

Federal Parks & Recreation

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Volume 31 Number 14, July 12, 2013

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DoI pulls White River Blueway designation; GOP objected

Under attack from Republicans the Interior Department said June 28 that it would withdraw the designation of the White River in Arkansas and Missouri from the troubled National Blueways System.

Arkansas and Missouri senators and House members had complained that the White River was designated (1) without a public process and (2) without documentation of its impact on regulations and costs.

On July 3 Secretary of Interior Sally Jewell gave the White River Blueway the coup de grace in a memorandum that 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."

In addition to the federal elected officials, state officials and conservation groups that had originally supported the designation requested a de-designation. They feared a national blueway would cause private property owners to complain.

Said Sen. John Boozman (R-Ark.), a leading critic, July 3. "This designation occurred without a formal process - no public comment, lack of transparency from the federal government and without the broad support of Arkansans. We are happy to see that Secretary Jewell reviewed the program and heard the concerns of our citizens."

Rep. Steve Womack (R-Ark.) said the community did not support the designation. "State and local

stakeholders could not have been more clear: they did not want to be a part of the National Blueway System," he said.

In a statement an Interior Department spokeswoman told us, "In light of requests received from local and state stakeholders to withdraw the White River and its watershed from the voluntary National Blueways recognition program, the Department has withdrawn the designation."

Jewell's predecessor Ken Salazar announced the establishment of the National Blueways System in June 2012 concurrent with the designation of the first unit - a Connecticut River and Watershed National Blueway in New England.

On January 9 of this year the Department of Interior designated a second unit - the White River National Blueway in Arkansas and Missouri. The White River blueway extends (or extended) from the Ozark Mountains to the Mississippi River.

The Blueways System is not supposed to affect either private property or the existing regulations that govern nominated lands, said Salazar in the secretarial order establishing the system. "Nothing in this Order is intended to be the basis for the exercise of any new regulatory authority, nor shall this initiative or any designation pursuant to this Order affect or interfere with any Federal, state, local, and tribal government jurisdiction or applicable law. . .," the order says.

But House and Senate Republicans are irate about the unilateral nature of the designations. The critics believe that the secretarial order that established the system authorizes a committee of federal officials to establish such broad waterways without consulting local citizens and officials. And without consulting Congress.

Of political concern to the Republicans is the role played by Rebecca Wodder, a 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.

House Natural Resources Committee Chairman Doc Hastings (R-Wash.) singled out Wodder in a letter to Secretary of Interior Sally Jewell June 28, demanding documentation behind the designation. It is the most recent in a number of Hastings letters on blueways.

"Please provide all communications created by, sent to, or received by Rebecca Wodder regarding applications for any existing or potential National Blueways, including but not limited to calendar entries for meetings related to the Order and communications related to soliciting and receiving applications," the letter said.

Hastings has called a hearing by his House Natural Resources Committee on the administration's blueways policy for July 17. By definition the administration can expect a tough day on the carpet.

The Republican arms of the Arkansas and Missouri Congressional delegations apparently prompted Secretary Jewell to withdraw the designation in a 23-page letter of their own June 26.

The delegation said that, despite the Interior Department's contentions otherwise, "the practical consequence (intended or not) of this designation is that increased regulatory attention will likely be focused on the White River watershed using existing authorities. Also, the focus on 'land and water management practices' and a 'headwaters to mouth approach to river management,' makes clear that impacts could extend to citizens and property owners throughout the watershed, not just along the River itself."

Then they asked the leading question, "What is the process through which a State, non-federal entity, or individual may request that a Blueway designation be revoked?"

Democratic Sens. Mark Pryor (Ark.) and Claire McCaskill (Mo.) did NOT sign the letter.

Yosemite plan attacked by GOP for reducing amenities

House Republicans July 9 jumped into the debate over the balance between preservation and active use of facilities within Yosemite National Park.

Western Republicans sharply criticized a management plan for the Merced River proposed by NPS January 8 that would eliminate some amenities in the Yosemite Valley - swimming pools and recreation equipment rental - while maintaining existing levels of traffic, housing and visitation.

Leading the charge at a hearing held by the House subcommittee on Public Lands was Rep. Tom McClintock (R-Calif.), who represents the Yosemite area in the House. He said the elimination of recreation facilities was not necessary to comply with a federal court order that directed NPS to redo its Merced River plan. He said NPS had gone beyond the court's mandate simply to protect the river's shore.

