

# Federal Parks & Recreation

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## **Appropriations bill nears finish line minus riders**

House and Senate negotiators were at press time closing in on a final version of both a fiscal year 2012 Interior appropriations bill and an Energy and Water appropriations bill.

The negotiators December 14 posted details of proposed final bills. The proposals roughly split the difference between austere House bills and less austere Senate bills.

Among other things the House-Senate conference committee would maintain funding for the Land and Water Conservation Fund (LWCF) and for other conservation programs at roughly fiscal 2011 levels. For the state side of LWCF that means \$45 million and for the federal side it means \$186.7 million.

For federal land management agencies the bill again would roughly maintain fiscal 2011 levels for the Park Service (\$2.24 billion), the National Forest System (\$1.557 billion), Fish and Wildlife Service resources (\$1.228 billion) and operation of the Bureau of Land Management (BLM), \$961.9 million. More details on the numbers are below.

In addition the negotiators knocked from the Interior bill a rider that would bar a withdrawal of uranium claims near Grand Canyon National Park. They did retain a House rider that would prevent the Interior Department from designating "wild lands".

The House and Senate were working at press time on a package of nine individual appropriations bills (out of a total of 12) with a deadline of today. The package (HR 3671) includes nine appropriations bills. A short-term extension of the entire package into next week is possible.

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There had been speculation that because the House version of an Interior bill contained so many disputed riders the fiscal 2011 bill might be removed from the package and extended for a year.

Congress has completed two outdoor-related spending bills - a Transportation and a Department of Agriculture measure. They were signed into law November 18 as PL 112-55.

**INTERIOR BILL NUMBERS:** The House spent a week in July working on the Interior bill (HR 2584) but did not complete it. Last month Senate appropriators agreed on a draft bill. A brief comparison of some programs:

\* LWCF FEDERAL: Conference, \$186.7 million (BLM \$22.4 million, Fish and Wildlife Service \$54.7 million, NPS \$57 million and FS \$52.6 million). Senate, \$187.3 million (BLM \$23.4 million, Fish and Wildlife Service \$59.9 million, NPS \$66.5 million and FS \$37.5 million). House, \$46.7 million total. Fiscal 2011, \$164.9 million.

\* LWCF STATE: Conference, \$45 million. Senate, \$45 million. House, nothing. Fiscal 2011, \$40 million.

\* FWS CONSERVATION GRANTS: Conference, \$61.4 million. Senate, \$61.4 million. House, \$22 million. Fiscal 2011, \$61.8 million.

\* HISTORIC PRESERVATION FUND: Conference, \$56 million. Senate, \$64 million. House, \$49.5 million. Fiscal 2011, \$54.4 million.

\* HERITAGE AREAS: Conference, No break-out. Senate, \$17.4 million. House, \$9 million. Fiscal 2011, \$17.4 million.

\* SAVE AMERICA'S TREASURES: Conference, No break-out. Senate, \$8 million. House, nothing. Fiscal 2011, nothing.

\* NPS OPERATIONS: Conference, \$2.240 billion. Senate, \$2.230 billion. House, \$2.243 billion. Fiscal 2011, \$2.250 billion.

\* NPS REC AND PRES: Conference, \$60 million. Senate, \$60 million. House, \$49.4 million. Fiscal 2011, \$57.9 million.

\* NPS CONSTRUCTION: Conference, \$WHAT million. Senate, \$153 million. House, \$152.1 million. Fiscal 2011, \$184.6 million.

\* FS RECREATION: Conference, \$159.6 million. Senate, \$290.5 million. House, \$281.6 million. Fiscal 2011, \$281.6 million.

\* FS TRAILS: Conference, No break-out. Senate, \$82.2 million. House, not clear. Fiscal 2011, \$88.4 million.

\* FOREST LEGACY: Conference, \$54 million. Senate, \$58 million. House, not clear. Fiscal 2011, \$52.8 million.

\* BLM RECREATION: Conference, No break-out. Senate, \$68.7 million. House, \$67.6 million. Fiscal 2011, \$68.8 million.

\* FWS REFUGE MANAEMENT: No break-out. Senate, \$483 million. House, \$455 million. Fiscal 2011, \$492 million.

**RIDERS:** The conferees removed a number of controversial riders. Here are their recommendations:

GRAND CANYON MINING: Removed. Was in House bill. Would have prevented the Interior Department from withdrawing 1 million acres of federal land from uranium mining near Grand Canyon National Park.

Secretary of Interior Ken Salazar June 20 ordered a six-month withdrawal of the one million acres to block temporarily additional uranium development. Then he chose a preferred alternative of a 20-year withdrawal in an EIS that will be completed over the next six months. Salazar is expected to make a final decision shortly on a 20-year withdrawal.

MONUMENTS DESIGNATIONS: Never made it in. Rep. Denny Rehberg (R-Mont.) had been expected to offer a rider on the House floor but it never happened. His

expected amendment would have banned the designation of national monuments by the Obama administration without Congressional approval.

