

Federal Parks & Recreation

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LWCF extension makes it to Senate floor once again, but

For the second time in a week sympathetic senators February 5 attempted to gain Senate passage of legislation (S 338) to reauthorize permanently the Land and Water Conservation Fund (LWCF).

Chief sponsor Sen. Richard Burr (R-N.C.) asked the Senate to pass his bill under a Unanimous Consent procedure, which by definition requires the acquiescence of all members.

But Sen. Mike Lee (R-Utah) objected and said reauthorization of LWCF is too important an issue to take up without a thorough scrubbing in committee and on the floor. So Burr and company will have to wait another day.

However, there is optimism among program supporters. When Burr first brought reauthorization legislation to the Senate floor on January 29 in the form of an amendment (SA 92) to a Keystone Pipeline System bill it failed by only one vote, 59-to-40. Sixty votes were needed to pass. And an ailing Sen. Minority Leader Harry Reid (D-Nev.) missed that vote, so someday the votes may be there.

Significantly, thirteen Republicans voted for LWCF.

Said bill cosponsor Sen. Michael Bennet (D-Colo.) on the floor February 5, "As (Sen. Burr) mentioned, we led an amendment on the floor last week with the exact same text of the bill that we are discussing today. When the dust settled, that amendment received 59 votes, but I have a hunch that it would comfortably clear the 60-vote threshold were it to be considered again."

But Lee said, as many western

Republicans do, that major structural changes to LWCF should be considered before the law is renewed. "Any new federal land ownership must be examined with a healthy degree of skepticism," he said. "There are many issues that need to be considered and debated before we reauthorize any program that would potentially expand the federal government's land holdings."

He added, "But reform isn't likely to happen. In fact, reform may well be impossible if we allow this bill to pass as is without going through the proper procedures. This bill should be subject to debate and amendment, first at the committee level and then on the floor of the Senate."

Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) has promised to take up reauthorization in her committee, but with a catch. She wants to consider revisions to the law, such as diverting LWCF to land management agency maintenance.

"Reauthorizing the LWCF is something that I have said we plan to take up in the energy committee," Murkowski said on the floor January 29. "We are going to make it a priority."

She continued, "Another structural change I know some are interested in is to improve management by setting aside some of LWCF funding to address the combined maintenance backlog of federal land management agencies. We have a combined maintenance backlog of as much as \$22 billion, according to the (Congressional Research Service). We have issues related to that."

Buoyed by the 59-to-40 vote of January 29 Burr and four other senators introduced the stand-alone legislation February 3 to make LWCF permanent. Of note, the bill would not guarantee the \$900 million per year the program would be authorized to spend. Previous iterations of a Senate reauthorization bill would have guaranteed the money.

However, Burr said revisions to the law can be considered later. Job one is to get the law extended. "I am not here to suggest that I want to tackle the pittance that the fund

receives and how much it was promised," he said. "I am only here today, along with my colleague from Colorado, to call up the bill to permanently authorize this program so that we don't go through this exercise every time that reauthorization is needed."

Bennet agreed. "We should do right by the American people and reauthorize this program as soon as possible. Then we ought to work together to ensure that LWCF gets the full and mandatory funding going forward that was promised 50 years ago by Congress," he said.

The introduction of the bill, combined with the Senate vote of January 29 and a strong endorsement of LWCF by the Obama administration, offers some encouragement to the program.

When the extension amendment came to the floor January 29 mainstream Republicans backed a separate LWCF amendment that, while endorsing the program, suggested that it required major revisions. The Senate rejected that amendment 47-to-51. The major restructuring would divert some LWCF money to federal land management agency maintenance.

With that backdrop the Obama administration once again February 2 proposed full funding for LWCF for fiscal year 2016 without the suggested restructuring.

In submitting an annual budget request to Congress the administration recommended that Congress (1) appropriate \$400 million for LWCF in fiscal 2016 and (2) by separate authorizing legislation guarantee an additional \$500 million through an extended rewrite of the law.

Secretary of Interior Sally Jewell at a February 2 press conference listed LWCF first among conservation initiatives in the budget. "First, the budget calls for full and permanent funding for the Land and Water Conservation Fund," she said. "This brilliant piece of legislation was enacted 50 years ago. That unfortunately is going to expire in 2015 without action from Congress."

She added, "Over the last 50 years this program has proven to be one of the most successful tools for conservation and driving economic activity in rural areas. We simply can't let it expire."

This year the situation is more critical because, as Jewell noted, the program is due to expire at the end of September. That is also what is driving Burr and company. So the administration also asked Congress to renew the program, but with guaranteed money.

The House is more problematic than the Senate because appropriators there have for the last couple of years recommended little or no money for the program. However, LWCF advocates hope the Senate GOP will persuade the House GOP to go along.

Despite the Republican caveats about LWCF, for fiscal 2016 the administration requested \$235.8 million for federal land acquisition and \$53.2 million for state grants from the fund. That money would come from appropriations. The budget would also use LWCF appropriations for a group of other conservation programs managed by the Interior Department and the Forest Service.

As a twin request the budget asks Congress to approve authorization legislation to build the fiscal 2016 LWCF allocation to \$900 million, including an additional \$47 million for state grants.

In a related move the administration recommended that Congress put up \$25 million for the long-moribund Urban Parks and Recreation Recovery (UPAR) program.

However, the administration made similar recommendations for LWCF and UPAR last year only to be largely ignored by Congress. Eventually Congress settled on \$165.7 million for the federal side of LWCF, \$48 million for state grants and nothing for UPAR. But Congress did not act on the President's request that the underlying law be rewritten.

The Obama administration said the LWCF proposal is part of a broader

signature recreation initiative called America's Great Outdoors. Indeed LWCF is perhaps the signature recommendation of the Great Outdoors program, although the budget doesn't mention it.

