

Federal Parks & Recreation

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Hill approves final approps deal; acts on LWCF, fire

President Obama signed into law December 18 an omnibus, final fiscal year 2016 appropriations measure (PL 114-113) that both extends the Land and Water Conservation Fund (LWCF) and addresses escalating wildfire costs. It also antes up well over \$100 million in extra money for the Park Service Centennial.

After House and Senate appropriators reached agreement December 15 the House approved the bill December 18 by a vote of 318-to-109 and the Senate by a vote of 65-to-33.

In addition to the appropriations legislation, the House and Senate included in the bill a tax extenders program with a conservation easement provision. (See related article page 8.)

LWCF went three-for-four in the House-Senate conference agreement on HR 2029, with the state side program the big winner. First, Congress extended the underlying law as is for three years. Second, it put up \$110 million for state side grants, more than twice as much as in current years. Third, it approved a \$56.6 million increase for federal land acquisition over fiscal 2015.

But in the fourth area, the appropriators did not extend the program permanently, as conservationists requested, just for the three years. (See following article.)

The appropriators put up a total of \$4.2 billion for wildfire programs for the next fire season, including \$593 million in the event of a catastrophic season, i.e. one that exceeds the 10-year average.

However, appropriators did not

include in PL 114-113 a recommendation from the Obama administration and western Congressmen that emergency wildfire costs above the average be transferred to disaster spending. On the other hand they also did not include new authority for hazardous fuels timber sales, as a House-passed bill (HR 2647) backed mostly by Republicans would do.

The administration proposal would have (1) ended the practice of fire borrowing from line operations to pay wildfire costs and (2) freed up several hundred million dollars per year in appropriations bills for other expenses.

For the Park Service Centennial the appropriators' recommendation of \$100 million-plus falls far short of the Obama administration request of an extra \$326.3 million, but it is a significant increase over fiscal 2015. (See related article page 7.)

Finally, a new budget agreement (PL 114-74 of November 2) gave appropriators an extra \$20 billion to work with for all domestic programs. The appropriators translated that into an extra \$2 billion for a lead park and rec bill coming out of the House Interior and Related Agencies subcommittee and \$2.2 billion more than the counterpart Senate subcommittee previously was assigned.

That increased the Interior portion of the omnibus to \$32.2 billion, compared to the \$30.170 billion the House Appropriations Committee had been working with and the \$30.010 billion set by the Senate Appropriations Committee.

In addition to wildfire funding the Interior bill was coping with a second "X" factor, an appropriation for the payments-in-lieu of taxes (PILT) program, which had customarily been financed outside appropriations bills. This time Congressional leaders decided to pay the \$452 million from PILT out of the appropriations bill, decreasing the amount of money available for other programs.

So between them, emergency wildfire funding and PILT ate up \$1.045 billion of the roughly \$2 billion extra in the bill.

House and Senate Appropriations Committee conferees, in consultation with House and Senate leadership, struck most controversial riders from the Interior and Related Agencies portion of the final bill. They rejected a proposal floated in the House to forbid the display of Confederate flags at federal cemeteries. They did modify and retain one rider involving glass bottles in the National Park System. (See related article page 9.)

Some numbers: Here are some numbers in the fiscal 2016 law, compared to fiscal 2015:

LWCF FEDERAL: In addition to extending LWCF PL 114-113 includes \$234.2 million for the traditional federal land acquisition side of LWCF. That represents a \$56.6 million increase from a fiscal 2015 appropriation of \$177.6. By agency the Bureau of Land Management (BLM) will receive \$38.6 million compared to \$20 million in fiscal 2015; the Fish and Wildlife Service will receive \$68.5 million compared to \$47.5 million; the Park Service will receive \$63.7 million compared to \$51 million; and the Forest Service will receive \$63.4 million compared to \$47.5 million.

LWCF STATE: The bill appropriates \$110 million, compared to \$48 million in fiscal 2015.

PARK SERVICE OPERATIONS: The bill appropriates \$2.396 billion, compared to a fiscal 2015 appropriation of \$2.276 billion.

PARK SERVICE CONSTRUCTION: The bill includes \$192.5 million, compared to a fiscal 2015 appropriation of \$138.3 million.

PARK SERVICE HISTORIC PRESERVATION: The bill includes \$65.4 million, compared to a fiscal 2015 appropriation of \$56.4 million.

PARK SERVICE RECREATION AND PRESERVATION: The bill includes \$62.6 million, compared to a fiscal 2015 appropriation of \$63.1 million.

PARK SERVICE HERITAGE GRANTS: The bill includes \$19.8 million, compared to

a fiscal 2015 appropriation of \$20.4 million.

PARK SERVICE CENTENNIAL: Within the various Park Service line items the bill would allocate at least \$100 million over fiscal 2015 for the Park Service Centennial. But that is more than \$200 million short of the \$326.3 million requested by the administration.

STATE WILDLIFE CONSERVATION GRANTS: The bill includes \$60.6 million, compared to a fiscal 2015 appropriation of \$58.7 million.

NATIONAL FOREST SYSTEM: The bill includes \$1.509 billion, compared to a fiscal 2015 appropriation of \$1.494 billion.

