

# Federal Parks & Recreation

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## **Wyden in a hurry to write NPS Centennial legislation**

Before he gives up the chairmanship of the Senate Energy Committee in the next few months Sen. Ron Wyden (D-Ore.) is committed to producing a major Park Service restoration bill.

To that end his staff met with interest groups last week to lay a path for such legislation, according to attendees of the meeting. Provisions to be included in the measure have not been identified yet but logical candidates are a large endowment and, perhaps, a penny-in-the-parks gasoline tax.

Almost sure to be wrapped into a bill is either an extension of an existing recreation fee law or a revision to it. The existing one, the Federal Lands Recreation Enhancement Act (FLREA), expires on Dec. 8, 2015.

Adding urgency to the campaign is Wyden's imminent assumption of a new job as chairman of the Senate Finance Committee, although he would retain a seat on the energy committee. The finance position would come open if the Senate confirmed the Obama administration's nomination of current committee chairman Max Wyden as the next ambassador to China.

The move of Wyden to finance could prove a boon because that panel writes all revenues laws and thus he could be in position to line up money for a National Park system restoration bill.

Wyden is not expected to go it alone with the legislation that targets in part the upcoming 2016 Park Service Centennial. Sen. John Portman (R-Ohio) said he and Sen. Mark Udall (D-Colo.) are also 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 \$2 billion over time, from appropriations and contributions.

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.

Meeting with committee staff last week were Udall aides, NPS officials, and representatives of such NPS supporters as the National Trust for historic Preservation and the National Park Hospitality Association.

At the meeting Wyden aides did not distribute any materials, choosing instead to simply solicit information from the attendees. For instance, the Park Service presented a laundry list of wished for legislation.

**FLREA problems:** One almost certain element of the legislation will be a provision to extend or replace FLREA. That won't be easy because influential park and rec interests have offered competing recommendations.

The American Recreation Coalition (ARC) and other public lands advocacy groups have recommended a sweeping overhaul of the existing law with a package of new fees. But an influential alliance of public lands recreation users has countered with its own proposal that would reduce areas where fees will be charged, although Park Service entrance fees would be unchanged.

On the House side the subcommittee

on Public Lands under chairman Rob Bishop (R-Utah) is already working on FLREA legislation.

In brief the ARC proposal, developed in association with the National Parks Conservation Association and other groups, would convert most entrance fees to a daily fee (the majority are now weekly), convert passes to per individual (most are now per the carload), establish differential pricing (to encourage nonpeak visits and visits to lesser-known parks) and increase a senior lifetime pass to \$80 (it is now \$20), among other things.

The Western Slope No-Fee Coalition objects to much of that. It has submitted a recommendation from its side that would bar fees for undeveloped areas, allow fees for developed facilities and allow agencies to retain fees.

**ENDOWMENT:** The idea of a billion-dollar endowment to help restore the National Park System really took off during the Bush administration under former Secretary of Interior Dirk Kempthorne. With support from some Democrats (including Kempthorne's successor as secretary of Interior, former Sen. Ken Salazar (D-Colo.)) he proposed legislation that would appropriate \$100 million per year for ten years for non-core Park Service initiatives.

The appropriation would have been matched by \$100 million per year in partnership contributions. That's \$2 billion total over ten years. Kempthorne said he had rounded up well over \$300 billion in partnership pledges before his proposal petered out.

**GAS TAX BOOST:** One of the more popular recommendations coming from NPS support groups would assess a penny per gallon gasoline tax and produce about \$1.5 billion per year. The gas tax would be used for all federal land management agency roads, not just park roads.

Rep. Earl Blumenauer (D-Ore.), a leading House friend of recreation and the parks, has introduced legislation

(HR 3636) that would increase significantly the federal gasoline tax to fully fund highway and mass transit programs, but his measure as yet does not include the penny for parks provision.

## **Ninth Circuit rejects Reyes oyster farm; Supremes next?**

The Ninth U.S. Circuit Court of Appeals dealt an oyster farm in Point Reyes National Seashore another setback January 14 by upholding an NPS decision requiring the company to close down.

This time the court refused to consider an appeal to the entire circuit court from the appellant Lunny family that is operating the oyster farm. A three-judge panel had previously ruled against the Lunnys on Sept. 3, 2013.

Whether the Lunnys will have to cease operations immediately is not clear. Attorneys for the company are contemplating the next legal step, perhaps an appeal to the U.S. Supreme Court. "Lunny and lawyers are actively exploring (an appeal)," a Lunny spokesman told us.

Environmentalists who want the shore of the park managed as wilderness praised the court. "We are exceedingly grateful for the court's decision to support the full wilderness protection for the magnificent Drakes Estero," said Amy Trainer, executive director of the Environmental Action Committee of West Marin. "Once again the federal court rightly decided that former Interior Secretary Ken Salazar had full discretion to let the oyster operation permit expire and to honor the 1976 wilderness designation for Drakes Estero."