"Yosemite National Park was set aside in 1864 for the express purposes of public use, resort and recreation," he said. "For more than a century this measure was honored by the park stewards, but no more. This plan would radically alter the visitor friendly mission of the park with a new elitist maxim: Look but don't touch, visit but don't enjoy. The public is calling out for Congressional intervention."

If they comply with McClintock's wishes, Republicans in Congress have several interventionist options. They can peremptorily declare an existing plan satisfactory to head off the new plan. Or they can wait for the final plan and then try to block it, as Congress is now attempting to do with a Cape Hatteras National Seashore off-road vehicle plan.

NPS Director Jon Jarvis told the

subcommittee the park may make some changes before completing the plan.

"As Yosemite National Park proceeds to complete the final (plan), all comments about recreational uses and other aspects of the plan will be thoroughly considered and evaluated," he said. "In some instances, these commercial services may be reasonably relocated outside the river corridor but remain in Yosemite Valley, or in other locations inside or outside of the park, and available to park visitors. It is important to note that no reductions are proposed in any alternative for the private use of horses, bikes, and rafts."

As for timing, Jarvis said, NPS will seek a delay in publishing a final plan. "Due to the extensive nature of the comments and extraordinary importance of Yosemite to the American public and the region, the park is seeking a short extension of the court-ordered deadline to produce a Record of Decision. We anticipate the publication of the final (plan) in the late fall of 2013," he told the subcommittee.

Jarvis received some backing from Rep. John Garamendi (D-Calif.), who served as deputy secretary of Interior in the Clinton administration. "If we're down to just horses, bikes, rafting and ice skating then, wow, a lot of progress has been made," he said. "I remember a time when you couldn't even decide if there would be buses in the valley."

Garamendi also said, "We got to push this thing forward. We have to complete the process of planning. We have to complete this particular effort. It has been an extraordinary amount of work. It has been expensive. It has taken a long time . . . I believe this has resulted in a plan that is basically quite good. It does balance the natural amenities in the park, particularly in the valley. It does provide a lot of access. It will meet the needs of the natural environment and the ability of the visitors to see the valley floor."

But subcommittee chairman Rob Bishop (R-Utah) viewed the Yosemite plan

as an example of Park Service resistance nationally to admitting more visitors. "In Yosemite we have found pretty vivid evidence of the attempt to exclude people from being there," he said. "We are talking all the time about the need of having more visitors to our national parks, yet if we make our parks not visitor friendly how can we expect to achieve that particular goal?"

The National Parks Conservation Association (NPCA) defended the Merced plan and a related one for the Tuolumne River. "These draft plans balance protecting the natural resources that make Yosemite a crown jewel in our National Park System, and preserving the incredible recreational opportunities that make the park a destination from visitors near and far, as well as a national park that provides tremendous economic benefits for Central Valley communities," said Emily Schrepf, Central Valley Program Manager for NPCA.

In 1987 Congress designated 122 miles of the Merced River as a wild and scenic river, including the 81 miles that course through Yosemite National Park and the 41 miles that extend to Forest Service and Bureau of Land Management property to the West.

In 1997 the river and the park were swamped by a monster flood and the Park Service began writing management plans to restore the Merced and its environs. Thus far federal courts have rejected three NPS plans that cost \$23 million because they did not eliminate or, at least minimize, development along the river.

The most recent proposed Merced plan was published January 8. It would cost more than \$235 million to implement over 15 years.

The preferred alternative would among other things restore 203 acres along the river, increase campsite inventory by 28 percent, increase lodging by one percent, increase day parking spaces by five percent and revise parking circulation. The net result would be no change in a potential accommodation of 19,900 visitors per day in East Yosemite Valley.

But in its summary NPS mentions three little words that have caused a major ruckus: "reduce commercial services." That's what has aroused local commercial interests, McClintock and the American Recreation Coalition (ARC), who complained of its members being cut out of recreation service opportunities.

ARC President Derrick Crandall told Yosemite Superintendent Don Neubacher this spring, "Yosemite has a long and rich history of joint concessioner/National Park Service efforts serving families and groups. Yet in the offered alternatives, provisions for services to visitors ranging from bike rentals to tube rentals to horseback experiences are either heavily reduced or eliminated - even when those activities would be allowed for those bringing their own equipment."

Among the services to be eliminated are swimming pools at Yosemite Lodge and Ahwahnee Hotel.

The proposed Merced plan is available at <http://www.nps.gov/yose/parkmgmt/mrp.htm>.

DoI and Related Agencies money bill has big problems

The fiscal year 2014 appropriations bill for the Interior Department and Related Agencies is falling behind all other appropriations bills, save one for the State Department.

Of the 12 annual money bills ten have at least received consideration by either the House or Senate Appropriations Committees.