NATIONAL FOREST RECREATION: The bill includes \$261.7 million, compared to a fiscal 2015 appropriation of \$255.9 million.

FOREST SERVICE TRAILS: The bill includes \$77.5 million, the same as a fiscal 2015 appropriation.

BLM RESOURCE MANAGEMENT: The bill includes \$1.073 billion, compared to a fiscal 2015 appropriation of \$952.7 million.

BLM RECREATION MANAGEMENT: The bill includes \$69.5 million, compared to a fiscal 2015 appropriation of \$67 million.

NATIONAL LANDSCAPE CONSERVATION SYSTEM: The conferees approved \$36.9 million compared to a fiscal 2015 appropriation of \$31.8 million.

Wildfire funding: The appropriators put up a total of \$4.2 billion for wildfire programs for the next fire season, including \$593 million in the event of a catastrophic fire season, i.e. one that exceeds the 10-year average.

However, appropriators did not include in PL 114-113 a recommendation from the Obama administration and western Congressmen that emergency wildfire costs above the average be transferred to disaster spending. Nor did they include new authority for hazardous fuels

timber sales, as a House-passed bill (HR 2647) would do.

The administration proposal would have (1) ended the practice of fire borrowing from line operations to pay wildfire costs and (2) freed up several hundred million dollars per year in appropriations bills for other expenses.

Ranking House Natural Resources Committee Democrat Raul Grijalva (D-Ariz.) criticized House and Senate conferees for not accepting the proposal to shift some wildfire money to disaster spending.

"The Forest Service is facing a desperate shortage of wildfire funding and California is in the midst of an unprecedented drought," he said. "These aren't details to be worked out later - they're day-to-day emergencies that will only get worse the longer we ignore them. Republican gamesmanship and hostage-taking resulted in these issues getting dropped from this deal."

The Wilderness Society agreed. "Congress has failed to fix the major fire funding problem that threatens our communities and puts lives in danger every summer," said Scott Brennan, acting director of forest landscape conservation and Montana State Director for The Wilderness Society.

But Senate Energy Committee Chairman Lisa Murkowski (R-Alaska), who assumed ownership of the provision, said the administration proposal to shift fire funding out of appropriations was fatally flawed. "I believe the administration's proposal could set a bad precedent, prove unworkable, and fall short of its own goals," said Murkowski, who also chairs the Senate subcommittee on Interior and Related Agencies appropriations.

"It was supposed to be coupled with a set of productive forest management reforms, but does not do enough to help our firefighters or our vulnerable communities. It has not been fully vetted, and it has already drawn opposition from outside groups whose members are on the ground, actually fighting fires," she added.

Murkowski said the bill would take care of the fiscal 2016 fire season. "The omnibus is our path forward on wild-fire funding for this year. It devotes greater resources to fire prevention and hazardous fuels reduction. It contains real money, not an empty account, those funds will be available immediately, and we can use the window it provides to develop long-term solutions," she said.

The wildfire money is included in the omnibus appropriations bill that includes 11 separate appropriations bills, including an Interior and Related Agencies measure.

As noted above, the conferees approved \$4.2 billion for wildfire programs. Broken down, for routine wildfire programs they approved \$2.386 billion for the Forest Service and \$817 million for the Interior Department.

For an emergency FLAME account they approved \$823 million for the Forest Service and \$177 million for the Interior Department.

Appropriators boost LWCF three ways in money bill

The House and Senate gave final approval December 18 to an omnibus appropriations bill (PL 114-113) with significant assistance to the Land and Water Conservation Fund (LWCF). President Obama signed the bill into law the same day.

In effect LWCF went three-for-four in a House-Senate conference agreement on HR 2029, with the state side program the big winner. First, Congress extended the underlying program as is for three years.

Second, it put up \$110 million for state side grants, more than twice as much as in current years. Third, it approved a \$56.6 million increase for federal land acquisition over fiscal 2015.

But in the fourth area, the appropriators did not extend the program permanently, as conservationists and the Obama administration requested, just for the three years.

Local and state park officials, as represented by the National Recreation and Park Association (NRPA), were pleased, to say the least.

Said Kevin O'Hara, vice president of urban and government affairs for the association, in a statement provided to *FPR*, "NRPA is thrilled that Congress is reinvesting in the LWCF - not only reauthorizing the landmark legislation for three years, but also more than doubling the FY15 allocation to \$110 million for the state assistance program which includes \$12 million for an urban competitive grant program. This allocation to the state assistance program, the largest since 2002, shows that Congress is doing (its) part to support the \$140 billion local park and recreation industry that supports nearly 1 million jobs."

Sportsmen also praised the provision. "Strong bipartisan support for the LWCF overcame fringe elements in the Senate - and House Natural Resources Chair Rob Bishop (R-Utah) - to do the right thing for conservation and public access," Backcountry Hunters and Anglers President Land Tawney said.

"Unfortunately this provision is like getting a bike for Christmas with no air in the tires," he added. "Congress had the opportunity to do the right thing for LWCF once and for all but failed to move language already developed that would permanently reauthorize one of our nation's most historic, successful conservation programs."

There was pushback against LWCF. Before the final vote December 18 the American Land Rights Association (ALRA) attempted to rally support against both the LWCF appropriations provision and a permanent extension of the program.

