

# Federal Parks & Recreation

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## **Appropriators near the goal line, but not over it yet**

Unless a miracle happens Congress will not make a January 15 deadline for completing fiscal year 2014 appropriations bills.

A House-Senate appropriations conference committee was supposed to reach agreement on a government-wide bill by this weekend. That would give the House and Senate time to pass an omnibus appropriations bill by the January 15 deadline.

If the appropriators fail to meet the schedule, Congressional leaders may be forced to extend an interim fiscal 2014 spending bill.

Some appropriators are optimistic. A spokesman for Senate Appropriations Committee Chair Barbara Mikulski (D-Md.) told us this week, "(W)e definitely hope to arrive at an agreement this week. We made a lot of progress over the holidays." But at press time an agreement had not been announced.

The House and Senate Appropriations Committee negotiators are operating under a schedule established by an interim spending law (PL 113-46 of Oct. 16, 2013) and a spending ceiling established by a budget law that President Obama signed December 26.

The appropriators and their staffs worked over the holidays and anticipated reaching final agreement as early as January 3 on an enormous, all federal departments spending bill. But that deadline morphed into today (January 10).

**Interior cap:** It is understood that the appropriators have approved a cap for the Interior and Related Agencies portion of the omnibus that is

\$4.5 billion more than an original House cap - \$28.8 billion compared to \$24.3 billion. The Senate had originally assigned a cap of \$30.2 billion.

However, compared to the bottom line appropriation for fiscal year 2013, once sequestration is counted, the subcommittees on Interior and Related Agencies may only have about \$1 billion more to play with in fiscal 2014.

And much of that extra \$1 billion may be eaten up by huge increases in fire fighting and a guaranteed \$425 million allocation to the payments-in-lieu of taxes (PILT) program.

"After the fire fix and the PILT fix there won't be much left to go around," said Alan Rowsome, who handles budget issues for The Wilderness Society. "There certainly won't be enough left to fix land and resource management needs."

**NPS extra money:** Cognizant of the spending pinch supporters of the National Park Service say they intend to ratchet up the pressure on Congress and the Obama administration to look outside regular appropriations for money. "We'd like to see 15-to-20 percent of revenues (for NPS) coming from partners and fees," said Derrick Crandall, president of the National Park Hospitality Association, NPS's concessioners.

Given the size of the NPS budget - some \$2.6 billion per year - that's a lot of money, between \$390 million and \$520 million. However, entrance fees already produce close to \$180 million per year for the agency.

Leading senators from both parties in early June backed public-private partnerships as a means of providing significant new revenues for the system. Most specifically, Sen. John Portman (R-Ohio) said he and Sen. Mark Udall (D-Colo.) are seeking support for legislation to establish an endowment with matched dollar-for-dollar public-private contributions to the parks. Past such proposals recommended as much as \$1 billion per year.

The senators are following up in a way on both a private Second Century

Commission report that advocates regeneration of the park system and the Park Service's own agenda *A Call to Action* of Aug. 25, 2011. *A Call to Action* also recommends a \$1 billion endowment program.

As a follow-up to *A Call to Action*, major organizations backing NPS are attempting to identify unconventional revenues for the parks. The National Park Foundation, the National Parks Conservation Association and the National Park Hospitality Association have come up with some 16 recommendations.

The October 16 budget/appropriations law also established a mid-December deadline for Congress to complete a budget agreement that set an overall spending ceiling for appropriators. The President signed the budget agreement into law December 26.

Not only does the Congressional budget agreement settle overall spending for fiscal 2014, but it also does the same for fiscal 2015. So appropriators should know this spring and summer how much money they will have for the fiscal 2015 appropriations bills.

House and Senate appropriators had made stabs last summer at writing fiscal 2014 appropriations bills. In general House Republicans had recommended major reductions in spending, including some large decreases for park and rec programs. Senate Democrats on the other hand had recommended level or even higher spending for park and rec programs.

For the Interior Department and Related Agencies a House subcommittee approved a bill July 23. In the Senate leaders of the Senate Interior and Related Agencies Appropriations subcommittee in early August published a draft spending bill. The Senate leaders would appropriate \$5.9 billion more than the \$24.3 billion recommended by the House subcommittee. The Senate subcommittee would spend \$30.2 billion.

**The numbers:** Here are some of the fiscal 2014 proposals in the two bills compared to fiscal 2013, but not

counting 5.5 percent across-the-board sequestrations in fiscal 2013. We also have not included riders because appropriators will probably not have time to write spending bills with riders.

*LWCF FEDERAL:* Senate draft, \$225 million; House subcommittee, zero; fiscal 2013, \$186 million.

*LWCF STATE:* Senate draft, \$45 million; House subcommittee, zero; fiscal 2013, \$45 million.

*STATE WILDLIFE GRANTS:* Senate draft, \$61.2 million; House subcommittee, zero; fiscal 2013, \$61.2 million.

*URBAN PARKS AND RECREATION RECOVERY:* Senate draft, \$10 million; House subcommittee, zero; fiscal 2013, zero.

*FOREST LEGACY:* Senate draft, \$60 million; House subcommittee, zero; fiscal 2013, \$53 million.

*NPS OPERATIONS:* Senate draft, \$2.279 billion; House subcommittee, \$2.121 billion; fiscal 2013, \$2.214 billion.

*HISTORIC PRESERVATION:* Senate draft, \$65.9 million; House subcommittee, \$45.3 million; fiscal 2013, \$56 million.

*NPS CONSTRUCTION:* Senate draft, \$145 million; House subcommittee, \$106 million; fiscal 2013, \$131 million.

*NPS REC AND PRES:* Senate draft, \$64.3 million; House subcommittee, \$48.5 million; fiscal 2013, \$60 million.

*NPS HERITAGE AREAS:* Senate draft, \$21.2 million; House subcommittee, \$8 million; fiscal 2013, \$9 million. In addition the Senate draft would extend for one year the authorization for 12 national heritage areas. The House subcommittee would not.