Presidents, Congressional Democrats and Congressional Republicans have been attempting for time immemorial to secure guaranteed funding for LWCF, which presently is subject to the whims of Congressional appropriators. Those past proposals have all foundered on the need for new offset revenues.

Here are some of the LWCF-related fiscal 2016 administration budget requests:

** LWCF FEDERAL APPROPRIATION:* For federal land acquisition the administration recommended \$235.8 million compared to a final fiscal 2015 appropriation of \$165.7 million. The breakdown: NPS acquisition, \$64.3 million; BLM, \$38 million; FWS, \$58.5 million; FS, \$63 million; and DoI Valuation Services, \$12 million.

** LWCF FEDERAL (NEW GUARANTEED PROGRAM):* This presupposes Congress approves new legislation to guarantee \$900 million per year for LWCF. These recommendations are in addition to the regular appropriations above. The breakdown: NPS acquisition, \$106.7 million; BLM, \$55.4 million; FWS, \$106.3 million; FS, \$64.7 million; and DoI Valuation Services, \$6 million.

LWCF STATE APPROPRIATION: For state LWCF grants the administration recommended \$53.2 million, compared to a fiscal 2015 appropriation of \$48 million.

LWCF STATE (NEW GUARANTEED PROGRAM): This allocation presupposes Congress approves new legislation to guarantee \$900 million per year for LWCF. For state grants the proposal would add \$47 million, for a total of \$100 million.

URBAN PARKS AND RECREATION RECOVERY: For urban parks the administration recommended \$25 million from a reauthorization of LWCF, compared to no appropriation in fiscal 2015.

Portman keen on the national parks; not on fed spending

Although he is known as a friend of the national parks, Sen. Rob Portman (R-Ohio) posted an economic message February 8 that suggested he may not be willing to tolerate the Park Service portion of President Obama's budget.

In particular the fiscal year 2016 request asks for an increase of \$826 million for the Park Service Centennial. Portman has been working on legislation to help beef up the parks in anticipation of the Centennial, and after.

But in his budget message Portman decried excessive new spending. "The President had an opportunity to make that change in this new budget," he said. "He could have cut waste. He could have laid out policies that put us back on track with a balanced budget and economic growth. He could have cut waste and made our government more efficient and effective to make sure that every dollar of taxes we pay is spent wisely. But he didn't and that's why this new budget is so disappointing."

Portman added, "Instead of bringing us closer to living within our means President Obama's plan includes \$1 trillion in new government spending, adding \$8.2 trillion to our national debt over the next decade. Instead of proposing policies that will help grow the economy President Obama's budget actually grows the government."

We asked Portman's office to comment on any possible connection between the economic message and his attitude toward the request for the Park Service, but did not receive a reply.

But one parks advocate, National Park Hospitality Association Counselor Derrick Crandall, did make that tie. Portman's "message is the administration budget fails to make the hard choices - how much to tax and to spend. I think it is unrealistic for us to expect as large an appropriations increase for the Park Service (as the administration proposed.) But do I think we can see some good things happen? Yes, I do.

Portman is a good guy but he has just laid down a marker."

While Portman by title is one of the most important players in the park and rec field in Congress, he does not sit on the Senate Appropriations Committee. In that panel Sen. Lisa Murkowski (R-Alaska) is the preeminent player as chairman of the subcommittee and Interior and Related Agencies Appropriations.

However, Murkowski's office would not commit recently to us that the senator would back any Centennial bill. Said Murkowski spokesman Robert Dillon last week, "Sens. Murkowski and (Tom) Coburn (R-Okla.) raised the issue of how we manage the public lands last year. I am sure it is going to be a focus of the committee this year." But, he added, "I'm not talking of any specific legislation. The committee will be looking at the Park Service to see if changes need to be made in its management."

The Obama administration budget recommends for the Park Service Centennial a \$326 million increase in regular appropriations and \$500 million in a new fund to address maintenance. The maintenance program would require Congressional approval. Some of the \$500 million could be used by other Interior land management agencies, as well as the Forest Service.

The budget calls for a \$100 million matching challenge program, and that is one of the main things Portman is expected to address in his Centennial legislation. "The Budget also proposes matching funds to leverage private donations for signature projects and programs at national parks," says the budget. "This significant effort ensures America's national treasures will be preserved over the next hundred years for future generations."

Sponsors hopeful this is the year for fish, hunt bill

Three Republicans and three Democrats introduced an omnibus public lands sportsmen's bill (S 405) February

5 that would encourage hunting and fishing on the public lands.

Among the 14 separate provisions is a key one that would declare public lands open to hunting and fishing unless specifically closed by a land management agency. Another would reauthorize the Federal Land Transaction Facilitation Act (FLTFA).

Lead sponsor Sen. Lisa Murkowski (R-Alaska) and her three cosponsors talked optimistically of securing final passage for the package of legislation that has now been introduced in the last three Congresses.

"My hope is that the third time is going to be the charm for this sportsmen's legislation," said Murkowski. "It is important to us, it is important to our economy, and it is an issue, which I am certainly willing to take aim at. Sorry for the pun."

Cosponsor Sen. James Risch (R-Idaho) said, "Last year we labored over it at great length and were not able to get it across the finish line, but we are cautiously optimistic this year that we have hit that right spot where we actually can get this across the finish line this year."

And one of the three Democratic cosponsors, Sen. Joe Manchin (D-W.Va.), said, "I hope this bill gets very quick action, very favorable action. We can start out this new year, if you will, on something that is truly overwhelmingly a bipartisan bill. I am sure there will be people who have something they might object to in any piece of legislation. They will have to work hard to find something in this bill they can object to because I think it is put together the right way, in a bipartisan way."