Said Chuck Cushman, president of ALRA in a bulletin to his members, "The LWCF is how the Park Service, Forest Service, Fish and Wildlife Service, and Bureau of Land Management buy millions of acres of private land and make it government land taking it off the tax rolls. It funds eminent domain (condemnation) by these agencies."

He went on, "The Park Service alone has purchased the homes, farms and land of over 100,000 landowners, many under the threat of condemnation. The LWCF is the enemy of rural America, ranching, farming and private land ownership."

Ranking House Natural Resources Committee Democrat Raúl M. Grijalva (D-Ariz.) was disgruntled because Congress did not make the program permanent. "The Republicans' funding LWCF for three years is not a major political concession, it's a bare-minimum acknowledgment of reality," he said. "It's like allowing the sale of apple pie for another three years."

Grijalva took a swipe at resource committee chairman Bishop, who has introduced a bill to shake up LWCF by reauthorizing the program for seven years and to substantially revise distributions of the \$900 million annual authorization. Grijalva has introduced legislation (HR 1814) to reauthorize the program in perpetuity.

"My bill to permanently reauthorize the Fund has 200 bipartisan cosponsors," he said. "Chairman Bishop's unnecessary changes found no support, even from his own leadership, in the final deal, and I hope that means we can put this trumped-up controversy to rest."

Alan Rowsome, senior director for government relations for lands for The Wilderness Society, called the bill a "mixed bag" because it did not make LWCF permanent.

"Handed a huge opportunity to do right by the Land and Water Conservation Fund after allowing it expire in September, Congress snatched defeat from the jaws of victory by failing to permanently renew and fully fund this important program," he said. "They instead renewed LWCF for just three years, which does not protect the program's long-term future and instead ensures a long, unnecessary fight over this popular bipartisan parks program."

In approving the extension of LWCF for three years House and Senate appropriators renewed the underlying program

without changing its configuration. That means the program continues to be authorized at \$900 million per year, subject to appropriation.

It also means appropriators didn't accept Bishop's recommendation that Congress reprioritize the program to give state grants greater precedence.

The appropriations agreement allocates \$234.2 million for the traditional federal land acquisition side of LWCF. That represents a \$56.6 million increase from a fiscal 2015 appropriation of \$177.6.

For the state side of LWCF the Congress approved \$110 million, compared to a fiscal 2015 appropriation of \$48 million.

So now the battle shifts to a permanent extension of LWCF. Grijalva, other Democrats and conservationists promised to work on it.

"I'm redoubling my efforts as of today to make sure we permanently reauthorize LWCF and move on to more pressing business," said Grijalva.

Said Sen. Michael Bennet (D-Colo.), "We're glad it received a three-year extension, but we will continue to fight for its permanent reauthorization and full funding in the years to come."

Looking at the long term for LWCF the Senate Energy Committee November 19 approved legislation that would permanently reauthorize LWCF.

Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) inserted the provision in a popular bill (S 556) that would benefit hunters and fishermen, particularly on the public lands. Ranking committee Democrat Maria Cantwell (D-Wash.) endorsed the measure.

The Senate committee previously approved a similar LWCF provision on July 30 in a comprehensive energy bill (S 2012).

To give the Senate provision cover in the House, veteran House Appropriations Committee member Mike Simpson

(R-Idaho) December introduced it as a stand-alone bill (HR 4151). 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.

Conservationists contrasted Simpson's bill with Bishop's discussion draft bill. The Bishop draft would slash funding for the federal side of LWCF but give great support to the state side. States traditionally receive a small fraction of the total LWCF pie; the draft Bishop bill would guarantee them 45 percent. In addition Bishop would allocate five percent of LWCF to an urban recreation fund, sort of a follow-on to an Urban Parks and Recreation Recovery program. He would allocate just 3.5 percent to federal land acquisition.

The Obama administration rejected Bishop's discussion draft bill out-of-hand at a November 18 hearing. 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."

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 Cantwell, 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. Two bills to reauthorize LWCF have been introduced, the Grijalva bill and the Simpson bill.

The final appropriations provision referees an ongoing dispute between

western Republicans and conservationists. The western Republicans say Congress has emphasized federal acquisition at the expense of the state program, which is more popular with the public.

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 sportsmen's bill would allot 40 percent of the total LWCF appropriation per year for federal land acquisition and at least 1.5 percent per year (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: In addition to the program reauthorization HR 2029 makes these allocations:

LWCF FEDERAL: PL 114-113 includes \$234.2 million for the traditional federal land acquisition side of LWCF. That represents a \$56.6 million increase from a fiscal 2015 appropriation of \$177.6. By agency the Bureau of Land Management will receive \$38.6 million compared to \$20 million in fiscal

2015; the Fish and Wildlife Service will receive \$68.5 million compared to \$47.5 million; the Park Service will receive \$63.7 million compared to \$51 million; and the Forest Service will receive \$63.4 million compared to \$47.5 million.

LWCF STATE: HR 2029 appropriates \$110 million, compared to \$48 million in fiscal 2015.

NPS Centennial receives major boosts from spending bill

It wasn't as much as the Obama administration requested, but Congress put up at least \$100 million more for the Park Service Centennial in 2016 than it did in fiscal 2015.