The battle over the oyster permit has become politicized with the conservative group Cause of Action and House Natural Resources Committee Chairman Doc Hastings (R-Wash.) working on behalf of the appellant Lunny family. However, Democratic Sen. Dianne Feinstein (D-Calif.) has also backed the Lunnys.

On the left numerous national and local environmental groups oppose the permit but their opposition was compromised somewhat when famed chef Alice Waters, usually an ally of environmentalists, sided with the Lunnys. She buys oysters harvested by the oyster farm.

At bottom the Drakes Bay Oyster Company contends that the Congressional direction (Section 124) in a fiscal year 2009 appropriations law (PL 111-88 of Oct. 30, 2009) made clear the permit was to be extended.

The last permit held by the Drakes Bay Oyster Company officially expired Nov. 30, 2012. At that time Salazar directed NPS to work with the company to remove all property from the park within 90 days. That deadline arrived Feb. 28, 2013, but a district court order allowed the company to keep working, at least up until now.

The legal war began with a Feb. 4, 2013, decision from U.S. District Court Judge Yvonne Gonzalez Rogers in U.S. District Court in Oakland that upheld the departmental order. The judge, however, allowed the Lunnys to continue to operate pending appeals.

On Sept. 3, 2013, the three-judge appeals court panel upheld the district court. The Lunnys then appealed to the full appeals court, but on January 14 the three-judge panel refused to send up the appeal. No other judge on the circuit court voted for a rehearing. At that point the Lunnys indicated they will consider an appeal to the U.S. Supreme Court.

The three judges took the opportunity last week to expand on their previous Sept. 3, 2013, decision.

In a two-to-one ruling Judge M. Margaret McKeown for the majority disagreed with the Lunnys' contention that Section 124 of PL 111-88 requires extension of the permit. "Through Section 124, Congress authorized, but did not require, the Secretary to extend the permit," she said. "Congress left the decision to grant or deny an extension to the Secretary's

discretion, without imposing any mandatory considerations. . . . Because Congress committed the substance of the Secretary's decision to his discretion, we cannot review 'the making of an informed judgment by the agency.'"

In a dissent Judge Paul J. Watford went back further to a 1976 Point Reyes Wilderness Act and said, "Given the historical backdrop against which (Section 124) was enacted, I think Congress intended the clause to override the Interior Department's misinterpretation of the Point Reyes Wilderness Act." The Park Service had relied in part on the Wilderness Act to justify denial of a new permit to Drakes Bay because the land at issue was supposed to be wilderness.

### **Supreme Court seeks data on rail-trails ROW impact**

Amid some confusion the Supreme Court took oral arguments January 14 on a case involving a trail along an abandoned railroad right-of-way on federal land.

According to observers the judges were unable to solicit from testifying attorneys how much federal land would be at stake if they ruled that the abandoned land at issue reverted to the federal government. And not to a private landowner who held a conflicting patent on the same right-of-way.

According to long-time Supreme Court reporter Lyle Dennison who writes a blog on the court, "One of the most important questions that the Justices wanted answered, however, went entirely without an answer: what would the impact be of a ruling in this case – that is, how much land does the government claim to own, and how would existing occupants be disturbed if it reclaimed perhaps millions of acres out West?" Dennison's blog is at [www.scotusblog.com](http://www.scotusblog.com).

Justices Stephen Breyer and Elena Kagan led the questioning about the amount of land involved, said Dennison.

The court is expected to hand down

a decision in the case in June.

The federal government argued to the Supreme Court in a brief 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 a million acres of land that railroads abandoned in the 1990s. How much of that has been patented to private interests is not clear. That million-acre figure came from a brief filed by an ally of the plaintiffs, the National Association of Reversionary Property Owners. The Supreme Court judges apparently had not reviewed that brief.

The Rails-to-Trails Conservancy says that several other rail-trails are in a similar situation on federal rights-of-way including a George S. Mickelson Trail in South Dakota, a Foothills Trail and a John Wayne Pioneer trail in Washington, a Weiser River Trail in Idaho and a Rio Grande Trail in Colorado.

When the federal government patents the lands within railroad ROWs to private landowners, it subjects 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.

At issue 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 that allowed him to patent land on the subject right-of-way also 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.

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."

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

## **FY 2014 money bill hikes most park and recreation programs**

President Obama signed into law (PL 113-76) January 17 a fiscal year 2014 appropriations bill (HR 3547) with substantial increases in spending for park and rec programs, compared to fiscal 2013, and counting sequestrations.

The chairman of the House

subcommittee on Interior Appropriations, Rep. Ken Calvert (R-Calif.), said the measure contains \$28.5 million more for the National Park Service than in fiscal 2013. "This will allow every national park to remain open and operational throughout fiscal year 2014 without the threat of closure or employee furloughs, and provide for the hiring of seasonal employees," he said.