The open-unless-closed provision and the FLTFA provision are relatively noncontroversial. But not all the 14 provisions - many of which have been introduced in the past as stand-alone bills - are.

For instance, one provision would require the Administrative Conference of the United States to collect from each

federal agency data about payments made to litigants under the Equal Access to Justice Act.

That law authorizes the Treasury Department to pay law firms - often acting on behalf of environmentalists - that successfully sue federal agencies. The agencies are often land managers. The Treasury Department would then make the data available to the public.

Sen. Debra Fischer (R-Neb.) was particularly enthusiastic about the provision. "Certain groups continuously sue the federal government, and [the] Treasury simply writes a check to foot the bill without providing Members of Congress and the American taxpayers basic information about the payment," she said.

"This kind of litigation can have a big impact on sportsmen and others who enjoy multiple uses of Federal lands," Fischer said. "This is because the government is permitted to blindly fund lawsuits by activist groups who use the court as a backdoor to policy making."

Another provision would prevent EPA from banning the use of lead in sport fishing equipment. EPA at one time was considering such a ban.

FLTFA authorizes the sale of excess Bureau of Land Management and Forest Service lands and uses the proceeds to acquire conservation lands. Other agencies including the Park Service receive acquisition money. The agencies have reaped more than \$100 million from the sale of public lands. FLTFA was first enacted in 2000, but expired on July 25, 2001.

In the House Rep. Dan Benishek (D-Mich.) reintroduced legislation (HR 528) January 26 that would declare public lands open to hunting and fishing unless specifically closed. Like the Senate bill HR 528 would apply to Bureau of Land Management and Forest Service lands. The Benishek bill does not include the other provisions in the Senate bill.

The House approved a predecessor Benishek bill Feb. 5, 2014, as part of

a package of legislation to encourage hunting and fishing on public lands. The bill failed in the Senate.

Ambitious Calif. Desert bill would add two new monuments

Sen. Dianne Feinstein (D-Calif.) introduced legislation (S 414) February 9 that would protect more than 1.6 million acres of the California Desert. That includes designation of two national monuments from Bureau of Land Management (BLM) land totaling 1.1 million acres.

In addition the bill would add 39,000 acres to three National Park System units, authorize the exchange out of state ownership of 370,000 acres and lock in 142,000 acres for off-highway vehicle (OHV) use.

Despite the grand ambitions of the bill Feinstein suggested she had secured widespread consensus behind it. "This bill is first and foremost a bipartisan bill," she said. "It brings so many groups together: Environmental groups; State and local governments; the off-road community; cattle ranchers; mining interests; the Defense Department; energy companies; California's public utility companies; and many others."

Feinstein concluded, "To account for all the uses of the desert, this whole effort was based on an attempt to find consensus. We have worked very hard over the years to build that consensus."

Local governments, Native Americans, tourism businesses and conservationists endorsed the legislation, which was cosponsored by Sen. Barbara Boxer (D-Calif.)

Said Susan Sorrells, owner of Shoshone Village, a tourist destination, "As a member of a family which has owned land and operated businesses in the Amargosa and Death Valley area for over 100 years, I am glad to see the introduction of the California Desert Conservation and Recreation Act. Our region's economy depends on tourism, scientific study and outdoor recreational activities that take place in our unique

and beautiful desert. So protecting these lands is an investment in our area's economic future."

Rep. Paul Cook (R-Calif.), who represents the area in the House, reacted with caution, according to local media. He said he was reviewing the legislation and intended to sound out public comment on it.

However, the Republican House in the last Congress was dead set against new national monuments. Rep. Don Young (R-Alaska) and Sen. Lisa Murkowski (R-Alaska) have already introduced bills (HR 330, S 437) that would require Congressional approval of any national monument.

However, the Senate does have a history of deference to the wishes of a state's senators and may prefer to defer to Feinstein and Boxer.

HR 414 represents the third try by Feinstein since 2009 to "update" the California Desert Protection Act of 1994 that she also sponsored. That law, signed by President Clinton on Oct. 31, 1994, established the Death Valley and Joshua Tree National Parks and the Mojave National Preserve, protecting more than 7.6 million acres of the California Desert. The 149-page update bill would, among other things:

National monuments: Designate from BLM-managed land two national monuments. A Mojave trails National Monument would take up 965,000 acres and would include 196,000 acres of a Catellus tract that was donated and sold to the United States between 1999 and 2004. A second Sand to Snow Monument would include 135,000 acres on Mount San Gorgino. Again all monument land would come from BLM territory.

NPS expansion: Add 39,000 acres to the Death Valley and Joshua Tree National Parks and the Mojave National Preserve. All but 1,639 acres of the added land is currently managed by BLM. An additional 1,639 acres is owned and managed by the Mojave Trust and would be included in the Mojave preserve.

Exchanges: Would transfer 370,000

acres of small parcels of state land for equal value federal lands to at once consolidate wilderness areas and national park land while providing the State of California with potential renewable energy sites.

OHV routes: Would give permanent status to 142,000 acres of existing ORV sites.

Wilderness: Would designate as wilderness study areas 250,000 acres of BLM land.

House bill and Senate GOP demand end to wetlands rule

One hundred and nineteen House members January 29 renewed their campaign to block enactment of a proposed Obama administration wetlands permit rule.

Led by Rep. Paul Gosar (R-Ariz.) the House members introduced a bill (HR 459) that would prevent EPA from completing a proposed April 21, 2014, rule that would expand the definition of a wetland subject to a Section 404 permit under the Clean Water Act.

The Senate Environment and Public Works Committee held a joint hearing with the House Transportation Committee on the proposed rule February 4 and heard EPA Administrator Gina McCarthy say the rule is needed.