*FOREST SERVICE RECREATION:* Senate draft, \$261 million; House subcommittee, \$262 million; fiscal 2013, \$276 million.

*FOREST TRAILS:* Senate draft, \$81.4 million; House subcommittee, \$82.5 million; fiscal 2013, \$78.1 million.

*BLM RECREATION:* Senate draft, \$51.8 million. Fiscal 2013, \$48.6 million. House not broken out.

*WILDLIFE REFUGE SYSTEM:* Senate draft, \$484 million; fiscal 2013 \$478 million. House not broken out.

Three other outdoor-related appropriations bills also have not been completed. They are:

**Transportation:** Old House cap, \$44.1 billion. Old Senate cap, \$54 billion. The House Appropriations Committee approved its bill (HR 2610) June 27 with \$44.1 billion in discretionary spending, or \$7.7 billion below the fiscal 2013 level. And it is \$4.4 billion below the fiscal 2013 level counting sequestration.

The Senate Appropriations Committee approved its bill July 24 with \$54 billion. The Senate panel is far more generous to rail and mass transit than the House. Also the House committee would reduce spending for the Department of Housing and Urban Development, which is included in the Transportation bill.

**Energy and water:** Old House cap, \$30.4 billion. Old Senate cap, \$34.8 billion. The House approved its bill (HR 2609) July 10 with \$4.9 billion for the Army Corps of Engineers, a decrease of \$104 million below the fiscal year 2013 enacted level. It is also \$700 million below the fiscal 2013 level when sequestration is counted in.

The Senate Appropriations Committee approved its energy and water bill (S 1245) June 27 with \$34.8 billion.

**Agriculture:** Old House cap, \$19.5 billion. Old Senate cap, \$20.9 billion. The House Appropriations Committee approved its bill (HR 2410) June 13 with \$19.5 billion, or \$1.4 billion below the fiscal 2013 level before sequestration and about on a par with fiscal 2013 counting sequestration. The measure was

pending on the House floor at press time.

The Senate Appropriations Committee approved its bill (S 1244) June 20 with \$20.9 billion.

## **Jewell terminates National Blueways System, for now**

Secretary of Interior Sally Jewell January 3 discontinued a National Blueways System program after a year of assaults from Republicans on both sides of the Hill.

Jewell indicated in a department statement she made the decision after an internal review. That review apparently found little interest in a program designed to designate broad watersheds. Jewell on July 17, 2013, had suspended the program.

The department published this statement, attributed to spokeswoman Jessica Kershaw, "Following a Departmental review of the National Blueways recognition process, Secretary Jewell has directed the Department not to designate any additional watersheds as 'National Blueways.'"

"The National Blueways Committee will be deactivated, but the Department will continue to encourage collaborative, community-based watershed partnerships that support sustainable and healthy water supplies."

However, the department did not deauthorize the one blueway on the books - a Connecticut River and Watershed National Blueway.

Rep. Cynthia Lummis (R-Wyo.) said it was about time the Obama administration pulled the plug on a program that did not consult with the public before designating conservation areas.

"This program has been a disaster from the outset, with the Department of the Interior seeking to slap federal designations on millions of acres of watershed without any formal public process and over local objections," said Lummis, a member of the Western Caucus.

The end of the program was foreordained on July 3, 2013, when Jewell withdrew a designation of a White River Blueway in Arkansas and Missouri from the system. In a memorandum Jewell said, "Therefore: Based on the foregoing, I hereby withdraw the designation of the White River and its Watershed as a National Blueway and order the National Blueways Committee to advise the nominating stakeholder partnership of the withdrawal of the National Blueway designation." Two weeks later on July 17 she also announced a "stay" in the program.

In its defense the Obama administration said the National System of Blueways would not affect land rights and would boost local economies. Said an Interior Department fiscal year 2014 budget request: "The NBS does not impose use limitations or regulatory requirements, but instead through collaborative efforts with others, recognizes and supports existing local and regional conservation, recreation, and restoration efforts by coordinating ongoing Federal, State, and local activities."

The removal of the White River from the system left just the one blueway on the books - the Connecticut River and Watershed National Blueway in New England. Former Secretary of Interior Ken Salazar designated the Connecticut Blueway at the same time he established the system on May 24, 2012.

House subcommittee on Water Chairman Tom McClintock (R-Calif.) has led the charge against blueways, alleging environmentalists are contemplating designation of portions of 3.5 million miles of rivers across the country. That assertion is based on a May 28 request to Senate appropriators from 79 environmental groups for a \$3.3 million allocation to the program in fiscal year 2014.

The environmentalists in their letter promoted the economic benefits of blueways to outdoor recreation and said, "With 3.5 million rivers across our country, we have only scratched the surface when it comes to establishing Blueways. There is tremendous potential

to expand existing trails and create new ones."

Of political concern to the Republicans was the role played in setting up the system by Rebecca Wodder, a former senior advisor to the Department of Interior and long-time environmental activist. Wodder, a former CEO of the American Rivers conservation group, withdrew her nomination last year as assistant secretary of Interior for Fish, Wildlife and Parks.

Seven senators and 18 House members of the Western Caucus wrote Salazar Feb. 14, 2013, to request cancellation of the program. They objected to a provision of Salazar's Secretarial Order 3321 setting up the system that put a committee of federal officials in charge, without Congressional input.

In their letter to Salazar the Republicans said, "According to the Order, it appears that any watershed in the United States could be designated without any vote in Congress and without proper public notice." The letter was sent by the Western Caucus en masse. Caucus cochairs Sen. John Barrasso (R-Wyo.), Rep. Stevan Pearce (R-Ariz.) and Rep. Lummis led the effort.

### **Wyden move to Finance may leave gap in outdoor agenda**

The Senate Energy Committee's outdoor goals may be reshuffled this year if chairman Ron Wyden (D-Ore.) takes a new job as head of the Senate Finance Committee.

If Wyden does take the prestigious finance committee position, and it appears almost certain that he will, it might compromise such things as omnibus lands legislation.

However, Wyden said he was not abandoning his lands agenda, if and when he assumes the finance committee position.