His Senate counterpart, Sen. Jack Reed (D-R.I.), said, "This is a responsible, bipartisan agreement that will help advance economic growth while protecting public health and the environment. We are making sound investments in America's scientific, natural, and cultural resources such as our public lands, museums, and national parks."

Reed also praised a House-Senate conference committee that wrote HR 3547 for approving \$167.4 million for federal land acquisition and \$48 million for state Land and Water Conservation Fund (LWCF) grants. "For the land acquisition and state grant programs through the (LWCF), the Senate prevailed over the House, which had included \$0 in its subcommittee mark," he said. The House subcommittee on Interior and Related agencies approved no money for LWCF in a July 23, 2013, mark-up of a fiscal 2014 bill.

The National Parks Conservation Association (NPCA) said it hopes HR 3547 signals that Congress will allocate enough money to restore the parks as the system approaches its Centennial in 2016. "While we're concerned about policy provisions in the bill that threaten the quality of the air and water in national parks, we're pleased to see the beginning of what we hope will be a longer-term trajectory that reverses years of cuts and gets funding for national parks back on track. This doesn't get parks to where they need to be by any measure, but sets the groundwork for needed reinvestment," said Craig Obey, NPCA senior vice president for government affairs.

HR 3547 contains few riders but a couple did survive, including a provision that could delay EPA

implementation of a program to assure visibility over national parks and a provision to extend the life of national heritage areas. (See following article.)

The Wilderness Society said the final bill was an improvement over fiscal 2013 conservation spending, which was hamstrung by an \$85 billion sequestration. "We commend Congress for working collaboratively to restore some much-needed funding for conservation," said Paul Spitler, director of wilderness campaigns with The Wilderness Society, "but at the end of the day, the figures are still inadequate to ensure our public lands have the staffing, resources, and scientific research they need in a world of increasing wildfires, wildlife loss, additional recreational pressures, and a changing climate."

He added, "It's time for Congress to prioritize stewardship of our public lands every fiscal year. The American people ask for it again and again."

Sportsmen also said the bill is an improvement. "We were very pleased with the overall funding level in the Interior, Environment and Related Agencies portion of the omnibus bill," said Whit Fosburgh, TRCP president. "The appropriations committee's decision to bolster this funding reflects its important role as the foundation of the outdoor recreation economy."

Going in to the House-Senate conference committee that finished writing the bill January 13 conservationists were not optimistic about any spending increases. Appropriators had been expected to set aside almost all of any spending cap increases for fire fighting and a \$420 million per year payments-in-lieu of taxes (PILT) program. But the appropriators removed the PILT program under the assumption Congress would pay for it in a Farm Bill that is in a separate conference committee. That freed up \$420 million for other programs.

Among the beneficiaries was the state wildlife conservation grant program administered by the Fish and

Wildlife Service. It received \$58.7 million, or \$58.7 million more than the House Interior subcommittee approved for the bill last July.

After the conferees published the final bill January 13 the House approved it January 15 by a 359-to-67 vote and the Senate January 16 by a 72-to-26 vote. Obama then signed it into law January 17.

Setting up the Interior and Related Agencies portion of the bill was an unexpected \$30.58 billion allocation from the full House Appropriations Committee. Going in the House had recommended \$6 billion less, or \$24.3 billion and the Senate \$30.2 billion.

The House and Senate Appropriations Committee negotiators were operating under a spending ceiling established by a budget law that President Obama signed December 26 (PL 113-67). Not only did PL 113-67 establish a spending cap for fiscal 2014, but it also did so for fiscal 2015, meaning Republicans and Democrats may be able to produce fiscal 2015 spending bills in good order later this year.

**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.

**LWCF FEDERAL:** For federal land acquisition HR 3547 contains \$167.4 million, compared to \$186 million in fiscal 2013. The breakdown: NPS acquisition, \$43.5 million; BLM, \$19.5 million; FWS, \$54.4 million; and FS, \$43.5 million.

**LWCF STATE:** For state LWCF grants the law contains \$48 million, compared to \$45 million in fiscal 2013 and a House subcommittee recommendation of no money.

**STATE WILDLIFE GRANTS:** For wildlife grants the law contains \$58.7 million, compared to a fiscal 2013 appropriation of \$61.2 million and a House subcommittee recommendation of no money.

*RECOVERY:* For urban parks the law contains no money, although a Senate mark and the Obama administration requested \$10 million. The fiscal 2013 appropriation was no money.

*NPS OPERATIONS:* For operation of the Park Service the law contains \$2.237 billion, compared to a fiscal 2013 appropriation of \$2.214 billion.

*HISTORIC PRESERVATION:* For the National Historic Preservation program the law appropriates \$56.4 million, compared to a fiscal 2013 appropriation of \$56 million.

*NPS CONSTRUCTION:* For NPS construction the law appropriates \$137.5 million, compared to \$131 million in fiscal 2013.

*NPS REC AND PRES:* For NPS recreation and preservation the law appropriates \$61 million, compared to \$60 million in fiscal 2013.