She said the rule would clear the air about what projects require permits and what projects don't. She rejected calls to withdraw the proposal.

In the proposal EPA and the Corps of Engineers said that in addition to permits for navigable waters the administration would also require permits for seasonal streams, wetlands near navigable waters and other waters.

After the hearing Senate Environment and Public Works Committee Chairman Jim Inhofe (R-Okla.) and House Transportation Committee on Transportation Chairman Bill Shuster (R-Pa.) said jointly that McCarthy's assertions that the rule needs tweaking

demonstrate that the proposal should be pulled.

"U.S. Environmental Protection Agency Administrator Gina McCarthy admitted the rule is flawed by repeatedly committing to fix the proposal when Members of Congress raised serious concerns about how it would impact their constituents, communities, and local industries," they said. "She admitted that the proposed rule is inconsistent and ambiguous."

But ranking Senate committee Democrat Barbara Boxer (D-Calif.) said McCarthy should proceed with the rule. She said sportsmen overwhelmingly support it.

"A wide variety of stakeholders support the proposed clean water rule," she said. "A September 2012 poll found that regardless of political affiliation, 79 percent of hunters and anglers favor restoring Clean Water Act protections to wetlands and waterways, including smaller creeks and streams. A July 2014 poll found that 80 percent of small business owners support protections for upstream headwaters and wetlands in the proposed clean water rule."

Last year the House on Sept. 9, 2014, approved a stand-alone bill (HR 5078) to stop the proposed rule. In addition several spending bills included the provision as a rider, but the rider was not enacted.

House-Senate appropriations bill negotiators dropped the provision in writing a final, omnibus spending measure late last year (PL 113-235 of December 16). Congress did include in PL 113-235 a provision blocking a related administration proposal that would govern definitions of agricultural exemptions from the existing wetlands rule.

The wetlands debate is a hot one. One hundred and eight-five sportsmen's groups signed a letter last year backing the proposed rule and asserting it is essential to the preservation of conservation lands.

But the sportsmen were checkmated

by the Small Business Administration. It commented on October 1 that the proposal should be withdrawn because it "would have direct, significant effects on small businesses."

The Supreme Court was evenly divided in a June 19, 2006, decision on wetlands law, *Rapanos v. U.S. Nos. 04-1034 and 04-1384*, which muddled the regulatory waters. On the one hand the court did uphold the authority of the Corps and EPA to regulate water bodies. But crucially it also limited the definition of a water body to navigable waters without clearly defining navigable waters.

The Bush administration relied on the court decision to limit permitting to navigable bodies.

The Obama proposal would expand that. EPA and the Corps of Engineers in their proposal said that the rule should go beyond the existing regulation that only requires a Section 404 Clean Water Act permit for navigable waters.

Administration proposes big spending for NPS Centennial

In its fiscal year 2016 budget request of February 2 the Obama administration recommended a significant \$826 million spending increase for the Park Service Centennial.

That includes a \$326 million hike in regular appropriations and \$500 million in a new fund to address maintenance. The maintenance program would require Congressional approval. Some of the \$500 million could be used by other Interior land management agencies, as well as the Forest Service.

At a budget run-out at the Interior Department NPS Director Jon Jarvis said of the \$326.3 million increase in regular appropriations for the Centennial in fiscal 2016, "The President's request contains all the elements necessary for those of us who tend to America's Best Idea to repair an ageing infrastructure, respond to climate change, host school field trips, and provide rangers to greet nearly

300 million visitors with the highest standard of public service."

The National Parks Conservation Association (NPCA) said it hoped the budget recommendation would lead to a bipartisan campaign in Congress in support of the Centennial.

Said Craig Obey, NPCA senior vice president for government affairs, "The Centennial of the National Park System should catalyze a renewed commitment to protect America's most special places. We have an opportunity for a bipartisan effort to reverse years of neglect and restore our parks while creating jobs and boosting local economies."

He added, "The National Park Service is entrusted with these treasured sites, but it is Congress that is entrusted with making sure they will last. The administration and Congress can and should work together to forge a budget process that will set our national parks on a course for a bold second century."

Although no bill has been introduced in Congress yet Sens. Rob Portman (R-Ohio) and Maria Cantwell (D-Ore.) are drafting legislation to establish a matching fund. (*See related article on Portman page 4.*)

The National Park Hospitality Association singled out for praise a \$20 million Centennial proposal in the budget that would introduce urban youth to national parks and public lands. The program would pay transportation costs. Some of the money would be spent on youth coordinators to welcome the kids to parks and public lands.

The program would be funded within the Park Service Visitor Services line item that would increase by \$34 million over fiscal 2015, from \$243 million to \$277 million.

"The nation's recreation community applauds the President's action," said Derrick Crandall, president of the American Recreation Coalition and member of the National Park Service Centennial Advisory Committee. "We have stressed for two decades that there has been a

decline in outdoor activity by America's kids. We noted declines in kids' bike sales and overall park visits, a surge in obesity among youth and dramatic increases in hours spent by kids staring at screens."

He added, "We helped build partnerships to lure kids outdoors - offering ideas to parents and schools and youth organizations and park agencies. We have united groups around action through Great Outdoors Month™, including efforts by governors of both political parties. The President's proposal will supplement and energize programs like these."

Elsewhere, the Interior budget asks Congress to approve the \$500 million per year maintenance fund for three years. It would have three components - a \$100 million matching challenge program, a \$300 million high-priority program and a \$100 million competitive Public Lands Centennial Fund that all Interior land management agencies and the Forest Service could use.

Of the Centennial the administration budget request says, "This opportunity is an historic effort to upgrade and restore national parks, while putting tens of thousands of Americans to work and engaging and inspiring younger generations to carry the Nation's parks into the future."

