Appropriations Committee May 21.

Democrat Rep. Betty McCollum (R-Minn.), ranking minority member on the House subcommittee on Interior Appropriations, attacked the majority's caps. "This bill once again forces agencies to do more with less, an unrealistic and increasingly impossible task," she said. "Clearly the spending caps have put a stranglehold on the appropriations process and it is dangerously eroding our responsibilities to the American people." She said the bill contains \$2 billion less than a 2010 appropriations bill.

Congressional Democrats and the White House have made no secret of their plan to fight the spending caps for all domestic appropriations bills on any and all occasions. They will call on their Republican colleagues to replace or revoke a sequestration law that sets broad domestic and military spending ceilings. But Congressional Republicans are just as determined to stick with sequestration.

In the Senate Democratic opposition to the measure is so solid the measure may not make it to the floor. Thus, senators from both parties are already talking about the possibility of a significant delay in addressing the bill before the start of fiscal year 2016 on October 1.

Complicating the House bill is its approach to funding the payment-in-lieu of taxes (PILT) program and emergency fire fighting. HR 2822 would pay for both programs from appropriations in the bill.

Heretofore Congress has usually paid for PILT with money outside the appropriations bill, leaving room for assistance for other programs.

On the fire front both the House and Senate are moving to shift a portion of emergency fire fighting money out of appropriations bills and into disaster spending. In approving a counterpart Interior spending bill (S 1645) to the House measure the Senate Appropriations Committee June 18 approved such legislation.

Although HR 2822 doesn't contain similar legislative language, the House did approve stand-alone legislation (HR 2647) July 9 that would authorize the transfer of some emergency fire-fighting costs out of a regular appropriations bill and into disaster spending.

Here are the controversial park and rec amendments the House added two weeks ago to the already rider-ridden HR 2822:

Confederate flag: The Calvert amendment would not only reverse Park Service policy on the Confederate flag but it would also reverse three amendments that Democrats had added to HR 2811 on the subject July 7.

One amendment from Rep. Jared Huffman (D-Calif.) would bar a Park Service concessioner or a nonprofit within a park from selling the Confederate flag for non-educational purposes. The Huffman amendment was approved without a formal vote.

Another amendment from Huffman would forbid the display of Confederate flags at federal cemeteries. It too was approved without a formal vote.

A third amendment from Rep. Hakeem Jeffries (D-N.Y.) would forbid the purchase or display of the Confederate flag except to provide historic context. It too was approved without a formal vote.

Glass bottles: An amendment from Rep. Keith Rothfus (R-Pa.) would not let National Park System units ban water bottles within the parks.

The amendment addresses a 2010 controversy that erupted when Grand Canyon National Park attempted to ban water bottles.

On Dec. 14, 2011, the Park Service issued a new water bottle policy, not just for Grand Canyon but also for all units. The policy allows superintendents to ban water bottles if they first obtain approval from the applicable regional director. The superintendents must first submit a request in writing. The Rothfus amendment, approved July 7 by voice vote, would not let the Park Service implement such bans.

National monuments: An amendment from Rep. Crescent Hardy (R-Nev.) would

block the designation of national monuments in 17 counties in the West where such Presidential actions are considered probable.

Hardy is most concerned about the recent designation of a 700,000-acre national monument on Bureau of Land Management Land property in the Garden and Coal Valleys of southern Nevada. *(See following article.)*

But Hardy, who represents the area, opposes the designation and is attempting to block it on the House floor. He persuaded the House July 8 to approve an amendment to a fiscal year 2016 appropriations bill (HR 2822) that would forbid the designation. The vote was 222-to-206.

The Hardy amendment would also block anticipated national monument designations in 17 counties in Arizona, California, Colorado, New Mexico, Nevada, Oregon and Utah. However, the Hardy amendment came too late in the game to block the Basin and Range designation because it is prospective – it would forbid spending money to make a national monument proclamation in fiscal year 2016.

Old riders: Already in the House bill, coming out of the House Appropriations Committee, were policy amendments that would extend the Federal Lands Recreation Enhancements Act (FLREA) for one year; forbid EPA from completing a proposed rule that would reduce carbon emissions from existing power plants; forbid EPA from implementing a May 27 rule that would expand the definition of a wetland subject to a Section 404 permit under the Clean Water Act; forbid any agency from attempting to transfer water rights to the federal government on renewal of a permit; and block implementation of a National Ocean Policy proposed by the Obama administration.