Most significantly, it approved a \$94 million increase in Park Service operations just for the Centennial. And, in a final fiscal year 2016 appropriations bill (PL 114-113), it approved a \$5 million increase for a Centennial Challenge program and a \$54 million increase in a construction line item, some of which will be used for the Centennial.

After House and Senate appropriators reached agreement December 15 the House approved the appropriations bill December 18 by a vote of 318-to-109 and the Senate by a vote of 65-to-33. President Obama signed it into law the same day.

The watchdog group the National Parks and Conservation Association was pleased. "These are unquestionably the best funding levels for parks we have seen in years, and will be critical for providing needed rangers and making needed repairs in preparation for the expected influx of visitors for next year's Centennial of the National Park Service," said John Garder, budget director for the association.

But appropriations are only half of the Park Service's request to Congress for assistance running up to the Centennial. The other half consists of a request to *authorizing* committees to approve an additional \$500 million per year in new legislative authority. That includes \$100 million for the 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.

Ranking House Natural Resources Committee Democrat Grijalva Raúl M. Grijalva (D-Ariz.) and ranking Senate Energy Committee Democrat Maria Cantwell (D-Wash.) have introduced the Park Service's recommendations as legislation (HR 3556, 2257).

Congressional Republicans, although not as eager to authorize as much spending as the Democrats, are nevertheless promising to work with Democrats and the administration on authorizing provisions of a Centennial bill.

Most prominently, House Natural Resources Committee Chairman Rob Bishop (R-Utah) has produced a draft bill that addresses the Centennial. It would authorize many of the same programs the administration proposed, but with few specified expenditures. His measure would establish a challenge fund, but would not authorize a maintenance fund or the broader multi-agency fund. The draft would authorize an endowment.

Derrick Crandall, a veteran natural resources lobbyist, maintains that major park and rec initiatives such as the Centennial in this Congress don't stand a very good chance of enactment by themselves. But, he said, in a package of other park and recreation bills, they could make it over the finish line next year.

"I don't think there is floor time available and a conference committee capability (for single bills)," he told us. "I don't know if the senior guys will sit down and work out five, six or seven individual bills. One big bill would be easier to give and take in conference." He recommended Congress put together a package including the Centennial authorization, extension of the Land and Water Conservation Fund, reauthorization of a Federal Lands Recreation Enhancements Act and concessions reform.

Senate discussion: The Senate En-

ergy Committee held a hearing December 8 on Cantwell's Centennial bill (S 2257), i.e. the administration proposal.

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.

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 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."

Administration bill: As introduced by Grijalva and Cantwell the measure would 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.

PL 114-113, the final spending bill, increases Park Service operations for the Centennial by \$94 million, increases a Centennial Challenge from \$10 million to \$15 million, and increases spending for construction by \$54 million.

Bishop bill: The discussion draft is a streamlined version of the administration's recommendation. It does include a Centennial Challenge Fund but would not establish 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.

Congress makes permanent conservation tax breaks

In what conservationists are hailing as landmark legislation, President Obama December 18 signed into law (PL 114-113) a bill to make *permanent* a tax deduction for conservation easements.

The legislation authorizes the designation of such easements in return for significant tax reductions for landowners. The Land Trust Alliance says the provision in the past has led to the setting aside from development of 2 million acres.

The big breakthrough this time

around comes from making the provision permanent. Landowners say that will allow them to plan ahead in applying for easements. In recent years Congress has extended the program year-by-year at the last moment in December.

"This could be the most important conservation legislation in 20 years," said Rand Wentworth, the alliance's president. "It will result in the conservation of millions of acres of America's most important natural areas, farms and ranches. This agreement demonstrates that we as a nation treasure our lands and must conserve their many benefits for all future generations."

The National Cattlemen's Beef Association, not always on the side of conservationists, also praised the enactment of the provision. "These provisions are vital to providing a stable environment for farmers and ranchers like myself to plan for the future," said association President Philip Ellis, a Wyoming rancher.

Ducks Unlimited described the provision positively, saying, "Enhanced incentive for donations of conservation easements was made permanent. The bill raises the maximum deduction a donor can take for donating a conservation easement from 30 percent of their adjusted gross income (AGI) in any year to 50 percent. It allows qualified farmers and ranchers to deduct up to 100 percent of their AGI and it increases the number of years over which a donor can take deductions from six to 16 years."

Congress included the provision in a package of "tax extenders" legislation that it in turn included in an omnibus appropriations bill, PL 114-113. After House and Senate appropriators reached agreement December 15 the House approved the bill December 18 by a vote of 318-to-109 and the Senate by a vote of 65-to-33.

The easement provision has been in effect since 2006.

The Land Trust Alliance said the delay in approving the legislation in 2014 until December of that year had a substantial negative impact. Said Rus-

sell 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."

Most riders dropped from money bill, but a few make it

In approving a fiscal year 2016 appropriations measure (PL 114-113) December 18 Congress deleted most riders approved by House and Senate appropriations committees. President Obama signed the bill into law December 18.

In one major controversy appropriations committee conferees, in consultation with House and Senate leadership, rejected a proposal floated in the House to forbid the display of Confederate flags at federal cemeteries.