Of the urban youth program it says, "This targeted effort involves transporting over a million urban youth a year to national and public lands with dedicated youth coordinators to welcome them and their families. Today's investment in the next generation of visitors will help build the stewards of America's national treasures in the future."

Congress in December did approve modest boosts for the Centennial in a fiscal year 2015 appropriations law (PL 113-235 of December 16) and in an omnibus public lands law (PL 113-291 of December 19.)

The appropriators approved \$25

million for NPS operations and \$10 million for matching endowment grants. That's new money.

Separately in the public lands omnibus Congress authorized the Treasury Department to mint \$5 gold coins, \$1 silver coins and half-dollar coins during calendar year 2016 for the Centennial.

The provision would also assess a significant surcharge on each minting - \$35 for each dollar coin, \$10 for each silver coin and \$5 for each half-dollar coin. By our math if all coins were sold, the program would bring in \$13,625,000.

On its own behalf the Park Service March 24, 2014, presented an overarching theme to guide the implementation of the 2016 Centennial. It's called 'Find Your Park.'

NPS will use the theme in partnership with the National Park Foundation and other entities to boost visitation to the national parks. The announcement effectively carried out the recommendations of the PR firm Grey New York, which reportedly received \$2 million for its efforts.

That theme will have NPS, the foundation, concessioners, conservationists and other partners use the Find Your Park theme to, as NPS said, "produce programs, events, and activities that will drive broad awareness, deepen engagement, and increase support for America's national parks, the work of the National Park Service, and its partners."

In a related development, as we reported last month the Park Service will be featured in the Tournament of Roses Parade on Jan. 1, 2016, in Pasadena, Calif. The parade will sort of kick off the Centennial.

The Pasadena Tournament of Roses® said the theme will be "Find Your Adventure," a takeoff on the Park Service Centennial theme of Find Your Park.

Obama asks major new surface transportation spending

The Obama administration recommended February 2 that Congress continue to finance in fiscal year 2016 a Department of Transportation program that feeds park and recreation activities.

The administration asked Congress to allocate \$847 million to a Transportation Alternatives Program, up \$27 million from a fiscal 2015 allocation of \$820 million. The program pays for a group of outdoor initiatives.

There is pushback. At a surface transportation hearing in the House February 11 Rep. Brian Babin (R-Texas) criticized the use of surface transportation money.

"We have a percentage of the Highway Trust Fund that is being spent on beautification, bike trails and nonessential things," said Babin at a hearing of the House Transportation Committee. "We have bridges that are literally falling apart. It is distressing to the folks (in his district) when we see a large big project going on a ten-mile bike trails, millions of dollars being spent."

Babin doesn't necessarily represent mainstream Republican thinking, in that he withheld his vote for Speaker of the House John Boehner (R-Ohio) last month. Still, he voiced a concern about spending highway money for trails and enhancements that has long circulated in rural areas.

Secretary of Transportation Anthony Foxx stood up for bike and pedestrian trails. "I happen to think these are good investments, but I understand the point," he told Babin. "I think bike and pedestrian investments - the small amount the federal government is putting in those things - is actually worth it."

Of the Transportation Alternatives Program, which receives two percent of highway account money from the Highway Trust Fund, the Department of Transportation budget said, "The program

creates safe, accessible, attractive, and environmentally sensitive communities where people want to live, work, and engage in recreation. This program provides resources to expand transportation choices and enhance the transportation experience."

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

"The President's Budget requests \$1.3 billion for transportation construction and engineering projects on Federal and Tribal Lands, including \$150 million in 'Fix-it-First' funding to support construction or reconstruction of large, nationally significant transportation infrastructure assets," said the Department of Transportation.

"This funding will be used for construction and engineering projects that will provide multi-modal access to basic community services including safer all-weather access to schools and healthcare facilities for 566 federally recognized sovereign Tribal governments, improve multi-modal access to recreational areas on public lands/national treasures, and expand economic development in and around Federal and Tribal lands while preserving the environment and reducing congestion," the department added.

To boost overall transportation funding the President proposed a restructuring of the tax code. Said the budget, "In order to tackle our infrastructure deficit and support job creation, the six-year budget includes \$317 billion to rebuild America's roads and bridges, an increase of almost 29 percent over current investment in our highway system."

Under an existing surface transportation law, Moving Ahead for Progress in the 21st Century Act (MAP-21), the umbrella recreation-related Transportation Alternatives Program receives more than \$800 million per year. That money is then relayed to

such programs as Recreational Trails, Transportation Enhancements, Scenic Byways, and Safe Routes to School.

Congress extended MAP-21 Aug. 8, 2014, through May 31 of this year with a temporary law (PL 113-159). That puts Congress and the President under the gun to come up with a multi-year replacement for MAP-21 over the next four months.

And the key to a renewal of the law - and a key to the extension of recreation programs - is as always finding a source of money to supplement dwindling gasoline tax revenues.

The administration would use new tax money to supplement the existing 18.5 cents per gallon gasoline tax that gins up about \$34 billion per year for surface transportation. The tax money would come from corporations that have transferred many billions of dollars to foreign countries. If they agreed to bring their money home, they would face reduced taxes.

Senate Environment and Public Works Committee Ranking Democrat Barbara Boxer (D-Calif.) and Sen. Rand Paul (R-Ky.) said January 29 they would introduce legislation shortly to capture the foreign tax revenues, called repatriation.

Boxer said, "This bipartisan repatriation proposal is a win-win for our economy and our country. First, it will bring back hundreds of billions of dollars in foreign earnings that are sitting offshore, which can be invested here in America to create jobs. Second, the taxes paid on those earnings will be used to extend the Highway Trust Fund, which supports millions of jobs nationwide."