He implied he would take the job when he said in this statement, "At the

same time, Energy and Natural Resources issues - from restoring forests and creating jobs in the woods, to streamlining and increasing incentives for lower-carbon energy - are crucial and I look forward to pressing forward on these issues."

A spokesman for Wyden confirmed that the senator intends to take the finance committee job. But, said spokesman Keith Chu, Wyden intends to remain on the Senate Energy Committee and pursue his lands agenda at the same time.

In fact as chairman of the tax and revenue finance committee he would be in an even better position to obtain money for conservation programs, such as the Land and Water Conservation Fund (LWCF).

The chairmanship of the Senate Finance Committee opened up when President Obama December 20 said he would nominate the incumbent Sen. Max Baucus (D-Mont.) as ambassador to China. If and when Baucus leaves the Senate, Wyden is in line to succeed him in the finance chair.

That in turn would leave open the chairmanship of the Senate Energy Committee, for which Sen. Mary Landrieu (D-La.), a staunch friend of the energy industry, is being groomed. Landrieu is up for reelection in what is expected to be a closely-contested battle and the energy committee job is seen as a boon to her campaign.

"It's fair to say energy will be her focus rather than public lands," said one lobbyist.

Landrieu has long been a champion of LWCF but she has a different strategy for supporting conservation than Wyden. She is a lead sponsor of a bill (S 1273) that would divert \$67.5 million per year from new offshore oil and gas development to the state side of LWCF, in addition to existing appropriations.

But she is not a sponsor of a more straightforward LWCF bill (S 338) that Wyden is promoting that would guarantee \$900 million per year for the program from offshore oil and gas development

without further appropriation. Under existing law most money for LWCF must be appropriated.

That doesn't mean Landrieu has a problem with LWCF. For instance, when former Secretary of Interior Ken Salazar came before the Senate Energy Committee on Jan. 15, 2009, for his confirmation hearing Landrieu promoted the program.

"We created a program that authorized \$450 million for the federal side and \$450 million for the state side," she said. "Not just big parks in the West but in crowded cities from New York to New Jersey to the South and to the West. Unfortunately, Stewart Udall's vision, which I hope you can add to, was never funded. Not once in 65 years was the (LWCF) ever fully funded, either on the state or federal side."

But, again, her first goal is gaining a significant share of offshore royalties for coastal states. Onshore states receive 48 percent of onshore energy royalties, but coastal states receive no money from offshore development. S 1273 would allot 37.5 percent of the billions of dollars of annual offshore royalties to coastal states such as Louisiana. At the same time to sweeten the deal she would allot \$67.5 million per year to the state side of LWCF.

**Omnibus lands bill(s):** Wyden in 2013 moved aggressively to pass lands bills in his committee to set up possible omnibus measures. Most recently on December 19 the committee approved 10 lands bills, including a measure to revise national forest cabin fees (S 1341). *(See related article page 10.)*

At the meeting Wyden repeated his pledge to package lands bills to ease passage through the Senate. "We decided early on that we wanted to see if we could break through on some of the paralysis here in the Senate," he said. "I'm expecting to be pulling out all the stops with (Sen. Murkowski) in January to have an agenda that builds on what we've done this year." Sen. Lisa Murkowski (R-Alaska) is ranking minority member of the energy committee.

## Five DoI nominees may run into rough Republican waters

Senate Energy Committee Republicans questioned last month the qualifications of two nominees to top leadership positions in the Interior Department.

But committee Democrats defended the nominations of Neil Kornze to head the Bureau of Land Management (BLM) and Assistant Secretary of Interior for Policy Rhea Suh as assistant secretary of Interior for Fish and Wildlife and Parks. Suh would set policy for the Park Service and Fish and Wildlife Service.

Sen. John Barrasso (R-Wyo.) December 17 questioned whether Kornze had the requisite experience in natural resource management to be director of BLM, as required of the director by the Federal Land Policy and Management Act of 1976 (FLPMA). And ranking committee Republican Lisa Murkowski (R-Alaska) December 12 questioned whether Suh understood natural resource issues applicable to Alaska.

Separately, hanging over the heads of Kornze, Suh and three other top Interior Department nominees is the reaction of Murkowski to a December 23 Interior Department decision to reject a road across a wildlife refuge in Alaska.

The decision infuriated Murkowski, who may be tempted to block any or all of the nominations by placing a legislative "hold" on them. However, her office told us that no decisions have been made yet.

In his criticism of Kornze Barrasso said at the December 17 confirmation hearing, "I do remain concerned about your lack of experience as BLM director. . . This is not the resume of a perfect nominee. To me it doesn't suggest you will be the 'best director we've ever had,' as Sen. Reid stated."

Barrasso quoted from FLPMA, "The Director of the Bureau shall have a broad background and substantial

experience in public land and natural resource management."

Kornze has served for the last two years as acting BLM director, working on a broad range of issues. Before that he served as a senior advisor to Senate Majority Leader Harry Reid (D-Nev.)

In support of Kornze Reid took time to testify before the energy committee December 17. He said, "This is an unusually qualified person for (BLM). He has Nevada roots but he understands the West remarkably well. And as Sen. Murkowski said, he is a person who will be on the ground trying to figure out the best thing to do. I have every bit of confidence in Neil Kornze that he will be the best director we've ever had at (BLM)."

At a December 12 hearing Murkowski was less supportive of the nomination of Suh as assistant secretary for Fish and Wildlife and Parks. "I am surprised you told me that you have not been involved with policy issues (involving Alaska). . . I think you have a pretty steep learning curve when it comes to the State of Alaska, particularly with the federal presence there."

But Suh said that while she has not been involved with making line decisions on Alaska policy, she has been very much involved with overall Alaska policy. "I am familiar with on-the-ground issues," she said. "I have quite a bit of experience working on natural resource policy. I have been to your great state probably a dozen times."

