

# Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Gerrie Castaldo

Volume 33 Number 23, December 11, 2015

*In this issue. . .*

## **Appropriators not quite done yet.**

*Can't complete money bill by a December 11 deadline. Fight said to be down to riders now. LWCF, fires and PILT closely watched on the money side. Dozens of natural resources riders.... Page 1*

## **Roads bill protects parks, rec.**

*Retains block grant program that finances trails, enhancements, etc. Boosts fed land roads. Are some possible catches... Page 3*

## **Some collegiality on NPS birthday.**

*At House and Senate hearings on agency's Centennial. GOP not eager to spend fed money.... Page 5*

## **LWCF advocates ask approps help.**

*To renew underlying program. Rep. Simpson bill based on Senate committee provision lauded.. Page 7*

## **Congress closes in on easements.**

*Nearing approval of tax package that would extend conservation easements. Time is short... Page 9*

## **McClintock faults NPS on visitors.**

*House chairman says Park Service fails to provide amenities that visitors want in the parks.. Page 10*

## **Bill would speed ROWs in parks.**

*House passes measure that would expedite gas pipelines..... Page 11*

## **NPS limns coastal climate work.**

*Report describes strategies to adapt adopted by 24 units... Page 12*

**Notes..... Page 13**

**Conference calendar..... Page 14**

## **Appropriations bill reaches the edge, and then backs off**

Congress failed to complete a fiscal year 2016 omnibus appropriations bill by today's deadline (December 11), triggering the need for another temporary extension of an interim appropriations bill.

Speaker of the House Paul Ryan (R-Wis.) told the press this week the extension would last "a handful of days," until December 16.

Democratic legislators said the problem was riders. Senate Minority Leader Harry Reid (D-Nev.) said this week, "If the Congress fails to finish our business by December 11, it will be because Republicans continue to insist on extraneous poison pill riders in the government funding bill. These are Republican riders, Republican earmarks, and as long as they are there, there can be no legislation."

But Congressional Republicans, particularly in the House, say the riders are absolutely necessary to block objectionable Obama administration policies.

House and Senate Appropriations Committee members, with guidance from leadership, have been negotiating the details of an omnibus appropriations bill that would include 11 of the 12 annual appropriations bills. To make room for completion of the full-year bill appropriators were preparing at press time an extension of the existing temporary bill.

As passed by the House and Senate committees, the Interior and Related Agencies portion of the omnibus includes numerous riders. They include policy amendments addressing the Confederate flag, bottled water in national parks, a

ban on national monument designations and a ban on implementation of a wetlands protection rule.

The Wilderness Society took issue with many of those riders in a statement last week, particularly the national monuments provision. "A small group of anti-conservationists in Congress will try to roll back bedrock environmental laws by tacking harmful proposals - 'riders' - onto the federal appropriations bill. The appropriations bill is a 'must-pass' piece of legislation, so some view it as an ideal vehicle for sneaking their extreme agenda past fellow lawmakers," said the society's statement.

In addition to those riders the Interior and Related Agencies may address three major issues affecting park and recreation policy, beginning with a reauthorization of the Land and Water Conservation Fund (LWCF) program.

LWCF technically expired September 30 after 50 years, and conservationists are asking appropriators to make the program permanent. Although the program expired, Congress can still appropriate money for it.

Second, the conferees are being asked to act on an administration recommendation for a new approach to wildfire funding.

The administration, backed by both Republican and Democratic House and Senate members, would transfer emergency wildfire costs above the average to disaster spending, rather than pay those costs from annual appropriations bills.

Such an agreement would (1) end the practice of fire borrowing from line operations to pay wildfire costs and (2) free up several hundred million dollars per year in appropriations bills for other purposes.

Third, appropriators are being asked to address a third "X" factor, an appropriation for the payments-in-lieu of taxes (PILT) program, which has customarily been financed outside appropriations bills. If Congressional leaders decide to pay the \$452 million from

PILT out of the appropriations bill, that would decrease the amount of money available for other programs.

Finally, a new budget agreement (PL 114-74 of November 2) gave appropriators an extra \$20 billion to work with for domestic programs. The appropriators are expected to translate that into extra money for a lead park and recreation bill coming out of the House Interior and Related Agencies subcommittee and the counterpart Senate subcommittee.

In June the House Appropriations Committee set a ceiling of \$30.170 billion for the Interior subcommittee bill and the counterpart Senate subcommittee had been working with \$30.010 billion.

The House and Senate are now addressing a full-year, omnibus appropriations bill to replace an interim spending bill (PL 114-53 of September 30). They might extend the interim bill for a week or two, as Ryan anticipates, but that will throw the Congressional session deep into the holiday season.

The House and Senate Appropriations Committees approved their respective versions of Interior and Related Agencies spending bills (HR 2822, S 1645) in mid-June.

If appropriators follow the Obama administration's recommendations for the fiscal 2016 Interior and Related Agencies appropriations bill - and that is unlikely - it could yield a cornucopia of conservation and outdoor spending.

There are differences of opinion on specific programs. For instance, the Obama administration budget asks for full funding LWCF of \$900 million.