Last year the Congressional Budget Office (CBO) made official what everyone sort of knew - the Highway Trust Fund is in dire condition. CBO said that the Highway Trust Fund would produce only \$34 billion per year from gasoline taxes, yet surface transportation expenditures would amount to \$46 billion, if held level. That's a \$13 billion gap, and it assumes absolutely no increases for individual programs.

Other proposals for raising the billions needed have emerged in recent months including an increase in the gasoline tax from Rep. Earl Blumenauer (D-Ore.)

For the last 20 years the gasoline tax has remained at 18.5 cents per gallon, not even keeping up with inflation. On February 3 Blumenauer again introduced a bill (HR 680) that would increase the gasoline tax by 15 cents per gallon over the next three years.

Blumenauer said last month that he has identified eight senators from both parties who in recent days have said they were at least open to an increase in the gasoline tax and in some cases endorsed it.

The proposals are crucial to outdoor programs because without significant new sources of money Congressional leaders will be tempted to limit surface transportation spending to core highway construction. And they might terminate recreation programs such as transportation enhancements and recreational trails.

In addition to Babin a number of Republicans on both sides of the Hill have traditionally had it in for the Transportation Alternatives Program (TAP) and the trails, etc. it finances.

For instance, when a short-term transportation fix bill was on the Senate floor July 29, 2014, Sen. Mike Lee (R-Utah) introduced an amendment that would have repealed TAP. The greater goal of the Lee amendment, voted down 28-to-69, was to turn most responsibility for surface transportation over to the states. It would have reduced the gasoline tax from 18.4 cents per gallon to 3.7 cents.

Similarly, when the House approved a fiscal 2015 Transportation-only bill June 10, 2014, it voted to bar the use of the regional grant money called TIGER for bicycle and pedestrian trail projects. In a final version of HR the bill appropriators followed rejected the House proposal and placed no new restrictions on TIGER (Transportation

Investment Generating Economic Recovery) grants.

FY 2016 budget breaks with GOP on all outdoor spending

The Obama administration once again February 2 proposed full funding for the Land and Water Conservation Fund (LWCF), but without amending the underlying law. That contravenes a recommendation of Senate Republicans who want the law rewritten, perhaps to include maintenance projects under LWCF. (See separate article page one.)

Separately in the budget, the administration recommended a whopping \$826 million increase in fiscal year 2016 for the Park Service Centennial. And it recommended both a short-term extension and a long-term rewrite of a federal recreation fee law, the Federal Lands Recreation Enhancement Act (FLREA).

As for spending per se in its budget request the Obama administration once again recommended significant, across-the-board increases to upgrade the National Park System as it approaches its Centennial in 2016. That includes \$326 million in regular appropriations and \$500 million in a fund to address maintenance that would require Congressional approval. Some of the \$500 million could be used by other Interior land management agencies, as well as the Forest Service. (See separate article page 8.)

The administration also revived a request for a major new emergency fire-funding plan. The proposal would move any annual fire suppression costs above 70 percent of the 10-year average to emergency disaster funding.

As such, the extra money - as much as \$400 million per year - would no longer come from an Interior and Related Agencies spending bill. The money instead would be allocated from an emergency disaster account, just as hurricane and flood appropriations are now. That in turn could prevent borrowing by the Forest Service from line programs to pay for fire fighting in costly fire seasons.

Government-wide the Obama administration's fiscal year 2016 budget request asks substantial increases in spending, including for natural resources.

Here are some major programmatic recommendations in the administration budget, as well as some key numbers.

FLREA Renewal: The administration recommended that Congress first extend the existing version of FLREA through Sept. 30, 2017. It is due to expire on September 30, 2016. Then it said it would propose legislation for Congress to "permanently" authorize the program. FLREA brings in an estimated \$281 million per year.

The House Natural Resources Committee approved a five-year reauthorization of FLREA on July 30, 2014, but that bill (HR 5204) would not make the program permanent.

Highway money: The Obama administration proposed legislation that would boost surface transportation spending over the next four years, perhaps insuring that recreation programs related to transportation thrive. Most important, the administration recommended \$847 million for a Transportation Alternatives Program that finances park and rec programs.

In the larger picture as part of his fiscal year 2016 budget request the President proposed a restructuring of the tax code to boost total surface transportation funding from the current \$46 billion per year level. (See previous article.)

Fire program: The administration's emergency fire spending plan has Congressional backers. For instance, Sen. Ron Wyden (D-Ore.) reintroduced the administration legislation (S 235) January 22 supported by four Republican senators.

The implications of the proposal for conservation are major, not only because of the damage fires can wreak but also from a budgetary standpoint. For instance, the hundreds of millions of

dollars that Congress often appropriates for emergency fire fighting come out of the Interior spending bill and draw money away from other purposes, such as conservation.

Said the administration budget, "This framework minimizes the adverse impacts from transferring funds from other programs, reduces fire risk, and allows landscapes to be managed more comprehensively."

The proposal gained traction in Congress last year but didn't make it over the finish line. Leaders of the Senate subcommittee on Interior appropriations included the substance of the legislation in a draft fiscal year 2015 appropriations bill, but House appropriators did not include it in a counterpart bill.

Said S 235 cosponsor Sen. Mike Crapo (R-Idaho), "By properly budgeting for such extreme fire events, we not only fund fire suppression in a fiscally-responsible manner, but also we stop the destructive, cyclical practice of fire borrowing that only exacerbates the problem of over-stocked, unmanaged forests across the West."

The other three Republican cosponsors are Sens. Jim Risch (R-Idaho), Cory Gardner (R-Colo.) and Steve Daines (R-Mont.)

In the House Reps. Michael Simpson (R-Idaho) and Kurt Schrader (D-Ore.) introduced a House version of a bill (HR 167) earlier this month.