*NPS HERITAGE AREAS:* For National Heritage Areas the law doubles the appropriation to \$18.3 million from a fiscal 2013 appropriation of \$9 million. In addition the law extends for one year the authorization for 12 national heritage areas.

*BLM LAND AND RESOURCES:* For management of BLM lands the conferees approved \$957 million, or \$8 million more than a \$949 million appropriation in fiscal 2013.

*BLM RECREATION:* For BLM recreation the law appropriates \$66.9 million, compared to \$70.5 million in fiscal 2013.

*FOREST SERVICE:* For the National Forest System the law appropriates \$1.496 billion, or \$41 million less than a fiscal 2013 appropriation of \$1.537 billion.

*FOREST SERVICE RECREATION:* For Forest Service recreation the law appropriates \$261.7 million, about the same as the fiscal 2013 appropriation of \$261 million.

*FOREST TRAILS:* For Forest Service trails the law contains \$75 million,

compared to \$82.5 million in fiscal 2013.

*FWS OPERATIONS:* For operation of the Fish and Wildlife service the conferees appropriated \$1.188 billion, or \$23 million less than the fiscal 2013 appropriation of \$1.211 billion.

*WILDLIFE REFUGE SYSTEM:* For management of the National Wildlife Refuge System the law contains \$472, compared to \$499 million in fiscal 2013.

*FIRE FIGHTING:* Appropriators apparently count a previous \$600 million allocation in an interim spending law (PL 113-46 of Oct. 16, 2013) to come up with a \$3.9 billion recommendation for fire fighting. The \$600 million pays back federal agencies for money transferred from line operations to fire fighting in fiscal 2013.

For the Forest Service the bill includes \$2.162 billion in new money for regular wildland fire programs and \$315 million for extraordinary emergency fire fighting, or a total of \$2.472 billion. That is almost \$1 billion more than the appropriation for the entire National Forest System.

For the Interior Department the bill contains \$741 million for regular fire fighting programs and \$92 million for extraordinary emergency fire fighting, or a total of \$833 million.

Three other outdoor-related appropriations bills were also included in HR 3547:

**Transportation:** The law appropriates \$50.8 billion for Transportation and HUD, a decrease of \$961 million from fiscal 2013, but \$6.7 billion more than an initial House cap of last spring.

**Energy and water:** The law appropriates \$34 billion for Energy and Water, an increase of \$777 million over fiscal 2013, and almost \$4 billion more than an initial House cap of last spring.

**Agriculture:** HR 3547 appropriates \$20.9 billion for Agriculture, an increase of \$350 million above fiscal

2013 and \$1.4 billion more than an initial House cap of last spring.

## **Haze and heritage riders make it into appropriations law**

Although they said they would limit riders, House and Senate appropriators included a handful that affect park and rec policy in a fiscal year 2014 appropriations bill. Congress gave final approval to the bill (HR 3547) January 16 and President Obama signed it into law January 17 as PL 113-76.

The measure would revise a program to assure visibility over national parks, extend the life of a dozen national heritage areas, extend an American Battlefields program, encourage hunting and fishing on the public lands, and extend an Eisenhower Memorial Commission.

After the conferees published the final bill January 13 the House approved it January 15 by 359-to-67 vote and the Senate January 16 by a 72-to-26 vote. Here are some of the riders:

**Visibility program revisions:** HR 3547 directs EPA to revise its standards for measuring regional haze over Class I areas - national parks and wilderness areas. It directs EPA to adopt more "flexible modeling" techniques. Western states, in particular Wyoming, are chafing at steps EPA is taking to pre-empt state visibility plans. Wyoming has gone to court charging that EPA's direction would cost coal power plants hundreds of millions of dollars.

Craig Obey, National Parks Conservation Association senior vice president for government affairs, said his association was concerned about the provision because it would "threaten the quality of the air and water in national parks."

**National Heritage Areas:** The law extends the authorization for the 12 National Heritage Areas listed below through fiscal 2015 and it doubles the appropriation for all heritage areas to \$18.3 million from a fiscal 2013 appropriation of \$9 million.

The extended sites are the National Coal Heritage Area, Tennessee Civil War Heritage Area, Augusta Canal National Heritage Area, Steel Industry Heritage Project, Essex National Heritage Area, South Carolina National Heritage Corridor, America's Agricultural Heritage Partnership, Ohio & Erie Canal National Heritage Corridor, Hudson River Valley National Heritage Area, Blackstone River Valley National Heritage Corridor, Delaware And Lehigh Navigation Canal National Heritage Corridor, and Lackawanna Valley National Heritage Area.

**Hunting and fishing access:** The law contains a provision that directs the Interior Department and the Forest Service to document to appropriators steps they are taking "to provide opportunities on public lands for hunting, fishing, recreational shooting, and other outdoor activities." The language follows up on a long series of bills introduced by Republicans and Democrats alike to guarantee hunters and fishermen access to public lands.