**WILD LANDS:** Retained. House bill. The House would bar the Interior Department from designating any new "wild lands." The bar on wild land designations may not be necessary because Secretary Salazar has said BLM will not on its own designate wild lands but will ask Congress to do so.

**CALIFORNIA OHV ROUTES:** Removed. House bill. The provision would have directed the Forest Service in California to allow OHV use on "Maintenance Level" roads in national forests. Four Republican House members led by Rep. Wally Herger (R-Calif.) introduced legislation (HR 242).

**MONTANA WILD LANDS:** Removed. Senate bill. Based on legislation from Sen. Jon Tester (D-Mont.), this provision would have designated 669,100 acres of wilderness and protect another 336,000 acres of special management areas in the Kootenai, Beaver Head-Deerlodge and Lolo National Forests and adjacent Bureau of Land Management properties. Tester faces a tough reelection battle with Rep. Denis Rehberg (R-Mont.)

**BLACKSTONE RIVER VALLEY NATIONAL HISTORICAL PARK:** Removed. Senate bill. This rider would have established a new national park in Massachusetts and Rhode Island - a Blackstone River Valley National Historical Park. On October 13 the four senators from the two states along with four House members introduced a stand-alone bill (S 1708, HR 3191).

## **Republicans would use LWCF to pay for highway bill**

Seven Republicans on the Senate Finance Committee have proposed using Land and Water Conservation Fund (LWCF) money to pay for the nation's backlog of highway construction work.

Led by ranking committee Republican Orrin Hatch (Utah), the

seven (of 11 Republicans on the panel) reasoned that Congress never appropriates full funding of \$900 million per year from LWCF, so Congress might as well allocate \$250 million per year for road construction.

In a letter to Senate Finance Committee Chairman Max Baucus (D-Mont.) the senators wrote, "If \$250 million were to be diverted annually from the LWCF, it would be unlikely to affect current appropriations from the LWCF, provided they remain consistent with past history. A diversion of \$250 million a year from the LWCF to the (Highway Trust Fund) would deposit an additional \$2.5 billion. . . over 10 years."

The Senate Finance Committee is presently searching for \$12 billion per year to pay for road and bridge construction to supplement the \$28 billion that comes from gasoline taxes paid into the Highway Trust Fund.

The additional money would be combined with the gas tax money to pay the \$40 billion per year needed to pay for a two-year surface transportation bill (S 1813) approved by the Senate Environment and Public Works Committee November 9.

The heart of the Senate bill would finance such traditional surface transportation projects as road and bridge construction.

S 1813 would also have a direct impact on outdoor-related activities by eliminating major stand-alone recreation programs, including transportation enhancements, scenic byways, recreational trails and Safe Routes to School.

The programs would be included in a consolidation of 90 existing programs into 30 broader programs. Recreation would then have to compete with those other programs for money.

The Senate Finance Committee Republicans explained why conservation money should be spent on roads: "We think oil and gas revenues are an appropriate source of highway funding

given that current highway funding is largely derived from excise taxes on fuels," they said.

Indeed LWCF derives its revenues from offshore oil and gas royalties and enjoys a \$17 billion balance. And gasoline taxes allocate \$28 billion per year to the Highway Trust Fund.

In addition to Hatch the Republican signatories included Sens. Chuck Grassley (Iowa), Olympia Snowe (Me.), Pat Roberts (Kansas), John Cornyn (Texas), Tom Coburn (Okla.) and John Thune (S.D.)

The \$250 million from LWCF by itself of course would not meet the \$12 billion highway bill shortfall. The Republicans also recommended using money targeted for advanced technology cars, revenues from a leaking storage tank fund, rescissions of unspent prior year appropriations, and expanded offshore oil and gas exploration.

House Republican leaders also have their sights set on revenues from public lands energy development to pay for their version of a six-year surface transportation bill. However, the House Transportation Committee has delayed mark-up of a new bill until at least mid-January.

The House Republican proposal has been met greeted with a negative response from the Obama administration, House Democrats and environmentalists. They say the proposal would produce only \$19 billion over the next ten years, well short of the \$72 billion needed.

The Senate and House do have a little time to complete a surface transportation bill because Congress approved an extension of an existing law - the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users - until March 31 (PL 112-30 of September 16).

Hatch and his allies are correct in noting that Congress seldom appropriates anywhere near the full \$900 million LWCF authorization. In fiscal year 2011 Congress appropriated \$164.9 million for the federal side and \$40

million for the state-side grants.

## **Both powered and nonpowered industries to study rec**

The Western Governors' Association (WGA) has taken a major step toward obtaining hard evidence that recreation is an important economic recovery tool.

The governors are working with the motorized recreation industry and the non-motorized recreation industry to study the impact of recreation on the economies of western states. The governors would use the data to support a Get Out West! campaign.