But the House Appropriations Committee approved its version of an Interior bill (HR 2822) June 18 that would appropriate just \$139 million for the traditional federal land acquisition and state grants. The Senate Appropriations Committee June 23 sent to the floor a counterpart bill (S 1645) with \$212.5 million for LWCF. (See separate article page 7.)

Similarly, for the Park Service

Centennial in 2016 the administration asked for an extra \$326.3 million in appropriations (not counting an additional \$500 million in authorizations). But the House committee approved just a \$52 million increase for NPS operations and the Senate committee \$57 million. (See *separate article page 5.*)

The House Appropriations Committee version of an Interior spending bill in sum would sharply reduce funding for LWCF, 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. The House would appropriate \$2.328 billion for operations, compared to a fiscal 2015 appropriation of \$2.276 billion.

The Senate Appropriations Committee's counterpart bill (S 1645) would spend \$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.

The most prominent controversy facing the House bill is the proposed rider/amendment that would authorize the flying of the Confederate flag over cemeteries that are part of the National Park System.

But the measure is ensnared in 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.

Complicating the House bill is its approach to funding PILT and emergency fire fighting. HR 2822 would pay for both programs from money in the bill.

Heretofore Congress has usually paid for PILT with money outside the appropriations bill, leaving room for as-

sistance for other programs. The House bill contains \$450 million for PILT.

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 a stand-alone bill (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.

## **Park and rec programs largely protected in final roads bill**

President Obama signed into law December 4 legislation (PL 114-94) that should provide a modest increase in park and recreation spending related to transportation over the next five years.

In one major provision the House and Senate effectively retained a broad category of spending that finances park and rec programs called the Transportation Alternatives Program (TAP). House and Senate conferees renamed the initiative a Surface Transportation Block Grant Program and set aside \$835 million for it in this fiscal year and the next fiscal year. After that it would receive \$850 million per year.

The law also insures that the Recreational Trails Program (RTP), one of the individual programs that would draw money from the block grant program, continues to receive a guaranteed \$85 million per year.

In a second overarching provision the law sets aside \$335 million in fiscal 2016 for federal land roads, with \$268 million of that going to the National Park Service. By fiscal 2020 the federal lands allocation would increase to \$375 million and the NPS share to \$300 million.

In addition the bill establishes a separate Federal Lands Access Program for major road projects beginning at \$250 million in fiscal 2016 and growing to \$270 million in fiscal 2020.

The Rails-to Trails Conservancy, which lobbied vigorously for a Transportation Enhancements Program, RTP and a Safe Routes to Schools program, gave itself a little pat on the back.

"This outcome is a testament to the strength of our partners and supporters who helped to defend TAP during critical negotiation periods, and determined lawmakers who made it a priority to preserve TAP," said Kevin Mills, senior vice president of the conservancy in a blog post.

The National Parks Conservation Association (NPCA) was pleased with the Park Service set-aside under the federal land roads provision. "This bill takes a major step forward toward repairing important roads, bridges, and transit systems to ensure visitors can enjoy national parks with their families for years to come," said Laura Loomis, NPCA's deputy vice president of Government Affairs. "Congress is heading in the right direction toward addressing the costly backlog of road projects."

Given the frequent demands from some Senate and House Republicans that Congress stop the practice of paying for trails and recreation with money that should be used for roads and bridges, outdoor programs made out well.

House and Senate conferees completed the bill (HR 22), called the Fixing America's Surface Transportation (FAST) Act, on December 1 and the House approved it December 3 by a vote of 249-to-174. Many of those no votes were protesting an unrelated provision in the 1,301-page bill that would keep alive an Export-Import Bank. The Senate approved HR 22 the same day by a more comfortable 83-to-16.

Before the House bill reached the floor the first time in early November three major amendments that would have attacked trails programs were introduced, according to the Rails-to-Trails

Conservancy. None of them were cleared for House consideration by leadership, but they could conceivably have reappeared in a conference, although they didn't.

According to the conservancy, one amendment from Rep. John Carter (R-Texas) and Ted Yoho (R-Fla.) would have eliminated the \$85 million per year Recreational Trails Program.

Another Carter amendment would have barred spending from the Surface Transportation Block Grant Program, the source of most rec money, to build trails and bikeways. A third Carter amendment would have barred spending urban areas money on walking and biking trails.

But the big hold up in completing the bill was not directly related to outdoor programs; it was finding money for the \$300 billion monster.

The Highway Trust Fund is the lead mechanism to pay for surface transportation programs, but it contributes only \$34 billion per year of the needed \$60 billion. So Congress must come up with \$26 billion or more per year from other sources of revenue, or increase gasoline taxes.

To that end the conferees patched together several funding sources including such high-risk strategies as using proceeds from the sale of oil in the Strategic Petroleum Reserve and taking money held by the Federal Reserve in case of an emergency.

There are other risks in the final bill that directly affect park and recreation programs. For instance the block grant program allows urban areas to transfer half of their money from the \$850 million per year block grant to other purposes.

In addition the Recreational Trails Program once again will allow states to opt out of the program. In fiscal 2015 and fiscal 2014 only Florida opted out. In fiscal 2013 Kansas and Florida did.