**Eisenhower commission:** HR 3547 extends the Dwight D. Eisenhower Memorial Commission for a year and provides \$1 million for salaries and expenses. An original version of the Interior bill prepared by a House subcommittee last July would have cut off money for the commission because of a dispute over the design of the proposed memorial.

**American Battlefield program:** The law extends an American Battlefield Protection program for one year and appropriates \$9 million for it, the same as the fiscal 2013 appropriation. Legislation has been introduced in the House and Senate to extend the program for five years and to expand it to include sites from the Revolutionary War and the War of 1812.

## **Highway money ideas pour forth to pay the freight**

The Obama administration and Congressional leaders are floating several ideas for financing a new surface transportation law that would replace



the current one that is due to expire on September 30.

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.

Secretary of Transportation Anthony Foxx opened the bidding January 15 by suggesting that tax reform may in part fill the \$15 billion or so per year hole left by decreasing gasoline taxes.

In talks to reporters after a meeting of the Transportation Research Board's annual meeting Foxx repeated his observation that corporate tax reform now under way in the Senate Finance Committee could make up the difference. The committee is reportedly considering such things as a reduced tax for corporations that have hidden billions of dollars in foreign countries that agree to bring their money home.

Separately, last month Rep. Earl Blumenauer (D-Ore.) introduced legislation (HR 3636) that would increase the gasoline tax to fully fund highway and mass transit programs.

Finally, Senate Environment and Public Works Committee Chair Barbara Boxer (D-Calif.) in September suggested that Congress pay for highways and mass transit with taxes on oil wholesaler fees, i.e. the levy that gas stations pay when they buy supplies.

Boxer's counterpart, House Transportation Committee Chairman Bill Shuster, said he would consider "everything" in drafting a replacement bill for the existing law Moving Ahead for Progress in the 21st Century Act (MAP-21), PL 112-141 of July 6, 2012. Shuster made his remarks January 14 at an inaugural committee hearing on a new law.

MAP-21 keeps transportation programs alive through the end of fiscal year 2014. Shuster laid out this

schedule for developing a bill this year: "We hope to take Committee action in the late spring or early summer with the goal to be on the House floor before the August recess. This way there will be time to conference our bill with the Senate's bill."

Surface transportation programs presently receive money primarily from gasoline taxes paid into the Highway Trust Fund. But the gasoline tax now brings in only about \$35 billion per year, far below the \$54 billion base needs of MAP-21. To make up the difference between the gas taxes and the existing authorization, Congress in MAP-21 had to tap a number of other pots of money, including general revenues.

Now Boxer, Shuster and the administration are casting about to find ways to supplement the gasoline tax in a new highway bill.

Of interest in the Senate, Sen. Ron Wyden (D-Ore.), a champion of parks and recreation, is in line early this year to take over the Senate Finance Committee to replace Sen. Max Baucus (D-Mont.), who the administration intends to nominate as ambassador to China.

And it is the Senate Finance Committee (and the Ways and Means Committee in the House) that must ante up the money for a surface transportation law.

The risks to recreation are extreme if a secure source of money is not found for both highway construction and highway-related programs. For some transportation experts, recreation should be the first to go.

MAP-21 kept most recreation programs alive, although it modified past outdoor programs. It consolidated such programs as transportation enhancements and recreational trails into a Transportation Alternatives line item. The estimated allocation to the Transportation Alternatives program is \$760 million per year, or about a \$200 million decrease.

In addition the programs now must

complete with each other and with other programs for the \$760 million. Within Transportation Alternatives MAP-21 set aside \$85 million for the recreational trails program, while allowing states to opt out if they wished. Only Florida opted out his year.

In his bill Blumenauer would increase the gasoline tax from its current level of 18.4 cents per gallon to 26.3 percent in fiscal year 2014, to 30.3 cents during fiscal 2014 and to 33.3 cents for fiscal 2015 and each year for ten years after that. Diesel fuel and kerosene taxes would rise commensurately in a slightly different formula in the bill.

### **DoI beginning to work on refuge to protect Everglades**

The Fish and Wildlife Service will begin land and easement acquisitions this month that will eventually be part of a 150,000-acre Everglades Headwaters National Wildlife Refuge and Conservation Area in Florida, Secretary of Interior Sally Jewell said January 9.

The area, well north of Everglades National Park and near Lake Okeechobee, will help protect the water flowing south into the ecosystem. Although most of the land, about 100,000 acres, is expected to come from easements, 50,000 acres may be acquired.

"Thanks to the support shown in Congress and funding from the Land and Water Conservation Fund, we are on the cusp of making the first offers for land acquisitions that will not only provide valuable habitat for wildlife but also protect the headwaters of the Everglades," Jewell said.

She used the occasion to make a pitch to Congress to fully fund the Land and Water Conservation Fund (LWCF), which ponies up the money for most conservation acquisitions. "The extraordinary conservation partnership we are seeing in the Everglades is a prime example of how LWCF funds can improve the quality of life for all Americans," Jewell said.