There has been some preliminary research. In 2006 the human-powered recreation industry as led by the Outdoor Industry Association (OIA) sponsored a study of non-powered recreation that identified a \$289 billion direct impact from recreation sales and services and an indirect impact of \$730 billion. The powered recreation industry has sponsored similar studies of the economic impact of its customers.

Now OIA and three motorized-recreation associations are teaming up with Gov. Chris Gregoire (D-Wash.) and western governors to study the combined impacts of the two recreation spheres.

The powered and non-powered recreation industries in the past have not always had the same priorities, to put it mildly. For instance, the powered industry has often championed access to parks and public lands for off-highway vehicles of all stripes, while active recreation advocates have sought to protect those same lands. But the industries now are allied - at least temporarily - in asking governments at all levels to promote tourism and recreation.

Utah Gov. Gary Herbert (R), vice-chair of the WGA, said, "Quantifying the economic impact of outdoor recreation will help states develop the right policies to preserve and enhance our natural and built infrastructure to meet public demand. Our goal is to strengthen the recreation economy, which

will in turn help build state economies and create jobs."

From the time she took over as head of WGA in June Gregoire has promoted recreation as a strategy to boost ailing state economies. Said one industry official, "The governors see the ability of recreation to strengthen their economies. It brings in foreign dollars. It's not a matter of swapping one dollar from Montana for one dollar in Idaho."

Crucial to that argument is hard proof of the benefits produced by powered recreation and non-powered recreation. Said Craig Mackey, director of government affairs for OIA, "We did the benchmark study five years ago in 2006 that showed the active recreation industry, including hunting and fishing, produced \$289 billion in sales and services and, with a multiplier effect, \$730 billion."

Now, he said, those big numbers can grow even more when combined with powered recreation. The 2006 study only looked at "active" recreation numbers, he said. "It did not include ATVs, powered OHVs, RVs - some very big categories including the equipment itself, like boats."

The powered recreation providers include the Motorcycle Industry Council, the Specialty Vehicle Institute of American and the Recreational Off-Highway Vehicle Association.

"In the past, the motorized and non-motorized groups have published their own reports and analyses using different methodologies," Gregoire said. "With this joint effort, policymakers and the public will get a more complete picture of the positive impacts these industries have on the Western economy."

Indeed, said OIA's Mackey, "I think probably the most valuable thing coming from this is that elected officials will learn the value of recreation in the economy."

The Get Out West! campaign supplements President Obama's signature America's Great Outdoors (AGO)

initiative that encourages everything from increased spending on conservation by Congress to greater emphasis on the link between exercise and health at all levels.

## **Final Yellowstone rule keeps snowmobile levels the same**

The Park Service December 15 followed through on a previously-announced plan and extended for the 2011-2012 winter season in Yellowstone National Park snowmobile and snowmachine limits from last year. The final legal step consisted of the publication December 12 of a one-year rule.

For this winter the park will allow up to 318 snowmobiles and 78 snowcoaches per day. That compares with a proposed policy that would have authorized variable daily limits on snowmobile use with as many as 330 on peak days and as few as 110 on slow days. The average in the proposal would have been 254 machines per day. Snowcoach use in the proposal would have ranged from 30 to 80 vehicles per day.

When NPS in May proposed the variable limits it was met with strident opposition from Wyoming politicians (they demanded a much higher limit) and a coalition of Park Service retirees and environmentalists (they demanded no snowmobiles in the park).

The Park Service game plan goes like this: On December 12 NPS published a one-year rule to cover this winter and a record of decision to support it. The park will now go back to work writing a permanent rule. That will begin with a draft supplemental EIS to be published next year.

NPS said it "intends" to publish a final supplemental EIS, a permanent record of decision and a rule to implement the decision before the 2012-2013 winter season begins mid-December 2012. That assumes the park plan is not blocked by politicians or by the courts.

Wyoming Gov. Matt Mead (R) and the Wyoming Congressional delegation have recommended up to 520 snowmobiles per

day in the park, far above the maximum proposed by NPS. Similarly, the BlueRibbon Coalition said the NPS limit is too low, and has asked for a range of 400-to-450 snowmobiles per day.

A powerful coalition of Park Service retirees and environmentalists is asking NPS to phase out snowmobile use, period, in favor of snowcoaches. The alliance includes the Coalition of National Park Service Retirees, Greater Yellowstone Coalition, National Parks Conservation Association, Natural Resources Defense Council, Sierra Club, and Winter Wildlands Alliance.

The Park Service for the fourth time in a decade is attempting to develop a permanent rule to govern snowmobile use in Yellowstone. The previous three rules were thrown out by various courts, forcing NPS to issue temporary rules.

The draft plan/EIS presents seven alternatives, ranging from no motorized use to up to 720 snowmobiles and 78 snowcoaches per day. Except for Alternative One, which would bar all powered vehicles from the park, the alternatives anticipate substantial snowcoach use to complement snowmobile use.