On the other hand the law does

include a new low-interest loan program for communities that want to connect trails, bike lanes and sidewalks. The Transportation Infrastructure Financing and Investment Act would require projects to cost at least \$10 million (down from \$50 million previously) to qualify and would provide communities with a streamlined application process.

### **Some promises of cooperation on NPS Centennial measure**

After blaming each other for the alleged deterioration of the National Park System, House Republicans and Democrats said December 2 that they would work together to repair the system.

The Senate Energy Committee held a counterpart hearing December 8 with similar promises of collegiality.

At the House hearing on the 2016 National Park Service Centennial in the House Natural Resources Committee, chairman Rob Bishop (R-Utah) first laid the blame for a \$12 billion maintenance backlog on excessive land acquisition.

Bishop, author of a draft bill to provide help for NPS at its Centennial, said, "The Park Service is spread thin. Congress is somewhat to blame for that, not necessarily in what we are doing but we keep adding units to the Park Service without a funding mechanism. It is fun and sexy to add a new unit to the Park System. It is not fun and sexy to talk about fixing a sewer system."

Democrats played a different blame game, arguing that Congress has failed to appropriate enough money to maintain the system. Said ranking committee Democrat Grijalva Raúl M. Grijalva (D-Ariz.), "One of the glaring omissions is the fact that we're not dealing with the issue of funding and resources, given the fact that the Park Service over the last 10 years has lost 62 percent of its funding."

He added, "All this is a contributing factor in the backlog, a visitorship drop, and rewriting the concessioner relationship."

With those unpleasantries out of the way, Republicans and Democrats said they shared the same goal of sprucing up the National Park System and said they intended to work together on Centennial legislation. Said Bishop, "I'm looking forward to come up with what hopefully will be a bipartisan approach, which is why this is a discussion draft, which means quite frankly we are open to suggestions."

Ranking committee Democrat Grijalva was equally ecumenical. "I look forward to working with the chairman on areas where there might possibly be some compromise," he said.

However, Bishop warned that coming up with new money from appropriators will be difficult, if not impossible. "We can authorize anything we want to. It doesn't mean it's going to be appropriated," he said. "In this era of off-sets we must find money for anything we develop." In other words, to increase spending for the Centennial appropriators would have to chop money out of other programs.

Before the House committee were two approaches for upgrading the National Park System. Grijalva has introduced an Obama administration bill (HR 3556) that would put up some \$900 million next year alone for a combination of appropriations and partnership programs. That includes a matching public-private challenge fund, a maintenance fund and a broader fund to help upgrade federal lands managed by NPS and three other agencies.

Bishop's draft bill would authorize many of the same programs, but with few specified expenditures. His measure would also establish a challenge fund, but would not authorize a maintenance fund or the broader multi-agency fund. The draft would authorize an endowment.

Absent from the Bishop and Grijalva bills are revisions/reforms of NPS concessions policy. In testimony to the Senate Energy Committee at its December 8 hearing, the National Park Hospitality Association called for a new title in the law called Visitor Outreach and Experience Improvement Program.

The group told the Senate panel, "Specifically, we urge this new title to include direction to attract needed investment from concessioners to expand and improve visitor services in parks, including through modernization of lodges, campgrounds and marinas. Part of this modernization will depend upon new flexibility by the agency, including authority to issue concessions contracts of up to 40 years."

At the House subcommittee on Federal Lands hearing chairman Tom McClintock (R-Calif.) laid into the Park Service for not doing more to entice visitors to the park. He said total visitation numbers are misleading because of a decline in people staying in concessioners' hotels, tents and RV campers. (See related article page 10).

**Senate hearing:** Just one bill (S 2257) was up for consideration at the Senate hearing, the administration proposal as introduced by Sen. Maria Cantwell (D-Wash.)

Like Rep. Bishop, Senate committee chairman Lisa Murkowski (R-Alaska) was skeptical about where the money for S 2257 would come from. She also chairs the Senate subcommittee on Interior and Related Agencies Appropriations.

She said money from Congress is not the solution. "I want to be very clear. I don't think this is an instance where we can just throw money at a problem and consider it solved," said Murkowski. "I disagree with providing more money as the administration proposes is the best approach to dealing with the maintenance backlog."

Having said that Murkowski said she found promise in several programs in the administration bill, including philanthropic contributions, an endowment and visitor services partnerships.

Of philanthropy she said, "One area we talked about before and I'm encouraged to see picked up, at least in concept, is the idea of encouraging philanthropic support and leveraging private donations to the national parks. I think we need to do a better job encouraging folks to care about the parks

system and contribute their resources and their dollars."

Cantwell praised the administration bill as a starting point but acknowledged the difficulties of obtaining money from Congress. "I believe the administration proposal gives us a good start on (Centennial) legislation," she said. "Obviously, it would be very difficult to pass a bill with the level of mandatory spending in the administration's proposal but I hope that we can hear what the priorities are in those proposals and the consequences of not having funding."

At the hearing NPS Director Jonathan B. Jarvis said the proposed visitor services authority that Murkowski praised would allow NPS to enter new kinds of management agreements with businesses.