**Connor almost set:** Kornze and Suh are among five major Interior Department nominees now before the Senate. Leading the pack is the nomination of Michal L. Connor, former Bureau of Reclamation Commissioner, as deputy director of the Interior Department. The Senate cleared Connor's nomination for a cloture vote December 19 that would block a "hold" placed on the nomination by Sen. Lindsey Graham (R-S.C.) That cloture vote may open the way for a final vote for confirmation shortly.

Before 2009 Connor served as counsel to the Senate Energy Committee.

(Graham has threatened to place a hold on virtually all Obama administration nominees because he is not satisfied with answers to his questions about Benghazi, Libya terrorist attacks.)

**Schneider hearing:** The Senate Energy Committee December 17 held a hearing on the nomination of veteran Washington, D.C., attorney Janice M. Schneider as the next assistant secretary of Interior for Land and Minerals Management. She would set policy for BLM.

**Beaudreau hearing:** The Senate Energy Committee December 12 held a hearing on the nomination of Tommy Beaudreau as assistant secretary of Interior for Policy. Beaudreau is currently director of the Bureau of Ocean Energy Management.

Schneider and Beaudreau received a warmer welcome to the committee than did Kornze. As Barrasso concluded in his criticism of Kornze, "BLM manages 245 million surface acres and 700 million mineral acres. The agency has 10,000 employees. This is not a position for on-the-job training. I believe the burden remains on you, Mr. Kornze, to show us why you should be confirmed."

However an association of BLM retirees, the Public Lands Foundation, has endorsed Kornze's nomination. BLM retirees have traditionally been hesitant to back any director who did not come up through the ranks.

Said Public Lands Foundation President Edward W. Shepard in a letter to the committee, "The PLF urges Mr. Kornze's expedited confirmation. We believe it important to have a confirmed Director in place to lead the BLM. Further, the PLF encourages the placement of experienced natural resource professionals in key management positions within the BLM, including the Deputy Director for Operations, Assistant Director, State Director and District Manager positions, and we feel Mr. Kornze recognizes how essential experienced natural resource professionals are for the management of the public lands."

## Feds defend to top court trail use of old rail line

The federal government told the Supreme Court last month that when a railroad abandons a right-of-way across federal land under an 1875 law the land reverts to the federal government.

That is true, the U.S. Solicitor told the Supreme Court in a written brief, even if the federal government has transferred a tract along the right-of-way to a private party in the form of a patent.

In this instance the federal government wants to use the right-of-way for a rail-trail. And the lawsuit is pitting leading national conservative groups against leading national conservation groups.

While the case, *Brandt v. U.S.*, involves just one tract of land the precedent could apply to as many as 750,000 acres of land that railroads abandoned in the 1990s. How much of that has been patented to private interests is not clear.

In addition to the practical implications of the case there are political implications. Said the Rails-to-Trails Conservancy in a December 23 bulletin to its members, "We're up against some of the most powerful, well-funded organizations in America - and they're taking aim at the very heart of the rail-trail movement."

Indeed the private landowner, Marvin Brandt, is supported by the Cato Institute, the Mountain States Legal Foundation and the Pacific Legal Foundation, all powerful conservative organizations.

However, the Rails-to-Trails Conservancy has a pretty powerful partner in the form of the United States Department of Justice. No less than six Justice Department attorneys joined Solicitor General Donald B. Verrilli, Jr. in filing a brief to the Supreme Court last month.

When the federal government

patented the lands within railroad ROWs to private landowners, it subjected the patents to the railroad's use of the lands. What happens to those lands after a railroad is abandoned - reversion to landowners or reversion to the feds for a trail - is now before the Supreme Court.

Complicating things is a 1976 patent of federal land along the right-of-way issued to predecessors of appellant Brandt. In 2006 the feds filed action (quiet title) to obtain the patented land as part of a 28-mile rail-trail within the Medicine Bow-Routt National Forest in Wyoming. The government obtained title to land held by 50 other landowners but Mr. Brandt was not selling.

Brandt argues that various Homestead Acts allowed him to patent land on the subject right-of-way and gave him priority on abandonment of the ROW in the form of his title to the land.

The Tenth and Seventh U.S. Circuit Courts of Appeals have issued contrasting decisions - the Tenth that the federal government holds a reversionary right to the private lands and the Seventh that the federal government does not.

The Solicitor General summed up for the Supreme Court, "Here, the statutory text, this Court's prior decisions, the legislative history, and subsequent Acts of Congress show that the 1875 Act's grant of a right-of-way preserves reversionary interest in the right-of-way land for the United States in the event that the railroad later forfeits or abandons the right-of-way."

But in an amicus brief the National Association of Reversionary Property Owners said the taking of Brandt's title "would reverse the historical disposition of the property interests like the ones at issue here - likely in excess of a million acres." The association estimated that railroad companies have abandoned 130,000 miles of line, mostly on federal rights-of-way.

The case involves a tangle of federal laws, but the question before the Supreme Court boils down to this: On abandonment of a railroad ROW through federal land does the federal government hold a reversionary right to private property through which the ROW courses? Or do the feds only own an easement that was extinguished on abandonment of the ROW?

In a series of decisions in 2008 and 2009 the U.S. District Court in Wyoming held that the federal government held a reversionary right to the ROW and could file suit in federal court to obtain title to the private lands. In a Sept. 11, 2012, decision the Tenth U.S. Circuit Court of Appeals agreed.

However, the Seventh Circuit, according to the Brant's petition to the Supreme Court, "concluded that 1875 Act ROWs are easements and that the United States did not retain a reversionary interest after the underlying land was patented into private ownership."

A trove of background information on the lawsuit is at the Rails-to-Trails Conservancy website, <http://www.railstotrails.org/news/features/supremecourt-info.html>.

## **Conferees drop Manhattan Project Park from DoD bill**

The drive to designate a Manhattan Project National Park to commemorate the development of the Atomic Bomb appeared to fall apart late last month.

A House-Senate conference committee on a Department of Defense authorization bill (HR 3304) dropped the provision that the House had included in its original authorization bill. A Senate Armed Services Committee version of a bill did not include the provision.