For more information on the plan go to <http://parkplanning.nps.gov/yell>.

Here are the six alternatives in a draft plan/EIS of May 10 that the Park Service was working on earlier this year before deciding to extend last year's rule. NPS did not choose a preferred alternative in the draft plan/EIS:

**Alternative 1: No Action.** This would eliminate any over-snow vehicles in the park after the interim rule expired this coming winter.

**Alternative 2: Extend existing limits.** This would keep in place the present limits of 318 snowmobiles and 78 snowcoaches per day.

**Alternative 3: Return to 2004 limits.** This would increase the limit on snowmobiles to 720 per day and keep the 78 snowcoach per day limit of this

coming winter. It harkens back to a 2004 Bush administration plan that was favored by Wyoming.

**Alternative 4: Mixed use.** This would allow up to 100 snowmobiles and 30 snowcoaches per day, but only from the south entrance. Some roads would be plowed for bus and van access.

**Alternative 5: Snowcoaches only.** This would transition to snowcoaches only beginning in the 2014/2015 season. Until then 318 snowmobiles per day would be allowed.

**Alternative 6: Mixed use.** This would establish varying levels of snowmobile use, with up to 540 snowmobiles per day and 78 snowcoaches.

## **Legislators seek upper hand in next roads-trails bill**

House and Senate members are continuing their efforts to influence the writing of surface transportation policy over the next year. In the last fortnight:

\* Seven Republican senators called on the Senate Finance Committee to use Land and Water Conservation Fund (LWCF) money to help pay for a \$40 billion per year Senate bill (S 1813). (See related article page 3.)

\* 109 House members asked President Obama to back a six-year surface transportation bill. The House Transportation Committee is preparing a six-year bill in contrast to the lead, two-year Senate bill.

\* Two senators introduced legislation December 7 that would provide an extra \$35 billion for surface transportation money in fiscal year 2012, in addition to a standard \$40 billion appropriation. However, the sponsors have targeted the money for road and bridge construction and repair, leaving little if any money for park and rec programs.

The Senate and House do have a little time to complete a surface transportation bill because Congress

approved an extension of an existing law - the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users - until March 31 (PL 112-30 of September 16).

However, Speaker of the House John Boehner (R-Ohio) and House Transportation Committee Chairman John Mica (R-Ohio) said they intend to begin moving a six-year House bill in mid-January. And the Senate is expected to begin work in January on the version of S 1813 approved by the Senate Environment and Public Works Committee (EPW) November 9.

Mica told a transportation symposium at the University of Virginia Miller Center just after Thanksgiving that he was ready to introduce his bill on November 30 but held off because of the press of other House business. But Mica said the March 31 expiration date of the existing law is a "real and hard deadline."

The Boehner-Mica strategy for moving a House bill is controversial because Boehner intends to use revenues from energy development to help pay for it. And President Obama, House Democrats and environmentalists not only are highly critical of the strategy but also argue that the energy bills won't provide the money needed.

Although the Senate EPW Committee approved its two-year bill November 9, the Senate Finance Committee under Chairman Max Baucus (R-Mont.) must provide the money to pay for it. Baucus and his fellow Democrats have not announced offsets yet.

Finance committee Republicans under the lead of ranking minority member Orrin Hatch (R-Utah) earlier this month did write Baucus with their recommendations. They include using \$250 million per year from LWCF.

On the recreation and parks front the Senate committee bill would eliminate major stand-alone recreation programs, including transportation enhancements, scenic byways, recreational trails and Safe Routes to School, to name a few initiatives.

They would be included in a consolidation of 90 existing programs into 30 broader programs. Recreation would then have to compete with other programs for money.

S 1813 would retain federal and Indian highway spending as a discrete program with a specific allocation. It would provide \$300 million per year for federal land roads (with \$260 million for the Park Service and Fish and Wildlife Service combined). Federal access roads would receive \$250 million per year.

**HOUSE MEMBERS' LETTER:** The 109 House members from both parties wrote President Obama November 5 essentially asking him to reject the Senate Democrats' two-year plan and to support a six-year bill.

"Short-term extensions fail to recognize that meaningful, large-scale transportation projects take years to plan, approve and implement," wrote the House members, led by Reps. Aaron Schock (R-Ill.) and Jim Cooper (D-Tenn.) "The traditional six-year time-frame allows state department of transportation to prepare for substantial infrastructure projects."

**SENATE SUPPLEMENTAL BILL:** Sens. Claire McCaskill (D-Mo.) and Susan Collins (R-Me.) introduced this bill (S 1960) that would provide \$25 billion for core transportation projects and \$10 billion for state loans. The money would be in addition to the \$40 billion in a fiscal year 2012 Transportation appropriations law.

McCaskill and Collins did not mention any park and rec programs either in their bill or in their announcement of the bill's introduction. In fact bill language calls for "construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications)," meaning core road projects and not rec trails, etc.