In a fiscal year 2014 appropriations bill that President Obama signed into law January 17 (PL 113-76) Congress put up \$5 million for the Fish and Wildlife Service to acquire land in the Eastern Headwaters area.

Jewell's predecessor at Interior, Ken Salazar, announced the creation of the Everglades Headwaters National Wildlife Refuge and Conservation Area in January 2012. It began with a 10-acre donation from the Nature Conservancy.

Jewell made her announcement the day before the Everglades Coalition held its annual conference on restoration of the ecosystem. At that January 10 meeting environmental groups hailed separate Everglades projects authorized by Congress in 2000 under a Comprehensive Everglades Restoration Plan (CERP).

"The past several years have yielded significant progress for restoration efforts including the Congressional authorization of additional bridging along Tamiami Trail, a critical restoration project that provides an achievable path forward for improving water flow to the southern Everglades," said the coalition.

But the coalition wants Congress and the State of Florida in their CERP partnership with the feds to do more. "While we await funding to complete essential restoration projects - like the bridging of Tamiami Trail, Picayune Strand, Biscayne Bay Coastal Wetlands, and many others - the ecosystem continues to decline," said Cara Capp, national co-chair for the Everglades Coalition and Everglades restoration program manager for the National Parks Conservation Association. "The Everglades Coalition is requesting that the Florida Legislature allocate at least \$100 million to further Everglades restoration projects in 2014."

Several of those CERP projects are awaiting approval in new Water Resources Development Act (WRDA) bills now pending in a House-Senate conference committee. The House approved its WRDA 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.  
(See following article.)

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

- \* 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.

## **WRDA bill and Farm Bill in same increasingly leaky boat**

Congressional plans to complete this month multi-year water resource and Farm Bill bills are running into trouble.

With Congress off this last week two separate House-Senate conference committees are about to miss their deadlines for reaching agreement on the bills in January.

The Water Resources Development Act (WRDA) may be in better shape than the Farm Bill because most Republicans and Democrats support it, despite a last-minute conservative campaign against the measure.

House leaders working on the Farm Bill on the other hand are far apart on crucial milk pricing policy. Speaker of the House John Boehner (R-Ohio) reportedly insists on a reduction in federal price supports but ranking House Agriculture Committee Democrat Collin Peterson (D-Minn.) insists on maintaining the price supports.

Still, House Majority Leader Eric Cantor (R-Va.) has put both WRDA and the Farm Bill on the top of the House agenda for this year. In a recent memo to his fellow Republicans he wrote, "Chairmen Frank Lucas and Bill Shuster, along with our conferees, continue to work towards agreement with their Senate counterparts on the Farm bill and WRRDA conference reports, respectively. These two conference reports represent new ideas on how government programs should work and as soon as they are ready for consideration, I expect to schedule these in the House."

Rep. Frank Lucas (R-Okla.) chairs the House Agriculture Committee and Rep. Bill Shuster (R-Pa.) chairs the House Transportation Committee that prepared the House version of a WRDA bill.

Despite the Farm Bill problems in the House, Senate Agriculture Committee chair Debbi Stabenow (D-Mich.) continues to be optimistic about completing a bill, telling reporters a fortnight ago, "We're just tying up loose ends. Feeling very good about things."

Here's the situation for the two conferences:

**WRDA BILL:** The House approved its WRDA 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.

Despite the overwhelming House and Senate votes 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 billions of dollars 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."

Unlike the House bill, which identifies 23 new water resource projects, the Senate 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.

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. (See *previous article*.)

**FARM BILL:** The House approved a three-year bill (HR 2462) in July and the Senate approved a five-year bill (S 954) in June.

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.

## Notes

**DoI nominees' futures unclear.** The Senate Energy Committee approved three major Interior Department nominations January 16, but the fate of the nominees in the Senate is still up in the air. The committee approved Michael L. Connor, former Bureau of Reclamation Commissioner, as deputy director of the Interior Department; acting BLM Director Neil Kornze as BLM director; and Tommy Beaudreau as assistant secretary of Interior for

Policy. Kornze was approved by a 19-to-3 vote, but Connor and Beaudreau were approved without objection. Their fate on the Senate floor is uncertain in part because influential Sen. Lisa Murkowski (R-Alaska) is making clear she will do anything necessary to insure a road is built in Alaska across the Izembek National Wildlife Refuge. However, she said at the Senate mark-up that the Interior Department needs Connor, Kornze and Beaudreau on board so she voted for them in committee. However, Murkowski was less enthusiastic about the nominations of Rhea Suh as assistant secretary of Interior for Fish and Wildlife and Parks and attorney Janice M. Schneider as assistant secretary of Interior for Land and Minerals Management. Suh is presently assistant secretary for Policy. Because of Murkowski's and other Republicans' concerns the committee put off further consideration of the two until February. Murkowski repeated January 17 her objections to a December 23 decision of Secretary of Interior Sally Jewell rejecting construction of the road. In a letter to Jewell Murkowski said, "In short, I ask that you reverse your decision to reject this life saving road. The health and safety of all Alaskans is of the utmost importance to me and I want you to know that I will not stop advocating for them until a safe, reliable emergency access is secured for King Cove." And, while Murkowski didn't identify specific steps she would take, it is speculated that she may place a hold the Interior Department nominees waiting Senate confirmation.