However, Sen. Maria Cantwell (D-Wash.) introduced an amendment to the must-pass Defense Authorization Act (S 1197) November 21 (SA 2492) to designate the park in three areas - Los Alamos, N.M.; Oak Ridge, Tenn.; and Hanford, Wash. She had three cosponsors.

Unfortunately for Cantwell, many other senators had introduced literally hundreds of amendments to the Defense bill, so leadership gave up on floor consideration of S 1197 and instead moved directly to a conference with the House-passed bill. That killed all pending Senate amendments.

The conferees released a final agreement on HR 3304 December 12 and the House approved the conference bill the same day. The Senate approved the measure on December 19 and President Obama signed it into law December 26.

Legislation to commemorate the Atomic Bomb is not without controversy. Some liberal Democrats object to memorializing weapons of mass destruction. And some conservative Republicans are leery of spending the \$21 million the Congressional Budget Office estimates it would cost the Park Service to manage the site over the next 15 years. The legislation reached the House floor last year but did not have the two-thirds vote needed to pass.

Cantwell has also introduced the Manhattan Project provision this year as a stand-alone bill (S 507). The Senate Energy Committee approved that measure June 27.

There are important differences between the Senate bill/amendment and the House bill/amendment. The Senate would delay the establishment of the park until enough sites were accumulated to make "a manageable park unit." The House bill simply directs the Park Service within a year to designate boundaries for the historical site from the locales in Los Alamos, N.M.; Oak Ridge, Tenn.; and Hanford, Wash.

In a separate area, reflecting western Republican concerns about an expanded federal land base, the House bill would not allow land purchases. It would also forbid the use of condemnation to obtain land and would bar federal agencies from establishing a "buffer zone" around the park properties.

The counterpart Senate bill specifically authorizes land acquisition,

does not mention condemnation and does not mention buffer zones.

Cosponsoring Cantwell's amendment were Sens. Martin Heinrich (D-N.M.), Patty Murray (D-Wash.) and Tom Udall (D-N.M.)

## **Senate committee also okays national forest cabin bill**

Both the Senate Energy Committee and the House Natural Resources Committee have now approved legislation (HR 1159, S 1341) to revise national forest cabin fees.

The measures would establish several tiers of fees beginning at \$500 per year and increasing by \$500 increments to a top fee of \$5,500 per year in the Senate bill and \$5,000 in the House bill.

The legislation would replace an existing law - the Cabin User Fee Fairness Act of 2000 that bases fees on Forest Service appraisals, at five percent of the market value. In 2007 the Forest Service began reappraising cabins, and, because some cabins had not been appraised for as much as 30 years, the appraisals went through the roof.

So Congress is trying to move legislation that would reduce fees and allow renters to retain their cabins. Said the lead sponsor of the Senate bill, Sen. Jon Tester (D-Mont.), after the Senate committee approved his bill December 19, "Forest Service cabins provide an affordable place to enjoy Montana's outdoors. This bill will make sure that cabins remain affordable so Montana families can continue to hunt, fish and recreate on the same land they have for generations."

The House Natural Resources Committee approved its bill, HR 1159, March 20 by voice vote. Rep. Doc Hastings (R-Wash.) is the lead sponsor of the House bill. Both measures enjoy bipartisan support.

In the last Congress the House approved its forest cabin bill on Sept. 10, 2012, without a recorded vote. The

Senate Energy Committee held a hearing in March 2012, but the measure went no further.

However, there were a couple of hiccups in the last Congress. The Congressional Budget Office (CBO) initially said the bill would cost \$30 million, but later amended its report to say the bill would have no costs.

And the Forest Service expressed concerns to the Senate Energy Committee on March 22, 2012, about high-end cabins not paying high enough fees.

The Senate committee bill would establish 11 tiers of fees based on cabin values beginning at \$500 and going up to \$5,500. The House committee bill would establish 10 tiers running from \$500 to \$5,000. The Senate committee would have the Forest Service complete appraisals in two years and the House committee in three years.

Both bills would adjust fees annually based on the same inflation factor and both would assess a cabin transfer fee of \$1,200.

The National Forest Homeowners association says getting the bill enacted "remains our number one priority." The association is awaiting a new Congressional Budget Office report on the budget impact of the Senate committee bill.

Lead sponsor and House Natural Resources Committee Chairman Doc Hastings (R-Wash.) said the bill would prevent soaring increases in fees assessed against family-owned cabins in the forests. "For example, some families have received notice that their fees would increase by 1,000 percent," he said. "It's important that the public have access to public lands and these cabins shouldn't be priced-out of existence."

## **Promise of quick work on Farm Bill still just a promise**

Although senators and House members continue to declare they are near agreement on a new, multiple-year

Farm Bill, they still have not concluded a deal.

Senate Agriculture Committee Chair Debbie Stabenow (D-Mich.) told reporters January 7 that House-Senate conferees are close to a deal. "We're just tying up loose ends, feeling very good about things," she said. "We just have to get through that conference committee, get the report signed. There's a desire to get this done by everybody."

Stabenow said the full conference committee might meet by today (January 10). However, promises of a new Farm Bill have been coming out of Congress for years, only to fail. Congress then extends the old law for a few months at a time.

There had been speculation that the failure by Congress to complete a Farm Bill by December 31, or at least to extend the old law, would trigger widespread chaos in the agricultural community, including a huge spike in milk prices.

But Secretary of Agriculture Tom Vilsack assured Congress that if Congress waited until this month to pass a Farm Bill no harm would be done, according to Rep. Jim Costa (D-Cali.) "(Vilsack) has also indicated that should be complete the Farm Bill in January, as we are talking about, there should not be any problems regarding the potential impacts of the dairy title being implemented. . .," Costa said.

In order to keep the pressure on a House-Senate conference committee, the Senate refused to extend the old law through January.

While the House and Senate have their differences about conservation provisions in the competing bills, food stamps has been the most problematic conference issue. The House would reduce food stamp spending by \$39 billion over ten years, the Senate by \$4 billion over ten years and the administration would not cut program spending, period.