McCaskill and Collins would

obtain money for their bill from taxes on millionaires and the elimination of tax breaks for energy companies. If Congress moves S 1960 it would almost certainly NOT be as part of a transportation bill but rather as part of a separate jobs/taxes bill.

## **Lake Tahoe, California islands bills for omnibus?**

House and Senate committees continue to pile up lands bills that are logical candidates for an omnibus measure next year.

Most recently on December 8 the Senate Environment and Public Works Committee (EPW) approved a bill (S 432) to spend \$415 million of federal money for restoration of Lake Tahoe over the next decade. However, that price tag may chill enthusiasm for the bill in the House where area Rep. Tom McClintock (R-Calif.) has not introduced a counterpart bill.

In a less expensive move the full House December 7 approved a modest bill (HR 944) that would free up islands along the California coast for addition to the California Coastal National Monument. The bill would repeal a 1931 reservation of the islands for lighthouses. As long as the islands are reserved for lighthouses they can't be added to the monument.

The Lake Tahoe and California islands bills are two of dozens, if not hundreds, of individual lands bills approved alternatively by the House, the Senate or various committees this year. The measures are by definition candidates for an omnibus bill at some point.

Obviously the House and Senate had neither the time nor the political interest to assemble an omnibus bill this year. Congress was due to leave for a Christmas vacation today (December 16) and is not scheduled to resume work until mid-January.

But these things take time and this is just the first year of a two-year Congress that still has 2012 to run.

Occasionally, a bill enjoys overwhelming support (i.e. it doesn't cost anything) and slips through by itself. The case in point is a measure President Obama signed into law (PL 112-046) November 7 that authorizes ski resorts that operate on national forest land to provide off-season recreation.

The former law that governed skiing in national forests, the 1986 National Forest Ski Area Permit Act, only authorized Nordic and alpine skiing.

Here are some of the bills moved in the last month by the House or by House and Senate committees:

\* LAKE TAHOE RESTORATION: This bill (S 342) introduced by Sens. Dianne Feinstein (D-Calif.) and Harry Reid (D-Nev.) would spend \$415 million of appropriated money for such activities as watershed restoration. The \$415 million would be in addition to the \$1.4 billion the feds have spent on restoring Lake Tahoe over the last 14 years. However, much if not most of that \$1.4 billion has come from the sale of public lands near Las Vegas to developers, and not from appropriations. There is no House counterpart bill to S 342. The Senate EPW Committee approved S 342 without objection December 8.

\* CALIFORNIA ISLANDS: This bill (HR 944) introduced by Rep. John Campbell (R-Calif.) would repeal a 1931 law that prevents a number of islands, reefs, ledges, etc. off Orange County, Calif., from being added to the California Coastal National Monument managed by the Bureau of Land Management. Those pieces of land are presently reserved for lighthouses that will never be constructed. The House approved it without a formal vote December 7. There is no Senate bill.

\* DELAWARE NATIONAL PARK: Among the 27 lands bills the Senate Energy Committee approved November 10 was a measure (S 323) to establish the first National Park System unit in Delaware - a historical park. Rep. John Carney (D-Del.) has introduced a House bill (HR 624) that has not moved yet.



\* CABIN FEES: This bill (HR 3397, S 1906) to establish a new fee schedule for cabin owners on national forest lands was approved by the House Natural Resources Committee November 17. On November 18 Sen. Jon Tester (D-Mont.) introduced a Senate bill. (See following article.)

\* WACO MONUMENT: This bill (HR 1545, S 849) to establish a Waco Mammoth National Monument was approved by the House Natural Resources Committee November 17. The lead sponsor is Rep. Bill Flores (R-Texas). Sen. John Cornyn (R-Texas) has introduced a Senate bill. A Senate hearing was held May 11. The bill would include in the National Park System a site that includes remains of mammoths in Waco, Texas.

Here are some other lands bills in the pipeline:

\* BORDER ACCESS (HR 1505): The House Natural Resources Committee approved HR 1505 October 5. No Senate bill. HR 1505 would waive some 30 laws, if the Department of Homeland Security sought access to the border for security purposes. The laws include the Wilderness Act, the Endangered Species Act, the National Historic Preservation Act, the Safe Drinking Water Act, the Wild and Scenic Rivers Act, and more.

\* GETTYSBURG EXPANSION (HR 1335): The House subcommittee on National Parks held a hearing on this bill October 4. No Senate bill has been introduced, although it was in past Congresses. HR 1335 would add the Gettysburg Railroad Station to Gettysburg National Military Park and would add a tract south of the battlefield.

\* REVOLUTIONARY WAR AND WAR OF 1812 (S 779, HR 2489). Would authorize the Park Service to acquire battlefields through fiscal 2022 with up to \$10 million each year for Civil War battles and \$10 million each year for Revolutionary War and War of 1812 battles combined. Senate committee approved November 10. No House action.