As always the Interior bill will be considered late in the game because of disputes over EPA regulations, offshore energy development, potential riders on everything from wildlands to federal grazing permits, and, finally, conservation spending.

At bottom lies a spending cap dispute between House Republicans and Senate Democrats. The House

Appropriations Committee has allocated \$24.3 billion to the Interior bill, or \$5.8 billion less than the \$30.1 billion the Senate committee has set aside.

Given the great disparity between the House and Senate and the number and size of controversies in the legislation, neither body is likely to pass an appropriations bill this year. If so, a continuing resolution would be required to generate money to keep the government in money.

Despite those problems appropriators may go ahead by fits and starts to at least draft money bills. Said Alan Rowsome, who handles budget issues for The Wilderness Society, "The Interior bill will get to the House subcommittee or full committee by the end of July."

But Rowsome doesn't anticipate the House bill will go any further than full committee. "The numbers are so bad that (subcommittee chairman Mike) Simpson (R-Idaho) himself is reluctant to release a bill," he said. "The numbers will be awful for us. We've never seen appropriations bills with numbers so bad. I don't know how they can defend the bill on the House floor."

As for the Senate Appropriations Committee, it is faced with the same climate change controversy as the House committee. That is, Republican senators (and a few Democrats) will almost surely use the bill as a vehicle to attack the Obama administration's aggressive climate change policy that consists primarily of tough new regulations.

So subcommittee on Interior chairman Jack Reed (D-R.I.) is expected to at most follow his strategy of last year and simply post a discussion draft bill in September and hope a continuing resolution keeps his agencies in money.

We have contacted both the House and Senate appropriations committees and have received the same response, "nothing scheduled," with no further official explanation.

The two sides are far apart because the House assumes the budget

sequestration law will reduce federal spending by almost 10 percent in fiscal 2014 while the Senate assumes Congress will either replace the sequestration law or delay it.

What is clear is that the House and Senate have very different ideas about how much to spend on outdoor programs such as park and rec, Transportation, the Corps of Engineers or state and local share programs. *(See separate article on non-DoI appropriations bills on page 8.)*

Those differences are close to politically insuperable, leading to the logical conclusion that a continuing resolution will be needed to keep the government in money after October 1.

Speculation has it that such a continuing resolution would be based on a fiscal year 2013 appropriations law that includes a multi-billion deduction for sequestration, perhaps with some exceptions. The House cap includes a projected fiscal 2014 sequestration; the Senate cap does not.

Fiscal 2014 Interior request:

Here's the Obama request for specific Interior Department and Related Agencies programs in fiscal 2014 compared to fiscal 2012 numbers (the last year with detailed numbers because Congress passed a stripped down continuing resolution for fiscal 2013). We have also included numbers approved by the House Appropriations Committee for fiscal 2013 on June 28, 2012, to illustrate the great gap between House Republicans and the administration:

* LWCF FEDERAL: Request, \$356 million (BLM \$48.9 million, Fish and Wildlife Service \$106.3 million, NPS \$90.6 million, and Forest Service \$92.2 million). Fiscal 2012, \$186.7 million (BLM \$22.4 million, Fish and Wildlife Service \$54.7 million, NPS \$57 million and FS \$52.6 million). House committee, \$46.7 million total.

* UPAR: Request, \$15 million. Fiscal 2012, nothing. House committee, nothing.

* LWCF STATE: Request, \$60

million. Fiscal 2012, \$45 million. House committee, nothing.

* FWS CONSERVATION GRANTS: Request, \$61.3 million. Fiscal 2012, \$61.4 million. House committee, \$22 million.

* HISTORIC PRESERVATION FUND: Request, \$58.9 million. Fiscal 2012, \$56 million. House committee, \$49.5 million.

* NPS OPERATIONS: Request, \$2.284 billion. Fiscal 2012, \$2.240 billion. House committee, \$2.243 billion.

* NPS REC AND PRES: Request, \$52 million. Fiscal 2012, \$60 million. House committee, \$49.4 million.

* HERITAGE AREAS: Request, \$8 million. Fiscal 2012, \$17.4 million. House committee, \$9 million.

* NPS CONSTRUCTION: Request, \$160 million. Fiscal 2012, \$159.6 million. House committee, \$152.1 million.

* FS RECREATION: Request, \$261 million. Fiscal 2012, \$281.6 million. House committee, \$281.6 million.

* FS TRAILS: Request, \$82.5 million. Fiscal 2012, \$82 million. House committee, not broken out.