The House-Senate conference committee is tasked with quickly

resolving massive differences between a House-passed, three-year bill (HR 2642) and a Senate-passed, five-year bill (S 954). The Senate approved its measure in June and the House in July. However, the two sides have been unable to even come close to an agreement on a new Farm Bill over the last two years.

In total the Senate bill would trim \$3.5 billion from projected spending for conservation programs, according to the Congressional Budget Office (CBO). The House committee bill would reduce conservation spending by \$4.8 billion, said CBO.

Last month Secretary of Agriculture Tom Vilsack made a strong pitch for inclusion of conservation programs in the bill, not just for conservation purposes per se but also for recreation and the economy. At a press conference hosted by Ducks Unlimited he noted that recreation contributed \$640 billion per year to the nation's economy.

Overall the Senate bill follows the pattern of Farm Bill legislation over the last two years, i.e. it would reduce funding across-the-board, would reduce funding for conservation programs specifically and would consolidate programs. The House bill follows suit in reducing spending, but with even larger cuts than the Senate.

Included in both the Senate-passed and House-passed bills are provisions to keep alive the Conservation Reserve Program, a consolidated conservation easement program, an Open Fields program and the new loan/conservation policy.

In total the House would reduce farm spending by \$40 billion over the next 10 years, or \$17 billion more than the \$23 billion the Senate would cut.

The Senate generosity applies to conservation, including a Conservation Reserve Program and an Open Fields program. The Senate committee would reduce the Conservation Reserve Program from the existing 32 million acres to 25 million acres, but that is more than the 24 million acres in the House bill.

And both bills would retain an Open Fields program with the Senate providing \$40 million over five years and the House \$30 million. The program is formally known as the Voluntary Public Access and Habitat Incentive Program. The money would be used to continue an existing program that has passed \$50 million in grants through states to encourage private landowners to welcome outdoor recreationists on their lands.

### **WRDA conferees may have hit conservative speed bump**

Despite overwhelming House and Senate votes for a new Water Resources Development Act (WRDA), conservative organizations have launched a determined last-minute campaign against the measure.

Groups such as the Heritage Foundation are demanding changes that would effectively have a House-Senate conference committee gut the bill.

For instance both the House and Senate bills (HR 3080, S 601) would authorize \$8 billion and \$12 billion respectively in new projects, including several restore the Everglades ecosystem. But the Heritage Foundation said in a Nov. 26, 2013, paper that Congress should only approve projects of "national significance."

In addition the foundation would terminate beach nourishment projects, many of which benefit recreation. Says the foundation, "Do not extend beach nourishment and hold non-federal entity responsible for renourishment. Put both programs on a path toward privatization or devolution to the states and localities."

Critics of the legislation such as the foundation and Heritage Action have great influence over Tea Party members of Congress, who in turn have great influence over Republican leaders. Whether the critics can reverse course on a new WRDA bill remains to be seen because the measures have strong support.

For instance, the House

approved its bill Oct. 23, 2013, by an overwhelming 417-to-3 margin. The Senate passed its measure on May 15, 2013, by an 83-to-14 margin.

In total the House bill would authorize \$8 billion in expenditures and the Senate \$12 billion. However, the House Transportation Committee says its bill would deauthorize \$12 billion in old projects, effectively paying for itself.

Unlike the House bill, which identifies 23 new water resource projects, the Senate bill would let the Obama administration choose projects to fund. However, the Corps would be expected to follow its own priority recommendations.

Money to pay for the projects - whether identified by the administration or by Congress - would still have to come from separate appropriations bills.

The Office of Management Budget (OMB) Oct. 23, 2013, conditionally endorsed the House bill (OMB had earlier endorsed the Senate bill in May). "The Administration supports House passage of H.R. 3080 as it would advance some of these policies and principles, but it should be improved with additional reforms and modifications of problematic provisions," said OMB.

The two bills differ on significant outdoor details. For instance the House October 23 approved an amendment that would forbid the Obama administration from implementing its National Ocean Policy. The vote was 225-to-193.

Although the House and Senate bills differ on crucial provisions, on perhaps the lead outdoor issue - authorization of the next generation of projects to restore the Everglades ecosystem - they are in substantial agreement. The House bill would explicitly authorize four Everglades projects that would cost more than \$1.8 billion. Half of the \$1.8 billion would come from federal money and half from State of Florida money.

The Senate would authorize the projects inferentially by including

water resources projects cleared by Corps of Engineers reports.

**Everglades restoration:** Perhaps the most important outdoor provisions in the two bills are the authorizations of four Everglades projects, as singled out in the House bill.

Since 2000 when Congress approved an overarching multi-billion-dollar Comprehensive Everglades Restoration Project (CERP) in a previous WRDA, only two of the dozen or so projects anticipated by the law have been authorized and been launched.

Under CERP the Corps of Engineers, the State of Florida and Interior Department agencies are charged with carrying out major projects to restore the Everglades by in general replumbing south Florida.

HR 3080 would authorize these four Everglades projects:

\* Caloosahatchee River West Basin Storage Reservoir, \$594 million (\$297 million federal, \$297 million state),

\* Biscayne Bay coastal wetland, \$192 million (\$96 million each),

\* Broward County water preserve area, \$866 million (\$433 million each), and

\* C-111 Spreader Canal, \$180 million (\$90 million each).

Sen. Bill Nelson (D-Fla.) and Reps. Alcee Hastings (D-Fla.) and Mario Diaz-Balart (R-Fla.) put the four Everglades projects into stand-alone bills (S 414, HR 913) in February with slightly less authorization amounts.

More information is available on the projects at:  
[http://www.evergladesplan.org/pm/projects/landing\\_projects.aspx](http://www.evergladesplan.org/pm/projects/landing_projects.aspx).