\* VALLES CALDERA TRANSFER: (S 564). Would transfer 88,900 acres in the Valles Caldera of the Santa Fe

National Forest in New Mexico to the National Park Service. Senate hearing May 11. No House bill.

\* NATIONAL MONUMENT: CHIMNEY ROCK (S 508, HR 2621). Would designate a 4,726-acre monument in the San Juan National Forest in the San Juan Mountains of southwest Colorado. Senate hearing May 11. House hearing November 3.

\* FEDERAL LAND TRANSACTION FACILITATION ACT (S 714). Would allow the Bureau of Land Management to sell lands cleared by all land management plans, not just plans completed prior to 2000, as the old law does. Most of that money is used for conservation and acquisition. Senate committee approved September 6. Rep. Cynthia Lummis (R-Wyo.) introduced a House bill (HR 3365) last month, but it has not moved yet.

\* NATIONAL WOMEN'S HISTORY MUSEUM (S 680, HR 2844). The Senate Environment and Public Works Committee approved S 680 May 2. The House Transportation Committee approved HR 2844 September 8. The bills would authorize the transfer of federal land in Washington, D.C., to the National Women's History Museum, Inc. for the establishment of a women's museum.

## **Cabin fee bill makes some progress in House and Senate**

Western legislators from both political parties and in both the House and Senate last month put in place legislation that would establish a new fee schedule for cabin owners on national forest lands.

The lead House and Senate bills are close enough in language to set up passage next year, either by themselves or in a package of lands bills.

The House Natural Resources Committee went first November 17 when it passed a bill (HR 3397) that would substitute nine predictable tiers of fees for the existing system of periodic appraisals.

The next day on November 18 six senators from both parties introduced a counterpart bill (S 1906) with only minor differences from the House bill.

Said cosponsor Sen. Max Baucus (D-Mont.), "The U.S. Forest Service's current fee system stands in the way of the Montana family tradition of passing cabins from generation to generation, and it's important that we pass this solution." Of course the current fee system was established by Congress and not by the Forest Service.

Under the existing law - the Cabin User Fee Fairness Act of 2000 - the Forest Service in 2007 began reappraising the values of cabins, based on five percent of the market value. Because some of those cabins had not been appraised for as much as 30 years the appraisals went through the roof. Congress did set a 25 percent ceiling on the annual increase in calendar year 2009.

So western senators and House members went to work with gateway communities and the 14,000 cabin owners to establish a fee system that would avoid huge fee increases but still insure the public receives a fair return on their property. It costs the Forest Service in the neighborhood of \$10 million per year to manage the program.

Both the House and Senate bills would do the same thing - establish nine tiers of fees beginning at \$500 per year and increasing by \$500 increments to a top fee of \$4,500.

The Senate bill, introduced by lead sponsor Jon Tester (R-Mont.), estimates that eight percent of cabin owners would have to pay just the \$500 per year fee and as many as seven percent, or 980, would have to pay \$4,500.

When the House committee passed its bill, chairman and lead sponsor Doc Hastings (R-Wash.) said, "Family cabins in our National Forests have provided outdoor recreation opportunities on our public lands for nearly 100 years. I am pleased that our Committee has voted in support of a bill aimed at bringing

fairness and consistency to the cabin fee system."

## **FS roadless litigation lives; circuit ruling appealed**

Although a Forest Service roadless area rule that limits future road construction in the national forests has been upheld by two separate appeals court, the litigation is not over.

The State of Wyoming December 5 appealed a decision by a three-judge panel of the Tenth U.S. Circuit Court of Appeals upholding the rule to the full circuit.

The state, facing an uphill battle because the three-judge decision was unanimous, argued that the rule constituted the designation of 49 million acres of wilderness. And only Congress has the power to designate wilderness.

Said the state in its appeal, "The Roadless Rule was the product of a sham process calculated to create wilderness without Congress. The (three-judge) Panel decision allows the Forest Service to unlawfully circumvent Congress and thwart many of the laws designed to ensure the proper management and conservation of the National Forests. The full Court should correct this result."

Said Gov. Matt Mead (R-Wyo.), "The creation of these *de facto* wilderness areas means the voice of the public and the State are stifled in managing the lands here. Not only does this prevent many uses of public land, but it also limits our ability to fight back against the bark beetles that are devastating our forests."

The three-judge panel handed down its decision on October 21 endorsing a 2001 Clinton administration Forest Service roadless area rule.

The ruling effectively ordered the Forest Service to protect 49 million acres of roadless forest from most road construction and timber harvests. An Idaho-specific rule exempts an additional

9.5 million acres from the Clinton rule.

Other loose ends remain in three states. In Idaho environmentalists have sued to undo the Idaho exemption rule. In Colorado the Forest Service has proposed a Colorado-only rule. And in Alaska a federal court order included the Tongass National Forest in the national rule against the wishes of the state.