* FOREST LEGACY: Request, \$60 million. Fiscal 2012, \$54 million. House committee, not broken out.

* BLM RECREATION: Request, \$70.5 million. Fiscal 2012, \$67.5 million. House committee, \$67.6 million.

* FWS REFUGE MANAEMENT: Request, \$499.2 million. Fiscal 2012, \$486.5 million. House committee, \$455 million.

Statue of Liberty reopens on schedule on Fourth of July

As promised, the Park Service once again July 4 accepted visitors to the Statue of Liberty, just eight months after the park was closed by damage from Tropical Storm Sandy.

A shipload of VIPs turned out to mark the occasion, including Secretary of Interior Sally Jewell, New York City Mayor Michael R. Bloomberg, Sen. Robert Menendez (D-N.J.) and National Park Service Director Jonathan B. Jarvis.

The reopening was featured on evening news broadcasts of all three national networks and on most other major media.

The Oct. 29, 2012, storm flooded not only the Statue of Liberty but also nearby Ellis Island. While it didn't damage the statue it did wipe out electric, heating, cooling and telephone systems. As for Ellis Island, the utility damage meant its document collection had to be moved to a Museum Resource Center in Maryland.

In an emergency appropriations bill for Hurricane Sandy (PL 113-2 of January 29) Congress set aside \$59 million to repair the Statue of Liberty and Ellis Island. In the bill Congress appropriated a total of \$348 million for Park Service repairs in the Mid-Atlantic States. The law contains another \$360 million for the Interior Department to allocate among all agencies.

Mayor Bloomberg praised NPS workers. "Thanks to the hard work of parks workers from around the country, this national treasure is open once again. We've not only repaired damage from Sandy, but we've also taken steps to protect Liberty Island from major storms in the future - just as we're doing in the rest of our city, too," he said.

The Statue of Liberty and Ellis Island are major economic engines for New York City. In 2011 3.7 million people visited the State of Liberty, contributing \$174 million to the area economy and supporting 2,200 jobs.

NPS said it had worked out a new security system that allowed it to screen visitors boarding ferries at Battery Park in lower Manhattan and at Liberty State Park in Jersey City, N.J. Statue Cruises operates the ferries that run to the statue.

Newer and more efficient security equipment will permit U.S. Park Police to screen more visitors than ever before, which should cut down on time spent in line, NPS said.

An estimated 17,500 people visited the statue on July 4 alone.

The Park Service said that after Sandy, "more than 1,000 Interior employees from Alaska to Puerto Rico came to the area to help national parks damaged by the hurricane."

NPS said that while the Statue of Liberty was closed, employees of the unit were assigned to other national parks in New York City affected by Hurricane Sandy, including Gateway National Recreation Area and Federal Hall National Monument.

In the emergency appropriations bill Congress put up for immediate recovery \$348 million for the Park Service, \$68.2 million for the Fish and Wildlife Service, \$50 million for state historic preservation grants, \$4.4 million for the Forest Service and \$4.281 billion for the Corps of Engineers for construction, operations and maintenance.

It appropriated another \$360 million for Interior Department mitigation with the department to determine allocations among all agencies sometime in the future.

Sequestration note: Because of the budget sequestration all numbers in this article must be reduced by five percent. For instance the Sandy appropriations law appropriated \$348 million for NPS recovery, but after sequestration the Park Service will receive \$329.8 million.

Court holds hearing on four-year old OHV Utah lawsuit

A federal court in Utah last week revived a long somnambulant lawsuit from environmental groups objecting to Bush era land use plans in Utah that both authorized and closed routes to off-highway vehicle (OHV) use. The plans

cover lands managed by the Bureau of Land Management (BLM).

U.S District Court Dale A. Kimball heard environmentalists object to an excess of OHV roads in the plans, OHV users object to a lack of OHV roads, and county and state officials side with the OHVs.

At issue are six areawide plans in Utah that the environmentalist plaintiffs said did not adequately consider the impacts of OHV use on the environment and cultural resources. Led by the Southern Utah Wilderness Alliance (SUWA), the environmentalists contend that travel management plans that are part of resource management plans (RMPs) illegally opened thousands of miles of roads and trails to ORVs.

To simplify the court proceedings, Kimball and the parties have agreed to consider just a BLM Richfield Field Office RMP, for now. Kimball is expected to issue a decision in the next several months.

But don't hold your breath. SUWA and company filed their lawsuit more than four years ago on Feb. 3, 2009. Each of the six RMPs - for the Richfield, Moab, Price, Vernal, Monticello and Kanab BLM field offices - contain travel management plans that both set aside routes for OHVs and put routes off limits to OHVs.