They did modify and retain a rider involving glass bottles in the National Park System, a rider involving the Obama administration's National Ocean Policy, and a rider blocking construction of a memorial to former President Dwight D. Eisenhower in Washington, D.C.

Most prominently, the conferees removed all Confederate flag amendments. House Democrats had added to the House bill an amendment that would have forbidden the display of Confederate flags at federal cemeteries. House Republicans offered an amendment on the House floor July 7 to undo the amendment.

The House bill also contained two other Confederate flag amendments. One would have barred a Park Service concessioner or a nonprofit within a park from selling the Confederate flag for non-educational purposes. That matches a Park Service policy.

A third amendment would have forbid the purchase or display of the Confederate flag except to provide historic context. Again, the final bill contains no flag amendments, one way or the other.

The conferees modified substan-

tially a House Appropriations Committee amendment from Rep. Keith Rothfus (R-Pa.) that would not have let any National Park System units ban *bottled water* within the parks. The final bill directs the Park Service to report on the data backing decisions by 19 parks to ban the sale of bottled water. The amendment addresses a 2010 controversy that erupted when Grand Canyon National Park attempted to ban water bottles, to the dismay of beverage companies and the applause of conservationists.

The conferees also modified a House Appropriations Committee amendment that would have blocked implementation of the Obama administration's *National Ocean Policy's* planning provisions by appropriating no money for it. House Republicans complained that that policy would establish a new national coastal planning program, with predictable restrictions on commercial uses.

The final bill does ask for data on the spending for, and actions related to, Coastal and Marine Spatial Planning from all agencies. The information is to be submitted with a fiscal 2017 budget request.

Finally, the conferees followed the House lead in forbidding a Dwight D. *Eisenhower Memorial* Commission from spending any money on construction of the site. However, the conferees did include \$1 million for continuation of the Eisenhower Commission and its staff. The House bill would have put up no money for the commission and staff. House Natural Resources Committee Chairman Rob Bishop (R-Utah) and other committee Republicans have taken sharp exception to the proposed design of the memorial. (See following article.)

On the other side of the ledger the conferees removed from the bill a House amendment from Rep. Crescent Hardy (R-Nev.) that would have blocked the designation of national monuments in 17 counties in the West where such Presidential actions are considered probable. The Hardy amendment would have forbidden anticipated national monument designations in 17 counties in Arizona, California, Colorado, New Mexico, Nevada, Oregon and Utah.

Other riders: DELETED: The conferees also struck from the bill amendments that would have forbidden EPA from completing a proposed rule that would reduce carbon emissions from existing power plants; forbidden EPA from implementing a May 27 rule that would expand the definition of a wetland subject to a Section 404 permit under the Clean Water Act; forbidden any agency from attempting to transfer water rights to the federal government on renewal of a permit; and blocked implementation of a National Ocean Policy proposed by the Obama administration.

The *wetlands* rider enjoyed substantial support, having been approved by both the House and Senate Appropriations Committees with Republican and Democratic support. It would have prevented EPA from implementing regulations that expand the kinds of water bodies requiring wetlands protection permits. (See separate article page 11.)

Congress blocks fed spending on D.C. Eisenhower memorial

A final fiscal year 2016 appropriations law will not permit construction to begin this year on a memorial to former President Dwight D. Eisenhower in Washington, D.C., with federal money.

However, supporters of the memorial, led by former Senate Majority Leader Bob Dole (R-Kansas), have vowed to use private money to construct the memorial. Given a price tag of as much as \$150 million, Dole and company have a tough row to hoe.

Congress did appropriate \$1 million for the Dwight D. Eisenhower Memorial Commission to stay in business, thus rejecting a House Appropriations Committee proposal to eliminate money both for the commission *and* construction.

Says a report accompanying the fiscal 2016 bill (PL 114-113), "This language extends the memorial's site authority and prevents commencement of memorial construction until all necessary construction funds have been appropriated." It also says, "No funds have been

appropriated to the Capital Construction account for fiscal year 2016."

The administration requested \$68.2 million for construction of the facility in fiscal 2016. Congress has over the years appropriated \$46.4 million for the project.

On the docket is a design for the proposed memorial from noted architect Frank Gehry. Some members of the Eisenhower family, led by granddaughter Susan Eisenhower, object to elements of the Gehry design, such as statues of the former President as a young man, columns and tapestries.

Gehry has trimmed the size and look of the proposal since he first introduced it in 2010.

Prominent conservative Republicans and groups have chimed in on Susan Eisenhower's behalf, led by the National Civic Arts Society and its president Justin Shubow. The critics include such figureheads as the columnist George Will and the Heritage Foundation.

They have found significant backing on Capitol Hill, beginning with House Natural Resources Committee Chairman Rob Bishop (R-Utah.) Last year when he chaired the House subcommittee on Public Lands Bishop introduced legislation to dismiss the Eisenhower commission in favor of a new commission.

In a separate report the committee objected to the memorial design and the \$46 million spent on it. Said Bishop at the time, "The goal of this report and legislation is to address and subsequently move past the controversies and mismanagement that continue to plague the project. In light of the information found in the oversight report, it is very clear that we must move forward with new, and more appropriate ideas, as well as better management of the resources dedicated to the success of this project."