For now the Obama administration is signaling that it will stick with the Clinton rule. "We applaud this decision upholding the 2001 rule and are proud to have vigorously supported the rule in this case," said the Forest Service in a statement when the three-judge panel acted.

In the October 21 decision the Tenth Circuit judges agreed with the Ninth U.S. Circuit Court of Appeals on the legality of the Clinton rule, in so doing reversing a Wyoming District Court decision. The disagreement between the Ninth Circuit and U.S. District Court Judge Clarence Brimmer in Wyoming had confused the legal responsibility of the Forest Service in managing roadless areas for years.

In May of 2009 Secretary of Agriculture Tom Vilsack stepped into the gap. He issued a directive that gives him authority to review all proposed projects in 49 million acres of roadless areas.

Vilsack had also said that if federal courts couldn't resolve their differences about roadless areas, the Forest Service would write a new rule. Now that the Tenth Circuit has ruled the Vilsack memo may be mooted.

Forty western Republican House members and six senators have introduced major bills (HR 1581 and S 1087) to revoke the Clinton rule. The lead sponsors are House Majority Whip Kevin McCarthy (R-Calif.) and Sen. John Barrasso (R-Wyo.)

But 20 senators and more than 100 House members introduced legislation (HR 3465, S 1891) November 17 to codify the roadless rule. The principal sponsors

of S 1891 and HR 3465 were Sen. Maria Cantwell (D-Wash.) and Rep. Jay Inslee (D-Wash.)

## Notes

**NPS 100 summit gears up.** Park Service officials and their partners are laying the foundation now for a January 24-26 Summit that may set overarching policy for the parks for the next five years, and perhaps beyond. The summit is designed to help implement a major new NPS report on the future of the National Park System: the 36-point *A Call to Action*. As a top priority the attendees - NPS officials, friends groups, concessioners, etc. - must come up with strategies to finance a robust National Park System in the face of federal budget austerity. That implies partnerships. The summit will be held in Washington, D.C., and will be co-hosted by NPS, the National Parks Foundation, the National Parks Conservation Association, and the National Parks Hospitality Association. The summit already has a website, [www.2016parksummit.org](http://www.2016parksummit.org). The partners met November 2 to plan the summit. Among other things the planners set a goal for "use of the January summit, in a key political year, to relate our parks initiative to both major political parties, and to hone parks' appeal to both parties." The NPS *A Call to Action* report was released August 25. The report was prepared by NPS in anticipation of the system's Centennial in 2016 and would in general not require new federal money. In keeping with the frugal times the report treads lightly on the Obama administration's signature conservation recommendation - full funding for the Land and Water Conservation Fund at \$900 million or more per year. As close as the report comes to recommending more money is a call for a \$1 billion legacy endowment to be assembled from philanthropic sources. And by definition that money would come from nonfederal sources. The 36 recommendations in *A Call to Action* include everything from more healthful eating to greater diversity in the workforce. Many track the recommendations of an America's Great Outdoors initiative, President Obama's main outdoor recreation program.

**NPS posts water bottle policy.**

Under attack from environmentalists for reversing a proposed ban on water bottles in Grand Canyon National Park the Park Service December 14 issued a new policy. It applies to all national parks and it allows superintendents to ban water bottles if they first obtain approval of the applicable regional director. The superintendents must first submit a request in writing. Said the policy to regional directors from NPS Director Jon Jarvis, "In light of recent interest in one element of the (Green Parks Plan), we are issuing the attached specific policy on the reduction/recycling of disposable plastic water bottles." The environmental group Public Employees for Environmental Responsibility (PEER) has been keeping the pressure on the park Service. It recently released internal Park Service communications and alleged a Grand Canyon decision to ban plastic water bottles was reversed at the bidding of the Coca-Cola Company. The memos detail meetings among Jarvis, NPS field officials, the Coca-Cola Company and the National Park Foundation. PEER says those memos confirm that Jarvis made the call to ban water bottles at Grand Canyon at the behest of the bottlers. Background documents are at the end of a PEER press release at: [http://www.peer.org/news/news\\_id.php?row\\_id=1539](http://www.peer.org/news/news_id.php?row_id=1539).

**Two more lighthouses to go.** The Interior Department said December 7 that it has approved the transfer of two more federal lighthouses - one to the city of Frankfort, Mich., and one to the Huntington Lighthouse Preservation Society in New York. The two lighthouses are among the more than 60 that the federal government has transferred to local governments and nonprofit groups over the last decade under the National Historic Lighthouse Preservation Act. Under that law the U.S. Coast Guard identifies lighthouses that it no longer needs and that can be disposed of. After interested parties demonstrate the ability to manage the sites the Park Service evaluates them and the Interior Department approves or disapproves the transfer. The General Services Administration then makes the official transfer. In the December 7 announcement the department

said the City of Frankfort will take over management of the Frankfort North Breakwater Lighthouse on Lake Michigan that marks the entrance to the Frankfort Harbor. The Huntington Lighthouse group will manage the Huntington Harbor Light Station on Long Island Sound in New York.