Perhaps more important the lawsuits objected to decisions made in the RMPs to make lands available for potential oil and gas leasing. This litigation addresses just OHV use.

The litigation was delayed because of a jurisdictional dispute, with SUWA filing in the U.S. District Court for the District of Columbia but the state, local governments, the OHV industry and the oil and gas industry requesting consideration in federal court in Utah. Where we are now.

Although the environmentalists filed suit against six plans, Kimball is only considering right now the Richfield office RMP. Under the rules of the court any decision Kimball hands down on the Richfield Office will not apply

to the other plans. The court will address them separately. In addition the Richfield plan can be appealed to the Tenth U.S. Circuit Court of Appeals. So still more delays are in the offing.

Citing the BLM organic law called the Federal Land Policy and Management Act (FLPMA) and 1979 OHV regulations, the environmentalists say in the lawsuits that BLM must shut down lands that harm the environment and natural resources.

"Where ORVs are causing or will cause negative impacts to soil, vegetation, wildlife, wildlife habitat, cultural resources, wilderness suitability, or threatened and endangered species, BLM must close the areas to ORVs," they say in one of the lawsuits.

But the BlueRibbon Coalition which represents OHVers described the situation differently. The coalition said, "The former management plan in Richfield allowed open riding on 77% of the lands managed by the Field Office, 10% was closed to motorized people, and 13% had travel limited to designated roads and trails. The new plan has less than 1% open riding, closes 13% to motorized use and limited 77% to designated routes. The Travel Decision also closed hundreds of miles of existing roads and trails that were previously open."

Of note the Obama administration is defending the Bush administration RMPs.

E&W, USDA and Transportation money bills are moving along

While an Interior Department appropriations bill is stalled in Congress three other major outdoor appropriations measures have moved through House and Senate Appropriations Committees.

But each of those three bills is facing the same barrier facing the Interior bill - a fundamental disagreement between Republicans and Democrats in the House and Senate as

to how much money to spend. So their ultimate disposition is very much up in the air.

As we reported in the last issue of *FPR*, House leaders assume the budget sequestration law of 2011 will be in full force and effect in fiscal year 2014. And that law will cap domestic spending at \$967 billion.

Senate leaders assume the House and Senate will reach an agreement to repeal the sequestration law, or at least delay it. As a result Senate appropriations are going with a total cap of \$1.058 billion, or \$91 billion more than the House.

As a result for an Agriculture appropriations bill the House committee has assigned a ceiling \$1.4 billion below the Senate Appropriations Committee, for an Energy and Water bill a cap \$4.8 billion below the Senate committee and for a Transportation bill a cap almost \$10 billion below the Senate committee.

Although details on the impact of the bills on outdoor programs is sketchy House and Senate appropriators do provide some clues. For instance both the House and Senate committees would come close to fully funding the surface transportation law, Moving Ahead for Progress in the 21st Century Act (MAP-21). The Senate committee would allocate \$46.3 billion and, in one of the rare instances when the House would top the Senate, the House committee would provide \$41 billion.

In another instance in an Energy and Water bill the Senate committee identified \$252 million of a proposed Corps of Engineers appropriation for recreation, the same as the administration requested. The House committee did not identify a recreation-specific allocation.

Here's a summary of the three non-Interior spending bills with outdoor implications.

Transportation: House cap, \$44.1 billion. 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 June 27 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: House cap, \$30.4 billion. 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.

During consideration of the Energy and Water bill the House voted 177-to-237 to retain in the measure a provision that bars the Obama administration from issuing guidance on wetland permits. That guidance, proposed in January 2012, would expand the definition of a project requiring a Section 404 Clean Water Act wetlands permit beyond just a navigable water.

The sponsor of the losing amendment that would allow the guidance to proceed, Rep. Jim Moran (D-Va.), said, "The draft guidance provides a more predictable and consistent procedure for identifying waters and wetlands protected under the Clean Water Act. It focuses on protecting smaller waterways that keep downstream water safe from upstream pollutants and on protecting adjacent wetlands that filter pollution and store waters and help keep communities safe from floods. The guidance also maintains all of the existing exemptions for agricultural discharges and identifies specific types of water bodies to which it does not apply, areas like artificial lakes and ponds and many types of drainage and irrigation ditches."

But Rep. Mike Simpson (R-Idaho)

said the proposed guidance would impinge on state and local authority. "Deciding how water is used should be the responsibility of State and local officials who are familiar with the people and local issues. If all intrastate waters are regulated by the Federal Government, the language could be broadly interpreted to include everything within a State, including groundwater," he said.