#### **Gettysburg expansion bill back.**

The House approved January 13 by a 396-to-0 margin legislation (HR 1513) that would add two important tracts to Gettysburg National Military Park. The bill, which has been around for several Congresses, would add the Gettysburg Railroad Station and a 45-acre tract at the south end of the battlefield that hosted cavalry battles. The railroad station served as both a transportation depot and a hospital during the battle. The sponsor of the bill, Rep. Scott Perry (R-Pa.), said the legislation would not require any land acquisition because the Gettysburg Foundation

already owns the land and will donate it to the federal government. The National Trust for Historic Gettysburg currently operates the station and until recently had used it as an information center. Supporters anticipate the Park Service will again use the station as a visitors center. The 45-acre tract along Plumb Run was the site of a cavalry encounter during the battle of Big Round Top. Sen. Robert P. Casey, Jr., has introduced a counterpart bill that the Senate Energy Committee approved Nov. 21, 2013.

#### **San Antonio site promoted.**

Secretary of Interior Sally Jewell said January 17 that the Park Service will lead a campaign to designate portions of the San Antonio Missions National Historical Park as a World Heritage Site. The park commemorates the role of Latinos in the nation's heritage. The nominated areas include the Alamo. The World Heritage List counts 981 sites including the Taj Mahal, Stonehenge, and Yellowstone and Yosemite National Parks. NPS will submit the nomination to the World Heritage Centre in Paris, France, and, if endorsed by the centre's staff, the nomination will be submitted to representatives of 21 nations for final approval.

#### **Miller and Moran stepping down.**

Two of the most powerful conservation advocates in the House last week announced they would retire at the end of this Congress. Rep. George Miller (D-Calif.) chaired the House Natural Resources Committee from 1992 to 1994. Rep. James Moran (D-Va.) served as ranking minority member on the House Appropriations subcommittee on Interior and Related Agencies for the last two Congresses. Both Miller and Moran are fiery advocates of protecting conservation lands. For instance, Moran took the unprecedented step of refusing to participate in the mark-up of a fiscal 2014 appropriations bill in the subcommittee July 23, 2013, because of an alleged lack of conservation money.

#### **Coburn to leave Senate.**

Sen. Tom Coburn (R-Okla.), long a major player in park and rec financing, said late last week he will retire from the Senate at the end of the year. Coburn

has been a voluble advocate of a ban on the acquisition of new national park land until a maintenance backlog is cleaned up. On July 23, 2013, he recommended to the Senate Energy Committee that Congress use most Land and Water Conservation Fund money for maintenance, rather than for land acquisition. He also supported the idea of a partnership endowment to help the national parks. In a separate area in September 2011 Coburn led a campaign to forbid the use of hundreds of millions of dollars of surface transportation money for transportation enhancements, i.e. trails. At that time he was preparing an amendment to an interim surface transportation bill to do just that, but backed off under pressure from Senate Majority Leader Harry Reid (D-Nev.), Senate Environment and Public Works Committee Chair Barbara Boxer (D-Calif.), Oklahoma's other Sen. James Inhofe (R), conservationists and historic preservationists.

#### **Gulf cleanup comments extended.**

The Interior Department January 17 extended until February 19 the comment period on a proposed Deepwater Horizon recovery plan that would allocate tens of millions of dollars to park and rec programs. The proposal was announced December 6. The Natural Resources Damage Assessment Trustees, assembled to allocate recovery money after the April 2010 oil spill, proposed to distribute a total of \$627 million to restore natural resources in the Gulf. The \$627 million is part of a \$1 billion fund that BP Exploration and Production Inc. has agreed to establish to pay for early natural resources restoration projects. The trustees said that \$230 million of the \$627 million would be used for recreation projects; the other \$397 million would be used for ecological projects. Although the trustees are picking and choosing restoration projects, the Department of the Interior is the lead agency in writing a programmatic EIS to cover the spending plan. The department is one of the trustees. To settle various lawsuits filed after the Deepwater Horizon explosion and oil spill, BP agreed to pay as much as \$9.6 billion. Included in that was a \$2.39 billion allocation to the National Fish and

Wildlife Foundation (NFWF) to help Louisiana, Alabama, Florida, Mississippi and Texas recover. But the \$1 billion natural resources recovery project is a separate allocation from the NFWF money. The \$1 billion is being distributed by the Natural Resources Damage Assessment Trustees. The draft phase three plan, EIS and list of projects are available at [www.gulfspillrestoration.noaa.gov](http://www.gulfspillrestoration.noaa.gov).