Despite the best efforts of Congressional critics a memorial to Eisenhower appears to be on track, albeit without federal construction money. The National Capital Planning Commission

July 9 gave its final approval to the memorial. The U.S. Commission of Fine Arts gave its final approval June 18.

The planning commission in its recommendation said of its action: "Confirms that the final memorial design satisfies NCPC's adopted site selection design principles and that the Commission's action to approve the final plans will not have a significant impact on the human environment."

The Park Service, which would oversee the construction and management of the memorial, on May 8, 2015, determined the Gehry plan would have no adverse impacts on cultural resources, natural resources, transportation and pedestrians. The site is on the National Mall adjacent to the National Air and Space Museum.

Some private construction money has been donated but soliciting more may be difficult because of the opposition of the Eisenhower family. Still, the *Wall Street Journal* reported last month that Dole at the age of 92 has begun a campaign to raise private funds so that a memorial can be completed while some World War II soldiers are still around.

Dole has enlisted the support of all living ex-presidents - Jimmy Carter, George H.W. Bush, Bill Clinton and George W. Bush - for his advisory panel, the *Journal* said.

Congress lets wetland rule stand; courts against, tho

Congress dropped from an omnibus fiscal year 2015 appropriations bill (PL 114-113) December 15 a provision that would prevent EPA from implementing regulations that expand the kinds of water bodies requiring wetland-protection permits.

The provision was included in legislation approved by both the House and Senate Appropriations Committees but was dropped in final negotiations between Democrats and Republicans. The House and Senate then went on to approve the bill December 18 and President Obama signed it the same day.

Despite the failure of Congress to block the regulation two federal courts have already ruled against it, preventing implementation. The Sixth U.S. Circuit Court of Appeals stayed the regulation nationwide on October 10.

That followed up on an August 27 injunction from Chief U.S. District Court Judge Ralph R. Erickson in North Dakota, that blocked the rule in 13 states, most of them in the West.

Still, opponents of the rule were disappointed that Congress did not act, and promised to continue to work against the rule. Rep. Doug LaMalfa (R-Calif.) noted on the House floor December 17 that majorities in the House and Senate oppose the regulation, as well as the two courts.

Then he said, "It is time that the administration admits that the waters of the United States rule is an illegal power grab, an overreach, and withdraw it immediately."

The National Cattlemen's Beef Association (NCBA) made a similar point. It said in a release, "Unfortunately, EPA's 'Waters of the United States' rule is not addressed in the omnibus. However, the nationwide stay is still in place currently, and NCBA will continue to push back on the rule through the courts."

But sportsmen and their allies praised Congress. Said Rep. Betty McCollum (R-Minn.), ranking Democrat on the House subcommittee on Interior, "The real victory that is here for the American people is that this agreement removes policy riders that were bad for the environment, bad for our air and our water, and bad for our families. Those riders are gone from this bill, and that is a victory."

The National Wildlife Federation, along with dozens of other sportsmen's groups, argued the expansive EPA/Corps definition of waters requiring a permit is necessary to protect conservation lands, especially wildfowl breeding grounds.

Seven sportsmen's groups includ-

ing the federation said of the appropriations bill provision, "As hunters, anglers and scientists, we care deeply about America's streams and wetlands and we have long been working to restore lost Clean Water Act protections to these waters. This rule is a benefit to the American people: It protects drinking water, safeguards fish and wildlife habitat and helps the economy as a whole. Nearly a million Americans commented in support of the rule."

The groups said they thought EPA would win out in the end, despite the court orders. "We are confident the rule will ultimately become the law of the land and we are grateful to the clean water champions in the Administration and on the Hill for getting us to this point," they said.

Congress dropped the provision despite a highly-critical Government Accountability Office (GAO) letter that said EPA used "propaganda" in lining up support for the rule.

GAO said EPA indulged in propaganda by linking its proposal to webpages operated by the Natural Resources Defense Council and the Surfrider Foundation, and seeking support therein. That constitutes lobbying, which EPA is forbid to do, said Susan A. Poling, EPA general counsel, in a letter to House Environment and Public Works Committee Chairman James Inhofe (R-Okla.)

The rule, published by EPA and the Corps of Engineers May 27, would expand the definition of a wetland subject to a Section 404 permit under the Clean Water Act.

Notes

Rec Lakes revival sought. Seventeen years after a blue ribbon commission submitted a report to Congress recommending a comprehensive new federal policy on recreation lakes, those recommendations are being revived. The American Recreation Coalition (ARC), which represents the recreation industry, said in a statement December 21 that it is an opportune time to consider the commission's recommendations, what with the Park Service Centennial

next year. Said Ben Nasta, ARC director of communications, "As the National Park Service Centennial brings new focus to recreation opportunities on the nation's public lands and waters, the American Recreation Coalition believes that it's time to re-examine the Commission's ideas." Nasta also said, "Unfortunately, antiquated laws governing lake management and competition over water supplies have proven to be barriers to the implementation of the Commission's recommendations." After the commission submitted its report, a National Recreation Lakes Coalition attempted in 1999 to write a recreation lakes bill. The rec lakes commission was established by Congress in an omnibus parks and public lands law (PL 104-333) of Nov. 12, 1996. It studied the 1,782 federal, man-made lakes managed primarily by the Corps of Engineers, the Bureau of Reclamation and the Tennessee Valley Authority. Those lakes host several hundred million visitors per year and produce many billions of dollars in economic activity. The central recommendation of the rec lakes commission was that (1) administratively, federal agencies should develop a pilot program to test a system of federal lakes and (2) legislatively, Congress should enact a federal lakes law that certifies a test program. Those recommendations didn't come to fruition. Then Assistant Secretary of the Interior for Land and Minerals Bob Armstrong chaired the commission. More information and the commission's report are available at www.funoutdoors.com/Reclakes.