The Senate Appropriations Committee approved its bill (S 1245) June 27 with \$34.8 billion. The Senate bill does not address the navigable waters controversy.

Agriculture: House cap, \$19.5 billion. 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.

Judge blocks Utah law that asserts public lands control

A federal judge issued an injunction June 28 against a State of Utah law that would require the Bureau of Land Management (BLM) and the Forest Service to defer to the state in enforcing the law on public lands.

U.S. District Court Judge David Nuffer said the state law confuses authority over federal lands between state officials on the one hand and BLM and Forest Service officials on the other.

"Federal agents are authorized to enforce federal laws that incorporate state standards," Nuffer said. "It makes sense that laws enforced by state and federal agencies in overlapping jurisdictions should be the same."

The Department of Justice brought the lawsuit against Utah law HB 155 of

May 14, 2013, charging that the state violated the Supremacy Clause of the U.S. Constitution and, more practically, confused authority over public land management.

Judge Nuffer issued a preliminary injunction against the implementation of HB 155 and said the feds' arguments are likely to prevail.

HB 155 is complex in setting up restrictions on what federal officials can and can't do on public lands, particularly in relationship to state law.

For instance at one point the Utah law says, "The authority of a United States Forest Service employee who is not a trained and certified law enforcement officer and the authority of any employee of the United States Bureau of Land Management to take action based on the Utah Code, Utah Administrative Rules, or county or municipal ordinances, or a federal assimilation of any of these provisions, as a basis to stop, detain, arrest, or cite persons for prosecution in the federal criminal justice system, is not recognized, . . ."

The law then conditions that by saying the employee can act if he or she has express authority by federal law, is operating consistent with the U.S. Constitution, is faced with an emergency or can't find local officials.

The Salt Lake City Tribune has reported on conflicts already between state officials and federal agencies under the law, where the state officials asserted jurisdiction. The paper said documents filed in the case indicated a Utah sheriff's deputy threatened to arrest a BLM official at a disturbance at a BLM campground.

The Utah legislature and Gov. Gary Herbert (R) have enacted two other laws this year that are part of the state's long campaign to gain control over federal lands.

Bill number one (HB 142, signed April 1) establishes a procedure for the state to gain title to all federal

lands within the State of Utah. Bill number two (HR 382, also signed April 1) would establish a grazing policy for the Grand Staircase-Escalante National Monument managed by BLM and would ask the federal government to comply with the policy.

Herbert fired the first shot in this battle March 23, 2012, when he signed a landmark law that requires the federal government to turn all federal lands in Utah over to the state, a corollary to HB 142. That includes national parks, BLM lands, national forests, wilderness areas and the Grand Staircase Escalante National Monument.

Separately, on Dec. 14, 2011, the State of Utah launched an initiative to gain the right to manage thousands of ways across federal lands. In "notices of intent" the state advised the Interior Department it will file formal lawsuits to claim 18,784 RS 2477 rights-of-way (ROWs) across department-managed lands.

Arizona Gov. Janice K. Brewer (R) on May 14, 2012, delivered a setback to the western campaign by vetoing Arizona Senate Bill 1332 that would have ordered the feds to turn over 23 million acres of federal land in the State of Arizona by the end of 2014.

Senators ask new fire plan for suppression and prevention

Two senior Democratic senators and two senior Republican senators sharply criticized the Obama administration last week for requesting too little money for both fire suppression and fire prevention in fiscal year 2014.

The senators wrote (and called) administration officials to demand a budget plan that would bring fire suppression and prevention spending up to levels envisioned by Congress.

On the fire suppression front the senators, led by Senate Energy Committee Chairman Ron Wyden (D-Ore.) and ranking minority member Lisa Murkowski (R-Alaska), charged that the administration effectively requested no

money for an emergency fire fighting law called FLAME (Federal Land Assistance, Management and Enhancement).

They said in their June 28 letter to the administration that the budget request did that by including FLAME funding within the 10-year average cost of suppression. The senators said the administration should have requested FLAME money as a supplement to the 100-year suppression average.

"Despite Congressional intent, OMB has forced the agencies to implement the FLAME Act in a manner that makes it ineffective: instead of funding the FLAME account in addition to the 10-year average cost of suppression, the account is funded as part of the 10-year average cost of suppression," the senators wrote the Office of Management and Budget (OMB), the Interior Department and the Department of Agriculture. "Although authorized, no additional funding has been requested for the FLAME reserve accounts above the 10-year average cost of suppression."