**Gov. Scott would help Everglades.**

Gov. Rick Scott (R-Fla.), famous for his attacks on government spending, nevertheless proposed to allocate \$40 million to Everglades restoration projects in fiscal year 2012-2013. He would also provide an additional \$15 million for Florida Forever, Florida's leading conservation and recreation land acquisition program. The National Parks Conservation Association (NPCA) said the proposed budget, to run from July 1, 2012, through June 30, 2013, is a "step in the right direction." John Adornato, Sun Coast regional director for NPCA, said, "For every dollar invested in Everglades restoration, \$4 is generated in economic benefits to the public."

**Marijuana growers harm forests.**

The Forest Service told Congress December 7 that marijuana growers in the national forests damage natural resources. Forest Service Director of Law Enforcement David Ferrell told the Senate Caucus on International Narcotics Control that marijuana farms in national forests in California alone produced "more than 130 tons of trash, 300 pounds of pesticides, five tons of fertilizer and nearly 260 miles of irrigation piping." The service says marijuana farms are located in 63 national forests in 16 states. The Forest Service's fiscal year 2012 budget recommends a law enforcement appropriation of \$144 million.

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**Holiday Publishing Schedule for Federal Parks & Rec**

*Federal Parks & Recreation* will not be published over the holidays so that we may take a brief vacation. The next issue of *Federal Parks & Recreation*, Volume 30 Number 1, will be published January 13, 2012. If news breaks over the holidays, we will E-mail you a Breaking News Bulletin.

## Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
<b>Appropriations fiscal 2012</b> HR 2584 (Simpson)	<b>(Interior, etc.)</b> House-Senate conferees have reached agreement but no floor action at press time.	Would reduce grant programs marginally, land management agency even less.
<b>Appropriations fiscal 2012</b> HR 2112 (Kingston)	<b>(Agriculture)</b> President Obama signed into law Nov. 18 as PL 112-55.	Reduces conservation spending.
<b>Appropriations fiscal 2012</b> HR 2018 (Frelinghuysen)	<b>(Energy and Water)</b> Waiting House, Senate action on conferees bill.	Would increase spending a bit over fiscal 2011.
<b>Appropriations fiscal 2012</b> No bill yet	<b>(Transportation)</b> President Obama signed into law Nov. 18 as PL 112-55.	Maintains highway spending at about fiscal 2011 levels
<b>Appropriations 2011 CR Omnibus</b> HR 1473 (Rogers)	President signed into law April 15 as PL 112-10.	Reduces spending across the board compared to fiscal 2010, sometimes substantially. Includes Interior, Energy and Water, Agriculture and Transportation bills.
<b>LWCF (guaranteed funding)</b> S 1265 (Bingaman)	Bingaman introduced June 23.	Would guarantee full funding of LWCF each year without appropriations action.
<b>LWCF (fed lands access)</b> S 901 (Tester)	Tester introduced May 5.	Would allocate 1.5 percent of LWCF for access to fed lands for rec.
<b>Urban parks</b> HR 709 (Sires)	Sires introduced February 15.	Would provide \$450 million per year to rehabilitate urban parks.
<b>Roadless areas</b> HR 1581 (McCarthy) S 1087 (Barrasso)	McCarthy introduced April 15. Barrasso introduced May 26.	Would reverse Clinton roadless rule, block Salazar 'wild lands' policy, release FS and BLM roadless areas.
<b>National monuments</b> HR 302 (Foxx) HR 758 (Herger) S 407 (Crapo)	House hearing September 13.	Would require state approval of any national monument under Antiquities Act. Herger, Crapo would require Hill approval within two years.
<b>California Desert monument</b> S 138 (Feinstein)	Feinstein introduced January 25.	Would designate a Mojave National Monument and protect 1.6 million acres.
<b>National parks overflights</b> HR 658 (Mica) S 223 (Rockefeller)	House approved April 1. Senate approved February 17,	House tilts towards tour operators and Senate tilts more toward protection.
<b>Ski areas</b> HR 765 (Bishop) S 382 (Udall)	President Obama signed into law Nov. 7 as PL 112-046.	Would have FS allow year-round rec activities in ski resorts.
<b>NPS air tour policy</b> HR 658 (Mica) S 223 (Rockefeller)	House approved April 1. Senate approved February 17.	Both would revise NPS air tour policy, but bills vary greatly.
<b>Glacier park protection</b> S 233 (Baucus)	Baucus introduced January 31.	Would withdraw from mining 300,000 acres of adjacent national forest.
<b>Delaware national park</b> HR 624 (Carney) S 323 (Carper)	Senate hearing May 11.	Would designate a first national park in the first State of Delaware.

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