NPS Centennial part of Rose Parade. The Tournament of Roses Parade New Year's Day in Pasadena, Calif. will feature the National Park System in a "Find Your Adventure" theme. NPS said director Jonathan B. Jarvis will participate, leading a Park Service Equestrian Unit. During the parade a "pop-up" national park will, well, pop up. It will include a mobile visitor center and interpretive programs. The Find Your Adventure theme is built around the Find Your Park campaign for the Park Service Centennial in 2016.

Yellowstone begins snow season. For the second winter in a row Yellowstone National Park is using a rule to

guide snowmobile use that allows up to 110 "transportation events" per day in the winter. The park officially opened the season December 15. As usual road conditions and weather can alter admissions as the winter goes along. The new program began this past winter (2014-2015) and authorizes up to 50 groups of guided snowmobiles daily to enter the park with up to seven vehicles in a group and up to 60 snowcoaches. Those authorizations constitute transportation events. In addition to limits on powered oversnow vehicles the winter use rule that the park published on Oct. 24, 2013, requires both snowmobiles and snowcoaches to pass tougher noise emission standards eventually. In the winter before the rule went into effect (2013-2014) Yellowstone allowed up to 318 snowmobiles per day and up to 78 snowcoaches per day. Meanwhile, Yellowstone in late May solicited comments on possible revisions to its regulations. The park has prepared a draft adaptive management plan that attempts to summarize the science regarding impacts of oversnow vehicles on wildlife, air quality, noise, etc. To review the draft alternative management plan go to: <http://parkplanning.nps.gov/document.cfm?parkID=111&projectID=58858&documentID=66348>.

NPS extends 130 concessions contracts. The Park Service was unable to rewrite or find a new concessioner for 130 concessions operations by a December 31 deadline, forcing the agency to extend existing contracts. The extensions reflect in part a contretemps between concessioners and the Park Service over concessioner investments in park facilities. At a July 23 hearing of the House subcommittee on Interior of the House Oversight Committee Park Service, concessioners and the Park Service itself conceded to Congress that the current contract system in the parks is close to broken. They both faulted a system that discourages concessioners from making improvements (called leasehold surrender interest) to park facilities for fear the cost of those improvements would load down the next contract. And the concessioners said the brevity of contracts (a standard 10 years) is not long enough to recoup investments. The problems are not theoretical. Leasehold

surrender interest expenses are plaguing the Park Service's attempt to reach agreement on a long-time contract for concessions operations at Grand Canyon National Park. The present concessioner, Xanterra Parks & Resorts, sued NPS on Oct. 8, 2014, because a prospectus for a renewed contract demanded bidders pay more than \$150 million for LSI. To offset the \$150 million NPS would greatly increase franchise fees. NPS has since decided to reduce the LSI to \$57 million and to make up the difference from Park Service revenues.

NPS makes Manhattan Park official.

The Park Service December 14 officially made officially official the designation of a Manhattan Project National Historical Park. As we reported in the November 13 issue of *FPR*, Secretary of the Interior Sally Jewell and Secretary of Energy Ernest Moniz had formally signed a memorandum of agreement on November 10 that, supposedly, formally established the park unit. But the Park Service made the designation more officially official December 14 with a notice in the *Federal Register* saying the agreement "satisfies the legal requirements to establish the Park." The memo and notice carry out a provision of an omnibus public lands bill (PL 113-291 of Dec. 19, 2014) that ordered the establishment of a Manhattan Project National Historical Park to commemorate the development of the Atomic Bomb. Congress directed the agencies and departments to complete an agreement by December 19. The park will be - or is - located in three areas that played crucial roles in developing the bomb - Los Alamos, N.M.; Oak Ridge, Tenn.; and Hanford, Wash.

New Yorkers seek LGBT NPS site.

Sen. Kirsten Gillibrand (R-N.Y.) introduced legislation (S 2386) December 10 that would designate the Stonewall Inn in Manhattan as a National Park System Unit. The unit would commemorate the campaign of lesbians, gays, bisexuals and transgender people (LGBT) for equal rights. The bill would have the Park Service acquire lands and buildings for the park unit. The Stonewall Inn was the site of a rebellion against the police by gays in the summer of 1969 that is acknowledged as the beginning of the campaign. Gillibrand and other

members of the New York Congressional delegation have also written President Obama seeking designation of the site as a national monument. That request is complicated by the fact that the Antiquities Act of 1906 may only be invoked to designate monuments on federal land. The inn is not in federal hands. Rep. Jerrold Nadler (D-N.Y.) has introduced a counterpart House bill (HR 4230).