On the fire *prevention* front the senators complained that the Obama administration's fiscal 2014 budget would reduce spending on hazardous fuels treatments by two-thirds. "For example, the Forest Service treated 1.87 million acres for hazardous fuels in FY2012, but expects to treat only 685,000 acres in FY2014," said the letter. Sens. Mark Udall (D-Ariz.) and James Risch (R-Idaho) also signed the missive.

The letter was sent to OMB Director Sylvia Burwell, Secretary of Agriculture Tom Vilsack and Secretary of Interior Sally Jewell. But the senators' primary target is OMB. Said the letter of the hazardous fuels spending, "Our understanding is that these cuts were based on OMB's continued skepticism about the efficacy of hazardous fuels treatments. We wholeheartedly disagree with OMB on this point."

Earlier last week Wyden called Burwell and had what he termed a "spirited discussion" on the subject of fire budgeting. An aide to Wyden said that the senator asked Burwell "for an

action plan to fix the problems with the current approach to fire budgeting and to stop the pilfering of funding for restoration work and hazardous fuels reductions."

The argument between the senators and the administration comes at a difficult time for the administration, what with the death of 19 firefighters in the Yarnell Hill fire in Arizona a fortnight ago. Although the fire fighters were not federal (they belonged to a Prescott, Ariz. team) and the fire was on nonfederal land, Arizona fire fighters receive large grants from the federal government.

At any rate members of both political parties in Congress have criticized the Obama administration for asking Congress to reduce hazardous fuels spending in fiscal 2014. The administration requested about 20 percent less money in fiscal 2014 (about \$251 million as opposed to a \$317 million fiscal 2012 appropriation) and a 48 percent reduction in the Interior Department.

Severe fire seasons in recent years have devastated the West, killing citizens and fire fighters alike and raiding federal land management agency budgets. The National Interagency Fire Center's June report predicts the upcoming season will also be severe.

Despite the great loss of life this year and the drought in the Southwest the National Interagency Fire Center reports less than the 10-year average number of fires this year and less than the 10-year average number of acres burned.

The center July 10 counted 24,180 fires this year compared to 40,983 fires on average over the last 10 years. And it says 1,954,541 acres have burned thus far compared to the ten-year average of 2,956,443 acres.

Notes

Christo art display backed. The Interior Board of Land Appeals (IBLA) June 28 affirmed a Bureau of Land Management (BLM) decision approving a

proposed art display by the famed artist Christo along the Arkansas River in Colorado. Environmentalists said an EIS prepared by BLM failed on several grounds, including an assessment of impacts on a sensitive plant called the Stickleleaf and on visibility in the area. Of the appellants' argument that the construction and removal of the project would violate BLM's Class II visibility standards, the board disagreed.

"However, we find that the drilling and installing of anchors and ATFs, running of steel cables across the River, and their removal are unlikely, alone or in combination, to attract the attention of a casual observer anywhere along the 5.9 miles of panel segments or otherwise fail to meet Class II objectives," the IBLA order said. The proposed \$50 million project would consist of 925 polypropylene fabric panels strung along 42 miles of the Arkansas River on 160 acres of public lands and 112 acres of state and private land. The \$50 million project would require two years of construction to, among other things, drill 9,100 anchors into rock. The panels would be displayed for two weeks in early August 2014. This is the second go-round for the project before IBLA. On April 12, 2012, the board rejected a request for a stay of the BLM decision and said the appellants would not likely win the appeal. In this more recent order IBLA agreed with itself. The Interior Department gave its support Nov. 7, 2011, to the project. Former Secretary of Interior Ken Salazar said he and BLM approved the project because of its economic benefits. It is expected to generate \$121 million for the area and draw 400,000 visitors. Christo is known for massive drapings, such as wrapping the Berling Reichstag with materials in 1995. Environmentalist Rocky Smith led the appellants.

LaHood pessimistic about roads bill. Former Secretary of Transportation Ray LaHood said just before he left office June 28 that he was not optimistic about the House approving a new surface transportation law. Moreover, LaHood said in a talk at the National Press Club, before Congress addresses a new highway law it must identify new and/or supplemental sources of money to pay for it. LaHood

said he was pessimistic about House action because of that body's rejection of a farm bill (HR 1947) June 20. He said Congress must find new revenues because the existing 18.4 cents per gallon gasoline tax falls far short of paying enough money into the Highway Trust Fund to meet the annual \$50 billion-plus needed for the surface transportation bill. The existing law, Moving Ahead for Progress in the 21st Century Act (MAP-21), PL 112-141 of July 6, 2012, provides surface transportation money, including for recreation, through September 2014. MAP-21 keeps both recreation and transit programs alive, although it modified old outdoor programs. It consolidated such programs as transportation enhancements and recreational trails into a Transportation Alternatives line item.