"The current contract structure is a very prescribed, one-size fits all solution to a visitor services portfolio that spans a wide range of services, from lodging to photography safaris," he said. "This new authority provides flexibility to use a wider range of contract models that may be more consistent with hospitality industry practices and norms."

**Administration bill:** As introduced by Grijalva (HR 3556) and Cantwell the administration would have Congressional *authorizing* committees approve an additional \$500 million per year in new legislative authority, broken down into \$100 million for the new Centennial Challenge Fund, \$300 million for deferred maintenance in a new Second Century Infrastructure Investment and \$100 million for a new competitive Public Lands Centennial Fund.

Money in the last category would be available for other Interior Department land management agencies, as well as the Forest Service.

On the *appropriations* side the administration asked Congress to ante up an extra \$326.3 million over fiscal 2015 under existing authorities, as it recommended in a fiscal year 2016 budget request in February. That includes \$242.8

million more for deferred maintenance and \$40 million more for Centennial Challenge grants.

**Bishop bill:** The discussion draft is a streamlined version of the administration's recommendation. It does include a Centennial Challenge Fund but would not require a federal match, relying strictly on donations.

The bill also would establish an endowment for the Park Service using donations and an increase in lodging fees of less than five percent. Again the amount of money to be contained in the endowment is open-ended.

Other titles in the bill would include a (1) catch-all interpretation and education program that would work with park partners, (2) an intellectual property program that would allow NPS to sell the rights to reproductions of museum objects and (3) a \$25 million, one-to-one matching program for the National Park Foundation.

## **LWCF advocates push Hill to renew program in money bill**

Conservationists are ratcheting up the pressure on the House and Senate to include an extension of the Land and Water Conservation Fund (LWCF) in an omnibus fiscal year 2016 spending bill.

The conservationists are asking Congressional leaders to include a permanent reauthorization of the program in the catchall bill now being negotiated by House and Senate appropriators.

"This is America's hardest-working conservation program, which expired on September 30," said The Wilderness Society in a statement. "It has invested in parks and open spaces in virtually every county in the U.S. and requires no taxpayer dollars. It simply needs to be reauthorized and fully funded, but not 'reformed' in a way that cripples its effectiveness."

The "reformed" reference is pointed at a discussion draft bill prepared by House Natural Resources Committee Chairman Rob Bishop (R-Utah). It would

slash funding for the federal side of LWCF but give more support to the state side.

Meanwhile, the American Hiking Society is speaking favorably of a new LWCF extension bill (HR 4151) from veteran House Appropriations Committee member Mike Simpson (R-Idaho). Simpson at one time chaired the House subcommittee on Interior and Related Agencies Appropriations, which is responsible for writing annual spending bills that allocate LWCF money.

HR 4151, introduced December 1, would direct appropriators to allocate 40 percent of LWCF money each year to federal land acquisition; 40 percent to a combination of state LWCF grants, Forest Legacy grants, endangered species grants and an American Battlefield Protection Program; and 20 percent to flexible funding.

Conservationists said the Simpson legislation, based on a provision approved twice this year by the Senate Energy Committee, would be acceptable to them, although it would not give them all that they have requested in the past. A "talking points" white paper prepared by the American Hiking Society contrasted Simpson's bill with Bishop's bill.

Said the hiking group, "Unlike the proposal from Chairman Bishop of the House Natural Resources Committee, HR 4151 addresses questions about reforming LWCF without causing major damage to the program's core conservation mission or the diversity and flexibility of tools available to communities."

The society concluded, "HR 4151 is a reasonable, viable path forward for LWCF that represents common ground between the two current reauthorization proposals in the House (HR 1814, which has nearly 200 bipartisan cosponsors, and the Bishop proposal). Members are urged to cosponsor (even if they are already cosponsors of HR 1814) and press Leadership for inclusion of this language in the omnibus appropriations package."

HR 1814 referred to by the Ameri-

can Hiking Society is a bill much-desired by the conservation community that would not only extend LWCF permanently but would also guarantee \$900 million each year for the program. The Senate Energy Committee/Simpson measure would not guarantee LWCF money permanently. Ranking House Natural Resources Committee Democrat Raúl M. Grijalva (D-Ariz.) introduced HR 1814.

In addition to the reauthorization of the base LWCF program, the architects of the omnibus spending bill are being asked to increase an annual appropriation for LWCF.

The Obama administration budget asks for full funding for LWCF in fiscal 2016 of \$900 million. But the House Appropriations Committee approved its version of an Interior bill (HR 2822) June 18 that would appropriate just \$139 million for the traditional federal land acquisition and state grants. The Senate Appropriations Committee June 23 sent to the floor a counterpart bill (S 1645) with \$212.5 million for LWCF.

Western Republicans and conservationists have been battling over LWCF priorities for decades. The western Republicans say Congress has overemphasized federal acquisition at the expense of state grants.

Said Bishop at a November 18 hearing of his committee, "The bottom line is what we have to do is make sure the state side program - the program people like - has to be emphasized. The (federal) program which interest groups are using to fund themselves without any accountability, that has to be controlled."