Utah land initiative pre-emption.

Conservationists aren't waiting to see the results of a seven-county Utah Public Lands Initiative before condemning the initiative. The Southern Utah Wilderness Alliance (SUWA), noting that introduction of a final initiative is imminent, said December 9, "It seems our hard work may be ignored, and the delegation may instead introduce legislation driven by a handful of anti-wilderness southern Utah politicians which rolls back existing protection in some places." SUWA Executive Director Scott Groene said in a post to alliance members, "And if that's the case, this promises to be a major fight - probably bigger than anything we've faced for 20 years." If the Utah Public Lands Initiative is unacceptable, said Groene, the alternative is to ask President Obama to designate vast tracks of southern Utah as national monuments. It is understood that while the initiative is being developed, the administration has held off talk of new monuments in Utah. But, again, we are getting ahead of ourselves. Rep. Rob Bishop (R-Utah) is reportedly near completion of a plan; however, his office did not respond to several PLN requests for a status report. Bishop has taken the lead in the development of the legislation that he said would attempt to open appropriate lands to energy development, mining and grazing while designating protected areas where appropriate. The seven counties participating in the Utah Public Lands Initiative - Daggett, Grand, Emery, San Juan, Wayne, Carbon and Uintah - have to varying degrees submitted recommendations. We have read several of the recommendations but those proposals offered no clear summaries of what land uses their notices propose. The recommendations are significantly detailed.

Enviros fault Indiana Dunes. An

environmental group is objecting to a proposal of the Indiana Department of Natural Resources to use Land and Water Conservation Fund (LWCF) grant money for a commercial pavilion in Indiana Dunes State Park. (The state park is to be distinguished from Indiana Dunes National Lakeshore.) The environmental group Public Employees for Environmental Responsibility (PEER) said LWCF state grant money is not supposed to be used to upgrade commercial facilities. Indiana has proposed a plan to revise the Indiana Dunes State Park Pavilion with a number of commercial facilities, including three restaurants. "This project appears to be an illegal conversion of an investment in public outdoor recreation into a commercial profit center," said PEER Senior Counsel Paula Dinerstein, who has been pressing NPS for months to weigh in. "Compounding the confusion is the state agency's lack of forthrightness about what exactly it is approving to be built and where." The Park Service did weigh in in a December 4 letter to Dinerstein advising that NPS had met with state officials and advised them that some of their plans did not comply with the LWCF law. Of the meeting NPS Regional Director Cameron Sholly told PEER, "At that time, we advised the IDNR that several of the prospective uses would be non-compliant, and if carried out, would constitute a conversion that would trigger NPS involvement."

FWS proposes O&G rules. The Fish and Wildlife Service (FWS) December 11 joined the National Park Service (NPS) in proposing regulations to oversee oil and gas operations within refuges where operations are ongoing. In some national parks and wildlife refuges private parties own subsurface rights to minerals and are developing those rights. Both FWS and NPS are attempting to tighten their regulations over the operations. But Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) charged the proposal constituted a double standard because the federal government hasn't cleaned up the 118 exploration wells it drilled in the National Petroleum Reserve Alaska that is managed by the Bureau of Land Management. FWS said the proposed rule would make sure that operators are financially liable for any damage they caused to refuges.

The Park Service October 23 completed a draft EIS on new regulations that would subject all oil and gas operations in the national parks to its regulations. Currently, 12 of the 408 National Park System units host oil and gas operations and 60 percent of those are exempt from NPS regulations. The rule would also require operators to pay the full cost of reclamation. The NPS draft EIS is available at: <http://parkplanning.nps.gov/DEIS9B>. More information on the FWS proposal is available at <http://www.fws.gov/refuges/oil-and-gas/>.

Conference Calendar

DECEMBER

4-6. **America Outdoors Marketing and Management Conference** in Daytona Beach, Fla. Contact: <http://www.americaoutdoors.org/>.

JANUARY

3-6. **Archaeological Institute of America Annual Meeting** in Seattle. Contact: Archaeological Institute of America, 656 Beacon St., Boston, MA 02215-2006. (617) 353-9361. <http://www.archaeological.org>.

22-24. **National Ski Areas Association Western Conference.** Contact: National Ski Areas Association, 131 South Van Gordon St., Suite 300, Lakewood, CO 80228. (303) 987-1111. <http://www.nsaa.org>.

17-19. **U.S. Conference of Mayors Winter Meeting** in Washington, D.C. Contact: U.S. Conference of Mayors, 1620 I St., N.W., Fourth Floor, Washington, DC 20006. (202) 293-7330. <http://www.usmayors.org>.

24-27. **Outdoor Retailer Winter Market** in Salt Lake City. Contact: Outdoor Retailer, 310 Broadway, Laguna Beach, CA 92651. (949) 376-8155. <http://www.outdoorretailer.com>.

27-30. **National Association of Conservation Districts Annual Meeting** in San Antonio, Texas. Contact: National Association of Conservation Districts, 509 Capitol Court, N.E., Washington, DC 20002. (202) 547-6233. <http://www.nacdnet.org>.