#### **Fed travel restrictions panned.**

The tourism and travel industry teamed up with the recreation industry January 14 to object to proposed legislation (S 1347) that would limit federal agency travel spending to 80 percent of the fiscal year 2010 level. The Senate Committee on Homeland Security and Governmental Affairs held a hearing on the bill from Sen. Tom Coburn (R-Okla.) on the 14<sup>th</sup>. Committee chairman Thomas R. Carper (D-Del.) said various Inspector Generals had criticized travel policies of the Department of Justice, the General Services Administration and the Internal Revenue Service. But, he said, "the challenging budget climate of the last few years has forced agencies to operate with less federal funding, which has, in turn, curtailed spending on travel, training and conferences, while focusing the dollars that are spent on activities and events whose value to agencies, to organizations, and citizens is clear." The U.S. Travel Association said in effect the bill would cut off the federal agencies' noses to spite their faces. "In our view, additional proposed cutbacks to federal travel are a solution in search of a problem," said the association on behalf of a broad coalition that includes such diverse parties as the American Recreation Coalition, the U.S. Chamber of Commerce and Visit Orlando. "Worse, they are counterproductive and a disservice to taxpayers - because they will result in a federal government that is less responsive, less effective and less efficient. For these reasons, we strenuously oppose the provision included in S. 1347. . . ."

#### **Great Outdoors Month scheduled.**

Supporters of outdoor recreation met January 9 to lay out key events of Great Outdoors Month 2014. Among other events will be a National GO (Get Outdoors)

Day. Most events will take place on Memorial Day weekend (May 24-26) and end on July 4. The campaign is chaired by Gregory Miller of the American Hiking Society, Kevin Coyle of the National Wildlife Federation, and Derrick Crandall of the American Recreation Coalition.

**Albright Center listed.** The Albright Training Center in Grand Canyon, Ariz., said January 16 that the National Park Service has added it to the National Register of Historic Places. The center is located within Grand Canyon National Park and serves as a training facility for new agency employees. It consists of an administrative offices/classroom building and five, two-story dormitories. The Albright Training Center is operated by the Learning & Development office within the Directorate of Workforce Relevancy and Inclusion based in Washington D.C.

**Wyden proposes new fire account.** Sen. Ron Wyden (R-Ore.) last week failed to persuade appropriators to include a major new fire policy provision in a giant fiscal year 2014 appropriations bill. The provision would have moved 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. A House and Senate conference committee on all government-wide spending bills reached a final agreement on a measure January 13 without the Wyden provision. However, the bill does include \$3.9 billion for fighting fires from regular appropriations. Wyden introduced the fire provision as stand-alone legislation (S 1875) December 19. Wyden said if his legislation were adopted appropriators should still use the \$412 million or so, if it were available, for fire activities, only for prevention rather than suppression. The provision, with Sen. Mike Crapo (R-Idaho) as a cosponsor, addresses the increasingly large portion of Interior money bills

devoted to fire fighting.

## Conference Calendar

### FEBRUARY

2-5. **National Association of Conservation Districts Annual Meeting** in Anaheim, Calif. Contact: National Association of Conservation Districts, 509 Capitol Court, N.E., Washington, D.C. 20002. (202) 547-6233. <http://www.nacdnet.org>.

4-5. **National Ski Areas Association Eastern Conference** in Mount Snow, Vt. Contact: National Ski Areas Association, 131 South Van Gordon St., Suite 300, Lakewood, CO 80228. (303) 987-1111. <http://www.nsaa.org>.

23-27. **Association of Partners for Public Lands 2014 Partnership Convention & Trade Show** in Albuquerque, N.M. Contact: Association of Partners for Public Lands, 2401 Blueridge Ave, Suite 303, Wheaton, MD 20902. (301) 946-9475. <http://www.appl.org>.

### MARCH

1-5. **National Association of Counties Legislative Conference** in Washington, D.C. Contact: National Association of Counties, 440 First St., N.W., 8th Floor, Washington, D.C. 20001. (202) 393-6226. FAX (202) 393-2630. <http://www.naco.org>.

24-29. **North American Wildlife Conference** in Arlington, Va. Contact: Wildlife Management Institute, 1146 19th Street, NW, Suite 700, Washington, DC 20036. (202) 371-1808. <http://www.wildlifemanagementinstitute.org>.

25-26. **NRPA National Legislative Forum on Parks and Recreation** in Washington, D.C. Contact: National Recreation and Parks Association, 1901 Pennsylvania Ave, N.W., Washington, DC 20006. (202) 887-0290. <http://www.nrpa.org/legforum/>.

### APRIL

23-27. **American Alliance for Health, Physical Education, Recreation and Dance National Convention & Expo** in St. Louis, Mo. Contact: AAHPERD, 1900 Association Drive, Reston, VA 20191(703) 476-3400. <http://www.aahperd.org>.