But Grijalva said federal land acquisitions are usually necessary and well researched. He said they are fully vetted, both by the administration and appropriators. "All LWCF expenditures are approved by Congress, through the appropriations process," he said. "The proposed land acquisitions are developed over many years, through a public planning process. This is more transparent than most federal spending and is the opposite of a slush fund."

The American Hiking Society said the balance struck among various programs in the Senate Energy Committee/Simpson bill follows the recent pattern of distributions for LWCF. "These are similar to existing agency criteria, and would codify current practice," the society said.

The Obama administration rejected Bishop's discussion draft bill out-of-hand. Said Kristen J. Sarri, deputy assistant secretary of Interior for Policy, "The draft bill proposes overly prescriptive, top-down, and arbitrary limits on federal land acquisition, which would undermine efforts to create, protect and preserve public access to some of our nation's most important outdoor spaces."

Over the 50 years of LWCF national conservation groups and state and local park and rec officials have struck an uneasy alliance to campaign together for substantial appropriations. But at a November 18 hearing of Bishop's committee Tom Wolfe, a public affairs consultant with broad experience advocating for state grants, sounded a different tone.

"LWCF stateside funding has been hijacked by land conservation advocates at the expense of outdoor recreation," he said. "Stateside supporters believe strongly in conservation goals - but not at the expense of what was once a comprehensive, meaningful outdoor recreation program."

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 appropriations bills.

A half-dozen bills have been introduced in the House and Senate to reauthorize the program, most of them straight-up permanent extensions. In the Senate they include S 338 from Sen. Richard Burr (R-N.C.), S 890 from Sen. Maria Cantwell (D-Wash.), S 1925 from Sen. Martin Heinrich (D-N.M.) and S 2165 from Cantwell.

In addition on November 19 Sen. John Barrasso (R-Wyo.) introduced a bill



(S 2318) to extend LWCF for 10 years. He would rejigger the formula by directing appropriators to put up 60 percent for states and 40 percent for federal land buys.

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. And on December 1 Simpson introduced his bill.

**The Bishop bill:** The draft would extend LWCF for seven years with an authorization of \$900 million per year, leaving it up to appropriators to decide how much of the \$900 million to set aside each year for LWCF. But the bill would require appropriators to follow these nine percentage allocations therein:

- \* 45 percent - stateside of LWCF
- \* 5 percent - urban fund
- \* 3.5 percent - federal land acquisition
- \* 3.5 percent - deferred federal land maintenance
- \* 3.5 percent - Forest Legacy (Forest Service)
- \* 3.5 percent - Endangered Species Act fund
- \* 1 percent - battlefield acquisition
- \* 20 percent - offshore energy development
- \* 15 percent - payments-in-lieu of taxes.

**Senate LWCF bill:** The energy committee/Simpson provision would allot 40 percent of the total LWCF appropriation per year for federal land acquisition and at least 1.5 percent per year of that (or more than \$10 million) for access to federal land for recreational purposes. It would also require expenditure of at least 40 percent of annual LWCF appropriations for a combination of state LWCF grants, Forest Legacy grants, endangered species grants and an American Battlefield Protection Program

**Fiscal 2016 LWCF appropriation:** Outside the program reauthorization the House and Senate appropriations bills would make these allocations:

For the traditional LWCF the House bill contains \$139 million - \$91 million federal and \$48 million for state grants. That represents a \$74.7 million decrease from fiscal 2015 for the federal side and the same for state grants.

The Senate committee approved \$73.5 million more for the traditional LWCF in total than the House - \$212.5 million, with \$157.5 million for the federal side, or \$66.5 million more than the House. For state grants the Senate approved a significant increase of \$7 million, bringing the recommended appropriation to \$55 million.

## Congress may be near approval of conservation tax breaks

The House and Senate were at press time close to final passage of a package of tax legislation that may include a provision to make permanent a deduction for conservation easements.

Negotiators from the Senate Finance Committee and the House Ways and Means Committee were considering inclusion of the provision in a so-called tax extenders bill that would, well, extend a package of 50 tax breaks, many of them permanently.

Although Congressional leaders had hoped to finish this 2015 session of the 114<sup>th</sup> Congress this week, they will have to come back next week. In addition to the tax extenders legislation, the House and Senate must complete a fiscal year 2016 comprehensive appropriations bill.

The easement provision has been in effect since 2006 and the Land Trust Alliance says in that time the law has persuaded private landowners to set aside as conservation easements two million acres.

The alliance says the easement provision would help landowners by:  
 \*\* Raising the maximum deduction a donor can take for donating a conservation easement from 30% of their adjusted gross income (AGI) in any year to 50%;  
 \*\* Allowing qualified farmers and ranchers to deduct up to 100% of their AGI; and

"\* Increasing the number of years over which a donor can take deductions from 6 to 16 years."

The alliance last month rallied support for the provision by announcing that 50 senators have now cosponsored a stand-alone conservation easement extension bill (S 330).

Sen. David Ritter (R-La.) joined 23 other Republicans, 24 Democrats and two Independents as sponsors.

In December 2014 in a last-second legislative maneuver (PL 113-295 of Dec. 19, 2014) Congress extended the old easements tax credit through 2014.