Federal land management: The administration in general recommended increases in spending in fiscal 2016 for land management agencies.

For Park Service management the administration proposed \$3.048 billion, compared to a fiscal 2015 appropriation of \$2.615 billion. For the Park Service recreation and preservation program the administration proposed \$54.2 million compared to a fiscal 2015 appropriation of \$63.1 million. Most of that rec and pres decrease would come from a proposed reduction in heritage area grant spending.

Conservationists lauded the proposed conservation hikes. Said National Parks Conservation Association Senior Vice President for Government Affairs Craig Obey, "The Centennial of the National Park System should catalyze a renewed commitment to protect America's most special places. We have an opportunity for a bipartisan effort to reverse years of neglect and restore our parks while creating jobs and boosting local economies."

The numbers: Here are some of the administration's recommendations compared to a fiscal 2015 appropriations law (PL 113-235 of Dec. 16, 2014):

* LWCF FEDERAL APPROPRIATION: For federal land acquisition the administration recommended \$235.8 million compared to a final fiscal 2015 appropriation of \$165.7 million. The breakdown: NPS acquisition, \$64.3 million; BLM, \$38 million; FWS, \$58.5 million; FS, \$63 million; and DoI Valuation Services, \$12 million.

* LWCF FEDERAL (NEW GUARANTEED PROGRAM): This presupposes Congress approves new legislation to guarantee \$900 million per year for LWCF. These recommendations are in addition to the regular appropriations above. The breakdown: NPS acquisition, \$106.7 million; BLM, \$55.4 million; FWS, \$106.3 million; FS, \$64.7 million; and DoI Valuation Services, \$6 million.

LWCF STATE APPROPRIATION: For state LWCF grants the administration recommended \$53.2 million, compared to a fiscal 2015 appropriation of \$48 million.

LWCF STATE (NEW GUARANTEED PROGRAM): This allocation presupposes Congress approves new legislation to guarantee \$900 million per year for LWCF. For state grants the proposal would add \$47 million, for a total of \$100 million.

STATE WILDLIFE GRANTS: For wildlife grants the administration recommended \$70 million, compared to a fiscal 2015 appropriation of \$58.7 million.

RECOVERY: For urban parks the administration recommended \$25 million from a reauthorization of LWCF, compared to no appropriation in fiscal 2015.

NPS OPERATIONS: For operation of the Park Service the administration recommended \$2.515 billion compared to \$2.276 billion in fiscal 2015.

HISTORIC PRESERVATION: For the National Historic Preservation program the administration recommended \$89.9 million, compared to a fiscal 2015 appropriation of \$56.4 million. The increase would include \$30 million in new money competitive grants as part of a Civil Rights initiative.

NPS CONSTRUCTION: For NPS construction the administration recommended \$251 million compared to a fiscal 2015 appropriation of \$138.3 million.

NPS REC AND PRES: For NPS recreation and preservation the administration recommended \$54.2 million compared to a fiscal 2015 appropriation of \$63.1 million.

NPS HERITAGE AREAS: For National Heritage Areas the administration recommended \$10 million compared to a fiscal 2015 appropriation of \$20.3 million.

BLM LAND AND RESOURCES: For management of BLM lands the administration recommended \$1.067 billion compared to a fiscal 2015 appropriation of \$952.7 million.

BLM RECREATION: For BLM recreation the administration recommended \$75.4 million compared to a fiscal 2015 appropriation of \$67 million.

FOREST SERVICE: For the National Forest System the administration recommended \$1.648 billion compared to a fiscal 2015 appropriation of \$1.494 billion.

FOREST SERVICE RECREATION: For National Forest System recreation the administration recommended \$264 million compared to a fiscal 2015 appropriation of \$262 million.

FOREST SERVICE TRAILS: For National Forest System trails management the administration recommended \$82.5 million compared to a fiscal 2015 appropriation of \$77.5 million.

FWS OPERATIONS: For operation of the Fish and Wildlife Service the administration recommended \$1.327 billion compared to a fiscal 2015 appropriation of \$1.208 billion.

WILDLIFE REFUGE SYSTEM: For management of the National Wildlife Refuge System the administration recommended \$508 million compared to a fiscal 2015 appropriation of \$474 million.

Notes

NPCA: Pullman monument in offing. The National Parks Conservation Association (NPCA) said February 9 that President Obama next week will designate a national monument in the Pullman District of Chicago, the site of historic manufacturing, labor and African-American events. "The designation of Pullman as a national monument will further showcase the commitment of President Obama to diversify our national parks and preserve the places that define who we are as a nation," said Lynn McClure, Midwest senior director of NPCA. "Thanks to the President, Pullman's story will soon be remembered and recounted for the millions of people that visit America's national parks each year." The Illinois Congressional delegation has in the past championed designation of the district as a national park. The Pullman Company manufactured railroad cars at the site. Black workers at the company rebelled in the 1920s and organized the Brotherhood of the Sleeping Car Porters, the first African-American labor union. How much federal, private and other land goes into the monument is not clear, but NPCA said it anticipates NPS would own and operate a 13-acre Pullman Factory Complex at the heart of a monument.

Murkowski introduces monuments bill. Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) introduced sweeping national monuments legislation

(S 437) February 10 that would require not only Congressional approval of any monument but also state approval and preparation of an environmental review document. Although as many as a dozen such monument bills are expected in this Congress, Murkowski matters most because of her chairmanship. "It is clear that this White House is more concerned with securing its environmental legacy than protecting the economic well-being of Alaskans," said Murkowski. "My legislation is designed to make sure economic activity like fishing and responsible resource development is not put at risk - and family incomes damaged - by a stroke of the President's pen." Murkowski was already at war with the White House over the administration's plan to recommend wilderness status for the Arctic National Wildlife Refuge, blocking oil and gas development there.