DoD, DoI, USDA may cooperate.

Three federal departments say they will work together to conserve federal lands managed both by the Department of Defense and by the Departments of Interior and Agriculture. The departments have establishing something called a Sentinel Landscapes partnership to protect wildlife and farmers while allowing the military to carry out training missions. "The Department of Defense is committed to working together with other federal agencies to ensure we sustain a world-class training environment at military installations across the country," Defense Acting Deputy Under Secretary for Installations and Environment John Conger said. "This arrangement benefits our service members and is an innovative, efficient use of taxpayer resources. It has the added benefits of protecting important habitats for imperiled wildlife species and working lands in rural communities that surround military installations. I look forward to our applying this model at other locations across the country." The partnership will focus on a prototype project the South Puget Sound region of Washington State, which is home to Joint Base Lewis-McChord. Whether the partnerships slows a spate of bills now moving through Congress to withdraw public lands for military use remains to be seen. The House approved June 14 the transfer or withdrawal of five areas of public lands for military

use in the West. Included was a controversial proposal to transfer in perpetuity more than one million acres of Bureau of Land Management (BLM) land to a China Lake Naval Station in California. The bills were attached to a must-pass bill (HR 1960) that would authorize Department of Defense policy for fiscal year 2014. House Natural Resources Committee Democrats chafed at the China Lake transfer at a May 15 mark-up, contending the bill (HR 1673 by itself) would effectively give the lands to the U.S. Navy permanently without further review.

Western poll: rec bests energy.

A recent poll of voters in the West indicates that the public prefers conservation of the public lands to oil and gas drilling. Concludes Hart Research Associates, "About two in three (65%) voters say that permanently protecting and conserving public lands for future generations is very important to them personally, and another 63% say that ensuring access to public lands for recreation activities is personally important to them (as indicated by a rating of '9' or '10' on a zero-to-10 scale). By comparison, only half as many voters (30%) say the same about making sure oil and gas resources on public lands are available for development." Hart Research, which usually works for Democrats, polled voters in April and May in Colorado, Montana, New Mexico, Oregon, Arizona, Idaho, Utah, Wyoming and Nevada. Said John Podesta, chair of the Center for American Progress, a liberal group, "This is a case where Washington's policies and rhetoric are still locked in a drilling-first mindset, but Westerners want the protection of public lands to be put on equal ground. Voters do not see conservation and development of public lands as an either-or choice; instead, they want to see expanded protections for public lands—including new parks, wilderness, and monuments—as part of a responsible and comprehensive energy strategy."

Conference calendar

JULY

18-20. **National Equestrian Trails**

Conference in Rock Hill, S.C. Contact: Southeastern Equestrian Trails at www.southeasternequestriantrails.com.

19-22. **National Association of Counties Annual Conference** in Fort Worth, Texas. Contact: National Association of Counties, 440 First St., N.W., 8th Floor, Washington, DC 20001. (202) 393-6226. FAX (202) 393-2630. <http://www.naco.org>.

July 31-Aug. 3. **Outdoor Retailer Summer Market 2013** in Salt Lake City, Utah. Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

AUGUST

5-9. **National Speleological Society Convention** in Shippensburg, PA. Contact: National Speleological Society, 2813 Cave Ave., Huntsville, AL 35810-4331. (256) 852-1300. <http://www.caves.org>.

13-15. **Safe Routes to School National Conference** in Sacramento, Calif. Contact: www.saferoutesconfer

SEPTEMBER

3-6. **National Association of State Park Directors** annual meeting in Dubuque, Iowa. Contact: Philip K. McKnelly, NASPD Executive Director, 8829 Woodyhill Road Raleigh, NC 27613. (919) 676-8365. <http://www.naspd.org>.

8-12. **American Fisheries Society** annual meeting in Little Rock, Ark. Contact: American Fisheries Society, 5410 Grosvenor Lane, Suite 110, Bethesda, MD 20814-2199. (301) 897-8616. <http://www.fisheries.org>.

17-19. **Land Trust Alliance Rally** in New Orleans. Contact: Land Trust Alliance, 1331 H St., N.W., Suite 400, Washington, DC 20005-4711. (202) 638-4725. <http://www.lta.org>.

19-22. **Council of State Governments National Conference** in Kansas City, Mo. Contact: Council of State Governments, P.O. Box 11910, Lexington, KY 40578. (859) 244-8103. <http://www.csq.org/>