The Land Trust Alliance said the delay in approving the legislation last year has had a substantial negative impact. Said Russell Shay, director of public policy for the group, "The 2014 lapse led to donations dropping by 50% in Virginia and Maryland, where it is easy to track because most donations are made to state-chartered land trusts - the Virginia Outdoors Foundation and the Maryland Environmental Trust." Numerous tax bills are now in various stages of the legislative process, although conservationists suspect any action will be wrapped up in a comprehensive spending bill.

The House Ways and Means Committee did approve the conservation easement provision in February as part of a charity bill (HR 641) called the America Gives More Act.

The Senate Finance Committee earlier this year marked up a bill (S 2260) that would extend more than 50 tax provisions, including conservation easements. Talks between the two committees are reportedly nearing a climax.

The alliance offered this example of how the easement works: "Without the enhanced easement incentive, an agricultural landowner earning \$50,000 a year who donated a conservation easement worth \$1 million could take a total of no more than \$90,000 in tax deductions! Under the enhanced incentive, that landowner can take as much as \$800,000 in tax deductions - still less than the

full value of their donation, but a significant increase."

## **McClintock criticizes NPS for not attracting more visitors**

House subcommittee on Federal Lands Chairman Tom McClintock (R-Calif.) December 2 laid into the Park Service for not doing more to entice visitors into the parks. He said reported increases in total visitation are misleading because of a decline in people staying in concessioners' hotels, tents and RV campers.

At a hearing on legislation to upgrade the National Park System on its Centennial in 2016 McClintock said, "The subcommittee is especially concerned over policies that are actively removing traditional tourist amenities from our national parks."

McClintock said NPS policies to often reduce or eliminate attractions in parks. He singled out for criticism a proposed Yosemite National Park management plan of two years ago (McClintock represents the park) that he said would have eliminated bicycle and raft rentals, gift shops, snack bars, horseback riding facilities, swimming pools and an ice skating rink. The park eventually backed off on the removal of many of those facilities.

McClintock's attack coincided with a very different take December 3 on park visitation from the Park Service. It said visitation to the parks this year is breaking all records. Through October NPS said visitation was up 3.7 percent over last year and is on a glide path to more than 300 million visitors in 2015.

NPS Director Jonathan B. Jarvis told McClintock's subcommittee that visitation has a big economic impact. "These visits do more than provide inspirational, educational and recreational opportunities; in 2014, they drove \$29.75 billion in economic impact, supporting hundreds of thousands of jobs in communities around the country," he said.

But, McClintock complained, "We've been told that visitation in our parks is at an all-time high, but this is an illusion created by new memorials in Washington, D.C. Per capita visitation to our parks has steadily declined since the late 80's and early 90's."

McClintock called the roll, "From their all-time high Park Service concessions lodging decreased by 720,000 persons annually, or about 17 percent. Tent campers are down about 1.7 million annually, or about 26 percent. In fact most ominously the visitation by those 15 or younger fell by 50 percent in the last decade."

Again, McClintock blamed the decrease on Park Service policies that discourage visitation.

But ranking House Natural Resources Committee Democrat Raúl M. Grijalva (D-Ariz.) attributed the visitation problem in part to decreased appropriations from Congress. "One of the glaring omissions is the fact that we're not dealing with the issue of funding and resources," he said. "Given the fact that the Park Service over the last 10 years has lost 62 percent of funding."

He added, "All this is a contributing factor in the backlog, a visitorship drop, rewriting the concessioner relationship."

Two bills to upgrade the parks were before the House subcommittee hearing. One, a draft discussion bill from House Natural Resources Committee Chairman Rob Bishop (R-Utah), would authorize a challenge fund and an endowment, but with few specified expenditures.

And Grijalva has introduced an Obama administration bill (HR 3556) that would put up some \$900 million next year alone for a combination of appropriations and partnership programs to upgrade the National Park System.

The programs include a matching public-private challenge fund, a maintenance fund and a broader fund to help upgrade federal lands managed by NPS and three other agencies.

## House energy bill would speed natural gas ROWs in parks

The House December 3 approved a comprehensive energy bill (HR 8) that would expedite the approval of natural gas pipelines across national parks.

The provision would authorize the Interior Department and the Federal Energy Regulatory Commission (FERC) to approve natural gas rights-of-way (ROWs) across the parks. Under existing law Congress must approve such ROWs.

The national parks ROW provision is needed, say House Natural Resources Committee Republicans, because of a delay under existing law in securing Congressional approvals. It is based on a stand-alone bill (HR 2295) from Rep. Thomas MacArthur (R-N.J.)

"Unfortunately, natural gas pipelines construction projects have been severely constricted in areas where pipeline rights-of-way must cross federal lands," said committee Republicans in a report accompanying the bill. "Currently, the Mineral Leasing Act provides authority for the Secretary of the Interior to issue rights-of-way for pipelines on federal lands; however, NPS lands are explicitly exempt."

They added, "For this reason, an applicant for a right-of-way is forced to seek Congressional authorization to obtain legal approval for a natural gas pipeline on NPS lands. To date, only five natural gas pipelines have received Congressional approval. These five separate bills have taken between eight and 16 months to be enacted - significantly prolonging the process."