On the money front HR 2822 would sharply reduce funding for the Land and Water Conservation Fund, allocate token money for the Park Service Centennial and, at best, maintain existing spending levels before inflation for most land management agencies.

For Park Service operations the House bill includes a \$52 million increase, primarily for the agency's Centennial in 2016. The House would appropriate \$2.328 billion for operations, compared to a fiscal 2015 appropriation of \$2.276 billion.

The Senate Appropriations Committee June 18 approved a counterpart bill (S 1645) with \$5 million more for NPS operations than the House, \$2.323 billion.

The Senate committee said it approved \$110 million in total for the Park Service Centennial; however, the two panels did not provide analogous breakdowns to allow direct comparisons.

In threatening a veto OMB first complained about a total funding level that is \$2.2 billion below the administration request. "The bill drastically underfunds core Department of the Interior programs as well as the Environmental Protection Agency's operating budget, which supports nationwide protection of human health and our vital air, water and land resources," said OMB.

As for policy amendments/slash riders OMB said, "Further, the bill includes numerous highly problematic ideological provisions that have no place in funding legislation."

President designates three monuments, one controversial

President Obama designated three major national monuments July 9 – a 704,000-acre Basin and Range National Monument in southern Nevada, a 330,780-acre Berryessa Snow Mountain National Monument in northern California, and a five-acre Waco Mammoth National Monument in Waco, Texas.

The Basin and Range monument on mostly Bureau of Land Management (BLM) land is the most controversial. Secretary of Interior Sally Jewell made the case for it. "This area is a spectacular expanse of rugged public lands that tell the proud story of the West, from the ancient rock art of our First Americans to the early homesteaders looking for opportunity on the open range," she said.

But the Congressman who represents the area, Rep. Crescent Hardy (R-Nev.), opposes the designation and is attempting to block it on the House floor. He persuaded the House July 8 to approve an amendment to a fiscal year 2016 appropriations bill (HR 2822) that would forbid the designation. The vote was 222-to-206.

The Hardy amendment would also block anticipated national monument designations in 17 counties in Arizona, California, Colorado, New Mexico, Nevada, Oregon and Utah. However, the Hardy amendment came too late in the game to block the Basin and Range designation because it is prospective – it would forbid spending money to make a national monument proclamation in fiscal year 2016.

The Nevada designation is believed in some circles to pay homage to Senate Minority Leader Harry Reid (D-Nev.) He said, "I appreciate more than I can put into words what he has done today to preserve the beauty of the Nevada desert for our grandchildren, their grandchildren, and generations to come."

But Hardy disagreed in a July 10 House floor statement. "Madam Speaker, at 2 p.m. this afternoon, you won't see a debate on the floor of the House, the people's House, on the Basin and Range Monument," he said. "There will be no vote for Nevada's elected representatives, but there will be a photo op to capture the exchange of political favor for one Nevadan (Sen. Reid). It will be a scene demonstrating that having friends in high places is more important than popular will of the people."

Reid predicted that many more monument designations were coming around the country. "(President Obama) has used his authority under the Antiquities Act to do great things all over the country and he's not done yet," he said. "There are vast landscapes and historic treasures from Idaho to California to Oregon that have languished in Congress."

Of the Berryessa monument on both Forest Service and BLM lands Secretary of Agriculture Tom Vilsack said, "The Berryessa Snow Mountain National Monument strikes a unique balance between Northern California's urban environments of Sacramento and the San Francisco Bay Area and the wild, remote landscapes that surround the farms, ranches, orchards, and vineyards that nourish our nation."

Of the Waco site that will be managed by the Park Service Jewell said, "Our National Parks inspire and teach us about our nation's natural history – in this case, about the prehistoric animals that walked our Earth tens of thousands of years ago. The Waco Mammoth National Monument will share the wonder of these incredible mammoths with visitors from around the world and help introduce a new generation to the thrill of scientific discovery that only a special site like this can demonstrate first-hand."

House Natural Resources Committee Chairman Rob Bishop (R-Utah) objected to all three monuments. "President Obama has shown complete disdain for Congress and the people of Nevada, California, and Texas," he said. "This surreptitious land grab reveals that the Obama Administration will stop at nothing to lock up more and more land, with the stroke of a pen. I condemn this shameful power move which makes states and citizens fearful that the federal government can invade at any time to seize more lands like bandits in the night."

But ranking committee Democrat Raúl M. Grijalva (D-Ariz.) objected to Bishop's objection, particularly to a Bishop statement about Native American artifacts at Basin and Range. *Greenwire* quoted Bishop as saying, "Ah, bull crap. That's not an antiquity."