Third study questions Utah land claims. Two University of Utah professors said February 5 that a wholesale transfer of federal lands to the State of Utah, as the state demands, would cause wholesale disruptions in the management of those lands. "If Utah succeeds in taking over federal public lands the state would have no choice but to dramatically increase development," said John Ruple, a research associate professor and coauthor of the analysis. "Furthermore, the public would have less, not more, input into land management, and all who utilize what are now public lands - industry and recreation interests alike - would likely see the cost of access increase substantially. In short, the public would suffer from this misguided effort." Ruple prepared the report with Bob Keiter, a distinguished professor of law. Utah Gov. Gary Herbert (R) signed into law March 23, 2012, the state law (HB 148) that demands the transfer to Utah of more than 31 million acres of federal land, excepting only national parks (save for portions of Glen Canyon National Recreation Area), national monuments and wilderness areas. On Oct. 27, 2014, Keiter and Ruple published a "white paper" that rejected the legal basis for the Utah state government's claim to federal lands. When the law was enacted the Utah Office of Legislative Research also questioned its

legality. In a third analysis on Dec. 1, 2014, economists from the University of Utah, Bureau of Economic and Business Research; Utah State University; and Weber State University questioned the economic viability of the transfers. Although the law mandated the transfer of the lands effective January 1, 2015, Herbert's office told us that the process merely begins on January 1. The most recent analysis from Ruple and Keiter is available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2516004.

Snowpack still low in the West. Department of Agriculture scientists said February 9 that the snowpack in seven big western states remains at or close to drought status. Snowpack provides most of the water supply to western states and in January the West received little snow. The Pineapple Express that has dumped huge amounts of rain in the West in February has deposited little mountain snow. The department's National Water and Climate Center hydrologist Cara McCarthy said, "January is usually a big month for snowpack accumulation. But most of the West didn't see significant gains this month. With isolated exceptions, only Arizona, New Mexico, Utah and Montana received near average precipitation last month."

FS planning guidance completed. The Forest Service formally announced February 6 in the *Federal Register* that it has completed guidance for implementing its new planning rule of March 23, 2012. The rule governs the preparation of individual unit plans for the 155 national forests and 20 grasslands in the National Forest System. The service said input from a National Advisory Committee for Implementation of the National Forest System Planning Rule helped the service devise the guidance. Nineteen national forests have begun revising plans under the 2012 rule. The individual forest plans, required by the National Forest Management Act, govern virtually all uses in the national forests. A coalition of public lands user groups Aug. 13, 2012, filed a major lawsuit against the rule, complaining that it goes too far in attempting to protect species. Motions for summary judgment

in the case were filed in April 2014 before U.S. District Court Judge Richard J. Leon in U.S. District Court for the District of Columbia. The suit is cited as *Federal Forest Resources Coalition v. Vilsack, Civil No. 12-1333*. The Forest Service guidance is available at <http://www.fs.usda.gov/planningrule>.

NPSer Goldfuss heads to CEQ.

The Obama administration last week reportedly chose Christy Goldfuss, the Park Service's deputy director for congressional and external relations, to serve as acting chairman of the Council on Environmental Quality (CEQ). Goldfuss just joined NPS in 2013 after working for the liberal nonprofit group, Center for American Progress. And the former head of the Center for American Progress, John Podesta, just happens to be the Obama administration's senior counselor for environmental affairs. Because a formal nomination of Goldfuss to the CEQ post would require Senate confirmation, and the Senate is controlled by Republicans, the administration is expected to let Goldfuss serve in an acting capacity through the rest of the administration.

Boxscore of legislation

Appropriations Fiscal 2016

No bill yet. Administration submitted request February 2. Budget recommends substantial programmatic increases, full funding for LWCF, \$826 million for NPS Centennial, FLREA extension.

Full-year appropriations Fiscal 2015

HR 83 (Christensen). President signed into law December 16 as PL 113-235. Roughly maintains fiscal 2014 spending. Includes PILT money. Does not include emergency fire-fighting account.

Omnibus public lands bill 2014

HR 3979 (McKeon). President signed into law Dec. 19, 2014, as PL 113-291. Includes 96 bills including measures to expedite O&G permits and grazing permits, authorizes copper mine exchange, protects Rocky Mountain Front and designate more than 200,000 acres of wilderness.

Land and Water Conservation Fund

S 338 (Burr). Burr introduced February

2. Would guarantee \$900 million per year to program in perpetuity.

Urban park fund

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

Emergency fire spending

HR 167 (Simpson), S 235 (Wyden). Simpson introduced January 6. Wyden introduced January 22. Both would shift emergency fire fighting costs out of line appropriations and into disaster spending.

Monument restrictions

HR 330 (Young), HR 488 (Amodei), S 437 (Murkowski). Young introduced January 13. Amodei introduced January 22. Murkowski introduced February 10. Young and Murkowski would require Congressional approval of any national monument. Amodei would require Congressional approval of any national monument in Nevada.

Wetlands regulations

HR 594 (Gosar). Gosar introduced January 28. Would forbid completion by EA of regulations expanding kinds of water bodies requiring wetlands protection permit. 141 cosponsors.

Surface transportation

HR 680 (Blumenauer). Blumenauer introduced February 3. Would increase the gasoline tax to help pay for surface transportation programs.

Fed lands open in government closure

S 146 (Flake). Flake introduced January 12. Would allow states to operate national parks, national refuges and national forests in the event of a government shutdown.

Public lands open to hunting

HR 528 (Benishak). Benishak introduced January 26. Would declare public lands open to hunting and fishing unless specifically closed.

California Desert

S 414 (Feinstein). Feinstein introduced February 9. Would protect 1.6 million acres of the California Desert, including two new national monuments.