In a veto promise the Office of Management and Budget (OMB) singled out the ROW provision for criticism. "H.R. 8 includes new, unnecessary provisions that would broaden FERC's authority to impose deadlines on other Federal agencies reviewing the environmental implications of natural gas pipeline applications," said OMB in a Statement of Administration Policy.

Most committee Democrats also said

the measure is unnecessary. In the committee report they said, "Congressional review has not proven to be an undue impediment to pipeline developers. While the requirement to obtain Congressional approval encourages developers to avoid National Parks - a worthy outcome by itself - when a pipeline must cross a National Park, Congress has repeatedly shown the ability to pass the necessary legislation. Just in the past 10 years, Congress has approved pipelines through Denali National Park, Glacier National Park, Gateway National Recreation Area, and Delaware Water Gap National Recreation Area."

Conservationists including the Coalition to Protect America's National Parks wrote all members of the House December 1 and asked them not to approve the provision. "The threat of rupture and explosion posed by natural gas pipelines requires that their construction through our most prized public lands gain Congressional approval," said the conservationists.

Maureen Finnerty, the chair of the coalition, which represents Park Service retirees, was one of the signatories.

The greater energy bill, HR 8, mostly addresses non-federal lands issues, such as energy security and energy efficiency. It sets out a counterpart to an omnibus Senate energy bill (S 2012) the Senate Energy Committee approved July 30. That measure is sponsored by both committee chairman Lisa Murkowski (R-Alaska) and ranking minority member Maria Cantwell (D-Wash.) and includes, incidentally, a permanent extension of the Land and Water Conservation Fund.

In addition to the national park ROW provision the House-passed bill would establish a broader provision to have FERC and Interior identify corridors for natural gas pipeline ROWs. The provision does not limit the number nor the size of such corridors.

It does direct Interior to "expedite and approve applications" for natural gas pipelines in the corridors by requiring "an approval time of not more than 1 year after the date of receipt of an application for a right-of-way."

## **NPS describes early work on climate impacts near coasts**

The Park Service said last week that it is attempting to be proactive in adapting to the impacts of climate change on park units near the ocean.

NPS published a new report that assesses responses that 24 parks are already taking to global warming.

The three authors of the report summarized actions this way: "The adaptation efforts described here include historic structure preservation, archeological surveys, baseline data collection and documentation, habitat restoration, engineering solutions, redesign and relocation of infrastructure, and development of broad management plans that consider climate change."

The report describes these broad impacts from climate change: "Examples of these impacts include increased storminess, sea level rise, shoreline erosion, melting sea ice and permafrost, ocean acidification, warming temperatures, groundwater inundation, precipitation, and drought."

The Interior Department released the case study report November 30 while President Obama and Secretary of Interior Sally Jewell were in Paris for an international climate convention.

"What's happening in our national parks is a small window into the impacts of climate change on natural and cultural resources around the world," Jewell said.

The study, *Coastal Adaptation Strategies: Case Studies*, was assembled by dozens of NPS employees and peer reviewed. It was edited by Courtney A. Schupp and Rebecca L. Beavers of the Park Service and Maria A. Caffrey of the University of Colorado Boulder.

Said Beavers, "This report is one of a suite of tools with which the National Park Service is equipping their frontline managers - the park superintendents - to tackle diverse coastal challenges."

The report looks at the impacts of climate change on parks on both coasts and the strategies the parks are deploying to adapt to it.

NPS singled out projects underway in Everglades National Park. In the Everglades the park is elevating structures in the Flamingo area that had been the park's primary destination until two hurricanes in 2005 destroyed most facilities there. After NPS began to restore the facilities, NPS Director Jonathan B. Jarvis was concerned that storms exacerbated by climate change could damage structures.

So NPS has developed a new plan that will result in "a refined Flamingo vision that is sustainable for the next 50 years using the best available climate change data together with appropriate laws and policies for protecting Flamingo's unique resources and enhancing its visitor experiences," the report says.

The Coastal Adaptation report is available at:  
<http://www.nps.gov/subjects/climatechange/coastaladaptationstrategies.htm>.

## Notes

### **NRPA completes economics report.**

State and local governments that back the reauthorization of the Land and Water Conservation Fund (LWCF) completed December 8 a report that says the program generates nearly \$140 billion in economic activity per year. The report, released at a briefing on Capitol Hill, said that local and regional park operations spending generated \$80 billion in economic activity in 2013 and local and regional parks capital spending generated another \$60 billion. The report was prepared for the National Recreation and Park Association (NRPA) by the Center for Regional Analysis at George Mason University. The principal author was Dr. Terry L. Clower, director of the center. In addition to renewing LWCF, NRPA is asking Congress to modify the law to guarantee the state side of the program 40 percent of the \$900 million per year program, or \$360 million. State grants now usually receive in the

neighborhood of \$40 million to \$50 million per year. The Center for Regional Analysis based its report on U.S. Census Bureau data from 1,169 park systems. The analysis does not include visitor spending on hotels and equipment, etc. because most visitors to local and regional parks live nearby, the center said, and therefore wouldn't likely be in the market for hotels and new outdoor gear. The report says local and regional parks support nearly one million jobs per year, with 660,000 coming from operations spending and 340,000 from capital program spending. The report, *The Economic Significance of Local and Regional Park Systems' Spending on the United States Economy*, is available at <http://www.nrpa.org/parkeconreport/>.