To which Grijalva said, "The natural and cultural resources protected by these designations are, in fact, antiques; species and trees and rocks and cave paintings and beautiful landscapes are all quite old. We want them to remain antique, House Republicans want them to become extinct."

Conservationists who have pushed the Obama administration since its inception to use the Antiquities Act of 1906 to designate national monuments praised the President. Said Collin "O'Mara, president of the National Wildlife Federation after the three-monument designation, "Today's designations demonstrate the Antiquities Act is as vital as ever in preserving some of our nation's most important historic and natural treasures – and it's crucial that we keep the act intact and in place."

The powered recreation community as represented by the BlueRibbon Coalition endorsed the administration action on a Berryessa monument. The coalition almost never agrees with the administration.

But, said Don Amador, western rep for the coalition, "I believe this monument designation will improve economic opportunities for the local economies; increase coordination between federal agencies; provide well-managed recreation opportunities including casual and permitted off road vehicle activity on designated roads, trails and areas; safeguard the area's natural beauty, sensitive areas, wildlife and rare plants; and ensure the continued use and enjoyment of these lands for future generations."

On April 17, 2012, the House approved legislation that would require state approval of a national monument designation before the designation could become valid. The vote was 223-to-198. However, the Senate didn't act on the legislation.

Numerous bills to limit the President's authority to designate national monuments under the Antiquities Act have been introduced in this Congress. Lead bills include S 437 from Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) and HR 330 from Rep. Don Young. Both would require Congressional approval of any monument designation.

Even temporary extension of road bill creates a storm

They may just be staking out negotiating positions but House and Senate Republicans are temporarily taking quite different approaches to legislation to extend a surface transportation law.

The House July 15 approved a five-month extension of the existing law Moving Ahead for Progress in the 21st Century Act (MAP-21), through the end of the calendar year. During that time Congress would presumably write a multi-year surface transportation bill.

But Senate Republican leaders want Congress to approve a multi-year surface transportation bill now and get the issue off the table before the 2016 election wars begin in earnest. As if those wars haven't already begun.

To that end the Senate Environment and Public Works Committee (EPW) June 24 approved a six-year bill (S 1647) called the Developing a Reliable and Innovative Vision for the Economy Act, or DRIVE Act. Senate Majority Leader Mitch McConnell (R-Ky.) may bring the bill to the floor as early as tomorrow.

"Mr. President, let me just say to all Senators that we are making progress on the highway bill, and we are setting the vote for next Tuesday to allow the bipartisan supporters of a longer-term bill a couple of days to complete the draft substitute," McConnell said on the Senate floor July 16.

To pay for S 1647 the Senate Finance Committee has floated several trial balloons, in addition to the \$34 billion per year the Highway Trust Fund would provide from gasoline taxes. The \$34 billion is at least \$12 billion short of the amount of money the Department of Transportation says is required each year just to maintain the status quo.

The possible tax options are not directly related to parks and recreation but for the record the options include such things as reducing long-term payouts to federal employees.

Stuck in the middle of these negotiations are recreation programs. On the upside the bill nearing the Senate floor, S 1647, would retain a base park and rec program

known as the Transportation Alternative Program (TAP). In total for TAP the EPW committee approved \$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 committee approved \$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.

To obtain money for DRIVE the Obama administration, House Ways and Means Committee Chairman Paul Ryan (R-Wis.), and Sens. Charles Schumer (D-N.Y.) and Robert Portman (R-Ohio) say they intend to rewrite the tax code to free up the \$80 billion or so needed for the next multi-year surface transportation law.

Twenty House Democrats May 19 introduced a bill (HR 2410) that would implement the Obama administration's recommended six-year surface transportation program, called GROW AMERICA. And the Democrats are pushing their Republican colleagues to increase the gasoline tax, which has not been increased in 20 years. However, Republicans have dug in their heels against a tax hike.

Some Democrats, such as Rep. Earl Blumenauer (D-Ore.), are backing a 15 cents per gallon gasoline tax, almost doubling the current 18.5 cents per gallon tax. Blumenauer has introduced a bill (HR 680) to do that.

Meanwhile, some Republican critics have targeted TAP for elimination, arguing that gasoline taxes should not be spent on trails and highway enhancements. Rep. Sam Johnson (R-Texas) introduced such a bill (HR 2609) June 2 to eliminate the TAP program.

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