## Notes

**Fed fee free days vary.** Federal land management agencies will hold a series of no fee days in 2014, with slightly different schedules for each

agency. Altogether agencies will not require fees on eight sets of days. The Park Service, the Forest Service, the Fish and Wildlife Service, and the Bureau of Land Management will begin the fee-free days on January 20, Martin Luther King's Birthday. Agencies will also not charge entrance fees on February 15-17, Presidents' Day weekend (four agencies); on National Park Week weekend (NPS only); on June 14 National Get Outdoors Day (Forest Service only); August 25 National Park Service birthday (NPS only); September 27 National Public Lands Day (six agencies); October 12 National Wildlife Refuge Day (Fish and Wildlife Service); and November 11 Veterans Day (four agencies). The agencies hold the fee-free days to encourage visitation and to commemorate specific days.

### **Mammoth ski exchange possible.**

Barely two weeks after the House approved legislation (HR 1241) to authorize a land trade to benefit the Mammoth Mountain Ski Area, Sen. Dianne Feinstein (D-Calif.) introduced the same bill in the Senate. Because the measure enjoys support of Republicans, Democrats and the Obama administration it could be on a short list for enactment. The measure would transfer to the ski area the 21 acres it now leases from the Inyo National Forest for use as a main base. In exchange the bill would have the Forest Service acquire 1,500 acres and accept a cash payment from the ski area to make the exchange come out even. Said Feinstein on introducing her bill (S 1888) December 20, "The Main Lodge building and Mammoth Mountain Inn are now more than 50 years old and require significant improvements and upgrades. Insufficient employee housing, parking and guest amenities must be corrected and skier staging and lift line queuing areas must be modernized. In order to make the necessary long-term investments, resort operators are seeking fee title to the land and have been working with the Inyo National Forest since 1998 to complete a land exchange." The House approved HR 1241 December 3 without a formal vote. The measure was introduced by Rep. Paul Cook (R-Calif.)

**Wyoming going to court on haze.**

Wyoming Gov. Matt Mead (R-Wyo.) said December 20 the state would sue EPA for rejecting a 2011 state plan for eliminating haze over Class 1 federal lands. After EPA rejected portions of the Jan. 12, 2011, Wyoming plan, it proposed a plan for the state on June 10, 2013, that Mead said would cost utilities in the state hundreds of millions of dollars, if not billions of dollars. The governor's office said a state analysis of the federal proposal indicated it would cost utilities \$1 billion in capital expenses and \$100 million per year after that. The EPA rule and the state rule are supposed to reduce haze over Class I lands (wilderness areas and national parks). EPA said the state plan failed because it did not establish rigorous controls over coal-fired power plants. EPA did approve the rest of the state plan. After defending the state plan Mead said he was going to court to prevent EPA from striking an agreement with environmentalists.

#### **FS edges towards 3-forest plan.**

The Forest Service took a modest step toward writing a new round of forest plans December 26 by announcing the completion of a final assessment of a plan for three forests in California. The assessment will be used by the Inyo, Sequoia and Sierra National Forests in writing a revised plan. The Forest Service completed a planning rule on March 23, 2012, that governs the preparation of individual unit plans for the 155 national forests and 20 grasslands in the National Forest System. Those plans, required by the National Forest Management Act (NFMA), govern virtually all uses in the national forests. The Forest Service said the new rule will be tested out in these eight units of the National Forest System: the Nez Perce and Clearwater National Forests in Idaho; the Chugach National Forest in Alaska; the Cibola National Forest in New Mexico; El Yunque National Forest in Puerto Rico; and California's Inyo, Sequoia and Sierra National Forests. A coalition of public lands user groups, including powered recreation interests including the BlueRibbon Coalition, on Aug. 13, 2012, filed a major lawsuit against the rule, complaining that it

goes too far in attempting to protect species. The plaintiffs said the rule exceeds the demands of NFMA by requiring the protection of all species, and not just vertebrate species. The requirement falls under the broader policy of ecological sustainability. On November 21 the Forest Service announced the first step in the preparation of an El Yunque plan, the completion of a draft assessment. The advisory committee recommendations and other materials are available at: <http://www.fs.usda.gov/detail/planningrule/home/?cid=stelprdb5346267>.

#### **Withdrawals in final DoD bill.**

President Obama signed into law December 26 legislation that authorizes several major public land withdrawals. The withdrawals were included in a Department of Defense authorization bill. Senate Armed Services Committee and House Armed Services Committee chairmen and ranking members drafted the consensus bill from provisions in a House-passed Defense bill (HR 1960) and a Senate bill (S 1197) that had been stalled on the floor. The provisions include: *China Lake Naval Station*, the withdrawal of one million acres of BLM land in California for 25 more years; *Limestone Hills Training Area*, withdrawal of 187,644 acres of BLM land for use by the U.S. Army's Limestone Hills Training Area in Montana; *Chocolate Mountain Aerial Gunnery Range*, transfer of 226,711 acres of BLM land to the U.S. Navy for the Chocolate Mountain Aerial Gunnery Range in California; *Twenty-nine Palms*, withdrawal of 154,663 acres in San Bernardino County, Calif., for the Marine Corps Air Ground Combat Center Twenty-nine Palms; and *White Sands Missile Range*, withdrawal of 5,100 acres of BLM land in New Mexico and Texas.

#### **Jewell rejects Alaska refuge.**

Secretary of Interior Sally Jewell drew the wrath of a powerful senator December 23 when she disapproved the construction of a road in Alaska across the Izembek National Wildlife Refuge. Sen. Lisa Murkowski (R-Alaska) said the road through a Congressionally-designated wilderness area is needed to provide emergency transportation for the citizens of the community of King Cove

to the community of Cold Bay. But the Interior Department said the road should not be built in part because the federal government has already spent \$37.5 million on alternative transportation for King Cove and in part because the wilderness values of the refuge should be protected. Murkowski said she would continue to work for approval of the road. She noted that she is both the ranking Republican on the Senate Energy Committee and on the Senate subcommittee on Interior Appropriations. It also raises the possibility Murkowski will attempt to block the confirmation of five nominated Interior Department officials. Customarily, Murkowski would attempt to reverse the Interior Department decision by placing a rider in a fiscal year 2014 appropriations bill that the House and Senate are now attempting to finish before a January 15 deadline. However, House and Senate Appropriations Committee leaders, faced with the deadline, are resisting controversial riders. Murkowski at press time had not adopted a strategy for overturning Jewell's decision. "Right now Sen. Murkowski is looking at all options," said a spokesman. Besides, Jewell has strong support for her decision from environmentalists, who will urge appropriators to reject any pro-road rider. In 2009 in an omnibus lands bill (PL 111-11), Congress authorized a land exchange that would increase the size of the Izembek refuge and the Alaska Peninsula Wildlife Refuge by 56,000 acres. In return 206 acres of federal land would be used to build a road. The road would connect King Cove to an all-weather airport in Cold Bay. However, approval of the road was made contingent on the approval of the Fish and Wildlife Service and the Interior Department. On December 23 Jewell said no.