### **Time to sign up for USDA's CRP.**

The next enrollment period under the Department of Agriculture's Conservation Reserve Program (CRP) began December 1 and runs through Feb. 26, 2016. During that time farmers are encouraged to sign 10 to 15-year contracts to limit farming on their land and, instead, to plant grasses and other flora to benefit the land. USDA says 1.6 million acres already in the CRP program come up for renewal on Sept. 30, 2016, and that it welcomes new contracts. The department said that as of September of this year 24.2 million acres were enrolled in CRP. "Over the past 30 years, farmers, ranchers, conservationists, hunters, fishermen and other outdoor enthusiasts have made CRP one of the most successful conservation programs in the history of the country," said Secretary of Agriculture Tom Vilsack. More information is at [www.fsa.usda.gov/conservation](http://www.fsa.usda.gov/conservation).

### **Open space award nominees sought.**

The Urban Land Institute is seeking nominations for successful large-and-small open space projects around the country. It is asking communities to submit nominations of open space projects that are at least one-year old but not more than 15 years old. The program was launched by Amanda M. Burden, former New York City planning commissioner, and has been picked up by several foundations, including one sponsored by the institute. The winners will be announced next summer in time to be formally honored at the institute's fall meeting October 5-8

in Dallas. More information is at [www.uli.org/awards](http://www.uli.org/awards).

## Boxscore of legislation

### Fiscal year 2016 appropriations

HR 2822 (Calvert), S 1645 (Murkowski). House and Senate conferees were near agreement this week. Final deal expected to provide a modest spending increase, drop some riders. LWCF, wildfire and PILT provisions closely watched.

### Appropriations Fiscal 2016 Energy and Water

HR 2208 (Simpson). House approved May 1. Senate committee reported May 21. House and Senate conferees were near agreement this week. Committees would provide mild increase for Corps, mild decrease for Bureau of Reclamation. House would block EPA/Corps wetlands rule.

### Appropriations Fiscal 2016 Transportation

HR 2577 (Diaz-Balart). House approved June 9. Senate subcommittee approved June 23. House and Senate conferees were near agreement this week. Committees would roughly maintain surface transportation spending at fiscal 2015 levels.

### Fiscal year 2016 budget

HR 1314 (Meehan). President signed into law November 2 as PL 114-74. Increases overall domestic spending cap by \$20 billion.

### Land and Water Conservation Fund

S 338 (Burr), S 890 (Cantwell), HR 1814 (Grijalva), S 2012 (Murkowski), S 1925 (Heinrich), S 2165 (Cantwell), unnumbered draft (Bishop), HR 4151 (Simpson). Grijalva introduced April 15. Senate committee approved Murkowski bill July 30. Bishop posted draft November 5. Simpson introduced December 1. All but Bishop would extend program at \$900 million per year in perpetuity. Bishop would extend for seven years. S 890, HR 1814 and S 1925 would guarantee the money each year. Simpson would change allocation to 40 percent federal, 40 percent state and related initiatives and 20 percent flexible.

### Urban park fund

HR 201 (Sires). Sires introduced January 7. Would authorize HUD grants and HUD loans to provide assistance to urban parks.

### NPS Centennial

HR 3556 (Grijalva), S 2257 (Cantwell), unnumbered draft (Bishop). House hearing December 2. Senate hearing December 8. S 3556 and S 2557 are administration bills that would have Congress put up an additional \$800 million for the Park Service Centennial in 2016.

### Federal land recreation fees

HR 1991 (Bishop), HR 2822 (Calvert), S 1645 (Murkowski), HR 719. House committee approved April 29. Senate hearing September 17. President Obama signed into law an extension of the fee law through Sept. 30, 2017, as part of PL 114-53 of September 30.

### Emergency fire spending

HR 167 (Simpson), S 235 (Wyden), S 508 (McCain), S 1645 (Murkowski), HR 2647 (Westerman). Simpson introduced January 6. Wyden introduced January 22. McCain introduced February 12. Senate committee approved S 1645 June 18. House approved HR 2647 July 9. All would shift emergency fire fighting costs out of line appropriations and into disaster spending. McCain would also increase timber harvests.

### Monument restrictions

HR 330 (Young), HR 488 (Amodei), S 437 (Murkowski), HR 900 (Labrador), S 228 (Crapo), HR 3946 (Gosar). Young introduced January 13. Amodei introduced January 22. Murkowski introduced February 10. Labrador introduced February 11. Crapo introduced January 21. Gosar introduced November 5. All would require Congressional or state approval of national monuments.

### Wetlands regulations

HR 594 (Gosar), HR 2028 (Simpson), S 1140 (Barrasso). House approved HR 2028 May 1. Barrasso introduced April 30. Would forbid completion by EPA of regulations expanding kinds of water bodies requiring wetlands protection permit. 141 cosponsors. Also included in House and Senate spending bills.