#### **Wyden fire bill may help rec.**

Sen. Ron Wyden (D-Ore.) introduced legislation (S 1875) December 19 to take the pressure off fire-fighting appropriations. Wyden 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 \$412 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 like hurricane and flood appropriations are now. That could take the pressure off Forest Service recreation programs, which are now tapped for fire fighting when fire money runs out. The Wyden bill probably comes too late for in the game to be included in a fiscal year 2014 appropriations bill because a final version of that measure is nearing completion (*see related article page one*). If the appropriations bills being assembled by the Senate and Houses subcommittees on Interior and Related Agencies appropriations follow separate subcommittee recommendations, they will contain more than \$3 billion for fire fighting and fire prevention. The House subcommittee last July recommended \$4.1 billion for various fire accounts, including \$600 million to pay for prior year fire-fighting costs. That \$600 million may have been rendered moot when Congress passed an interim fiscal 2014 spending bill (PL 113-46 of September 16) containing \$636 million for wildfire suppression - \$600 million for the Forest Service and \$36 million for the Interior Department.

#### **Tester Montana bill opposed.**

Eight of ten Senate Energy Committee Republicans opposed last month a bill (S 37) from Sen. Jon Tester (D-Mont.) that would designate a million acres of conservation land and set up a pilot timber sale program in two forests in his state. Ranking committee Republican Lisa Murkowski (R-Alaska) said the million acres of protected land (including 667,000 acres of wilderness) was out of balance with the timber harvest on 100,000 acres. Besides, she said that the 100,000 acres slotted for timber sales in the bill were already in line for sale. But Tester said his bill would not only create jobs for the timber industry but would also benefit the state's \$6 billion outdoor economy. "This is great news for Montana jobs, our economy and the treasured places we want to preserve for our kids and grandkids," Tester said. "It's also a historic day for compromise. The Forest Jobs and Recreation Act is the result of folks from all over the political spectrum coming together to hammer out a deal that moves everyone forward."

This is a good day for Montana." The eight Republican senators who opposed the Tester bill were Murkowski, Rob Portman, R-Ohio; Mike Lee, R-Utah; John Hoeven, R-N.D.; Tim Scott, R-S.C.; John Barrasso, R-Wyo.; Dean Heller, R-Nev.; and Jeff Flake, R-Ariz.

## Boxscore of Legislation

### Appropriations Interim Fiscal 2014

HR 2775 (Black). President Obama signed into law October 16 as PL 113-46. CR keeps the government in money through January 15 at fiscal 2013 levels, including sequestration deductions.

### Appropriations Fiscal 2014 (Interior)

No bill number yet. House committee began mark-up July 31. Draft Senate bill proposed August 1. House panel would keep NPS operations about level but cut severely almost all conservation programs. Senate would appropriate significant increases.

### Appropriations Fiscal 2014 (Agriculture)

HR 2410 (Aderholt). House committee approved June 13. Senate committee approved June 20. Senate committee would provide more money.

### Appropriations Fiscal 2014 (Energy and Water)

HR 2609 (Frelinghuysen). House approved July 10. Senate committee approved June 27. Senate bill would provide significantly more money.

### Appropriations Fiscal 2014

#### (Transportation)

HR 2610 (Latham), S 1243 (Murray). House bill pulled from floor July 31. Senate bill approved from floor August 1. Senate bill would provide significantly more money.

### Congressional Budget Fiscal 2014

HJ Res 59 (Rogers). President Obama signed into law December 26. Sets slightly higher spending limit than in fiscal 2014.

### Land and Water Conservation Fund

S 338 (Baucus), HR 2727 (McKinley). Baucus introduced February 14. McKinley introduced July 18. Baucus would guarantee \$900 million per year to

program in perpetuity. McKinley would guarantee state grants received at least 40 percent of annual appropriations.

### Urban park fund

HR 2424 (Sires). Sires introduced June 18. Would authorize HUD grants and HUD loans to provide assistance to urban parks.

### National recreation commission.

HR 1834 (Grijalva). Grijalva introduced May 6. Would establish a national recreation commission with members appointed by Congress and the White House.

### National monuments

HR 250 (Chaffetz), HR 382 (Foxx), HR 432 (Amodei), HR 1434 (Daines), HR 1439 (Labrador), HR 151 (Pearce), HR 757 (Stewart), HR 1459 (Bishop), HR 1495 (Gosar), HR 2192 (Nunes), S 104 (Vitter), S 472 (Heller). House hearing April 16. Would require Congressional approval or state approval of national monuments under the Antiquities Act.

### National heritage areas

HR 445 (Dent). Dent introduced February 1. Would establish national policy and national standards for heritage areas.

### Montana wilderness/recreation areas

S 37 (Tester). Tester introduced January 23. Would designate 666,260 acres of wilderness, six recreation areas totaling 288,780 acres and special management areas totaling 80,720 acres.

### Farm bill

S 954 (Stabenow), HR 1947 (Lucas). Senate approved June 11. House approved July 11. Both would establish new farm policy for several years.

### Hunting federal lands

S 170 (Murkowski). Murkowski introduced January 29. Would declare BLM and FS lands open to hunting and fishing unless specifically closed.

### WRDA (Everglades)

S 601 (Boxer), HR 3080 (Shuster). Senate approved May 15. House approved October 23. Both would authorize new projects, including Everglades restoration.